**MINUTES OF THE CITY COUNCIL MEETING**
**OF THE CITY OF HAYWARD**
**City Council Chambers**
**777 B Street, Hayward, CA 94541**
**Tuesday, October 4, 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 Boy Scout Billy McGrath, Senior Patrol Leader from Troop 819. Other Boy Scouts present with Scout Master Craig Jones were Kyle Childress and Jeffrey Gandorf.

## ROLL CALL

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

**PRESENTATION:** Business Recognition Award

The Business Recognition Award was presented to East Bay Motorsports for the month of October 2005. East Bay Motorsports began its operations in Hayward in September 2002 after remodeling the building at 21756 Foothill Boulevard. They also operate a watercraft and jet boat service at 27185 Mission Boulevard. Their sales have tripled since opening in 2002, and their employee base has grown from 12 employees to their current level of 47. For the contributions East Bay Motorsports has made by revitalizing a significant building on Foothill Boulevard; being an industry leader in the marketing of motors sports vehicle, increasing employment in the City; and making a strong contribution to the City's fiscal health, the City of Hayward presents East Bay Motorsports with the Business Recognition Award for October 2005.

A representative of East Bay Motorsports accepted the award and thanked Council for this honor.

## PUBLIC COMMENTS

Jim Drake spoke regarding a grocery store at Manor Shopping Center that is disturbing the neighborhood with noise from refrigerated trucks.

Rich Essi, representing the Board for the Zucchini Festival, spoke against an invoice issued by the police department and the excessiveness of the charges. He asked that the Council rescind this bill.

Beverly Griggs reported that she is serves on a non-profit organization, the Insurance Women Association of Southern Alameda County, related to insurance and has worked on the Zucchini Festival for 19 years working to contribute back to women and children in need in the local area as well as provide scholarships for students. She stated that the police invoice will impact what the non-profits will gain.

Audus Watson, stated that he is the Treasurer of the Zucchini Festival, as well as participates with a non-profit group. He commented that the police bill was part of the alcohol license approval.

Gerry Mellen, also representing a non-profit insurance organization, stated that she participates in the operation of the country store and commented on the police presence at the Zucchini Festival.

Patricia Moore noted her involvement with raising funds for a singing group as well as the Mt. Eden Choir and the Bell Ringers.

Marlys Smith, a member of the Friends of the Village Singers, stated that she has been involved for the past 18 years. She felt that the police invoice was an unfair fee. She felt that the Festival has had minimal problems in the past and there was no option by the City to use their own police service.

Steve Stern, Vice-President of the Board of Directors, commented that no contract was discussed and the police invoice should be dropped, noting the formalities required to receive the grant.

Jack Kellam stated that he lives in San Leandro and has worked with the Zucchini Festival for 11 years and he is President of the Board of Directors. He also spoke against the Humane Society of the East Bay.

Renee Wittmeier has volunteered for the past 20 years and sells loaves of zucchini bread.

Harry McMillan submitted a speaker card, but did not speak.

Herb Witt has lived in Hayward for 49 years and involved with the Zucchini Festival for 15 years. He spoke in favor of the Zucchini Festival and asked that the bill be rescinded.

Jackie Bertillion, President of Scholarships, Inc., noted that she began to work with Marlene Teel and now with Winnie Thompson, who offers students from the Hayward Adult School. She cited a number of volunteers from other non-profit organizations.

Allen Bertillion also volunteers with Scholarships, Inc., and noted that volunteers donated over 350 hours. He indicated that the police invoice was more than

Brian Squire, manager of Carroll's Restaurant, said that his business had a 15% increase during the Zucchini Festival and noted that other businesses also benefited.

**CONSENT**

Consent Item 1 was removed for discussion.

1. Adoption of an Ordinance Related to Text Amendment PL-2004-0632 Regarding Tandem Parking

Bob Billmire commented on tandem parking in mobile homes and indicated that there may be serious consequences in the future if this ordinance is adopted. He reported that he was not able to attend the public hearing and suggested that another review be completed and that staff be directed to study it further.

Council Member Henson commented on Council's concerns and noted that additional language was added to the ordinance that requires projects to come before the City Council to determine the appropriateness of the tandem parking ordinance.

Staff report submitted by City Clerk Reyes, dated October 4, 2005, was filed.

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

Ordinance 05-11, "An Ordinance Amending Chapter 10, Article 2 of the Hayward Municipal Code Relating to Tandem Parking Regulations"

2. Resignation of Timothy Barrow from the Economic Development Committee

Staff report submitted by City Clerk Reyes, dated October 4, 2005, was filed.

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

Resolution 05-119, "Resolution Accepting the Resignation of Timothy Barrow from the Economic Development Committee"

**HEARINGS**

3. Zone Change No. PL-2004-0418 & Vesting Tentative Tract Map 7554/PL-2004-0417 – Chabot Estate Homes (Applicant)/ Greg Silva (Owner) – Request to Change the Zoning From a Single-Family Residential (RS) District to a Planned Development (PD) District and Subdivide 2 Acres to Build 11 New Homes and Renovate a Historic Home - Project Location Is 2141 West Jackson Street at the End of Cryer Street Near Chabot College

Staff report submitted by Associate Planner Pearson, dated October 4, 2005, was filed.

Planning Manager Anderly described the proposed development of eleven new homes with the inclusion of a historic home to be renovated and thus the homes will carry Victorian type features. She stated that the renovation will be a real asset to preserve the home, carriage house and the water tower. The primary challenge is the noise issue that will be generated from traffic on-ramp to the San Mateo-Hayward Bridge. She noted the acceptable decibels by the General Plan. She reported that eliminating units will not solve the impact of the noise. The project has one home that is proposed to have a very long driveway with tandem parking that creates a problem. She also outlined the preservation of trees and the maintenance of tree canopies. The Planning Commission agreed that the project is attractive and the single family homes are consistent to the neighborhood to exceed the concern of the noise.

Council Member Henson discussed the noise levels. Planning Manager Anderly responded to his questions and reported that Caltrans has not mitigated noise issues with homes previously built that are impacted by the noise from the freeway and the Highway 92 on-ramp. She did suggest other types of noise as water fountains to offset the noise of traffic.

Council Member Jimenez expressed concern that the water tank will not be operable and thought to suggest it.

Council Member Halliday noted that she lives near an on-ramp and recognizes the noise issues. She asked staff to explain the grassy swale to percolate water onsite, similar to an uneven ditch and not useable for recreation, which is a new requirement. She asked about the driveway for Lot #1 and the parking concern. Planning Manager Anderly described the drainage pattern and the proposed fill for that area involving the heritage trees and the wall that will separate the development from current residences. The only function of the Caltrans property would be to improve it in order to enhance the entrance to the development, but Caltrans has reported that it does not wish to be involved in its improvement. She expressed the awkward situation of the parking situation for the house that will have tandem parking.

Council Member Ward discussed the drainage issues and the usability of the yard where the heritage trees are. He was apprehensive that Council could set a precedent. Planning Manager Anderly did agree that the preservation of the trees limits the backyard usage. She also stated that the developer has stated that this historic house is eligible to be on the roster for such.

Planning Manager Anderly discussed noise variations in respect to the noise noting they are based on a 24-hour cycle. Current projects now take into consideration single-event noises. Air conditioning could be a condition of approval that may help address the noise issue.

Council Member Dowling reported that he walked through the historic house and thought it was rather unique and beautiful house. He also reported that he talked to the developer. He discussed the triangular site with the developer and also noted a remnant of the Caltrans freeway project at the entrance to the proposed development at Adrian and Cryer. He asked why such conditions as air conditioning and double paned windows to alleviate noise were not included in the Conditions of Approval.

Council Member Quirk asked staff to explain the concern regarding trees on Lots 2 and 3.

Planning Manager Anderly replied that the tree preservation ordinance requires that the preservation of large attractive trees. In this instance, the developer is designing the project around them and the trimming may deviate from the natural form of the tree. If staff concerns were addressed three units would be eliminated, or another option would be to design attractive townhouses or numerous duplexes.

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

Arlene Utal, the applicant and the developer, introduced the counsel as well as project consultants. She summarized and highlighted the features of the project. Using her computer, she depicted the proposed project, the plans to install a sound wall, the proposed improvements for the entrance, sixteen guest parking spaces, relocating the water tank, the carriage house and the historic house. She

depicted the plans to install a sound wall and an additional masonry wall with gates to the church. The developer will provide fences along the boundary for neighborhood concerns with an option for its height. There will be some grading, but there will be no imported fill near the trees and nor the retaining wall. The homeowners on Adrian will receive new fencing and the sound wall will decrease sound for the existing homes. She met with neighbors to hear their concerns. She did not think that townhouses would be appropriate with the neighborhood. She discussed the arborist report related to the intent of the trees and described the project with additional detail. She responded to Council questions and in regards to the back yard square footage.

Council Member Henson inquired on how the potential buyers would be notified and asked Ms. Utal to explain the procedure as to the decibel level and potential noise level increase. She indicated that there will be notifications placed on the deeds on the particular properties. She emphasized that Units 10, 11, and Units 1 and 2, as well as the historic house, will not be pre-sold until the buyer reviews the backyard and full disclosure is presented to the potential buyers. The historic house will have restrictions as to future modifications including color palettes.

Council Member Jimenez suggested to the developer to consider making the water tower operable. Ms. Utal noted that the water tower utility was removed when plumbing was installed into the house over 70 years ago.

Council Member Ward asked about the neighborhood impact, discussed the height of the fence plus the retaining wall height and suggested a shorter than six foot wall. Ms. Utal reported that the project proposes a five foot fence.

Ms. Utal provided information on Lot 1, and noted that from an economic standpoint as to the cost of the restoration, and emphasized the economic viability of the project and there are extreme costs. She agreed that air conditioning and double paned windows could be added as Conditions of Approval and indicated that the submitted landscape plan includes the installation of wood decking for the two smaller yards. In regards to the preservation of the trees, she noted that only one tree needs to have a minor branch removed.

Council Member Halliday expressed her concern on the home with the tandem parking and the turnaround. She asked Fire Chief Arfsten to address ingress and egress and turnaround in relation to emergency vehicles. Sound issues are a problem that will impact the historic house as well. She was concerned about Unit 1 where the sound is slightly higher than the other lots. There was also concern with the lack of sidewalks.

Ms. Utal reported that she made numerous calls to Caltrans and was notified that it is not interested in improving it unless it is indemnified perpetually. Ms. Utal notified the Eden Gardens Homeowners Association (HOA) and the HOA agreed to maintain it if the developer provides the improvements as irrigation and landscaping.

Council Member Dowling stated that he would rather see Chabot Estates Homeowners Association be responsible for the maintenance of the Caltrans property. She explained her experience with the Eden Gardens HOA that is currently maintaining the property and is willing to continue with the amenities. She noted that Chabot Estates HOA would only be limited to its property boundaries for maintenance.

Council Member Quirk acknowledged that he received an e-mail and call from Ms. Utal regarding the project, and everything that was sent and discussed was presented except for the historical value of the house. He commented on the history of Hayward. He asked on the operation of the grassy swale along the sound wall. Ms. Utal commented that it is not just a ditch, but it is all grass and landscaped. She described the process of the grassy swale that takes the runoff to a CDS unit, which is an underground mechanical device that cleans storm water before it flows into the main system will be maintained by the HOA. This is a new requirement of filtration of water before it goes into the storm drain. He asked Ms. Utal to discuss plans for the carriage house and Ms. Utal discussed several suggestions were considered before settling on converting it into a garage.

Council Member Jimenez inquired on the fire truck access and in response Fire Chief Arfsten presented what the Fire Department has required of this development. For Lots 1-5, a hammerhead is required for the turn around. A cut-out was required on Lot 8. Typically fire apparatus would not back up as was previously stated. The roadways will be red striped and signs will be displayed to identify fire lanes. He emphasized that open fire pits are not permitted in the State of California as was shown by the developer.

Allen Bertillion submitted a card, but stated that the Fire Chief responses answered his questions.

John Rioden stated that he has lived on Adrian for over 40 years. He expressed his concerns related to egress and ingress during the construction period, noise during the construction, the safety for school children as well as students from Chabot. He calculated that there would be approximately eight movements a day coming in out of that site. This is a narrow junction with 40 feet at its widest. He suggested that construction trucks come up Cryer from Industrial rather than Adrian.

Mayor Cooper closed the public hearing at 10:17 p.m.

Mayor Cooper stated that this is a noble cause and the noise is a significant issue. She recalled the backyards of residences of Cryer are unusable. The location of the grassy swale was a concern in particular on a heavily used on-ramp. She was not sure if this property was really ready for a zone change. She felt that this project was an overly dense development that would be very noisy. The proposed disclosure does not seem appropriate, although staff indicated that this has been done in previous projects. Lastly, Mayor Cooper felt that there were continued significant concerns that had not been addressed.

Council Member Dowling had similar concerns and thus visited the site. Yet he felt that the developer has come forward to address neighborhood concerns by completing the sound wall, adding new fences and a gate between the community and the church. The property has been vacant for number of years. He agreed with the proposed restoration of the historic house. He thought that the development was not dense. Lastly he noted that the proposed houses will not back up to the freeway but on the on ramp. The developer has complied with the Planning Commission, staff and Council requests.

Council Member Dowling moved for approval. Council Member Halliday seconded his motion.

Council Member Halliday reported that she met with the developer and felt that this project is not ideal in every way, but the preservation and restoration of the historic house is significant. She lives nearby and this would be something very nice for the residents of Hayward, elaborating the relevance of Hayward history. She agreed that losing lots will not alleviate the noise issue. She felt that noise was a fact of modern life. She desired to make an addition to the motion to add conditions related to the interior. She agreed with Mr. Rioden regarding the truck traffic and asked that it be added as a condition.

Council Member Dowling did not accept her recommendation as he felt that this would affect more than just the homes. City Manager Armas stated that this would be difficult to enforce. Ms. Utal acknowledged that the builder would keep this in mind and noted that there is a limit on the hours of construction. Council Member Halliday then withdrew her request.

The motion was clarified affirming that the motion is to accept the recommendation of the Planning Commission.

Council Member Henson reported that he also visited the property and had concerns. He asked staff to propose its opinion to address the tandem parking issue. Planning Manager Anderly gave her opinion on reducing the rear yard of the lot to be closer to the house on Adrian or reducing the front of the house. The maker of the motion, Council Member Dowling was not willing to entertain adding this to the motion. Council Member Henson did not offer a substitute motion, but remained concerned regarding the turnaround. In spite of some misgivings, he would support this development as it is a somewhat contained area. He would be supporting the motion with the sound package in the development.

Ms. Utal offered to improve the situation by working with staff and the architect.

Council Member Ward commented favorably regarding one of the consultants working on the project. He was in favor of the architecture of the homes and would be supporting the project. Lastly, he commended Ms. Utal for her presentation and knowledge of the project.

It was moved by Council Member Dowling, seconded by Council Member Halliday, and carried by the following roll call vote to accept the Planning Commission recommendation, add conditions to address interior noise, such as adding air conditioning and double paned windows, and staff to work with the builder regarding the activity of the trucks:

> Resolution 05-120, "Resolution Adopting the Mitigated Negative Declaration and Denying Zone Change Application No PL-2004-0418, Preliminary Development Plan and Vesting Tentative Tract Map 7554/PL-2004-0417"

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

4. Public TEFRA Hearing, Inducement and Authorization to Issue Bonds for the Purchase of Las Casitas Apartment at 26409 Gading Road

Staff report submitted by Director of Community and Economic Development Ehrenthal, dated October 4, 2005, was filed.

Director of Community and Economic Development Ehrenthal made the staff report, describing the terms of the multifamily housing revenue bonds transaction and the final resolution for the purchase of the Las Casitas Apartments. The bond closing will occur on October 13. She provided information on the new owners, Citizens Housing, Inc., and responded to Council questions.

Council Members asked about the tax equity and the fiscal responsibility. In relation to tenants, there would be no displacement. Director of Community and Economic Development Ehrenthal enumerated the terms of the use agreement with HUD. She noted that renovation will not take place immediately and Citizens will work with City staff to prepare for renovation.

In response to Council Member Jimenez's question, it was affirmed that this project would be open to other families besides Hayward residents.

Mayor Cooper opened the public hearing at 10:50 p.m.

Alex Galavich, representing Citizens Housing, Inc., thanked staff and was available to respond to Council questions related to the conduit bonds, how the City is the issuer of the bonds and that there is no liability on the City for the bonds. The revenue stream from the project will be used to pay back the bonds.

Mayor Cooper closed the public hearing at 10:51 p.m.

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

Resolution 05-121, "Resolution of the City of Hayward Authorizing the Issuance, Sale and Delivery of City of Hayward Multifamily Housing Revenue Bonds (Las Casitas of Hayward) 2005 Series A, Authorizing the Execution and Delivery of a Master Pledge and Assignment, a Master Agency Agreement and a Regulatory Agreement, and Authorizing the Execution and Delivery of and Approving other Related Documents and Approving other Related Action in Connection Therewith"

## LEGISLATIVE BUSINESS

5. Adopt Ordinance Related to Zone Change No. PL-2005-0062 for Property Located at 2448 Kelly Street

> Staff report submitted by City Clerk Reyes, dated October 4, 2005, was filed.

City Clerk Reyes made the staff report noting that the ordinance was introduced at the September 27, 2005 meeting and since the rendered vote was not unanimous, the item was placed under Legislative Business for further discussion. Council Member Halliday indicated that she had reconsidered the matter and would be voting against the zone change.

There were no requests to speak at 10:52 p.m. Mayor Cooper closed the opportunity to speak.

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

> Ordinance 05-12, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located at 2448 Kelly Street Pursuant to Zone Change Application No. 2005-0062"
>
> AYES: Council Members Jimenez, Quirk, Ward, Henson
> Mayor Cooper
> NOES: Council Members Halliday, Dowling
> ABSENT: None
> ABSTAINED: None

## COUNCIL REPORTS

There were no Council reports.

## ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:54 p. m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward
ATTEST:

_____

Angelina Reyes, City Clerk, City of Hayward

**DRAFT**