



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 10, 2006, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Rodriquez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR Sweeney
Absent: COUNCIL MEMBERS None

PROCLAMATION

October 8 - 14 as National Fire Prevention Week

Mayor Sweeney presented the proclamation to Fire Chief Arfsten. This week is commemorated nationally and supported by the public safety efforts of fire departments, schools and other safety advocates, in conjunction with the National Fire Protection Association. The Mayor presented the proclamation which reminds the residents of the City of Hayward to, "Prevent Cooking Fires: Watch What You Heat." Chief Arfsten announced that in celebration of Fire Prevention Week, Sparky the Fire Dog and his friends from the Hayward Fire Department will be at Hayward's Southland Mall at entrance 1 near Sears, on Saturday – October 14, 10:00 a.m. to 5:00 p.m. Fire Prevention staff will display the Fire Safety Trailer, donated by the Fireman's Insurance Fund, a Fire Engine, and fire safety educational booths. He invited all to attend.

PRESENTATION

Business Recognition Award

The October 2006 Business Recognition Award was presented to American Lithographers, Inc., the largest full-service commercial printer in Northern California, printing annual reports, brochures, catalogs, direct mail, packaging and government/political work. American Lithographers moved to Hayward in 1989 and are located at 21062 Forbes Avenue, where they work with a team of 90 employees. They operate an environmentally friendly facility and take all measures against pollution and are in the process of becoming a green certified company. For the contribution American Lithographers has made by moving their operation to Hayward, being a leader in printing technology, operating an environmentally friendly facility, and contributing to the overall economic well being of the City, the City of Hayward presented American Lithographers with the Business Recognition Award for September 2006. On behalf of American Lithographers, Inc., Mr. Michael Sellers, Vice President of Operations and Plant Manager, accepted the award and thanked Council for this honor.

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PUBLIC COMMENTS

Elizabeth Veloza spoke regarding her missing daughter, Kimberly. She asked that anyone who has seen her daughter recently to contact the Hayward Police. Mayor Sweeney asked that if anyone had any information to contact Hayward Police Department at 293-7272.

CONSENT

1. Approval of Minutes of the City Council Meeting of September 26, 2006

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried, to approve the minutes of the City Council Meeting of September 26, 2006, with corrections as submitted by Council Member Quirk.

2. Resignation of Antoinette Barcelos from the Downtown Business Improvement Area Advisory Board and Appointment to Fill the Vacancy

Staff report submitted by City Clerk Reyes, dated October 10, 2006, was filed.

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

Resolution 06-118, "Resolution Accepting the Resignation of Antoinette Barcelos from the Downtown Business Improvement Area Advisory Board and Appointment to Fill the Vacancy"

LEGISLATIVE BUSINESS

3. Establishment of Hayward-Ghazni Sister City Relationship

Staff report submitted by City Manager Armas, dated October 10, 2006, was filed.

City Manager Armas presented the staff report. He stated that at an earlier work session, Council had previously indicated its willingness to continue discussion regarding the relationship. The item is now on the agenda for formalization by executing an agreement with Ghazni.

Council Member Quirk commented that this sister city relationship was initiated by people from Hayward who traveled to Ghazni to teach the women to read and write. The program differs from other sister city relationships in that the culture of Ghazni is extremely different from ours and the members want to make the culture known to Hayward. There are many Afghanistans living or working in the city, including the new President of Cal State East Bay. He called the committee members heroes for traveling to Ghazni on a fairly dangerous road in order to carry out their commitments. He pointed out and thanked members and supporters in attendance: Steve Murtaugh, Chair; Humaira Ghilzai, (Co-founder); Taymur Malikyar, Vice Chair; Meryem Katibi, (Co-founder); Rahima Haya, (Co-founder); Hamid Nekrawesh, Treasurer; Reverend Chuck Horner; Honorable Carol Ruth Silver, former San Francisco Supervisor; and, Co-founder Winnie



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Thompson, Chair of the Literacy Council. He urged Council Members to support and approve the Ghazni sister-city relationship and execution of agreement formalizing the same.

Mayor Sweeney opened the public hearing at 8:16 p.m.

Steve Murtaugh, committee member, delivered various gifts from and discussed his experiences in Ghazni. He asked for Council's support for establishing the sister-city relationship. At Mayor Sweeney's request he read a translation of a letter from the Mayor of Ghazni, (El-Haaj) Hakim-ullah Ghazniwal, expressing his gratitude to the people of Hayward for participation in cultural and educational projects with the City of Ghazni. The letter also assures his support, guidance and protection in establishing the interests of the sister cities on the basis of international protocol. In response to Council Member Dowling's questions, he noted that, although there are risks involved, the new government is working to rout out corruption. During their visit to Ghazni, the members stayed at the governor's mansion and were provided an armed escort while carrying out activities. The group is doing all that they can to teach the widows. He suggested that committee members, Carol Silva or Winnie Thompson, could provide more information regarding the new government.

Mayor Sweeney closed the public hearing at 8:27 p.m.

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

Resolution 06-119, "Resolution Approving the Attached Sister City Agreement Between the City of Hayward, California USA and Ghazni City, Province of Ghazni, Afghanistan"

HEARINGS

4. Text Amendment No. PL-2006-0361- Text Change Removing Tattoo Parlor as a Conditional Use in the Central City-Commercial and Central City-Plaza Subdistricts

Staff report submitted by associate Planner Camire, dated October 10, 2006, was filed.

Community and Economic Development (CED) Director Daluddung presented the staff report and said that Planning Manager Rizk and Associate Planner Camire were available to provide additional information. Planning Manager Rizk and CED Director Daluddung responded to questions regarding where tattoo parlors are allowed, defining conforming vs. legal non-conforming uses, how surrounding cities are regulating tattoo parlors, and regulations and licensing for tattoos in general as well as permanent cosmetic tattoos.

There being no members of the public wishing to speak regarding this matter, Mayor Sweeney

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opened and closed the public hearing at 8:39 p.m.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the resolution and introduce the ordinance that follow:

Resolution 06-120, "Resolution Approving the Negative Declaration and Text Change Application No. PL-2006-0631, Removing Tattoo Parlor as a Conditional Use in the Central City-Commercial and Central City-Plaza Subdistricts"

Introduce Ordinance 06-___, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code Relating to Tattoo Parlors"

5. Introduction of an Ordinance Amending the Hayward Municipal Code Pertaining to Card Club Regulations

Staff report submitted by Assistant City Attorney Cambra, dated October 10, 2006, was filed.

Assistant City Attorney Cambra presented the staff report. He noted that the amendment does not create a divisible, transferable interest in the operating permit, create a new permit, or establish any greater rights for the three children than what currently exists in the present card club operating permit held by Ms. Bousson. Additionally, Ms. Bousson will be required to notify the City in writing within 21 days of any change in the ownership status of the permit. Each of the three individuals will be required to comply with the permit application process contained in section 4-3.13 and 4-3.14, including background checks, credit history review and compliance with the State Gambling Control Act. He responded to questions from Council.

In response to Council Member Halliday's question as to what would happen if Ms. Bousson were to pass away under the current provisions, Assistant City Attorney Cambra stated that the business would not have an operating permit.

City Manager Armas provided background information on the card club. He stated that Ms. Bousson is the only recipient of a card club permit in Hayward. Within the last 10 to 15 years, additional games have been authorized and the club was allowed to operate 24 hours. Alcohol is not permitted on the premises. The business provides security personnel who handle the majority of security issues. Several years ago there was a homicide, but it was due to mistaken identity. In general, Ms. Bousson is known to operate a clean business.

In response to Council Member Dowling's concern regarding the business not having an expiration date, Assistant City Attorney Cambra stated that the permit is renewed annually. The City Manager has some discretion if there are outstanding issues and can suspend the permit based on any criteria he would deem fit. City Manager Armas noted that it is the norm that a permit does not have time limits.

It was also noted that the annual permit fee is \$1500 per table and the business also pays standard



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business license fees and any other state mandated fees.

In response to Council Member Ward's inquiry if this action would open up the possibility of litigations by someone else who might want to operate a similar business and unfairly not being permitted to do so, City Attorney O'Toole stated that the proposed action does not do so.

Mayor Sweeney opened the public hearing at 8:57 p.m.

Mr. Edward Martins, representing Ms. Bousson, stated that the ordinance properly responds to the request. He pointed to family members in the audience. The Palace Card Room has operated in Hayward for 54 years. The image of card clubs has changed over time and is now seen as a more mainstream entertainment business. He reiterated that Ms. Bousson runs a proper business and has no major complaints from the Police Department. The business has brought more business to downtown Hayward. He urged Council's approval of the ordinance.

Mr. Charles Blanchard, Ms. Bousson's son, was called upon to respond to questions from Council Members. He explained in detail some of the games that are played and how a patron would get involved in a game. He described their security stating the personnel were licensed by the State. They have also invested \$45,000.00 in a camera surveillance system for both the in and outsides of the property. He stated that he believed that their clients play within their means. He noted that the City is paid \$30, 000.00 a year in fees. They also pay fees for background checks and State permits. The club and its employees go through an investigation process, including FBI. The State also audits their financial records. They do not loan money or cash checks, but do have an ATM. He added that they have brochures regarding gambling problems available in seven languages.

Council Member Halliday expressed concern for the livelihood of the 90 employees who would be unemployed if something were to happen to Ms. Bousson.

Mayor Sweeney asked how many other card rooms currently exist in the Bay Area. Council Member Dowling responded that there are 10 others. However, it was noted that this was the only one in the East Bay Area.

Charles Plummer stated that as Chief of Police in June 1966, he was directed by Council to clean up the town, modernize the regulations and get rid of the eyesores, including the six card rooms at the time, along with the massage parlors and adult movie theaters. Two card rooms were operating without a permit at the time. It was determined that ultimately there should only be one card club, and Ms. Bousson wanted her business to be the one. She worked directly with Mr. Plummer who personally would check her books and the facility. He stated that Ms. Bousson was cooperative and she ran a good legitimate business. He added that he was not asked to come here by anyone but noticed the item in the newspaper. He said it would be an injustice not to allow her to hand the business over to her heirs.

The following are Palace Card Room employees as well as patrons of the club who urged Council's approval of the proposed amendment: Vincent Caballero, Barbara Gibson, Steve

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Louisa, Del Lee, Steve Numoto, Alan Tang, Cheryl Walton, Ruben Andrade.

Julie McKillop, Hayward resident and business owner, questioned the consistency of the card room with the other types of businesses that have been noted as desirable in the downtown area. She asked Council to postpone action pending review and input from local merchants.

Ralph Martin, Hayward resident and owner of property across the street from the card club, reiterated Ms. McKillop's request to postpone action pending input from other downtown merchants.

Steve Murtaugh, spoke about gambling addiction and its impact on families as well as the cause of financial problems including bankruptcy.

Ed Mullins, on behalf of the Chamber of Commerce, also asked for postponement of action for a few weeks in order to review the matter.

Ed Avelar, local merchant doing business over 20 years with the card club, stated it was an outstanding business. He stated that the clientele were mostly prominent and affluent individuals.

Mayor Sweeney closed the public hearing at 10:00 p.m.

Mayor Sweeney noted the request from the merchants and Chamber of Commerce for more time to review the matter.

Council Member Quirk said he was impressed with Ms. Bousson and her family. He acknowledged the City Attorney staff for their work. He added that it might be good to talk with the local merchants and the Chamber and delay action for a few weeks to determine that this business is compatible with the plans for the downtown area.

Council Member Dowling suggested that the Downtown Committee might be the appropriate body to review the matter and get more input. However, he stated that it appeared that the business is well run and there is annual oversight and opportunity for review of the license. He added that he also agreed with Ms. McKillop that the downtown should be more upscale, but there is a need for all levels of business and entertainment, like the Kumbala night club. The image of poker has changed and the downtown area does not need to be entirely "G-rated." He does support safe entertainment for all levels. He added that closing down a business that has 90 employees, and with all of the vacant buildings, does not make sense.

Council Member Henson stated the he wondered if there would really be a negative impact if the matter was approved, as most of the other businesses in the area are aware of the card club.

Council Member Halliday said she appreciated the history and the testimony and felt that she had heard enough to make a decision. Card playing has a different image today and more people are comfortable with it. She felt it was a big responsibility for Ms. Bousson that her death could result in the loss of employment for 90 individuals.

Council Member Rodriguez stated that Hayward is a diverse city and that there is enough room in the city and downtown for a variety of entertainment. She expressed concern for the vacant



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buildings and the businesses that are leaving the downtown area. She thanked those who came to tonight's meeting and even though the merchants may not have received word about this item, she said she was ready to make a decision at this time.

Council Member Dowling moved, seconded by Council Member Henson, as per staff recommendation to amend the card club regulations allowing for the transfer of the operating permit.

Mayor Sweeney said he would like to hold the item over for one week in order for all the businesses in the area to have an opportunity to review the matter.

COUNCIL REPORTS

Council Member Dowling announced that the Commercial Center Improvement Committee will be holding a special meeting on Thursday, October 12, 7:00 p.m., at Treeview Elementary School, to discuss the Fairway Park Shopping Center. He also asked that the City Manager agendaize consideration of resolutions of support for propositions 1B regarding Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, and 1C regarding Housing and Emergency Shelter Trust Fund Act of 2006.

Council Member Henson provided an activities update on the National League of Cities Public Safety Committee. He also gave a computer disk to Police Captain Phil Ribera for Chief Lowe, regarding problems with hybrid vehicles and proposed equipment standardization.

Council Member Quirk reported on his recent trip to sister-city Funabashi in Japan, along with members of Jazz Bands from Tennyson High School and Chabot College. He noted the importance of the sister city relationship with Funabashi, which has 500 people involved in the organization. He shared photos from his trip. He presented Mayor Sweeney with gifts to the City from Funabashi and said there will be another trip in 2007 and he hoped that the other Council Members will go to Funabashi at that time. He invited all to participate in the Funabashi Sister City monthly meetings which take place on the first Thursday of the month, 5:30 p.m., Room 1C in City Hall.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 10:26 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Connie G. Macias, Deputy City Clerk, City of Hayward