



**MINUTES OF JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 7, 2002, 8:00 p.m.**

MEETING

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

ROLL CALL

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

PRESENTATION: Business Recognition Award

The Business Recognition Award for May 2002 was presented to "The Cobblers." "The Cobblers" is located at 22443 Foothill Boulevard. The Cobblers started in Hayward in 1932, when Alfred Grasseschi, with his sons, Rudy and Al, opened "Alfred and Sons." At the beginning, it was a small shoe repair business on Mission Boulevard. After their father, Alfred, retired in 1973, Al and Rudy moved into Hardy's Shoe Store on Foothill Boulevard. They also expanded their selection of goods to include hats, specialty shoes, boots, belts, other shoe care accessories and leather goods. The readers of the Oakland Tribune and the Daily Review recently recognized them as "Best Shoe Repair" and "Best Shoe Store" in 1996 and 1999. In addition, they have been recognized for their exemplary participation in local community services clubs. The Cobblers support activities that preserve the history of our city and provide recreational opportunities for our youth. Receiving the award for The Cobblers, we have Mr. Michael Ochoa and Mr. Dino Grasseschi, nephew and son respectively of Mr. Rudy Grasseschi, who thanked the Council for its efforts in revitalizing the downtown.

PUBLIC COMMENTS

Jason Moreno showed photos of areas behind the Home Depot in violation of the conditions of approval that restricts the storing of goods outside the store. Council Member Hilson reported that he spoke with the manager and assistant manager on this issue and the City is addressing this issue.

Elmer Kriewaldt thanked the Council and City employee, Matt McGrath, for providing new signs related to street sweeping on his street as he had previously requested.

Al Reynolds, Hayward, commented on breast cancer and urged women to have annual mammograms.

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Joel Eng, San Leandro, commented on Falun Gong, an ancient health practice and urged all to subscribe to this Chinese tradition.

Tracy Fraas, Hayward, announced that Hayward Shakespeare Event would be held on May 18. She thanked the community partnerships that are involved in bringing this event for our youth.

Frank Goulart, Hayward, thanked CED and Planning Director Sylvia Ehrental for her persistent efforts towards the Mervyns tree project. Additionally, he enumerated transportation improvement ideas as discussed by the Neighborhood Alliance, such as signal synchronization, elimination of left-hand turns, express lanes on Mission Boulevard, no parking along Mission during peak hours, promote transit use, rental of bikes at BART stations, telecommunicating and the five-corners grade separation.

Barbara Heringer-Swarr, Hayward, commented on properties on Site 4 of the Redevelopment Agency. She commented on the use of redevelopment funds for funding large corporations.

CONSENT

Consent Item 3 was removed for further discussion.

1. Approval of Minutes of the City Council Meeting of April 16, 2002

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to approve the minutes of the City Council Meeting of April 16, 2002.

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of April 23, 2002

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of April 23, 2002.

3. Program to Address Appearance of Buildings in Downtown Hayward

Staff report submitted by Neighborhood and Economic Development Manager Bauman, dated May 7, 2002, was filed.

Council Member Hilson asked if this program has restrictions required by the Federal CDBG requirements under the Davis-Bacon law. He felt that this was an appropriate project for using the CDBG funds. He also suggested using this type of funding for other areas outside the downtown as along Tennyson Road.

City Manager Armas stated that the block grant provisions do not apply to the other elements, only to the painting element portion that has a threshold of \$2,000.



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Council Member Henson clarified that the majority of this is in rebates that require property owners to first improve the property.

Council Member Ward thanked the downtown merchants that formed the Image Group, who initiated this effort.

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

Resolution 02-056, "Resolution Approving a Building Improvement Program"

4. Submittal of a Claim with the Alameda County Transportation Improvement Authority for use of Measure B Paratransit Funds

Staff report submitted by Social Services Planning Manager Korth, dated May 7, 2002, was filed.

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

Resolution 02-053, "Resolution Authorizing the Filing of a Claim with the Alameda County Transportation Authority for the Allocation of Alameda County Measure B Paratransit Funds for Fiscal Year 2002-03"

5. Approval of Appropriation for Computer Equipment Acquisition

Staff report submitted by City Manager Armas, dated May 7, 2002, was filed.

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

Resolution 02-054, "Resolution Amending Resolution 01-095, as Amended, the Budget Resolution for Fiscal Year 2001-02, Relating to a Transfer of Funds from the General Fund Undesignated Fund Balance to the General Fund for the Acquisition of Computer Equipment to be Used by City Council Members"

6. Submittal of Application for a Water System Vulnerability Assessment Grant

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Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated May 7, 2002, was filed.

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

Resolution 02-055, "Resolution Authorizing the City Manager to Submit an Application for a Water System Vulnerability Assessment Grant to the United States Environmental Protection Agency"

LEGISLATIVE BUSINESS

7. Possible Modifications to the City of Hayward Sphere of Influence Resulting from Proposed Castro Valley Incorporation

Staff report submitted by Senior Planner Calame, dated May 7, 2002, was filed.

Community and Economic Development and Planning Director Ehrental made the staff presentation, depicting the City of Hayward and its Sphere Of Influence, describing the requirements, and noted staff concerns regarding the boundaries for the proposed city of Castro Valley that could impact potential annexations. She asked that Council review the report, identify any additional concerns and provide comments for transmittal to the Alameda County Local Agency Formation Commission (LAFCO). She noted that the County's Community Development Agency has applied to LAFCO to modify the City's Sphere of Influence in conjunction with the proposed incorporation of Castro Valley. She cited the proposed changes to the City's Sphere of Influence that include detaching 1.5 square miles in the Five Canyons area. This area would be included in the new city of Castro Valley as required by State law. On May 9, LAFCO will be considering this proposal, and, if approved, will be placed on the November ballot for consideration by its residents. Boundaries for the proposed new city must be established as well as its sphere of influence. She noted that the City's sphere of influence was adopted in 1978 and recently revised to include the Walpert Ridge and the Five Canyon areas. She defined the "existing communities of interest," a criteria for establishing a sphere of influence. The City provides fire protection through the Fairview Fire Protection District and will continue to operate as an independent district even if Castro Valley is incorporated. LAFCO is required to confirm this. She reported on the Foothill Corridor and its eventual annexation, as it is a gateway to the City.

Council Member Dowling asked if the Gary Drive condominium complex is in the City limits. It was noted that even with a Castro Valley postal address, it is within corporate limits. It was also noted that there are other areas where residents need to traverse County area to get to another



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area of the City of Hayward.

Council Member Henson asked about the CEQA documentation and the proposed city of Castro Valley. It was noted that staff has reviewed the mitigated negative declaration and did not find impacts to the City. However, in reviewing the proposal, the issue of the Oak Street property surfaced and also will note its concerns related to the Foothill Corridor and moving the boundary to the east. Staff described the steps that LAFCO will make to determine and consider that application this week, as well as decide whether to put the question to the voters.

Discussion ensued related to issues and impacts to the Fairview Fire District, what State law requires for reconstitution in the future. There were concerns related to fire protection for the Five Canyons area should the proposed city of Castro Valley take place.

Council Member Ward asked about the financial viability for the new city. City Manager Armas responded that the financial viability test has been met contingent on the continuation of the County imposed utility tax and a new transient occupancy tax being implemented.

Council Member Ward asked what would be the result if LAFCO responds favorably to the City of Hayward's request related to the Foothill Corridor if the proposed city does not occur. It was noted that an annexation application could be submitted for those parcels and the sphere of influence for the new city would be co-terminus with its boundaries.

Council Member Hilson asked how the Oak Street boundaries for this sphere of influence were determined rather than coming down Gary over to Grove Way. It was noted that there is more of a single-family character whereas the areas may have a re-use in the future. He asked if this was typical for LAFCO to do or if the proposed city of Castro Valley triggered this discussion.

Council Member Jimenez strongly recommended that not only the City Manager and Fire Chief attend the sessions, but also the Mayor as they have great knowledge of the fire district and that entire area. He asked that this be a part of the motion.

Mayor Cooper opened the public hearing at 8:51 p.m.

Bill Barnard stated that he lives in Five Canyons having moved there directly from Ohio. He has reviewed the application and has some concerns. He asked why Hayward has not annexed Five Canyons and expressed his concerns related to fire protection service from Fairview Fire District.

