



**MINUTES OF THE CITY COUNCIL MEETING OF  
THE CITY OF HAYWARD**  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, March 18, 2008, 8:00 p.m.

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**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 Mayor Sweeney.

**ROLL CALL**

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

**CLOSED SESSION ANNOUNCEMENTS**

Mayor Sweeney announced that labor negotiations related to the Hayward Association of Management Employees (HAME) were discussed at the previously held work session and that there will be an item in this regard on the March 25<sup>th</sup> Agenda.

**PUBLIC COMMENTS**

Edward Bogue announced that the Southgate Area Neighborhood Association will be conducting a Candidates' Night for the Hayward City Council election on May 7<sup>th</sup> at the Alameda County Public Works Building at 951 Turner Court.

Michael Lindow, developer for three properties on University Court, reiterated his request from a previous meeting to grant amnesty related to the calling of his bond by the City.

Serean Kimmel spoke on behalf of the University Court properties and asked that road improvement requirements be rescinded as there were extreme process costs and delays by City staff. She reported that the value of the homes has dropped approximately \$200,000 per home. Unfortunately, the delays caused a number of issues and she asked that Council investigate the City's processes that have impacted the current issuance of the certificates of occupancy and could cause this family to file for bankruptcy. She noted the houses are an improvement to the neighborhood and beautiful.

Matt Stuart also spoke in support of the Lindow properties and the financial impact to the families involved. He asked that the requirement of certain street improvements be lifted.

Mayor Sweeney asked that staff respond. Public Works Director Bauman provided a summary report of this project, which was originally approved in 1999. He indicated that Mr. Lindow purchased this property from the original applicant and that this is Mr. Lindow's first experience as a developer although he has built homes previous to this project. Public Works Director Bauman

clarified what the requirements were regarding sidewalks, which are only required on some of the area of Campus Drive near the elementary school. He explained that University Court was previously barricaded to eliminate cut-through traffic. He pointed out that there has never been sufficient room for emergency vehicles to turn around. He stated that staff spoke with Mr. Lindow related to the requirements, which are standard for this City, including the holding of certificates of occupancy until the street improvements are completed. The staff recommendation that was offered was to hold the certificate of occupancy from one of the units, so the other two homes could be sold and sufficient resources could be obtained. Mr. Lindow did not accept this offer as it would not solve his problem and asked that the Council re-consider this past approval. Staff's recommendation would be to not allow the elimination of those particular improvements as the burden of costs would then be placed on the taxpayers of this City.

Mayor Sweeney asked about the agenda process if the Council agrees to re-hear this project.

City Manager Jones informed the Council that if it desired to revise the conditions it would need to conduct a noticed public hearing. He stipulated that staff would not recommend revising the original parcel map.

Council Member Henson commented on conditions and circumstances that may have caused delays and seemed unclear. It seemed that there was something that could be done, or some list of options on an immediate basis that could be offered.

City Manager Jones referred to the Public Works Director's offer related to withholding one certificate. The developer did not find the staff offer sufficient and could not authorize anything further than what is beyond this offer. The parcel map was approved with those requirements and initial conditions.

Council Member Henson and Ward were interested re-hearing this matter for resolution. He cautioned and commented on the potential for setting a precedent, but recalled when the conditions of approval were delay on a particular project. With respect to this specific area, he could not understand the immediate need for these improvements as it is an area lightly traveled. He stated that there may be more of such projects with such requirements. In such economic times, the City may have a need to address more positive opportunities and be somewhat flexible as projects are built in this community.

Council Member Quirk stated that even if it is on a future agenda, there are no guarantees that the findings will be positive for the developer. He urged the developer to strongly re-consider the staff offer.

As legally advised, Council Member Ward moved, seconded by Council Member Henson, to re-hear this map approval and consider rescinding conditions of approval on April 8<sup>th</sup> or at the next City Council meeting that is appropriate and legal to do conduct. The hearing will be to determine issues proposed by the residents and do not guarantee a positive response, noting that some of these issues were proposed by the residents of University Court.



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Council Member Henson agreed with Council Member Quirk and urged the developer to really take a hard look at the delayed process and consider the staff proposal. He emphasized that there are no Council guarantees.

Jalil Kawas commented on the staff proposal to hold one certificate of occupancy. He stated that due to this current economy, selling the two houses will not cover the costs to build them and to build the street improvements.

### **CONSENT CALENDAR**

1. Approval of Minutes of the City Council Meeting of February 26, 2008

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried, to approve the minutes of the City Council Meeting of February 26, 2008.

2. Approval of Minutes of the City Council Meeting of March 4, 2008

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried, to approve the minutes of the City Council Meeting of March 4, 2008.

3. Adoption of Resolution to Approve Contract with International Federation of Professional and Technical Engineers, IFPTE - Local 21

Staff report submitted by Human Resources Director Brock-Cohn, dated March 18, 2008, was filed.

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

Resolution 08-032, "Resolution Approving Memorandum of Understanding between the City of Hayward and the Professional and Technical Engineers IFPTE – LOCAL 21"

### **LEGISLATIVE BUSINESS & INFORMATIONAL ITEMS**

4. Resolution Approving the Mitigated Negative Declaration and Zone Change Application and Denying Use Permit Application No. PL-2005-0536, Associated with Proposed Sale of Alcohol and Adoption of Ordinance Amending the Zoning Ordinance, Chapter 10, Article 1, of the Hayward Municipal Code, by Modifying a Planned Development District to Allow Additional Uses, Pursuant to Zone Change Application No. PL-2005-0536 – Property Located at 26251 Industrial Boulevard

Staff report submitted by City Clerk Reyes and Community and Economic Development Director Daluddung, dated March 18, 2008, was filed.

City Clerk Reyes reported that this item is under Legislative Business because the vote on the introduction of this ordinance was not unanimous. She pointed out that the introduced ordinance was published and ready for adoption. She noted that at the public hearing for this project, the Council denied the project and the accompanying resolution was now revised to reflect Council direction. She deferred to Community and Economic Development Director Daluddung, who provided information on the resolution for approval that, included the allowable uses for the site, the hours of operations for businesses at that site and the ban on the sale of alcohol, except in the instance of a sit-down restaurant. It was clarified that the 1997 list of uses included the sale of alcohol only if a full-scale sit-down is situated.

Mayor Sweeney stated that at the public hearing, the Council was unanimous in the sale of alcohol, but was split on whether a convenience store should be allowed. He confirmed this clarification. The majority did not

Mayor Sweeney opened the public hearing at 8:30 p.m.

Council Member Halliday reiterated the Mayor Sweeney's clarification, noting that the minutes do reflect the discussion and stated that the staff report seemed to indicate that the three who voted in against this resolution were in favor of the sale of alcohol and the 24-hour operation, which is not the case. She stated that she will be joining the majority to approve the resolution and adopt the ordinance, which is the will of this Council.

Mayor Sweeney closed the public hearing at 8:32 p.m.

Mayor Sweeney emphasized that a convenience store comes with problems and it would be a mistake to allow one at this location. He referenced the previous testimony of Police Chief Lowe and the operators who run the hotel who were against this 7-Eleven proposal.

Council Member Rodriguez stated that she would be voting against this proposal as this is still not a good locale for a convenience store and agreed with the comments previously made by Police Chief Lowe.

Council Member Dowling commented that most logically a 7-Eleven convenience store will unlikely locate at this site as it will not be permitted to sell alcohol nor operate 24 hours, but he felt that a convenience store could run well even with these restrictions.

Council Member Henson felt that there is a lack of opportunities for last minute needs or basics for those residing or on their way to or from work. It may be just a store that provides basics to those living in the nearby Waterford Apartments. He agreed with Council Member Dowling that a 7-Eleven may not be able to use this model, as alcohol sales are a major component to the revenues for such. He was hopeful that something unique could be situated at this site to provide the basics to that neighborhood.

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

Resolution 08-033, "Resolution Adopting the Negative Declaration and Approving Zone Change Application No. PL 2005-0536 and Denying Use Permit Application No. PL 2007-0558"

Adoption of Ordinance 08-04, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Modifying a Planned Development District to Allow Additional Uses Pursuant to Zone Change Application No. PL 2005-0536"

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

### **COUNCIL REPORTS**

There were no Council Reports.

### **ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 8:35 p.m.

### **APPROVED:**

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Michael Sweeney, Mayor, City of Hayward

### **ATTEST:**

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Angelina Reyes, City Clerk, City of Hayward