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, September 7, 2004, 8:00 p.m.

MEETING

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

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Halliday, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: COUNCIL/RA MEMBER Quirk

PUBLIC COMMENTS

Al Reynolds appreciated and thanked several people.

Jason Moreno asked about the use of PVC pipe on a current city construction project on Highland.

Joe Rasheed owns a business on A Street and expressed his concerns about the current police situation.

Charles Plummer, a former Hayward police chief, spoke about the City Council, the Hayward Police Department and City staff.

Dennis Houghtelling, a member of the Alameda County Sheriff's Office, urged the Council to review all of the documents related to the police chief's investigation.

Kei H. Lam requested assistance for the safety of his Cypress Point neighborhood. He reported that there was another accident in the past week in this area. He submitted a petition requesting a three-way stop sign or speed bumps.

James Jardine commented on the benefit district process and presented his issues regarding the discrepancies he has had with the City.

In response to Council Member Henson's question, City Attorney O'Toole advised that Council may wish to discuss this issue in closed session.

Melba Bertush had a question on the definition of "official notice" by the City of Hayward and whether there are easements for the City sewer line through her private street.

City Attorney O'Toole explained that since he has been with the City, notices have been color coded, but previously it was not the practice. He noted that there are two separate benefit districts in that area and Mr. Jardine's property was not included in the current map.

Harry Bruno commented on the current recall and discussed the Police Department's investigative report. He suggested the Council review the entire report, not the summary.

Council Member Jimenez reported that the recall group entered a business to collect signatures on Sycamore and disturbed its staff. He offered material on running an honest campaign.

Ben Bruno commented on a previous discussion related to the recall.

Zack Bruno stated that the public comments portion on the agenda is democracy in action and commented on his father's efforts related to the recall.

Sherry Bruno commented on a previous discussion of her husband and Mayor Cooper.

Barbara Heringer-Swarr also commented favorably on the public comments section of the City Council agenda.

Holly Souza commented that this police issue is sounding very similar to the school district issue that occurred two years ago with the former superintendent.

Paul Russo, representing SHARK, urged closure to the Police Department issue and challenged the Council to examine the investigative documents.

James Jardine asked for a response regarding his issue with the city and private roads as Sorbus, Picea Court and Arbutus. He wanted responses to questions previously submitted related to these roads and associated easements.

Lloyd Myers, retired from the Hayward Police Department, now working for Sheriff Plummer, asked for closure on the police issue.

Francisco Abrantes spoke about two topics.

Mayor Cooper called for a brief recess and reconvened at 9:19 p.m.

CONSENT
Consent Item 5 was removed for separate vote.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 20, 2004

It was moved by Council/RA Member Ward, seconded by Council/RA Member Jimenez, and carried, with Council/RA Member Quirk absent, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 20, 2004.

2. Approval of Minutes of the City Council Meeting of July 27, 2004

It was moved by Council Member Ward, seconded by Council Member Jimenez, and carried, with Council Member Quirk absent, to approve the minutes of the City Council Meeting of July 27, 2004.

3. Resignation of Commissioner Fraas from the Planning Commission

Staff report submitted by City Clerk Reyes, dated September 7, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and carried, with Council Quirk absent, to adopt the following with Council appreciation for Ms. Fraas' service to this community:

Resolution 04-129, "Resolution Accepting Written Resignation of Tracy Fraas from the Planning Commission"

4. Adoption of an Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from Medium Density Residential (RM) District to Planned Development (PD) District Pursuant to Zone Change Application No. PL-2004-0246 – Property Located at 1101 Walpert Street

Staff report submitted by City Clerk Reyes, dated September 7, 2004, was filed.

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

Ordinance 04-10, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from Medium Density Residential (RM) District to Planned Development (PD) District Pursuant to Zone Change Application No. PL-2004-0246 - Property Located at 1101 Walpert Street"

5. Approval of Ground Lease with Verizon Wireless for Placement of an Antenna at Hayward Executive Airport

Staff report submitted by Airport Manager Shiner, dated September 7, 2004, was filed.

Council Member Henson had a question on Exhibit C of the report, expressing concern with the design of the mast. It was noted that the concerns of the Airport Committee will be addressed as this is not the final design.

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

Resolution 04-132, "Resolution Authorizing the City Manager to Execute a Ground Lease with Verizon Wireless, LP for the Installation of a Communications Antenna at the Hayward Executive Airport"

6. Authorization for City Manager to Execute an Agreement with Board of Corrections for the Juvenile Accountability Block Grant

Staff report submitted by Investigations Division Commander McAllister, dated September 7, 2004, was filed.

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

Resolution 04-130, "Resolution Authorizing the City Manager to Execute an Agreement with the State Board of Corrections, and Amend Resolution 04-101, as Amended, the Budget Resolution for Fiscal Year 2004-05, Relating to an Appropriation of Funds to Implement a Program to Enhance Accountability for Juvenile Offenders"

7. Adoption of an Resolution to Extend the Memorandum of Understanding with the Hayward Police Management Unit

Staff report submitted by Acting Human Resources Director Macias, dated September 7, 2004, was filed.

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

Resolution, 04-131, "Resolution Accepting Memorandum of Understanding between the City of Hayward and the Hayward Police Management Unit"

HEARINGS

8. Blue Rock Country Club – Hayward 1900, Inc. (Applicant/Owner) – Request for Second Extension of Precise Development Plan No. 97-120-02 and Tentative Tract Map 5354

Staff report submitted by Planning Manager Anderly, dated September 7, 2004, was filed.

Planning Manager Anderly presented the staff report and responded to questions related to the length of time. Within the 36 months, the applicant will provide for approval of a precise map with details of the project as well as the final map. The developer is currently grading for the elementary school.

Mayor Cooper opened the public hearing at 9:24 p.m.

Jason Moreno suggested members of the Council recuse themselves from voting on this issue and any other issues after receiving political contributions from developers such as this one. He asked that there be a policy that members provide information of contributions from developers when items are on the agenda.

Mayor Cooper closed the public hearing at 9:27 p.m.

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

> Resolution 04-133, "Resolution Approving a 12-Month Extension of Time for Precise Development Plan No. 97-120-02 and a 36-Month Extension of Vesting Tentative Map 5354"

9. Appeal of Planning Commission Approval of Use Permit PL-04-0176/0207 to Allow an Off-Sale Alcoholic Beverage Outlet Located Less Than 500 Feet from Another Outlet – Crossroads World Market (Applicant/Owner)/ COMMPRE (Appellant) - The Property is Located at 230 Jackson Street

> Staff report submitted by Associate Planner Emura, dated September 7, 2004, was filed.

Planning Manager Anderly presented the staff report noting the conditions of approval related to the use permit and the alcoholic sale of beverages. She presented staff's recommendation and reported the unusual circumstances. She noted that restaurants and grocery stores over 10,000 square feet are not required to obtain a conditional use permit. She added that the Police Department is part of the review and at times recommends additional conditions of approval. She responded to Council questions related to the previous request, the number of outlets within the 500 foot radius and whether granting a variance could set a precedent. Planning Manager Anderly responded that each use permit is considered separately unless the building is exactly the same. A future user would be subject to the exact conditions that go with this parcel.

Council Member Jimenez asked about the previous request for this ABC license and commented on those outlets within the 500-foot radius. It was noted that there is one less license.

Council Member Dowling asked about the census tract exhibit and the various alcoholic beverage outlets in that tract.

In response to Council Member Ward's question, Planning Manager Anderly stated that recent approvals occurred as part of new development in the downtown.

Mayor Cooper opened the public hearing at 9:49 p.m.

The following individuals spoke in favor of the Planning Commission approval:

Cornel Vencia
Dick Metz
Hank Duong, owner of the Country Liquors, urged approval, as he sells different types of liquor than those to be sold by Crossroads Market
Rick and Anne Wilcoxon
Stephanie Widgeo
Francisco Abrantes
Barbara Heringer-Swarr felt that this business was unique.
Andrea Strohecker
Irit Luria submitted a card, but did not speak.
Werner and Kathy Heisserer
Alex Ignatenko
Hani Haddad reiterated his request to sell specialty wines and beers from his market.
Jason Moreno
Joe Rasheed
Saied Haddas noted that his father's business intends to abide by the limits and stipulations as placed by the Planning Commission.

The following individuals spoke against the Planning Commission approval. They urged denial of the issuance of a use permit to allow the sale of alcoholic beverages.

Dennis Botello stated that staff is using the wrong tool in this case. The berm, as he described the landscaped median is not a special circumstance.

Greg Haynh showed photos during various hours of the liquor store across the street. He did not see the berm as a physical restraint. He added that Mr. Haddid's character and reputation should not be a part of this.

Linda Pratt urged the Council to review its policy rather than set a precedent. She was not clear on the intent of Condition of Approval #8 and did not agree with staff that Jackson should be split.

Mayor Cooper closed the public hearing at 10:29 p.m.

There was Council discussion related to Mayor Cooper's concern regarding how can we insure that we are not giving him a variance. It was noted that the circumstances have been reviewed and the conditions and stipulations set. Council discussed the direction it could take.

Council Member Ward asked Mr. Haddad to define a specialty wine.

Mr. Haddad described the heritage and celebratory ethnic wines and noted that his market sells a variety of bottled mineral waters, as well, from other countries.

City Attorney O'Toole discussed the possibility of setting a precedent. He stressed that Council is required to review each request independently. It can direct staff to go back to modify the radius.

Council Member Dowling expressed the need for upscale stores in Hayward. He felt that this is a smaller version of Trader Joe's. He was satisfied with the conditions as set forth by staff. He also congratulated Commpre for its work, in particular with such businesses as the Plunge and the El Tapatio bar. He moved the recommendation to deny the appeal and uphold the Planning Commission's approval. Council Member Ward seconded the motion.

Council Halliday listened to the concerns raised by Commpre and commended the organization for it arduous efforts. She was satisfied that a precedent is not being created, nor is the Council bound. She enjoyed that fact that this market attracts customers from out of town.

Council Member Henson previously opposed this due to overabundance, but was reconsidering now that one business has ceased operating. Mr. Haddid's business record and reputation has also impressed him.

Council Member Jimenez felt that this is a prestigious market to have world wines available.

Mayor Cooper stated that she did not support this request previously, but was willing to do so at this time. Jackson Street is a significant barrier and this store has a unique niche in the market. She suggested staff return with an amended ordinance to have a clearer definition that avoids granting variances. She suggested that this be added to the motion so that future situations with similar circumstances be more readily resolved.

City Manager Armas indicated that the entire ordinance can be reviewed in a future work session.

It was moved by Council Member Dowling, seconded by Council Member Ward, and carried, with Council Member Quirk absent, to adopt the following:

> Resolution 04-134, "Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Use Permit/Variance PL-04-0176/0207"

LEGISLATIVE BUSINESS

10. Adoption of an Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from Agricultural (A) District to Planned Development (PD) District Pursuant to Zone Change Application No. PL-2002-0533 – Property Located at 26521 Whitman Street

> Staff report submitted by City Clerk Reyes, dated September 7, 2004, was filed.

As there were no requests to speak, Mayor Cooper opened and closed the public hearing at 10:44 p.m.

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

AYES:	Council Members Jimenez, Halliday, Ward, Dowling, Henson
NOES:	Mayor Cooper
ABSENT:	Council Member Quirk

Ordinance 04-11, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from Agricultural (A) District to Planned Development (PD) District Pursuant to Zone Change Application No. PL-2003-0533 – Property Located at 26521 Whitman Street"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:49 p.m., with Council Member Halliday adjourning in memory of Lt. Col. James "Jimmy" A. Walker, a WWII veteran who was an original member of the Tuskegee Airmen. Jimmy Walker, who passed August 23, 2004, was awarded Hayward's "Senior Award" for his volunteer service to the community.

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