



**MINUTES OF THE SPECIAL JOINT
CITY COUNCIL/REDEVELOPMENT AGENCY
MEETING OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 3, 2007 8:00 p.m.**

MEETING

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Dowling.

ROLL CALL

Present: COUNCIL/RA MEMBERS Rodriquez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR/CHAIR Sweeney
Absent: COUNCIL/RA MEMBER None

PRESENTATION: Business Recognition Award

Bayshore International Trucks, Inc., was awarded the April 2007 Business Recognition Award. This firm employs a total of 210 people in their six current locations. The Hayward location has 80 employees. Since 1994 sales have grown from \$6 million to \$90 million per year. This award was presented to Bayshore International Truck, Inc., for the contributions it has made to the community by being an industry leader, locating its headquarters in Hayward, providing jobs to Hayward residents, and contributing to the economic well being of the City. Mr. Craig Peterson, Bayshore International Trucks President, accepted the award and thanked Council for this honor.

PUBLIC COMMENTS

Dan Henry-Koos spoke regarding dangerous environments.

CONSENT

Consent Item 2 was removed for further discussion.

1. Utility Service Agreement 07-02 – Navico, Inc. (Applicant/Owner) – Authorize the City Manager to Execute a Utility Service Agreement for Water Service for Three Properties on China Court in the Fairview Area

Staff report submitted by Development Review Services Engineer Anastas, dated April 3, 2007, was filed.

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

Resolution 07-039, “Resolution Authorizing the City Manager to Apply to LAFCO for Approval of Utility Service Agreement (USA 07-02) to Provide Water Service for the Property with Assessor’s Parcel Numbers 425-0260-011-01, 425-0260-011-02, and 425-

0260-011-03 on China Court in the Fairview Area and Further Authorizing the City Manager to Execute such Agreement”

2. Approval of Establishing Diversion Goal of Seventy-Five Percent

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated April 3, 2007, was filed.

Council Member Henson as the City’s representative on the Alameda County Waste Management Authority Board, also known as StopWaste.Org, stated that the City’s 75 percent goal to be reached by 2010 supports the County in its effort to reduce waste at landfills. He indicated that Karen Smith, Chair of the Authority and Recycling Board was present and asked her to speak.

Karen Smith stated that the agency is asking cities to adopt the 75 percent goal so there is a real commitment by each of the member cities in this effort. The county is at 58 percent, and 75 percent is about 300,000 tons away and although they are confident about getting 150,000 tons of that, the other 150,000 will be really tough. The new plan contains a significant amount of media and outreach to get more out of the waste stream, and in 2009 all but one city will be recycling food waste into the green waste can. The goal is to make food scrap recycling second nature, as is the recycling of bottles and cans. At this time climate change is of great concern, and recycling makes a huge difference in climate change, so they are using this to gather more interest in achieving their goals. She thanked Council Members and staff for their support and efforts.

Council Member Halliday thanked Council Member Henson and Ms. Smith for their efforts to set goals to achieve compliance. This goal seems difficult, but achievable. She also spoke on the use of biodegradable products.

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

Resolution 07-041, “Resolution Adopting the Alameda County Measure D Goal to Reduce Materials Sent to Landfill by 75 Percent by 2010”

3. Authorize the City Manager to Execute Agreements and Amendments with State of California for Federal Aid Projects

Staff report submitted by Deputy Director of Public Works Fakhrai, dated April 3, 2007, was filed.

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

Resolution 07-040, “Resolution Authorizing the City Manager to Execute all Agreements and Amendments with the California Department of Transportation to Receive Federally-Funded Payments”



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HEARINGS

4. Appropriation of Funds for Cannery Park

Staff report submitted by Project Manager Dantzker, dated April 3, 2007, was filed.

City Manager/Executive Director Armas presented the report. Aimed at improving the Burbank neighborhood, the Cannery Park is the result of the school district and the park district's combined efforts. This is the second phase to allow the Cannery Park extension to progress. The park extension will include lit ball fields, water features, and restrooms, with a transition from the park to the school on the east side. Hayward Area Recreation and Park District (HARD) is the lead agency. The allocation bond provides for \$4.7 million of the costs, but the actual costs are at \$6.1 million. In order to bridge the gap, staff is suggesting to Council/RA Members the use of available park in lieu funds. The funds would be earmarked for this construction contract with the understanding that the zones from which the funds are derived will be replenished over the next 18 – 24 months from fees that are generated from residential development on the west side of the railroad tracks. Therefore, staff is recommending that Council/RA Members appropriate the \$4.7 million tax allocation bond and an additional \$1.5 million from the park in lieu funds. If approved, HARD will award contract next week, construction will begin in May and complete in about one year, followed with completion of the school in June, and the opening in August 2008. City Manager/Executive Director Armas responded to questions from Council/RA Members.

At the request of Council/RA Member Henson, City Manager/Executive Director Armas pointed out the security and safety measures of the park and the school. He reported that it is similar to the Southgate Park area, but this park will include a physical barrier.

Larry Lepore, HARD Superintendent of Parks, responded to further questions related to safety, noting that a caretaker will be on site with park rangers present after 4 p.m.

With no requests to speak, Mayor/Chair Sweeney opened and closed the public hearing at 8:33 p.m.

Council/RA Member Quirk commented that both the school and the park budgets were over about 30%, the cinema another example and expressed concern to take this into account and think about making adjustments in the future.

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

RA Resolution 07-11, "Resolution Amending Resolution No. RA-06-15, as Amended, the Redevelopment Agency Budget Resolution for Fiscal Year 2006-07, Relating to an Appropriation of Funds

from the 2004 Tax Allocation Bond Fund, Fund 454 for the Design and Construction of Cannery Park”

Resolution 07-042, “Resolution Transferring Funds from Park in Lieu Zones B, C and D to the Hayward Redevelopment Agency for the Purposes of Developing Cannery Park”

5. Limited Extension of Agreement with the Hayward Patients Resource Center

Staff report submitted by City Manager Armas, dated April 3, 2007, was filed.

City Manager Armas presented the report providing the history of the medicinal marijuana dispensaries in Hayward and the recent experience of the dispensary in locating a place. He indicated that the neighborhood strongly objected to its proposed location on Cotter Way. Staff’s recommendation is to allow a 90-day extension to provide the operator ample time to work with real estate brokers in finding a location.

Council Member Ward was concerned with extending the time. He stated that any downtown location could trigger strong negative reaction from the neighborhood as was done by the Cotter Way neighborhood. Regarding an alternative location, he asked staff if it has determined the criteria for a medicinal marijuana dispensary so that they can be met.

City Manager Armas indicated that staff has determined three factors including near a major thoroughfare, near public transit corridors, and away from sites with school age children. He expressed staff’s concern that even with such criteria, residents will continue to react negatively. In response to Council Member Ward’s question, he said that the agreement was effective through the end of December. He noted that if no suitable location is found the dispensary’s agreement will lapse and the operation must cease.

Mayor Sweeney opened the public hearing at 8:42 p.m.

Jessica Mari, resident on Prospect Street, commented that there probably is no appropriate place to be, but asked for the extension. She indicated that Berkeley continues to have similar issues. She thanked everyone for working on this.

Doug Ligebe spoke in opposition to the extension. He was opposed to using limited police resources to provide service. He spoke as a downtown homeowner and having to face such issues living in the downtown.

Paul Barber spoke in support of the dispensary and described the operation’s efforts to maintain a low key profile until a guard was placed in front of the present location and then questions were asked about its operation.

Thomas Lemos, operator of the Hayward Patients Resource Center, described his efforts to maintain a decent operation and continues to comply with police detectives, who conduct periodic inspections. He is involved with another dispensary in Fairfax and experiences the same issues. He indicated that the hours of operation have been shortened. He commented that police



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resources have been impacted as much as any other business. He responded to Council questions and informed them that City Manager Armas and a local real estate agent have assisted him. He has utilized the City's website to determine a location that meets the criteria. He urged Council to approve the extension so he can continue to search for a suitable location and continue his operation. He realized that the agreement could cease if there isn't an appropriate location.

In response to Council Member Ward's question on finding a location and the number of patients, Mr. Lemos responded that he will be returning in 90 days with at least one or several locations for the Council to approve. He also reported that the number of patients have doubled to about 5,500 per month, which is about 100 a day.

Council Member Halliday asked Mr. Lemos if he has considered locating near a health facility. Mr. Lemos was in agreement and thought of asking health facilities for a site on their campus, but couldn't due to the conditions imposed by City staff. He noted that he has a business license and his patients patronize the downtown businesses.

Council Member Rodriquez confirmed with Mr. Lemos that there is a County medical facility just beyond the City limits, but this is the only facility within the corporate limits of Hayward.

Mayor Sweeney asked if his clients consume their medication in public and suggested that a prohibition be added to the conditions that would cause the operation to cease. City Manager Armas stated that the base agreement already includes language; however, Mayor Sweeney preferred the stronger language to actively discourage use in public. Mr. Lemos confirmed that his patients should be medicating in the privacy of their homes.

Rich Trullinger, a resident of Barbara Court, a business owner and a medical marijuana patient, stated that he would have difficulty to travel on BART to get his medication. Three years ago there were three dispensaries and this is the last one. He urged extension of the agreement and urged approval of at least one facility. He discussed Proposition 215 and the number of votes in favor of this proposition in this area.

Mayor Sweeney closed the public hearing at 9:04 p.m.

Council Member Quirk stated that marijuana is sold everywhere, is a huge industry, and the one place where it can be done legally is in an inconspicuous location. He even had a hard time locating it. He was concerned about adding the stronger language as recommended by Mayor Sweeney. He moved the staff recommendation, seconded by Council Member Dowling, without the suggested change because he did not want to close the operation with just one person breaking the rules.

Council Member Dowling commented that the main reason for recommending the move of the dispensary is because of the cinema opening and the increase in the number of young people in the downtown due to its opening. Now with the construction to be completed in 2008, he felt that Mr. Lemos knows the regulations and is making his best effort to find a new location. He

appreciated City Manager Armas assistance in this matter. At this point, he did not see an urgency as the cinema is still under construction. Another 90 days is reasonable.

Council Member Ward asked for legal advice on incorporating language to add a finite date to the agreement.

City Attorney O'Toole stated that the agreement and the Council's action to date have been to direct staff not to enforce its zoning ordinance, which would prohibit this type of use in the City. If the agreement to not enforce were to expire at the end of the time period, it would be necessary for legal staff to request from the Council authority to initiate litigation to enforce the City's zoning laws.

Council Member Ward expressed his concerns that this extension will continue without the operators finding a location. He desired to see this come to conclusion. He recognized the Proposition 215 vote. He recommended that a completion date be included in the motion and asked the makers of the motion to add language to finalize the extension.

Council Member Quirk did not agree at this time. He was hopeful that Mr. Lemos would make a good faith effort to find a location and not continue extending the agreement.

Council Member Henson indicated that he has supported such facilities in the past and continues to support medicinal use of marijuana. He would support the 90 day extension. He was concerned with the language that was suggested by Mayor Sweeney. He asked for legal response. He strongly urged Mr. Lemos to really work on finding a facility, and that Mr. Lemos contact neighboring businesses to inform them of his compliance to regulations.

City Attorney O'Toole indicated that smoking marijuana in public is against the law and the operator may not have control once the patient leaves the facility.

Council Member Halliday stated that she would be supporting the motion. She respected Mr. Lemos for endeavoring to comply with City regulations. She expressed concern that marijuana is being smoked on public streets, but not necessarily being obtained from Mr. Lemos' establishment.

Mayor Sweeney stated that it is very reasonable for the City to require that there be no public consumption. He disagreed with the maker of the motion. He thanked all for their openness and honesty, but pointed out that residents of Hayward will continue to strongly oppose such facilities. He would not be supporting the motion.

It was moved by Council Member Quirk, seconded by Council Member Dowling, and carried by the following roll call vote to allow a 90-day extension of the agreement with Hayward Patients Resource Center:



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AYES: Council Members Rodriguez, Quirk, Halliday,
Dowling, Henson
NOES: Council Member Ward
MAYOR Sweeney
ABSENT: None
ABSTAINED: None

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Sweeney provided opportunity to Council Member Halliday to adjourn the meeting at 9:18 p.m., in memory of Cecilia Van Houten, who lived in Hayward for many years, was a community volunteer and a long-time member of the First United Methodist Church. Ms Van Houten was a swimmer, swam in San Lorenzo Creek and taught swimming at the Hayward Plunge. In her last years, she was an active volunteer at various organizations as FESCO, Kaiser and was awarded and recognized as the Senior Volunteer of the Year and the Lions Club Senior Award. She was truly a friend to many. Council Member Henson had presented the award to Ms. Van Houten. He also spoke on her enthusiasm and her spirited volunteerism, which will be sorely missed. Mayor Sweeney asked staff to contact her family in order to plant a tree in an appropriate location.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

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