



**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, December 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 Mayor/Chair Cooper. Mayor Cooper asked that everyone take a moment to remember and give tribute to those who died in World War II as well as those who survived.

ROLL CALL

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

PUBLIC COMMENTS

Harry Bruno spoke on his recent efforts of his recall drive.

Barbara Heringer-Swarr invited all to view films sponsored by Chabot College related to world issues as globalization. She also spoke on the Code Pink organization and its current endeavors to counter the information that military recruiters are providing to our high school youth.

John Super asked for a stricter noise pollution ordinance and enforcement. He reported that there have been incidents in his neighborhood with excessive noise, in particular from DJs in home parties. He also commented on the police response.

Adrian Escoto spoke against the proposed name change of Cal State Hayward.

CONSENT

Item 1 was removed for further discussion.

1. Approval of Minutes of the City Council Meeting of November 9, 2004

Bob Billmire, a member of the Route 238 Working Group, discussed several issues including regional traffic flow and access to Cal State Hayward. He suggested there be some additional time to study the proposed improvements to the Harder intersection as well as to consider placing utilities underground on the southern end of Mission.

Council Member Ward moved approval, noting that in discussion with staff, several items were not acted on and will be brought forth in a future meeting. City Manager Armas reported that one of the items not acted on was the Strobridge off ramp and the other was exploring Rapid Bus transit.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried unanimously, to approve the minutes of the City Council Meeting of November 9, 2004 with modifications as submitted.

2. Approval of Minutes of the City Council Meeting of November 16, 2004

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to approve the minutes of the City Council Meeting of November 16, 2004.

3. City Hall Parking Structure Modification: Approval of Addenda and Award of Contract

Staff report submitted by Deputy Director of Public Works, dated December 7, 2004, was filed.

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

RA Resolution 04-17, "Resolution Amending Resolution No. RA-04-07, as Amended, the Redevelopment Agency Budget Resolution for Fiscal Year 2004-05, Relating to an Appropriation of Funds from the Redevelopment Tax Allocation Bond Fund to the City Hall Parking Structure Modification Project, Project No. 5094"

Resolution 04-168, "Resolution Approving Addenda Nos. 1 and 2 for the City Hall Parking Structure Modification Project, Project No. 5094 and Awarding Construction Contract to C. Overaa & Company"

4. Adoption of a Resolution Accepting the Report and Adopting Findings Related to Fees Collected for Development Projects that are Subject to the Requirements of the Mitigation Fee Act

Staff report submitted by Acting Finance Director Lewis, dated December 7, 2004, was filed.

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

Resolution 04-169, "Resolution Accepting the Report and Adopting Findings Related to Fees Collected for the Development Projects Subject to the Requirements of the Mitigation Fee Act"

HEARINGS

5. Mobilehome Park Conversion Ordinance

Staff report submitted by Deputy City Attorney Cambra, dated December 7, 2004, was filed.



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City Attorney O'Toole introduced Deputy City Attorney Cambra who made the staff presentation. Deputy City Attorney Cambra reiterated the purpose of the adoption of the moratorium ordinance in October. He discussed the State's mobile home park closure procedures and requirements. He reported that staff reviewed a number of similar ordinances from other cities finding the common elements among them as the content of the impact report, the requirement of a hearing to determine the accuracy of that report, and establishing reasonable costs of relocation. He cited the main difference is the determination of the reasonable cost of relocation. The proposed change in use ordinance defines the content of the impact report, provides for a public hearing to review the adequacy of the information in the impact report, and authorizes the Council to establish mitigation payments to mobile home residents up to the State mandated limit of reasonable cost of relocation. He noted that the proposed ordinance does not contain any specific formula or definition for reasonable cost of relocation as staff determined that this would provide flexibility for Councils determining relocation costs based on the most current information and State law limitations. The application of a rigid formula could result in a total cost of relocation, which would deprive the park owner of all reasonable use of the property that could prompt a legal challenge and may not produce a result that a resident might desire. He noted that a number of provisions could conflict with State law.

Deputy City Attorney Cambra reported that the Amendments Committee of the Hayward Mobilehome Owners Association (HMOA) has identified other provisions from other ordinances that are not included in the proposed ordinance. One example is the reasonable cost of relocation that includes the cost of purchasing replacement mobile homes for those residents with mobile homes that are not acceptable in other mobile homes for a variety of reasons. Another example that he pointed out was the establishment of a new mobile home park for those displaced residents. The applicant would need to reimburse the mobile home resident for any additional relocation costs for a period of two years. If the change in use of the mobile home park is for dwelling units, the displaced residents have the first right of refusal to purchase, lease, and rent or have residency in the dwelling units at affordable prices. He noted the period when no space rent increases could be imposed and that relocation must take place in the City or its general vicinity. The Council can include further considerations in its evaluation documents. He reported that staff is willing to review these considerations, but must take additional time to determine the impact of these provisions and return with amendments for Council approval. He urged adoption of the proposed ordinance as the 45-day moratorium is lapsing.

Council Member Henson thanked the staff for bringing this forward in response to the urgency. He asked about the provisions that the HMOA committee is requesting and was informed by Deputy City Attorney Cambra that some of the provisions are in conflict with State law. He suggested that staff consider the impacts of housing costs in this area in determining the formula for the reasonable cost of relocation. He asked about the application for reclassification for the re-use of property. He was assured by staff that remedies and specific determinations in the San Leandro ordinance would be considered and reviewed.

City Attorney O'Toole reported that staff's goal was to set something in place due to the potential closure of Continental Mobile Home Park. He noted that some of the amendments have considerable merit, but there needs to be careful consideration of the language to withstand future challenges

Council Member Ward referred to page 3 of the report that discussed affordable housing. He asked if this provision could be approached in a manner similar as that used by the Redevelopment Agency or the community block program. He appreciated the flexibility, but preferred a clear definition of the costs or range of costs for both sides of the issue. He urged the development of specific criteria. In regards to the development of this ordinance with the mobile home owners, he asked about the process and their input.

City Attorney O'Toole reported staff's goal was to transfer the jurisdiction from the state level to the local level and that upon review, proposed modifications will be presented to Council within the next 30-90 days.

Council Member Dowling emphasized the necessity of designating mobile home parks as affordable housing. He did not desire to see them replaced by upper income housing units. He urged that the City's ordinance stipulate in any future mobile home conversions that replacement housing must be affordable. He hoped that the modifications to the ordinance will stipulate such restrictive provisions to prevent the closure of the mobile home parks.

Council Member Halliday wholeheartedly agreed with Council Member Dowling's comments. She asked if there would be further dialogue by staff with the representatives of the mobile home park as well as with Council, such as a work session. She referred to Section D, about fair market value when mobile homes cannot be moved and asked for further clarification on the zoning designation.

In response to Council Member Halliday's question related to further considerations of amendments, Deputy Attorney Cambra stated that there were fifteen different ordinances to review with different approaches to evaluate and validate. He noted the difference in appraisal methods used when mobile homes cannot be moved when there is a proposed closure. The Council would determine the final appraisal at its public hearing.

City Manager Armas stated that because a site is consistent with the General Plan does not mean that it is necessarily available for rezoning to another residential zoning district. The mobile home park zoning designation allows specific information to be reviewed and evaluated environmentally.

Council Member Halliday referenced the correspondence received from the attorney representing the mobile home park owner and felt that the case cited referred to rental units, not mobile homes. She asked that staff respond when the amendments are presented. When she asked if the San Leandro ordinance had been contested or if there is any case law in this area, Deputy Attorney Cambra stated that in his investigation that there were a variety of cases, but nothing clearly defined.

Council Member Jimenez strongly expressed his concern for mobile home owners with limited incomes when determining reasonable costs of relocation. He appreciated Bob Billmire for his effort.

Council Member Quirk referred to the correspondence from the attorney of the mobile home park owner. He asked about the noticing procedures. Agreeing with Mr. Billmire, he commented favorably



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on the San Leandro ordinance format and its ease to read. He noted that staff seemed to be following the State law.

In reference to the noticing, Deputy Attorney Cambra reported that staff had the responsibility to insure that every mobile home owner received the notice from the park owner. In regards to the format of the proposed ordinance, he noted the complexity of the State law and this seemed easier. He noted that the draft ordinance is flexible so that it provides any legal remedy that the San Leandro ordinance provides.

Council Member Halliday asked if it was possible to extend the moratorium.

City Attorney O'Toole reiterated the direction from Council was to draft this ordinance, not extend the moratorium, which needed to be done prior to its expiration. He noted that it was understood that some modifications would be necessary in the near future, but would need to be drafted carefully to withstand any future challenges.

Mayor Cooper opened the public hearing at 9:00 p.m.

Milan Dobro spoke on behalf of the mobile home owners and noted that he sits on a rent review board for the City of Milpitas and submitted that city's ordinance. In his past experience, which has been extensive, he expressed his involvement in support of residents in the mobile home parks of Hayward and due to illness has not been as involved.

On behalf of the Council, Mayor Cooper wished Mr. Dobro improved health and a good new year.

Anil Talnikar stated that he has been a Hayward resident for fifteen years. He indicated that over the years he has settled his family members in mobile homes. He noted that a notice of closure had been provided to anyone purchasing a mobile home at Continental Mobile Home Park that informs the resident that no compensation will be provided. There is fear by the residents who purchased and now stand to lose their mobile home. They may not be able to afford the deposits required by apartments if they have to move. He read the draft ordinance. He stated that he has been successful in his life, owns fifteen apartments in the City of Hayward and was moved to consider purchasing the park and give the residents opportunity to purchase their spaces. He took a survey of the residents and more than fifty percent agreed to purchase their space. He discussed his plans on this issue and asked for assistance.

Bob Billmire expressed his opinion and concerns with the proposed ordinance. He compared it with the ordinance of San Leandro and urged that the Council adopt a similar one.

Council Member Halliday asked Mr. Billmire for clarification on his recommendation regarding the proposed language that is being considered. She understood that he was recommending a stronger ordinance, but this proposed ordinance is an improvement over doing nothing and allowing the state to govern.

In response to both Council Members Halliday and Jimenez, Mr. Billmire preferred that the Council review one document that encompasses not only what is proposed, but also includes the costs for relocation as the San Leandro ordinance.

Mayor Cooper closed the public hearing at 9:21 p. m.

Mayor Cooper restated the Council's direction to staff related to insuring that Continental mobile homeowners are protected with an ordinance that can be implemented immediately. In this way, she indicated that staff can review the Council's input to draft an amendment with the related details. She suggested that this ordinance be passed as recommended. Additionally, staff can meet with Mr. Billmire, his HMOA and any interested citizens to draft the amendments that may include the necessary details already mentioned or that may include what is in the San Leandro ordinance. She noted that a public hearing will be conducted to review the amendments.

There was discussion related to the zoning designation of mobile home parks in comparison to the General Plan Land designation, which is residential. Council Member Ward asked if in the long term the land use designation could be consistent with the zoning for the mobile home parcels so that anyone interested in modifying that land use would need to request it. City Attorney O'Toole advised that CEQA requirements would need to be met. City Manager Armas asked if the Council was requesting that staff return with information and materials that would have the zoning and the General Plan land use the same; thus the property owner would need to request both a zone change as well as a General Plan amendment. Council Member Ward affirmed that this would meet the goal of Council Member Dowling of the need to reaffirm the City's commitment to maintaining those land uses as they currently are designated as affordable housing land uses in perpetuity.

In response to Council Member Dowling's question regarding placing this on the subsequent agenda or perhaps not acting on the urgency ordinance, City Attorney O'Toole, stated that there may be an authority in placing moratoriums within that short of a timeframe and if this moratorium is delayed, there could be a possibility that the City would lose some local control in determining what the mitigations would be and who conducts the public hearing. Council Member Dowling expressed his disappointment that not all the issues were resolved in the 45-day period. He would prefer sustaining the moratorium to resolve all the issues and adopt one ordinance. Lastly, he strongly recommended that there be open dialogue with the residents of parks for future consideration of park ownership. He reported that other cities have done this.

Council Member Henson stated that he was considering the risks in reducing the City's influence by delaying the proposed adoption as well as adopting what staff has recommended with subsequent amendments. He indicated that staff was given a short window to respond to all of the questions. He agreed with Council Member Ward to place the consistency of the zoning with the land use designation to give additional control to the local legislative body rather than the State. Council Member Henson asked if Council adopted this portion and staff brought forth an amendment, would it include and address the issues discussed by Mr. Billmire.

City Attorney O'Toole responded that his office has received numerous threats of litigation while preparing this ordinance. He advised that prior to submitting any subsequent amendments that may be derived from other cities, such as the San Leandro example, he would need to meet with the City



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Council at a closed session to discuss the risks of adopting those so that Council has a clear understanding prior to enacting them. He did not believe that the San Leandro ordinance has been challenged in court. He would schedule the closed session for that discussion.

Council Member Quirk thanked the residents of the mobile home park for attending this meeting. He agreed with Council Member Ward regarding the land use designations; he also agreed with Council Member Dowling's suggestion related to purchasing their spaces and to additional amendments. He urged adoption of this ordinance as recommended by staff to avoid the risk of having a state official make decisions that affect Hayward residents. He acknowledged that Council will continue to review materials that will be proposed for the ordinance amendment.

Council Member Halliday indicated that in the City's General Plan, mobile homes are counted in its ownership housing statistics. She expressed concern that the Plan encourages ownership housing. She discussed the special needs of residents, in particular the senior residents, who desire this type of housing. She acknowledged the strong sense of community and the recreational amenities of a mobile home park. She did not want to rush adoption as she felt that this ordinance should be strong within reason and urged staff to return in sixty days with one. She thanked Council Member Ward for his suggestion in regards to land use and would like to see a General Plan designation for mobile homes. She also agreed with Council Member Dowling's idea related to parcel ownership.

It was moved by Mayor Cooper, seconded by Council Member Quirk, and carried unanimously, to adopt the following:

Resolution 04-170, "Resolution Finding Adoption of the Mobile home Parks Conversion Ordinance Categorical Exempt from CEQA Review"

Ordinance 04-18, "Ordinance Amending Article 3 of Chapter 10 Relating to Conversions of Mobile home Parks"

6. Vacation of Burbank Street, Between "B" and "C" Streets, and "C" Street Between Burbank and Filbert Streets

Staff report submitted by Deputy Director of Public Works Bauman, dated December 7, 2004, was filed.

Public Works Director Butler asked Council to take this action to commence the relocation of the utilities which will not take effect until the school is closed. He delineated the new planned public streets including Martin Luther King Way that will be built this summer. He discussed the timeline and responded to Council questions related to sewer and water lines and the costs of their removal.

Council Member Halliday asked for assurance that the Amtrak Station continues. She referred to the correspondence from ConAgra. Staff noted that there will be two access points with the new street.

Council Member Jimenez cautioned that public safety be first priority and necessary precautions be taken during the removal process.

Mayor Cooper opened the public hearing at 9:55 p.m.

Chris Aupperle, representing ConAgra, stated that his firm owns property. He pointed out that the primary and only access to the property is through C Street and Burbank Street. He stated that there is access through a private easement which gets them over to Cannery Court, but that limits one access to the property. He discussed the new proposed Martin Luther King street and expressed concern that it definitely impacts. He notified the Council that this would adversely affect the ConAgra property and limit the use of the property as a warehouse. He was concerned about the Master Development Plans and noted the current warehouse tenant is a viable business.

City Manager Armas reported that the current operator in the warehouse owned by ConAgra has a use permit that is short termed.

Mayor Cooper closed the public hearing at 9:59 p.m.

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

Resolution, 04-171, "Resolution Vacating a Portion of Burbank Street between "B" Street and "C" Street, and "C" Street between Burbank Street and Filbert Street"

LEGISLATIVE BUSINESS

7. Direction Regarding La Vista Quarry

Staff report submitted by City Manager Armas, dated December 7, 2004, was filed.

City Manager Armas stated that this is in response to the Council's direction for staff to meet with the quarry owners, Ed DeSilva of the DeSilva Group and Jim Summers. He enumerated the three options as presented in the staff report. If the Council desires, a review will commence. He noted that the property owners have agreed to suspend the mining permit application if the City suspends its annexation application, of which both actions will be suspended until March 1, 2005. At that time staff can present the necessary actions and documents.

Council Member Jimenez agreed with the third option number 3 on the strength that real estate transactions do generate revenues and sales taxes as well as property taxes.

In response to Council Member Dowling's question, City Manager Armas noted that plans will be developed for public review and community input, such as the General Plan designation as well as the



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zoning for the quarry site. The tax sharing agreement will continue to be finalized, but the LAFCO formal hearing and the Planning Commission hearing for the quarry annexation will be suspended.

Mayor Cooper opened the public hearing at 10:13 p.m.

Jim Summers, representing the quarry owners, thanked City Manager Armas for his efforts in meeting to discuss further options. He noted that the owners agree with Option 3, the range of units, a recreational facility and to cease quarry activity. He expressed his desires to work with the community.

He also stated that there may need to be a work in progress on the tax sharing agreement of this project and felt that the CEQA documents previously approved could be utilized. He noted that the owners are prepared to hold the permit application as agreed.

Kendra Mendall expressed her concerns on the compromise to preserve open space and revisit the quarry issue. She agreed that the recreation facility is something the neighborhood can utilize. She urged good planning on the infrastructure part of the project. She was concerned with the comment regarding finding room on the west side of the wide and urged in the spirit of compromise enough space be allocated.

Mayor Cooper closed the public hearing at 10:20 p.m.

Mayor Cooper thanked all those present for their interest and neighborhood concerns.

Donna Vingo stated that she shared the staff report with her neighbors on Overhill Street. She stated that when they reviewed Option 3 of that report, they were grateful to the Council for hearing their concerns and for addressing them.

Council Member Halliday thanked Ms. Vingo for staying through the Council meeting and for representing her neighborhood.

Council Member Quirk moved to direct staff to meet with the developer to explore Option 3. He also suggested staff contact and meet with the schools. He stated that the area for homes will be relatively small with dedicated recreational space with a community center. He stated that the developer will also be paying the park dedication fees. He noted that the water tower issue will need to be resolved as well.

Council Member Jimenez seconded the motion.

Council Member Ward asked that the maker of the motion not address associated issues at this time, but when the plan is compiled.

City Manager Armas suggested that the motion include that Council is receptive to Option 3 and it is prepared to hold in abeyance its annexation application until March 1, 2005. The issues as presented by Council Member Quirk will be evaluated in the process and can be addressed within two weeks.

Council Member Dowling agreed with the third option and thanked those who were involved. He was pleased to have the decisions on the quarry made in Hayward rather than by the Board of Supervisors in Oakland. He referred to Richard Ersted's correspondence that addresses neighborhood concerns.

Council Member Henson stated that this is an excellent compromise and noted his vested interest in that area. He continues to support housing in that area. In regards to the March 1, 2005 deadline, he asked if there needs to be an active agreement. Staff informed the Council that this is a good faith effort and at this point is not ready to have a written agreement.

It was moved by Council Member Quirk, seconded by Council Member Jimenez, and carried unanimously to conceptually accept the third option, which is to hold in abeyance the annexation application until March 1, 2005.

8. Request for Approval of Assignment Agreement Regarding Blue Rock Project

Staff report submitted by City Manager Armas, dated December 7, 2004, was filed.

City Manager Armas made the staff report noting that this assignment of the development agreement is to provide the financing that is necessary to make the major improvements in that project. The report enumerates the safeguards and he recommended the assignment for Council consideration. Steve Miller, President of Hayward 1900, Inc. was available to respond to any questions.

Council Member Henson asked about the transfer language as it related to any future defaults in the loan. It was emphasized that the Blue Rock project proceeds as is.

As there were no requests to speak, Mayor Cooper opened and closed the opportunity for public input at 10:33 p.m.

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

Resolution 04-172, "Resolution Approving the Assignment Agreement for the Blue Rock Country Club Project"

COUNCIL REPORTS

There were no Council items.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:35 p.m.



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APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency