



WS #2

DATE: September 16, 2008
TO: Mayor and City Council
FROM: Director of Community and Economic Development Department
SUBJECT: Proposed Green Building Ordinances for Private Development

RECOMMENDATION

That Council reviews and comments on this report and the attached draft green building ordinance for private development.

SUMMARY

Green building has moved to the forefront of public policy debate, especially given the concerns with the potentially catastrophic impacts of global climate change. The passage into law of Assembly Bill 32, which stipulates reduction of greenhouse gas emissions throughout California; the Western Climate Initiative, which is a collaborative effort by western US states and Canadian provinces to reduce greenhouse gas emissions; the West Coast Green Conference scheduled for late September in San Jose, and formation of a variety of green building rating systems, such as the GreenPoint Rating system by Build It Green in Berkeley and Leadership in Energy and Environmental Design (LEED), currently managed by the US Green Building Council in Washington, are specific examples that show how such issues have become top policy priority. Incorporating green building into private developments will help ensure that projects use less energy, conserve water and natural resources, provide healthy indoor spaces, and reduce reliance on the automobile.

In response to such goals, the Council Sustainability Committee has recommended that the City Council consider adoption of the attached green building ordinance for private developments that will require green building measures be incorporated into new private development projects.

Staff is recommending that an established green building rating system for residential development that involves independent third party raters and is supported by both the Northern California Homebuilders Association and the Association of Bay Area Governments, called GreenPoint Rated, be required for new residential projects, and encouraged for more significant residential remodels and additions. Specifically, City staff is recommending that all new residential and mixed use projects be required to be GreenPoint Rated, and residential remodels and additions entailing more

than 500 square feet be encouraged to become GreenPoint Rated, or incorporate as many green building checklist measures as possible. Acquiring GreenPoint Rating will ensure that green building measures are incorporated into new residential projects, and confirmed by a certified, independent third party rater.

For new non-residential private projects and non-residential additions and remodels consisting of more than 1,000 square feet, staff is recommending that projects incorporate green building measures by obtaining a minimum 20 point score utilizing LEED checklists, and that such measures identified on the checklists be verified as being incorporated into projects by City of Hayward plan checkers and inspectors. Actual LEED certification will not be required under staff's recommendation.

A matrix is included as Exhibit A that summarizes the recommendations of the Council Sustainability Committee and staff, and shows the anticipated City Council hearing dates and the date standards are recommended to be mandatory (July 1, 2009).

BACKGROUND

During the last several months, staff has provided the Council Sustainability Committee a great deal of information related to development of green building ordinances for both municipal and private development in Hayward.

The City Council is expected to adopt an ordinance on September 16 for municipal projects that requires that such projects be required to be LEED Silver Certified. The attached matrix (Exhibit A) also summarizes the provisions of the Municipal Green Building Ordinance.

This report and work session involve a proposed green building ordinance for private developments. Key points associated with discussions during the last several months with the Council Sustainability Committee have been whether to make green building measures voluntary or mandatory, and what system to utilize to ensure such measures are incorporated. Information related to such issues is included in the Discussion section of this report.

At its July 2 meeting, the Sustainability Committee recommended that the Council adopt the attached ordinance, and was supportive of allowing a transition period until July of 2009, when standards would become mandatory. This schedule will give staff and the development community time to become familiar with the GreenPoint Rating system and LEED checklists (see draft meeting minutes attached as Exhibit B).

What is Green Building?

Green building is a holistic approach that incorporates green building measures and techniques into construction. Green buildings are sited, designed, constructed, and operated to enhance the well-being of their occupants and support a healthy community and natural environment. In practical terms, green building is a "whole-systems" approach to building that includes:

- Designing for livable communities
- Using sun and site to the building's advantage for natural heating, cooling, and daylighting
- Landscaping with native, drought-resistant plants and water-efficient practices

- Building quality, durable structures
- Reducing and recycling construction and demolition waste
- Insulating well and ventilating appropriately
- Incorporating durable, salvaged, recycled, and sustainably harvested materials
- Using healthy products and building practices
- Using energy-efficient and water-saving appliances, fixtures and technologies

When implemented holistically, these strategies serve to preserve our environment for future generations by conserving natural resources and protecting air and water quality. They provide benefits for us today by increasing comfort and well-being, and helping to maintain healthy air quality. Finally, green building strategies reduce maintenance and replacement costs, reduce utility bills and lower the cost of home ownership, while also increasing property and resale values.

What is the GreenPoint Rating System?

The GreenPoint Rating System is a system that may be used to ensure green building measures are incorporated into residential construction projects. Currently, there are three GreenPoint Rating systems, each with separate guidelines and checklists: New Home Construction (for single-family homes), Multi-Family (for multi-family units) and Existing Homes (for remodels and additions).

At the heart of the GreenPoint Rated program are Certified GreenPoint Raters--the people who evaluate each home to ensure it meets the program's standards for high performance. Build It Green, who oversees the GreenPoint Rated program (see discussion below), will amend its GreenPoint Rating checklists and systems, to reflect revisions in law (State's Green Building Ordinance and Title 24 Energy standards, etc.), and trends and practices in the building industry. Recent discussions with Build it Green staff indicate that although the checklist requirements will need to be increased to be in step with changes in the State's energy code, the specific amount that they will need to be changed has yet to be determined.

A GreenPoint Rated home is graded on five categories: energy efficiency, resource conservation, indoor air quality, water conservation, and community. If the home meets minimum point requirements in each category, and scores at least 50 points as verified by a Certified GreenPoint Rater, it earns the right to bear the GreenPoint Rated label. It also provides a numerical score, which allows buyers to evaluate and compare the environmental performance of different homes.

The GreenPoint Rating System is a system developed by Build It Green. Build It Green is a non-profit membership organization whose mission is to promote healthy, energy- and resource-efficient building practices in California. The organization works with mainstream stakeholders in the housing industry to accelerate the adoption of green building practices, and its short-term goal is to facilitate the greening of 10,000 housing units by the end of 2008. Earlier this year, the Homebuilders Association of Northern California endorsed Build It Green's GreenPoint Rating System. Also, on July 17, 2008, the Association of Bay Area Governments (ABAG) Executive Board endorsed GreenPoint Rated as a verification system for residential projects and encourages the rapid adoption of Green Building Programs by Bay Area cities and counties.

Build It Green also offers training courses and certification programs where interested parties can become certified GreenPoint raters. Build It Green's website currently shows that there are

nearly 160 certified raters in the Bay Area, and with continued training, the number of certified raters will increase. Currently, one Building Division staff member is a new home certified rater and two staff members are certified green building officials. Three Planning Division staff members are certified green building officials. The higher certification level of a rater involves a week long training program through Build It Green. As budget and staff resources allow, additional staff rater training is anticipated, to allow staff to become familiar with the certification/rating process. However, it should be noted that obtaining GreenPoint rating, which staff is recommending, involves verification that green building measures are incorporated by an independent, third party rater, who would be hired by the developer.

Fees to Build It Green cover the cost to review, process, quality assure the application, and final checklist. It also covers processing of the certificate for the homeowner. The application fee per project is \$400, the processing and certificate fee is \$100 per home or \$100 per project, the certificate fee is \$10 for each additional certificate, and the pre-construction review is \$350 per project. The Fees for conducting a home rating are negotiated directly between the GreenPoint Rater and client. While every project is unique, surveys show that basic rating fees (excluding consultation and travel) typically range from \$700 - \$1,500 for a single-family home or \$3,750 - \$6,000 for a 30-unit subdivision or multi-family project, and can be as high as \$5,000 for residential additions. Also, additional initial costs for green building materials and products are incurred (see later discussion on this topic).

The current checklists for New Construction, Multi-Family Development and Existing Homes are included as exhibits. Checklists and guidelines are revised periodically, such as the most current Multi-Family Guidelines, which were released in May of this year. The attached ordinance does not specify specific checklist and guidelines versions, since the most current checklist and guidelines from Build It Green will be the ones in effect at time of permit application submittals. A summary of each checklist and checklist point thresholds that projects must meet to be GreenPoint Rated follows.

New Home (Single-Family) Construction (Exhibit C, checklist)

In order for a new home to be GreenPoint Rated, it must:

- earn a total of at least 50 points on the checklist;
- earn a minimum total of points for each category as noted: Energy (30 of possible 193), Indoor Air Quality/Health (5 of possible 51), Resources (6 of 103), and Water (9 of 71);
- meet three prerequisites: incorporate 50% construction waste diversion [Hayward's current practice is to ensure such diversion occurs, and for 2006, 65% diversion occurred, with a goal of reaching 75% diversion by 2010], exceed Title 24 energy standards by 15%, and incorporate Green Points checklist in blueprints; and
- have an independent third party certified rater verify that identified measures have been incorporated into the project.

The attached checklist shows how each checklist item, sorted by project component, applies to five categories. A proponent, once meeting the three prerequisites, may choose from a variety of checklist items, provided the minimum total of points for four categories as noted in the second bullet above, is achieved.

Multi-Family Construction (Exhibit D, checklist)

Although the new version of the Multi-Family Green Building Guidelines was adopted in May of this year, the accompanying checklist has not been released, but will be released in the near future. According to the Build It Green website, the revised Guidelines indicate that “measures have been thoroughly revised and updated to reflect the current state of the green building industry.” A minimum threshold of 50 points total will still be required in order for a project to be GreenPoint Rated.

According to the current checklist, in order for a multi-family project to be GreenPoint Rated, it must:

- earn a total of at least 50 points on the checklist;
- earn a minimum total of points for each category as noted: Community (6 of 60 possible), Energy (30 of possible 60), Indoor Air Quality/Health (5 of possible 24), Resources (6 of 64), and Water (3 of 38);
- meet four pre-requisites: incorporate 50% construction waste diversion, exceed Title 24 energy standards by 15%, have a 3-year subcontractor guarantee and 20-year manufacturer warranty for shingle roofing, and incorporate Green Points checklist in blueprints;
- have an independent third party certified rater verify that identified measures have been incorporated into the project.

The attached checklist shows how each checklist item, sorted by project component, applies to five categories. A proponent, once meeting the three prerequisites, may choose from a variety of checklist items, provided the minimum total of points for five categories is achieved, as noted in the second bullet above.

Existing Homes Construction (Exhibit E, checklist)

Build It Green began its GreenPoint Rating system for Existing Homes in July. Two rating levels are included as part of the system:

1. an *Elements* label for homes that meet basic requirements in four categories and are on track to make additional improvements over time (25 minimum points total required, with minimum thresholds for Energy Efficiency (8 of 86 points), Indoor Air Quality (2 of 42 points), Resource Conservation (2 of 75 points), and Water Conservation (4 of 38 points)), and
2. a *Whole House* label is awarded to homes to which comprehensive green improvements have been made (50 minimum points total required, with minimum thresholds for Energy Efficiency (20 of 86 points), Indoor Air Quality (5 of 42 points), Resource Conservation (6 of 75 points), and Water Conservation (8 of 38 points)).

Because remodeling projects vary so widely in scope, and because this is a new system that was just recently made available to the public, staff is recommending that remodel or addition projects entailing more than 500 square feet only be encouraged to be GreenPoint Rated, or incorporate as many measures as possible. Also, as expressed by individuals involved in the pilot program for this system at a workshop attended by some of Building Division staff during the week of June 13, concerns have been expressed about the relative costs associated with obtaining GreenPoint Rating,

given the time required of raters to assess basic components of existing homes in order to meet minimum thresholds.

Staff will assess the system over the next several months and plans to provide the Sustainability Committee and City Council with additional information in the future, which may lead to requiring construction on existing homes to be mandatory GreenPoint Rated. Build It Green recommends that GreenPoint Rating for Existing Homes be voluntary only at this time.

What is LEED (Leadership in Energy and Environmental Design)?

Staff is recommending that new or substantial non-residential remodels and additions be required to meet a minimum LEED checklist score of 20 points, to be verified by City staff. Having in-house verification eliminates the typical LEED certification process that requires registering projects and having an independent third party rater verify that LEED checklist items have been incorporated. Having in-house verification reduces costs to a developer.

LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health, similar to the GreenPoint Rating system: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. There are a variety of checklists, depending on project type, with the most common checklists being:

1. LEED-NC – (new construction) (Exhibit F)
2. LEED-EB – (existing building)
3. LEED-CI – (commercial interior)
4. LEED-CS – (core and shell)

Staff's recommendation and the proposed ordinance would require that not only will certain projects need to score at least 20 points on the applicable checklist, but they will also need to incorporate the pre-requisites stated in the checklists.

Involving Development Community

On Friday, April 18th, a meeting was held to inform builders and developers in the Hayward Community of the proposed Green Building Ordinance. There were three major concerns voiced by the participants: voluntary versus mandatory compliance, process and time added for plan review, and costs of compliance to developers, Hayward homeowners, and to the small builders.

As an outcome of that first April meeting, a group comprised of volunteer members of the development community, called the Green Building Review Committee, met on May 27. During that meeting, the Committee encouraged using Build It Green's GreenPoint Rating system if the City was inclined to use a green building system, opined that standards not be mandatory, and encouraged using consistent standards in jurisdictions throughout the region. Members also expressed an opinion that density bonus and parking exceptions may not be sufficient incentive to encourage green building, and that other forms of market incentives should be investigated and researched, and that whatever ordinance the City determined to be appropriate should be well thought out, and consistent with the ordinances of other jurisdictions.

A second meeting was held on June 24 with the Committee, which provided feedback on the draft green building ordinance, most of which has been incorporated into the attached draft ordinance. Members again encouraged voluntary compliance, rather than mandatory compliance, and supported staff's recommendation to not require compliance until July 1 of next calendar year. Some attendees did not want the City to rely on updated GreenPoint Rating checklists, but the current ones, due to concerns of requiring increased standards for building green.

DISCUSSION

The Council Sustainability Committee and staff are recommending requiring mandatory green building standards for private projects. However, as discussed later, staff is also recommending that the provisions of the ordinance not become effective until July 1, 2009, to allow City staff and the development community a transition period to become familiar with the requirements and processes, and to allow sufficient time to process a request through the State to exceed State Building Code, and Energy Efficiency standards.

Private Green Building Ordinance (draft attached)

As summarized in the attached matrix, staff is recommending using the GreenPoint Rating system for all residential projects that exceed 500 square feet in size, and utilizing the LEED checklist and in-house verification for all non-residential projects that exceed 1,000 square feet in area. Such thresholds are recommended to eliminate the burden on contractors and homeowners for minor projects. Certain exemptions are provided, such as for historical buildings, for typical maintenance and repair (e.g., reroofs, termite repair, etc.), for projects under \$50,000 whose proponents can demonstrate to the satisfaction of the Building Official an economic hardship (green building measures exceed 20% of construction costs), etc.

The real challenge to cities in developing green building measures in California relates to non-residential construction. Although LEED provides such a system, unlike the GreenPoint rating system, LEED certification is not designed to be accessible to most builders, and is quite costly. Also, utilizing the LEED checklist and establishing a minimum point score does not guarantee that the most desired green building measures will be incorporated, such as those that emphasize energy efficiency, and water conservation. Because of this shortcoming, staff will continue to conduct research, and anticipates developing a custom checklist system that goes beyond LEED checklists that focuses on certain desired measures, and anticipates presenting such information to the Council in the first half of next year, at which time the Council may choose to amend the adopted ordinance in place.

Requirements for Mandating Green Building Measures that Exceed State Standards

Current State law indicates that in order to mandate green building measures that exceed State Title 24 Energy Efficiency Standards, approval from the California Energy Commission is required. Such process entails filing a cost effectiveness study with the Commission that justifies such higher standards, which is a process that typically takes 6 to 9 months. Stopwaste.org is preparing such study that can be used by its member agencies. If mandated, the GreenPoint Rated and LEED Rating systems would require such filings and determinations. The release of new 2008 Title 24 Energy Standards by the Energy Commission is anticipated to be released in early summer of 2009.

The Energy Commission will need to approve the standards proposed that exceed State energy standards prior to them becoming mandatory.

Also, Assembly Bill 2939 (Hancock) is supported by StopWaste.org, and was recently substantially amended to address concerns expressed by the Governor's office. It has been passed and has been forwarded to the Governor for signature. The bill in its final form would require municipalities that mandate exceeding the State's Green Building Standards Code to file certain findings with the Building Standards Commission related to environmental conditions, costs and affordability (versus previous bill language that related specifically to local climatic, geological or topographical conditions). Such process would allow Hayward to adopt green building standards that complement the California Green Building Standards Code.

By delaying the effective date whereby standards outlined in the ordinances would be mandatory, the City will have time to file a study with, and receive a decision from, the California Energy Commission, and to file findings with the Building Standards Commission, and allow time for AB 2939 to be signed into law.

Incentives

Staff has also researched ways the City could provide incentives to further encourage incorporation of green building measures. The Northern California Homebuilders Association (NCHBA) feels that, because Hayward has a relatively streamlined permit processing system, "priority processing" doesn't offer much incentive to the building community. Also, during the housing downturn, it is unlikely that a large amount of building and construction will take place. Instead, NCHBA is requesting that Hayward look at some of the measures which are being considered in Modesto, which are:

1. Allow home builders to pay capital improvement fees when someone moves into a house instead of when the developer pulls a building permit. Building advocates said it would help developers kick-start their plans because they won't need as much money upfront, and indicate that cities can return to charging builders such fees at permit issuance when the market rebounds.

Assembly Bill 2604 was recently passed, which allows local agencies to defer collection of developer fees up to the close of escrow, excluding school impact fees. Several cities throughout the State have adopted such provisions, to assist developers during these slow economic times (see Exhibit G). Should the City Council wish to incorporate such provisions as an incentive to encourage green building measures, staff will provide more information at a subsequent hearing. Staff would recommend that incentives be tied to going beyond the minimum green building requirements, such as scoring a certain percent above 50 points on the GreenPoint Rated checklists, etc.

2. Extend building entitlements by one year for subdivisions the council has approved. This means builders who are sitting on projects won't have to pay increased city fees when they start their plans. It dovetails with a new state law (SB 1185) that gives builders three years to move on their projects instead of two years.
3. Continue to defer or waive certain fees for "very-low- income" and "low-income" housing.

Modesto has policies that allow affordable housing projects to get some fee exemptions. This proposal cleans up that process and affirms that Modesto will continue to offer the breaks.

4. Defer or waive certain impact fees for shelters or temporary housing.

Staff is prepared to research additional incentive measures, as directed by Council.

What are other Cities doing in terms of green building requirements?

In terms of what other cities are requiring, none of the South Alameda County jurisdictions, including Alameda County, have residential or non-residential mandatory green building standards for private development. However, some agencies are considering adopting such standards. Staff has reviewed the ordinances of other jurisdictions and Livermore, Santa Rosa, and Pasadena do not have mandatory LEED certification provisions. They have varying forms of less-than-complete LEED compliance, and utilize an internal certification system. Although staffs in those jurisdictions use LEED checklists, the result of such systems is often less than desirable, since the least effective green building measures, or measures that are already required, are sometimes utilized by proponents to achieve minimum point scores. For example, as reflected on page 3 of the attached LEED New Construction Checklist (Exhibit F), Credit 2.1 under *Materials and Resources*, a point may be achieved if 50% of waste material is diverted from the landfill. The City of Hayward already has an ordinance in place that requires such diversion for projects that exceed \$75,000 in valuation.

As some Council members may know, San Francisco recently adopted a green building ordinance that mandates compliance with certain green building measures. Covered projects in the San Francisco ordinance include new residential buildings, commercial buildings that are 5,000 gross square feet or more, new first-time build-outs of commercial interiors that are 25,000 gross square feet or more, and major alterations that are 25,000 gross square feet or more in existing buildings. San Francisco's ordinance requirements are structured to be phased in, meaning standards increase over time. Also, most standards entail use of GreenPoint or LEED checklists, but involve in-house verification. The San Francisco ordinance also includes several provisions related to historic structures, including enhanced green building measures for new projects that result in the removal of historic structures.

FISCAL IMPACT

The fiscal impacts to the City and to builders associated with adoption of the proposed ordinance have not yet been fully measured, which is one of the major reasons for recommending that there be a voluntary time period before the green building ordinance provisions become mandatory.

Additional staff time that will be required for plan review and inspections associated with non-residential private developments are roughly estimated to be eight additional hours, on average, per project; though the staff time required will depend on the size, and scope of the project. The recommended new fees for Planning and Building incorporate such anticipated review time.

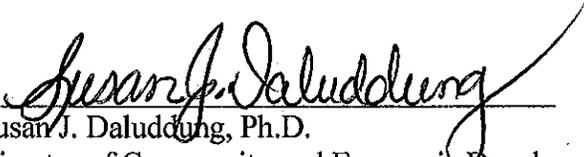
In terms of costs to the development community, rough costs associated with complying with the GreenPoint Rating and LEED systems were identified earlier in this staff report under the Background section. However, determining what additional costs would be borne associated with

buying green building materials, is more difficult to do. For larger projects, the added cost of providing green materials is relatively small.

NEXT STEPS

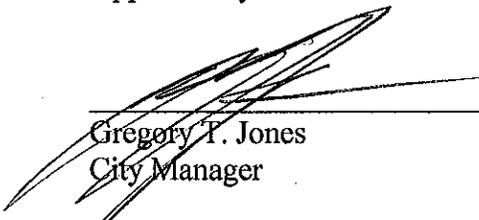
Staff will incorporate comments and direction from City Council and present a revised ordinance for consideration in October.

Prepared by:



Susan J. Daluddung, Ph.D.
Director of Community and Economic Development

Approved by:



Gregory T. Jones
City Manager

Attachments:

- Exhibit A: Matrix Summarizing Staff Recommendations
- Exhibit B: Draft July 2, 2008 Meeting Minutes of the Council Sustainability Committee
- Exhibit C: Single-Family GreenPoint Checklist
- Exhibit D: Multi-Family GreenPoint Checklist
- Exhibit E: Existing Homes GreenPoint Checklist
- Exhibit F: LEED – NC (New Construction) Checklist
- Exhibit G: Fee Deferral Matrix
- Exhibit H: Private Green Building Ordinance (Draft)

**SUMMARY OF REQUIREMENTS OF RECOMMENDED
PRIVATE DEVELOPMENT GREEN BUILDING ORDINANCE**

Project Type	Staff's Recommendation for Green Building Standards	Anticipated City Council Meeting Dates	Anticipated Dates Provisions Would be Mandatory
New Single-Family Residential (detached and duplex units)	GreenPoint Rated Required (entails a third party rating/certification system that utilizes <i>Build It Green's</i> New Construction GreenPoint Checklist (currently 50 points minimum) for Single-Family Development)	9/16/08 – Work Session 10/21/08 – Introduce Ordinance 10/28/08 – Adopt Ordinance	7/1/2009
New Multi-Family Residential and Mixed Use Development (more than two units per structure)	GreenPoint Rated Required (entails a third party rating/certification system that utilizes <i>Build It Green's</i> Multi-Family GreenPoint Checklist (currently 50 points minimum) for Multi-Family Development)	9/16/08 – Work Session 10/21/08 – Introduce Ordinance 10/28/08 – Adopt Ordinance	7/1/2009
Residential Remodels and Additions (applicable to projects entailing more than 500 square feet)	GreenPoint Rated Encouraged (entails a third party rating/certification system that utilizes <i>Build It Green's</i> Existing Homes GreenPoint Checklist) <i>Note: This new rating system was started in July of 2008.</i>	9/16/08 – Work Session 10/21/08 – Introduce Ordinance 10/28/08 – Adopt Ordinance	-----
Non-Residential (applicable to new building construction, and tenant improvements and additions entailing more than 1,000 square feet)	Minimum score of 20 Points on Applicable LEED Checklist (entails use of LEED checklists and in-house verification by City of Hayward staff)	9/16/08 – Work Session 10/21/08 – Introduce Ordinance 10/28/08 – Adopt Ordinance	7/1/2009
Municipal Projects - Major (all new building or renovation projects that exceed \$5 million in construction costs or 20,000 square feet in area and are either owned or occupied by the City or Redevelopment Agency, or developed as a Public/Private Partnership ¹)	LEED Silver Certification Required (entails a third party rating/certification system utilizing LEED checklists) and all LEED checklist items for water conservation and energy efficiency to be incorporated	7/29/08 – Introduce Ordinance 9/16/08 – Adopt Ordinance	10/16/08
Municipal Projects - Minor (all other new building or renovation municipal projects that are less than or equal to \$5 million and 20,000 square feet)	Non-residential components: Minimum score of 20 Points on LEED Checklists Required (entails use of LEED checklists and in-house verification by City of Hayward staff) and all LEED checklist items for water conservation and energy efficiency to be incorporated	7/29/08 – Introduce Ordinance 9/16/08 – Adopt Ordinance	10/16/08

¹ "Public-Private Partnership" means any project built on City-owned or Redevelopment Agency-owned land, primarily funded by the City or Redevelopment Agency of Hayward, or built under a Disposition and Development Agreement with the Redevelopment Agency, and financially assisted by the Agency in a total amount of \$2,500,000 or greater in cash, land subsidies or improvements value.

CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING

Hayward City Hall – Conference Room 2A
777 B Street, Hayward, CA 94541-5007

July 2, 2008

4:30 p.m. – 6:00 p.m.

MEETING MINUTES

I. Call to Order-4:30 pm

II. Roll Call

Members:

- Michael Sweeney, Mayor
- Olden Henson, Councilmember
- Bill Quirk, Councilmember
- Rodney Loché, Planning Commissioner
- Julie McKillop, Planning Commissioner
- Al Mendall, Planning Commissioner

Staff:

- Greg Jones, City Manager
- Fran David, Assistant City Manager
- Susan Daluddung, Community and Economic Development Director
- Bob Bauman, Director of Public Works
- Tiffany Roberts, Planning Intern (Recorder)

Others:

- Doug Grandt, Volunteer and Resident
- Ron Reese, Balch Enterprises, Inc.
- David Stark, Bay East Association of REALTORS®
- Jim Wieder, Hayward Chamber of Commerce

III. Public Comments

David Stark thanked staff for outreach commenting that anything we can do together to encourage home ownership is welcome.

IV. Approval of Minutes of June 4, 2008-Approved noting additional comments by Doug Grandt

V. Green Building Ordinance – Discussion

Discussion of the Green Building Ordinance continued from last month's meeting.

David Rizk provided a brief overview of a matrix which contained recommendations for the municipal green building ordinance.

City Council Member Bill Quirk asked why StopWaste.org's new energy standard was not included. He recommended having maximum energy requirements, possibly 20% above Title 24. He posed the possibility of carbon neutrality, at least for municipal projects. He also recommended placing an emphasis on water efficiency, introducing ideas such as double piping and waterless urinals.

Commissioner McKillop followed up by suggesting a carbon neutral policy.

Commissioner Mendall echoed the statements of Council Member Quirk and added that he did not want to delay the implementation of an ordinance.

Council member Olden added that the language of the ordinance should indicate that there is not a ceiling placed on the requirements of the municipal ordinance. Rather if the City wished to go above and beyond LEED Silver, it may do so. For example, if the City would like to build a LEED Platinum building, nothing in the ordinance would prevent it from doing so.

Council Member Quirk indicated that the language should state that LEED Silver is the minimum requirement for municipal projects.

Mayor Sweeney recommended that the committee accept the municipal recommendations as a minimum and next discuss the recommendations for private new construction.

Commissioner Mendall commented that, for the most part, the recommendations for private new construction are good.

Commissioner Rodney Loché reminded the committee that it should also be looking at incentives.

Discussion ensued about requiring measures which go beyond Title 24 which would require an application to the California Energy Commission.

Mayor Sweeney stated that the committee could move forward with the Green Point Rating system for now and then in future, staff could return with recommendations on carbon neutrality.

Council Member Quirk pointed out that should bear in mind the cost implications of carbon neutrality.

David Rizk commented that this is an evolving process and that the City won't be able to produce a "perfect" ordinance, therefore making it necessary to include in the ordinance language which calls for periodic review in order to ensure that the ordinance remains current.

Mayor Sweeney agreed adding that the City should be looking at ways to make energy efficiency and solar installation as easy as possible citing Berkeley's solar program.

The group agreed that these types of measures could be evaluated in the future.

Commissioner Mendall commented that he liked that in-house verification component of the ordinance stating that it seems practical and straight forward.

Commissioner McKillop questioned the cost to staff in term of time.

David Rizk stated that he estimates approximately 8 hours of additional time will be needed for each project.

Council Member Quirk asked if it makes sense to look for maximum energy conservation from big box stores and warehouses.

Ron Reese indicated that unconditioned structures such as these have some exceptions in terms of Title 24, however their lighting must comply.

Mayor Sweeney asked the group if everyone is in agreement that residential remodels not be required to comply, rather that they only be encouraged. The committee agreed, emphasizing that the more incentives that the City could provide, the better. He stated that the committee seems to be at a consensus on staff's recommendations, language about an annual review should be included in the ordinance, and in the future the committee could look further into greater energy and water efficiency measures. He then recommended that the committee move the ordinance forward to a council work session on September 16th.

- VI. Next Meeting: September 3, 2008 – Climate Action Plan and Bay Friendly Landscaping.
- VII. Adjournment – 6:03 p.m.

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

**Local Impact Fee Deferral
Matrix
8-15-08**

Fees Deferred		Date Deferral Ordinance Became Effective	Date Deferral Ordinance Expires (if any)	Fee Payment Deferred Until	Bonding or Letter of Credit Requirements	Other Conditions (if any)
County of Fresno	<ul style="list-style-type: none"> • Fire Facilities • Police Facilities • Parks Capital • Quimby Parkland • Traffic Signal • Major Street • Community Sanitation <p>Total deferred - \$11,856</p>	2002	None	Upon Certificate of Occupancy	NO	
City of Clovis	<ul style="list-style-type: none"> • Fire Facilities • Police Facilities • Parks Capital • Traffic Signal • Major Street • Community Sanitation • Underground Utilities <p>Total deferred - \$15,601</p>	1998	None	Upon close of escrow.	NO	
Imperial County						
County of Imperial	<ul style="list-style-type: none"> • General Government; SF \$1,699, MF \$977 • Sheriff; SF \$936, MF \$727 • Parks and Recreation; SF & MF \$452 • Fire; SF \$1,273, MF \$977 • Public Works; SF \$1,894, MF \$1,453 <p>Total deferral: SF \$6,254, MF \$4,933</p>	Approved	12 months w/ possible 12 month extension	At application for Certificate of Occupancy/ Final Inspection	NO	

County of Madera	Street Impact Fees	2000	None	Upon Certificate of Occupancy	NO	
City of Madera	<ul style="list-style-type: none"> • Park Facilities • Street Impact • Traffic Signal 	2001	None	Upon Certificate of Occupancy	NO	
City of Irvine	<ul style="list-style-type: none"> • System Development Charges • IBC Development Impact Fees • Park Fees • Street Slurry Seal Fees • Affordable Housing In-Lieu Fees <p>Total deferral - Up to \$33,000 per unit</p>	Approved	12 months	Final inspection or Certificate of Occupancy, whichever is sooner	NO	
City of Santa Ana	Up to 10K per unit deferred to C of O	Pending				
City of Mission Viejo	Permanent deferral of all DIF's	Approved	None			
County of Orange	Impact Fees – does NOT include Police or Fire	Approved	None	Upon issue of Certificate of Occupancy	NO	
City of Orange	<ul style="list-style-type: none"> • Police facility fee • Park impact fees • Library impact fees • Fire protection facility impact fees • Transportation systems improvement program fees • Quimby park fees <p>Total deferral - Up to \$13k per unit</p>	Approved	None	Upon issue of Certificate of Occupancy	NO	
City of Anaheim	<ul style="list-style-type: none"> • Parks • Electrical Service fee • Drainage fee • Signal impact fee • Traffic and Roads impact fee <p>Total deferral - Up to \$10k per unit differed</p>	Approved	None	Upon issue of Certificate of Occupancy	NO	

County of Riverside	Impact Fees		None	At application for Certificate of Occupancy/ Final Inspection		
	Deposit Based Fees for Transportation/Plan Check	16-Jan-08	None	Deposit prior to inspection 2% instead of 3 of construction cost - \$50,000 max. initial deposit		
	Deposit Based Fees for Transportation/Inspection Fees	16-Jan-08	None	Deposit prior to inspection 3% removed deposit for water and sewer construction costs - \$75,000 max. initial deposit		
Banning	<ul style="list-style-type: none"> • Administrative program processing fee • Development impact fee • Fire protection facilities fee • General facility and equipment fee • General plan • Park land fee • Police facilities fee • Solid waste facility and equipment fee • Traffic control facility fee • Water capital facilities fee 	5-Mar-08	12 months	Upon issue of Certificate of Occupancy		
Indio	Quimby Fees - \$2,193.75 per unit	19-Dec-07	None	From Map Application to Building permit		
Moreno Valley	Impact Fees - \$13,745	8-Jan-08	None	Upon issue of Certificate of Occupancy		
Palm Desert	Planning and Service Fee Increase	13-Dec-07	Six (6) months w/ possible extension	At submittal for service deposit based		

San Bernardino	<p>Total Deferral: Single Family Detached (SFD) – \$15,506.60 Single Family Attached (SFA) – \$10,997.20</p> <ul style="list-style-type: none"> • Law enforcement facilities, vehicles and equipment; SFD, \$535; SFA, \$474 • Fire suppression facilities, vehicles and equipment; SFD, \$663; SFA, \$818 • Regional circulation system; SFD, \$2,435; SFA, \$1,626 • Local circulation system; SFD, \$195; SFA, \$130 • Quimby Act Parkland and open space acquisition and park improvement; AB 1600 parkland and open space acquisition and park improvement; SFD, \$6,688; SFA, \$5,293 • Library facility and collection; SFD, \$534; SFA, \$423 • Public meeting facilities; SFD, \$765.60; SFA, \$605.60 • Aquatics facilities; SFD, \$273; SFA, \$216 • Storm Drain Development; SFD, \$3,418; SFA, \$1,411 	Pending	None	Upon issue of Certificate of Occupancy		
Victorville	<ul style="list-style-type: none"> • Roads, \$4,470.05 • Fire, \$328.81 • Police, \$139.07 • Parks, \$5,054.87 – Temp. Adjustment, \$0 • Facilities, \$1,334.35 – Temp. Adjustment, \$0 <p>DIF Fees dropped from \$11,300 to \$4,900 per unit</p>		Six (6) months w/ possible extension	Upon issue of Certificate of Occupancy		
Imperial County						
County of Tulare	<ul style="list-style-type: none"> • Law Enforcement • Fire • General Facilities • Streets • Water • Sewer • Storm Drainage • Parks & Recreation <p>Impact Fees - \$6,963 – \$9,155 per lot</p>	Mid-1990s	None	Upon issue of Certificate of Occupancy/Final Inspection		

City of Ventura	Impact Fees – Determined on a case by case basis	Approved	Six months w/ possible six month extension	Upon issue of Certificate of Occupancy		
City of Roseville	Total Deferral: \$30,092.43 Fees paid at Issuance of Building Permit <ul style="list-style-type: none"> • Fire Service Construction Tax, \$1,107.30 • Public Facilities Fee, \$2,821.50 • Regional Sewer Fee, \$5,815 • Local Sewer Fee, \$305 • Water Connection Fee, \$4,675 • Traffic Mitigation Fee, \$4,411.13 Development Agreement Fees <ul style="list-style-type: none"> • Water meter retrofit program, \$135 • Public Benefit Fee, \$1,280 • General fund contribution, \$1,060 • Traffic signal coordination fee, \$100 • South Placer animal control shelter fee, \$50 • Transit shuttle service tax, \$52.50 Other Fees <ul style="list-style-type: none"> • Electric direction installation fee, \$2,000 • Solid waste impact fee, \$410 	Approved	31-Dec-08	Close of Escrow \$258 permit processing fee	NO	
City of Lincoln	Fees deferred: Sewer Water CAT Drainage Community Services Fee Traffic Mitigation Dollar amount depends on location in the city. Could be as high as \$41,521.	Approved	Permanent	Certificate of Occupancy or up to 12 months following issuance of building permit, which ever occurs first.	NO	NO

City of Elk Grove	<ul style="list-style-type: none"> • Capital Facilities Fee • Affordable Housing Fee • Very Low-Income Housing Trust Fund Fee • Citywide Roadway Fee <p>\$18,595 for SF* \$11,931 for MF* *Total deferral may depend on project or part of the city.</p>	Approved	The Ordinance implementing the program will expire on June 30, 2010	Issuance of a Final Inspection; OR to the close of escrow OR to the maximum allowed deferral period (24 months) After this period, residential projects may apply for an extension (12 months at the discretion of the City Manager) during which interest will accrue.	NO	If deferred to close of escrow, the City must be the senior lien holder on the property.
City of Petaluma	DIF's with the exception of the water connection fee which is due at time of setting meter.	Approved	None	Final Inspection or Certificate of Occupancy	NO	
Yuba County	<ul style="list-style-type: none"> • Countywide Capital Facilities Fee; • Levee Impact Fee; • PLSP/KASA Road Improvement Fee; • PLSPNASA Park Improvement Fee; • ELSP Road Improvement Fee; • ELSP Park Improvement Fee; • Olivehurst Fire Impact Fee; and • Linda Fire Impact Fee. 	Pending	June 30, 2010	Final inspection.	NO	No deferral shall go beyond 18 months.
City of San Jose	Park Fees	2007	Varies	Payment of In-Lieu fees may be deferred under a parkland agreement to final inspection for the first certificate of occupancy associated with the use of a residential unit(s)		

HAYWARD CITY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE ADDING ARTICLE 22 TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE ESTABLISHING GREEN BUILDING REQUIREMENTS FOR PRIVATE DEVELOPMENT

SECTION 1. PURPOSE. The purpose of this Article is to promote the health, safety and welfare of Hayward residents, workers and visitors by minimizing the use and waste of energy, water and other natural resources in the construction and operation of the City's building stock and by providing a healthy indoor environment.

The green building practices required by this Article will encourage resource conservation, reduce waste generated by construction projects, increase energy efficiency and promote the health and productivity of residents, workers, and visitors of the City.

SECTION 2. FINDINGS. The City Council of the City of Hayward hereby finds that:

A. The design, construction, and maintenance of buildings and structures within the City can have a significant impact on the City's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of residents, workers, and visitors.

B. Green building design, construction, and operation can have a significant, positive effect on resource conservation, energy efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.

C. Green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products; extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition, and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved indoor air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production.

D. In recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides to green building practices.

Requiring commercial and new residential projects to incorporate green building measures is appropriate to help achieve the public health and welfare benefits of green building.

SECTION 3. The City of Hayward's Municipal Code is hereby amended to add Article 22 to Chapter 10 as follows:

“GREEN BUILDING REQUIREMENTS FOR PRIVATE DEVELOPMENT

SECTION 10- 22.100 TITLE. This Article shall be known and may be cited as the Private Development Green Building Ordinance of the City of Hayward.

SECTION 10-22.110 DEFINITIONS. For the purposes of this Article, certain terms are defined as follows:

- a. “Applicant” means any individual, firm, Limited Liability Company, association, partnership, political subdivision, government agency, industry, public or private corporation or any other entity that applies to the City of Hayward for permit(s) to construct a Project subject to the provisions of this Article.
- b. “Build It Green” is a non-profit membership organization which developed the GreenPoint Rating Systems for Residential and Mixed Use occupancies in order to promote sustainable buildings.
- c. “City” means the City of Hayward.
- d. “Commercial” means any building or space used for retail, industrial, office or other non-residential use.
- e. “Covered Project” means any privately funded construction project consisting of new construction, additions or remodels over 500 square feet for residential projects or 1,000 square feet for commercial projects, for which an application for a building permit is received after July 1, 2009.
- f. “Green building” means a whole systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition and renovation. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.
- g. “GreenPoint Rated” is a third party rating system for homes based on a set of green building measures incorporated from Build It Green’s Green Building Guidelines and used to evaluate a home's environmental performance. City staff shall maintain the most recent version of Build It Green’s GreenPoint Rated Checklists for Single

Family, Multi-Family and Existing Homes and Residential Green Building Guidelines for New Home Construction, Home Remodeling and Multifamily Green Building.

- h. "Historical Building" means any structure or collection of structures deemed of importance to the history, architecture or culture of an area by an appropriate local or state governmental jurisdiction, pursuant to Section 18955 of the California Health and Safety Code and Section 8-201 of the 2007 California Historical Building Code, Title 24, Part 8.
- i. "LEED™" and "LEED™ Checklist" mean the Leadership in Energy and Environmental Design rating system, certification methodology, and checklist used by the United States Green Building Council (USGBC). City staff shall maintain the most recent version of the LEED™ Rating system at all times.
- j. "Multi-family Residential Building" means a single residential building that has more than two dwelling units.
- k. "Mixed-Use" means a building with residential and commercial uses.

SECTION 10- 22.120 APPLICATION AND EXEMPTIONS.

The provisions of this Article apply to private residential or commercial construction for which a building permit application is received on or after July 1, 2009, with the following exemptions:

- a. Historical Buildings, as defined by this Article.
- b. Permits issued only for foundation repair, re-roofing, repair of fire damage, work required by termite reports, upgrades for accessibility , or other items of building or structural maintenance, as determined by the Building Official.
- c. Hardship exemptions may be granted by the Building Official for projects valued at less than \$50,000 where the Project Applicant can demonstrate the cost of complete compliance will exceed 20.0% of construction costs. In these cases, the applicant may limit compliance to 20.0% of the cost of the project.
- d. Exemptions or partial exemptions may be granted by the City Council for other projects where it can be demonstrated that complete compliance is not possible due to unusual building circumstances. This exemption is for other than economic considerations.

SECTION 10-22.130 ALTERNATIVE GREEN BUILDING REQUIREMENTS.

The following green building requirements shall apply to all Projects subject to this Article. Wherever reference is made to the Hayward Green Checklist or Green Point Rated systems, a comparable equivalent rating system may be used if the Building Official finds the proposed alternate method is satisfactory and complies with the intent of this Article. The applicable requirements are those in effect at the time a complete application for the Project is submitted to the Building or Planning Division.

SECTION 10 -22.140 STANDARDS FOR COMPLIANCE

a. Multi-Family Residential and Mixed-Use Buildings

Effective July 1, 2009, Applicants for new Multi-Family Residential Covered Projects, prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated. This requirement shall also apply to Mixed-Use Covered Projects.

b. New Single Family Dwellings of Any Size (includes Detached Single Family Dwellings, Duplexes and Townhouses of two dwelling units or less per building.)

Effective July 1, 2009, Applicants for new Single Family Covered Projects of any size, prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated.

c. Residential Additions/Remodels Greater Than 500 Square Feet

Effective July 1, 2009, Applicants for residential Covered Projects consisting of remodels and/or additions greater than 500 square feet to existing residential single family or multi-family dwellings, shall submit, with their permit application, the GreenPoint Rated Existing Homes Checklist. The Applicant shall indicate on the plans and checklist if any of the items on the checklist have been incorporated into the project. Applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items from the checklist; however, only completing the list and submitting it is mandatory.

d. Commercial Covered Projects

Effective July 1, 2009, Applicants for new Commercial Covered, shall submit with their permit application, the LEED™ checklist appropriate for the project. The plans shall clearly show where each item has been incorporated into the project. A minimum of 20 points shall be achieved, in addition to incorporating items indicated as required on the LEED checklists. The plan review, to be conducted by City staff, shall verify the incorporation of checklist items into the plans. The building inspection process, to be conducted by City staff, shall verify the inclusion of these

items in the construction. A Certificate of Occupancy shall not be issued until the incorporation of the checklist items is verified by City staff. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

SECTION 22.150 PROMULGATION OF IMPLEMENTING REGULATIONS

The City Manager shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this Article. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected City departments.”

SECTION 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

SECTION 5. ANNUAL REVIEW. The City Council shall review this ordinance annually to determine whether it needs to be updated because of new legislation enacted by the State or new standards developed by applicable organizations, such as StopWaste.org, Build It Green, and LEED (Leadership in Energy and Environmental Design). The Building Official shall annually report to the City Manager, the number and types of projects built under this ordinance.

SECTION 6. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective thirty days after adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of ___, 2008, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ___ day of ___, 2008, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ATTEST: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT