



**MINUTES OF THE SPECIAL JOINT MEETING
OF THE CITY COUNCIL/REDEVELOPMENT
AGENCY OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 19, 2001, 8:00 p.m.**

MEETING

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Mayor Cooper.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,
Rodriguez, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: None

PUBLIC COMMENTS

Jason Moreno, Hayward, commented on the proposed Calpine project. He felt that the project does nothing to help this community and those on fixed incomes.

Peter Hendley, Hayward, announced a forum that will occur on June 30 regarding local campaign finance reform at Centennial Hall beginning at 10:00 a.m. The National Civic League will sponsor this workshop as it has in Denver, Cincinnati and other cities throughout the U.S.A.

Jeanne Gocker, Hayward, announced that a flea market would be held once a month to raise funds for a medical care room at the Animal Control Shelter. She also thanked the Council for funding a volunteer coordinator for that division.

Peggy Robinson, Hayward, spoke on behalf of Friends of the Hayward Public Library. She thanked the Council for funding additional hours and additional resources.

Susanne Cox, Hayward, spoke on a homeless encampment in her neighborhood. She reported she is seriously concerned about the vicinity of Carlos Bee, Mission Boulevard, and Orchard, and situated in the northeast corner of the intersection.

Jim Drake, Hayward, commented on the parking and traffic situation in the Harder area that recently resulted in a difficult gridlock. He suggested no parking on either side of that street.

City Manager Armas reported that Cal State held its annual commencement ceremony resulting in additional traffic impacts. He noted that these are trade-offs for the Lund Avenue residents. Staff is making improvement efforts in the area. The project is regularly being monitored. There are varying levels of activity and there are a number of agencies that are involved.

Charles Clark, Hayward, expressed the need for further parking on Baumberg Avenue. He noted that Community Preservation staff has informed him that automobile owners will be cited

DRAFT

for parking in unpaved areas such as lawns and in empty lots. He also noted that there are no sidewalks for children to walk to and from school.

Mayor Cooper indicated that the City is concerned with that area. She suggested that for weekend family gatherings, the nearby school staff parking lot might be used. She will check with the school district in that regard.

Lawrence Ferguson, representing the Huntwood neighborhood, thanked the Public Works staff for installing traffic barricades and other improvements in his neighborhood.

Council Member Rodriquez announced that a former Mt. Eden High school graduate, Charlton Jimmerson, was named the College World Series Most Outstanding Player this week during the College World Series. Mr. Jimmerson, who graduated this month from the University of Miami, was raised by his older sister, Lanette. He has been drafted by the Houston Astros. Council Member Rodriquez congratulated him and said he is part of what makes Hayward great.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of June 12, 2001

It was moved by Council/RA Member Hilson, seconded by Council/RA Member Henson, and unanimously carried to approve the Minutes of the Special Joint City Council/Redevelopment Agency Meeting of June 12, 2001.

2. Summary Vacation of a Portion of Skywest Drive

Staff report submitted by Deputy Director of Public Works Bauman, dated June 19, 2001, was filed.

It was moved by Council Member Hilson, seconded by Council Member Henson, and unanimously carried to introduce and adopt the following:

Resolution 01-089, "Resolution Summarily Vacating a Portion of Skywest Drive"

HEARINGS

3. Consolidated Landscaping and Lighting Assessment District 96-1, Zones 1-9 - Approve the Engineer's Report and Order the Levy of Assessments for FY 2001-02

Staff report submitted by Planning Manager Anderly, dated June 19, 2001, was filed.

Planning Manager Anderly made the report, noting the process. She added that the ballots from District 5 would be counted at the end of the public hearing.

DRAFT



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Council Member Ward asked about Zone 3 and the residents' interest in further landscaping in the District.

Planning Manager Anderly explained that the Landscape Architect had looked over the area and determined that the earth in the area needs to be augmented for additional planting and a more attractive entry sign is needed. She noted that the City needs to garner support to increase the assessment for the improvements.

City Manager Armas explained that due to Proposition 218, the property owners will have to determine how much they are willing to assess themselves.

Mayor Cooper opened the public hearing at 8:41 p.m.

Jason Moreno, Hayward, asked if this was the district that had previously voted negatively. He was told that this is the first request for an adjustment to the assessment.

Mayor Cooper closed the public hearing at 8:42 p.m.

City Manager Armas suggested that the meeting continue while the ballots were counted.

There were no additional ballots submitted. Mayor Cooper directed City Clerk Reyes to canvass the ballots that were returned by mail.

Council postponed consideration until the canvass was completed and continued to the next item.

Staff reported the canvass as follows. A total of 19 ballots were returned with seven voting in favor of the increased assessment and twelve property owners voting against the increase. The levy will not increase to \$197.37 and remain at \$139.12 per parcel.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and unanimously carried to adopt the following:

Resolution 01-091, "A Resolution Confirming Diagram and Assessment and Ordering Levy of Assessment for Fiscal Year 2001-2002 for Zones 1 through 4 and 6 through 9 of the Consolidated Landscaping and Lighting Assessment District No. 96-1"

Resolution 01-092, "Resolution Confirming Diagram and Modifying Engineer's Report to Reduce Assessment, and Ordering Levy of Assessment for Fiscal Year 2001-02 for Zone 5 of the Consolidated Landscaping and Lighting Assessment District No. 96-1"

4. Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - Approve the Engineer's Report and Order the Levy of Assessments for FY 2001-02

Staff report submitted by Planning Manager Anderly, dated June 19, 2001, was filed.

Planning Manager Anderly said this is really in the Stratford Village subdivision. They held a public meeting and there were no objections to the District.

As there were no requests to speak, Mayor Cooper opened and closed the public hearing at 8:37 p.m.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 01-090, "Resolution Approving the Engineer's Report, Confirming the Assessment Diagram and Assessment, and Ordering Levy and Collection of Assessment for the 2001-02 Fiscal Year, Maintenance District No. 1, Storm Drain Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road, and Ruus Lane (MD No. 1)"

5. Appeal of Planning Commission's Action of Denial of Variance Application No. 01-180-08 - Ahmed Hussain (Applicant/Owner) - Request to Construct a Second Story Addition to a Single-Family Residence Only 10 Feet from the Rear Property Line Where a Minimum of 20 Feet is Required - The Property is Located at 27167 Fielding Drive

Staff report submitted by Associate Planner Pearson, dated June 19, 2001, was filed.

Planning Manager Anderly made a brief staff presentation and responded to Council questions. Council discussion ensued. There was concern related to the error by staff and its ramifications.

Mayor Cooper opened the public hearing at 9:06 p.m.

Ron Peck, Hayward, noted the difficulty that Mr. Hussain will encounter if this is not approved. The structure is significantly built and it would be rather difficult and expensive to modify the structure. He noted that the view is to the west. He commented that this is not a precedent. He



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reported that the applicant would propose adding additional cypress trees to buffer the view of the structure from the neighbor in the back. He would agree to add some window treatments such as those suggested by Planning Commissioner Bogue. He proposed installing a stained glass window to add some privacy and improve the structure aesthetically rather than an opaque window as had been suggested.

Rubin Nino, Hayward, the appellant, provided the chronological background of this project from when he first noticed the project. He expressed his concerns and provided further information, which he felt justified his position to deny the permit and uphold his appeal. He stated that his neighbor continued the project even after a stop order had been issued. He commented that all the homes in the area have setbacks based on their grade. He said this would set a precedent.

Council Member Ward asked him about his opinion on whether it would set a precedent and whether the additional conditions agreed to by Mr. Hussain would help to alleviate the situation.

Mr. Nino said those were some of the conditions he had also suggested to his neighbor.

Council Member Hilson asked staff what the procedure is after the stop work order.

Planning Manager Anderly said they were told to stop work. At that point no tressels were set and the first floor was in conformance. The electrical and plumbing permits were not issued pending this hearing. She noted that they had the opportunity to protect the property.

Al Rojas, Hayward, agreed that this would set a bad precedent. Bay views are very important to their property values.

Mayor Cooper closed the public hearing at 9:21 p.m.

Council Member Ward said this is unfortunately based on staff approval. The applicant proceeded with this in mind. He noted the additional conditions agreed to by the applicant. He recommended denying the appeal, and cautioned staff and Council to be more diligent with their instructions.

Council Member Henson said to try to protect the character of the neighborhood, he would add to the Conditions of Approval; Item D., after "special privilege," the words "or set a precedent."

Council Member Ward agreed. He added that he was also including those conditions agreed to by the Applicant including the trees and the window treatment.

Mayor Cooper said this is an egregious kind of error. However, since it was the City's error, she would support the denial of the appeal.

DRAFT

Council Member Hilson said the plans were not well-drawn and less aesthetic than he would have approved. He was troubled that the staff did not come to Council for permission to agree to the original variance.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 01-093, "Resolution Denying Appeal and Upholding Planning Commission Approval of Variance Application No. 01-180-08 - Ahmed Hussain (Applicant/Owner) RE Property Located at 27167 Fielding Drive"

LEGISLATIVE BUSINESS

6. Introduction of Ordinance Approving the Proposed Amendment to the Downtown Hayward Redevelopment Plan and Approval of a Resolution Regarding the Findings in Response to Written Objections to the Amended Redevelopment Plan (*continued from 6/12/01*)

Staff report submitted by Redevelopment Director Bartlett, dated June 19, 2001, was filed.

Council/RA Member Dowling reiterated that he is employed by Moreau High School, and would abstain from the item and not participate in the discussion.

Redevelopment Director Bartlett made a brief report noting that this is a continuance of a public hearing that was held on June 12.

Council/RA Member Ward commended staff for its efforts in responding in detail to public questions via email, letters and by telephone.

Council/RA Member Henson asked staff to elaborate on a proposed neighborhood meeting for Devon and Bell Aire Drive residents. It was noted that the intent of the meeting is to hear neighborhood concerns and will be scheduled for sometime in late July.

Council/RA Member Henson asked that staff notify Council when it will be held.

There was discussion on the concept of eminent domain. This legal issue is a last resort action by the Redevelopment Agency. The process was described by the City Attorney. It was noted that other governmental agencies such as BART, the County, and/or the State could and have used eminent domain as long as it is for a public purpose. It was noted that as of March 1987, Council made decisions to not take such action in respect to Block 4. This proposal would lift the exemption from a five-block area in downtown, which was instituted at that time. The assessor's records show there were four property owners in this area who are original owners as of that time, and would be potentially affected. One is definitely not willing to sell. Of the rest, one other objects, a third may be willing to sell, and the fourth was not reachable.



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Mayor/Chair Cooper opened the public hearing at 9:42 p.m.

Cynthia DeLuz, Hayward, represented a group of homeowners from Bell Aire, which is part of the amended area. She commented that it appears that their homes will be taken for expansion of the car dealers in the area.

City Manager/Executive Director Armas indicated that neighbors from the area have complained about the conditions imposed on the neighborhood by the car dealers. He said this is one of the purposes of the proposed meeting in July. However, he emphasized that there is no plan by the City to acquire property to expand the dealerships.

Aurelio Armas, Hayward, a 51-year resident of the City, commented that the 35 homes on Bell Aire Drive are not blighted. He objected to the plan and was opposed to any redevelopment in this area. He said he was supportive of more trees, but not more cars.

Kimberly McLellan, Hayward, commented on certain properties, vacant buildings, and closed businesses in the downtown. She asked what the City was doing about attracting businesses.

Susanne Cox, Hayward, asked to be notified of the HRAC meetings.

City Attorney O'Toole explained the process of eminent domain.

The following spoke against the City's use of eminent domain:

Barbara Herringer-Swarr
Cynthia DeLuz
Gus and Elnora Guerra
Jason Moreno
Jen Swarr
Judy Needham
Judy Wright
Linda Martin
Miriam Balli
Robert Lopez
Stacy Francis
Walter Remstedt

The following homeowners in the Bell Aire Drive area complained about the car dealers and eminent domain in their neighborhood.

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Al Rojas
Aretha Ivy-Bruner
Aurelio Armas
Dale Boliba
David Schaff
Eden Vidal
Gertrudis Sandoval
Janice Schneider
Judy Wright
Miriam Balli
Regina Nisby
Trudy Sandoval

Mayor/Chair Cooper closed the public hearing at 11:00 p.m.

Redevelopment Director Bartlett noted that Spring Drive is not in the proposed Redevelopment Area. She also commented on the relocation provisions for providing a comparable, replacement house. She noted that eminent domain can be used to relocate businesses.

Council/RA Member Rodriquez asked whether there was a possibility to not convert residential to commercial. She also asked how much danger the Bell Aire neighborhood would be in as far as losing their homes.

City Manager/Executive Director Armas said the zoning would not change. He noted that the boundary is at Bell Aire. He offered a suggestion that during the budget process the residents would be notified of any projects that will be funded in that year for that neighborhood, which would give people an opportunity to comment at the budget hearings.

Council/RA Member Ward asked staff to explain to the public again how the acquisition of property in a Redevelopment Area works.

City Manager/Executive Director Armas noted that of the 18 properties in the Block 4 area, 13 were acquired through voluntary transactions. There have been no eminent domain proceedings. There has to be notification to the property owner, an explanation of their rights, commission of an appraisal, and there are negotiations. If the home owner is not satisfied, they can get their own appraisal and it may then go to court to be decided by a third party.

Council/RA Member Jimenez asked whether the Agency could hold this over. He was told they could but it was not recommended.

Council/RA Member Henson asked what the advantage of lifting the eminent domain restriction in the area. He was told there is only one property which might be affected.

Council/RA Member Henson commended staff and the HRAC on its efforts to make this plan work. He felt that it is incumbent of the leaders of this City to attempt to move the City forward.



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He moved to adopt the attached resolution of findings, introduce the ordinance, with the exception of the Heringer property from the eminent domain.

City Manager/Executive Director Armas said the district cannot be parcel specific. He indicated that there is no intention from staff to bring an item on eminent domain regarding the Heringer property. Council/RA Member Henson said, in that case, he would agree to drop the exemption.

Council/RA Member Hilson expressed his difficulty in understanding the deep concern expressed on the impacts of this project. He noted that there are a number of choices in the area to work with. He commented on the auto dealership tax dollar and noted both their positives and negatives. The Redevelopment Agency allows the City to utilize taxes from this area for public benefit and infrastructure improvements.

Council/RA Member Jimenez offered an addendum related to eminent domain, "property acquisition will occur only with the authorization of the property owner, and only as a last resort." This was not accepted so his motion died.

Council/RA Member Rodriquez said it would be very difficult to judge what might happen in the future. She noted that communication with the neighborhoods in this area is necessary. She commented that Redevelopment could help clean up the areas of Mission. She asked for the annual notification process to be included in the amendment.

City Manager/Executive Director Armas clarified that notices could be sent during the budget period so that people will be notified of any City movement in their area.

Council/RA Member Henson clarified that he believes any action in the area of eminent domain would come back to the Council for a hearing.

It was moved by Council/RA Member Henson, seconded by Council/RA Member Hilson, and carried by the following roll call vote to adopt the following:

AYES: Council/RA Members Hilson, Rodriquez, Ward,
Dowling, Henson
MAYOR/CHAIR Cooper
NOES: Council/RA Member Jimenez
ABSENT: None
ABSTAINED: Council/RA Member Dowling

Resolution 01-094, "Resolution of the City Council of the City of Hayward Adopting Findings in Response to Written Objections on Adoption of the Amendment to the Redevelopment Plan for the Downtown Hayward Redevelopment Project"

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Ordinance 01-__, "An Ordinance of the City Council of the City of Hayward, California, Amending Ordinance No. 75-029, As Previously Amended and Approving and Adopting the Amendment to the Redevelopment Plan for the Downtown Hayward Redevelopment Project - Mission/Foothill Boulevard Corridor"

7. Approval and Appropriation of the Operating and Capital Budgets for the Fiscal Years 2001-2002, Approval and Appropriation of the 2001-2002 Redevelopment Agency Budget, Approval of the 2001-2002 Master Fee Schedule, the Five Year Capital Improvement Program 2001-02 through 2005-06 and the 2001-2002 Gann Appropriation Limit

Staff report submitted by City Manager/Executive Director Armas, dated June 19, 2001, was filed.

With no requests to speak, Mayor/Chair Cooper opened and closed the public hearing at 11:38 p.m.

It was moved by Council/RA Member Jimenez, seconded by Council/RA Member Ward, and unanimously carried to introduce and adopt the following:

Resolution 01-095, "Resolution Approving the Budget of the City of Hayward for Fiscal Year 2001-2002; Adopting Appropriations for Fiscal Year 2001-2002; and Making Certain Policy Decisions Regarding the Budgets for Upcoming Fiscal Years"

RA Resolution 01-10, "Resolution Approving the Budget of the Redevelopment Agency of the City of Hayward and Adopting Appropriations for Fiscal Year 2001-2002"

Resolution 01-096, "Resolution Adopting a Revised Master Fee Schedule Relating to Fees and Charges for Departments in the City of Hayward and Rescinding Resolution No. 00-088 and All Amendments Thereto"

Resolution 01-097, "Resolution Approving a Spending Plan for Capital Projects for Fiscal Years 2001-2002 Through 2005-06"

Resolution 01-098, "Resolution Establishing the Appropriation Limit for Fiscal Year 2001-2002"

COUNCIL REPORTS

There were no Council Reports.



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ADJOURNMENT

Mayor Cooper adjourned the meeting at 11:40 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward