



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 16, 2004, 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 Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling, Henson
MAYOR Cooper
Absent: COUNCIL MEMBERS None

PUBLIC COMMENTS

Dennis Hayashi, AC Transit Board Member for Ward 4, which includes parts of Hayward, introduced himself and noted his availability.

Mayor Cooper congratulated him on his election to the Alameda County-Contra Costa Transit Board representing a part of Hayward.

Francisco Abrantes reiterated his concerns related to private property on Grand Street.

Al Reynolds commented on the Route 238 Plan.

Jason Moreno submitted a flyer regarding care packages for soldiers.

Harry Bruno commented on the recall.

Ben Bruno commented on the recall.

Barbara Heringer-Swarr commented on the cost of the recall in relation to employee salaries.

CONSENT

1. Resolution of Intention to Vacate a Portion of Burbank Street, between "B" and "C" Streets, and a Portion of "C" Street, between Burbank Street and Filbert Street to Accommodate the Future Burbank School Site

Staff report submitted by Deputy Director of Public Works Bauman, dated November 16, 2004, was filed.

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

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Resolution 04-165, "Resolution Declaring an Intention to Vacate Burbank Street Between "B" Street and "C" Street and "C" Street Between Burbank Street and Filbert Street and Setting the Date and Time of the Public Hearing"

2. Acceptance of Grant to Conduct DUI and Seat Belt Enforcement and Education Program

Staff report submitted by Traffic Bureau Sergeant Akacsos, dated November 16, 2004, was filed.

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

Resolution 04-166, "Resolution Authorizing the City Manager to Execute an Agreement with the Office of Traffic Safety to Accept Funding for the Driving Under the Influence and Seat Belt Enforcement Program; Appropriation of Funds"

HEARINGS

3. Site Plan Review Application No. PL-2004-0489 – Swearingen Systems, Inc. (Applicant), Southland Mall, LLP (Owner) Request to Install a Solar Port in the South Parking Lot at Southland Mall

Staff report submitted by Principal Planner Patenaude, dated November 16, 2004, was filed.

Principal Planner Patenaude made the staff report, depicting the area near J.C. Penney and Macy's department stores, where forty-three parking spaces will be covered. This project could provide sixty percent of its power needs. He noted that the design will be incorporated with elements from the mall buildings. This is the first of its kind and is an experiment exclusive to Hayward. He noted that the Planning Commission approved this project with the recommendation to lower the shrubs to one foot near La Playa Drive to avoid visibility problems for drivers. He responded to questions related to the structure of the mall building, future maintenance issues and the aesthetic issues. It was noted that the structure of the mall building could not accommodate the solar panels. Maintenance would continue throughout the general existence of the project and deterioration would cause removal of the project, which was the main concern of the Southgate Neighborhood.

Council Member Jimenez asked for clarification on the PG&E usage and suggested some type of rebate for PG&E customers. It was noted that this is not a cost savings for other PG&E customers, but to the individual account that uses solar panels for energy generation.

Council Member Henson commented that there is a county facility in Dublin that has similar panels on the top of the building. He also asked about the feasibility of using the mall buildings, which are relatively flat. He asked about the housing of the supplemental operating equipment.

Tom Young, representing the applicant, responded that the age of the mall structure could not bear



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the approximate 7,000 pound equipment weight as well as be seismically safe for roof installation. The supplemental equipment will be located within the mall building and any exterior equipment will be screened. He described the installation and the location of the equipment to avoid damage to the modules from autos. He stated that this is the firm's largest project to develop. His firm will monitor the modules, which have a 25 year warranty and will be responsible for their maintenance for seventeen years. He described candle power usage and the process of net metering.

Council Member Halliday indicated that she "called up" this project because she wanted to minimize the visual impacts. She had concerns about the drawings that were previously presented at the Commercial Center Improvement Committee and commented on the dramatic visual impact of this project on the La Playa side of the mall. She appreciated the solar power generation. She agreed with the requirement of security cameras, but expressed concern of the lack of call buttons. She asked about community awareness and education. She asked what customer amenities meant in the report. She commented on the heavy use of this parking area.

Tom Young described the surveillance camera system. There will be a kiosk in the mall to provide information about solar usage as well as display what the monitors do during various weather systems. There will be opportunity for the local schools to utilize this program for classroom instruction on solar use. In regards to customer amenities, it was noted that the carports could provide shade as well as some shelter from rain.

There was discussion on the landscaping recommendations of shrubs and hedges. There were security concerns on the thirty inch high shrub. Mall security and the homeowner association had expressed concern for the safety of customers with this height of shrub.

Council Member Quirk asked about the candle power condition. Staff reported that the Planning Commission recommended one candle power as required by the City's Security Ordinance. He also asked about the maintenance and the covering on the carports and indicated that Council should address the shrub size. Mr. Young explained the maintenance requirements and that the carports would be 60% covered due to fire regulations.

Council Member Dowling reiterated the conditions of approval for landscaping on La Playa. He confirmed with Principal Planner Patenaude that there would be landscaping of the carports to screen them from view from La Playa.. Council Member Dowling highly agreed with the education aspect and suggested signage be installed to further inform the public.

Council Member Ward discussed the simulated photo that imposed the carports on the mall parking area and noted the incorrect scale.

Mayor Cooper opened the public hearing at 9:05 p.m.

Ed Bogue, Planning Commissioner, noted that he did not participate in the discussion at the Planning Commission as he lives in the neighborhood. He felt that these carports would wear

poorly on the mall and present a utilitarian look. He suggested that ideally a superstructure should be constructed over the mall and not limit visibility of the mall as well as provide additional solar power.

Mr. Bogue explained how the trees are a good height to see under them. He spoke on behalf of his neighborhood's request to have call boxes as part of security measures. He felt that it was the building code requirement not to build on the roof of the mall. He discussed the two-candle power issue. He felt that the location of this project would lose an opportunity for a future 'anchor' store for the mall. In regards to the landscaping, he would prefer more high varied plantings; otherwise there will be a "hedge effect." He emphasized that plant spacing will be very critical and described the landscaping on Winton Avenue in contrast to Hesperian, which has a sidewalk that separates the landscaping from the driving lanes and there is also a median that only permits right turns. On La Playa the landscaping is definitely on the sight lines and there are no sidewalks.

Mayor Cooper closed the public hearing at 9:11 p.m.

Council Member Halliday asked Acting Police Chief Lowe to address security concerns. Acting Police Chief Lowe commented that the additional lighting and surveillance cameras are an important safety feature. He noted that the plant height could be a safety concern for drivers.

Council Member Dowling stated that this is a very creative proposal. He recognized that there will be some visual impacts on the community, but energy generation is still in a crisis mode in California. He agreed with Ed Bogue that the project should be on the roof. He moved the staff recommendation with the condition that the landscaping be at the 3 foot high except at the driveways.

Both Council Member Henson and Council Member Jimenez seconded the motion.

Council Member Henson, noting that he lived within the area for ten years, was rather familiar with the openness of Southland Mall. He expressed his concerns on the visual impacts. However, he applauded the efforts to develop and utilize alternative energy sources. He hoped that as technology improves, lighter panels could be used so that this equipment could be re-located to the roof.

Council Member Quirk had some concerns on security. He offered an amendment to the motion that the shrubs on the interior be one foot rather than three feet as recommended. The motion died for lack of a second.

Council Member Halliday asked about extending the landscaping to be consistent throughout the mall, in particular from Hesperian, around the curve towards the 880 freeway. She asked who has the responsibility of maintaining the landscaping in that area. As she lives in this neighborhood, she felt that this project will have significant visual impacts. She would be supporting the project, but not as enthusiastically as her colleagues. She suggested staff have some sort of flexibility in the landscaping for a more aesthetic view.

Principal Planner Patenaude responded that the Council's Commercial Center Improvement Committee recently discussed the lack of trees and landscaping around the mall. He commented



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that staff efforts are to have a consistent pattern of landscaping on La Playa before the end of the northerly curve.

Mayor Cooper felt that this is a rather dramatic project and the community will react. The mall informational kiosk will address questions and provide the public awareness and to encourage residents to try solar energy in their homes. She did not see the height of the shrubs as a detriment to security. Southland needs to be upgraded and the landscaping will add to this improvement. The motion is flexible enough and it provides the landscaping.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to adopt the following with three foot high shrubs:

Resolution 04-167, "Resolution Approving Site Plan Review Application No. PL-2004-0489 of Swearingen Systems, Inc., (Applicant) and Southland Mall, LLP (Owner)"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper wished everyone a Happy Thanksgiving and provided opportunity from Council Member Jimenez to adjourn the meeting at 9:26 p.m. in memory of John Balesquez, a former twenty-year employee of the City of Hayward in the Streets Division. His family came from Spain and settled in Hayward on Atherton Street. During his lifetime he was also a prize fighter and a butcher. He died at the age of 93 years.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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