



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 28, 2008, 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 Mayor Sweeney.

ROLL CALL

Present: COUNCIL MEMBERS Zermefio, Quirk, Halliday, May, Dowling, Henson
MAYOR Sweeney
Absent: COUNCIL MEMBER None

PROCLAMATION Veterans Day Parade in the City of Hayward

Mayor Sweeney read the proclamation declaring Tuesday, November 11, 2008, as Veterans Day Parade in the City of Hayward. The City of Hayward will honor all American Veterans with a parade in downtown Hayward on Tuesday, November 11th at 11:00 a.m. Mayor Sweeney presented the certificate to Mr. John D. White, 2008 Veterans Day Parade Committee Chair. Mr. White accepted the honor on behalf of the veterans, citizens of Hayward, and civic leaders. Additionally, he invited everyone to attend the raising of the flag ceremony scheduled at 8:00 a.m., and the parade at 11:00 a.m., scheduled to start at the Veterans Memorial Building.

PUBLIC COMMENTS

Mr. Andy Wilson, Greenbrier Lane resident, mentioned e-mails that were sent to the City in reference to big rigs parked on Mission Boulevard, across from the Twin Bridges Development. The mirrors on these trucks extend out into the bicycle lanes. He expressed a safety concern for the cyclists. Mayor Sweeney asked City Manager Jones to make a note of the concern and report back to Council and to Mr. Wilson.

Mr. Doug Ligibel, Grand Terrace resident, spoke about the recent violence at the Hayward BART Station. Mr. Ligibel asked that BART Police and the Board of Directors address the homicide of October 13th and adolescent violence. He was concerned that the new movie theater might bring more traffic and adolescent crime. He requested that Council contact BART Board of Directors and ask them to enforce three laws: the Minor Curfew Law, the Secondhand Smoking Ordinance, and the Loitering Ordinance related to moving teenagers out of areas where they might be intimidating people. He added that Congressman Pete Stark supported the proposed efforts. Mayor Sweeney and Council concurred to direct City staff to work on a resolution addressing the issues raised and to forward it onto BART administrators.

CONSENT CALENDAR

Consent Item No. 1 was removed for further discussion.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting on July 29, 2008

It was moved by Council/RA Member Quirk, seconded by Council/RA Member Halliday, and unanimously carried, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 29, 2008, as revised by Council/RA Member Quirk.

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting on September 23, 2008

It was moved by Council/RA Member Dowling, seconded by Council/RA Member Henson, and unanimously carried, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of September 23, 2008, as revised by Council/RA Members Zermefio and May.

3. Citywide Street Pavement Management Program Update and Development of New Pavement Management Program for Hayward Executive Airport - Authorization for a Professional Services Agreement with Adhara Services, Inc.

Staff report submitted by Deputy Director of Public Works Fakhrai, dated October 28, 2008, was filed.

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

Resolution 08-160, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Adhara Systems, Inc., to Update the Citywide Pavement Management Program and to Develop a New Pavement Management Program for the Hayward Executive Airport, Project Nos. 5110 and 6891"

HEARINGS

4. Introduction of a Graffiti Ordinance Repealing and Replacing Article 11 of Chapter 3 of the Hayward Municipal Code Relating to Graffiti Prevention and Abatement - Continued from September 23, 2008.

Staff report submitted by Assistant City Manager David, dated October 28, 2008, was filed.

Assistant City Manager David gave a synopsis of the report.

Council Member Halliday noted an e-mail from Ms. Mimi Bauer, Fairway Park resident, which suggested that graffiti prevention and abatement noticing be publicized through the water billing.



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In response to Ms. Halliday, Assistant City Manager David clarified the forty-eight hour notice to remove graffiti violations. Ms. Halliday stressed the importance to inform people in order to enforce the proposed ordinance.

Council Member Dowling thanked staff and the community's input on the proposed ordinance. In response to Mr. Dowling's inquiry about the Court and the District Attorney's Office's disposition to not prosecute offenders, Assistant City Manager David noted that they are willing to assist the City. She added that the City paid the first reward for a case that went through the Graffiti Reward Program and through the Court. In addition, she noted enforcement mechanisms in place such as administrative citations and suspension of driving privileges, to mitigate graffiti abatement. Mr. Dowling requested, contingent of the ordinance being approved, that Council be provided with fines information, the number of offenders caught, the disposition of their cases, and the impact of the passage of the ordinance.

Council Member May noted Singapore's effective approach in dealing with graffiti vandals. In response to Ms. May's inquiry about the yearly budget spent on graffiti abatement, Assistant City Manager David estimated that it exceeded \$300,000 for the last six months. Ms. May would have preferred using a great portion of it towards additional police presence. She did not sympathize with property or business owners for having to be responsible for cleaning-up graffiti. She commended the City for its effort on mitigating graffiti abatement. Lastly, she was excited to move to adopt the ordinance.

Council Member Henson thanked staff for the proposed ordinance. In response to Mr. Henson's inquiry for outreach efforts, Assistant City Manager David noted that the City has considered noticing in water bills, posting information on the City's website and KHRT Channel 15, and outreaching to middle and high schools. It was mentioned that the City's intent is to be diligent in efforts to educate. Mr. Henson suggested a signage and indicated that more information will get a better response. He regarded the proposal as a strong ordinance and requested that defaced City signs and sidewalks be removed in an expeditious manner. Lastly, he added that the use of cameras might also be a deterrent.

City Manager Jones reiterated the fact that graffiti is a crime and that the proposed ordinance was designed as a tool to take administrative actions related to the activity. He added that this community, City staff, and Council need to continue to communicate to the District Attorney's Office that graffiti is a crime.

In response to Council Member Zermefio's inquiry related to proposed fines, Assistant City Manager David indicated that the City reviewed other jurisdictions that ranged from about \$500 into the thousands of dollars, and that the City had not settled on the fines structure. He also recommended that Chabot College, East Bay Cal State University, Heald Business College, and the Life Chiropractic College West be included in the education outreach. Lastly, he referenced the building across from the Sizzler Restaurant that has its walls covered with vines and recommended

the use of vines or other alternatives to mitigate or cover graffiti. Ms. David indicated that the City started developing a list.

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

Mr. Chuck Horner, Lyford Street resident and Keep Hayward Clean and Green Task Force Chair, commended the proposed ordinance and its zero tolerance for the crime of graffiti. He also hoped for Hayward School of Trustees to take the same initiative. He encouraged citizens to report all incidents of graffiti as soon as possible. He noted that the \$500 Graffiti Reward Program represented a graffiti buster. Lastly, he thanked various businesses for helping clean up Hayward.

Mr. Andy Wilson, Greenbrier Lane resident, noted that graffiti brings down real estate prices. He referenced the Bay Area News Group, October 19, 2008 housing statistics, and noted that Hayward's average home price was the second lowest of 38 listed. He added that graffiti is a deterrent for businesses and brings down the reputation of Hayward. He thanked City staff for drafting the ordinance and requested that the City Attorney work with the Court about graffiti removal and maintenance by perpetrators.

Ms. Dee Dee Ligibel, Mesa Circle resident and Grand Terrace Homeowners Association President, supported the proposed ordinance. Ms. Ligibel indicated that about \$10,000 was spent this year on covering a wall that faces the Hayward BART station. She reported that the property owned by the Union Pacific Railroad, which abuts her property, does not properly maintain its property. She reported on litigation with the railroad for failure to reimburse costs associated with the removal of graffiti from the railroad property. She also encouraged that City staff consider her proposal to have stickers on light poles in order to inform people about the Graffiti Ordinance.

