



**MINUTES OF THE CITY COUNCIL MEETING  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, May 3, 2005, 8:00 p.m.**

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**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 Mayor Cooper.

**ROLL CALL**

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

**PRESENTATION:** Business Recognition Award

The May 2005 Business Recognition Award was presented to Mohawk Industries, Inc. For over 120 years Mohawk has been a trusted name in carpets. Today Mohawk is a leading producer and distributor of flooring worldwide and is the 4th largest of Mohawk's 54 distribution centers with 63 employees.

This Recognition Award was awarded for their investing in our community by establishing one of their distribution facilities in Hayward, which provide job opportunities to local residents, and contributes to the sales tax base. Stacy Wise, Warehouse Manager of the Mohawk Carpet Distribution facility in Hayward, accepted the award and thanked Council for this honor.

**PUBLIC COMMENTS**

John Kyle commented on the revenue of the airport.

Brian Stamke asked that the Council consider the future of the Dumbarton Rail project that will establish a passenger rail system commuter service to the Peninsula and San Jose. He noted that Hayward has been dropped from the EIR study, but was previously on in 1999. He urged Council to investigate so that it is included in the study so that the trains could stop at Hayward.

Council Member Dowling asked staff to respond. City Manager Armas reported that about five years ago this was explored and the problem was in creating a turn around for the trains as well as other operational issues. As it will terminate in the Union City Intermodal Station and the turn around will be constructed as part of that project, it was in Hayward's best interest to continue to remain the link between rail and BART.

**CONSENT**

Consent Item 5 was removed for separate vote.

1. Approval of the Minutes of the City Council Meeting of April 26, 2005.

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It was moved by Council Member Henson, seconded by Council Member Dowling, and carried unanimously, to approve the minutes of the City Council Meeting of April 26, 2005.

2. Renewal of Hayward Area Shoreline Planning Agency (HASPA) Joint Exercise of Powers Agreement

Staff report submitted by Senior Planner Calame, dated May 3, 2005, was filed.

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

Resolution 05-042, "Resolution Authorizing the City Manager to Execute Renewal of an Agreement between the City of Hayward, East Bay Regional Park District, Hayward Unified School District, San Lorenzo Unified School District, and Hayward Area Park and Recreation District Relating to Renewal of the Hayward Area Shoreline Planning Agency Joint Exercise of Powers Agreement"

3. Pavement Rehabilitation Measure B and Gas Tax 2004/05: Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated May 3, 2005, was filed.

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

Resolution 05-043, "Resolution Awarding Contract to G. Bortolotto & Company, Inc., for the Pavement Rehabilitation Measure B and Gas Tax 2004/05 Project, Project Nos. 5131, 5172, and 5174"

4. Sidewalk Rehabilitation and Wheelchair Ramps: Approval of Addendum and Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated May 3, 2005, was filed.

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

Resolution 05-044, "Resolution Approving Addendum No. 1 and Awarding Contract to Rosas Brothers Construction for the Sidewalk Rehabilitation and Wheelchair Ramps Project, Project Nos. 5179 and 5132"

5. Hayward Executive Airport Improvements: Approval of Plans and Specifications and Call for Bids



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Staff report submitted by Deputy Director of Public Works Bauman, dated May 3, 2005, was filed.

John Kyle commented on this \$4 million project that will improve the airport runway but impact his neighborhood with pollution.

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

Resolution 05-045, "Resolution Approving Plans and Specifications for the Hayward Executive Airport Improvements Project, Project Nos. 6818, 6821, 6830, 6833, 6839, 6841, and 6842"

## **PUBIC HEARINGS**

### **6. Hearing on Report and Assessment for Residential Rental Inspection Fees Past Due**

Staff report submitted by Senior Housing Inspector Bragg, dated May 3, 2005, was filed.

Senior Housing Inspector Bragg made the report, noting that there are currently 21,000 units. He noted that some of the property owners have resolved their billings and listed the following to be removed from the lien list: Numbers: 4, 8, 9, 16, 19, 20, 23, 24, 25, and 26. He stated that there are a total of 17 property owners remaining on the property liens listing with a total outstanding amount of \$23,422.40. He responded to questions from Council related to inspections in the Council's focus areas and the enforcement issues related to Number 27.

Mayor Cooper opened and closed the public hearing at 8:20 p.m. with no requests to speak.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following and deleting Numbers: 4, 8, 9, 16, 19, 20, 23, 24, 25 and 26 from the property liens listing as they have been paid:

Resolution 05-046, "Resolution Confirming the Report and Assessment of Overdue Residential Rental Inspection Fees for Calendar Year 2004"

### **7. Hearing on Report and Assessment for Community Preservation Fees Past Due**

Staff report submitted by Senior Community Preservation Inspector Brown, dated May 3, 2005, was filed.

Senior Community Preservation Inspector Brown made the report, noting that the following property owners have resolved their billings and will be deleted from the proposed lien list: property owners Numbers: 6, 13, 15, 18, and 28.

Mayor Cooper opened the public hearing at 8:22 p.m.

Dana Caines and Warren Davis, Number 2 on the property liens listing, requested a waiver of the fees charged for illegally parking their motor home that was parked on the side lot of their property. She indicated that when she purchased the home, there was a boat parked on the existing pad and she assumed she could legally park her motor home there. The neighboring homeowner complained. The motor home was moved and later returned for repair. While searching for storage of the 34-foot motor home, an additional citation was sent. Ms. Caines enumerated her experience with this violation. Both Ms. Caines and Mr. Davis noted that they intend to comply and requested the fee waived as there are other motor homes similarly parked within a few blocks off theirs.

Discussion ensued. Council Member Henson asked staff about its visibility from the street. Staff displayed photos. Council Member Dowling inquired on the number of inspections and the appeals process conducted by staff. Council Member Ward felt that the fees were quite high. Staff noted that the violation occurred within a period of time which imposed a higher penalty. Council Member Halliday also inquired on the circumstances involved. City Manager Armas stated that perhaps Council may need to revisit this section of the ordinance.

Timothy Cederborg, Number 3 property owner on the property liens listing, stated that if a lien is imposed on his property, he will proceed with litigation. He reserved his rights to any issues that may arise in the future. He cited his issues that include the cutting of bushes between the sidewalk and his house. He felt that there was no need to cut anything as he had already resolved the matter by cutting those bushes that were hanging over, along with some ivy. He was concerned about the contractor, who he observed cut almost a foot within his yard in several places. He mentioned his meeting with staff, who informed him that it was still not in compliance. He also reported on the correspondence that he received and was not pleased with the work of the contractor. He informed the Council regarding his sidewalk concerns and the debris of the City trees. He responded to Council questions related to the public sidewalk.

In response to questions from Council, Ms. Brown reported that Mr. Cederborg was issued several notices and staff met with him on two occasions. She displayed several photos that showed overgrowth onto the sidewalk, which became a safety concern and the reason for using the contractor to complete the work.

Mr. Cederborg presented a small claims subpoena for records to City Clerk Reyes.

Council Members asked staff about the sidewalk and encroachments.

Mr. Antonini, spoke on behalf of Gelso Investments, regarding the building at 913 B Street and Number 8 on the property liens listing. He commented that there were fourteen citations and one administrative hearing. He focused on the violation related to windows that were boarded up from the inside and in code compliance. He explained that broken windows and doors were repaired. He felt that the fee and fine structure was incorrect. He explained the confusion with the mailing and citations



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that were sent. Lastly, he said that he has plans for an approved retrofit of that building.

In response to Council Member Dowling's question, Neighborhood Economic Development Manager Patton explained that the Code on the website was incorrect and was not what the Council approved in 2002. It has since been corrected.

Steve Mullen, representing All Saints Church, which recently celebrated its 101st Birthday, requested a waiver of the fine for a sign violation that related to a temporary banner hanging in front of the church. He said that before he could contact staff, an additional inspection fine was added. He was disappointed in the arbitrary process. Obtaining a permit has been too cumbersome when conducting a festival at his church. He also felt that there was not a clarification as to which banner was illegal as there were three currently hanging.

Senior Community Preservation Officer Brown reported that when a complaint was made to staff, a notice was sent for an illegal banner without a permit.

In response to Council Member Dowling's question, City Manager Armas indicated that none of the banners were allowed and content was not the issue.

Council Member Henson recalled the sign ordinance discussion that involved the use of banners for auto dealers and thought that temporary signs could be hung without a permit. He was concerned that the community may not be aware of the requirement for a temporary banner permit that allows hanging it for 30 days.

Mayor Cooper closed the public hearing at 9:03 p.m.

Council Member Jimenez commented that All Saints Church is 101 years old and has been hanging signs for its parish festival and was never cited. He felt that the fine should be rescinded. He moved to rescind and waive the fine of \$313.05 against the church. This was listed as Number 21 on the proposed property liens listing. Council Member Halliday seconded his motion.

The motion carried as follows:

AYES: Council Members Jimenez, Halliday, Ward, Dowling  
NOES: Council Members Quirk, Henson  
Mayor Cooper  
ABSENT: None  
ABSTAINED: None

There was further discussion on the fines imposed on the property owned by Dana Caines. Council commented on the penalty amount of \$818.05 as being rather high. Staff noted that this fine was imposed because the same violation occurred within 12 months, which is the fine amount previously approved by Council as a method to reduce repeated violations and allow staff to enforce the

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ordinance.

Council Member Dowling appreciated the service of Ms. Caines towards this community. However, he did not see the rationale for reducing the fines and noted that storing large motor homes can be a problem. He was aware that there may be illegally parked motor homes throughout the community, but with limited Community Preservation staff, there needs to be consistency in maintaining the regulation.

Council Member Ward moved, seconded by Council Member Henson, to reduce the fees by \$818.05 for Dana Caines, listed as Number 2 on the property liens listing. The motion carried as follows:

AYES: Council Members Jimenez, Halliday, Ward, Henson  
NOES: Council Members Quirk, Dowling  
Mayor Cooper  
ABSENT: None  
ABSTAINED: None

Mayor Cooper re-opened the public hearing at 9:12 p.m. at a citizen's request.

Mr. Carvalho apologized for misunderstanding the process for public input. He spoke on behalf of his father, regarding an abandoned vehicle that was located in the driveway, Number 22 on the property liens listing. The automobile belonged to his grandfather and his family was not aware of the ordinance. He asked for reduced fees and additional time to comply. Staff displayed the photo of the automobile in question and reported that the vehicle had broken windows and flat tires and was inoperable for a length of time. No adjustments were offered by Council.

Mayor Cooper closed the public hearing at 9:13 p.m.

Council Member Quirk noted that rules and regulations are set in place and emphasized his belief that those rules and regulations must be followed. For that reason he voted against making any adjustments.

It was moved by Council Member Dowling, seconded by Council Member Ward, and unanimously carried to adopt the following and deleting Numbers: 6, 13, 15, 18, and 28 from the property liens listing and making adjustments to Numbers: 21 and 2 as previously approved:

Resolution 05-047, "Resolution Confirming the Report of the Enforcement Officer for Public Nuisance and Abatements from Certain Properties in the City of Hayward in Connection with the Community Preservation Program for 2004"



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8. Hearing on Report and Assessment for Weed Abatement Fees Past Due

Staff report submitted by Senior Community Preservation Inspector Brown, dated May 3, 2005, was filed.

Senior Community Preservation Inspector Brown made the report, noting the effort to prevent potential fire hazards through this program. She indicated that the following property owners have resolved their billings and can be removed from the proposed lien list Numbers: 3 and 4.

Mayor Cooper opened and closed the public hearing at 9:16 p.m. with no requests to speak.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following and deleting Numbers: 3 and 4 from the property liens listing:

Resolution 05-048, "Resolution Confirming the Report of the Enforcement Officer for Weed, Rubbish, and Litter Abatement from Certain Properties in the City of Hayward in Connection with the Weed Abatement Program for 2004"

**COUNCIL REPORTS**

There were no Council reports.

**ADJOURNMENT**

Mayor Cooper adjourned the meeting at 9:17 p. m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward