



**MINUTES OF THE SPECIAL CITY COUNCIL/  
REDEVELOPMENT AGENCY MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, December 2, 2008, 8:00 p.m.**

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**MEETING**

The Special Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Henson.

**ROLL CALL**

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

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson reported that at its closed session, the Council discussed three cases in litigation that included Dufresne v. City of Hayward I, Dufresne v. City of Hayward II, and Averiett v. City of Hayward. He stated that there was no reportable action taken.

**PUBLIC COMMENTS**

There were no public comments.

Mayor/Chair Sweeney invited all to the annual downtown event, "Light up the Season" that will be held on Thursday, December 4<sup>th</sup>.

**CONSENT CALENDAR**

1. Adoption of 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 (*Introduced on 11/25/08*)

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

Ordinance 08-19, "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"

## LEGISLATIVE BUSINESS & INFORMATIONAL ITEMS

2. Confirmation on Direction of South Hayward BART Plan Revisions and Authorization to Enter Into a Contract with Hall Alminana, Inc., to Develop a Form Based Code for the South Hayward BART Station Area

Staff report submitted by Director of Development Services Department Rizk, dated December 2, 2008, was filed.

Director of Development Services Department Rizk made the report, describing the South Hayward BART/Mission Boulevard Plan ("Plan"), its 2006 approval and responded to questions. He stated that using a form based code provides guidelines that can assist in the implementation for that development. He responded to questions. He introduced representatives Kevin Colin, Project Manager and Project Director Laura Hall, from the consulting firm, Hall Alminana Inc., who made presentations.

Mr. Colin presented the form based code process, which includes the defining of the project area, a synoptic survey, a parking analysis, a market analysis and the conduct of a charrette. Mr. Colin explained the process to complete a charrette that drafts the community's vision. He also spoke on the fiscal impact study and report, the new tax increment and the residential/retail mix fiscal aspects of a Mello Roos District. He noted the advantages and disadvantages of the form based code. Using displays, he showed the series of steps taken using the form based code that was completed in the City of Ventura to enable pedestrian oriented development.

Laura Hall also explained form based code, which is a method of regulating development to achieve a specific and desired urban form. It creates a predictable public realm primarily by regulation of the physical form, with a lesser focus on land use. She spoke on conventional uses and showed examples of using it.

Director of Development Services Department Rizk summarized the staff report, noting that staff is recommending Option 2. Staff supports this concept as it will establish clearer design expectations, address both the public and private realms, and provide opportunities for investments in proximity to a mass transit hub. He spoke briefly about the Wittek/Montana project that will include a Safeway store and this will not conflict with that project.

Council/RA Member Dowling commented favorably on the presentation, noting that this is very similar to the new urbanism concepts, which he favors. He stated that he has no problem with the form based code concept if the project plan for a particular area is at the initiation stage, but the South Hayward Plan is already approved and using Redevelopment Funds at this time was a major concern for him in light of the recent impacts by the State to the Redevelopment Agency budget. He asked for further information on the current Redevelopment Agency budget.

City Manager/Executive Director Jones reported that the allocation for this form based code plan was included in the previously approved budget and this is a one-time expenditure for the Redevelopment Agency. He expressed concerns about future State impacts and listed several other projects where the Redevelopment Agency is the funding source.



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In response to Council/RA Member Dowling's question on the funding for this and what other Redevelopment Agency costs are involved, Director of Development Services Department Rizk indicated that there will be other funding sources from Proposition 1C grants as well as funding from the low and moderate housing funds. Council/RA Member Dowling questioned the need for another plan and the use of Redevelopment Agency funds. He commented on the number of acres that are vacant in the South Hayward BART area and expressed concern regarding the undeveloped acreage currently owned by Caltrans. He was of the opinion that revised environmental reports would need to be developed and was concerned of the cost implications when consultants are used. He noted the three projects recently discussed including the Haymont Plaza, the Mission Paradise project and the Wittek/Montana project, which he concluded to be new urbanism designs. He did not understand the need to spend additional funds. He understood that there are some specific problems with the Plan that was approved, but those can be addressed as development occurs. He agreed with Mayor Sweeney on the formation of a community services and facilities district in that area. He was willing to discuss specific issues, but objected to the use of redevelopment funds to develop this form based code.

Council/RA Member Halliday had similar questions, but commented favorably on the presentations. She expressed concern for adding another layer of regulations to the Plan and asked why this would work if such projects have been supported using current standards. In response, Director of Development Services Department Rizk noted that with a form based code, a project with vision and form, but not within the current standards, can be developed and lots can be re-configured using form based code and agreements by the property owners. She was informed by Ms. Hall that this would not be an additional layer, but that a plan that would confirm the vision of both the developers and the property owners as in the Cannery area. Council/RA Member Halliday expressed her concern in spending \$350,000 as well as asked how much staff time would be utilized for this project. Lastly, she stated that perhaps this agenda item can be continued referring to the City's current fiscal state.

Director of Development Services Department Rizk indicated that almost all of the work will be completed by the consultant. He noted that the CEQA requirements will be minimal as there is a current EIR for the South Hayward Transit Plan and can be completed by staff. Additionally, the contract is structured with a contingency fund of \$25,000.

Recalling her previous experience with community meetings in this area, Council/RA Member Halliday asked what can be expected and who might attend the community meetings. City Manager/Executive Director Jones described his experience with form based code in Chico and the charrette. He indicated that it was a totally unique experience with an extensive community involvement that included the development community. This was beneficial as the developers then knew what the expected standards were. He acknowledged the expenditure, noting this would facilitate future development processes. This is the best time to approve this as it will provide developers with accepted standards for future development.

Council/RA Member Henson asked for clarification on approving form based code even though the

South Hayward BART plan has already been adopted. He was impressed by the presentations here and also at the Sustainability Committee, but the Plan has already been adopted and form based code usage is generally indicated at the beginning of a project. He commented on the 27-month process and the community input prior to the Plan adoption. In his opinion, the form based code could be inserted into the Plan. Council/RA Member Henson asked how this would address pre-existing development and highlighted his main concern, which is how the deep lots on Dixon Street would be addressed into this concept; this was key to him. He envisioned a "Rockridge type" look with shops around the South Hayward BART Station.

Director of Development Services Department Rizk indicated that the nature of a form based code and its development is comprehensive and furthers implementation of the concept design plan and provides specificity.

Mr. Kevin Colin and Laura Hall provided an example of a city in Southern California with pre-existing developments.

Council/RA Member Council Member Quirk indicated that one of his concerns was public input. He described his experience with the community involvement process when the Plan was developed and recalled that most of the residents participating were from Fairway Park and not many from the Dixon Street area or those who lived in the impacted area.

Director of Development Services Department Rizk responded that pre-meetings are essential prior to the charrette to inform property owners of potential values that they could realize by developing a form based code.

Council/RA Member Quirk indicated that such pre-meeting requirements need to be made a part of the motion should it be approved.

Laura Hall described the charrette process, and noted that the key is to develop relationships. She noted that the meetings can be held in various sites in order to reach the various segments of the community. Kevin Colin, in describing the charrette, stressed that this is not a free for all. He indicated that there will be designated times for public input, open house periods, as well as time for the designers' to utilize this feedback. The charrette will be noticed and open to the Council and developers will be invited to participate.

Council/RA Member Quirk commented that local developers are not used to this process and not familiar with form based codes. He was also concerned that the Wittek/Montana development would be anchored by a grocery store that catered to customers driving rather than walking to the store. He was concerned that there will be a lack of "walk ability" as is found in some areas of the Cannery Project. He referenced correspondence from Sherman Lewis related to this.

Director of Development Services Department Rizk reported that he received the correspondence and discussed the supermarket which includes parking spaces.

There was also discussion on the property owned by a union and the intent to add another building by the property owners. Staff indicated that contact has occurred with the property owner related to this project.



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Staff responded to Council/RA Member Zermefio's question and confirmed the scope of the work as far as the geographical sites to be studied. It was also noted that potential developers would be invited to the charrette and should development occur prior to the completion of the code base, staff would encourage aspects of form based code.

Council/RA Member May asked how many rentals are involved in this project area and was later informed that the majority of residents in that area are renters.

As there were no requests to speak, Mayor/Chair Sweeney opened and closed the public hearing at 9:42 p.m.

Council/RA Member Quirk discussed the Cannery project development. After reviewing the presentations on form based code he felt that some mistakes were made in the project in particular in the area of promoting pedestrian oriented development. He moved the staff recommendation with an addition to the motion that maximum effort be made to engage people ahead of the charrette to insure a successful community outreach. He also added that these same ideas, objectives, and principles be applied to the Wittek/Montana project to the highest extent possible, so that it is a "walk able" project. Mayor/Chair Sweeney seconded his motion.

Council/RA Member Dowling reiterated his concerns as previously discussed. He also asked whether staff sent notices as was done for the adoption of the South Hayward BART Plan and commented that in that process the community meetings were not well attended, but reasonable for that area. Staff reported that notices were not sent for this discussion.

Council/RA Member Dowling was not in favor of spending the \$300,000 and stated that he would not be supporting the motion.

Council/RA Member Henson asked staff whether this process should be more formally adopted as an overall policy so that it could encompass the other potential developments and not just this area. It was noted that this could be applied.

Council/RA Member Henson asked what happens if during the charrette process, which is intended to engage all aspects of development, it actually discourages developers or endorses something different other than what Council already adopted. He felt that inserting form based code would "gut" the original plan and to him this was problematic. Although he liked the form based code, to change something that was already adopted two years ago, would be opening up that process.

Kevin Colin responded and discussed the elements to having a successful charrette, which is a process to derive at an outcome. He discussed the general plan policy already adopted and pointed out that the form based code does produce implementation.

Council/RA Member Halliday stated that she was considering invoking her Council prerogative in continuing this item to the next meeting, but as there is no regular meeting, this may not be possible. She appreciated the consultants' presentations, but had reservations on spending the money.

Mayor/ Chair Sweeney agreed procedurally to continue the item and stated that he sees its value as well but at this point is reluctant to authorize the expenditure. Mayor/Chair Sweeney asked Council/RA Member Quirk to withdraw his motion as he would withdraw his second to the original motion.

Council/RA Member Zermefio agreed with the motion on the floor and stated that he had more negatives on his list than positives on this proposal.

Council/RA Member Halliday motioned, seconded by Council/RA Member Quirk, and unanimously carried, to continue this discussion to a regular meeting after it is reviewed by the Planning Commission.

Council/RA Member Dowling, emphasizing the need for everyone impacted to be noticed, asked that all residents who live in this area, including those who attended the previous South Hayward BART Conceptual Plan meetings, be notified.

Mayor/Chair Sweeney commented that at the South Hayward BART Plan public hearing there were more in attendance against the Plan than in favor. He stressed the fact that there is no plan for development south of the Wittek/Montana project on Dixon Street. He compared that area with the Manon and Tyrell neighborhood that had deep lots and where density was increased which later caused excessive use of City services and was not a great economic success.

3. Adoption of an Ordinance Amending Chapter 10 of the Hayward Municipal Code by Adding Article 22, a Green Building Ordinance for Private Development (*Introduced on 11/25/08*)

Staff report submitted by Deputy City Clerk Lens, dated December 2, 2008, was filed.

Mayor/Chair Sweeney indicated that this is under Legislative Business due to the vote at introduction. As there were no requests to speak, he opened and closed the public hearing at 10:02 p.m.

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

Ordinance 08-20, "An Ordinance Adding Article 22 to Chapter 10 of the Hayward Municipal Code Establishing Green Building Requirements for Private Development"

## COUNCIL REPORTS

There were no Council reports.



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**ADJOURNMENT**

Mayor/Chair Sweeney adjourned the meeting at 10:04 p.m. in memory of Dr. Keyne P. Monson, a long time resident and medical physician of Hayward, who gave back to this community. Mayor/Chair Sweeney asked that staff contact his family to plant a tree in his memory.

**APPROVED:**

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

**ATTEST:**

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