



**MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 10, 2001, 8:00 p.m.**

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PRESENTATION: Pride in Hayward Award

Mayor Cooper honored the following residents with the pride in Hayward Award. In Fairway Park, Bernice Tate and Thomas and Karin Myles; from the Harder/Tennyson Neighborhood, Jack and Jeri Walton and Osabelle Minnihan; and from the Southgate Neighborhood, Demetrios and Irene Protopsaltis. She then asked residents to submit names of people who might be deserving of this award.

PUBLIC COMMENTS

Jason Moreno commented on a web page related to a local newspaper in Burlingame.

John Kyle read from a statement that he submitted describing a need for community preservation staff to investigate a dilapidated, boarded up, building with debris, weeds, abandoned auto motors and used as a dumping site that is just north adjacent to 22617 Nevada.

Ron Barklow thanked staff for clearing dry grass in his neighborhood. He also commented on leaf blowers used by city staff as bad for the environment, and reported that a light at the Walpert pump station is being left on throughout the night.

CONSENT

1. Approval of Minutes of the City Council Meeting of July 3, 2001

It was moved by Council Member Ward, seconded by Council Member Rodriquez, and unanimously carried to approve the Minutes of the Meeting of the City Council of July 3, 2001.

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HEARINGS

2. Determination that the Proposed Russell City Energy Center at 3636 Enterprise Avenue is Consistent with the General Plan and the Industrial District Designation

Staff report submitted by Planning Manager Anderly, dated July 10, 2001, was filed.

Planning Manager Anderly described the proposed site and the General Plan map of the area as well as the zoning in the area. She commented that the Planning Commission recommended approval in that the use was similar to other manufacturing uses in the area since the product is electricity.

Council Member Hilson asked several questions related to the approval by the California Energy Commission (CEC). He questioned whether the Council would have complete control of the design and landscaping of the plant. He was told the determination was to be that the plant was consistent with the zoning in the area. He wondered if this compromised the City's full control. He asked for the effect of this on any other energy producer who might want to come in.

City Manager Armas indicated that the design considerations in the zoning ordinance would have to comply with all of these essential elements, and reserving the necessary documents, offering very sophisticated advanced design in our recycling efforts. He noted that the uses surrounding the site are what commend it for consideration.

Council Member Dowling asked for a timeline on the process. He then asked about the design.

City Manager Armas said the Energy Commission would be considering the beginning of the process at their first meeting in July. They would also consider appointing two of their members to serve as the hearing body. A series of hearings and workshops will be held in Hayward. They might be broadcast as well. The expedited review should be accomplished within the 6-month timeframe. Staff will be bringing back an agreement with Calpine to assure their commitment to the various performances agreed upon previously. He noted that if the project does not conform to the design standards in the area, it would be brought back. He noted that the CEC has the project on its website. He added that the Commission has a Public Advisor who will hear comments and concerns from the public as well.

Council Member Henson discussed the similarities of this project with the Rohm and Haas plant already in the area. He asked about the wording of preliminary approval. He was told that this provides consistency for the project.

Council Member Rodriguez asked whether the City of Hayward would have the ability to refuse the plant at some time during the process. She was told that since the State has preempted local authorities from making this determination regarding power plants. The City will have the



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opportunity to review and comment during the process.

Council Member Ward asked about the environmental analysis relating to archaeological resources. He was told that the paleontological issues would be included as well. This would be the first application to be approved under the newly established State law for approving power plants. The final document will address points surfaced under the process and mitigated.

Mayor Cooper opened the public hearing at 8:49 p.m.

Jim Drake asked what jurisdiction the City would have over any little plants coming into the area as well.

City Manager Armas responded that any plant of 50 megawatts or less is subject to local regulations. Any facility greater than this, can locate anywhere subject to the Energy Commission approval and an environmental review.

Ed Mullins represented the Chamber of Commerce and spoke as the Chair of the Governmental Relations Council. He said they consider this an appropriate use in the Industrial District and asked for approval of the application.

Ron Barklow commented on the height limits in the industrial area. It was noted that there is no height limit in the Industrial District except for office buildings.

Barry Luboviski, representing the Building and Construction Trades Council of Alameda County, commented in favor of the proposed power plant project. He discussed several benefits of the project. He also commented on the environmental benefits to the City.

Obray Van Buren, a fifty-year Hayward resident, noted that he is aware of the neighborhood and voiced his approval for the project for the whole community. He commented that this plant would be a benefit.

Ron Bender, spoke on behalf of union members from Sprinklerfitters Local, with headquarters on Cabot Boulevard and spoke in support of the project.

Mike Dunlap, Operating Engineers, spoke in favor of the project, which will use the cleanest technology available.

Rich Corvello representing Electricians Union, indicated that his members agree with the Planning Commission's approval and urged Council approval.

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Jason Moreno suggested a “stage by stage” approval process.

John Kyle commented in favor of the project.

Mayor Cooper closed the public hearing at 9:12 p.m.

Council Member Ward restated that the City will have an opportunity to comment on issues that will concern the City and the fact that the Energy Commission will be conducting meetings in Hayward for community input and providing opportunities for everyone to be heard.

Henson commended staff and City Manager Armas for working through this process. The CEC meetings will be coordinated, published and open for public comments.

Council Member Rodriquez discussed a letter received from Calpine. She would like all of this information made available to public through newsletters and the website.

Mayor Cooper expressed her concern that Calpine will only have control of the electricity up until it hits the PG&E grid. She said she was concerned with the lack of competition in the area since they are the owners of all of the new plants under construction and opened in the Bay Area.

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

Resolution 01-104, “Resolution Finding the Russell City Energy Center Power Plant Use is Consistent with the General Power Plant and Zoning Ordinance”

3. Use Permit Application No. 01-160-11 to Relocate its Radio Transmitter Facilities from 3636 Enterprise Avenue to City-Owned Property Near the Western Terminus of West Winton Avenue on a Closed Landfill Site

Staff report submitted by Planning Manager Anderly, dated July 10, 2001, was filed.

Planning Manager Anderly made the staff presentation, using simulations to show present location as well as the proposed relocation. She commented that the owners of both radio towers have discussed the interference problems. She noted that she distributed a modification of Condition 13 at the dais.

Council Member Henson asked whether the two stations were in accord on their agreement.



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Planning Manager Anderly said she hoped the representatives would be able to discuss that. She commented on the modification and noted no major issues with it. In response to a letter from East Bay Regional Park District (EBRPD), he asked for staff responses on environmental issues and biological surveys taken by the applicant. Planning Manager Anderly noted that in the City's consultant's onsite review discovered no burrowing owls and none were found by the biologist. She commented that there were no negative impacts reported and that the agencies involved would meet to resolve and mitigate other issues.

City Manager Armas called attention to Condition 14 as well which would bring together Park District personnel and City staff to determine whether the issues described in the letter are addressed.

Council Member Hilson asked why landscaping was not included as a condition since this is somewhat of an entryway. Regarding the disking of the property, the City Manager suggested that the staff work with the radio station to look at other avenues to address protecting the cap of the property, including mowing.

Planning Manager Anderly said that on the site itself, there is no irrigation and is naturally seeded with native seeds. It is located on a rise and on the site there are a number of underground facilities. She suggested there might be other ways to soften the appearance.

City Manager Armas noted that the landfill is our property and the City has discretion. He suggested that this could be brought back to the Council at a later date.

Council Member Rodriguez said it was difficult for residents to find information on this issue. It was not available at the Library. Planning Manager Anderly said she has instituted a procedure to walk the reports directly to the Library from now on.

Mayor Cooper opened the public hearing at 9:37 p.m.

Robert Doyle, EBRPD, discussed the formation of the Hayward Area Shoreline Planning Agency (HASPA) 30-years ago. He said they appreciate the effort by staff and the City Manager to accommodate their concerns. He said the proposed area is not an industrial area. He noted that the Parks System has a \$20 million investment in this area and that the towers are proposed for the entrance and the parking lot to the whole system. He said it might cause an economic negative to the District. He added that these are legitimate concerns. He commented that they do not think all the answers are in. The issue of locating communication devices near others is a very difficult question. He asked that the City of Hayward address their concerns. He suggested that what is proposed does not adequately mitigate the whole issue. He expressed concern about

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the electronic equipment needed by park personnel for emergencies and that this park needs to be safe and friendly. He cited a security guard home in the area and the potential danger to the staff at this location. He said he appreciated the suggestion to enhance the landscaping. He added that the rest of the area might be improved as well. He emphasized that this is a major issue for the Parks District.

