



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 4, 2002, 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 Rodriquez.

ROLL CALL

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

PRESENTATION: Business Recognition Award

The June 2002 Business Recognition Award was presented to Hayward Nissan for creating new jobs in the City of Hayward, for their contributions to our economy, for bringing to local consumers vehicles that are safer for our environment, and for providing quality goods and services to our community. Hayward Nissan employs approximately 45 people, a good percentage of them are Hayward residents. Hayward Nissan sells more than 1,200 cars a year. The General Manager from Hayward Nissan accepted the award.

PUBLIC COMMENTS

Jason Moreno discussed a change in policy on obtaining information from the City, and the discourtesy of a City employee.

City Manager Armas said he would look into the matter.

Barbara Heringer-Swarr commented on Albertson's, and the sale of liquor by small businesses in reference to Crossroads Market. She suggested further support for small, family businesses within the City of Hayward. She asked for reconsideration of the Ordinance relative to small businesses.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 28, 2002

It was moved by Council/RA Member Henson, seconded by Council/RA Member Hilson, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 28, 2002.

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2. Resignation of Steven Oki from the Downtown Business Improvement Area Advisory Board

Staff report submitted by City Clerk Reyes, dated June 4, 2002, was filed.

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

Resolution 02-074, "Resolution Accepting Written Resignation of Steven Oki from the Downtown Business Improvement Area Advisory Board"

3. Execution of a Cooperation Agreement Between the City of Hayward and the County of Alameda to Participate in the Alameda County HOME Consortium

Staff report submitted by Housing Development Specialist Stark, dated June 4, 2002, was filed.

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

Resolution 02-075, "Resolution Approving Continued Participation in the Alameda County Home Consortium and Authorizing City Manager to Execute the HOME Consortium Cooperation Agreement with Alameda County"

4. Utility Service Agreement 02-01 – Robert Hart (Applicant/Owner) – Authorize the City Manager to Execute a Utility Service Agreement for Water Service at Assessor's Parcel Number 425-0050-003 on Fairview Avenue

Staff report submitted by Development Review Services Engineer Gaber, dated June 4, 2002, was filed.

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

Resolution 02-076, "Resolution Authorizing the City Manager to Apply to LAFCO for Approval of a Utility Service Agreement (USA 02-01) to Provide Water Services to Property Located on Fairview Avenue, Assessor's Parcel No. 425-0050-003; and Further Authorizing the City Manager to Execute such Agreement, as well as an Agreement for Completion of Public Street



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Improvements"

5. Agreements with Alzheimer's Services of the East Bay, Inc., and Service Opportunities for Seniors, Inc. for Specialized Paratransit Services

Staff report submitted by Social Services Planning Manager Korth, dated June 4, 2002, was filed.

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

Resolution 02-077, "Resolution Authorizing the City Manager to Execute an Agreement with Alzheimer's Services of the East Bay, Inc. to Provide Specialized Paratransit Services for Fiscal Year 2002-03, with the Option to Renew the Contract for Up to Two Consecutive Additional Years Depending on the City's Satisfaction with the Contractor's Performance and the Availability of Funds"

Resolution 02-078, "Resolution Authorizing the City Manager to Execute an Agreement with Service Opportunity for Seniors, Inc., Meals on Wheels Program, to Provide Specialized Paratransit Services for Fiscal Year 2002-03, with the Option to Renew the Contract for Up to Two Consecutive Additional Years Depending on the City's Satisfaction with the Contractor's Performance and the Availability of Funds"

HEARINGS

6. Hearing on Report and Assessment for Residential Rental Inspection Fees Past Due

Staff report submitted by Senior Housing Inspector Bragg, dated June 4, 2002, was filed.

Senior Housing Inspector Bragg stated that conservation of rental housing units protects the health and safety of the residents. There are over 16,000 units. He listed the owners who had paid their accounts in full prior to this hearing. He responded to Council Member's questions regarding the fees that are charged and the inspection process. It was noted that the total might be for several units at one address or several rental properties. Senior Housing Inspector Bragg reported that certified letters were mailed to the property owners, as well as use of regular mail and telephone calls and site contacts. He commented that the information from the Assessor's

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office is as current as possible, and further information is passed on to the tenant who, in turn, is asked to contact the owner as well.

Mayor Cooper opened the public hearing at 8:20 p.m.

Ramona Ferrer contested the fees that were charged and indicated that this was a complaint by her brother's stepdaughter. It was noted that there were three major problems that included an illegal garage conversion, an illegal room addition, and substantial substandard building code violations on an accessory structure at the rear of the property. The garage conversion has been cleared, and the illegal shed has been boarded and the tenant removed, she has done nothing to legalize the room addition. Staff noted that all the penalty fees were not imposed due to financial constraints on the owner.

Rose Rivera, on behalf of her grandmother, noted that there were three properties that were inspected. She took over the property management from her grandmother, and expressed concern that the fees continued to increase as they worked toward bringing the buildings up to code and through eviction proceedings. She was pleased to hear that the City's charges were being discounted.

Chi Yen, Second Street, indicated that she owns a 30-unit complex, which totaled 56 violations. The exterior light globes were removed. She explained that for this minor offense, she was cited for 20 units not having a globe at the rear patio door and was charged \$900. She noted that for a small investor \$1600 is a major financial impact. She asked why she did not receive a checklist. It was noted that fees were lowered and checklists of potential violations were provided to both the property owner and the property manager.

Council Member Dowling asked whether owners receive a checklist, staff noted that a list is provided prior to the inspection. Senior Housing Inspector Bragg also noted that each owner is charged for the inspection at \$100, plus \$40 per unit.

Mayor Cooper closed the public hearing at 8:44 p.m.

Council Member Ward moved the resolution, seconded by Council Member Dowling, and noted that staff response was more than adequate. He encouraged everyone to work with staff to resolve the issues arising from their properties.

Council Member Henson asked about the amount assessed, he noted that there has been some relief to many of the homeowners.

Council Member Rodriguez asked what type of arrangements is made for paying the fees. Senior Housing Inspector Bragg responded that staff is willing to work with the homeowners to pay the fees.

It was moved by Council Member Ward, seconded by Council Member Dowling, and



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unanimously carried to adopt the following:

Resolution 02-079, "Resolution Confirming the Report and Assessment of Overdue Residential Rental Inspection Fees for Calendar Year 2001"

7. Hearing on Report and Assessment for Community Preservation Fees Past Due

Staff report submitted by Senior Community Preservation Inspector Mork, dated June 4, 2002, was filed.

CED Administrator Bauman made the staff presentation. She commented that for a first time inspection there is no charge. If a violation is found a reassessment charge will be made. She noted the one change in the report list.

Mayor Cooper opened the public hearing at 8:50 p.m.

Felix and Charito Natnat presented their reasons for the furniture in the driveway and the advertising banner. Staff requested a receipt from the charity, to which he donated, in order to waive the fees. Since this was the second community preservation violation within twelve months, they were assessed the fee. Staff reported that the banner advertised tax services, which is illegal in the neighborhood.

Majorie and Alan Ponte discussed the damages caused by a City tree, which pierced a water line. It had been leaking for several years. She indicated that her husband, a general contractor, repaired the water main. The following week, Public Works came out, removed the tree as well as some of the sidewalk and driveway. She showed receipts for their costs. She requested that labor and miscellaneous materials and the cost of the repair be offset against the City fine. She noted that 15 months had lapsed between the damage and the work. Mr. Ponte noted there was a seven-month lapse from the time of his wife's letter and the time of the City billing them.

Staff responded that on December 1999, the City of Hayward did remove the tree. The complaint was filed in February of 2001. Staff worked with the family and there was rarely any progress in the work. CED Administrator Bauman showed pictures of the vehicles on the lawn.

Council Member Dowling asked about the damage done from the tree since it is a City tree. City Attorney O'Toole responded that most people file a complaint with the City of Hayward and the City Attorney will respond. Mr. Ponte explained that the cement mixer on the lawn was directly related to the problem.

Kevin Spicer indicated that he complied with the initial complaint and received a second notice,

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which had additional items of violation. He complied with the second violation and then received a third list of violations. He said he was unable to finish the third list. He then called staff at the City and was able to comply with the third list. He was then told to comply with a fourth list, which he complied with. He was told that the initial list was construction debris. After contacting staff on March 1, 2001, he was able to get the front yard cleaned up. There was still a great deal of debris in the rear yard, which was visible from the street. City staff worked with Mr. Spicer to clean up the back yard. It was finally cleaned up by October 3, 2001. Staff agreed that it did take a long time. Staff worked with the homeowner to clean up several problems at a time.

Olga Williams discussed the abandoned vehicle left by her former husband. She felt that he should pay the fines since it was towed by the City's Vehicle Abatement Program. She indicated that she was unemployed at this time and did not have the money to pay the fine. She added that the property has not been settled from their divorce. She commented that her husband has received a copy of the letter from the City.

CED Administrator Bauman explained that the registered owner is listed at that address, so the car was towed. A registered letter from the City of Hayward was unclaimed.

Council Member Henson asked staff what could be done when a citizen is bound by a court order not to move a vehicle.

City Attorney O'Toole said he has seen no evidence that there was a judgment and she could include this in her settlement costs.

Mayor Cooper closed the public hearing at 9:23 p.m.

Council Member Dowling moved to pass the staff recommendation with a change to reduce the fee for the Ponte's on Braeburn by one half.

Council Member Rodriquez suggested that Mrs. Williams be relieved of the burden of paying the fee charged against her.

Council Member Henson said he might agree, until realizing that, in the long run, she might not be responsible for this fee. And that the bill could be passed on to her husband. He then asked that, since the dissolution has not been completed that staff consider that fact and not continue to add surcharges to the amount.

Council Member Dowling then suggested reviewing the photo of the vehicle itself, and the trash and debris on it.

Council Member Rodriquez disagreed and felt that the fee should be waived.

Council Member Dowling said he recognized that this was a sensitive situation, but it would be better addressed through the divorce settlement.



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It was moved by Council Member Dowling, seconded by Council Member Ward, and unanimously carried to adopt the following, with a change to reduce the fee for the Ponte's on Braeburn by one half:

Resolution 02-080, "Resolution Confirming the Report of the Enforcement Officer for Public Nuisance and Abatements from Certain Properties in the City of Hayward in Connection with the Community Preservation Program for 2001"

8. Hearing on Report and Assessment for Weed Abatement Fees Past Due

Staff report submitted by Director of Community and Economic Development Ehrenthal, dated June 4, 2002, was filed.

Mayor Cooper referred to Teresa Nazareth's request asking to postpone her hearing until July 9. Council Member Ward asked if this would set a precedent. City Manager Armas indicated that Council had previously set aside a hearing and postponing would not affect the timeline. It was the concensus of the Council to allow the extra time for Mrs. Nazareth's hearing.

CED Administrator Bauman described the weed abatement program and how the property is handled.

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

Jason Moreno asked about clearing various Caltrans properties around the City.

City Manager explained that the City of Hayward would clear those properties. He asked to be notified of any properties in the City, which might have been missed.

Mayor Cooper closed the public hearing at 9:32 p.m.

It was moved by Council Member Ward, seconded by Council Member Rodriquez, and unanimously carried to postpone the decision on the Nazareth property and adopt the following:

Resolution 02-081, "Resolution Confirming the Report of the Enforcement Officer for Weed, Rubbish, and Litter Abatement from Certain Properties in the City of Hayward in Connection with the Weed Abatement Program for 2001"

LEGISLATIVE BUSINESS

9. Authorization for City Manager to Execute an Agreement with Nixon Peabody to Evaluate Options for Formation of an Electric Utility Owned by the City

Staff report submitted by Assistant City Manager Groves, dated June 4, 2002, was filed.

Assistant City Manager Groves presented the staff report. He said the agreement was based on previous Council discussions from last December. Twenty-three requests for proposals were sent out. Nine responses were received. Based on interviews and evaluations, staff is recommending that the contract be awarded to Nixon Peabody, a national law firm. The project would be split into two phases, a preliminary and second phase. The preliminary phase would include an analysis of the regulatory environment, assessment of market potential, and an analysis of engineering feasibility. He indicated that the approximate cost of the second phase would be between \$100,000 and \$300,000. But that would not be decided until Phase One is completed. If approved by the City Council, the project work will begin within 30 days and be completed within 90 days.

Council Member Ward asked whether any other cities, similar to Hayward, have entered into the electric utilities business at this time. He was told that staff does not know of any cities that have made that decision as yet, however, there are a number of cities in the State who are engaged in the same type of analysis.

Council Member Ward then commented that this seems to be an idea whose time has not come. It appears to be a brainstorm rather than a reality. He commented that it might be a \$50,000 study that will go nowhere. He then asked why this particular team was more outstanding than the other eight. He was told that the principals of Nixon Peabody were most impressive. They have also been working with other cities in both this County and other parts of the State.

Council Member Ward then commented that the study period did not seem long and asked whether staff has seen other studies.

City Manager Armas indicated that a way to perceive this is that Nixon Peabody provided information to the policy makers and the policy makers have done an assessment that the benefits in that respective community did not support the risk associated with it. He also noted that in other cases there are cities that have determined that they would take other steps in preparation to making the leap. They concluded that they were in a better position to make an informed decision, as compared to possibly finding oneself, if there is any interest in this market at all, possibly leaping into it in a crisis situation.

Council Member Henson indicated that the study would include other municipalities. He wondered whether the market potential could encompass the potential of bringing in other cities



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as a potential partnership. He noted that this study is totally independent of any outcome of the Russell City Energy Center. He asked what would happen after the study is done, after Phase One and after Phase Two.

City Manager Armas explained that the critical juncture is post Phase I, as the decision would involve a greater sum of money. The answers to these questions are dependant on those that flow from either Phase One or Phase Two. For example, the PG&E bankruptcy might have a bearing on the answers

Council Member Jimenez asked about the stipulation if the report is not completed within the 90 days. He was told there was no penalty clause since this is not perceived to be a substantial risk.

Council Member Hilson suggested staff look very carefully at potential energy suppliers, as well as the joint powers association between waste management partnering with the wind generators and the concern that there is no guaranteed market. He commented that the public power consortium that includes the City of Alameda relies on the geysers in the northern part of the State. On the regulations side, he noted that municipal power companies work under a different set of regulations for public utilities than private utilities do under the PUC.

There were no requests to speak, Mayor Cooper opened and closed the public hearing at 9:50 p.m.

Council Member Dowling said he appreciated staff moving forward with this proposal. He noted that like the water system, this has the potential to provide lower power rates to residents and businesses. He implied that having access to low-cost power is essential.

Council Member Ward clarified that he was convinced by the City Manager that the study phase might be appropriate. His concerns can either be confirmed or refuted, based on the information. He asked staff to bring to Council any information from other cities that might be made available during the study. He said he would support the motion.

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

Resolution 02-082, "Resolution Awarding Contract to Nixon Peabody for Feasibility Analysis of Options in Connection with the Possible Formation of an Electric Utility owned by the City, and Amending Budget Resolution No. 01-095 Relating to an Appropriation of Funds for the Contract"

COUNCIL REPORTS

There were no reports made.

ADJOURNMENT

Mayor Cooper adjourned at 9:53 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward