



**MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 6, 2004, 8:00 p.m.**

MEETING

The Special Joint Meeting of the City Council/Redevelopment Agency/Hayward Public Financing Authority was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Dowling.

ROLL CALL

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

PRESENTATION: Business Recognition Award

The City of Hayward presented the Business Recognition Award for January 2004 to Mervyn's. Now a part of Target Corporation family of businesses, Mervyn's is a premiere, middle market neighborhood department store, currently operating 264 stores in 14 states with sales in excess of \$3.8 billion. Mervyn G. Morris, a local Bay Area native, founded Mervyn's in 1949 in San Lorenzo. The corporation was sold to Dayton Hudson Corporation in 1978. In 1998, Mervyn's consolidated its corporate headquarters into the present facility located on Foothill Boulevard in Hayward. On January 30, 2000, Dayton Hudson changed its name to Target Corporation. Mervyn's currently has 1,300 employees at the Corporate Headquarters, many of whom are Hayward residents. Larry Young, Mervyn's District Team Leader, accepted the award on behalf of Mervyn's. Mr. Young thanked the Mayor and Council for this recognition, adding the corporation intends to continue to invest back into the community they serve, noting that they value their partnership with Hayward.

PUBLIC COMMENTS

Jason Moreno discussed the hazards of asbestos.

CONSENT

Council Member Henson removed item 4 from the Consent Calendar.

1. Approval of Minutes of the Special Joint Meeting of the City Council/Redevelopment Agency/Hayward Public Financing Authority of December 16, 2003

Council/RA/HPFA Member Jimenez noted that he was absent from the December 16th meeting due to illness.

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It was moved by Council/RA/HPFA Member Henson, seconded by Council/RA/HPFA Member Rodriguez, and unanimously carried to approve the minutes of the Special Joint Meeting of the City Council/Redevelopment Agency/Hayward Public Financing Authority of December 16, 2003.

2. Adopt Ordinance Revising Municipal Code Regarding Public Works Contracts

Staff report submitted by City Clerk Reyes, dated January 6, 2004, was filed.

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

Ordinance 04-01, "An Ordinance Amending Chapter 2, Article 8 of the Hayward Municipal Code by Adopting a Revised Hayward Public Works Contract Code"

3. Sidewalk Rehabilitation and Wheelchair Ramps: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Bauman, dated January 6, 2004, was filed.

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

Resolution 04-001, "Resolution Approving Plans and Specifications for the Combined Sidewalk Rehabilitation and Wheelchair Ramps 2003-04 Projects, Project Nos. 5187 and 5139 and Call for Bids"

4. Second and "E" Street Traffic Signal Improvements: Approval of Plans and Specifications and Call for Bids, and Approval of Negative Declaration

Council Member Henson asked whether the new "countdown" traffic signal would be included.

City Manager Armas affirmed and explained the reasoning behind the signal changes.

Staff report submitted by Deputy Director of Public Works Bauman, dated January 6, 2004, was filed.

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



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Resolution 04-003, "Resolution Approving Plans and Specifications for the Second and "E" Street Improvements Project, Project No. 5712, and Call for Bids, and Approving the Negative Declaration"

5. Revision of the Fine and Bail Schedule for Commercial Parking Violations

Staff report submitted by Traffic Bureau Sergeant Akacsos, dated January 6, 2004, was filed.

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

Resolution 04-002, "Resolution Approving Revisions to the Fine and Bail Schedule for Commercial Parking Violations"

HEARINGS

6. Conversion of Office Building at 22300 Foothill to 150 Residential Condominiums, Including Amendment to the Downtown Design Plan to Increase the Maximum Building Height and Density - Walter Wang (Applicant/Owner)

Staff report submitted by Planning Manager Anderly, dated January 4, 2004, was filed.

Planning Manager Anderly presented the project to convert the former city center building to residential use. The first three floors will be one-bedroom units with lofts. These condominiums will have high ceilings, which are unusual for this type of housing. She showed elevations of the building, the parking structure and the proposed additional penthouses at the top. She discussed the easement from the parking structure to Centennial Hall as well as the property in front of the Hall and public access to it. The address will be changed from Foothill to City Center Drive. There is an additional condition included by staff to address the design of the project. It states that the issue of the design shall provide a level of structural and seismic performance capability equivalent to that anticipated for a new building designed in accordance with the requirements of the 1997 Uniform Building Code. She noted that the applicant is agreeable to 300 parking stalls. The Planning Commission and staff were in support of the conversion.

After the Planning Commission meeting, the applicant asked that Condition 15 be modified. It currently requires air conditioning in each unit.

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Council Member Jimenez thanked staff for the excellent presentation. He discussed the Uniform Building Code as well as the Uniform Fire Code. He commented on the requirement for sprinkler systems, as well as the benefits this project would bring to the City of Hayward including the Real Estate Transfer Tax and the sales tax revenue generated by residents. He added that he was excited about this project.

Council Member Dowling asked for clarification on the new entry way and the pathway from the garage to Centennial Hall. He asked about the possibility of changing the name of City Center Drive and suggested that maybe in two years or so, Centennial Towers Drive might be appropriate at the completion of the towers.

Planning Manager Anderly explained that there would be a new entrance for patrons of Centennial Hall.

City Manager Armas explained that the applicant would also be responsible for installing an elevator in the parking structure.

Council Member Henson asked for review of the easements, both the existing and new ones.

Planning Manager Anderly discussed the current agreement, which speaks to parking and access. There is a group open space that will be private.

City Manager Armas explained that the stairs and gathering area pertain to the private development and end at the edge of the Centennial Hall marquee.

Council Member Ward asked about the hue of the building as well as designated visitor parking and parking restrictions for residents. He commented on the structural elements of the building.

Planning Manager Anderly explained that staff would finalize the color palette before the building permit is issued.

City Manager Armas reported that the principal parking use for residents would be in a secured location. He noted that at this point there are no restrictions for long-term parking, although it might have to be looked at further.

Council Member Rodriguez asked that staff review the various amenities.

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

Jack Smith presented the project of converting the previous city hall to a residential complex. He introduced his daughter, Cynthia Birmingham, who was representing Walter Wang.

Cynthia Birmingham noted that new homeowners would have high tech capability in each unit. The floor plates are not what would be offered in a new condominium situation. She



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emphasized the project and the number of new residents in the downtown area. She introduced Rob Birmingham, the developer.

Rob Birmingham addressed the structural upgrade of the building. He said his firm has been working hand-in-hand with the structural engineers who initially condemned the building. He described the original building and the plans for structural soundness. He indicated that they would be using the Caltrans application for strengthening the columns of the building. He said they would also be adding four concrete sheer walls to take the press of any seismic activity. He described additional amenities of the units, noting that there will be security personnel as well as a door person for residents. Lastly, he talked about the air conditioning requirement in the conditions of approval as required by staff. He indicated that the developer could provide the infrastructure for the air conditioning units and explained the infeasibility of providing the air conditioning in each unit, noting that the Planning Commission had agreed to this proposal.

Council Member Hilson asked about the replacement materials in the non-window area. His concern was that filling with concrete would add extra weight to the building. He also asked about the anticipated price of the units.

Mr. Birmingham explained that for the most part the facade is an illusion. There are no 'comparable facilities in Hayward. He described Sierra in Oakland, and suggested these might sell for about \$400,000 to \$430,000. Market research projections do not reach \$500,000. The reality of the air conditioning units is that they would work selectively. He said he is trying to avoid and separate the air conditioning system from the project. He indicated that the infrastructure for air conditioning units will be included. The air conditioning units are subtle, installed in the balconies behind a solid wall and would be made available to prospective buyers.

In response to Council Member Jimenez's inquiry on the length of time for construction, Mr. Birmingham reported that construction starts are anticipated as soon as allowable because of the interest rates and expected an estimated 15 months to construct.

Council Member Dowling thanked the project team for the proposal. He discussed the air conditioning and the heating. He commented that when considering the heating system, he suggested muffling the heating and air conditioning units and perhaps installing it in closets to lessen the generated noise.

Council Member Ward said it was an excellent presentation adding that the structural rehabilitation is superb. He asked whether there are units available with both heating and air conditioning in one unit.

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Mr. Birmingham explained that these do not have duct works. It is much more complicated. He indicated that many of the new units comparable to this in other cities do not provide air conditioning.

Council Member Rodriguez noted that she previously met with Mr. Birmingham and appreciated his time. She commented on those with asthma who find air conditioning distracting. She was impressed with the amenities that are being offered.

Mr. Birmingham corrected the Planning Commission minutes to reflect that there was no scenario with a single 12,000 square foot penthouse. He indicated that he was referring to the fact that if they cannot afford to build the penthouse, it would become a ten-story building with the top floor of the existing building becoming the penthouse.

Christian Maarse, architect for the project, discussed the design aspects of the exterior of the building, described the added balconies used to create visual focal points. The project will include horizontal spandels to create an illusion of a larger window on the exterior. The base of the building on the west side will be filled to eliminate the wind tunnel effect.

Council Member Hilson asked if the horizontal element was changed to make the building look much lower. He also asked whether the project team considered a glass elevator in the exterior.

Mr. Maarse said they worked for something to make it more attractive. He noted that an exterior elevator would have excellent viewpoints, but would be too expensive and that the present elevators are ideally located.

Paul Letteri, landscape architect, described the landscape and its leveling features, such as built-in features, furnishings, barbeques in the patios with trees to provide privacy. The concept of the lawn is to provide more usable options for the residents. New paving and tree planting will replace current cracked pavement.

Council Member Dowling asked about access to the businesses and stores on Foothill and whether there would be ramps available.

Mr. Letteri responded that there would be no changes to any of the present handicapped paths.

City Manager Armas included that there are some cross easements in the plaza area.

Council Member Ward discussed the plantings viewed by residents and their illusion of privacy from Centennial Hall patrons.

Mr. Letteri described the demolition of the stairs, the retaining walls, as well as the plantings proposed.



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Council Member Henson said privacy was an issue of his and had been previously answered. He also asked about the shrub planting and lighting near the entryway off Civic Center Drive.

Mayor Cooper commented on the type of fencing proposed. She asked whether a more creative fence might be installed as was created in the present city hall.

Mr. Letteri said one of the limitations is the size of the fenced area. He agreed that perhaps that could be included near the entrance. The renderings depict a large fence, but there will be denser plantings to hide the fencing.

Planning Manager Anderly reported that staff had incorporated a topiary theme in the conditions of approval.

Zoë Foster commented that she supported the renovation. When she was looking for a condo, she looked in Hayward but could not find what she wanted so she moved to Danville.

Paul Russo commented that it is not an unusual feature to offer prospective owners the option of air conditioning as the infrastructure and ductwork are provided. It's time to rise and improve that area as well as revitalize the area. This project will improve the entryway to Hayward from the east and is a great commuter spot for those using Interstate 580. He urged approval of this project as it adds value to this community and complements the "Heart of the Bay" concept.

Scott Raty, Hayward Chamber of Commerce Director, commented favorably on this project. He reiterated the Chamber's past stance in bringing back the City Hall to the downtown area. He added that the tax increment revenue would be fantastic.

Brian Schott agreed with changing the name of the street and spoke in support of the project.

Chris Zaballos said this is a fantastic idea and will help to turn Hayward into an urban center for the Bay Area.

Francisco Abrantes asked how many parking spaces would be in this project. Mr. Abrantes stated that this project should have no less than 350 spaces. He surmised that 80 cars would make trips every hour throughout the day. He said he is not against this project but wondered about childcare and children.

City Manager Armas responded that the project should provide 300 spaces.

The public hearing closed at 9:58 p.m.

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Council Member Ward moved to commend the applicant for his hard work, dedication to this community, and creativity in this project. He expressed sympathy with the applicant's comments regarding the air conditioning. He suggested the language in the conditions be modified to reflect the applicant's responsibility in providing the air conditioning infrastructure. He also emphasized that with many projects in the redevelopment area, market conditions change. The Council needs to work to insure that this project will be implemented. Council Members Henson and Jimenez seconded the motion.

Council Member Henson commented that this is an area that has been an eyesore and commented favorably on the project. This also adds to the home ownership goals for the City of Hayward. It accomplishes the downtown business renaissance. He added that he was very comfortable with the developer's request related to the air conditioning.

City Manager Armas suggested an amendment to the design issue. He noted that Mr. Birmingham and he agreed on the language for Condition 15, stating as follows: "Each unit shall be provided with the means to air condition the condominium by means of an air conditioning stand alone unit. The concrete coring as well as the electrical supply shall be provided as part of the base building. The air conditioning unit shall be provided to each owner as an option."

Council Members Ward and Jimenez both agreed to these amendments to the motion.

Council Member Rodriguez explained that she was on a commission a few years ago relative to the gateways to Hayward. This will give the City of Hayward an attractive gateway. She suggested that by creating a neighborhood in the downtown there is a viable downtown. She commented on the reputation of Robert Birmingham and noted several Chronicle write-ups on his projects. She recalled a former professor from Cal State who genuinely complained about the former City Center building and would point out its problems. She appreciated what the project developer was doing.

Council Member Hilson asked about the motion related to the change in conditions over time.

Council Member Ward suggested that it was simply a comment on his part.

Council Member Dowling maintained that the colors of the building as presented were an art deco look. He also commented that the AC Transit bus service was taken away from the City Center Drive, but as he is on a related committee, would keep this project in mind once it is occupied.

Council Member Jimenez commented favorably on the project.

Mayor Cooper and Council Member Ward did not agree to the colors presented. Mayor Cooper added that the colors were not sophisticated enough. She commented about the urban



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feeling from this project. The units are acceptable considering how lot sizes have diminished from the standard 5,000 square foot lots. This project will be an asset to Hayward.

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

Resolution 04-004, "Resolution Adopting the Negative Declaration and Approving Vesting Tentative Map Tract 7487, No. PL 2003-0515, Use Permit Application No. PL 2003-0178 and Amending the Downtown Design Plan"

LEGISLATIVE BUSINESS

7. Substitution of Credit Enhancement, Restatement of the Regulatory Agreement and Replacement of the Intercreditor Agreement for \$35,000,000 Multifamily Housing Revenue Bonds (Shorewood [Waterford] Apartments Project 1984 Series A)

Staff report submitted by Neighborhood and Economic Development Manager Bauman, dated January 6, 2004, was filed.

Economic Development Manager Bauman made the presentation, noting that the bonds are the complete responsibility of the apartment owners.

Council Member Jimenez commented that Ken Earp originally developed this project.

Council Member Henson discussed the Fannie Mae requirements and the affordable rate for these apartments.

Council Member Hilson commented that this is not a refinance and the owner does not profit. He asked about the condition of the buildings and the landscape. He also asked about the repayment of the bonds.

Economic Development Manager Bauman reported that the units are in market rate condition. There is property maintenance staff in residence. This is a time extension from 2008 to 2014 when the bonds expire. Currently the rates are excellent and the owner is paying down the interest on the bonds. She added that in 2014, the developer would either refinance the project with the City of Hayward or refinance through a private company.

With no requests to speak, Mayor Cooper opened and closed the public hearing at 10:24 p.m.

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

Resolution 04-005, “A Resolution of the City of Hayward Authorizing a Second Supplement to Indenture, the Second Amendment and Restatement of an Indenture of Trust, and Amended and Restated Regulatory Agreement, an Assignment and Intercreditor Agreement, and a Financing Agreement Relating to the City of Hayward Variable Rate Demand Multifamily Housing Revenue Bonds (Shorewood Apartments Project) 1984 Series A, and Authorizing the Execution and Delivery of and Approving Other Related Documents and Approving Other Related Documents and Approving Other Related Actions in Connection Therewith”

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:25 p.m. in memory of Bea Thornton, who was a long-time resident of Hayward and an activist in the community.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward