



**MINUTES OF THE SPECIAL CITY COUNCIL/  
REDEVELOPMENT AGENCY MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, October 26, 2010, 7:00 p.m.**

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**MEETING**

The Special Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Salinas.

**ROLL CALL**

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

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that Council met with Labor Negotiators pursuant to Government Code 54957.6. There was no reportable action.

**EMPLOYEE PRESENTATION**

Mr. Michael Meyers, representing the California Association of Code Enforcement Officers (CACEO), presented CACEO's Innovative Program of the Year Award to Stacey Sorensen, Neighborhood Partnership Manager, for the successful Mural Program. Ms. Sorensen thanked City staff, Council, and CACEO for such a special recognition.

**PUBLIC COMMENTS**

Mr. Jack Bousian, Sixth Street resident, reported that his residence is located behind Windsor Gardens Health Care Center's laundry plant and the exhaust fan blows noise and laundry odors over the fence that separates the properties. Mr. Bousian noted that his family's lifestyle has been adversely affected and that efforts to resolve these issues have not been successful due to the lack of enforcement of the current Noise Ordinance. Mr. Bousian asked if the proposed Ordinance would strengthen the City's ability to take noise reduction action to address this specific situation.

Mr. Dan Sheppard, Wildwood Street resident, hoped that the proposed amendments to the Ordinance would make noise enforcement a priority for the Police Department and include accessibility to a device that measures sound levels.

Mr. Jim Drake, Franklin Avenue resident, referred to current Section 4-1.02 and Section 4-1.03(a) of the Noise Ordinance and expressed preference for the current Ordinance over the proposal as it relates to noise limitation.

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Ms. Gail Steele, Arlette Avenue resident, spoke in favor of the proposed Ordinance and suggested that the Police Department acquire a decibel measuring device as a tool for the public to document recurring noise violations. Ms. Steele suggested meeting with staff and offer minor modifications. She shared that some residents are reluctant to complain about neighbors.

Council Member Quirk positively reported that he was part of a five-person delegation to Hayward's Sister City Yixing in China. Mr. Quirk noted that the City has three active sister cities and recommended the audience get involved. He added that he financed his own trips and spoke favorably of the experience.

## **WORK SESSION**

### **1. Revisions to City's Noise Ordinance**

Staff report submitted by Assistant City Attorney Connelly, dated October 26, 2010, was filed.

City Attorney Lawson introduced the report and presented Assistant City Attorney Connelly, who provided a synopsis of the report.

Mayor Sweeney commented that the problem of noise is recognized at Neighborhood Partnership Program meetings and that in improving the current Ordinance it is important to include language that will protect citizens who report noise problems from possible retribution. Mayor Sweeney favored simplifying the process for Police, City staff and citizens as it relates to issuing a citation, e.g., the need to have two complaints, and the timeframe between initial and subsequent complaints. Mayor Sweeney asked for clarity on how vehicles with loud sound systems would be handled.

Council Member Peixoto commented about complaints about unreasonable noises at apartment complexes that stop as soon as the police arrive and continue after the police leave and asked how the proposed Ordinance will address the enforcement. Assistant City Attorney Connelly noted that chronic noise complaints may require repeat police visits to educate residents about what noise levels are acceptable and unacceptable outside of their own units. Mr. Peixoto said that noise levels seem disparate for apartment, single family home, and condominium dwellings. Ms. Connelly said that the City does not have a sound level meter and is currently using industry standards that may need to be adjusted in the future. Mr. Peixoto asked if enforcement would be facilitated if a complainant obtains the vehicle license number of loud vehicle stereos. Ms. Connelly replied that the City is trying to balance concerns about anonymity and retaliation with the ability to prove there was a violation. City Manager David noted that multiple complaints to an officer about the same vehicle would justify taking Police staff time to address the complaint.

Council Member Henson noted the proposed Ordinance shows progress and emphasized the fear of retaliation with noise issues. Mr. Henson favored a multi-pronged approach to address noise issues. He expressed concern that the use of standard decibel measures on an A-weighted scale (dBA) monitor equipment does not measure sound vibrations and suggested that the City obtain decibel



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and pressure level monitoring equipment that can be shared throughout the City. Mr. Henson suggested that the State Vehicle Code needs to be revised to sustain digital technology. He noted that if the noise is clearly heard at a relatively short distance, then it is loud. Mr. Henson noted that enforcement is important in addressing noise issues and noted that it can lead to other problems if not addressed.

Council Member Zermeño favored improving the proposed Ordinance and expressed confidence that more can be contributed during the public hearing. Mr. Zermeño shared that he is not bothered by loud noises, but supported quiet time from 7:00 p.m. to 7:00 a.m., and agreed that permits should be obtained for events. Mr. Zermeño cautioned to not let residents believe that noise issues are too of a high priority for Police.

In response to Council Member Salinas' inquiry about noise citations, City Manager David responded that over the span of four years approximately five to ten citations have been written. Mr. Salinas noted that the reporting element could also be subjective and suggested a program be setup to educate the community on noise documentation. Mr. Salinas expressed concern about the ability to enforce the proposed Ordinance.

Council Member Quirk indicated no objection to amending and improving the Ordinance, but questioned how much it would change things. Mr. Quirk acknowledged the concerns expressed by the speakers that obtaining two complainants to agree to appear as witnesses at trial could be difficult to accomplish. Mr. Quirk noted that technology should be researched as a tool to help with enforcement. He added that when there are multiple complaints, there should be a system in place where a monitoring device can track and document noise occurrences and levels. Mr. Quirk stated that complaint-driven noise violations for vehicles is not practical and suggested staff consider how the proposed Ordinance can be enforced. Mr. Quirk inquired if Mr. Bousian's concerns had been addressed and Mayor Sweeney suggested that staff obtain monitors and test them within the community to see if the proposed Ordinance would resolve Mr. Bousian's concerns.

Council Member Halliday indicated that noise issues are a matter of consideration and flexibility. Ms. Halliday hoped that the proposed Ordinance would give the Police Department tools for enforcement and that the criteria not be too subjective. She supported a permit process that was simple and conditional noise permit fees that were not excessive. Ms. Halliday concurred with Mayor Sweeney and questioned a citation being triggered by two complaints as opposed to one complaint for a serious noise situation. In response to Ms. Halliday's question about the noisy motor scooters being legal, Assistant City Attorney Conneely said the scooters will need to be researched and thought that the State had recently passed regulation regarding noisy motorcycle exhaust pipes. Ms. Halliday commented on the need to be flexible, but also address the worse offenders.

Council Member Salinas suggested that user-friendly information be placed on the City's website to document unreasonable noise. Assistant City Attorney Conneely noted that the City uses the

ACCESS Hayward service online for noisy animal complaints and thanked Mr. Salinas for his suggestion.

In response to Council Member Henson's question regarding next steps, City Attorney Lawson responded that if Council gave staff direction to come back with an introduction of an Ordinance, staff would convene a community meeting and document concerns before the holidays and then present a staff report with an introduction of an Ordinance to Council in January 2011. Mr. Henson suggested that staff first research obtaining a correctly calibrated noise monitoring device.

Mayor Sweeney noted there was consensus to move forward with the proposed amendments to the Ordinance and to protect citizens, who initiate complaints, from retaliation. Mayor Sweeney said staff needs to review if the complaint of unreasonable noise process can be simplified for citizens, including not requiring two complaints for every citation. He added there were also concerns involving enforcement of loud vehicles. Mayor Sweeney noted there is a desire to obtain noise monitoring devices and to test the devices in the community. Mayor Sweeney noted that City Attorney Lawson would be meeting with the speakers to address their concerns.

Consent item three was removed to allow for public comment and item eight was removed for further discussion.

## **CONSENT**

### **2. Approval of Minutes of the Special City Council/Housing Authority/Redevelopment Agency Meeting on October 12, 2010**

It was moved by Council/HA/RA Member Henson, seconded by Council/HA/RA Member Halliday, and carried unanimously, to approve the minutes of the Special City Council/Housing Authority/Redevelopment Agency Meeting of October 12, 2010.

### **3. Adoption of Ordinance Amending Section 5-6.02(e) and Deleting Section 5-6.05 of Chapter 5, Article 6 of the Hayward Municipal Code Regarding the Use of Tobacco Products In or Around Public Places in the City of Hayward**

Staff report submitted by City Clerk Lens, dated October 26, 2010, was filed.

Mr. Jesse Garrett, Community Prevention of Alcohol Related Problems (COMPREE) Prevention Specialist, thanked Council for maintaining the strength of the Ordinance as written. Mr. Garrett reiterated COMPREE's importance in working closely with the business community.

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

Ordinance 10-13, "Ordinance Amending Section 5-6.02(e) and Deleting Section 5-6.05 of Chapter 5, Article 6 of the Hayward Municipal Code Regarding the Use of Tobacco Products in or Around Public Places in the City of Hayward"



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4. Centennial Hall Building Deconstruction: Award of Addendum, Award of Contract and Appropriation of Funds

Staff report submitted by Deputy Director of Public Works Fakhrai, dated October 26, 2010, was filed.

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

Resolution 10-160, "Resolution Approving Addendum No. 1 for the Centennial Hall Building Deconstruction Project, Project No. 6993, Rejecting the Bid Protest, and Awarding the Contract to Randazzo Enterprises, Inc."

Resolution 10-161, "Resolution Amending Resolution 10-083, As Amended; The Budget Resolution for Fiscal Year 2011, and Resolution 10-084, As Amended, the Capital Improvement Program Budget Resolution for Fiscal Year 2011, Relating to a Transfer of Funds from the General Fund Reserve for the New City Hotel Conference Center to the Capital Improvement Fund for the Centennial Hall Building Deconstruction Project, Project No. 6993"

5. Underground District No. 29 for Mission Boulevard from A Street to the City Limit and Underground District No. 30 for Mission Boulevard from 700 Feet South of Arrowhead Way to the City Limit: Resolution of Intent to Establish

Staff report submitted by Deputy Director of Public Works Fakhrai, dated October 26, 2010, was filed.

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

Resolution 10-162, "Resolution of Intention to Consider the Establishment of Underground District No. 29 – Mission Boulevard from a Street to the City Limit and Setting a Time and Place for the Public Hearing"

Resolution 10-163, "Resolution of Intention to Consider the Establishment of Underground District No. 30 – Mission Boulevard from 700 Feet South of Arrowhead Way to the City Limit and Setting a Time and Place for the Public Hearing"

6. Authorization to Renew a Rental Housing Subsidy Grant Agreement with ABODE Services to Provide Rental Assistance to Emancipated Youth Through “Project Independence” and to Utilize HOME Funds for that Purpose

Staff report submitted by Housing Development Specialist Cortez, dated October 26, 2010, was filed.

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

Resolution 10-164, “Resolution Authorizing the Use of Home Funds for Rental Assistance to Emancipated Youth through Abode Services’ Project Independence and Authorizing the City Manager to Negotiate and Execute the Regulatory/Rental Housing Subsidy Grant Agreement and Related Documents”

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

Staff report submitted by Director of Finance Auker, dated October 26, 2010, was filed.

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

Redevelopment Resolution 10-18, “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, Housing, and Public Facilities”

Redevelopment Resolution 10-19, “Resolution Amending Resolution RA 10-11, As Amended, the Budget Resolution for Fiscal Year 2011 Relating to an Appropriation of Funds from the Redevelopment Agency’s Low and Moderate Income Housing Fund, Fund 452”

Resolution 10-165, “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 Public Safety, Economic Development, Library Services, and Public Facilities”



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8. Revisions to the Council Member Handbook

This report was removed for further discussion with an option for the new Council Appointed Officers Committee to review the item.

9. Paperless Agenda Packets

Staff report submitted by City Clerk Lens, dated October 26, 2010, was filed.

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

Resolution 10-166, "Resolution Authorizing the City Clerk to Proceed with the Conversion of Agenda Packets to Paperless Agenda Packets and to Procure iPads"

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

Council Member Halliday noted that on October 31, 2010, service changes go into effect on many Alameda County/Contra Costa (AC) Transit lines. She noted that the service change will affect the bus route to Southland Mall and encouraged folks to contact/visit the AC Transit Website for more information.

**ADJOURNMENT**

Mayor/Chair Sweeney adjourned the meeting at 8:17 p.m., in memory of Mr. Cyril C. Nicholson, Sr., "Nick", a longtime Hayward resident, retired City employee, and the father of Finance staff member, Cheryl Amaral. Mr. Nicholson passed away October 21, 2010. Mayor Sweeney asked staff to contact Mr. Nicholson's family and find a suitable place to plant a tree in his memory.

**APPROVED:**

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

**ATTEST:**

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

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