Mr. Doug Ligibel, Grand Terrace resident, noted the correlation of graffiti crime with other high level crimes such as vandalism. He supported the ordinance and its mechanism to suspend driving privileges. He inquired about the impact that the ordinance would have on BART's property. Assistant City Manager David noted that the City was continuing to build a partnership with BART related to the understanding of the Graffiti Ordinance and applying it on BART property. City Manager Jones indicated that it could be included as part of the resolution that will come back before Council.

Mayor Sweeney closed the public hearing at 8:52 p.m.

Mayor Sweeney made a motion to introduce the ordinance per staff recommendation.

Council Members Quirk and Halliday seconded the motion.

Mayor Sweeney favored pushing the fines to the highest end possible and asked City staff to relate to Union Pacific Railroad the City's concern about graffiti issues. Mr. Sweeney also concurred with the need to coordinate with BART administration related to graffiti issues. Additionally, he favored proposed outreach efforts through publicity and the proposed sticker on the light poles.

Council Member Dowling asked City staff to help the Grand Terrace Homeowners Association and suggested that Congressman Pete Stark's Office might be able to facilitate graffiti communication



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between the Union Pacific Railroad and the association. Mr. Dowling also noted that the Hayward Youth Commission could be an additional avenue to outreach to schools.

Council Member Henson strongly supported the proposed ordinance indicating that the enforcement was an important aspect of the ordinance. Mr. Henson also expressed concern for gang tagging and its inclusion in the proposed ordinance. He favored making the ordinance strong.

Council Member Quirk seconded the sentiments of Council Members in making the ordinance a strong measure. He added that the two highest priorities are public safety and Hayward's appearance. He agreed that removing graffiti was critical in preventing crime and more graffiti.

Council Member Zermefio expressed the need to inform people that Hayward is a graffiti free zone.

Mayor Sweeney thanked City staff and members of the Keep Hayward Clean and Green Task Force for the input provided towards the proposed ordinance. Assistant City Manager David recognized the work done by retired Assistant to the City Manager Saad for contributing towards the research and drafting of the ordinance.

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

Intro Ordinance 08-_, "Ordinance Repealing and Replacing
Article 11 of Chapter 3 of the Hayward Municipal Code
Relating to Graffiti Prevention and Abatement"

LEGISLATIVE BUSINESS & INFORMATIONAL ITEMS

5. Adoption of an Ordinance Implementing the Provisions of the Digital Infrastructure and Video Competition Act (DIVCA) of 2006 by Amending Sections 11-1.100 through 11-1.112 of Chapter 11, Article 1 of the Hayward Municipal Code

Staff report submitted by City Clerk Reyes, dated October
28, 2008, was filed.

Mayor Sweeney noted that the item before Council was introduced on October 21, 2008.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:58 p.m.

It was moved by Council Member Halliday, seconded by Council Members Dowling and Quirk, and carried with Council Member Henson voting no, to adopt the following:

DRAFT

Ordinance 08-17, "An Ordinance that Implements the Provisions of the Digital Infrastructure and Video Competition Act (DIVCA) of 2006, Codified in California Public Utilities Code Section 5800, Et Seq., which the City is Required to Administer and Enforce Throughout the City"

COUNCIL REPORTS

Council Member Henson reported on his attendance at a good session, Diversity in Biotechnology, which was hosted by Congresswoman Barbara Lee. Mr. Henson noted that the session was geared to get more minority children interested in science and technology. He would like to see Congressman Pete Stark host a similar event and thus feature Hayward biotechnology companies.

Council Member Zermefio reported a concrete south wall on Tennyson Road between Highway 880 and Ruus Road, which needs cleaning. Mr. Zermefio also announced the City of Hayward Police Department's 1st Annual Benefit Basketball Game scheduled for Saturday, November 15, 2008, at the Chabot College Gym. He added that the proceeds would benefit the Graffiti Abatement Program.

Mayor Sweeney commended City staff for the work done for the Grand Opening of the Century Theater.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:06 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, Deputy City Clerk, City of Hayward