Ron Barklow expressed concern about the fact that the report was not available 30-days before the meeting and whether this was in violation of the 30-day notice. He questioned staff qualifications for preparing the environmental document. He noted the importance of radio communication to the area. He asked if other sites were considered at for this project.

City Manager Armas responded that the report was prepared on May 24th and has been in circulation for a period of time preceding the Planning Commission hearing. It was also noted that interested parties were notified including the Audubon Society.

Jim Drake discussed the height of various proposals for the shoreline. He suggested stopping this building. It should be spread out more.

Jim Leahy, Calpine/Bechtel Development Group, noted that this is a precursor step for the Energy Center to clearing the site. He said they are determined to make this process as inclusive as possible. He addressed Council Member Hilson's concern by saying there is no need for another plant once this one is installed. He commented that they are working with staff and Salem Communications and expect to have an agreement in short order.

Rob Douglas, representing Salem Communications, noted that they have been at their current site for over 30 years. He said their location next to EBRPD is a concern to them as well. They want to work with the district as well. He noted that this is a good use for a capped landfill since there are not many uses to be made of these sites. He said they are presently one and a quarter miles south at this point. He admitted that there are some engineering issues to be addressed but they are prepared to solve any problems. Calpine will help with any issues. If the issues cannot be resolved, the towers will not be relocated. These towers are the state of the art. He noted that the FCC is the sole governing body controlling the radio antennae. In response to Council Member Hilson's questions regarding landscaping at the present site, he was told there is some type of mowing. He also discussed the ground radials at the present location. He said they would be agreeable to work with staff and the Park system regarding a suitable ground cover at the new site. He agreed that there should be the availability of improving the location and still protecting the cap, which is vital.

Council Member Henson asked about the communication issues in the area. Mr. Douglas said he has given Mr. Doyle information regarding any interference issues. He said they would obtain their frequencies in order not to interfere with their two-way communication.



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Sheila Junge who wrote a letter to Council that was included in the public record, she noted that the sky would be filled with radio antennas, which no amount of mitigation will solve. She commented that the proposed location of the towers will be the first and last thing visitors will see.

Council Member Dowling asked staff whether there were any other locations or sites discussed for this project. He was told that alternatives are usually part of the environmental impact report.

Jason Moreno asked how this project would be built where it is proposed if staff had nothing to do with the location.

In response to a question from Mayor Cooper regarding whether it would interfere with the energy plant progress if this proposal were not approved. City Manager Armas said his understanding is that if the site on Enterprise is not available for construction, the plant can not proceed.

Prior to speaking David Van Atta, representative for KTCT, said he needed the time for discussion with Calpine and Salem Communications to determine whether their concerns will be responded to. He noted that they are being reassured that they will have an agreement to be provided with assurances of negligible impact on their broadcasting capabilities and be reimbursed for their costs. He said they would be satisfied as long as they receive an agreement. They have an expectation that it will work, although the information came in late. Lastly he noted that, hopefully with the good intentions expressed to them, this issue could be worked out.

Mayor Cooper closed the public hearing at 10:16 p.m.

Council Member Dowling asked Calpine representative Jim Dunstan whether they had looked at other sites in the area for the tower removal and reconstruction. He said they concluded that there was not sufficient available land within the City of Hayward nor in the unincorporated area, since they require a substantial ground footprint for their facilities.

Council Member Dowling then noted that since Calpine will work with EBRPD to mitigate any concerns and since there are already towers in the vicinity, he would support the motion.

City Manager Armas suggested a clarification that the motion include a revised Condition 13, eliminate Condition 19, and substitute mowing for disking in Condition 16. These were the modifications as previously distributed to the Council. The maker and seconder of the motion agreed.

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Mayor Cooper commented that along with Item Two, this is a positive step for the City of Hayward.

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

Resolution 01-105, "Resolution Approving Use Permit Application No. 01-160-11 of Golden Gate Broadcasting Company, Inc."

COUNCIL REPORTS

Council Member Hilson reported that in the most recent issue of Western Cities Magazine, Hayward was congratulated for its efficiency in saving power and its awareness of the power crisis.

ADJOURNMENT

Mayor Cooper adjourned at 10:27 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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