



MINUTES

Meeting of the Scotts Valley City Council

Date: June 15, 2022

Time: 6:00 PM

CONTACT INFORMATION	MEETING LOCATION	POSTING
City of Scotts Valley 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5600	Zoom Video Conference	The agenda was posted at City Hall and on the Internet at www.scottsvally.org .

CALL TO ORDER 6:00 PM

The City Council meeting was called to order at 6:02 PM.

MOMENT OF SILENCE

ROLL CALL

ELECTED OFFICIALS PRESENT:

Donna Lind, Mayor
Jim Reed, Vice Mayor
Jack Dilles, Council Member
Randy Johnson, Council Member
Derek Timm, Council Member

CITY STAFF MEMBERS PRESENT:

Mali LaGoe, City Manager
Kirsten Powell, City Attorney
Steve Walpole, Chief of Police
Taylor Bateman, Community Development Director
Casey Estorga, Administrative Services Director
Chris Lamm, Public Works Director/City Engineer
Cathie Simonovich, City Clerk

SPECIAL SET MATTERS

Mayor Lind presented the Mayor's Proclamation honoring Captain Michael Dean for 30 years of dedicated service to the City of Scotts Valley.

Gabe Ruiz of Central Coast Community Energy gave the annual member agency presentation and responded to questions from Council.

COMMITTEE REPORTS

CM Dilles attended the Local Area Waste Taskforce meeting with PWD Lamm and they discussed implementation issues related to AB 1383 (organics recycling).

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CM Dilles reported that as a member of the Santa Margarita Groundwater Agency he sat at a recent Farmers Market and talked to residents about our water sustainability plans.

On behalf of the Mayor, CM Dilles presented a Mayor's Proclamation to Assemblymember Mark Stone at the Pride Parade, and he thanked Mr. Stone for his support of the LGBTQ community and for his support of our Measure Z.

CM Dilles attended the meeting of the Seniors Council where they discussed the state budget, the Live Oak Senior Center, and the CORE funding reallocations (several programs are being defunded).

Mayor Lind was contacted by the Governor's office NorCal External Affairs division. They discussed funding for organic waste, housing support, unfunded mandates, the wildlife crossing opening, and inflation relief fund.

Mayor Lind attended the Santa Cruz Metropolitan Transit District Board (Metro) meeting, Finance and Personnel subcommittees, where the main topic was CalPERS pension liability.

Mayor Lind and CM Timm represented the City at the Flag Day retirement ceremony presented by Troop 614. This Troop will also be our Color Guard at the Independence Day parade.

Mayor Lind reported that the 3rd of July plans are moving along, and they are still looking for volunteers.

Mayor Lind announced that the 25th anniversary of the Torch Run will be coming to Scotts Valley on June 23rd. She will be presenting a proclamation acknowledging the Flame of Hope.

Mayor Lind attended the 90th birthday celebration for Dave Hodgins.

CITY MANAGER REPORT

Candidate Information Night: The resolutions for the November 8, 2022, election are on the consent agenda. The City Clerk and the County Clerk will hold a virtual Candidates Information Night on Wednesday, June 22nd at 6:00 PM. Please see the City's website for more information.

Independence Day Celebration planning: The planning is moving forward and going well. She thanked the Public Works staff and the Police staff for their participation and assistance. Please check the City's website for more information, and for information on volunteering.

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July 2022: There will be no City Council Meetings in the month of July. The next meeting is August 3, 2022. The City is planning on returning to in-person meetings in August.

Monday, June 20, 2022: City Hall will be closed for the Juneteenth holiday on Monday, June 20th.

PUBLIC COMMENT TIME

Ruth Stiles, a resident of Scotts Valley, spoke about gun violence and suggested that the city consider a gun buyback program and safe storage education/program as ways to keep our community safe.

Matthew, a resident of Scotts Valley, spoke about his Skypark neighborhood.

Kathy Hundemer, a resident of Scotts Valley, spoke about gun violence and gun safety and urged the City's leaders to take a public health approach to these issues.

ALTERATIONS TO CONSENT AGENDA

City Manager LaGoe noted that the June 1, 2022, minutes that are included in the agenda packet do not have the attached correspondence received regarding an item on that agenda, however the official published minutes will include the correspondence.

CM Reed requested that Item F be pulled.

M/S: Dilles/Reed

***To approve the Consent Agenda, with the exception of Item F
Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)***

CONSENT AGENDA

- A. Approve City Council minutes of 06-01-2022
- B. Approve check registers dated 06-03-2022 and 06-09-2022
- C. Statewide General Election Resolutions:
 - (1) Resolution No. 2015 ordering an election, requesting County Elections to conduct the election, and requesting consolidation of the election; and
 - (2) Resolution No. 2015.1 calling for a Statewide General Election for the election of members of the City Council, determining that costs of Candidate's Statement of Qualifications shall be paid by the candidate and its maximum number of words, and setting hours the polls will be opened and closed

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- D. Approve Resolution No. 1139.26 approving the Investment Policy for the City of Scotts Valley
- E. Approve Resolution No. 1007.35 making certain findings including the selection of the two factors stated in the Fiscal Impact section above and adopting the 2022-2022 appropriations limit of \$236,658,200
- ~~F. Approve the following FY 2022-23 Annual Budget resolutions:~~
- ~~(1) Resolution No. 630.42 approving the final FY 2022-23 Annual Budget and making appropriations for the amounts budgeted.~~
 - ~~(2) Resolution No. 1501.29 approving the continued collection of the Utility Users' Tax for FY 2022-23.~~
 - ~~(3) Resolution No. 1932.3 approving a minimum reserve policy for the City's General Fund, General CIP Fund, Recreation Enterprise Fund and Wastewater Enterprise Funds (Council Policy No. 04-17). **PULLED – see Item 1.b**~~
- G. Approve Siltanen Community Pool resurfacing project change orders
- H. Approve Landlord Incentive Program Agreement
- I. Approve Hinderliter De Llamas (HDL) Services Agreement
- J. Approve amended Cyber Assend Technologies Agreement
- K. Second reading and adoption of the Scotts Valley Municipal Code Regulations regarding smoking and tobacco products

ALTERATIONS TO REGULAR AGENDA

M/S: Dilles/Timm

To approve the Regular Agenda with the addition of the item moved from the Consent Agenda (Consent Item K; now Regular Item 1.b)

Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

REGULAR AGENDA

- 1.b. Approve the following FY 2022-23 Annual Budget resolutions:
- a. Resolution No. 630.42 approving the final FY 2022-23 Annual Budget and making appropriations for the amounts budgeted.
 - b. Resolution No. 1501.29 approving the continued collection of the Utility Users' Tax for FY 2022-23.
 - c. Resolution No. 1932.3 approving a minimum reserve policy for the City's General Fund, General CIP Fund, Recreation Enterprise Fund and Wastewater Enterprise Funds (Council Policy No. 04-17).

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CM Reed stated his disagreement with the \$50K allocation for funding non-profit organizations.

M/S: Timm/Dilles

To approve the FY 2022-23 Annual Budget resolutions: 630.42, 1501.29, and 1932.3

Carried 4/1 (AYES: Dilles, Johnson, Lind, Timm; NOES: Reed)

PUBLIC HEARING(S) (To be heard after 6:30 p.m.)
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1. PUBLIC HEARING: Skypark Open Space Maintenance Assessment District No. 1: Resolution No. 1555-SP-034; Annual Engineer's Report Skypark (Public Works Director Lamm)

Vice Mayor Reed recused himself from this matter as he is a resident of the Skypark Subdivision. Public Works Director Lamm presented the details of the Skypark Maintenance Assessment District No. 1. Mayor Lind opened the public hearing and heard comments and questions from Sheryl McEwan and Matthew Hakimi. PWD Lamm responded to the questions. Mayor Lind closed the public hearing.

M/S: Timm/Dilles

To approve Resolution No. 1555-SP-034

Carried 4/0/1 (AYES: Dilles, Johnson, Lind, Timm; NOES: None; ABSTAIN: Reed)

2. PUBLIC HEARING: Pinewood Estates Landscape Maintenance Assessment District: Resolution No. 1213.36; Annual Engineer's Report Pinewood Estates (Public Works Director Lamm)

Public Works Director Lamm presented the details of the Pinewood Estates Landscape Maintenance Assessment District. Mayor Lind opened the public hearing. No members of the public came forward, and Mayor Lind closed the public hearing.

M/S: Timm/Dilles

To approve Resolution No. 1213.36

Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

REGULAR AGENDA - continued

- 1.a. Theater Guild Lease Agreement

City Manager LaGoe presented this item. Larry Smith, President of the Scotts Valley Community Theater Guild, was present to respond to questions from Council. Public comment was received from Matthew Hakimi. Council discussed what might happen if the Theater Guild dissolved, and further discussed acquiring the equipment that the Guild owns should this happen.

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M/S: Timm/Dilles

To approve lease in its stated form with additional direction for staff to add the following information to the lease: Negotiate with the Theater Guild within the next 6-12 month to come up with a mechanism so the City has the option to acquire equipment in the event that the Guild goes out of business, based on both the fair market value of the equipment owned by the Guild, the permanent improvements the Guild made to Premises and the value of what the City has provided in rent subsidies and other items to the Guild, as determined by an appraiser at the time of such event.

Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

M/S: Reed/Johnson

To approve the allocation of \$95,000 (Lennar funds) to the Scotts Valley Community Theater Guild for reimbursement for the permanent improvements made to the Premises.

Carried 5/0 (AYES: Dilles, Johnson, Lind, Reed, Timm)

2. Approve Fee Deferral Agreement between CRDSV, LLC dba Residence Inn Scotts Valley and the City of Scotts Valley

Council Member Timm recused himself due to previous business dealing with the applicant. City Manager LaGoe presented this item and Developer Bijal Patel was present to respond to questions from Council.

M/S: Johnson/Reed

To approve the Fee Deferral Agreement between CRDSV, LLC dba Residence Inn Scotts Valley and the City of Scotts Valley and authorize the City Manager to sign the agreement.

Carried 4/0/1 (AYES: Dilles, Johnson, Lind, Reed; NOES: None; ABSTAIN: Timm)

3. Strategic Plan update

City Manager LaGoe presented this item and responded to questions from Council. CM Reed raised concerns regarding the lack of specific tasks in the Strategic Plan.

4. Future Council agenda items

CM Dilles requested a future agenda item to discuss gun protection measures, including lock requirements and gun buyback programs, following completion of the current Police Department review. Mayor Lind and CM Timm agreed.

City Attorney Powell reported that they will be meeting in closed session with legal counsel pursuant to Government Code Section 54956.9(b) - 2 cases. Staff present will be the City Manager and the City Attorney. As no one was in the audience, no public

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comment was received and no one listening on the public broadcast station requested information on any action taken.

ADJOURNMENT

The meeting adjourned at 9:45 PM.

DocuSigned by:
Donna Lind
Approved: AB62A4DD878C47C...
Donna Lind, Mayor

DocuSigned by:
Cathie Simonovich
Attest: 00BDB2B26C07422...
Cathie Simonovich, City Clerk

Support of Tobacco Control Ordinance

Margo Sidener [REDACTED]

Tue 6/14/2022 10:42 PM

To: Donna Lind (EXT) <dlindslind@earthlink.net>; Jim Reed (EXT) <jimreedSV@gmail.com>; Jack Dilles <jdilles@scottsvally.gov>; Randy Johnson (EXT) <rlj12@comcast.net>; Derek Timm <dtimm@scottsvally.gov>
Cc: Cathie Simonovich <csimonovich@scottsvally.gov>

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mayor, Vice Mayor and Council Members,

I am writing to voice our agency's support of Ordinance #188.1 of the Scotts Valley Municipal Code Regulations, which is scheduled for a second reading and adoption regarding smoking and tobacco products, as Agenda Item K under tomorrow's City Council Meeting Consent Agenda..

I especially want to thank you for taking the time to revise the language to clarify that smoking is prohibited in all outdoor dining areas in Scotts Valley: SECTION 9, "SECTION 8.04.020C, Smoking shall be prohibited in the following non-enclosed public places within the city: ... 6. Designated outdoor dining areas of restaurants or eating establishments."

We believe that this is a strong ordinance that will both protect Scotts Valley youth from the dangers of flavored tobacco and also protect all citizens from the hazards of secondhand smoke. Thanks again for working to create lung-friendly public policies.

Sincerely, Margo Sidener

Margo Leathers Sidener, MS, CHES
Chief Executive Officer



of the Bay Area, Golden Gate, and Central Coast

1469 Park Avenue, San Jose, CA 95126

Phone: (408) 998-5865 | Web: www.lungsrus.org

Breathe California is dedicated to fighting lung disease, advocating for clean air, and promoting public health for all its communities.

Tobacco Free Kids Letter of Support-Flavored Tobacco Policy

Tim Gibbs [REDACTED]

Thu 6/9/2022 3:09 PM

To: SVCH-cityhall <cityhall@scottsvalley.gov>; Donna Lind (EXT) <dlindslind@earthlink.net>; Jim Reed (EXT) <jimreedSV@gmail.com>; Jack Dilles <jdilles@scottsvalley.gov>; Randy Johnson (EXT) <rlj12@comcast.net>; Derek Timm <dtimm@scottsvalley.gov>

Cc: Lindsey Freitas [REDACTED]

 1 attachments (1 MB)

Scotts Valley Flavored Tobacco Letter CTFK 6.15.22.pdf;

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mayor Lind and Members of the Scotts Valley City Council:

Please find a letter attached on behalf of the Campaign for Tobacco Free Kids in support of the policy to prohibit the sale of all flavored tobacco products in Scotts Valley. Please don't hesitate to reach out if you have any questions.

Sincerely,

Tim Gibbs

[Tim Gibbs Consulting](#)

[REDACTED]



June 15, 2022

The Honorable Donna Lind, Mayor
Scotts Valley City Council
1 Civic Center Drive
Scotts Valley, CA 95066

Re: Flavored Tobacco Products

Dear Mayor Lind and Members of the Scotts Valley City Council:

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to submit this letter in support of your efforts in Scotts Valley to reduce tobacco use, particularly among youth. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, and help smokers quit. It is encouraging to see cities and counties in California continue to take thoughtful, evidenced-based steps to reduce the number of kids who start using tobacco and help tobacco users quit.

While California has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in the nation, killing 480,000 Americans annually.

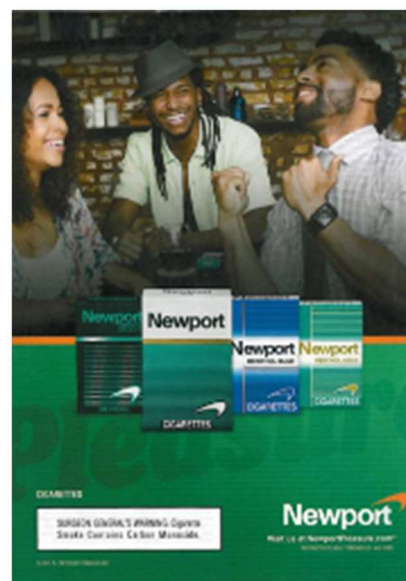
We are grateful for the unanimous vote on May 18th for a strong flavored tobacco policy and urge the council to continue its lifesaving work on second reading.

Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in Scotts Valley from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction. Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets. **In California, nine out of ten high school tobacco users report using flavored products.¹**

Menthol Cigarettes Increase Smoking Among Youth

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. We applaud your decision not to exempt menthol cigarettes from your ordinance. Menthol delivers a pleasant minty taste and imparts a cooling and soothing sensation. These characteristics successfully mask the harshness of tobacco, making it easier for beginner smokers and kids to tolerate smoking. The FDA's Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.
- The availability of menthol cigarettes reduces smoking cessation in some populations, especially among Black Americans, and increases the overall prevalence of smoking among Black Americans.
- Menthol cigarettes are marketed disproportionately to younger smokers and are disproportionately marketed per capita to Black Americans.



After a thorough review of the evidence, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”² A decade later—in April 2021—the FDA announced its intention to pursue rulemaking to prohibit menthol cigarettes and flavored cigars. However, until any FDA action is finalized, states and cities should continue their growing efforts to end the sale of menthol cigarettes and other flavored tobacco products. It will take time for the FDA to finalize and implement the necessary regulations to prohibit menthol cigarettes and flavored cigars, and tobacco industry lawsuits could cause more delays. States and cities have an obligation to protect the health of their citizens and must act now to stop tobacco companies from targeting kids, Black Americans and other groups with menthol cigarettes and other flavored products. We can’t afford more delay in taking action to protect kids and save lives.

Flavored Tobacco Products Are Pervasive

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. While overall cigarette sales have been declining since the 2009 law, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.³ Menthol cigarettes comprised 37 percent of the market in 2019.⁴

The Tobacco Control Act's prohibition on characterizing flavors did not apply to other tobacco products, and as a result, tobacco companies have significantly stepped up the introduction and marketing of flavored non-cigarette tobacco products. In fact, the overall market for flavored tobacco products is actually growing. In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors – like mango, blue razz, pink punch and mint for e-cigarettes and chocolate, watermelon, and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a Ben and Jerry's ice cream store.

Flavors are not just a critical part of the product design, but are a key marketing ploy for the industry. The 2016 Surgeon General Report on e-cigarettes concluded, "E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults."⁵ The 2019 National Youth Tobacco Survey found that 69.3% of middle and high school students—over 18.2 million youth—had been exposed to e-cigarette advertisements from at least one source.⁶



Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2019, and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive.⁷ The number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.⁸ The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Black & Mild, Swisher Sweets, White Owl, Backwoods, and Dutch Masters – all come in flavor varieties.⁹ These products are often sold singly or can be priced as low as 3 or 4 for 99 cents, making them even more appealing to price-sensitive youth. Note that cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.¹⁰



Although tobacco companies claim to be responding to adult tobacco users' demand for variety, it's clear that flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of

addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use.

Flavored Tobacco Products Are Popular Among Youth

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that **eight out of ten of kids who have ever used tobacco products started with a flavored product.**¹¹ Across all tobacco products, the data is clear: flavored tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

The 2020 National Youth Tobacco Survey shows that among high school students, e-cigarette use declined to 19.6% in 2020, after increasing by an alarming 135 percent from 2017 to 2019 (from 11.7% to 27.5%).¹² While the significant decline in youth users since 2019 is a sign of progress, youth e-cigarette use remains a public health crisis. 3.6 million kids still use e-cigarettes – the same number as when the U.S. Surgeon General called youth e-cigarette use an “epidemic.”¹³

In California, 8.2% of high school students report using e-cigarettes. The California Student Tobacco Survey found that an increasing proportion of these youth are using flavored products (96.2% in 2019-2020, up from 86.4% in 2017-2018). Among California high school e-cigarette users, the most commonly used flavor types are fruit (63.9%), mint or menthol (14.7%) and candy or sweet (13%).¹⁴

Almost all e-cigarettes contain nicotine, a highly addictive drug. Young people are especially vulnerable to nicotine addiction.¹⁵ The Surgeon General has concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”¹⁶ The manufacturer of JUUL, a popular e-cigarette among youth, claims that each JUUL pod contains as much nicotine as a pack of twenty cigarettes. Since the introduction of Juul, many youth are now using products that effectively deliver massive doses of nicotine and it is clear that large numbers of teen e-cigarette users are struggling with nicotine addiction.

Youth e-cigarette users are also at risk of smoking cigarettes. A 2018 report from the National Academies of Science, Engineering & Medicine found that “There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”¹⁷ More recent research confirms this finding.¹⁸ Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In January 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt from the FDA’s policy. Among high school e-cigarette users, use of disposable e-cigarettes increased by 1,000%

from 2019 to 2020, and in 2020, 37% of high school users of flavored e-cigarettes reported using menthol products.¹⁹ E-cigarette market share data from California confirm these trends:

- From February 2020 to June 2021, disposable e-cigarette sales in California increased by 51.9%. Disposable products are sleek, easily concealed, pre-charged, cheap (some for less than \$5) and can even have higher nicotine concentrations than JUUL. They are widely sold in kid-friendly flavors like fruit and candy.
- From February 2020 to June 2021, menthol-flavored e-cigarette sales in California increased by 43.1% (from 226.4 thousand to 324.0 thousand units) and menthol-flavored cartridge sales increased by 44%.

While the FDA recently announced that it had denied marketing applications for certain flavored e-cigarettes, many of the flavored products most popular among kids, like Juul, are still on the market. Every day these products remain on the market, our kids remain in jeopardy. Because of the delays and gaps in the FDA's actions, it is critical that states and cities step up their efforts to eliminate ALL flavored e-cigarettes, as well as other flavored tobacco products. The evidence is also clear that as long as any flavored e-cigarettes – including menthol-flavored products – are on the market, kids will shift to them and we will not end this public health crisis. Scotts Valley must close the gaps left by the FDA and protect our kids from these dangerous and addictive products.

As the only flavored cigarette left on the market, it's also no surprise that menthol cigarettes are popular among youth. Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. About half of youth smokers use menthol cigarettes.²⁰ As noted previously, young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.²¹

Tobacco companies have a long history of targeting and marketing flavored tobacco products to Black Americas and youth. Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.²² Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. This targeting continues today: in 2018, California tobacco retailers in neighborhoods with the highest proportions of Black residents were more likely to advertise menthol cigarettes and charged an estimated 25 cents less for Newport cigarettes, compared with stores in neighborhoods with the lowest proportion of Black residents.²³ Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.²⁴

Menthol cigarettes are a major reason why Black Americans suffer disproportionately from tobacco use. The tobacco industry's "investment" in the African American community has had a destructive impact. In 2013, the FDA released a report finding that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking.²⁵ Tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year.²⁶ Tobacco use is a major contributor to three of the leading causes of death among Black Americans - heart disease, cancer and stroke.²⁷ The higher rates of some tobacco-caused diseases among Black Americans result, in part, from their greater use of menthol cigarettes, which are associated with reduced cessation.²⁸ A study released just this month found that among the Black community, 157,000 smoking-related premature deaths and 1.5 million excess life-years between the years 1980 and 2018 can be attributed to menthol cigarettes.²⁹

The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result. Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the tobacco industry's aggressive efforts to hook children to a deadly, addictive product.

This issue is about protecting our kids and vulnerable populations. By prohibiting the sale of all flavored tobacco products, Scotts Valley would join over seventy cities and counties in California that are already enacted comprehensive laws to *end* the sale of all flavored tobacco products. **Thank you for vote on a strong and comprehensive policy without exemptions. It will save lives.**

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsey Freitas".

Lindsey Freitas, MPA
Regional Advocacy Director
Campaign for Tobacco-Free Kids
lfreitas@tobaccofreekids.org

Appendix

A1: Examples of Flavored Tobacco Products



A2: Examples of Menthol Marketing

Source: TrinketsandTrash.org, CounterTobacco.Org



- ¹ Zhu S-H, Braden K, Zhuang Y-L, Gamst A, Cole AG, Wolfson T, Li S. (2021). Results of the Statewide 2019-20 California Student Tobacco Survey. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California San Diego.
- ² Tobacco Products Scientific Advisory Committee (TPSAC), *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011
<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.
- ³ Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.
- ⁴ U.S. Federal Trade Commission (FTC), *Cigarette Report for 2019*, 2021, https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2019-smokeless-tobacco-report-2019/cigarette_report_for_2019.pdf [data for top 5 manufacturers only].
- ⁵ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.
- ⁶ Wang, TW, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019," *MMWR*, 68(12): December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.
- ⁷ U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.
- ⁸ Delnevo, CD, et al., "Changes in the mass-merchandise cigar market since the Tobacco Control Act," *Tobacco Regulatory Science*, 3(2 Suppl 1): S8-S16, 2017.
- ⁹ SAMHSA's public online data analysis system (PDAS). National Survey on Drug Use and Health, 2015, https://pdas.samhsa.gov/#/survey/NSDUH-2015-DS0001/crosstab?row=CGR30BR2&column=CATAG2&weight=ANALWT_C&results_received=true.
- ¹⁰ National Cancer Institute (NCI), *Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9*, 1998, http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9_complete.pdf. Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," *BMC Public Health*, 2015.
- ¹¹ Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.
- ¹² Wang, TW, et al., "E-cigarette Use Among Middle and High School Students – United States, 2020," *MMWR*, Volume 69, September 9, 2020, <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6937e1-H.pdf>.
- ¹³ Office of the Surgeon General, "Surgeon General's Advisory on E-Cigarette Use Among Youth," December 18, 2018, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.
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- ¹⁵ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.
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Public Comment - Agenda Item K, Ordinance #188.1

Thomas Lawton <Thomas.L@fumari.com>

Wed 6/15/2022 4:15 PM

To: SVCH-cityhall <cityhall@scottsvally.gov>

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good afternoon Honorable Mayor and Councilmembers,

Thank you for the opportunity to submit my testimony on agenda item k, ordinance #188.1 – regulating the sale of tobacco products.

My name is Thomas Lawton, I am the government affairs representative for hookah manufacturer Fumari, as well as a member of the National Hookah Community Association and am testifying on behalf of the proud members of the NHCA in Scotts Valley. We kindly ask that you please consider amending the ordinance to include a cultural hookah exemption in the proposed flavored tobacco ban, **just as statewide flavored tobacco ban CA SB793 protects minority communities' cultures that include the rich tradition of hookah.**

We express our gratitude and show our support for taking action against the youth nicotine addiction epidemic and agree that youth should not have access to tobacco.

Although in the process we ask that you do not implement an ordinance that bans the rich cultural tradition of hookah.

2021 [statistics released](#) in the most recent national youth tobacco use survey conducted by the [FDA](#) shows **teen use of hookah is less than 1% nationally and dropping**. Hookahs are not being confiscated in schools. They are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape. Hookahs take 25 – 30 minutes to set up and need hot coals, therefore it cannot be smoked during recess in the bathroom at school. They cost over \$200 for all the ten parts and accessories, making it out of reach for most kids.

Hookah tobacco has been mixed with molasses or honey since its inception over 500 years ago. This molasses or honey is used to preserve the hookah tobacco and inherently gives the tobacco a sweet flavor. Due to its fundamental difference and cultural significance for hundreds of years, hookah is not a product of big tobacco's recent use of flavored vapes to entice our youth

With the FDA & CDC reporting that hookah use is not contributing to the current youth tobacco epidemic (less than 1% of youth are current hookah users), a ban on hookah would only serve to ban a rich cultural tradition practiced by many minority communities ranging from Armenians, Persians, Middle Easterners, Turks, North Africans, and Indians.

Here are some quick facts about Hookah:

- Beginning in 16th century India hookah was only available to royals and high level diplomats, although hookah then [evolved](#) from 17th century Persia to 18th century Turkey to 19th century Egypt, Israel, Armenia, and Pakistan, reaching the United States in the late 1800s when immigrants from these countries settled in American cities like San Francisco and Los Angeles.
- Hookah is a symbol of respect, hospitality, and social engagement in many communities. Hookah is an integral part of social life in these communities, just as other communities' social norms might include drinking coffee in a cafe, beer at a BBQ, or wine at a tapas bar.
- A 2018 [FDA study](#) showed almost 90% of Americans who use hookah do so no more than once per month. [By comparison](#), the average American cigarette smoker smokes 14 cigarettes per day, and

vapers can vape compulsively around the clock.

- For many communities, hookah is a non-intoxicating fixture of social interaction, including in some circumstances where social norms do not include drinking alcohol or using other substances.
- Hookah [waterpipes](#) create aerosol that is 60% water and heat shisha at a temperature that is four times lower than a burning cigarette. [By contrast](#), cigarette smoke is 75 percent tar, carbon monoxide, and nicotine.

Please keep in mind this rich tradition does not merely include smoking hookah tobacco, but is centered around respect, hospitality, social engagement, and enjoyed with other aspects of culture such as art, music, and dance. This tradition should be celebrated as it adds to the cultural diversity of Scotts Valley and creates a more inclusive atmosphere.

There is a way to achieve regulatory goals while balancing the interests of minority communities that practice hookah. We ask that the City of Scotts Valley recognizes and preserves minority communities by mirroring the cultural hookah exemption found in the states of California, Massachusetts, the District of Columbia, and many cities including Los Angeles, San Jose, Elk Grove, Walnut Creek, West Hollywood, Burbank, Glendale, Irvine, Long Beach, Encinitas, San Diego County, El Cajon, Ventura, Pleasant Hill, Redwood City, Culver City, San Diego City, Rancho Cordova, South Pasadena, and many more.

Please consider amending the flavored tobacco ban today to preserve the cultures of diverse, minority communities in Scotts Valley by including a cultural hookah exemption.

Thank you for your consideration.



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