



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 25, 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 Council Member Dowling.

ROLL CALL

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

CLOSED SESSION

City Attorney Lawson announced that at its closed session, the Council discussed potential litigations and labor negotiations with HAME, Local 21, and SEIU 1021. It was stated that Council took no reportable action.

PUBLIC COMMENTS

Ms. Janice Hart Bolanos, Falgren Avenue resident, spoke on behalf of the assaulted homeless women and thanked the Police Department for capturing the assailant.

Mr. William Medrano, Harder Road resident and member of a Latin Fraternity at Cal State University East Bay, spoke about the club's interest for community service and for cleaning Hayward. Mayor Sweeney suggested that Mr. Medrano speak to Keep Hayward Clean and Green Task Force members.

Ms. Kathy Super, Myrtle Street resident, complained about incidents of loud music and nuisance in her neighborhood. Ms. Super inquired about changes to Police response in reference to noise complaints. She also questioned the responsibility of the businesses that set up parties that inflict noise to neighborhoods. Mayor Sweeney asked staff to review Police enforcement and possibly amendments to the noise ordinance.

CONSENT CALENDAR

1. Request for Support of ACTIA's Active Transportation Program

Staff report submitted by Deputy Director of Public Works
Fakhrai, dated November 25, 2008, was filed.

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

DRAFT

Resolution 08-166, "Resolution in Support of the Alameda County Transportation Improvement Authority's (ACTIA) Active Transportation Program"

2. Authorization to Execute an Agreement with EnviroSell regarding a Customer Experience Analysis of the Hayward Weekes Library

Staff report submitted by Director of Library and Neighborhood Services Rosenblum, dated November 25, 2008, was filed.

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

Resolution 08-167, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with EnviroSell, Incorporated for Analysis of the Weekes Branch Library Remodel"

3. Hayward Afterschool Tutoring Program

Staff report submitted by Neighborhood Services Manager Korth, dated November 25, 2008, was filed.

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

Resolution 08-168, "Resolution Authorizing the City Manager to Utilize Federal Funds Granted by the U.S. Department of Education to Operate the Hayward After-School Tutoring Program and to Execute all Necessary Documents"

4. Authorization to Execute an Agreement with Fairview Fire Protection District/Contract Extension

Staff report submitted by City Manager Jones, dated November 25, 2008, was filed.

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

Resolution 08-169, "Resolution Authorizing the City Manager to Negotiate and Execute a Service Agreement with the Fairview Fire Protection District"



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 25, 2008, 8:00 p.m.**

5. Climate Action Blueprint for President-Elect Obama

Staff report submitted by Senior Planner Pearson, dated November 25, 2008, was filed.

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

Resolution 08-170, "Resolution Endorsing the Empowering Local Government Climate Action: Blueprint for the New President and 111th Congress"

6. Approval of Minutes of the City Council Meeting of November 18, 2008

It was moved by Council Member Henson, seconded by Council Member Halliday, and unanimously carried, to approve the minutes of the City Council Meeting of November 18, 2008.

PUBLIC HEARINGS

7. General Plan Amendment No. PL-2008-0345 and Zone Change No. PL-2008-0346 – Residual Burbank School Site - Hayward Redevelopment Agency (Applicant/Owner) – To Facilitate the Development of Medium Density Residential Uses, the Hayward Redevelopment Agency Requests to a) Amend the General Plan Land Use Designation, b) Change the Zoning District; and c) Amend the Hayward Cannery Area Design Plan to Facilitate the Development of Medium Density Residential Uses - The Project Location is the Western Half of the Block Bounded by B Street on the North, Myrtle Street on the East, C Street on the South, and the Filbert Street Extension on the West

Staff report submitted by Director of Development Services Department Rizk, dated November 25, 2008, was filed.

Mayor Sweeney recommended that staff ensure that noticing General Plan or Zone District amendments include information prior to propose changes in an effort to better inform the public.

Interim Planning Manager Patenaude gave a synopsis of the report.

In response to Council Member Henson's request for clarification regarding retail designation for the proposed site, Interim Planning Manager Patenaude confirmed that one retail designation was a component of the proposal. In reference to the Public Facilities Development and Property Exchange Agreement (PFDA) between the City of Hayward and the Redevelopment Agency, Hayward Area Recreation and Park District (HARD), and Hayward Unified School District (HUSD), Mr. Patenaude clarified that the City would become the lead agency in the sale and transfer for the Cannery Area improvements.

DRAFT

In reference to Council Member Dowling's inquiry regarding the financing of the proposed project, Assistant City Manager David noted that moneys from the residual Burbank School would help pay for the construction of the new Burbank School and clarified that the park would be paid for from park in-lieu fees.

Council Member Quirk confirmed with Interim Planning Manager Patenaude that staff conveyed to the Planning Commission that Council decided to give up the retail site in 2005.

Council Member Halliday expressed concern that the Planning Commission was not included in the discussion about amending the Cannery Area Design Plan. Ms. Halliday inquired if the proposal was economic viable. Interim Planning Manager Patenaude deflected to Citation Homes Central.

In response to Council Member Zermefio's inquiry for the potential development of units, Interim Planning Manager Patenaude clarified that there would be 65 units for the entire block.

Mayor Sweeney opened the public hearing at 8:29 p.m.

Mr. Charles McKeag, Citation Homes Central Vice President and project applicant, clarified the process in 2005 and noted that a retail consultant analyzed the potential viability of a retail location near the school and it was concluded that it would not be a success. He also indicated that the original Cannery Design Plan did not include a retail parcel on the proposed site. In response to Council Member Halliday's inquiry for economic viability, Mr. McKeag recommended that the City look at its own best financial interest.

Mr. Al Mendall, Brookside Lane resident and Planning Commissioner, clarified that he voted against the proposed property because he was informed that retail had not been considered for the proposed site.

Mayor Sweeney closed the public hearing at 8:35 p.m.

Council Member Dowling recommended staff to keep new Planning Commissioners and Council Members informed about the history of the Hayward Cannery Area Design Plan when they undergo amendments. Mr. Dowling felt that the retail component was not viable for the area; that HARD could not afford another recreation area; and favored working with the Burbank School and HUSD. Council Member Dowling made a motion per staff recommendation.

Council Member Quirk seconded the motion. Mr. Quirk noted that it should have been clear that the community center was being replaced by joint use of the school. He concurred with Council Member Dowling that retail was not viable for the site.

Council Member Henson supported the motion indicating that although he favored keeping the retail for the plan, he understood when the consultant found it non-viable. He favored seeing services upgraded in downtown.

Council Member Halliday supported the motion and concurred with other Council Members. Ms. Halliday offered an apology to the Planning Commissioners for not including them in the early process of the decision making related to the proposal. She added that there was retail on A Street



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 25, 2008, 8:00 p.m.**

and favored seeing upgrades.

Council Member Zermefio supported the motion and thanked the Planning Commissioners that were in attendance at the meeting. He praised the new improvements in the proposed area and noted that A Street needs more attention in terms of cleanliness.

Mayor Sweeney supported the motion and he encouraged good communication with the Planning Commissioners. Mr. Sweeney praised the input by the Planning Commission in reference to more parks and community centers and asked that the same consideration be given when reviewing the South Hayward BART Plan.

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

Resolution 08-171, "Resolution Adopting the Negative Declaration and Approving General Plan Amendment PL-2008-0345, Zone Change Application PL-2008-0346 and Related Amendments to the Hayward Cannery Area Design Plan Pertaining to the Residual Burbank School Site"

Intro Ordinance 08-_, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2008-0346 Relating to the Residual Burbank School Site"

8. Introduction of an Ordinance to Amend Chapter 10 of the Hayward Municipal Code by Adding Article 22, a Green Building Ordinance for Private Development - *Continued from October 21, 2008*

Staff report submitted by Director of Development Services Department Rizk, dated November 25, 2008, was filed.

Director of Development Services Department Rizk gave a synopsis of the report, indicating the item was continued from October 21, 2008 and it incorporated comments by Council Members and the development community.

Director of Development Services Department Rizk and City Manager Jones clarified Council Members questions pertaining to: remodeling lights; incentives for builders in order to encourage compliance; changes to the lighting standards and overall energy efficiency; educating those affected by the proposed ordinance; partnering to facilitate the proposed process; and GreenPoint Rated fees.

Mayor Sweeney opened the public hearing at 9:12 p.m.

DRAFT

The following constituents, interested parties, and members of the development community favored the proposed Green Building Ordinance for the following reasons: improve global warming awareness; instill clean and sustainable future; include different stakeholders; make requirements for residential remodeling mandatory and follow GreenPoint Rated systems; encourage awareness of climate change; promote energy efficiency; improve education and inclusive participation; and understand economic incentives.

Mr. Doug Grandt, Oakes Drive resident.

Ms. Kim Finn, Chapman Court resident.

Mr. Glenn Kirby, Hoglelake Street resident and member of the Sierra Club on the Stopwaste Source Reduction and Recycling Board.

Ms. Evelyn Cormier, Carroll Avenue resident.

Mr. Steve Murtaugh, Oakes Drive resident.

Ms. Audrey LePell, Ocie Way resident.

Ms. Diana Hanna, Castro Valley resident and Chair of the Southern California Sierra Club.

Mr. Andy Wilson, Greenbrier Lane resident.

Mr. Charles McKeag, Citation Homes Central Vice President.

Mr. Ernest Pacheco, Main Street resident.

Ms. Sara Lamnin, Sebastopol Lane resident.

Mr. Peter Drekmeier, Bay Area Program Director of the Tuolumne River Trust.

Mr. Al Mendall, Brookside Lane resident and Sustainability Committee Member.

Mr. Rocky Fernandez, Carlos Bee Boulevard resident and Alameda County Transit Director.

Mr. Bruce Richman, Inwood Lane resident.

Mr. Rob Simpson, Grandview Avenue resident.

Ms. Zephyr Quirk, Ukiah resident, former Hayward resident, and high school teacher.

Ms. Mimi Bauer, Meadowbrook resident.

Mr. Chris Zaballos, Zaballos and Sons Inc.

Mr. Ron Reese, Engineer and Architect on Huntwood Avenue, submitted a letter for the record. He opposed the proposed ordinance noting that this was the wrong ordinance at the wrong time. He did not favor soliciting opinions from a variety of people.

Mr. Jim Wieder, Chamber of Commerce President, indicated that although the proposal was a good idea, he did not agree that the timing was right due to the economic crisis.

Ms. Mary Lavelle, Oakes Drive resident and Planning Commission Chair, expressed disappointment that the Planning Commission did not get the opportunity to hear about the proposed ordinance. Ms. Lavelle urged staff to also outreach to non-English speakers when informing the public.

Mayor Sweeney closed the public hearing at 10:07 p.m.

Council Member Quirk was impressed by the input received from the different speakers. Mr. Quirk also indicated that the timing issue could be handled with incentives. Council Member Quirk made a motion per staff recommendation.

Council Members Zermefio and Halliday seconded the motion.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 25, 2008, 8:00 p.m.**

Council Member Zermefio indicated that it was time to move towards building green, but also noted the need for improvement in areas such as solar roofs, roof gardens, fruit tree planting, and establishing a plastic bag and bottle free zone among others. He commended staff for having worked inclusively with the different stakeholders.

Council Member Henson thanked City staff and members of the Sustainability Committee for the thorough and fair process and added that green building has been supported by the Home Builders Association of Northern California. He emphasized that climate change needs to be addressed and he urged City staff to educate and to reach out to the development community and others and create partnerships in order to move towards a greener process. He favored the inclusion of incentives. He supported the motion.

Council Member Dowling thanked City staff and the development community for the efforts in moving towards green building. Mr. Dowling emphasized the importance of educating the public. He supported the motion.

Council Member May noted that green building is the way to the future; however, she was concerned with the timing and the square footage requirements. She was concerned that the proposal might serve as a repellent to businesses that want to come to the City. She did not favor the 500 square foot requirement for residential remodels. Lastly, she favored a voluntary compliance.

Council Member Halliday thanked City staff, the Sustainability Committee members, the different stakeholders, and the citizens for contributing towards putting together the proposed ordinance. Ms. Halliday did not agree that the proposal was anti-business, but rather an enhancement to property value. She supported the motion.

Council Member Henson indicated that the proposed process evolved from the collaboration of stopwaste.org and other contributors.

Mayor Sweeney thanked Hayward residents, interested parties, the development community, and City staff for working towards an ordinance which addresses the future from environmental and economic perspectives. He supported the motion.

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

Resolution 08-172, "Resolution Finding that the Adoption of the Private Development Green Building Ordinance is Categorically Exempt from Environmental Review Under the California Environmental Quality Act"

Intro Ordinance 08-_, "An Ordinance Adding Article 22 to Chapter 10 of the Hayward Municipal Code Establishing Green Building Requirements for Private Development"

COUNCIL REPORTS

Council Member May reported on her speech before a business class at Cal State University East Bay. She also spoke on her attendance at the Mt. Eden High School Monarch Day.

In reference to Ms. Kathy Super's expressed concern, Council Member Dowling suggested that staff look at the amendments that were done to the Alameda County Noise Ordinance.

Council Member Zermefio invited everyone to a basketball game on Saturday, November 29, at 8:00 p.m., at the Mt. Eden High School. The donations would go towards the school's basketball program.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 10:33 p.m., in memory of Mr. Kurt Thorne, a popular math teacher at Cesar Chavez Middle School in Hayward. Mr. Sweeney asked that a tree be planted in his memory.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, Deputy City Clerk, City of Hayward