



## HAYWARD AREA SHORELINE PLANNING AGENCY

HASPA Meeting  
HARD District Office  
1099 E Street  
Hayward, CA 94541

**Thursday, September 20, 2012**  
**Brown Act Training at 3:30 p.m.**  
**HASPA Meeting at 5:00 p.m.**

**ALL HASPA TRUSTEES and HASCAC/HASTAC MEMBERS MUST ATTEND THE BROWN ACT TRAINING AT 3:30 P.M.**

### **AGENDA**

- |    |   |         |
|----|---|---------|
| 1. | Call to Order                               | Jameson |
| 2. | Introductions                               |         |
| 3. | Agenda Approval                             | Jameson |
| 4. | Approval of HASPA Minutes for June 21, 2012 | Jameson |
| 5. | (i) Report from HASCAC Chair                | Moose   |

### **UNFINISHED BUSINESS**

- |    |  |         |
|----|--|---------|
| 7. | (a) Weber Property Development Update (10 Min.)          | Pearson |
| 8. | (i) URS Corporation Mitigation Project (5 Min.)          | Zabel   |
| 9. | (i) Sea Level Rise Study and ART Project Update (5 Min.) | Pearson |

### **NEW BUSINESS**

- |     |  |          |
|-----|--|----------|
| 10. | (a) Supplemental Development Application Requirements for Shoreline Area Projects (5 Min.) | Pearson  |
| 11. | (i) Federal Grant for East Bay Trails (5 Min.)   | Anderson |
| 12. | (i) CAC/TAC/Board Comments   |          |
| 13. | (d) Agenda Building  |          |
| 14. | Public Comments  |          |
| 15. | Adjournment  | Jameson  |

- (i) Information
- (d) Discussion
- (a) Action

Next HASPA Meeting: December 13, 2012



## HAYWARD AREA SHORELINE PLANNING AGENCY

Hayward Area Recreation and Park District  
East Bay Regional Park District  
City of Hayward

Joint Meeting of Board of Trustees and Citizens Advisory Committee  
HARD District Office Conference Room  
1099 'E' Street  
Hayward, CA 94541

June 21, 2012

### **DRAFT MINUTES**

#### **HASPA TRUSTEES PRESENT:**

Minane Jameson, Hayward Area Recreation and Park District (Chair)  
Bill Quirk, City of Hayward  
Doug Siden, East Bay Regional Park District  
Paul Hodges, Hayward Area Recreation and Park District (Alternate)

#### **HASCAC MEMBERS PRESENT:**

Betty Moose (Chair)  
Martin Eschen  
Allen Bertillion  
Frank Delfino  
Ernie Pacheco

#### **HASTAC MEMBERS PRESENT:**

Jennifer Koney, Hayward Area Recreation and Park District  
Anne Rockwell, East Bay Regional Park District

#### **STAFF:**

Erik Pearson, City of Hayward  
Mike Anderson, East Bay Regional Park District  
Karl Zabel, Hayward Area Recreation and Park District  
Julie Williams, Hayward Area Recreation and Park District

#### **VISITORS:**

Gary Martz, Weber Property Representative  
Andy Wilson, Civil Air Patrol (CAP)/CalPilots  
Michael Lawson, City of Hayward Attorney

#### **1. Call to Order**

The meeting was called to order until 5:05 p.m. by Minane Jameson.

#### **2. Introductions**

Round robin introductions of all those present were made.

3. **Agenda Approval**

The agenda was approved by unanimous consent.

4. **Approval of HASPA Minutes for March 22, 2012.**

The minutes were approved and will be filed.

5. **Report from HASCAC Chair**

Betty Moose thanked everyone for their prayers and thoughts while she was recovering from her surgery. Betty reported there will be a volunteer recruitment session at City Hall on June 27<sup>th</sup> between 5-7pm and Karl Zabel will be there to recruit more HASCAC members.

Betty reported that they scheduled a HASCAC meeting on August 2, 2012 at 2:00pm.

Betty reported that the Chabot College lawsuit with the 9<sup>th</sup> Circuit Court regarding Russell City Energy Center was lost and the process was complete.

Betty also distributed some articles and flyers regarding other power plants. Another article Betty distributed was regarding a Federal Grant to help link trails. Betty would like a report on this grant from EBRPD and how it entails the Bay Trail at the next HASPA meeting.

Betty indicated that at the last HASPA meeting, they wanted the State Attorney General to give a report on where the CAC stands in a meeting under public comment. Bill Quirk said the City of Hayward attorney will be in attendance to talk about the Calpine agreement.

Bill Quirk said that this meeting will be his last HASPA meeting and he appreciates HASCAC and the job that they are doing. Everyone wished Bill well in his future endeavors.

6. **CAC First Amendment Rights**

Bill Quirk invited Michael Lawson, attorney for the City of Hayward, to speak regarding the limits and obligations relating to the City's Cooperation Agreement with Calpine. The question raised is what is the City's obligation in regards to environmental impact at this point as well as in the future when construction is completed. For example, the CAC is concerned about the lighting plan and how it may affect protected species. Mr. Lawson stated that both the City of Hayward and East Bay Regional Park District have the Cooperation Agreement with Calpine. He further stated that this broad agreement obligates the City to cooperate with Calpine's permitting and operational issues with the Russell City Energy Center project. The agreement goes back to 2006 and has no end date. In that regard, it could be open-ended. Even though the project is currently under construction and is scheduled to go online in mid 2013, there will be ongoing obligations by both sides. Mr. Lawson said there are also some sensitive issues that he is not at liberty to discuss that involve potential litigation that requires the City to be careful about the way the Cooperation Agreement is executed over time. He has advised the City Council to be careful about breaching the agreement. The more narrow questions have to do with some the potential impacts. Mr. Lawson further said the City's position is that the California Energy Commission has primary jurisdiction since they are the primary permitting body of the power plant.

Allen Bertillion stated that this agreement is like a gag agreement and he asked what is the responsibility of the City and if the city is liable as is Calpine. Mr. Lawson responded that the

City is independent from Calpine and that the City would report to any enforcement agency, such as the CEC, if wrongdoing is done.

Ernie Pacheco asked Michael Lawson that when the city enters into a Cooperation Agreement with a profit corporation, does it somehow abdicate a municipality's duty to fulfill requirements with NEPA, CEQA, or the City or County regulations. Michael Lawson's response was that this particular proceeding took into account the above elements and decided to issue the permit. By state law, the CEC is the regulatory and permitting agency. The City had no authority to contradict CEC in this proceeding. Mr. Lawson said there was no way the City could prevent the plant from being built but entered into negotiations with Calpine so the City could get the best deal possible in ways that would benefit the city.

Karl Zabel reported that HARD staff contacted their attorney and it was determined that since the CAC serves the HASPA trustees, the HASPA trustees sets the agenda and the CAC can provide information during the public comments section of the meeting.

Andy Wilson thanked Bill Quirk and Michael Lawson for clarifying this issue.

#### 7. **Redwood Shores Development Project**

Karl Zabel reported that at the last HASPA meeting, Steven Knight, from Save the Bay, made a presentation to discuss the former Cargill Salt Ponds project. They plan to develop up to 12,000 new homes on a portion of that property. Mr. Knight was asking for a letter of support which Karl had drafted. One comment was that it is outside of our jurisdiction. Bill Quirk reported that the Hayward City Council did not support this project since it was outside their jurisdiction. Minane Jameson felt that a sending a letter to Redwood City is worthwhile since it is HASPA's job to protect the shoreline. Therefore, Minane made a motion to have HASPA send a letter to Redwood City asking them not to approval the Redwood Shores Development Proposal. Doug Siden seconded the motion and Bill Quirk abstained. Karl Zabel will mail out the approved letter.

#### 8. **Least Tern Colony Analysis**

Karl Zabel reported that at the March meeting, Minane Jameson directed the TAC to perform an analysis of the Least Tern Colony and review the materials, prepare a report, discuss it with the CAC, and bring back an update. Jennifer Koney reported based on the reports on the CED website, the biological report for RCEC states that the California Least Tern does not have habitat in the impact area. She said although the biological resource assessment is from the original site, not the current site, there is no amended report for the current site. She further reported that the US Environmental Protection Agency in a letter dated 6/11/07 to US Fish and Wildlife, reported that in its new location RCEC will avoid impacts to seasonal wetlands and protected species because of the move. The protected species that they are referring to were the Salt Marsh Harvest Mouse, California Clapper Rail, California Least Tern and Western Snowy Plovers.

Ernie Pacheco responded that the possible impacts to the Least Tern were not addressed in the RCEC analysis at all. He said the lighting plan has now been received after requesting it for the past two years. Ernie further said that one of the impacts of the Least Tern Colony was high wattage warning lights. He also said the other issue which was not addressed in the RCEC report is the hundreds of planes flying over the Least Tern Colony. The CAC requests that HASPA request US Fish and Wildlife to reinitiate formal consultation with the EPA on this issue. The CAC will review the lighting plan at their special CAC meeting on August 2<sup>nd</sup>. Minane asked

asking the HARD staff to see if the lighting plan was addressed and in particular the kind of lighting in this new plan. Karl Zabel reiterated that staff was told not to spend a lot of time on this issue and HASPA voted to not talk about it. Minane Jameson will ask the HARD Board of Directors at their June 25<sup>th</sup> meeting under public comments to send a letter to US Fish and Wildlife asking them to analyze the lighting plan in regards to the effects to the shoreline.

9. **URS Corporation Mitigation Project**

Karl Zabel reported that URS Corporation has approached HARD with a possible mitigation project regarding two Port of Oakland/Oakland Airport safety enhancement projects. He said there is nothing more to report since the last meeting.

10. **Weber Property Development**

Erik Pearson said the environmental study is currently being reviewed by City staff. The initial study will be released within the next two weeks. The Planning Commission hearing is scheduled for July 26, 2012 at 7:00 p.m. Because this is a zoning issue, it also has to go to the City Council, which will probably be in September. Gary Martz was in attendance to represent the Weber Property. Gary said he received an email with five items of concerns which are the burrowing owls, the drainage system, the amount and what type of fill and stewardship of proposed wetlands, design of the wetlands and mosquito ponds. Those five items were fully addressed with the Planning Commission and will be placed on a future agenda. Karl Zabel drafted a letter to send to the Planning Commission from HASPA addressing those concerns. Bill Quirk suggested that the initial study be sent to the members, they review the document, and then they could individually attend the Planning Commission hearing with their concerns.

Bill Quirk made a motion to send the letter to the Planning Commission and Doug Siden seconded the motion, all in favor.

11. **Sea Level Rise Study and Adapting to Rising Tides (ART) Project Update**

Erik Pearson reported that the ART project is a joint effort between BCDC, NOAA, Coastal Sciences and cities ranging from Emeryville to Union City. At their last meeting on June 5<sup>th</sup>, BCDC and NOAA's staff gave an update and they are finishing up the vulnerability/risk assessment report which is expected to be released next week. In the summer and fall, they will begin addressing adaptation strategies and the project is scheduled to be completed by the end of the year. Erik said that he, Karl and Jennifer attended a workshop in May that was sponsored by NOAA and BCDC. They introduced them to several online tools that are available for sea level rise simulations and seeing the areas that can be impacted on the shoreline.

Ernie Pacheco proposed that a survey like the proposed sea level rise survey that was done about a year ago be completed for future projects along the shoreline. Bill Quirk suggested that this item be put on the next agenda to be voted on as part of HASPA policy for future shoreline projects.

12. **HASPA/HASCAC Work Session**

At the work session on April 25, 2012, HASPA trustees and the CAC reviewed the potential assignments for the CAC. Karl Zabel suggested that the HASPA brochure be revised, the CAC list all of their accomplishments in the past 20 years, and then determine what still needs to be accomplished. They should look at the new general plan in Hayward and those properties that can be used within the jurisdiction of HASPA.

Karl suggested that the CAC update the HASPA brochure so it can be retyped and put online. Unfortunately, there is no funding to print new HASPA brochures and there are only a handful of the 1993 brochures left. Betty Moose also requested that their list of accomplishments be available for distribution as well. Allen Bertillion requested that the TAC be involved in this project. The CAC will discuss this in their meeting in August on how they want to tackle these tasks.

13. **Amendment to Bylaws-HASPA meetings**

Karl Zabel stated that based on the recommendations from the April 25<sup>th</sup> workshop that HASPA meet twice a year instead of on a quarterly basis. One thing brought out was the need for CAC to meet quarterly or more often. Because of staff time and limited issues, they were looking at meeting twice a year in September and March. It is sometimes harder for staff to meet in June and December due to schedules. Bill Quirk said that two meetings a year is not enough and recommends that HASPA meet quarterly. Erik Pearson further said that HASPA can keep quarterly meetings, but if there are no agenda items, then the meeting could be cancelled. Bill Quirk motioned that HASPA continue to meet quarterly; however, staff along with the Chairperson be allowed to cancel the meetings on an as-needed basis and Doug Siden seconded the motion; all in favor.

14. **CAC/TAC/Board Comments**

Bill Quirk said that it was his last meeting, and aside from the Calpine issue which his hands are tied, there have been good discussions, especially with the sea level rise study. He said HASPA is a great organization and he is proud of the work that has been done. He recommends the recruitment of more CAC members. Bill also said if he gets elected in office as State Assemblyman, and if something comes up that should be state-implemented, then to give him a call. Minane Jameson thanked Bill for the years he has given.

Betty Moose recommends that HASPA send a letter to the State Attorney General on CAC comments. Minane said that the CAC should send the letter.

15. **Agenda Building**

The next meeting agenda topics will be a report on a Federal Grant for East Bay Trails, the vulnerability and risk analysis report, and an update on the URS mitigation project.

16. **Public Comments**

None

17. **Adjournment**

The meeting was adjourned by Minane Jameson at 6:45 p.m.

Minutes taken by Julie Williams, Hayward Area Recreation and Park District