City Manager Armas responded that the Fairview Fire District would continue to provide fire service.

In response to Mr. Barnard, he noted that in exploring an annexation, the City would need to

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deal with the older Fairview Fire District area that is between the current City boundaries and the area of Five Canyons. He indicated that there is not a whole lot of interest from the property owners to be annexed to Hayward.

Council Member Ward asked staff to bring back information and a new map depicting the current City of Hayward boundaries and include the current 'islands' that remain County for some future incorporation.

Council Member Henson asked about the population and square mileage of the proposed city of Castro Valley. City Manager Armas reported that there is an approximate population of 58,000 and the square mileage is 11.5 square miles.

Mayor Cooper closed the public hearing at 8:58 p.m.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to accept the report and direct staff to convey its comments regarding the Foothill Boulevard Corridor and relate to LAFCO that parcels on the east side of Oak Street, north of Grove Way and the property on its south side, be excluded from the proposed city of Castro Valley and included in the City of Hayward's Sphere of Influence. Additionally, that the Mayor, City Manager and Fire Chief attend the LAFCO meeting when this is considered.

8. Acquisition of Property and Leasehold Interest of Former Albertson's at 22695 Foothill Boulevard

Staff report submitted by Redevelopment Director Bartlett, dated May 7, 2002, was filed.

City Manager/Executive Director Armas made the report and provided the staff recommendation is that the City and the Redevelopment Agency pursue the acquisition of this property and acquire the leasehold interest.

Council/RA Member Hilson commented favorably that this acquisition gives us not just ownership but direct control on the type of businesses that could occupy that building. He asked whether Council would have the opportunity to provide this type of input as it did for the retail space across the street.

City Manager/Executive Director Armas indicated that he would suggest that the Council have input on the type of business that would occupy the building. It was noted that Albertsons has requested that a pharmacy not be permitted as it operates one and there are several others in the area. Council expressed some concern on this type of restriction, that it was rather odd, but would reluctantly accept it. It was noted that multiple tenants for this building is being considered.

There was discussion on the use of a reputable broker for marketing this site as well as Council input in seeking a business or businesses for this location. Concerns expressed included finding a



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broker that would be knowledgeable of the City and its goals to further revitalize our downtown.

Council/RA Member Ward noted that this location is a potential focal point on the other end of B Street. He suggested that should parking requirements be a factor in preventing a good use for that location, staff explore potential modifications to the ordinance. He suggested that this type of flexibility be provided to the broker.

Council/RA Member Jimenez noted that the current recycling business at that location is unsightly and asked if there would be any type of renovation or upgrade at this location. Additionally, he highly recommended that whatever business settles there, that it be a sales tax revenue generator and provide jobs for Hayward residents.

Council/RA Member Dowling urged that this site be secured and not become a graffiti and debris haven.

It was noted that the recycling business could possibly be relocated. It was also reported that currently Albertsons uses a service to landscape and maintain the property and the City will continue maintenance at transfer.

In response to Council/RA Member Rodriguez's question regarding whether the 25 year-old building is retrofitted, staff reported that it is not and would need to be seismically evaluated. She also expressed concern on the broker, costs, maintenance, and the pharmacy restriction.

Mayor/Chair Cooper opened the public hearing at 9:20 p.m.

Frank Goulart inquired on the funding and its source for both the leasehold interest and the ownership interest. He asked whether the value of the leasehold was discounted due to the value of the pharmacy. He also asked whether this site would be used to build a hotel.

City Manager/Executive Director Armas reported that the leasehold is approximately a million dollars and the balance is the property and will be derived from the fund balance or reserves. The value of the pharmacy is not a substantial factor. He indicated that the focus is of a retail nature not a larger development.

Ray Baker, who owns an office building on A Street, spoke against the acquisition and suggested the City enter into an exclusive agreement with Albertsons to market the property in order to maintain the property on the tax rolls and save the City's money. He suggested the City review other feasible alternatives and consider its potential losses, as taxes and local services.

Barbara Swarr asked if that property was previously built under the auspices of the Redevelopment Agency in 1977 and assumed that it had as she continued, stating that all the

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property that Albertsons owns now was taken by eminent domain. She suggested that the taxpayers of Hayward gave Albertsons a premium, paid them to build a store and now going to pay them for not renting the vacant building.

In response to her comments, City Manager/Executive Director Armas reported he was not aware of the Redevelopment Agency's involvement in this vacant building and clarified that the new Albertsons site was not purchased by the use of eminent domain.

Council/RA Member Ward commented on Mr. Baker's remarks, noting potential sales tax revenue and suggested staff comment on the "in lieu fee" that would accrue to the City. City Manager/Executive Director Armas responded that there is a possessory interest tax that would be paid. He also reported that the City benefits from the Proposition 13 lower assessed valuation and is faced with a property that has a very low assessed value and by placing it back on the market will enhance the economic return.

Council/RA Member Jimenez commented on the history of this site, noting that it was the original site for Markham Elementary School.

Mayor Cooper closed the public hearing at 9:31 p.m.

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

RA Resolution 02-05, "Resolution Authorizing Acquisition of the Property and Existing Leasehold at 22695 Foothill Boulevard"

Resolution 02-057, "Resolution Amending Resolution 01-095, as Amended, the Budget Resolution for the City of Hayward for Fiscal Year 2001-02, Relating to an Supplemental Appropriation to be Used for Acquisition of the Premises and Leasehold at 22695 Foothill Boulevard"

9. Revisions to Description of Public Comments Section of the Agenda

Staff report submitted by City Manager Armas, dated May 7, 2002, was filed.

City Manager Armas made the staff report, noting the proposed language change to the Council's Handbook. He suggested that the revisions would be guidelines for the public, staff and the Council.

Council Member Jimenez commented that the Handbook includes a five-minute limit for each Council Member during deliberations and asked why that was not enforced.



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Mayor Cooper opened the public hearing at 9:34 p.m.

Jason Moreno, Hayward, indicated that he submitted a card to amend the April 16 minutes on comments that he made. Mayor Cooper suggested that he put the changes in writing and submit them to the City Clerk, who will make those changes after verification from the audiotapes.

Jason Moreno spoke against the various options previously discussed by Council. He commented that he would speak out against any kind of option that would limit our public's right to speak, discuss their grievances and concerns in a public forum.

Frank Goulart expressed his opinions against any Council actions that would restrain the right of freedom of speech. He read from the Council Members' Handbook related to international topics. He spoke against members of the Council making snide remarks towards the public after speaking.

Bill Quirk spoke on behalf of the Hayward Demos and reported that its Executive Board adopted a resolution that endorses Council's efforts towards civil behavior, but opposes any effort that would restrict the exercise of free speech. He spoke against any proposed language that asks speakers to keep their comments focusing on issues that directly affect the City or within the jurisdiction of the City. In his opinion, it was appropriate and adds a certain 'charm' to the proceedings when people talk about other subjects and does not really extend the meeting. He noted that whether or not the Council allows these topics becomes then a matter of interpretation. He felt that Council speaking on issues beyond its jurisdiction is important as in the South African issue.

Barbara Swarr commented that she is a frequent speaker and a part of the loyal opposition but loves Hayward very much. She commented that she is a part of Hayward and felt that she needs to be heard. Lastly, she commented that this Council meeting is just a town hall meeting with a camera.

Al Reynolds related how the Council changed the time for Public Comments on the agenda in the past four years and spoke against placing them at 7:45 p.m. or at the end of the meeting. He preferred leaving them at 8 p.m. Lastly, he noted that he understood that it would be necessary to take action when a speaker abused his privilege.

Mayor Cooper closed the public hearing at 9:46 p.m.

Mayor Cooper emphasized that this is a business meeting not a public forum. There are those who have attended Council meetings too often for their own selfish interests. She commented that some might not even attend if the meeting were not televised. Her concerns were for those individuals who will not come to Council meetings because we have people who rant and rave

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about other subjects than what can be accomplished by the Council. It is not a question of free speech. The Supreme Court has already ruled on that on the local level, these are business meetings for discussion of Hayward's business. Discussion is on what affects the City and does not include "politicking" or private agendas. She hoped that the public would understand that the necessity to interrupt speakers that are not abiding by the rules. She commented that free speech does not allow you to yell "fire" in a crowded theater nor does it allow an individual to use a business meeting to promote private business. She gave examples of how one could use websites and distribute flyers in front of city hall to promote private business, but not the Council meeting. She urged all to "stick to the business of Hayward" and would rather that they not use the podium.

Council Member Henson asked if approving the change prevents the Council from listening to issues outside its jurisdiction.

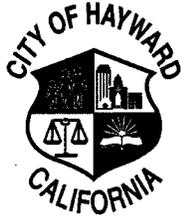
City Attorney O'Toole stated that the City is allowed to hear things that might impact the City and it is not limited to its jurisdiction but extends now to what might "impact" the City. He also commented on the Council's option to limit repetitive comments.

City Manager Armas indicated that such topics for formal action would be an "agendized" item and therefore this is the distinction between public comments and what is listed on the agenda.

Council Member Dowling indicated that at the Council work session, it was his suggestion to start the public comments at 7:45 p.m., prior to the regular City Council meeting. In the past four years, he has changed his position on public comments because of its continued abuse. He has strived to seek public participation and communication and desired to see more people attend the meetings. This is a business meeting; there are other ways of influencing the public. He has heard from many who have stopped watching Council meetings due to this abuse. When the Public Comments take an hour before conducting its regular meeting, there is a lack of interest from those interested in City business. He emphasized that Council needs to be more civil and so does the public. He was not sure if this proposed language would make much difference, but hoped that this would be a step in the right direction.

Council Member Rodriquez commented from a personal level on her experience in the past year or two regarding the public comments section of the agenda. She noted that she enjoys communicating and has heard from many constituents concerning the manner of conduct by individuals at the podium. What is most upsetting is the uncivil behavior at Council meetings. She noted that she grew up on picket lines and has been involved in protests, but held to certain stipulations that did not include rudeness or insults. Protesting should be done in a civil manner without calling names or insulting or placing people in positions where they need to clarify what was just stated. However, she believed that all should adhere to strict stipulations on how to protest and be civil.

It was moved by Council Member Hilson, seconded by Council Member Rodriquez, and carried to adopt the resolution by the following roll call vote:



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Resolution 02-058, "Resolution Amending Section IV of the City Council Members Handbook"

AYES: Council Members Jimenez, Hilson, Rodriquez,
Dowling, Henson
MAYOR Cooper

NOES: None

ABSENT: None

ABSTAINED: Council Member Ward

10. Modification to City Council Compensation Pertaining to Consumer Price Index Adjustment

Staff report submitted by City Manager Armas, dated May 7, 2002, was filed.

Mayor Cooper reported that she asked that this be placed on the agenda.

There being no Council comments, Mayor Cooper opened the public hearing at 9:59 p.m.

Bill Quirk commented in favor of this action and noted that it is symbolic to the rest of the City in light of the pending economic situation.

Mayor Cooper closed the public hearing at 10:00 p.m.

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

Introduce Ordinance 02-__, "Ordinance of the City Council of the City of Hayward Amending Section 2-1.10 (c) of the Hayward Municipal Code Relating to Compensation for Members of the City Council"

11. Adoption of an Ordinance Related to Zone Change Application No. 2001-0223 Concerning Property Located at 338 Winton Avenue

Staff report submitted by City Clerk Reyes, dated May 7, 2002, was filed.

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Mayor Cooper noted that due to the vote at its introduction, this item was placed under Legislative Business. There being no requests to speak, Mayor Cooper opened and closed the public hearing at 10:02 p.m.

It was moved by Council Member Henson, seconded by Council Member Dowling, and carried to adopt an ordinance by the following roll call vote:

Ordinance 02-04, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located at 338 Winton Avenue Pursuant to Zone Change Application No. 2001-0223

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

COUNCIL REPORTS

Council Member Hilson reported on a meeting in Sacramento related to schools and cities and discussed their common issues and goals. Members of school boards and council members and county supervisors agreed to enter into a joint planning document that will be a guideline for jurisdictions to build new schools. He noted that Hayward is ahead on some of the actions discussed as appropriate school sites. He would provide a written report on this topic in the near future.

ADJOURNMENT

Mayor Cooper adjourned this meeting at 10:07 p.m.

APPROVED:

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

ATTEST:

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

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