



**MINUTES OF THE SPECIAL JOINT MEETING OF THE
CITY COUNCIL, REDEVELOPMENT AGENCY, HOUSING AUTHORITY
and PUBLIC FINANCING AUTHORITY OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 11, 2007, 8:00 p.m.

MEETING

The Meeting of the Special Joint City Council, Redevelopment Agency, Housing Authority and Public Financing Authority was called to order by Mayor/Chair Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Boy Scouts Troop 876, chartered at All Saints Church.

ROLL CALL

Present: COUNCIL/RA/HA/HPFA MEMBERS Rodriquez, Halliday, Ward,
Dowling, Henson
MAYOR/CHAIR Sweeney
Absent: COUNCIL/RA/HA/HPFA MEMBER Quirk

Mayor Sweeney reported that Council Member Quirk is absent due to a death in his family.

PRESENTATIONS: Business Recognition Award

Dust Networks, Inc., was chosen to receive the September 2007 Business Recognition Award. Dust Networks began operations in 2004 and moved to Hayward in March 2005. This award was presented to Dust Networks, Inc., for the contribution this company has made to the community by being a technology pioneer, locating its facility in Hayward, providing jobs to Hayward residents, and contributing to the social economic well being of the Hayward community. Mr. Walter Abbott, Director of Human Resources, accepted the award on behalf of Dust Networks, Inc. He thanked the Council for this special recognition and honor and commented that one reason his firm selected Hayward for this company was its central location.

PUBLIC COMMENTS

John Kyle submitted a document that he had recently presented to the Local Agencies Committee and stated that he also plans to present this to the Hayward Unified School Board members. The statement was in regards to the blighted conditions within the Longwood-Winton Grove neighborhood and the traffic concerns affecting the Helen Turner Day Care Center.

Indy Nelson, of Boy Scout Troop 876, described his work on a project to recycle batteries at Georgia Manor Senior Park. He will also be staffing an information booth at various events and looked forward to attending the Keep Hayward Clean and Green Task Force meeting in this regard.

Joey Davis stated that he is working on a Communications Merit badge and one part of the requirements is to attend a City Council meeting.

Garrett Gilkison of San Jose, spoke on a recent bid process related to the voice-over IP project that was held on Friday, May 11. He submitted a statement describing his concerns. Mayor Sweeney requested that staff respond in the Council's Weekly Report.

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Audrey LePell, President of CATS, asked for an emergency session of the Hayward City Council in order to reconsider its position on the Russell City Energy Center (RCEC) project. She has spoken with many residents who are against the Calpine power plant and since some of the members of the Council have changed since the RCEC approval, there could be a different vote. She stated that a number of residents will be attending the California Energy Commission's (CEC) meeting on Wednesday in Sacramento to hear the final decision.

Samantha Johnson commented that since the closing of the medical marijuana facility in Hayward, she finds it difficult to obtain medicinal marijuana for her use.

Frank Goulart spoke on behalf of the Friends of Hayward. He spoke against the Palmtag building demolition and against the negative declaration that did not cite that building as historic. He asked that the Council initiate an inventory of the City's historic buildings. He was not objecting to having a Peets Coffee in Hayward. Lastly, he stated that he has not heard from the developer to resolve issues as was recommended at the Planning Commission.

Doug Ligibel spoke against the energy center citing in Hayward and its potential impact to the air quality in Hayward. He requested the Council reverse its vote on the RCEC.

Andy Wilson residing on Greenbrier Lane, read into the record a statement from Jewell Spalding related to the RCEC requesting that the Council reconsider its approval.

Wynn Greich spoke on a video by Ira Ruskin that she had previously provided to Mayor Sweeney related to water and spoke on pollutants that impact our drinking water.

Delbert Walker announced on behalf of the Agency on Aging, its 6th Annual Healthy Fair that will be held at Centennial Hall tomorrow from 10 a.m. until 2 p.m. He invited all to attend and thanked the Council for its use.

JoAnne Gross, a Hayward resident, spoke against the RCEC. She did not see the fireplace retrofit program as proposed by Calpine as a reasonable solution. She was impressed with the Boy Scouts presentations.

Karen Kramer also asked for a reconsideration of the prior Council approval for the RCEC. She stressed that her priority was the health of children over receiving funding for a new library from this project.

Mike Villalba resides in Oakland, but spoke against the RCEC. He commented on emissions from the power plants and spoke on the particulate matters emitted that can impact children with asthma.

Council Member Dowling thanked staff for the recent brochure that includes tips on the prevention of vehicle thefts.

Mayor Sweeney had previously asked Acting City Attorney Conneely to respond to the issue of reconsideration of past motions as requested by Ms. LePell among others. Ms. Maureen Conneely cited Brown Act regulations, stating that emergencies are narrowly defined. She reported that a

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special session would require special procedures as noticing to the newspaper one hour prior to the session. Council would need to adjourn for at least one hour this evening should it decide to conduct a special session to reconsider the RCEC approval.

Council Member Halliday discussed her concerns and stated that she could support putting this item on a future agenda to consider the final decision of the CEC and to discuss alternative measures.

Council Member Dowling confirmed that there has been no new information since the action that was taken six years ago and would not support an emergency consideration.

Council Member Rodriguez stated that there are two sides to this issue. She was not in favor of calling an emergency meeting to reconsider the prior approval. She stated that she is an asthmatic and is concerned as well with power plant emissions. She confirmed her opposition towards the Tierra Energy Center.

Council Member Henson stated that he is hesitant to re-open the public hearing to reconsider the past approval. He noted that he has read much of the data regarding power plant emissions and there has been no new data since the time of his vote in support.

CONSENT

Consent Item #6 was removed for further discussion.

1. Approval of Minutes of July 17, 2007: Special Joint Session City Council/Redevelopment Agency/Public Financing Authority

It was moved by Council/RA/HPFA Member Ward, seconded by Council/RA/HPFA Member Dowling, and unanimously carried with Council/RA/HPFA Member Quirk absent, to approve the minutes of the City Council/Redevelopment Agency/Public Financing Authority Meeting of July 17, 2007.

2. Approval of Minutes of July 24, 2007: City Council Meeting

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried with Council Member Quirk absent, to approve the minutes of the City Council Meeting of July 24, 2007.

3. Approval of Minutes of July 31, 2007: Special City Council Meeting

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried with Council Member Quirk absent, to approve the minutes of the Special City Council Meeting of July 31, 2007.

4. West Winton/Santa Clara Intersection Improvements: Approval of Plans and Specifications and Call for Bids

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Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 11, 2007, was filed.

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

Resolution 07-124, "Resolution Approving Plans and Specifications for the West Winton/Santa Clara Intersection Improvements and Calling for Bids"

5. City Investments: Annual Report

Staff report submitted by Budget Administrator Blohm, dated September 11, 2007, was filed.

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

Resolution 07-125, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

HA Resolution 07-03, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

RA Resolution 07-18, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

6. Underground District #27 for Mission Boulevard from Calhoun Street to Overhill Drive: Resolution of Intention to Establish

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 11, 2007, was filed.

Council Member Dowling noted the traffic disruptions on Mission Boulevard during excavations for projects such as this. He asked that this issue be addressed, in particular during the commute hours. There was also the recommendation that if there are other projects of this type that there be a coordination to further eliminate traffic disruptions as well as re-excavating.



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

Resolution 07-126, "Resolution of Intention to Establish Underground District No. 27 for Mission Boulevard from Calhoun Street to Overhill Drive and Setting a Time and Place for the Public Hearing"

HEARINGS

7. 24909 Mohr Drive (between West Street and Laguna Drive): Zone Change Application #PL-2007-0340 and Vesting Tentative Tract Map 7852 - Moe Janda (Applicant/Owner) – Request to Change the Zoning from a Single-Family Residential District to a Planned Development District, and to Subdivide a 0.77-Acre Parcel into Five Lots to Build Five Homes

Staff report submitted by Senior Planner Pearson, dated September 11, 2007, was filed.

Director of Community and Economic Development Daluddung introduced recently promoted Senior Planner Pearson, who made the report.

There was Council discussion related to the density, the land use designation, the architectural highlights, tandem parking, the intersection involved, the deconstruction of the existing building and the requirement to re-use the demolition materials.

Council Member Halliday asked whether this project was compatible with the surrounding homes and whether there are parking issues. Staff noted that there is a condition of approval restricting garages for parking. It was noted that it would be enforced by the staff of the Community Preservation office.

Council Member Ward asked about the landscape plan and asked about the size of the trees. It was noted that fifteen gallon trees would be planted along Mohr Drive. He asked that any deconstruction include recycling of materials. It was noted that this is already in the conditions of approval and would be clarified.

Council Member Dowling commented that only one home has five bedrooms and it has a two car garage. He noted that the other homes have tandem parking garages and are three bedroom homes.

Mayor Sweeney opened the public hearing at 9: 20: p.m.

Moe Janda, the developer, stated that this is his second project within the City. He responded to Council questions and stated that his family plans to reside in them.

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Dave Stemich resides at the end of Sinclair Street, near the project and stated that it would dwarf his home. He opposed extending Gerald Way, a cul-de-sac, to maintain his quiet neighborhood.

Mayor Sweeney closed the public hearing at 9:25 p.m.

Council Member Rodriguez confirmed with Senior Planner Pearson that the project meets the City's design guidelines and the second story homes are similar to the neighboring homes.

Council Member Dowling commented favorably on the use of tandem parking to show more house in the front of the parcels.

Council Member Halliday felt that the houses seem large for the plot; and asked staff whether the new homes would dwarf the neighboring homes. She expressed her concerns on parking impacts and asked staff to consider this more in the future.

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

Resolution 07-127, "Resolution Approving the Negative Declaration, Zone Change Application No. PL 2007-0340, Preliminary and Precise Development Plan and Vesting Tentative Map 7852"

Introduce Ordinance 07-_, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Property Located at 24909 Mohr Drive from Single-Family Residential (RSB4) to Planned Development (PD) Pursuant to Zone Change Application No. PL 2007-0340"

8. C and Main: Appeal of Planning Commission Approval of Use Permit #PL-2007-0225 - Frank Goulart (Appellant)/John Baer, Matteson Realty Services (Applicant)/Sanjay Bakshi (Owner) – Mixed-Use Project with 2,000 Square Feet of Retail Area and 44 Residential Units with 10 Units on the First Floor

Staff report submitted by Principal Planner Patenaude, dated September 11, 2007, was filed.

Acting City Manager David introduced the project stating that the Planning Commission approved this on July 12 and it was appealed by Frank Goulart.

Principal Planner Patenaude made the report using renderings to show comparisons with the existing buildings. He noted that a conditional use permit is required due to the living units that will be constructed. He responded to questions related to noise levels from downtown activities and indicated that residents of the units would be notified. In regards to a question related to views and the open space area, it was noted that the open space design would be viewed only by the lower

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floors, but the level of noise, the requirement being 45 decibels or less in the interior, can be addressed through this design.

Council Member Halliday asked about the square footage of retail on the ground floor. She expressed her concern that the retail will not be located at the store front, but it will be necessary for customers to take a few stair steps upward to enter the retail.

In response to queries, Director of Community and Economic Development Daluddung shared her experience in other cities with this type of development. She explained the reasons for her recommendation on this project including the mixed use as this project, which will balance downtown dwellers with both commercial and retail.

Council Member Rodriguez asked if archeological finds are discovered, how they would be addressed. Staff indicated State standards will be followed, which state that the construction would cease until the "finds" are investigated and addressed. She stated that her other questions were previously answered.

Mayor Sweeney asked about parking security. It was noted that a gate would be installed. He asked staff to explain the height of the building. At his request, it was affirmed that the owner of this project is the same owner of the Green Shutter Hotel. Mayor Sweeney stated that there may be difficulties in the success of this project if the Green Shutter Hotel's current situation is not improved. He asked that a condition of approval be placed that there be a homeowners association and that these condominium units be owner occupied. Staff advised that this condition could be included when the map comes for approval before the Council.

Council Member Henson asked whether "universal design" is being considered for the first floor of this project for residents who are disabled. Principal Planner Patenaude stated that there is elevator access in this project.

Mayor Sweeney opened the public hearing at 10:22 p.m.

Frank Goulart stated that he appealed the project because he felt that this was too massive. He compared this project to a recent one submitted by Mission Paradise developers. He felt that the project would tower over the surrounding buildings as the fire station and the Historical Society's Museum. He also expressed concern that the project area could be part of the burial grounds of Native American Indians.

John Baer, Director of Development for Matteson Realty Services, commended City staff for their excellence on this project. He responded to the Council questions, noting that every project has noise levels and explained his experience with such as well as conducted a geophysics test for fissures. He commented on the parking ratios for this urban project and commented on the concept of the coffee shop. He described some of the site plan details as the security in the garage and the elevator tower. There will be live green plants over the garage and an outdoor fireplace in the

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courtyard for the residents. This project complements the cinema project; it is very synergistic and would be a "pedestrian experience." He also indicated that the issues related to mitigations during construction, as expressed by Mrs. Herndon, an adjacent property owner, have been resolved.

Council Member Dowling appreciated the meeting space and the fitness center included in this project and thought this project was excellent.

Council Member Halliday stated if the roof is not being used for rooftop gardens then, she asked if solar panels were considered for this project. Mr. Baer stated that solar panels have been used in previous projects with swimming pools, but could not commit to installing them on this project at this time. Staff indicated that this was discussed at the Planning Commission level and the developer plans to participate with staff to determine sustainability efforts and the feasibility of using solar panels. Council Member Halliday indicated that she attended a session at the recent annual conference of the League of California Cities and there are some new technologies for the use of solar. She was grateful for the appeal by Frank Goulart, but did not agree with his assessment that this project was "too massive."

Marlene Herndon appreciated staff efforts as well as the good neighbor relationship by the developer to address her concerns regarding her property. She thought this was an excellent project, however one of her concerns was ground shaking during construction that could damage her building. She specifically thanked Council Member Ward and former Planning Commissioner Ed Bogue for their assistance in resolving her issues.

Brian Stanke, a long time resident and planner, spoke in support of this project. He suggested removing a parking space to allow more street level access to the retail. He also suggested turning down the parking ratio and consider on-street parking charges.

Linda Bennett thanked the Council for acknowledging her email and addressing her concerns. She was not opposed to the project, but expressed her concern of insufficient parking at the current Green Shutter Hotel and asked where the loading and unloading for the retailers in the hotel would be located.

Ed Bogue expressed his concerns on behalf of Mrs. Herndon, the adjacent property owner. He did not feel that "best managed practices" stated in the project documents addressed her concerns regarding impacts to her building. He asked that the conditions of approval address them.

Mayor Sweeney closed the public hearing at 11:01 p.m.

Council Member Ward moved the item stating that this project complements the downtown and acknowledged Ms. Daluddung for her presentation. He also complemented Mrs. Herndon for her longevity in the downtown with a well maintained property and excellent landscaping.

Mayor Sweeney requested that his homeownership condition be included and asked that both the maker and second of the motion accept his request to direct staff to include a homeownership requirement that provides for a homeowners association and the units be owner occupied. It was noted by the legal staff that this could be included as the project progresses and included with the map submittal.

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Council Member Dowling confirmed with staff that the Native American Standards and Conditions by the State are adhered. He also asked that the developer alert residents that there are downtown events such as the Farmers' Market that generate noise. He asked that this be included in the CC&Rs. Staff indicated that it is addressed in the Conditions of Approval.

Council Member Dowling stated that this is the best model yet in the downtown. He liked the trees that will be planted. He commended staff, including Director of Community and Economic Development Daluddung on her direction to improve the downtown block by block.

These two conditions of approval were included as part of the motion and reiterated in the Conditions of Approval.

Council Member Halliday stated that she would support the project and asked the maker of the motion to add a friendly amendment to strongly urge the developer to pursue the use of solar panels. Council Member Ward responded that the applicant is willing to discuss this with staff.

Council Member Rodriguez was pleased that all the individuals involved with the downtown gathered to discuss and resolve issues. She complimented their efforts and hoped the project matches this effort.

Council Member Henson echoed Council compliments including Susan taking a block by block for improvement. He would have enjoyed seeing rooftop gardens and understood the concerns of not having them. In regards to charging for parking in the downtown, he remembered former Council Member Jimenez, who was against this effort.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried with Council Member Quirk absent, to adopt the following with friendly amendments that address homeownership, the abiding of the State Standards for archaeological finds, to include in the CC&Rs noise impacts to residents and improve the language of the Condition of Approval for recycling of demolition materials:

Resolution 07-128, "Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Use Permit No. PL 2007-0225

COUNCIL REPORTS

Council Member Halliday reported on her attendance at the Annual League of California Cities conference in Sacramento. She indicated that she attended two excellent sessions: one on the use of solar panels in community buildings and another on global warming and what other cities are doing to address it. As the hour was late, she would provide additional reports at a future meeting. Lastly,

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she expressed condolences to Council Member Bill Quirk and his wife, Laurel Quirk on the loss of Laurel's mother.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 11:15 p.m. with Council Member Henson closing in memory of Chauncey Bailey, an award winning journalist, who was gunned down last month. Mr. Bailey recently attended the City's Blues Festival and was still interested in Hayward as he was a graduate of Hayward High School. He was 57 years old, leaves his family, many friends and will be missed.

Mayor Sweeney also adjourned this meeting in remembrance and memory of those who died six years ago on September 11th.

APPROVED:

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

ATTEST:

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