



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 19, 2010, 7:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Quirk.

ROLL CALL

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

Mayor Sweeney asked that Council convene a closed session at the end of the regular Council meeting regarding the City Manager's performance, pursuant to Government Code 54957. Mr. Sweeney noted that the item was not available when the agenda was posted on Friday, January 15, 2010. It was moved by Council Members Quirk and Halliday, seconded by Council Member Zermefio, and carried unanimously, to convene a closed session after the adjournment of the Council meeting.

PROCLAMATION

National Blood Donor Month

Mayor Sweeney read a proclamation declaring the month of January, 2010, as National Blood Donor Month. Mayor Sweeney urged all residents to pay tribute to those who donate for others in need and urged everyone in good health to donate regularly. Donor Recruitment Account Manager Ed Faso, with the American Red Cross, accepted the proclamation and noted that Hayward organizations sponsored 29 blood drives in 2009 and 1080 pints of blood were collected, which saved 3,240 lives. Mr. Faso encouraged the attendees to donate and mentioned a blood drive at Hayward Kaiser Permanente Hospital on January 22, 2010, from 11:30 AM to 4:30 PM. He added that donors could enter a drawing to win prizes. In response to Council Members, Mr. Faso noted that there were 100 units of blood sent to the Haiti government.

PUBLIC COMMENTS

Ms. Wynn Grcich, Industrial Parkway resident, talked about fluoridation. Ms. Grcich submitted materials related to toxic chemicals, fluoridation, and morgellons disease. She stated that fluoride found in drinking water is radioactive.

Ms. Diane Fagalde, Tyrrell Avenue resident, extended an invitation to the 3rd South Hayward Stroll 2010 on April 24th, from 1:00 PM to 4 PM, at the Community Center on Russ Road.

DRAFT

Ms. Karen Norell, Tyrrell Avenue resident and Family Resource Center Coordinator, noted that the South Hayward Stroll is an informational and resource fair. Ms. Norell brought exhibitor applications for those interested in participating and expressed that volunteers and donations are needed.

Mr. Ed Rimshaw, Dublin resident, spoke about the benefits of medical marijuana and urged Council to vote in favor of medical marijuana dispensaries.

Ms. Barbara Quintero, Orchard Avenue resident, dialysis technician and recovering addict, spoke in favor of medical marijuana dispensaries. Ms. Quintero also mentioned the benefits of medical marijuana for people on dialysis.

Ms. Becky DeKeuster, Oakland resident and Berkeley Patients Group General Manager, submitted a copy of Berkeley Resolution No. 64,656 N.S, declaring Saturday, October 31, 2009 as "Berkeley Patients Group Day". She spoke about the positive attributes of responsible dispensaries.

Ms. Denise Martellacci, Panitz Street resident, spoke in favor of medical marijuana dispensaries. Ms. Martellacci submitted a copy of an article, "LAPD Chief: Pot clinics not plagued by crime" by Tony Castro related to medical marijuana.

Mr. Rick Trullinger, Barbara Court resident and medical marijuana patient, noted that medical marijuana helps him manage his pain.

Mr. Thomas Lemus, Thomas Avenue resident, spoke in favor of a safe dispensary in Hayward.

Ms. Sara Lamnin, Sebastopol Lane resident, spoke about the homeless and urged Council to convene a task force and a strategic plan to address: a centralized resource center, affordable housing, graffiti abatement, and a job skills development center. Ms. Lamnin reminded Council that 87% of the current homeless population has lived in Hayward for ten or more years.

Ms. Elizabeth Veloza, Lewis Drive resident and cannabis patient, expressed a need to be able to pick up her medication locally. Ms. Veloza also spoke about the housing crisis.

Mr. Ralph Sherrow, Gloria Street resident, commented about the difficulties associated with traveling to an Oakland dispensary with all of his medical conditions.

Mr. Dale Gieringer, Oakland resident, spoke about the success of City of Oakland dispensaries and their generated sales tax and revenue. He said there are not enough dispensaries, especially in the southern part of Alameda County. Mr. Gieringer said cities across California are adopting ordinances that allow medical marijuana dispensaries.

Mr. Bill de la Haye, Patricia Court resident, spoke in favor of medical marijuana dispensaries. He said in the past he had to go to unsafe areas to obtain medical marijuana.



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Mr. Dennis Pimentel, Eldridge Avenue resident, noted that his grandmother uses medical marijuana and therefore supports a local dispensary. Mr. Pimentel noted that a local dispensary would bring in sales tax and revenue to the City and could help bring patrons to downtown businesses.

Mr. Rob Simpson, Grandview Avenue resident, shared a personal experience and noted that legalizing marijuana has created at least 100 jobs in Oakland and the dispensaries occupy at least 100,000 square feet of commercial space. He said the dispensary has not stopped the revitalization of an area of downtown Oakland that was previously depressed and dangerous and the City is benefiting from the generated sales tax and revenue from these dispensaries. Mr. Simpson urged to legalize and regulate medicinal marijuana in Hayward.

Ms. Rachel Pottol, Grandview Avenue resident, spoke in favor of legalizing medical marijuana. Ms. Pottol said that as a single mother, there is a need for local dispensaries. She would prefer to spend her money in Hayward.

Mr. Antonio Vihrachoff, currently homeless, spoke about safety, freedom and the need for cities to accommodate the needs of the homeless population.

Mr. Brian Pennington, Alice Street resident, noted that Oaksterdam University is currently enrolling cannabis advocates and provided a postcard. He talked about the revenue that can be generated from the cannabis industry and how much it could help both the City and residents of Hayward.

Mr. Barry Carroll, Sulphur Drive resident, favored making medical marijuana accessible to Hayward residents.

Mr. Daniel Herrera, Hayward resident, spoke in favor of medical marijuana dispensaries.

Ms. Betty Deforest, Westwood Street resident and Executive Director of the South Hayward Parish, spoke about the plight and problems of being homeless in Hayward and echoed the suggestions of Sara Lamnin. Ms. Deforest asked the audience to be sensitive to the needs of the homeless population, especially when it is raining.

Mr. Robert E. Shirley, currently homeless, expressed the need for a drop-in center to help their situation.

Mr. James Anthony, Land Use Attorney from the City of Oakland, supports the medical cannabis movement and has worked with local government in developing regulations. Mr. Anthony offered his services to the City.

Mr. John E. Ford, currently homeless, expressed agreement for a drop-in shelter for the homeless population.

WORK SESSION

1. Goals and Objectives CY2010

Assistant City Manager David provided a synopsis of the Council CY2009 priorities update, highlighting goals that have been completed and goals in progress related including crime/public safety, cleanliness, organizational health, land use and sustainability, and fiscal stability. Ms. David also reviewed the Council CY2010 proposed priorities and noted that staff is recommending that Council not pursue the establishment of medical marijuana dispensaries within Hayward due to the current work load and current economic situation. She asked Council for feedback on the proposed priorities.

Council Member Quirk noted that the Rental Inspection Program goal for CY2010 could be delayed due to ongoing litigation between the City and the Rental Housing Owners Association. He noted that four members of Council have expressed support for the issue of medicinal marijuana to be a Council priority, but due to State and Federal regulations, this item has been pending for about a year. He noted that it is time to address and regulate medical marijuana as it pertains to crime and public safety and added that a variety of models could be followed such as the Berkeley Patients Group. He also indicated that the evaluation of the Housing Authority participation could be delayed. In reference to the homeless issue, Mr. Quirk noted that this relates to the cleanliness priority and did not think this would require spending a lot of money but working with local partners such as Hayward Community Action Network (CAN), Salvation Army, and the Human Services Commission. He urged Council to add medical marijuana dispensary and homelessness to the list of proposed priorities.

Council Member Dowling voiced support for the proposed priorities with the exception of the homeless issue. Mr. Dowling noted that Alameda County needs to be part of the effort to provide assistance to the homeless. He said that the homeless drop-in center in San Leandro works well because it provides bathing facilities and a place to wash clothes. He suggested consideration of the showers at Sunset High School because of easy access from downtown and BART. He agreed having the census be part of the priorities and commended staff for aggressively applying for grants.

Council Member Halliday voiced support for the list presented and in particular pursuing the Gang Injunction Implementation Program and the Industrial Zoning/General Plan review, reviewing the Utility Users Tax implementation, and partnering with the Hayward Unified School District (HUSD) and Hayward Area Recreation and Park District (HARD) to improve the quality of education and available activities for youth. She favored adding medical marijuana and homeless issues to the priority list and delaying the evaluation of annexation areas and Housing Authority participation review. She thanked CAN for its efforts in addressing the needs of the homeless population. She expressed disappointment that revisions to zoning regulations and the remodeling of older neighborhoods was dropped from the list of priorities. She said she thought they were part of the sustainability and neighborhood issues and suggested they be reinstated.

Council Member Henson favored continuing efforts toward disaster (earthquake) preparedness including the use of technology to reach residents, continuing the retail attraction strategy, and initiating the gang injunction implementation. Mr. Henson spoke favorably of the new Sonic



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Burger Drive-in at the Fairway Park Shopping Center. He noted that he had supported medical marijuana in the past but had reservations about location and the allocation of resources. He expressed that now is the time to address these issues and he asked advocates to join. He noted that the issue of the homelessness, including veterans, should be a priority because of the current economic environment and the weather. He favored the formation of a task force to help the disadvantaged by working in collaboration with faith groups and the Salvation Army. He also favored transit-oriented development as shown in the South Hayward BART Plan; supported the principles of academic excellence for its correlation to fiscal stability; agreed with efforts to protect local revenues from the State; and favored restoring the economic vitality of the City.

Council Member Zermefio noted that the homeless, the sick, and the youth need assistance and all are keyed in with academic excellence, the gang injunction implementation, and the SMASH program. He favored studying the issues of homelessness and medical marijuana. He added that better control of the homeless population would aid in a more accurate census. He noted that there were other priorities relating to mother earth, safety, the economy, and the City's staff shortage. He suggested that the priority heading of "academic excellence" be changed to "excellence in education," and he noted that Hayward has students with a lot of potential. He favored keeping the proposed priorities and delaying the evaluation of annexation areas.

Council Member May supported priorities as proposed and noted that the Housing Authority Section 8 Program review aligns with homes and the homeless. She supported having local control over the Housing Authority and noted that Hayward has the highest number of Section 8 housing units and therefore agreed with having it on the list of priorities.

Mayor Sweeney expressed support for the proposed goals and objectives and added that priorities such as crime and safety, cleaning-up and greening-up Hayward are in tune with the concerns voiced by residents attending the neighborhood/partnership meetings. He also added that fiscal stability, organizational development, and land use and sustainability are appropriate priorities. He noted that although goals have been accomplished, there is more that can be done. In reference to medical marijuana, Mr. Sweeney referred to past experiences when medical marijuana was introduced and clubs were found to have multiple violations and safety concerns. He mentioned that if a neighborhood is not in favor of a medical marijuana dispensary, he could not force it onto the neighborhood. He noted that legal questions in terms of Federal policy remain unclear and added that surrounding communities are not stepping up to put this issue on their agendas. He did not think that a dispensary would be good for the businesses in downtown not having heard support from those businesses but complaints instead. He was not sure if the pursue of a dispensary was a good use of the City's limited resources. In terms of the homeless issue, he concurred that staff should work with local homeless advocates and a task force or the Human Services Commission. He expressed support for the proposed priorities and concurred with other Council members that the annexation of certain areas could be delayed. He favored keeping the Rental Inspection and Section 8 programs on the list of priorities.

Assistant City Manager David noted that staff will bring back revisions to the priorities including adding medical marijuana and the homelessness to the list of priorities.

Council Member Halliday noted that past failures relating to medical marijuana can give the City an advantage because there is more awareness. She stated that she feels strongly that proper safeguards should be in place as Council continues discussions.

Council Member Dowling supported taking the annexation review and the rental inspection program off the list.

Council Member Quirk supported taking the annexation and rental inspection program off the list and placing the Housing Authority review under low priorities.

Council Member Henson supported delaying the annexation review and rental inspection program and favored keeping the review of the housing authority.

In terms of medical marijuana, City Attorney Lawson noted that since there seemed to be support for adding it to the list, staff would suggest bringing before Council, when appropriately noticed, a report regarding a moratorium on medical marijuana dispensaries, which would provide clear guidelines.

CONSENT CALENDAR

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting on January 5, 2010

It was moved by Council/RA Member Henson, seconded by Council/RA Member Dowling, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting on January 5, 2010, with minor revisions.

3. Adoption of an Ordinance Amending Article 9 of Chapter 4 of the Hayward Municipal Code Relating to Curfew Hours for Minors (*Introduced on January 5, 2010*)

Staff report submitted by City Clerk Lens, dated January 19, 2010, was filed.

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

Ordinance 10-02, "Ordinance of the Hayward City Council Amending Article 9 of Chapter 4 of the Hayward Municipal Code Relating to Curfew Hours for Minors"

4. Approval of Resolution to Implement Technology Services Staffing Recommendations

Staff report submitted by Technology Services Director Priest, dated January 19, 2010, was filed.



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

Resolution 10-006, "Resolution Amending Resolution No. 09-113, the Position and Salaries Resolution, Relating to Position Changes in the Hayward Technology Services Department"

PUBLIC HEARING

5. Introduction of an Ordinance Amending Article 3 of Chapter 11, Relating to the Wastewater Discharge Regulations of the City of Hayward, to Add the City of Hayward Dental Amalgam Recovery Program Ordinance

Staff report submitted by Director of Public Works Bauman dated January 19, 2010, was filed.

Director of Public Works Bauman provided a synopsis of the report.

Council Member Henson was dismayed to hear that Hayward is the highest contributor of mercury into the Bay. Public Works Director Bauman confirmed that Hayward has 75 dental offices and noted that the program consists of installing amalgam separators that will collect the mercury before it goes into storm drains. Mr. Bauman confirmed that San Leandro has had a similar ordinance for several years.

Council Member Quirk asked how the amount of mercury amalgam, which ends up in the Bay, compares to natural and other sources. Public Works Director Bauman explained that the information presented by the regional board only addressed mercury levels of the permitted organizations.

In response to Council Member Halliday's inquiry regarding the permitted programs already in place at larger cities, Public Works Director Bauman noted that these programs take a lot of staff resources and time. He said those cities do not charge additional fees and the permit process becomes an additional burden to those cities' sewer funds. Mr. Bauman explained that staff felt compliance could be obtained under the ordinance rather than establishing a permit process that would require staff inspections of every office. Mr. Bauman confirmed for Ms. Halliday that from conversations with the Southern Alameda County Dental Association and feedback from dentist office surveys, there is a general consensus that this is something that needs to be done. He added that the City is working proactively to assist dental offices with compliance and added that dental associations are supportive of this action.

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

Ms. Elizabeth Veloza, Lewis Avenue resident, asked for clarification on who is requiring this action. Mayor Sweeney responded that this is a requirement of the San Francisco Regional Water Quality Control Board.

Mayor Sweeney closed the public hearing at 9:18 p.m.

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

Introduction Ordinance 10-_, "Ordinance Adding Section 2.15 to Chapter 11, Article 3, Section 400, Appendix "A" of the Hayward Municipal Code Relating to Dental Amalgam Recovery Program Ordinance"

COUNCIL REPORTS

Council Member Halliday noted the Eden Area League of Women Voters' invitation to a meeting on February 5, 2010, at City Hall. Ms. Halliday noted that the League has asked for a Council representative to present achievements from 2009 and goals for 2010. Mayor Sweeney noted that he will attend the League's meeting and present the Council's priorities as discussed during the meeting.

Council Member Henson gave an update from the Sustainability Committee's discussion relating to a plastic bag ban. Mr. Henson noted that Stopwaste.org would be forwarding an omnibus ordinance for all jurisdictions to the Board.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:22 p.m., in memory of Mr. Ernesto Nava. Council Member Zermefio noted that Mr. Ernesto Nava was a Hayward resident since moving to Russell City in 1942 and he was the last living son of Mexican revolutionary Pancho Villa. Mayor Sweeney asked that staff work with Mr. Nava's family to plant a tree in his memory.

City Council adjourned to a closed session as established at the beginning of the meeting.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward