



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 13, 2008, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 8:00 p.m.

SPECIAL PRESENTATION Police Department Color Guard Flag Ceremony

The Pledge of Allegiance was led by Council Member Dowling.

PROCLAMATION National Police Week and May 15 as Peace Officers' Memorial Day

Mayor Sweeney presented a proclamation declaring May 11, 2008 through May 17, 2008 as National Police Week in order to recognize the hazardous work, serious responsibilities, and strong commitment to our nation's peace officers. He also declared May 15, 2008 as Peace Officers' Memorial Day in commemoration of those noble officers who have tragically sacrificed their lives in the line of duty.

ROLL CALL

Present: COUNCIL MEMBERS Rodriquez, Quirk, Ward, Dowling, Henson
 MAYOR Sweeney
Absent: COUNCIL MEMBER Halliday

Mayor Sweeney noted that Council Member Halliday was absent due to the loss of her mother-in-law. He shared condolences and prayers to her family on behalf of the City Council.

PRESENTATION Annual Recycling Poster & Essay Contest Awards

Mayor Sweeney congratulated the winners of the Poster and Essay Contest with gift certificate awards. He noted that this is the 25th Annual Cleanup Day Campaign. He thanked the teachers, the poster and essay judges and all the participants who submitted over 1,000 entries.

Council Member Henson congratulated all the participants and announced the annual volunteer litter pick-up, which will be held on Saturday, May 17th at Weekes Park.

He thanked and acknowledged the various businesses for donating toward the prizes, including the Berkeley Farms, eSignal, Gillig Corporation, Hayward Arts Council, Hayward City Employees Association, Keenan Land Company, Mervyn's, Oakland A's Baseball Company, Rohm and Haas, Shasta Beverages, Six Flags Discovery Kingdom, Stonebrae Country Club, Tri-CED Community Recycling, Waste Management of Alameda County, and Zaballos & Sons, Inc.

Mayor Sweeney and Council Member Henson presented the awards to all of the winners as well as presented the teachers with gift certificate awards. They thanked the Recycling Division, Vera Dahle-Lacaze and her staff for their outstanding work to make this 25th year a success.

Mayor Sweeney called for a 5 minute recess at 8:39 p.m.

PUBLIC COMMENTS

Bob Billmire, Chair of the amendment committee for the nine park mobile home community, requested the Council to reverse its findings on the condo conversion ordinance that was adopted on April 22nd related to mobile home parks. He expressed his concern that City staff eliminated essential language related to Title 25 from the City's ordinance that is currently in litigation in Sonoma County. He commented on the discussions he held previously with City Attorney Lawson. He spoke on the "condolizing" of mobile home parks that will impact low income owners. He read part of an official opinion from the judge relative to Title 25 that agreed with the language. Mr. Billmire also read from a letter from the Sacramento HUD to Santa Cruz assistant deputy attorney. He urged the Council to conduct another work session to reverse its findings on this.

Mayor Sweeney asked staff to respond or provide a report for this discussion.

City Attorney Lawson spoke briefly on the newly adopted ordinance that imposes application requirements for mobile home park owners who desire to convert to a resident owned park. At the hearing, at his suggestion, Council removed three sentences related to Title 25 compliance. Title 25 is a section of the California Code of Regulations that is administered by the State Department of Housing and Community Development (HCD). It gives primary regulatory authority to HCD for mobile home parks. The reason that staff made the recommendation was a concern that a recent memo made by the HCD might create the appearance of preemption. It was his opinion that Council removed two percent of its ordinance in order to preserve the remaining ninety-eight percent. He would provide a follow-up report if the Council desires. He assured Mr. Billmire that if the Sonoma ordinance is upheld by the courts, staff will bring that back for reinstatement of the provisions that were deleted prior to adoption of the ordinance. Mayor Sweeney asked Mr. Lawson to provide a written report to Council and if further discussion is needed, schedule a work session.

Marius Martinez of Boy Scout Troop 802 appreciated the Hayward Police Department's efforts to keep this community safe. He stated that he was working on his citizenship and community merit badges and hoped to be a police officer in the future. He also asked what is being done against gangs.

Mayor Sweeney suggested he speak with the Interim Police Chief and his staff, who could provide him with information and were at the entrance to the Council Chamber.

Indy Nelson of Boy Scout Troop 876 spoke against power plants in the City of Hayward commenting that the power from those plants would not be provided to Hayward. He spoke on the emissions and pollution from such.



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Rob Simpson, a member of the Keep Hayward Clean and Green Task Force, announced the clean-up event on Saturday, May 17 that begins at 8:30 a.m. He also spoke against the construction of power plants in Hayward and the emission and particulates that they would produce.

CONSENT CALENDAR

1. Adoption of an Ordinance Adding Article 11 to Chapter 4 of the Hayward Municipal Code, Social Host Accountability Ordinance

Staff report submitted by City Clerk Reyes, dated May 13, 2008, was filed.

It was moved by Council Member Dowling, seconded by Council Member Rodriquez, and carried, with Council Member Halliday absent, to adopt the following:

Ordinance 08-07, "Ordinance Adding Article 11 to Chapter 4 of the Hayward Municipal Code, the Social Host Accountability Ordinance"

2. Continuing Customer Satisfaction Assessment

Staff report submitted by Assistant City Manager David, dated May 13, 2008, was filed.

It was moved by Council Member Dowling, seconded by Council Member Rodriquez, and carried, with Council Member Halliday absent, to adopt the following:

Resolution 08-067, "Resolution Authorizing the City Manager to Negotiate and Execute Addendum to the Agreement for Professional Services with Sidewalk Strategies"

HEARINGS

3. Enforcement Authorities and Administrative Citation Ordinances - Introduction of Ordinances Amending the Hayward Municipal Code, Chapter 1, Article 3, and Adding Chapter 1, Article 7

Staff report submitted by Assistant City Manager David, dated May 13, 2008, was filed.

Assistant City Manager David made the report noting that this ordinance will strengthen the City's ability to use administrative citations to help remove blight and nuisances and to broaden the ability for staff to cite after specific training. She recommended that the current ordinance be amended and

replaced and that an additional ordinance be introduced to define the use of administrative citations. This will still allow for correction notices to be mailed and is not to be punitive, but to apply the correction. The ordinances will address repeated violations. It allows for a broader scope of employees to be trained on this process. This will allow more enforcement officials to write citations beyond their disciplines. An independent administrative officer will conduct the hearings, not the City Council, and fines will be set by Council in July with the beginning date to start by September. She responded to Council questions.

Council Member Henson asked about the administration and use. It was noted that three violations can lead to misdemeanors. Nuisance houses will be included in this citation process. In response to his questions, Assistant City Manager David noted that the annual hearings related to weed abatement and other programs that come before the Council would continue.

Mayor Sweeney opened the public hearing at 9:08 p.m.

Daniel Rosse expressed his concerns on who would be designated for such authority and how much training will be required for those issuing the citations.

Mayor Sweeney closed the public hearing 9:12 p.m.

Assistant City Manager David, in response to the public concern, indicated that City staff has been using the administrative citation process for a number of years. Staff has been effective and not abused this authority. Staff has reviewed training materials from other cities and plans to utilize the City Attorney to assist in the training of staff, who will participate in this code enforcement program.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried, with Council Member Halliday absent, to introduce the following:

Introduce Ordinance 08-__, “Ordinance Amending Article 3 to Chapter 1 of the Hayward Municipal Code; Enforcement and Penalties”

Introduce Ordinance 08-__, “Ordinance Adding Article 7 to Chapter 1 of the Hayward Municipal Code; the Administrative Citation Ordinance”

4. General Plan Amendment No. PL-2008-0013 and Zone Change No. PL-2007-0634 City of Hayward (Applicant) – Application to Amend the General Plan Land Use Designation from Limited Open Space to Limited Medium Density and Rezone Six Properties from Agricultural (AB10A) to Single-Family Residential (RSB4) District – Properties Located at 29200, 29338, 29370, 29402 and 29606 Bodega Street

Staff report submitted by Associate Planner Koonze, dated May 13, 2008, was filed.

Council Member Dowling indicated that his home is within the 300 foot radius of this site and



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would not be participating in this discussion and subsequent action. Council Member Dowling then left the Council Chamber at 9:16 p.m.

Director of Community and Economic Development Daluddung indicated that Planning Manager Rizk would make the report. Using map displays, Planning Manager Rizk provided the history of the zoning in that area since March 2002. He indicated that the proposed densities are consistent with the General Plan policies and made the staff recommendation to re-zone the six parcels on Bodega to single-family residential RSB4. These smaller lots will provide more affordable units and balance the constraints as the fault system is nearby. These densities are consistent to the Mission Garin and La Vista projects and the general plan policies and the properties are on fairly moderate slopes. He reported that at the Planning Commission meeting there were only five commissioners present and the vote was 3 to 2. The two Planning Commissioners who voted against this project expressed concerns that these properties are very near the earthquake fault. He pointed out that in the agreement there is a requirement, which is listed as #8, to improve Bodega Street, but it will not contain curves and gutters. In the future, if the properties are to be improved, additional analyses will be required.

Mayor Sweeney requested that staff respond to the comments since the other projects are much larger; this request to rezone should be allowed. He noted the “flip side” of this would be “why compound a bigger mistake?”

Planning Manager Rizk respected this individual opinion, but stated that the La Vista and Mission Vista projects are at a higher elevation. There are some concerns on allowing development on the east side of the fault. With the new roadway system that is being installed, there is adequate ingress and egress. He stated that staff has pointed out the General Plan policies that encourage infill development. This project is at the fringe of such developments as approved by the City Council.

Mayor Sweeney opened the public hearing at 9:27 p.m.

Andrea Dareing, a resident of this area, reported that this approval was alluded to in previous City documents and in particular at a Council meeting in February, 2006. She stated that as part of her allowing a portion of her property for the road, that her properties would be rezoned similar to those other projects. She also stated that the property behind hers would remain open space. She stated that Bodega properties are not visible from Industrial Parkway.

Jennifer Anderson stated that she resides on Canterbury Way and spoke against the recommendation and preferred to see this property remain as limited open space. She expressed her concern for potential soil slides.

Daniel Rosse asked about the extended roadways and spoke against the potential increased traffic impacts at the intersection on Industrial Boulevard. He commented on the open space and its amenities and the natural wild life that is present.

Mayor Sweeney closed the public hearing at 9:34 p.m.

Planning Manager Rizk reported that there will be a new public roadway for the developments that will extend Alquire Parkway and travel northward to connect to the La Vista development and further connect to Tennyson as well as a new roadway that will serve the south. In terms of traffic generation, at the last traffic study in 2005, it was surveyed at less than half of the capacity and there were no significant impacts at these intersections. He clarified that the area east of the Bodega properties is not proposed to be changed or graded.

Council Member Quirk moved the staff recommendation, seconded by Council Member Henson. He reiterated Planning Commissioner Mendall's opinion that construction should be limited to 200 feet.

Council Member Henson asked Public Works Director Bauman to explain how storm water runoff and the drainage system will operate to avoid potential slides. He added that he resides in the Clearbrook subdivision, outside the 300 foot radius, just above, and can view the Bodega properties from his back yard.

Public Works Director Bauman explained that the projects are required to meet the Regional Water Quality Control Board requirements relative to storm water as well as the Alameda County Flood Control District's requirements which require detention facilities. There is a water quality and retention basin that is being utilized as a HARD field and another at Garin Vista. These requirements are also City required detention.

Mayor Sweeney asked how many units are proposed for this site. Planning Manager Rizk responded that the estimate of units would be in the upper 50 or 60 units as the geotechnical work has not been done nor how the future roadway development will be finalized.

Council Member Rodriguez appreciated those who spoke to express their concerns and understood how new developments impact the current neighborhoods, but overall this proposal seemed about as good a solution as can be demonstrated. She felt that the transportation solution to extend Tennyson was good.

At the request of Council Member Ward, Planning Manager Rizk stated that any further development on this site would require a site plan review application, a tentative map review and be subject to a public hearing.

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

Resolution 08-068, "Resolution Adopting the Negative Declaration and Approving Related General Plan Amendment PL 2008-0013 and Zone Change Application PL 2007-0634"

Introduction of Ordinance 08-_, "An Ordinance Amending Chapter



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10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory in Connection with Zone Change Application No. PL 2007-0634 Relating to the Properties Located at 29200, 29338, 29370, 29402 and 29606 Bodega Street”

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

Council Member Dowling returned to the Council Chambers at 9:42 p.m. and participated in the remainder of the meeting.

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:47 p.m., in memory of Doris Jeanne Hagan, who passed away last week. Doris worked as an executive secretary for then Public Works Director Ed Phillips from 1965 through early 1982 when the department had over ten divisions. Doris hired and supervised all of the clerical staff in those divisions, located throughout the City and was a mentor to many of them throughout their careers. After retirement Doris worked part-time in numerous City offices and continued her many friendships. She volunteered with several organizations and was very active in her church where she also sang in the choir. Doris is survived by her husband, Lloyd, who will be 100 years old in August and her daughter, Terri Harris. She was 90 years old. Mayor Sweeney asked that a tree be planted in her memory.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward