



**MINUTES OF THE CITY COUNCIL MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, July 28, 2009, 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 Council Member Zermefio.

**ROLL CALL**

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

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that Council met regarding Public Employee Performance Evaluation for City Clerk pursuant to Government Code 54957. Council also met with Real Property Negotiators pursuant to Government Code 54956.8 regarding negotiations concerning preparation for disposition of approximately 400 parcels within the 238 Corridor. There was no reportable action.

**PUBLIC COMMENTS**

Ms. Susan Gonzales, Castro Valley resident, spoke about the proposed contract between the City of Hayward and Calpine. Ms. Gonzales spoke about the many health problems that will occur because of the pollution of the air and how detrimental this would be for the City of Hayward.

Ms. Audrey LePell, Hayward Shoreline Planning Agency co-chair and on behalf of Ron Barklow, spoke about the Hayward Shoreline and read a quote from the Hayward Shoreline Trail Map, which she submitted at the meeting. Ms. Lepell spoke about the importance of protecting the shoreline and the birds in the area and noted that all of the materials came from the Interpretive Center on the Hayward Shoreline.

Mr. Frank Goulart, with business address on Main Street, announced the Hayward Zucchini Festival scheduled for August 15<sup>th</sup> and 16<sup>th</sup>. Mr. Goulart outlined the Summer History Walks in conjunction with the Hayward Historical Society throughout the month of August.

Chief of Police Ace announced that today the City of Hayward was awarded a grant of four million dollars that will pay for nine full-time police officers for the next three years and will help with programs such as in the area of community policing. Mr. Ace noted that the City was awarded the full amount applied for. He also reminded and invited Council to attend National Night Out on August 4, 2009.

**DRAFT**

## CONSENT CALENDAR

Council Item Nos. 3 and 8 were removed for further discussion.

1. Approval of Minutes of the City Council Meeting on July 21, 2009

It was moved by Council Member Dowling, seconded by Council Member Zermefio, and carried unanimously, to approve the minutes of City Council Meeting of July 21, 2009.

2. Highland 1000 Reservoir Replacement: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Ameri, dated July 28, 2009, was filed.

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

Resolution 09-119, "Resolution Certifying that the Initial Study and Negative Declaration for the Highland 1000 Reservoir Replacement Project Have Been Completed in Compliance with the California Environmental Quality Act"

Resolution 09-120, "Resolution Approving Plans and Specifications for the Highland 1000 Reservoir Replacement Project, Project No. 7165, and Call for Bids"

3. Designation of Voting Delegates and Alternates for the League of California Cities Annual Meeting

Staff report submitted by City Manager Jones, dated July 28, 2009, was filed.

Mayor Sweeney clarified that Council Member Halliday would be the voting delegate to the League of California Cities annual meeting and Council Member May the alternate.

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

Resolution 09-126, "Resolution Designating a Voting Delegate and Two Alternate Voting Delegates as Hayward's Representatives to the League of California Cities 2009 Annual Conference"

4. Utilities SCADA Software Conversion and Programming Upgrade: Authorization for the City Manager to Execute an Amendment to the Professional Services Agreement with SCADA Support Group

Staff report submitted by Deputy Director of Public Works Ameri, dated July 28, 2009, was filed.



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

Resolution 09-121, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with SCADA Support Group for Additional Services Relating to the Utilities SCADA Software Conversion and Programming Update Project, Project Nos. 7038, 7039, 7537 and 7538"

5. Authorization for Utility Users Tax Implementation and Administration Services Contract with MuniServices, LLC, and General Fund Budget Appropriation

Staff report submitted by Director of Finance Auker, dated July 28, 2009, was filed.

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

Resolution 09-122, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement between the City of Hayward and Muniservices, LLC, for Utility User Tax Implementation and Administration Services for the City of Hayward and Appropriate Funds"

6. New Water Supply Agreement with San Francisco Public Utilities Commission

Staff report submitted by Deputy Director of Public Works Ameri, dated July 28, 2009, was filed.

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

Resolution 09-123, "Resolution Approving Water Supply Agreement with the City and County of San Francisco"

Resolution 09-124, "Adopting Finding for Purposes of the California Environmental Quality Act in Connection with Approval of a Water Supply Agreement with the City and County of San Francisco"

7. Authorization for the City Manager to Execute an Application for a Used Oil Recycling Grant from the California Integrated Waste Management Board

Staff report submitted by Deputy Director of Public Works Ameri, dated July 28, 2009, was filed.

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

Resolution 09-125, "Resolution Authorizing the Application for Grant Funds from the Used Oil Recycling Fund under the California Oil Recycling Enhancement Act and Participation in a Cooperative Project"

8. Findings for Denial for Conditional Use Permit 2006-0172 Associated with Four Proposed Radio Transmission Towers and a Transmitter Building by Salem Communications at 3050 West Winton Avenue

Staff report submitted by Senior Planner Pearson, dated July 28, 2009, was filed.

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

AYES: Council Members Zermeno, Quirk, Halliday, Dowling  
MAYOR Sweeney  
NOES: Council Members May, Henson  
ABSENT: None  
ABSTAINED: None

Resolution 09-127, "Resolution Denying Conditional Use Permit No. PL-2006-0172 (Salem Communications' Radio Towers)"

## **PUBLIC HEARING**

9. Adoption of a Climate Action Plan

Staff report submitted by Senior Planner Pearson, dated July 28, 2009, was filed.

Development Services Director Rizk acknowledged the community's participation in the development of the Plan and praised the work done by Senior Planner Pearson. Mr. Rizk presented Mr. Pearson, who gave a synopsis of the report and noted that there was an e-mail requesting the establishment of a more aggressive target for 2020. In response he said that the target is based on the State's timeline, which is based on scientific evidence from 2005 and 2006.

Council Member Henson asked Senior Planner Pearson to address the process of measuring emissions and how the City reaches the proposed levels by 2020. Mr. Pearson explained that the City will be using the same process to measure emissions that was used for the initial inventory, which is PG&E data that measures energy used by both commercial and residential buildings. Mr.



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Pearson noted that the full inventory report will be revised every three to five years and staff will be able to track the emission measures to ensure the City is on target. Mr. Henson expressed concern regarding the fact that 62% of emissions are derived from transportation sources and Hayward's location in relation to the transportation corridor. Mr. Henson asked what the City is doing to work with other agencies to mitigate traffic emissions. Senior Planner Pearson noted that the "pass through" trips are more challenging to address and noted the recent legislation, Senate Bill 375, which requires coordination between the Regional Transportation Plan and the local Housing Plan, would address the concern and the City will also be working with the Association of Bay Area Governments and the Metropolitan Transportation Commission. Mr. Pearson noted that next update to the Housing Element will be subject to SB 375.

Council Member Dowling thanked City staff, the Sustainability Committee, and members of the community for their involvement. Mr. Dowling thanked Mr. Pearson for mobilizing the Hayward Youth Commission to participate and inquired about their responses. Mr. Pearson felt the idea of the Climate Action Plan (CAP) was well received and supported by the Youth Commission and all the groups that were visited. Mr. Dowling noted that as the City goes forward with the CAP, it is very important to produce the Plan in other languages so that the message reaches all of Hayward's residents. Mr. Dowling also inquired about Berkeley's Financing Program for renewable energy, energy efficiency upgrades, and if other cities are looking at that model and adopting it. Mr. Dowling also inquired about the State's solar requirements. Development Services Director Rizk responded that there are on-going efforts to develop a region-wide system through ABAG and to utilize an existing State JPA to establish a financing program to be administered at the county level. In terms of solar and promoting solar, he noted a solar initiative and stated that hopefully by 2015 or 2020, there will be a requirement that developers offer solar as an option for projects over 50 units. Mr. Dowling noted and agreed with Mr. Ernie Pacheco's suggestion about utilizing warehouses in Hayward for solar panels.

In reference to the CAP coordinator and the plan to use a portion of the energy grant to fund the position for three years, Council Member Halliday inquired if the grant can be renewed and the City's ability to retain the coordinator position after the initial three years. City Manager Jones noted that the recommendation at this time is for a three-year commitment and then evaluate and look for other grant funds. Ms. Halliday also commented on the recommendations suggested by Mr. Ernie Pacheco and suggested that the words "Adoption of the Climate Action Plan," be added to the body of the resolution. Director of Development Services Department Rizk concurred with the suggestion. There was consensus that the resolution could be amended prior to Council's action on the item.

In response to Council Member Zermefio's inquiry about penalties for failing to meet the proposed targets, Senior Planner Pearson responded that at present there is no enforcement at the State level. Director of Development Services Department Rizk added there may be some incentives in terms of applying for and receiving grants for being in compliance with the State's mandate. Mr. Zermefio expressed that he would like the City to work on creating shuttles that connect to all City's educational institutions. He also favored having bus stop benches to promote public

ridership and liked the proposed bicycle sharing program. Mr. Zermefio favored having a member of the Chamber of Commerce included in the Climate Action Management Team and including Chabot College in the group to receive community meeting notices in the future. Mr. Zermefio thanked staff on the good work done on the Climate Action Plan.

Council Member Quirk concurred with the recommendations made by Council Members Zermefio and Halliday. In response to Mr. Quirk's inquiry regarding the percentage of emissions that the City controls, Senior Planner Pearson noted that the City does have some control over the vehicle emissions by how many vehicle miles are traveled on City streets and in terms of how the City provides commuter benefits. Mr. Quirk requested for more information about the incentives outlined in SB 375 that could be helpful in the City's planning. Mr. Pearson explained that there are some incentives related to the California Environmental Quality Act and SB 375 and when the next Regional Transportation Plan is adopted, there will be a companion document called "The Sustainable Community Strategy," which would layout the development patterns to achieve certain reductions in transportation-related emissions.

Mr. Quirk acknowledged and expressed appreciation of Mr. Doug Grant's participation as a member of the Sustainability Committee. Mr. Quirk noted that "cash-out for parking" is an important action for Council to take because the City spent a lot of money to build the parking structure and could use the money to encourage people to use public transportation. Mr. Quirk inquired about the estimated 12.5% emission reduction by 2020 and asked if the goal could be changed to 15% -18%. Mr. Pearson responded that the target could be changed to follow the plan and implement it as prescribed.

Mayor Sweeney opened the public hearing at 8:56 p.m.

Mr. Doug Grandt, Oakes Drive resident, expressed support for the Climate Action Plan. Mr. Grandt noted that a plan is a roadmap as well as a way to measure any decisions that are made in the process. Mr. Grandt referred to the last slide of his presentation and read the following, "We strive to eliminate the burning of natural gas in homes, commerce, industry, wherever possible and that should be the guideline that governs all future policy decision." Mr. Grandt suggested that these words be included in the resolution. Mr. Grandt presented writing from George M. Woodwell. Mr. Grandt noted Dr. Rajendra K. Pachauri's comments that AB32 is insufficient to avert catastrophic climate change and suggested that 90% or 95% reduction in carbon monoxide emissions be targeted.

Mr. Frank Goulart, with business address on Main Street, requested that the Sustainability Committee address styrofoam and plastic bags. Mr. Goulart spoke to the fact that eventually people should recognize that we need to have less traffic in downtown Hayward and discussed about going back to the grid system. Mr. Goulart encouraged the Council to adopt the Climate Action Plan.

Mr. Ernest Pacheco, Main Street resident, was glad to be able to discuss the Climate Action Plan. Mr. Pacheco had one correction in regards to AB32 emission reductions indicating that the current state of science indicate that AB32 is good enough. He mentioned that the IPCC on their 4th survey recommends 25% to 40% below 1990 levels by 2020 and that scientists on the 5th survey say that the 4<sup>th</sup> survey's target range looks far too low. Mr. Pacheco stated that at the present time there are



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no penalties for municipalities, but believes that there will be by 2020. Mr. Pacheco recommended that the City set a target of 33.3% to remain competitive in winning grants.

Mr. Al Mendall, Planning Commission and Sustainability Committee member, noted that the Climate Action Plan has all the elements that the City needs including: knowing what to do, providing a timeline for staff to set goals in the coming years; and ways of measuring the progress with the ability to come back and revise the Plan as work progresses. Mr. Mendall urged Council to support the Climate Action Plan put forth by the Planning Commission and hoped for a unanimous vote.

Council Member Halliday requested clarification from Planning Commissioner Mendall about the rationale for the Planning Commission's recommendation that the goal year for requiring renewable energy in both residential and commercial buildings be moved up from 2019 to 2013. Mr. Mendall noted that the prerequisite for requiring renewable energy on new development was that there be a mechanism in place to finance it. Mr. Mendall stated that even if the funding mechanism is not in place by 2010, the City has until 2013 to develop one. He noted that developers would be able to sell houses that are green and homeowners could potentially have free electricity for life.

Ms. Audrey LePell, Ocie Way resident, noted that the Climate Action Plan is a vision and Hayward can become a leader along with other communities at the forefront. Ms. LePell said the City needs to work with Union City, San Leandro and the surrounding unincorporated areas, and continue to communicate with the California Energy Commission and the Bay Area Air Quality Management District. She concluded that Hayward would then be a community that literally would spare the air.

Mr. Andy Wilson, Greenbrier Lane resident, thanked Senior Planner Pearson and staff for all their work on the Climate Action Plan. Mr. Wilson concurred with Mr. Pacheco that the City should set a higher target for the Climate Action Plan. Mr. Wilson indicated that Mr. Simpson could not attend and noted that he also supports Mr. Pacheco's suggestions. Mr. Wilson supported the Plan and encouraged Council's approval with the changes per Mr. Pacheco.

Ms. Susan Gonzales, Castro Valley resident, supported the Climate Action Plan. In reference to Council Member Zermefio's comment regarding penalties, Ms. Gonzales noted that the residents will penalize themselves if no action is taken.

Mayor Sweeney closed the public hearing at 9:17 p.m.

Mayor Sweeney made a motion that the Council finds the Climate Action Plan categorically exempt from the requirements of the California Environmental Quality Act and that the resolution adopts the Climate Action Plan. Mayor Sweeney asked City Attorney Lawson to suggest language to amend the resolution to reflect the adoption of the Plan.

City Attorney Lawson suggested that the resolution be amended to include the following language to the fifth paragraph of the first page to read as follows:

**DRAFT**

“Now therefore the City Council hereby adopts the Climate Action Plan, with the following findings and actions....”

Mayor Sweeney also noted that the motion included suggestions by Council Member Zermefio to include bus stop benches; that the Climate Action Management Team include a member from the Chamber of Commerce; and that Chabot College be included in the group to receive community meeting notices in the future. It also included the Planning Commission’s recommendation to have Action 5.3 begin in 2013.

Council Member Henson seconded the motion and commended the hard work of Senior Planner Pearson and staff. Mr. Henson spoke about Strategy 6 on waste reduction, and noted that the City needs to get behind legislation along with the League of California Cities, Stop Waste and San Francisco, and to tell the producers they are over-packaging. Mr. Henson was concerned about the transportation emissions indicating that 62% is a significant decrease. Mr. Henson would like the City to adopt the solar program sooner rather than later because of its importance.

Council Member Halliday supported the motion and thanked the work done by staff, the consultant, the Sustainability Committee and the community, especially Mr. Pacheco’s input. Ms. Halliday endorsed Mr. Goulart’s comments about plastic and styrofoam and also Mr. Henson’s comments about over-packaging and noted that these areas in the Plan were weak, but could be developed further. Ms. Halliday was supportive of a Climate Management Team, comprised of staff and members of the community that would report back to Council once a year. Ms. Halliday noted that transportation was an important area, especially for the aging population, and addressed the importance of reducing emissions from the vehicles themselves. Ms. Halliday agreed that the outreach to the community was important and was glad that the Youth Commission participated. Ms. Halliday noted that the Plan was a good start and acknowledged that Council will be revisiting the Plan often.

Council Member Quirk acknowledged and thanked Mayor Sweeney for being the person instrumental in forming the Sustainability Committee and starting the process. In terms of solar planning, Mr. Quirk noted that the City should consider requiring solar as soon as there is a financing mechanism. Mr. Quirk noted the Planning Commission suggested 2013, but he hoped there will be a financing mechanism by 2010-2011, and asked if the motion could be amended to require solar as soon as there is a financing mechanism. Mayor Sweeney responded that there will be ample time to make changes as the Plan proceeds and it was important to adopt the Climate Action Plan to get started.

Council Member Dowling applauded the Plan and noted that the details are important. Mr. Dowling was not optimistic about initial approaches tried by other cities mentioning San Francisco’s Mayor Newsom’s efforts in requiring mandatory recycling and the City of Berkeley’s Plan. Mr. Dowling agreed that a lot of packaging is overdone, but unfortunately there are reasons such as theft prevention. He mentioned that the State took a positive step with AB32, but then cut a billion dollars in public transit the next year. He added that the State needs to stop cutting public transit and stop taking Redevelopment funds because they will stop the City from accomplishing its goals.



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Council Member May supported the Plan and took the opportunity to note that City employees are still logging in their time manually on timesheets and felt that was not an efficient process.

Council Member Zermefio stated the new solar panels at Chabot College will help reduce consumption and save 20% on electricity bills. Mr. Zermefio supported the Plan and thanked staff and everyone involved for their efforts.

It was moved by Council Member Sweeney, seconded by Council Member Henson, and carried unanimously, to adopt that the Climate Action Plan (CAP) is categorically exempt from the requirements of the California Environmental Quality Act and that the resolution adopts the CAP with an amendment to the fifth paragraph of the resolution to reflect the following, "Now, Therefore, the City Council hereby adopts the Climate Action Plan, with the following findings and actions..." The motion included suggestions by Council Member Zermefio to include bus stop benches; that the Climate Action Management Team include a member from the Chamber of Commerce; and that Chabot College be included in the group to receive community meeting notices in the future. It also included the Planning Commission's recommendation to have Action 5.3 begin in 2013.

Resolution 09-128, "Resolution Finding the Project Categorically Exempt from the California Environmental Quality Act (CEQA) and Approving the Climate Action Plan"

10. Zone Change Application No. PL-2008-0280 – Guru Granth Sahib Foundation (Applicant/Owner) – Request to Rezone a Parcel from Single-Family Residential (RS) District to Planned Development (PD) District to Allow the Construction of a 34,200 Square-Foot Sikh Temple on a 3.8 Acre Parcel. The property is located at 1798 D Street

Staff report submitted by Associate Planner Koonze, dated July 28, 2009, was filed.

Development Services Director Rizk referred to Planning Manager Patenaude who gave a synopsis of the report.

In response to Council Member Halliday's question about the appearance of the building from D Street, Planning Manager Patenaude noted this would be a striking addition to D Street.

Council Member Henson inquired about the time limits on religious services and noted that on special holy days there could be all night prayers and asked why the hour restrictions. Mayor Sweeney noted that the Planning Commission minutes indicated the time limits were discussed and the applicant agreed to those times. Mayor Sweeney also noted that the architect for the project was present and he could address Council during the Public Hearing portion.

Council Member May noted there were thirteen correspondences from neighbors and inquired how many neighbors were noticed about this proposal. Planning Manager Patenaude responded that every property within a 300 hundred foot radius of this property and all tenants, including residents of all apartment buildings in the area, were noticed but he did not have an exact count. Mr. Patenaude noted the applicant held two meetings to which the community was invited. Ms. May asked for clarification on the sentence of the fifth paragraph of page two of eight of the Planning Commission report, "... those in need of a temporary place to stay..." Mr. Patenaude understood that hospitality is a large part of this faith and if there was a member of the congregation that had temporary need of housing or guests from out of town who came to worship, they could be given temporary use of the space. Ms. May asked if by temporary it meant a number of days, weeks or months. Mr. Patenaude replied these were short time frames and perhaps months. Mr. Patenaude did not have a definition for Ms. May's inquiry for the definition of "somebody in need."

Mayor Sweeney, in following-up on the questions, asked how they were addressed with the conditions, if at all. Mr. Patenaude did not believe they were addressed.

There being no public comments Mayor Sweeney opened and closed the public hearing at 9:52 p.m.

Architect Sanjiv Bhandari with KBBC spoke about the project and the timelines. He described the efforts of outreach to community. He recapped the two community meetings and how the building committee walked door to door with flyers. Mr. Bhandari spoke about the importance of modifying the ramp to the parking lot off D Street. He noted that the 24-hour prayer is a quiet prayer, it is not for the audience, and the priest reads the book for 48 hours continuously. In terms of the residential units, he noted that these are for temporary housing for priests that come from India or from other facilities. He added that visual and sound concerns were addressed at the Planning Commission meeting.

Council Member Henson made a motion to approve the Negative Declaration, Zone Change, and the Preliminary and Precise Development Plans subject to the findings and conditions of approval.

Council Member Quirk seconded the motion and complimented the architect noting that the proposal will be a landmark building in Hayward. Mr. Quirk thanked the architect and the Sikh community for being accommodating to the neighbors.

Mayor Sweeney mentioned that he attended one of the community meetings and noted there were several efforts to reach out to the community.

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

Resolution 09-129, "Resolution Certifying That the Initial Study and Negative Declaration Have Been Completed in Compliance with the California Environmental Quality Act and Conditionally Approving Zone Change Application No. 2008-0280"

Intro Ordinance 09-\_, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by



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Rezoning a Parcel from Single-Family Residential (RS) District to  
Planned Development (PD) District Pursuant to Zone Change  
Application No. 2008-0280”

**COUNCIL REPORTS**

There were none.

**ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 9:59 p.m., in memory of Thomas Marovich Jr., a Hayward resident who wanted to be a firefighter; Kathleen Crummey, a lifelong Hayward resident and advocate for teachers; and Mary Evelyn Marshall, a long-time Southgate resident. Mayor Sweeney asked that a tree be planted in each of their memories.

**APPROVED:**

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Michael Sweeney, Mayor, City of Hayward

**ATTEST:**

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Miriam Lens, City Clerk, City of Hayward