



**MINUTES OF THE SPECIAL CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 22, 2009, 8:00 p.m.**

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 Halliday.

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

Assistant City Attorney Conneely reported that Council met with Real Property Negotiators pursuant to Government Code Section 54956.8., regarding negotiations concerning preparation for disposition of approximately 400 parcels within the 238 Corridor. There was no reportable action.

PUBLIC COMMENTS

Ms. Audrey LePell, Ocie Way resident, noted the public meeting for Caltrans tenants at Centennial Hall on Monday, September 28th at 7:00 p.m. Ms. LePell expressed her thanks to all the people who responded on September 16th to the Bay Area Quality Management District request for assistance in making phone calls and writing emails in regards to Calpine's PSD permit.

Ms. Andrea Dareing, Bodega Street resident, noted that she had expressed her concerns regarding her property and DeSilva Group at a previous meeting and had not received any information. Mayor Sweeney indicated that City staff gave Council an update about the project, and because Ms. Dareing has retained a lawyer, it is now a matter to be resolved between Ms. Dareing and the DeSilva Group. Ms. Dareing inquired about the possibility of building condominiums on her property between the two housing developments. Mayor Sweeney asked staff to inform Ms. Dareing about proper procedures.

Mr. Jim Wieder, with Chamber of Commerce address on Main Street, thanked Council for its support of the four Downtown Hayward Street Parties. Mr. Wieder noted that 15,000 people attended the four parties with approximately 90 vendors at each event. He added that the parties were successful and thanked Lt. Lindblom and Redevelopment Director Bartlett for their support.

DRAFT

CONSENT CALENDAR

Consent items 2, 3, and 4 were pulled for further discussion.

1. Approval of Minutes of the City Council Meeting on September 15, 2009

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried unanimously, to approve the minutes of the City Council Meeting of September 15, 2009.

2. Sister City Agreement with City of Yixing, Jiangsu Province

Staff report submitted by City Manager Jones, dated September 22, 2009, was filed.

Ms. Marita Cheng, Hayward-Yixing Sister City Chair, on behalf of the Committee, thanked the Mayor, Council and City staff, and especially Council Member Quirk and Council Member May for their continued support throughout the joining process and for participating on the committee. Ms. Cheng described the Committee's visit to Yixing, China, in April 2009, in which Ms. May represented the City and made a great impression on the city officials of Yixing. Ms. Cheng noted that Yixing is well known for its pottery, made with the special clay in the region, and is also known as the cradle of future professors.

Mr. Jim Wieder, Hayward Chamber of Commerce Chair, noted that the Chamber of Commerce supports the Committee for its quality and commitment.

Council Member May spoke about the visit to Yixing, China, and noted that her mother's side of the family came from the Hunan Province. In response to Ms. May's question for official contact information for the Hayward-Yixing Sister City Committee, Ms. Cheng offered the phone number and email address as follows: 510.538.4793, haywardyixingsistercity@gmail.com.

Council Member Quirk thanked everyone on the Committee for a job well done and also thanked Council Member May for her leadership.

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

Resolution 09-141, "Resolution Approving the Attached Sister City Agreement Between the City of Hayward, California, USA, and Yixing, Jiangsu Province, China"

3. Authorization to Negotiate and Execute a Professional Services Agreement with Townsend Public Affairs, Inc., and Appropriation of Funds to Assist in Securing State and Federal Funding for Redevelopment Activities, Housing, and Public Facilities

Staff report submitted by Redevelopment Director Bartlett, dated September 22, 2009, was filed.



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Council/RA Member Dowling thanked staff and Townsend Public Affairs for the work done in the past and noted that staff has been aggressively pursuing funding for both the South Hayward BART Station Project and Library Programs for the last few years. Mr. Dowling noted that the Library has received almost \$500,000 and that the community has directly benefitted from programs that were made possible with these funds. Mr. Dowling commended the Townsend Public Affairs' expertise in dealing with the Federal and State bureaucracies and stated this is a small cost for the benefits the City will gain.

In response to Council/RA Member Halliday's inquiry on the need for two resolutions with the same wording, General Counsel Conneely clarified that one resolution is for the City and the other for the Redevelopment Agency and that the maximum amount for both resolutions is \$90,000.

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

Resolution 09-142, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Townsend Public Affairs, Inc., to Assist in Securing State and Federal Funding for Redevelopment Activities, Affordable Housing, and Public Facilities"

RA Resolution 09-18, "Resolution Authorizing the Executive Director to Negotiate and Execute a Professional Services Agreement with Townsend Public Affairs, Inc., to Assist in Securing State and Federal Funding for Redevelopment Activities, Affordable Housing, and Public Facilities"

RA Resolution 09-19, "Resolution Amending Resolution RA 09-16, As Amended, The Budget Resolution for Fiscal Year 2009 Relating to an Appropriation of Funds from the Redevelopment Agency's Low and Moderate Income Housing Fund, Fund 452"

4. Approval of Memorandum of Agreement with the Bay Area Recycled Water Coalition Regarding Federal Legislative Efforts

Staff report submitted by Deputy Director of Public Works Ameri, dated September 22, 2009, was filed.

Ms. Audrey LePell, Ocie Way resident and representing Citizens Against Pollution (CAP), expressed concern for the connection suggested in the staff report between the City and the privately owned Calpine. Ms. LePell noted that she along with other citizens question the integrity of Calpine as evidenced by the petitions she presented last year when Calpine gave \$10 million to the General

Fund for the construction of the proposed new library. Ms. LePell restated her concern that these are public monies spent for the welfare of a private company.

Public Works Director Bauman noted that the proposed action was for the City to join with an organization that has been successful in obtaining funding for other cities toward their recycled water programs. Mr. Bauman said that there is a relationship to the Calpine project because Calpine will enable the City to receive tertiary treated water that can then be redistributed.

Mayor Sweeny inquired if this action would benefit the City if Calpine was not successful at obtaining a permit from the Bay Area Quality Management District. Public Works Director Bauman responded that the action to join with Bay Area Recycled Water Coalition would still be of value, but the City would need other funding sources to build a tertiary treatment plant.

Council Member Halliday asked for clarification of Calpine's role. Public Works Director Bauman stated that the City is working and negotiating with Calpine for the City to receive some of Calpine's excess tertiary water for distribution to users and therefore reduce the amount of potable water that customers are consuming. Ms. Halliday asked for the source of the other 75% funding. Mr. Bauman noted that the funding for the recycled program is addressed in the 10-Year Capital Improvement Program.

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

Resolution 09-143, "Resolution Authorizing the City Manager to Execute the Memorandum of Agreement for the Bay Area Recycled Water Coalition Federal Legislative Efforts"

5. Resignation of Manny Sawit from the Economic Development Committee

Staff report submitted by City Clerk Lens, dated September 22, 2009, was filed.

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

Resolution 09-140, "Resolution Accepting the Written Resignation of Manny Sawit from the Economic Development Committee"

PUBLIC HEARING

6. Adoption of a Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Real Property - APN 427-0001-030, owned by Larry and Rena Weed

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 22, 2009, was filed.



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Public Works Director Bauman gave a synopsis of the report. City Clerk Lens presented the Mayor with a letter from Mr. Larry Weed, which was submitted to the Office of the City Clerk weeks before the meeting. Mayor Sweeney read the letter, which indicated that Mr. Weed wished to speak before Council regarding this matter. Mayor Sweeney called for Mr. Weed and/or his representative to come forward and address Council. Because Mr. Weed, nor a representative, was present, Mayor Sweeney continued the proceedings.

Council Member Henson asked Public Works Director Bauman if the City would continue to work with Larry and Rena Weed to develop a mutually acceptable resolution before action is taken. Mr. Bauman replied amenably. In response to Mr. Henson's inquiry about a copy of the appraisal, Mr. Bauman responded that the City paid for an independent appraisal, but Mr. Weed did not provide a copy to the City nor was he legally bound to do so.

Mr. Henson inquired about the letter that was sent to Mr. Larry and Rena Weed, in which they were required to supply a written request to speak at the hearing. Both Mr. Bauman and Ms. Conneely clarified that this was to ensure that notice was given to the City and that the individuals involved in the eminent domain process be given the opportunity to speak.

Council Member Zermeño asked if the City knew the amount the Weeds were asking for the property and asked why they rejected the City's offer. Public Works Director Bauman responded that the Weeds calculated the amount of \$30.00 per square foot, which totaled over \$450,000.

Mayor Sweeney opened the public hearing at 8:34 p.m., and called for Mr. Weed to come forward. Since Mr. Weed was not present and there being no public comments, Mayor Sweeney closed the public hearing at 8:35 p.m.

Council Member Henson moved to adopt the resolution and hoped that continued dialogue between Mr. and Ms. Weed and staff would reach a satisfactory resolution.

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

Resolution 09-144, "Resolution of Necessity Declaring a Public Need For and Authorizing the Acquisition and Immediate Possession by Eminent Domain Proceedings or Otherwise of Real Property for the Route 238 Corridor Improvement Project on Foothill Boulevard at E Street (APN 427-0001-030) Owned by Larry and Rena Weed"

7. Text Amendment Application No. PL-2009-0188 – Palace Poker Casino, LLC (Applicant/Owner) - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11

Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino, LLC

(Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City - Commercial (CC-C) Zoning District

Staff report submitted by Associate Planner Koonze, dated September 22, 2009, was filed.

Development Services Director Rizk turned the presentation to Planning Manager Patenaude, who in turn gave a synopsis of the report.

Mayor Sweeney opened the public hearing at 8:41 p.m.

Mr. William Roberts, General Manager of the Palace Poker Casino, spoke on behalf of the Bousson family and requested approval of the three additional tables and thanked the Mayor and Council for their consideration in this matter.

Mr. Abdul Nangyalai, owner of A&F Private Security Service, stated that his company has been providing security services to the Palace Poker Casino for the past nine years. Mr. Nangyalai indicated that three officers provide security 24-hours a day at the casino. He explained the duties and responsibilities of the security personnel inside of the casino and the shuttle service to and from the Municipal Parking lot. He added that there are measures in place to ensure that patrons and their vehicles are safe and not disturbing the surrounding businesses.

Council Member Halliday mentioned the complaints from Francisco Street residents regarding the noise coming from patrons of the Palace Poker Casino late at night. Mr. Nangyalai noted that The Ranch Diner does not have any security and does not have a lighted parking area. He stated that the lack of lights on Francisco Street makes for an unsafe street.

Mr. Charles Plummer, Lancaster Road resident and former Police Chief, recalled Hayward when he was the Police Chief and there were questionable establishments such as 30 massage parlors (where only one actually offered massages), six card rooms, and one of the biggest X-rated theaters in the area. Mr. Plummer spoke to the honesty and integrity of Ms. Bousson and her establishment. Mr. Plummer expressed support for the additional tables and urged Council approval.

Ms. Dyana Anderly, Cameron Park resident and Land Planning and Development Support consultant for the casino, spoke in support of the expansion. Ms. Anderly addressed the terms of the current Use Permit and its purpose of ensuring compatibility with the surrounding uses. She said the casino has a proactive approach in making sure it is a good neighbor. Ms. Anderly stated that the casino is a quiet place that does not sell liquor, keeps the volume of the music low, and where the patrons are focused on the gaming. Ms. Anderly mentioned that the Redevelopment Agency selected and endorsed this site as a location for the casino suggesting that a downtown area is usually a vibrant place with a lot of activity with some noise associated with the many businesses. Ms. Anderly urged Council to support the addition of the three tables.

Mr. Robert Sakai, Chatham Court resident, expressed support for the casino expansion and said the Palace has been a community supporter for many years. Mr. Sakai noted that the casino is a successful downtown Hayward business that has many long-time employees. Mr. Sakai noted that



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the addition of three tables would have minimal impact. He also spoke about the benefit of the security patrols.

Mr. Paul Martin, Fletcher Lane resident and previous owner of a property across the street from the casino, noted that his tenants had benefitted from the business generated by patrons of the card club. Mr. Martin indicated that the club is a well run establishment, supported the additional tables, and urged Council to support the expansion.

Ms. Cathy Aganon, Livermore resident and daughter of Ms. Bousson, representing her mother and family, thanked the Mayor and Council for their time and consideration and those who spoke on the Palace Poker Casino's behalf. Ms. Aganon said that the family has operated the casino for over 50 years, employs 107 people, and serves over 200 patrons per day. She added that her family is committed to continuing to offer a downtown entertainment venue that is safe and consistent with the downtown policies and goals.

Mayor Sweeney closed the public hearing at 9:01 p.m.

Council Member Dowling indicated that the Palace Poker Casino is a successful downtown business that has supported the efforts of the Hayward Police Department. Mr. Dowling has visited the establishment and noted that it provides quality entertainment and is an alcohol-free establishment. He added that the Palace is one of the largest downtown employers and that the club brings people to downtown. He made a motion per the staff recommendation.

Council Member Henson concurred with Council Member Dowling and added that the Palace is a good neighbor. Mr. Henson mentioned that the Palace is a well-lit establishment with a security guard at the front. Mr. Henson spoke about the Palace's use of surveillance cameras and how the cameras could be of help to the Police Department. Mr. Henson noted that the addition of three tables will not cause any negative impact and will enhance the area as the City continues to build a vibrant downtown. Mr. Henson endorsed the addition of the three tables.

Council Member Zermeño said he also visited the Palace and was very impressed with the cleanliness of the establishment and the surrounding area. Mr. Zermeño endorsed the parking shuttle and said that patrons frequent the businesses close by. Mr. Zermeño appreciates that the Palace brings folks to Hayward. Mr. Zermeño supported the motion, but expressed disappointment about the ugly green house next door and inquired about its status.

Council Member Halliday supported the motion, but was concerned about the complaints received and requested that staff ask the Police Department to check into the complaints on Francisco Street and investigate the activity at The Ranch parking lot. Ms. Halliday commended the Club for doing a good job, complying and cooperating with the City, and for being a good neighbor. Ms. Halliday visited the Palace and saw how the additional tables would fit with some modifications to the card club. Ms. Halliday concurred with Ms. Anderly that the City wants people to make use of the existing parking lots the City has provided, and for people to park and walk around downtown. Ms.

Halliday supports the security provided for employees and customers and the owner's agreement to making some improvements to the front façade.

Council Member May spoke about her personal experience visiting the card club. Ms. May expressed support for allowing businesses that operate at their full capacity, but was on the fence whether to allow the addition of the three tables. Ms. May considered the 2006 extension of the operating use permit as a "free pass" and said that Council would not have to discuss this issue if the prior Council had not made that decision. She added that Council represents the community and it has to consider the quality of life for all residents and businesses. She added that the City's image is very important and that the City is working hard every day to improve that image. Ms. May noted that right across the street there is a library and a tot lot and believed that the wholesomeness of a library and tot lot in relation to the location of the Palace Poker Casino did not mix. Ms. May did not favor the additional three tables.

Council Member Quirk stated that three additional tables did not constitute a major impact to the neighborhood and indicated that the business is run in a very responsible way. Mr. Quirk supported the motion.

Mayor Sweeney referred to the Findings for Approval in Exhibit D, Section B, which states that this application needs to be in conformance with the City's plans, including making the downtown "pedestrian friendly." Mayor Sweeney spoke about the distance between the Municipal Parking lot and the card club as being one city block and asked how having a shuttle service could be consistent with the pedestrian orientation. Director of Development Services Department Rizk replied that the shuttle service came at the recommendation of the Planning Commission. Mr. Rizk noted that even though people are provided with the choice to take the shuttle between the parking garage and the casino, there would be an opportunity for patrons, when they get off the shuttle, to walk and frequent other businesses. Mr. Rizk noted that there was concern with the Planning Commissioners that patrons would park in the residential area along Francisco Street and the Commissioners wanted to minimize the impact on the neighborhood and address all concerns by formalizing the practice of the shuttle. Mayor Sweeney stated that the shuttle service was probably a good requirement, but did not agree that staff can make the finding for approval that the application is consistent with the pedestrian oriented policy. Mayor Sweeney stated that Council Member May's point about the proximity of the library and tot lot across the street was well taken. Mayor Sweeney noted that Ms. Bousson is an honorable person and has run a good business, but was receptive to the neighboring resident, Berta Gamero, who pointed out that the neighboring residents were originally told that when Ms. Bousson passed away, the use permit would end and the club would close. Mayor Sweeney noted that he voted against the extension of the use permit to include the lifetime of her three children near the end of 2006. Mayor Sweeney did not agree with the finding for approval.

Council Member Quirk noted that the shuttle can assist people who do not feel secure walking by the library at night. He stated that the casino is a 24-hour business and people could potentially leave with large amounts of cash. Mr. Quirk said it was his understanding that the purpose of the shuttle is to make sure customers get safely to their cars. Mr. Quirk thought that the Planning Commission required the shuttle as part of the expansion to alleviate complaints by neighbors that the Club customers were parking on Francisco Street. Mr. Quirk does not feel there is any more or less impact on the park and library with the additional tables.



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It was moved by Council Member Dowling, seconded by Council Member Henson, and carried by the following roll call vote to adopt the staff recommendation:

AYES: Council Members Zermeño, Quirk, Halliday,
Dowling, Henson
NOES: Council Member May
Mayor Sweeney
ABSENT: None
ABSTAINED: None

Resolution 09-145, “Resolution Certifying That the Initial Study and Negative Declaration Have Been Completed in Compliance with the California Environmental Quality Act, Approving Text Amendment No. 2009-0188 and Conditionally Approving Modification of Use Permit No. 2009-0190”

Intro Ord 09-_, “An Ordinance Amending Section 4-3.18 of the Hayward Municipal Code Relating to Card Club Regulations”

COUNCIL REPORTS

Council Member Halliday reported on her attendance at the Annual League of California Cities Conference on September 16th to 19th at the San Jose Convention Center. Ms. Halliday stated the major news of the conference was authorizing the League to develop an initiative on the November 2010 ballot to protect City revenues. Ms. Halliday noted that the League attempted to remedy the State take-away a couple of years ago with Proposition 1A, but it has not been effective. Ms. Halliday reported that the attempt this time would be a constitutional amendment to prohibit the State from taking local revenues, including Redevelopment and Gas Tax monies. Ms. Halliday also attended a California Redevelopment Agency session and the Agency is continuing to legally pursue getting the City’s money back and/or prohibit the State from taking any additional Redevelopment funds. Ms. Halliday said other sessions she attended covered topics having to do with the Library, Fire Department and social media.

Council Member Zermeño reminded attendees of the last free concert by the Chabot College Jazz Orchestra on September 25th at the City Hall Civic Plaza. Mr. Zermeño also mentioned the free movie “BOLT”, which will be shown at 7:30 p.m., at City Hall Civic Plaza on September 26th.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 9:31 p.m.

APPROVED:

DRAFT

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

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency