



**MINUTES OF SPECIAL JOINT MEETING OF  
THE CITY COUNCIL/REDEVELOPMENT  
AGENCY OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, July 25, 2000, 8:00 p.m.**

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**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 Council Member Henson.

**ROLL CALL**

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

**PUBLIC COMMENTS**

Jason Moreno, 25200 Carlos Bee Boulevard, discussed an upcoming meeting regarding the Home Depot project.

John Kyle, 22638 Teakwood, expressed strong concern regarding the recent public meeting on the proposed Route 238 freeway.

Jim Drake, 25795 Franklin Avenue, repeated his request for further clarification on a building that is being re-modeled for a business in his neighborhood.

It was noted that staff has reviewed the request and a report was provided to Council. Additionally, Mr. Drake did not keep an appointment with staff in this regard.

Mayor Cooper presented a Special Resolution to Deputy Chief Trimble on his appointment as Police Chief for the City of Benicia.

**CONSENT**

Items 3, 4, and 5 were removed for further discussion.

1. Approval of Minutes of the City Council Meeting of July 18, 2000

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to approve the Minutes of the City Council Meeting of July 18, 2000.

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2. Adoption of Positions and Salaries Resolution for Fiscal Year 2000-01

Staff report submitted by Personnel Director Perrin-Scales, dated July 25, 2000, was filed.

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

Resolution 00-109, "Resolution Designating Positions of Employment in the City Government of the City of Hayward; Providing for Their Number and Salary Range; and Superseding Resolution No. 99-117 and All Amendments Thereto."

3. Slurry Seal, Pavement Repair, and Rehabilitation 2000-01: Approval of Addenda and Award of Contracts

Staff report submitted by Deputy Director of Public Works Bauman, dated July 25, 2000, was filed.

Jason Moreno, 25200 Carlos Bee Boulevard, asked whether these firms contributed to election campaigns for any of the Council.

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

Resolution 00-116, "Resolution Approving Addendum No. 1 for Pavement Rehabilitation Slurry Seal 2000/01, Giuliani Plaza Site Improvement, and Pavement Repairs at Various Reservoir Sites, Project Nos. 5118 and 6914, and Awarding the Contract to Bond Blacktop, Inc."

Resolution 00-117, "Resolution Approving Addendum No. 1 for Deep Lift Street Patching 2000/01, Pavement Rehabilitation Slurry Seal 2000/01, Pavement Rehabilitation Street Overlay 1998/99, City Parking Lot Pavement Repair, and Pavement Repairs at Various Reservoir Sites, Projects Nos. 5115, 5118, 5119, 5164, 5187, 5743, and 7009, and Awarding the Contract to RGW Construction, Inc."

4. Rehabilitation of Taxiways "A," "B," and "F" Pavements and Signage at Hayward Executive Airport: Approval of Addendum No. 1 and Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated July 25, 2000, was filed.



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

Resolution 00-118, "Resolution Approving Addendum No. 1, Awarding Contract to Redgwick Construction Company for Rehabilitation of Taxiways "A," "B," and "F" Pavement and Emergency Vehicle Road Paving, Project Nos. 6811,6812, and 6817, and Runway and Taxiway Signage, Project No. 6810, at the Hayward Executive Airport"

5. Request from Council Member Ward for Disbursement from Special Travel Fund for City-Related Travel

Report submitted by Council Member Ward, dated July 25, 2000, was filed.

Jason Moreno, 25200 Carlos Bee Boulevard, asked for further information on the travel. Council Member Ward said he had reported on the trip to Portland at a previous meeting.

It was moved by Council Member Jimenez, seconded by Council Member Hilson, and unanimously carried to approve the disbursement to Council Member Ward from the Special Travel Fund for City-related travel to Portland, Oregon.

6. Smalley Avenue Sewer Replacement Project - Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Ameri, dated July 25, 2000, was filed.

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

Resolution 00-110, "Resolution Approving Plans and Specifications for the Sanitary Sewer Replacement Project at Smalley Avenue, Project No. 7568, and Call for Bids"

7. Railroad Crossing Improvements on Depot Road West of Clawiter Road: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Bauman, dated July 25, 2000, was filed.

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

Resolution 00-111, "Resolution Approving Plans and Specifications for the Railroad Crossing Improvement on Depot Road, West of Clawiter Road, Project No. 5134, and Call for Bids"

8. Industrial Parkway Sanitary Sewer Improvement - Award of Contract

Staff report submitted by Deputy Director of Public Works Ameri, dated July 25, 2000, was filed.

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

Resolution 00-112, "Resolution Awarding Contract to Golden Pacific Construction, Inc. for the Industrial Parkway Sanitary Sewer Improvement Project, Project No. 7581"

9. Conversion of Digester No. 3 to Primary Mode, Repair of Digester No. 2 Dome, and Provision of a Grit Removal System: Authorization for Execution of an Agreement for Professional Design Services

Staff report submitted by Deputy Director of Public Works Ameri, dated July 25, 2000, was filed.

