



**MINUTES OF THE MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 25, 2003, 8:00 p.m.**

MEETING

The 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: Pride in Hayward Award

The November 2003 Pride in Hayward Award Recipients were all from the Glen Eden Neighborhood. John and Lynnett Amen, Anthony and Diane Hodges, Frank and Elaine Moreno, George and Patricia Silva, and Guadalupe Vargas were honored for having well-maintained homes. Mayor Cooper thanked them all for beautifying their homes and taking pride in their neighborhood and the City of Hayward.

PUBLIC COMMENTS

Jason Moreno spoke on the redevelopment agency of San Jose and its affordable housing projects.

Al Mendall commented Council and staff on the current redevelopment projects and, in particular the new wireless technology in the downtown. He noted their shared vision with this community to improve this area.

Barbara Heringer-Swarr thanked the Council for spending redevelopment money on public sidewalks. She also spoke regarding corporations, outsourcing and taxes.

CONSENT

Council Member Ward clarified that Item #2 involved only the ordinance and not the facilities.

1. Approval of Minutes of the City Council Meeting of November 18, 2003

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 November 18, 2003.

2. Adoption of an Ordinance Relating to Control of Medical Marijuana

DRAFT

Staff report submitted by City Clerk Reyes, dated November 25, 2003, was filed.

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

Ordinance 03-14, "An Ordinance Adding Article 15 to Chapter 2 of the Hayward Municipal Code Relating to Control of Medical Marijuana"

3. Authorization for the City Manager to Execute a Professional Services Agreement with Aviation Management Consulting Group to Update Primary Documents for the Hayward Executive Airport

Staff report submitted by Airport Manager Shiner, dated November 25, 2003, was filed.

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

Resolution 03-149, "Resolution Authorizing the City Manager to Execute an Agreement Between the City of Hayward and Aviation Management Consulting Group for Professional Services to Update Primary Documents for the Hayward Executive Airport"

4. Authorization for the City Manager to Execute the Revised Alameda Countywide Clean Water Program Memorandum of Agreement

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated November 25, 2003, was filed.

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

Resolution 03-150, "Resolution Authorizing the City Manager to Execute Amendments to the Inter-Agency Agreement to Implement the Alameda Countywide Clean Water Program"

5. Lease with Hayward Area Historical Society

Staff report submitted by Acting Assistant City Manager Carter, dated November 25, 2003, was filed.

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



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Resolution 03-151, "Resolution Authorizing the City Manager to Execute a Lease Option with Hayward Area Historical Society for Continued Use of the Eggert Building"

HEARINGS

6. Consideration of Administrative Use Permit/Site Plan Review Application No. PL-2002-0268 - Crossway Church (Applicant) - Request to Allow a Church at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District, and to Allow Required Parking to be Shared Between Two Adjacent Parcels

Staff report submitted by Associate Planner Emura, dated November 25, 2003, was filed.

Mayor Cooper noted that correspondence had been received requesting a continuance of this hearing. City Manager Armas responded that he had opportunity to speak with the attorney representing the church. As the church officials recently retained him, he needs additional time to review the issues, particularly related to parking. Staff did not object to the request for continuance.

Mayor Cooper opened the public hearing at 8:15 p.m.

Matthew Francois, attorney on behalf of the Crossway Church, indicated that he needed additional time to review the matter related to off site parking and asked that it be continued to January 27, 2004.

Council Member Ward stated that staff has addressed the issue. He understood that there is concern regarding the off-site parking agreement with a term of five years and what commitment does the owner have beyond that.

Mayor Cooper closed the public hearing at 8:17 p.m.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to continue this public hearing until January 27, 2004.

LEGISLATIVE BUSINESS

7. Request for Reconsideration of Decision Regarding Medical Marijuana Dispensaries

Staff report submitted by City Manager Armas, dated November 25, 2003, was filed.

Mayor Cooper stated that this matter on the agenda is strictly a procedural matter. If Council decides that it would like to reconsider this matter, further discussion will occur at a future meeting. She announced that there would be opportunity to speak.

Mayor Cooper opened the public hearing at 8:17 p.m.

Tom Lemos commented that he was present last week and was pleased with the decision. He stated that if the Council decides to reconsider that decision that the Council should make unannounced visits to each of the three existing dispensaries and see first hand operations before making a decision. He also suggested reconvening the ad hoc committee for further deliberations.

Elizabeth Veloza thanked the Council for its decision and if there were reconsideration that she would accept it as well.

Curt Hepner stated that he lives in Vallejo, but there are no dispensaries in Solano County. He asked that there be a reconsideration and shared his concerns regarding the use of medical cannabis.

Joshua John thanked Council for its compassion and praised the City for its best efforts. He works in Oakland in similar facilities. He suggested unannounced spot checks on the dispensaries should there be reconsideration.

Paul Baerwald thanked the City for its enormous compassion and being there for the long haul. He also suggested that Council visit the dispensaries and ask the patients about their resources and quality of medicine they receive.

Joseph Dunbar urged the Council to maintain the dispensaries in Hayward and to make them accessible for the disabled. The dispensary that is was to be closed is the only one that he can walk into.

Janeen Dunbar was pleased with the decision of last week. She urged that the dispensaries be accessible and adequate for the elderly and people with disabilities. She also urged visits to the three that are currently open.

Cheryl Adams also commented on the access factor and encouraged unannounced spot checks. She spoke in favor of the Hayward Hempery and urged reconsideration of last week's decision. She has been in Hayward for ten years and has used the Hayward Hempery since. She also asked for appropriate noticing of those involved.



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Mayor Cooper closed the public hearing at 8:28 p.m.

Council Member Ward stated in response to the perception that not all the affected parties were appropriately noticed regarding the grandfathering of the facilities seems to justify reconsideration. He hoped that if it is to be reconsidered on December 2, that the future discussion would be more limited as to the number of presentations and discussions on this issue. Clearly the action last week was taken in response to the health and welfare of some segments of this community. He noted that it was not an easy decision. This Council has been responsive to the social services needs of Hayward. This Council is perceived to be fair and just to all and move the Mayor's recommendation for reconsideration.

Council Member Ward, seconded by Council Member Henson, moved to reconsider the action previously taken related to medicinal marijuana facilities on December 2, 2003.

Council Member Dowling indicated that if Council wants to reconsider that could mean that there is support for three clubs. He stated that he was in support of three clubs, but it seemed that the majority of the Council was not. The Chamber was very opposed to it, but this Council has a compassion for people who need medical marijuana. He thought that last week's decision was a compromise for the Chamber as well as for the Council to respond to needs. He hoped that the vote for reconsideration means that this Council would be voting for three clubs. He would be voting no, as he thought last week's decision was the right vote. Lastly, he stated that he did make announced visits to all three and emphasized that he clearly agreed with last week's action to maintain two facilities.

Council Member Henson commented that during the course of making important decisions, sometimes the issue of fairness could fall by the wayside. In Council's attempt to maintain a pattern of fairness, he will support the motion for reconsideration. He stated that he could predetermine the reconsideration.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried by the following roll call vote to reconsider its decision of November 18 on December 2 with regard to the grand fathered medical marijuana facilities:

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

8. Adoption of an Ordinance Related to Zone Change No. PL-2002-0722 - 26965 Hayward Boulevard, Near Spencer Lane

DRAFT

Staff report submitted by City Clerk Reyes, dated November 25, 2003, was filed.

It was noted that this item when considered on November 18, the vote taken was not unanimous and therefore listed under Legislative Business.

With no requests to speak Mayor Cooper opened and closed the public hearing at 8:30 p.m.

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

Ordinance 03-15, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from Single-Family Residential (RSB6) to Planned Development (PD) Pursuant to Zone Change Application No. PL-2002-0722"

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

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 8:34 p.m., wishing everyone a Happy Thanksgiving Holiday.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward