

**SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET**

Creation Date: 3/13/07

Source Code: POSCS

Agenda Date: 3/20/07

INVENUM : 58950

Resolution(s):

Ordinance(s):

Contract(s):

Continue Date(s):

Index: --Letter of the Director of Parks, Open Space & Cultural Services of February 12, 2007
--Bike Park Lease Agreement
--Exhibit A - Map
--Response of Chairperson Beautz of March 21, 2007

Item: 55. APPROVED bike park lease agreement with Barry Swenson Builders and authorized the Director of Parks to execute the lease on behalf of the County; directed Parks to provide appropriate signage to promote safe use of the park; and directed the Chair of the Board to send Barry Swenson Builders a letter thanking them for allowing this parcel to continue to be available to the youth of the County, as recommended by the Director of Parks, Open Space and Cultural Services



County of Santa Cruz

0481

PARKS, OPEN SPACE & CULTURAL SERVICES

979 17TH AVENUE, SANTA CRUZ, CA 95062

(831) 454-7901 FAX: (831) 454-7940 TDD: (831) 454-7978

BARRY C. SAMUEL, DIRECTOR

February 12, 2007

AGENDA DATE: March 20, 2007

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

APPROVED AND FILED
BOARD OF SUPERVISORS
DATE: March 20, 2007
COUNTY OF SANTA CRUZ
SUSAN A. MAURIELLO
EX-OFFICIO CLERK OF THE BOARD

RE: Barry Swenson Lease in Aptos Village

BY Sharon Mitchell DEPUTY

Barry Swenson Builders owns several parcels of land in Aptos Village. They have offered to lease Santa Cruz County (County) one of these parcels for 12 months with a month-to-month extension thereafter. The parcel, APN 04-101-103 is 1.087 acres in size and is vacant and used by local youth as a bike jump park. Swenson Builders would like to allow the continued use of this parcel by youth as a bike park and has asked if the County would assume the responsibility for the parcel for the next 12 or more months.

Bike jumping is defined as a hazardous sport and as such the County would be protected, as it is for skate parks, by Government Code 831.7. If the County decides to enter into a lease agreement with Barry Swenson Builders the Department of Parks, Open Space and Cultural Services (Parks) would manage the property for the County. Parks would post signs at the site; requiring riders to wear helmets, stay off the local streets, inform them that bike jumping is a hazardous sport and they are riding at their own risk and that the hours of operation are 9 AM to dusk.

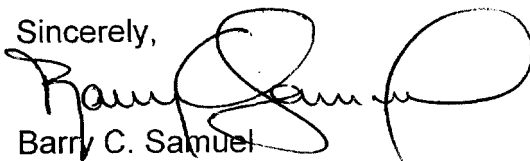
Parks thinks that this is an opportunity to continue to provide our youth with one of the most popular bike jump areas in the County. It would allow young people to have another place to legally practice their sport. Aside from providing some signage, Parks would also provide a portable toilet and garbage container. The cost for maintaining this site would be minimal since the riders build the jumps out of dirt from the site and maintain the jumps themselves.

Attached, for your review, is a copy of the proposed lease (Exhibit I).

It is therefore recommended that your Board;

1. Approve the attached lease and authorize the Director of Parks to execute the lease on behalf of the County.
2. Direct Parks to provide signage that will insure that riders know that they are participating in a hazardous sport and are riding at their own risk.
3. Direct the Chair of the Board to send Barry Swenson Builders a letter thanking them for allowing this parcel to continue to be available to the youth of the County.

Sincerely,



Barry C. Samuel
Director

BCS:bp

RECQMMEND:



Susan A. Mauriello
County Administrative Officer

Attachment: Exhibit 1 Proposed Lease

cc: CAO, County Counsel, Risk Management, Parks, Barry Swenson

BIKE PARK LEASE AGREEMENT

This lease agreement is entered into this 20th day of March, 2007, by and between the COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, hereinafter designated as "Lessee," and Green Valley Cooperate dba Barry Swenson Builders, hereinafter designated as "Lessor."

The parties agree as follows:

1. Premises. Lessor leases to Lessee and Lessee leases from Lessor the following premises located **in** the County of Santa Cruz, State of California: approximately 1.087 acres in Aptos, California, bearing Assessor's Parcel Number 04-101-103. A map delineating the leased premises is attached as Exhibit A.
2. Term of Lease. The term of this Lease shall be a period of one (1) year, commencing on Feb, 9th, 2007, and ending on Feb. 9th, 2008. Either Party may, however, terminate this lease by giving 30 days' written notice to Lessor.
3. Rent. Lessee will pay Lessor rent for the use and possession of the premises in the sum of one dollar (\$1) per year. Payments shall be made to: Green Valley Corp.
4. Use of Premises. During the term of this lease, Lessee will use the premises for the purpose of a public bicycle park. Lessee will comply with all applicable laws and will acquire any and all necessary permits and/or approvals required for such use.
5. Operations. Lessee will post signs warning about the hazards of bicycling and requirement to wear safety equipment, but will make no other fixed improvements or changes to the property.
6. Waste. The Lessee will not commit or permit the commission by others of any waste on the premises. Lessee will not maintain, commit, or permit the maintenance or commission of any nuisance on the premises. Lessee will not use or permit the use of the premises for any unlawful purposes.
7. Return of Premises. On termination of this lease or any extensions, Lessee will remove its signs at no charge or expense to Lessor. Lessee reserves the right to remove from the premises any portable improvements Lessee has made. Lessee will leave the premises in condition reasonably similar to that it was in at the start of this lease, reasonable wear and tear from bicycling excepted.
8. Insurance. Lessee, at its sole cost and expense during the term of this lease and any extensions, will maintain coverage for general liability and specific use liability (if required). Lessee may, at its option, be self-insured. Lessee shall name "Green Valley

Corporation dba ~~Barry~~ Swenson builder “and “Salvador Lobue Trust” as Additional Insureds.

9. Public Access to Premises. Lessee may restrict entry and/or bicycle riding on the premises to such hours as Lessee may see fit.
10. Maintenance. Lessee will not maintain the premises, other than Lessee’s temporarily-placed person property, such as toilet and trash can.
11. Equipment and Facilities. Lessee may place its personal property (tables, benches, portable toilet, garbage cans) on the premises. Any such property shall be removed by Lessee at Lessee’s expense when this lease terminates.
12. Alterations and Liens. Lessee will not make or permit any other person to make any alterations to the premises without the written consent of Lessor. Lessee will keep the premises free and clear from all liens, claims and demands for work performed, materials furnished, or operations conducted at the request of Lessee.
13. Inspection by Lessor. Lessee will permit Lessor or Lessor’s agents, representatives, or employees to enter the premises at all reasonable times for inspecting the premises to determine whether Lessee is complying with the terms of this lease and for the purpose of doing other lawful acts that may be necessary to protect Lessor’s interest in the premises.
14. As Is Condition. Lessee accepts the premises in its present “as is” condition.
15. Indemnification and Hold Harmless. Lessee will exonerate, indemnify, defend, and hold harmless Lessor and its officers, agents, and employees ~~from~~ and against:
 - a) any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which Lessor may sustain or incur or which may be imposed upon Lessor for injury to or death of persons or damage to property as a result of, arising out ~~of~~, or in any manner connected with Lessee’s performance under the terms of this lease. Such indemnification includes any damage to the persons or property of Lessor and of third persons; and
 - b) any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to Lessee and Lessee’s employees, including unemployment insurance, social security and payroll tax withholding.
16. Subleasing and Assignment. Lessee shall not assign, encumber, sublet, or otherwise transfer this lease or any right or interest in this lease without the written consent of Lessor.
17. Option to Renew. Lessee shall have an option to renew this lease under the same terms and conditions. Lessee must state in writing its intention to renew the lease no less than

90 days before the expiration of the initial term of this lease. If no renewal is made, then the lease shall continue as a month-to-month rental.

18. Default by Lessee. All covenants and agreements contained in this lease are declared to be conditions of this lease. Should Lessee default in the performance of any covenant, condition, or agreement contained in this lease, Lessor may terminate the lease and regain the premises in the manner then provided by the laws of unlawful detainer in the State of California.
20. Notices. Except as otherwise provided by law, notices required or permitted by this lease or by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party or when deposited in the United States mail, first-class postage pre-paid. Either party may change the address for purposes of this paragraph by giving written notice of the change to the other party. Notices may also be sent electronically so long as they are also sent by first-class mail.

Lessee's notice address is:
 c/o Jesse L. Nickell III
 Barry Swenson Builder
 5300 Soquel Ave. Suite 103
 Santa Cruz, CA 95062

Lessor's notice address is:

Barry C. Samuel, Director
 Department of Parks, Open Space, & Cultural Services
 979 – 17th Avenue
 Santa Cruz CA 95062

21. Binding on Heirs and Successors. This lease shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties, but nothing contained in this paragraph is to be construed as a consent by Lessor to any assignment of this lease by Lessee.
22. Time. Time is expressly declared to be of the essence in this lease.
23. Waiver. The waiver of any breach of any of the provisions of this lease by Lessor or Lessee shall not constitute a continuing waiver or a waiver of any subsequent breach by either party.
24. Termination. After the expiration of the first two (2) years of this lease, either party may cancel this lease on 3 months advance written notice to the other party.

25. Possessory Interest Tax. Lessee understands in accepting this lease agreement that Lessee's interest therein may be subject to a possible possessory interest tax that the county may impose on such interest and that such tax payment shall not reduce any rent due hereunder and any such tax shall be the liability of and be paid by Lessee and shall be paid in a timely manner. As a public entity, Lessee is generally exempt from possessory interest tax.
26. Interim Use Only. Lessee understands that Lessor acquired the property leased herein for future development and that Lessee's occupancy under this agreement is an interim use only. Having notice of these conditions, Lessee hereby waives any rights or claims against Lessor now, or at any time in the future, for relocation assistance, payments, and/or benefits.
27. Attachments. This lease includes the following attachments, which are incorporated herein:

Exhibit A - Premises Map

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

COUNTY OF SANTA CRUZ

By: _____

LESSOR

By: _____

Jesse L. Nickell III – Vice President
Green Valley Corp. dba Barry Swenson
Builder

Telephone: (831) 475-7100

APPROVED AS TO INSURANCE:

By: _____

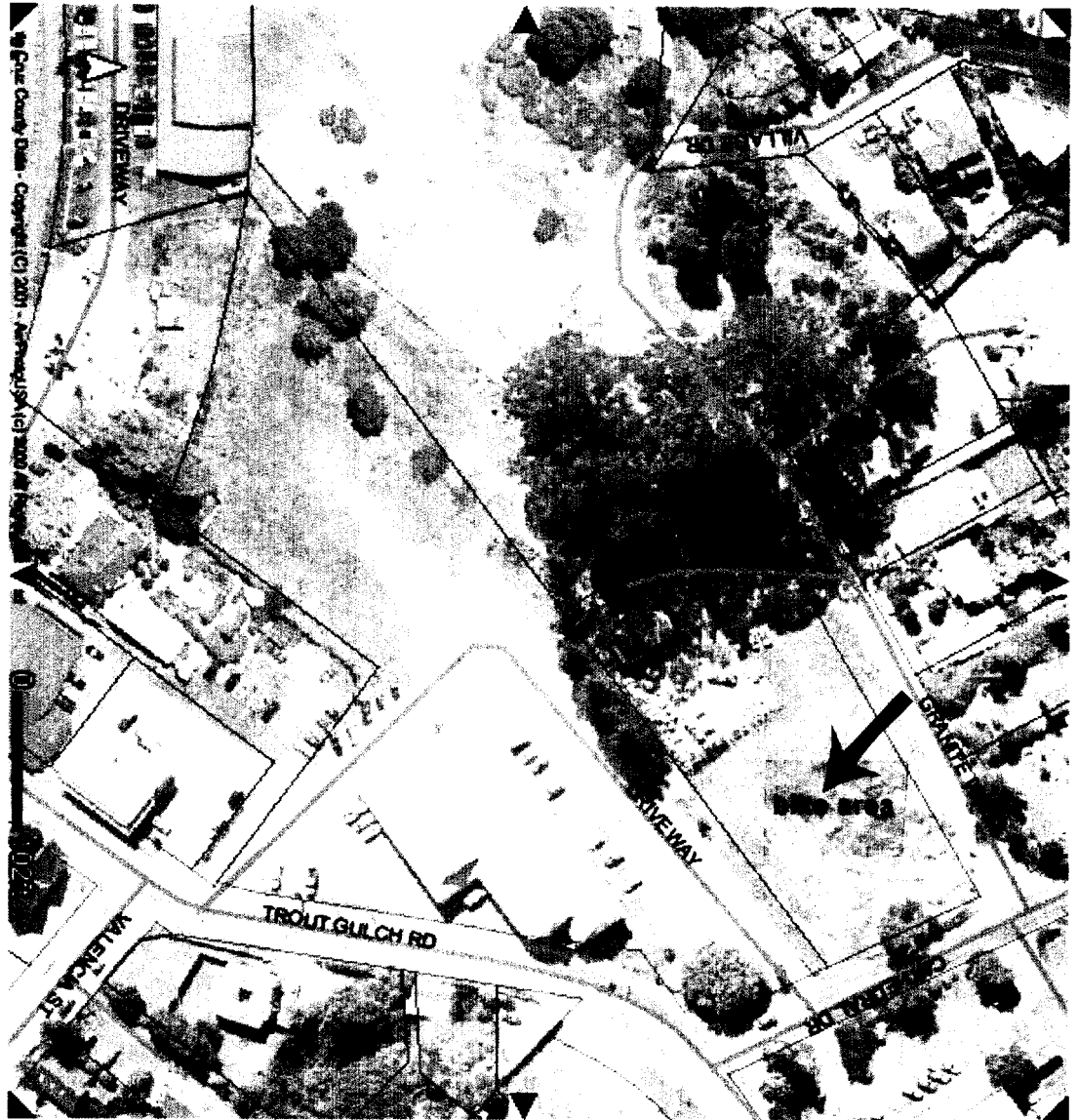
Risk Management

APPROVED AS TO FORM:

By: _____

Office of the County Counsel

DISTRIBUTION: / CAO, Auditor, County Counsel, Parks, Lessor, Risk Management





County of Santa Cruz

Clerk file #55 3/20/07

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

NEAL COONERTY
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

MARK W. STONE
FIFTH DISTRICT

March 21, 2007

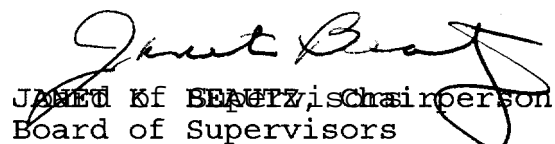
Jesse Nickell
Barry Swenson Builder
5300 Soquel Avenue, #103
Santa Cruz, CA 95062

Dear Mr. Nickell:

I am writing on behalf of the Board of Supervisors to extend our gratitude to Barry Swenson Builder for your willingness to enter into a lease agreement to allow young people in our community to use your property in Aptos Village for a bike park. We are always looking for additional places for young people to engage in sports, and your property provides a great mid-county location.

Again, we sincerely appreciate your cooperation in allowing the continued use of this parcel by area youth.

Sincerely,


JANET K. BEAUTZ, Chairperson
Board of Supervisors

JKB:ted

cc: Clerk of the Board
Barry Samuel, Director, POSCS

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