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

Resolution 00-113, "Resolution Authorizing the City Manager to Execute an Agreement with Carollo Engineers for Professional Design Services for Components of the Water Pollution Control Facilities, Project Nos. 7632, 7645, 7636, 7642, and 7643"

10. Water Pollution Control Facility Outdoor Lighting Replacement Project - Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Ameri, dated July 25, 2000, was filed.

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



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Resolution 00-114, "Resolution Approving Plans and Specifications for the Water Pollution Control Facility Outdoor Lighting System Replacement Project, Project No. 7619, and Call for Bids "

11. Final Tract Map 6992 – Paul Wong (Subdivider) – Approve the Final Map and Authorize the City Manager to Execute a Subdivision Agreement and Accept, Upon Completion of Improvements, Certain Streets into the City Street System

Staff report submitted by Development Review Services Engineer Garcia, dated July 25, 2000, was filed.

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

Resolution 00-115, "Resolution Approving Final Map for Tract 6992 Authorizing the City Manager to Execute a Subdivision Agreement, and Accepting Certain Streets into the City Street System"

At the request of City Manager Armas, Mayor Cooper announced that the hearing item entitled, "Harder Road Grade Separation Project: Approval of Addenda Nos. 1 and 2, Execution of Revised Agreement for Resident Engineer Services, Award of Contract, and Appropriation of Funds," would be postponed until the first meeting in September.

## HEARINGS

12. Appeal of Planning Commission Revocation Action - Use Permit Application No. 90-44 – K9-K9 Kennels (Applicant), James and Frances Dalton Trust (Owners) – Project Located at 4125 Breakwater Avenue

Staff report submitted by Planning Manager Anderly, for July 25, 2000, was filed.

Mayor Cooper opened the public hearing at 8:43 p.m.

The following spoke in favor of continued operation of the K9-K9 kennel facility:

Danica M. Collins, 27223 Sleepy Hollow Avenue, #204  
Jennifer Voigt, 25104 Vista Greens Court, Hayward  
Nicole Row, 211 Parrott Street, San Leandro  
Robert Murry 1468 Grand Avenue, San Leandro

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Heather Rowe, 4570 Evelena Court, Fremont, read a favorable statement from Russell W. Hackler, a Castro Valley veterinarian.  
Carla Jean Barker, 1023 Harvard Road, Oakland  
Michael Wozniak, 14860 Acacia Street, San Leandro  
Ruth Sampson, 238 Greenfield Avenue, San Mateo  
Doug Hake, 8579 Mahogany Place, Newark  
Michelle Mussen, 1817 Rose Street, Berkeley  
Owen and Catherine Martikan, 60 Halkin Lane, Berkeley  
Kelly Berg, 205 Boardwalk Drive, Apt. G  
Victoria Gray, 311 - 27<sup>th</sup> Avenue, San Mateo  
Millie Will, 9556 Crow Canyon Road, Castro Valley  
Russell Will, 9556 Crow Canyon Road, Castro Valley  
Emily Rosenberg, 6114 LaSalle #335, Oakland  
Linda Tuerk, 34249 Tempest Terrace, Fremont  
Buck Hiatt, 2892 Hillcrest Avenue  
Marci Burrell, 1931 Ashby Avenue, Berkeley  
Ina Chan, 42789 Castillejo Court, Fremont  
John Chan, 42789 Castillejo Court, Fremont  
Chris Flanagan, 3772 Canon Avenue, Oakland  
Danielle Hyatt, 350 Euclid, Oakland  
Sheila Iyengar, 1925 Ashby Avenue, Berkeley, trainer for K9-K9  
Thomas Maclaughlin, 5725 International Boulevard, Oakland  
Tina Parriguy, 1550 Castle Rock Road, Walnut Creek  
Hunter Pyle, 500 Merritt Avenue, #3, Oakland  
Susan Ruxton, Tri-Valley Animal Rescue, 11424 Tesla Road, Livermore  
Emily Verna, Furry Friends Rescue  
Carl Jones, 2241 Prosperity Way, San Leandro  
Darlene Evans, 361 Bristol Boulevard, San Leandro

Those who spoke against K9-K9:

Chip Cormier, Camp Kanine, 6779 Crow Canyon Road  
Lisa Clifton-Bumpass, P.O. Box 6207  
Patricia Thomspson, 2837 Romagnolo, described her experience with her pet.  
Leroy Moyer, 3344 Willow Pass Road, Concord, supported open kenneling but with better supervision.  
Victoria Ronchetti, 1226 Victoria Avenue, San Leandro  
Joe and Pam Santos, 19211 Edwin Markham Drive, Castro Valley  
Linda Billings, 20267 Meadowlark Drive, commented on the basic standards of operation.

Rena Rickles, Attorney for K9-K9, said she had previously asked for continuance in order to bring more information to Council. She also answered questions from Council Members.

Council Member Dowling asked about staffing at the kennel and how many staff members were available for the full 24-hours of operation for seven days a week. Ms. Rickles explained that



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they have now incorporated walkie-talkies for all staff to maintain constant communications. She asked a staff member to provide further detail on the levels of staffing, who responded that the number of dogs co-mingling at any time of the day varies.

Council Member Ward asked about the previous two occasions when the owner indicated that he would adhere to the conditions. He expressed concern that the applicant only seems to react when it is absolutely necessary, and not in a voluntary way. He asked what else they might have to do to force the applicant to react. Ms. Rickles explained that he had acted on all of the violations cited by staff and rebutted most of the allegations cited in the report.

Planning Manager Anderly responded that the allegations were presented in the report to show a background and pattern for behavior of operational issues with this applicant. City Manager Armas added that the hearing date was set in consultation with the applicant's prior attorney.

Ms. Rickles asked for the record to include her submittal, photographs and specific additional rebuttals to the allegations listed in the staff report.

Mayor Cooper closed the public hearing at 11:15 p.m.

Mayor Cooper reminded Council that this is a land-use issue and this property is zoned Industrial. This business was already established in the area, although kennels are not permitted in this zoning. She added that Council Members were to determine whether the business was enough of a public nuisance to impact the businesses and property values in the surrounding area.

City Attorney O'Toole said the issue is whether the business is in compliance and conformance with all the conditions of the use permit; or is the operator in violation of those conditions. The basis for a revocation would be if the operator violated the conditions of the use permit. He added that the Council must also consider whether the interest of the public is being served; generally, this requires a negative impact to neighboring businesses including but not limited to noise, pollution, and/or animals escaping to determine whether this is a proper revocation.

Council Member Hilson commented and concluded that this hearing is about violations of the Hayward Municipal Code. He added that staff has documented these various violations and incidents. He moved to uphold the Planning Commission action revoking the conditional use permit of K9-K9 based on the findings. Mayor Cooper seconded the motion for the purposes of discussion.

In response to a question from Council Member Ward as to how subjective the determinations made in the staff report are, City Attorney O'Toole responded that it was the position of the Council to weigh the evidence that they have heard and seen in the staff report to make a decision whether there is substantial evidence to support the findings. He added that a possible conclusion

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is that there was inadequate supervision. Planning Manager Anderly indicated that the information in the reports was gained through available Animal Control reports.

Council Member Ward then asked the Animal Control staff whether the number of violations reported for this facility was substantially different from other animal facilities in the City.

Animal Services Manager Armes explained that there is only one other facility in Hayward and, thus far, there have been no complaints reported for the three years that establishment has been operating. He said he thinks the number of complaints with this applicant seem higher than the norm.

Council Member Rodriquez emphasized that the issue is a land-use issue with an additional list of violations. She made the point that rules must be complied with. She suggested that, perhaps Mr. Van Voast should be in a different business. She pointed out that the ultimate problem is the violations.

Council Member Henson asked the City Attorney whether problems with the lack of supervision was leading the Council to conclude this as a land use issue.

City Attorney O'Toole pointed out that what the Council was really looking at was Condition Number Nine, which requires the permit holder to comply with all City Animal Control Regulations and Requirements. If Council finds there have been violations that would be a violation of one of the conditions of the use permit.

Council Member Henson asked whether non-compliance could be the determination for staff's suggested action. However, if someone else was willing to operate the facility in accordance with the Conditions, could this use still be allowable?

He was told that Use Permits do run with the land and can be passed from operator to operator.

Council Member Henson then commented that while Mr. Van Voast cares greatly for animals, the rules and regulations are there to protect the animals.

City Attorney O'Toole clarified that if Council revokes the permit, it is permanently revoked. There would be nothing to pass onto another owner.

Council Member Dowling asked about the total number of dogs conditioned by the City to be allowed on the site. He then moved a substitute motion to direct the kennel owner to work with animal control to set regulations on the number of animals for the amount of land, as well as the number of staff members necessary for the protection of the animals. The motion died for lack of a second.

Council Member Ward asked the City Attorney whether Council could continue this item in order to not close an existing business and to achieve the goal of operating in a manner consistent with more detailed conditions.



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City Attorney O'Toole explained that the Council could continue the item with instructions to be carried out and fulfilled within a certain period of time, after which it would be brought back to Council for reconsideration. Council could also revoke at this meeting to take effect at some point in the future, pending a report from staff relative to changing that decision. He indicated that these would allow the operation to continue.

Council Member Ward asked more specifically about a conditional revocation of the permit.

City Manager Armas pointed out that the Planning Commission had already given the operator a six-month reprieve.

Council Member Henson said his preference would be to protect the use permit for further use of the same use on the same lot.

It was noted that if the use permit were revoked, another permit for the same use could not be considered on this property for one year. However, if this operator came back with a Conditional Use Permit significantly different from the present permit, that might mean limitations on the boarding or standards, it might be considered, if the Council did not permanently revoke the permit.

City Attorney O'Toole suggested Council could also revoke this permit without prejudice, to give someone else an opportunity to file a permit for the same use.

City Manager explained that the zoning in this area does allow this type of activity to occur, subject to a conditional use permit.

Council Member Henson asked the maker of the motion if he would allow revocation without prejudice. Council Member Hilson denied the request and said the City has been through this for the past three years.

Council Member Henson offered a substitute motion.

It was moved by Council Member Henson, seconded by Council Member Dowling, and failed by the following roll call vote to revoke the Use Permit without prejudice:

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

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Mayor Cooper stated that she would be supporting the original motion because, if she were a property owner in the area, she would be disturbed by the sound and smell of the animals at this business. She added that the concept of socializing dogs with dogs does not make sense since dogs are pack animals. She added that this operation could have brought down the land values in the area. She reminded members that this is not a business that should be in the Industrial area.

Council Member Jimenez said he was disappointed to learn that the Planning Commission did not have the courage to make a decision on this establishment.

It was moved by Council Member Hilson, seconded by Mayor Cooper, and carried by the following roll call vote to uphold the Planning Commission decision to revoke the Use Permit.

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

Resolution 00-119, "Resolution Denying Appeal and Revoking Use Permit No. 99-44 for Failure to Comply with Conditions of Approval and Violations of the Hayward Municipal Code"

13. Acceptance of Report on Action Undertaken During Moratorium and Extension of Interim Moratorium Ordinance in Cannery Study Area

Staff report submitted by Director of Community and Economic Development Ehrental, dated July 25, 2000, was filed.

Mayor Cooper opened and closed the public hearing at 11:40 p.m. with no one asking to speak.

It was moved by Council Member Jimenez, seconded by Council Member Hilson, and unanimously carried by all present, to move, introduce and adopt the following:

Ordinance No. 00-05, "An Ordinance to Extend Interim Emergency Ordinance No. 00-02 of the City of Hayward Adopted Pursuant to Government Code Section 65858, Imposing a Temporary Moratorium on the Issuance of Use Permits, Variances, Building Permits and Other Land Use Approvals Within the Delineated Sections of the Cannery Area"

**LEGISLATIVE BUSINESS**

14. Consideration of an Amendment to the Preliminary Plan for the Downtown Hayward Redevelopment Project - Mission-Foothill Boulevard Corridor



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Staff report submitted by Redevelopment Director Bartlett, dated July 25, 2000, was filed.

Mayor/Chair Cooper opened and closed the public hearing at 11:45 p.m. with no one asking to speak.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Jimenez, and carried by the following roll call vote to approve RA Resolution 00-14:

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

RA Resolution 00-14, "Resolution Accepting the Amendment to the Preliminary Plan for the Downtown Hayward Redevelopment Project - Mission-Foothill Corridor"

15. Harder Road Grade Separation Project: Approval of Addenda Nos. 1 and 2, Execution of Revised Agreement for Resident Engineer Services, Award of Contract, and Appropriation of Funds

Staff report submitted by Deputy Director of Public Works Bauman, dated July 25, 2000, was filed.

**This item was deferred until the first Council meeting in September.**

16. Adoption of an Ordinance Related to Zone Change 99-190-01 – Society of Saint Vincent de Paul (Applicant/Owner) Property is Located on Grace Court Between Grace Street and Smalley Avenue and at 22331 Mission Boulevard

Staff report submitted by City Clerk Reyes, dated July 25, 2000, was filed.

With no requests to speak, Mayor Cooper opened and closed the public hearing at 11:50 p.m.

It was moved by Council Member Henson, seconded by Council Member Dowling, and carried by the following roll call vote to approve the following Ordinance:

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AYES: Council Members Jimenez, Ward, Dowling,  
Henson

NOES: Council Members Hilson, Rodriquez,  
MAYOR Cooper

ABSENT: None

ABSTAINED: None

Ordinance No. 00-06, "An Ordinance Reclassifying Certain Territory Located on Grace Court Between Grace Street and Smalley Avenue and at 22331 Mission Boulevard to a Planned Development/Cottage Special District Pursuant to Zone Change Application 99-190-01"

### **COUNCIL REPORTS**

There were no Council reports.

### **ADJOURNMENT**

Mayor Cooper adjourned the meeting at 11:56 p. m.

### **APPROVED:**

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

### **ATTEST:**

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency