



**MINUTES OF THE CITY COUNCIL MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 21, 2010, 7:00 p.m.**

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**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 Zermeño, Quirk, Halliday, Peixoto, Salinas,  
Henson  
MAYOR Sweeney  
Absent: COUNCIL MEMBER None

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson reported that Council met with Legal Counsel pursuant to Government Code 54956.9, regarding Simpson v. City of Hayward, Alameda County Superior Court, No. HG10535150. There was no reportable action.

**PUBLIC COMMENTS**

Mr. Jelani Williams, Belfast Street resident, noted how the timeliness of the Alameda County (AC) Transit bus service can directly affect the student's school attendance. Mayor Sweeney noted that Council Members Halliday and Salinas, as AC Transit liaisons, could ask AC Transit to improve the bus service.

Ms. Wynn Grcich, Industrial Parkway SW resident, noted that she attended the Bay Area Water Supply and Conservation Agency meeting, and indicated that using recycled water for landscaping or harvesting can cause illnesses.

**WORK SESSION (60-Minute Limit)**

1. Strategic Response to Increase in Residential Burglaries

Staff report submitted by Community Policing Commander Boykins, dated September 21, 2010, was filed.

Lieutenant Boykins gave a synopsis of the report. The Hayward Police Department Crime Alert *Residential Daytime Burglaries*, Residential Burglary Analysis, and "Hayward police warn of daytime burglaries" article from the Daily Review were presented to Council for review. Lieutenant Lindblom also contributed to the presentation.

**DRAFT**

In response to Council Member Henson's question regarding the average age of those arrested, Lt. Lindblom said they range from 13 to 40s. Mr. Henson asked what happens to those who are arrested. Lt. Lindblom responded it depends on the offense; in some cases, offenders are prosecuted for the property crime and, in other cases, they are referred to community work programs. In response to Mr. Henson's inquiry about the number of burglaries in Hayward versus Fremont, Lt. Boykins said the numbers vary as the data for Fremont is from January to June and Hayward's data is from January to July. It was noted that all cities were affected.

Council Member Zermeño asked about preventative measures against burglaries. Lt. Boykins mentioned paying attention to anything that would deter someone from entering a private house. Ms. Boykins added that safeguards include proper home lighting and neighbors looking out for each other. Mr. Zermeño inquired if the abandoned foreclosed homes in Hayward are becoming places where vandals gather. Lt. Lindblom noted that suspects would not strike a house that is foreclosed because it does not have anything of value in it.

Council Member Peixoto asked if there are any recommendations for the elderly or for people who are hard of hearing on how to deal with burglaries. Lt. Lindblom noted the first strategy is to let residents know that these burglaries are occurring and then offer suggestions to establish security measures.

Council Member Salinas asked what neighborhoods are being impacted the most. Lt. Boykins indicated Darwin, Leeward, Bal Harbor, West Palmacea, and Fairway Park. She noted that even though the numbers in the Silver Maple were not high, the percentages were high compared to last year. Mr. Salinas asked if the lifestyle of families who leave the country for extended weeks was considered as a factor in raising awareness and teaching families to protect their homes. Lt. Boykins said it brings into play the value of neighbors looking after each other. In response to Mr. Salinas, Lt. Boykins noted that a significant number of the juveniles arrested are not from Hayward.

Council Member Salinas asked City Manager David if there were funds available to help low-income families or the elderly with minor home reinforcements. Ms. David noted there is no specific funding from federal or state government that allows the City to go out and offer home security for individuals. Mr. Salinas suggested posting alerts in multi-languages on school marquees as an additional Police strategy.

Council Member Halliday asked if it was true that a convicted person could go to jail. Lt. Lindblom responded that his office is discussing with the District Attorney's office on how to handle these situations. Lt. Lindblom added that neighbors should call the police when something does not look right.

Council Members Quirk thanked Police and City staff for bringing the item forward.

Mayor Sweeney suggested that residents call the Police when they see suspicious activity and get to know their neighbors.

Consent Item two was removed for further discussion.



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**CONSENT**

2. Revisions to the Conflict of Interest Code

Staff report submitted by City Clerk Lens, dated September 21, 2010, was filed.

Mr. Jim Drake, Franklin Avenue resident, inquired if there is a state law or city policy that governs nepotism. City Manager David noted that both state law and the City Charter address nepotism, which the City does not allow.

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

Resolution 10-147, “Resolution Accepting the Additions and Revisions to the Conflict of Interest Code”

3. Opposition to State Efforts to Usurp Cities' Authority in Local Government Matters and Attempts to Divert Local Revenue

Staff report submitted by City Manager David, dated September 21, 2010, was filed.

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

Resolution 10-146, “Resolution in Opposition to State Efforts to Usurp Cities’ Authority in Local Government Matters”

**PUBLIC HEARING**

4. Water System: Report on Public Health Goals

Staff report submitted by Deputy Director of Public Works Ameri, dated September 21, 2010, was filed.

Deputy Director of Public Works Ameri provided a synopsis of the report.

In response to Council Member Peixoto’s inquiry regarding the distinction between public health goals and maximum contaminant levels (MCLs), Deputy Director of Public Works Ameri responded that public health goals are tests and procedures to determine the amount of water constituents that can be present and cause no harm without any regard to technological and economic feasibility. Mr.

**DRAFT**

Ameri added that MCLs are practical measures set as closely to the goal with consideration to technological and economic feasibility. Mr. Ameri further clarified that coliform in itself is not harmful, and when there is indication of the presence of coliform in the sample, a retest is done to ensure that there is nothing that can cause health concerns. In response to Mr. Peixoto, Mr. Ameri added that if there is an indication of coliform in the second test, the Department of Health requires the City to look for other substances that may also be present in the water.

In response to Council Member Henson's inquiry regarding the disinfectant process, Deputy Director of Public Works Ameri responded the disinfectant being used is chloramine, which is a combination of chlorine and ammonia and it is administered and introduced by the San Francisco Public Utilities Commission, the wholesale provider of water.

In response to Council Member Quirk's inquiries, Deputy Director of Public Works Ameri responded there are no traces of medications found in the Hetch Hetchy water. Mr. Ameri added that water that comes from the San Antonio and Calaveras reservoirs, when blended with Hetch Hetchy water, is treated at the Sunol Water Treatment Plant before being introduced into the transmission system. Mr. Ameri further noted that there is no treated sewage water at either San Antonio or Calaveras reservoirs. Mr. Ameri responded that water used for golf course irrigation is treated and disinfected, but is not for drinking purposes. Council Member Quirk asked how the City keeps coliform set at 5% positive each month. Mr. Ameri said the City has dedicated sampling clean stations. He added that the water in the system is pure and the chlorine residuals kill contaminants in water.

Council Member Zermeño asked how coliform is created. Deputy Director of Public Works Ameri responded it is naturally present bacteria in the water. Mr. Ameri added that coliform has not been identified as a health risk, but its presence is an indicator that there could be other harmful bacteria present in the water.

Mayor Sweeney opened the public hearing at 8:16 p.m.

Ms. Wynn Grcich, Industrial Parkway SW resident, referred to a Science News article entitled, "First Direct Link Found between Bacteria in Drinking Water and Stomach Ulcers," and stated that drinking water is generally considered safe when coliform bacterium is not present. She added that Fluorosilicic Acid is hazardous to human health and when mixed with disinfectants they become carcinogenic.

Mr. Jim Drake, Franklin Avenue resident, referred to a drought eight to ten years ago when a pond, near the library by the Danville High School, was filled with water from the fire hydrant and three days later all the fish were dead. He added that he will continue to drink Hetch Hetchy water.

Mayor Sweeney closed the public hearing at 8:23 p.m.

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

Resolution 10-148, "Resolution Directing the Director of Public



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Works to Inform the California Department of Public Health that the 2010 Public Health Goal Report has been Prepared and Reviewed by the City Council, and a Public Hearing has been Conducted to Receive and Respond to Comments on the Report”

5. Introduction of an Ordinance to Amend Section 3.15 of the Mount Eden Business and Sports Park Community Development Agreement Relating to Phased Development of Legacy Eden Shores to Allow for a Portion of the Residentially Zoned Site to be Released for Development

Staff report submitted by Senior Planner Buizer, dated September 21, 2010, was filed.

Director of Development Services Rizk provided a synopsis of the report and noted that Legacy Partners provided materials related to the Legacy Eden Shores development, which are available in the Office of the City Clerk. He also introduced Steve Dunn with Legacy Eden Shores Partners.

Council Member Henson obtained clarification from Director of Development Services Rizk that the proposal does not include a change in zoning. Provided Council approved the amendment, Mr. Henson asked how much land would be left for business park and commercial developments. Mr. Rizk responded there would be approximately 26 acres of combined business park and neighborhood commercial land, not including the 16.3 acres of built land occupied by Costco.

In response to Council Member Halliday’s inquiry about the total number of houses proposed and the number that would be allowed, Director of Development Services Rizk said it would be approximately 75 out of 167 total housing units allowable on the site. Ms. Halliday noted that the area is in need of commercial development. She asked if staff had considered the impact that releasing the proposed residentially zoned site for development would have on other housing developments, such as the Cannery area. Mr. Rizk did not anticipate a significant impact due to the relatively small number of housing units and the density.

Council Member Zermeño referred to the Legacy Eden Shores handout distributed at the meeting, and inquired about the construction timeframe. It was noted that this would be a question for Mr. Dunn.

In response to Council Member Peixoto’s inquiry, Director of Development Services Rizk indicated there would be no change to the existing zoning.

Mayor Sweeney opened the public hearing 8:44 p.m.

Mr. Steve Dunn, with Legacy Eden Shores Partners, noted that Legacy has delivered some retail, and now they want to deliver a commensurate amount of residential. Mr. Dunn noted that the combination of residential and retail will produce more homes, more jobs, more fees and more tax

revenue. He added that the 24-Hour Fitness Club is still interested, but there needs to be a compromise.

In response to Council Member Henson's inquiry about the proposal, Mr. Dunn indicated that the developers are optimistic of the success of the proposed residential housing.

Council Member Salinas asked if construction jobs will go to contractors and workers in Hayward. Mr. Dunn could not guarantee this, but noted the companies hire local parties.

Council Member Halliday expressed her frustration that the City does not have companion retail serving neighborhoods. Although she appreciated the Costco development, Ms. Halliday noted that the City is not building according to the General Plan, which is to construct mixed-used neighborhoods. She thought the proposal was reasonable and added that although it appears from the staff analysis that the City will get property transfer taxes and annual sales taxes that would exceed the cost of services in the area. She urged Mr. Dunn to continue his efforts to get more retail in the proposed area.

In response to Council Member Peixoto's inquiry about the delay on the lease for the 24-Hour Fitness Club, Mr. Dunn responded that the issue is economic and Legacy is trying to re-attract them to commit. In response to Mr. Peixoto's question, Mr. Dunn said the residential market is coming back and the local developers have seen progress. Even though Mr. Peixoto had reservations about the proposal, he mentioned that the proposal seemed reasonable.

Mayor Sweeney expressed concern that the proposal is another change to Legacy's agreement with the City. Mr. Dunn said that Legacy met the agreement on the retail. He said although the overall deal is changing, the intent is still within the same package and Legacy is asking that a commensurate amount of residential be released. Mr. Sweeney asked why the City should believe that the 167 units being built would be the deciding factor that would bring more retail and commercial activity to the area. Mr. Dunn thought it would be progress. In response to Mayor Sweeney's question if Legacy would come back for future changes, Mr. Dunn said he did not know.

Mr. Shengli Cheng, Tradewinds Lane resident, noted that in the beginning he was told that Site C was zoned commercial and now, it is zoned for residential. Mayor Sweeney responded the plan was changed a few years back. Director of Development Services Rizk added the majority of Site C was changed from Business Park to Residential zoning.

Ms. Ita Litsey, Tradewinds Lane resident, noted her preference for a grocery store in the area. Ms. Litsey asked if the residential proposal would be for purchase or leasing. Director of Development Services Rizk said his understanding was ownership housing, but it would depend on the housing developer. Ms. Litsey favored ownership housing.

Mayor Sweeney closed the public hearing at 9:07 p.m.

Council Member Zermeño made a motion to approve the staff recommendation, indicating he



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believed the City ought to make a contribution to housing for job creation and that there would be a concerted effort to get some retail in the area. He encouraged his colleagues to support his motion.

Council Member Henson seconded the motion stating that there have been changes to the original plan because market conditions change. Mr. Henson noted the proposal did not include another zone change. He noted he favored ownership housing and said it was good business to allow the 75 residential units. He advised Mr. Dunn to make this the last time that Legacy comes back for a change.

Council Member Quirk said he thought the change was in the best interest of the City and the proposal would create more jobs and it would give Legacy Partners more resources to use when they sell the land and strengthen their efforts to bring in retail. Mr. Quirk does not expect that Council would allow more residential until the retail is completed. He added that Legacy Partners are making less money for the land and they have done a good job. He mentioned this was good for the City and all of Council's decisions, whether there is a change or not, should be based on what is good for the City.

Council Member Halliday mentioned that at the League of California Cities Annual Conference she attended a session on how to attract sustainable development in difficult times. She noted that the City needs to work with developers to get strong projects and be flexible in response to challenging economic times. She mentioned that this project was originally presented to the community in the late 1990s as a sustainable mixed-use development where housing would only be allowed in the west side of the railroad tracks, and overtime it changed shrinking the business park and retail space and expanding of housing. However, she added that Legacy has produced Costco and made efforts to obtain more retail. She added that staff did a thorough analysis and the proposal was not a change in zoning. She concurred with the motion on the floor.

Council Member Salinas reiterated his preference for homeownership. Mr. Salinas envisioned young professional families moving into the community and seeking long-term housing. He supported the recommendation. He added Legacy delivered responsibly to their half of the agreement.

Mayor Sweeney stated he was going to vote against the motion. Mr. Sweeney referred to the time when there was a proposal to build housing on what is now the Pepsi Cola Plant. He noted that at the time there was debate on whether the City should create jobs and generate property tax revenue, which go along with building housing, or if the long-term investment in the plant would bring good paying jobs for decades. He added that the Council, on a 4-3 vote, decided not to rezone the area to housing development, but to protect the industrial land. Pepsi was later built, he said, and has generated jobs for Hayward residents to the present. Mr. Sweeney added that when the original General Plan designation proposal went to voters in 1998 (Measure HH), it was stated that housing would be on the west side of the tracks and commercial, a business/sport park, and retail activities on the east side of the tracks. He added that a few years later, the Council approved a change that

allowed some housing development on the east side of the tracks, and a few years later, Legacy Partners asked for even more housing development. He added that the Council is being asked to change the development agreement once again and meanwhile, Hayward residents are waiting for more retail and commercial sites. He noted the importance of Council approving more retail and waiting to approve additional housing.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried with Mayor Sweeney voting against, to adopt the following:

Introduction Ordinance 10-\_, “An Ordinance Authorizing Execution of Amendment to Mount Eden Business and Sports Park Community Development Agreement”

### **COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Salinas reported on the League of California Cities 2010 Annual Conference where he attended various workshops. Mr. Salinas noted that AmeriCorps, HUSD, and other non-profits were able to secure a grant, which will allow them to help hire community college/Cal State University students to work in the community. He also noted that he attended the Library Commission meeting where there was an election of new officers and congratulated new Chair Kelly Greenne, Vice Chair Monica Schultz, and new Commissioner Kari McAllister. Mr. Salinas also attended the memorial service for Alameda County School Board Member Feliz Elizalde. Lastly, he added that he is on the Measure I Bond Oversight Committee and highlighted the successes of Measure I; 43% percent of the \$205 million is spent on Hayward school workers - East Avenue (63%), Fairview (47%), Schafer Park (59%), Tyrell (40%), and Martin Luther King Jr. (41%).

Council Member Zermeño mentioned that Rep. Pete Stark announced that the Hayward Promise Neighborhood Partnership received a half-million dollar grant from the Department of Education to work with South Hayward youth in advancing opportunities to attend higher education. He commended the Hayward Unified School District for pursuing one of only 13 grants available to schools nationwide.

Council Member Peixoto reported on the League of California Cities Conference where he attended various sessions including in particular, gang and youth violence and the Salinas v. Vargas decision on City sponsored ballot measures.

Council Member Halliday also attended the League of California Cities Conference where she participated in sessions on gang and youth violence, updates on redevelopment, and pension reform. Ms. Halliday noted that as a voting delegate she was involved in considering six resolutions related to asking the Governor to delay AB32 implementation deadlines, supporting First Lady Michelle Obama’s “Let’s Move” campaign to reduce childhood obesity, promoting public education about the dangers of texting while driving, and supporting the League’s efforts to oppose unfunded state and federal mandates.

### **ADJOURNMENT**



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Mayor Sweeney adjourned the meeting at 9:34 p.m.

**APPROVED:**

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Michael Sweeney, Mayor, City of Hayward

**ATTEST:**

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Miriam Lens, City Clerk, City of Hayward