



CITY OF HAYWARD
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LIVE BROADCAST – LOCAL CABLE CHANNEL 15

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.

AGENDA
HAYWARD PLANNING COMMISSION
THURSDAY, JUNE 9, 2011, AT 7:00 PM
CITY COUNCIL CHAMBERS

PUBLIC COMMENT: (The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action).

NON-ACTION ITEMS: (Work Session items are non-action items. Although the Commission may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda).

WORK SESSION:

1. Update on Efforts to Develop a Residential Energy Conservation Ordinance (RECO) for Single-Family Homes

ACTION ITEMS: (The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the City Clerk if you wish to speak on a public hearing item).

2. None

COMMISSION REPORTS

3. Oral Report on Planning and Zoning Matters



Assistance will be provided to persons requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact Debbie Summers 48 hours in advance of the meeting at (510) 583-4205, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.

4. Commissioners' Announcements, Referrals

APPROVAL OF MINUTES

5. May 12, 2011
6. May 26, 2011

ADJOURNMENT

DATE: June 9, 2011

TO: Planning Commissioners

FROM: Erik J. Pearson, AICP, Senior Planner

SUBJECT: Update on Efforts to Develop a Residential Energy Conservation Ordinance (RECO) for Single-Family Homes

RECOMMENDATION

That the Planning Commission reads and comments on this report.

SUMMARY

Staff has been working with the City Council Sustainability Committee (Sustainability Committee) to develop the major components of a draft Residential Energy Conservation Ordinance (RECO) since February 2010. At its meeting on March 2, 2011, the Sustainability Committee recommended and staff recommends that the Council not move forward with adoption of an ordinance, but direct staff to focus on voluntary energy efficiency efforts and incentives and participate in the development of a countywide model ordinance. Minutes from the March 2 meeting are included as Attachment I. On May 31, 2011, the City Council held a work session and affirmed the Sustainability Committee's and staff's recommendation. Staff is presenting this report to the Commission to provide an update on the efforts to develop a RECO.

A RECO, if it were to be adopted by Council would require energy efficiency improvements in some existing single-family and duplex homes, and would provide for a variety of options for homeowners to comply. Two of the three primary compliance options would for the most part be consistent with what is required to earn a rebate through PG&E's existing incentive programs. The third compliance option would allow a homeowner to take credit for work already completed and would include improvements that may be installed by a homeowner. Cost caps would be included to limit a homeowner's financial obligation to comply with a RECO. Exemptions would be provided for low-income households, disabled homeowners, distressed property sales (foreclosures and short sales), and households using 15% less energy than the average Hayward home.

Background information about the RECO, including previous reports to the Sustainability Committee, are available on the RECO webpage¹ on the City's website.

BACKGROUND

What is a RECO? - A Residential Energy Conservation Ordinance (RECO) would require that energy efficiency improvements be made – or be shown to have been made previously -- to existing single-family and duplex homes in Hayward. A RECO consists of four major components:

- Triggers – An event that triggers the requirement to comply with a RECO may be a transfer of ownership, a significant remodel or addition to a home, or a date certain (a fixed deadline by which homes must be in compliance). All three such triggers are proposed for the Hayward RECO, with a “point after sale” trigger of two years after a property sale.
- Measures – Energy conservation measures (ECMs) are improvements or upgrades that result in more energy efficient homes. ECMs considered as options for compliance with a RECO include: attic, wall, and floor insulation; duct sealing; replacement of water heaters and furnaces; and air sealing. Air sealing is the practice of reducing air leakage in areas such as gaps in the roof, exterior walls, window frames, etc.
- Cost caps – A RECO would include cost caps or the maximum amount of money a homeowner would be required to spend to comply. If the required efficiency improvements cannot be completed for less than the applicable cost cap, then the owner may obtain a partial or full exemption.
- Exemptions – A RECO would provide exemptions for low-income households, disabled homeowners, distressed sale transactions, and households using 15% less energy than the average Hayward home.

Very few cities in the United States have RECOs. As indicated in a research paper titled *Options for Hayward's Residential Energy Conservation Ordinance* by Kali Steele², the other cities with RECOs in California are: Berkeley; Palo Alto; Rohnert Park; Roseville; and San Francisco. Marin County also has a RECO, as do the cities of Boulder CO and Burlington VT. The existing RECOs vary in design and enforcement. Staff is not aware of any existing RECO that uses a date certain trigger. Staff members from other cities in the Bay Area are following the development of the RECO in Hayward and have expressed interest in adopting a similar ordinance. If the City were to adopt a RECO with the transfer and date certain triggers, additional research would be warranted to ensure compliance with Proposition 26 and the Due Process clauses of the California and Federal constitutions.

Why Develop a RECO in Hayward? – The California Public Utilities Commission's Long Term Energy Strategic Plan includes a goal to reduce energy consumption in existing homes by 20 percent by 2015 and by 40 percent by 2020, listing RECOs as a role for local governments in

¹<http://www.hayward-ca.gov/forums/RECO/recoforum.shtml>

²Kali Steele's paper is available at http://www.hayward-ca.gov/forums/RECO/documents/2010/June%2020Att.%20III%20-%20Steele_Kali_RECO_Report.pdf

reaching this goal. Hayward's Climate Action Plan³ (CAP), adopted by the City Council on July 28, 2009, is Hayward's primary policy document regarding reducing greenhouse gas emissions and responding to climate change. The CAP sets the following goals, which align with the targets identified in California's Global Warming Solutions Act of 2006 (AB32) and Executive Order S-3-05, signed by then Governor Schwarzenegger in 2005:

- Reduce greenhouse gas emissions 12.5 percent below 2005 levels by 2020
- Reduce greenhouse gas emissions 82.5 percent below 2005 levels by 2050

The CAP recommends RECOs for both single-family and multiple-unit homes. Table 1 in the CAP lists the RECO as a relatively high priority (11 and 12 out of 25 community-wide actions). Priorities were determined, as explained in Appendix D of the CAP, by considering factors such as the ease of implementation, the potential to reduce emissions, and the cost of implementation. The top ten actions include four actions related to financing energy efficiency and renewable energy improvements and three actions related to the City's existing Green Building Ordinance. Efforts to establish property assessed clean energy (PACE) financing programs for residential properties have been significantly impacted by the position of Federal Housing Finance Agency (FHFA) and concerns with the debt associated with energy efficiency improvements being senior to the property mortgage. The remaining three top ten actions are either currently being addressed by staff or will be considered by the Sustainability Committee in 2011.

The CAP estimated that implementation of a RECO for single-family homes could save 639 metric tons of carbon dioxide equivalent⁴ (CO₂e) annually by 2020 and 39,304 metric tons of CO₂e per year by 2050. As indicated in Appendix B of the CAP, these estimated emission savings represent 0.4 percent of the City's overall 2020 target and 3.7 percent of the 2050 target. As provided in Appendix C of the CAP, the following assumptions were made when RECO energy savings were estimated:

Phase 1 (2012 – 2017) – The goal of the first phase is to reduce electricity use by 1% and reduce natural gas use by 2.5% on average in participating single-unit homes. The goal is to get **12.5%** of residential units that were constructed before the City's Green Building Ordinance took effect to participate in the program by the end of the phase.

Phase 2 (2018 – 2030) – The goal of the second phase of this program is to reduce electricity and natural gas use by 20% on average in participating single-unit homes. The goal is to get **45%** of residential units that were constructed before the City's Green Building Ordinance took effect to participate in the program by the end of the phase.

Phase 3 (2031 – 2050) – The goal of the third phase of this program is to reduce electricity use by 100% and reduce natural gas use by 75% on average in participating single-unit homes. The goal is to get **100%** of residential units that were constructed before the City's Green Building Ordinance took effect to participate in the program by the end of the phase.

³ The CAP is available at <http://www.hayward-ca.gov/CAP08/CAP08.shtm>

⁴ Carbon dioxide is not the only gas that contributes to the greenhouse effect. Each greenhouse gas causes a discrete amount of heating. For example, one ton of CH₄ causes the same amount of warming as 21 tons of CO₂ (1 ton of CH₄ = 21 tons CO₂e). To simplify reporting, it is standard practice to report the carbon equivalent emissions as opposed to the actual emissions of each gas.

Previous Sustainability Committee Meetings – Staff and consultants provided the Sustainability Committee with an introduction to RECO on February 3, 2010 and then with updates on research needed for the development of a RECO during the June 2, 2010 and September 1, 2010 meetings. A community meeting was held on August 11, 2010 and a special meeting of the Sustainability Committee was held on October 25, 2010 to discuss the components of a RECO. The RECO has also been discussed at the October 2010, December 2010, January 2011, and February 2011 meetings of the Climate Action Management Team (CAMT). Staff incorporated input received during those meetings to draft *potential* ordinance provisions presented in Attachment I of this report and in a similar report presented to the Sustainability Committee on March 2, 2011. Input from these meetings resulted in a variety of suggested changes to any RECO proposed in Hayward, including, for example, development of an exemption for those households that use 15% less energy than the average Hayward home. All reports and presentations for these meetings are available on the City’s RECO webpage⁵.

Previous City Council Meetings – As mentioned above, the City Council held a work session on May 31, 2011 where staff provided an update on efforts related to the development of a RECO. The Council agreed with recommendations of the Sustainability Committee and staff and specifically directed staff to continue to pursue energy efficiency through education and incentives.

DISCUSSION

Sustainability Committee Actions

Twenty-three members of the public spoke against adoption of a RECO at the March 2, 2011 Sustainability Committee meeting. Comments addressed issues such as the cost of compliance; the current economy and high unemployment; that the City should be focused on other initiatives; that the ordinance would drive away potential buyers of real estate; and that real estate values would decline.

The Sustainability Committee recommended that energy efficiency should be voluntary for now, that staff should work with Stopwaste.org and the other cities in Alameda County to pursue development of a County-wide model ordinance; and that the City should emphasize education, outreach, and incentives. Also, the Sustainability Committee encouraged staff to monitor and measure the success of voluntary efforts. Minutes from the March 2 meeting are included as Attachment I.

The Sustainability Committee recommended time to allow homeowners an opportunity to take advantage of existing energy efficiency rebates and incentives and to allow staff to analyze the cost-effectiveness of the various energy efficiency measures implemented through these programs. On January 25, 2011, the City Council adopted a resolution obligating approximately \$750,000 of the City’s Energy Efficiency and Conservation Block Grant (EECBG) funds for three energy efficiency incentive programs. One of the incentive programs is targeted for single-family homes and will enable the collection of data to confirm the cost-effectiveness of the

⁵<http://www.hayward-ca.gov/forums/RECO/recoforum.shtml>

measures that may be included in a draft RECO. Information about incentives currently being offered by the City is available on the City's website⁶.

A Future RECO Ordinance

For the Commission's information, the following is a discussion of the major components and considerations of a RECO staff developed prior to the March 2, 2011 Sustainability Committee actions.

Cost-Effectiveness of Potential RECO Energy-Efficiency Measures— An August 2010 report prepared by Mike Gabel of Gabel Associates, LLC, titled *Research Report on a Hayward Residential Energy Conservation Ordinance (RECO)* and available on the City's RECO webpage, evaluated the cost-effectiveness of a variety of potential energy efficiency improvements. According to the report, for the average Hayward home of 1,292 square feet, the average cost of RECO compliance would be in the range of approximately \$2,500 to \$3,000. Using a computer model, Mr. Gabel provided estimates of the potential energy and GHG savings associated with various energy efficiency/conservation measures in the average Hayward home. Data from actual home retrofits will be available in the next year or two as homeowners install energy efficiency measures and participate in the City's incentive program (discussed below in the Economic Impact section).

The report recommended a number of combinations of retrofit measures with the following attributes:

- an installed cost of \$3,000 or less;
- a payback period of approximately 30 years, where the cost of installations would be recovered with energy cost savings (applying PG&E and/or Hayward incentives would result in shorter payback periods);
- GHG emission reduction in the range of 8 to 9 percent; and
- a Home Energy Rating System (HERS 2) score improvement of more than 10 percent, meaning an overall energy efficiency improvement of 10%.

The Gabel report also recommends including low-cost mandatory improvements (such as water-efficient toilets and faucets as well as weather stripping). Finally, in recognition of the potential that mandatory improvements might impose a financial burden on homeowners, the report recommended a limit or cap on the cost of required retrofit measures.

Proposed Triggers – In an effort to advance the City's CAP goals of achieving GHG emissions reductions by the years 2020 and 2050, staff developed a schedule of "Trigger" events to be included as part of any adopted RECO, which would require a homeowner to make energy efficiency improvements. Trigger events presented were:

- 1) *Remodel Trigger*— The homeowner makes substantial remodel improvements to the home that would exceed \$30,000 in valuation. Based on the historical average of 100 remodel permits per year that exceed \$30,000, a RECO with a remodel trigger alone would achieve approximately 40 percent of the City's 2020 goal for emissions savings related to a RECO.

⁶<http://www.hayward-ca.gov/forums/EnergyIncentive/EnergyResidential.shtm>

The \$30,000 threshold would exempt costs associated with repair of fire and water damage or other eminent life/safety repairs, as well as re-roofs that would not entail replacing underlying roof support elements.

- 2) *Transfer Trigger* - The transfer of a home from one entity to another. Such a trigger would occur upon the sale or exchange of a home or within two years after sale, allowing for either the seller or buyer to complete improvements required by a RECO. Foreclosures and short sales would be exempt from the transfer trigger. The residential real estate community expressed the opinion that the imposition of the costs and duties associated with a RECO could negatively affect home sales, impact financing, and decrease home values at the date of sale.
- 3) *Date Certain Trigger* - A fixed date by which compliance must be achieved. To ensure that a RECO would result in a sufficient number of homes being upgraded to contribute to timely GHG reductions, staff considered a series of deadlines by which all homes built prior to 1978 would have to comply with RECO. This trigger would only apply to homes built prior to 1978, which is when California's first energy code (Title 24) became effective.

Text for a draft RECO was presented to the Sustainability Committee on March 2, 2011. Staff envisions in the future, when Council is ready to adopt a RECO, the draft ordinance would include the following sections:

- Standards for Compliance
- Applicability
- Energy Conservation Measures
- Maximum Required Expenditure
- Compliance Documentation and Deadlines
- Inspections
- Exemptions
- Penalties (would potentially link to the City's existing *Administrative Citation Ordinance*)

Potential Effectiveness of a RECO – Assuming a total of 40% of homes would qualify for exemptions under the low-income⁷, low energy use, or disability provisions, then staff estimates that 60%, or 11,702, of the pre-1978 homes would have to comply with a RECO. As shown in the following table, assuming the average home complying with a RECO would result in a reduction of 905 pounds per year (or 371.96 metric tons) of CO₂e, by 2024, which is the latest compliance deadline per the Date Certain trigger, a total of 4,681 metric tons of CO₂e would be saved annually, which is 7.3 times the CAP's 2020 target, but is only approximately 12 percent of the 2050 target. Remodels would result in a very small number of additional homes retrofitted as a result of a RECO. Sales and transfers would affect homes built in or after 1978, but many will likely already comply with required measures.

⁷ Low-income households would be identified using U.S. Department of Health and Human Services guidelines.

Possible Total Greenhouse Gas Savings as a Result of RECO for Pre-1978 Homes

Year Structure Built	Approximate Number of Single Family/Duplex Homes in Hayward	Recommended Compliance Deadlines	Homes in Category to Meet RECO	Average CO ₂ e Reduction (Metric Tons per Year)
1949 and Earlier	3,074	2018	1,844	757
1950 - 1959	7,483	2020	4,490	1,842
1960 - 1969	4,700	2022	2,820	1,157
1970 - 1977	4,246	2024	2,548	1,045
Total Subject to RECO Pre-1978 Homes	19,503		11,702	4,801
Total Homes in Hayward	27,805			

PUBLIC CONTACT

Since February 2010, a RECO has been discussed at eleven public meetings. At the February 2, 2011 Sustainability Committee meeting, the Committee directed staff to find additional means of raising community awareness about a RECO. Starting the week of February 21, 2011, an insert was delivered with each City of Hayward water bill. Due to the billing cycle, it took approximately two months for all Hayward water accounts to receive a copy of the notice. In addition, since the February 2 Sustainability Committee meeting, staff has and will continue to attend all Neighborhood Partnership meetings prior to the scheduled June 9 Planning Commission work session to summarize a RECO and to announce this meeting and upcoming work sessions. Also, staff has created a link from the City’s homepage directly to the RECO webpage. A newspaper article about the RECO appeared in *The Daily Review* newspaper on February 11, 2011, which was attached to the March 2, 2011 Sustainability Committee report.

On January 10, 2011, staff received a letter from David Stark of the Bay East Association of Realtors with questions and comments regarding the August 2010 Gabel Associates report referenced in this staff report. Mr. Stark’s letter and Mike Gabel’s response are attached to the March 2, 2011 Sustainability Committee report. Finally, since the March 2, 2011 Sustainability Committee meeting, staff has received several phone calls, emails and letters (see Attachment II) – most in opposition to a RECO.

An update on the development of the RECO was presented to the City Council during a work session on May 31, 2011. A legal advertisement was published in the Daily Review on May 21, 2011 noticing both the May 31, 2011 Council work session and the Commission’s June 9, 2011 work session.

NEXT STEPS

Staff will continue to participate in a technical working group convened by Stopwaste.org to explore the development of a RECO that may become a model ordinance that could be adopted by cities throughout Alameda County, and will continue to promote the energy efficiency rebate/incentive programs offered by the City and PG&E.

Prepared by:



Erik J. Pearson, AICP
Senior Planner

Recommended by:



Richard E. Patenaude, AICP
Planning Manager

Attachments:

- Attachment I Minutes from the March 2, 2011 Sustainability Committee Meeting
- Attachment II Letters and Emails

CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING
Hayward City Hall – Council Chambers
777 B Street, Hayward, CA 94541-5007

March 2, 2011
4:30 p.m.

MEETING MINUTES

I. Call to Order – Meeting called to order at 4:35 p.m. by Mayor Sweeney.

II. Roll Call

Members:

- Michael Sweeney, Mayor
- Olden Henson, Council Member
- Bill Quirk, Council Member
- Dianne McDermott, Planning Commissioner
- Sara Lamnin, Planning Commissioner
- Al Mendall, Planning Commissioner
- Doug Grandt, Keep Hayward Clean and Green Task Force (Absent)

Staff:

- Fran David, City Manager
- David Rizk, Development Services Director
- Bob Bauman, Public Works Director
- Erik Pearson, Senior Planner
- Marc McDonald, Sustainability Coordinator
- Katy Ramirez, Administrative Secretary (recorder)

***Others:**

- Mike Gable, Gable Associates, LLC
- Bachi Brunato, Ultimate Home Performance
- Simon Wong, Government Editor, Tri-City Voice Newspaper
- Florine Banks
- Otto Catrina, Bay East Association of Realtors
- Michael Chaney
- Cynthia Chiasson, Realtor
- Jeffrey Conner, Attorney
- Fadi Dib, Resident
- Mary Ann Falle, Resident
- Alex Hicke
- Kim Huggett, Hayward Chamber of Commerce
- Miroslav Kulas, Resident
- Angie LaPlante, Resident

- Rich LaPlante, Resident
- Jan Lebby, Realtor
- Rodney Loché
- Timothy May, Rental Housing Owners Association
- Rene Mendieta, Legacy Real Estate
- Lyman Menger, Realtor
- Murline Monat, Coldwell Banker
- Luis Munoz, Resident
- Clyde Nazareth
- Teresa Nazareth
- Laura Owen, Coldwell Banker/Realtor, Resident
- Craig Ragg
- Heather Reyes
- Victoria Rodriquez, BEAR
- Jane Rowson, Realty World Neighbors
- Elizabeth Schultz
- David Stark, Public Affairs Director, Bay East Association of Realtors
- Carrol Stegall, Resident
- Judy Virgin, Resident
- Patrick Virgin, Resident
- Wade Winblad, Realtor
- John White

**There were other attendees in the audience that did not sign in.*

Mayor Sweeney welcomed everyone and explained that because there is a special City Council meeting this evening, the Sustainability Committee meeting will have to be finished by 6:00 pm to allow set-up for the Council meeting. Mayor Sweeney indicated that the Committee normally meets in Conference Room 2A; however, since we anticipated a large audience, this meeting was moved to the Council Chambers so that everyone would be comfortable.

III. Public Comments

Mayor Sweeney said that since there are so many people speaking, and without objection from the Committee, he is going to allow each speaker two minutes for their public comment. This will help to get through all the speakers and for staff discussion and questions. There were no objections from the Committee.

Miroslav Kulias, resident, said that he has owned his house in Hayward since 1972. Mr. Kulias said that he is surprised that the City is going to force homeowners to do unnecessary improvements; and if the improvements are not done, there will be a penalty should the homeowner decide to sell their house. He said that he believes the cost of the house is determined by its features, and if the house is not up-to-date, the selling price would be lower and the homeowner would be punished as a result. Mr. Kulias said that

the current housing market in Hayward is down by 50 percent of the original price, and with the required upgrades, the homeowners would be punished twice.

Elizabeth Schultz, resident, distributed a document to the Committee. Ms. Schultz said that she owns property on Tyrrell Avenue and invited the Committee to come down to one of the vacant lots on Manon or Shephard Avenues and hold a meeting there. She asked the Committee to look at the pictures in the document and see the real Hayward outside of City Hall, which is in a nice location with marble steps, litter free lawn, and trimmed trees. Ms. Schultz said that litter is typical in the area along West Tennyson Road and South Hayward, and said that you will find it everywhere if you walk the streets rather than drive by on the freeway. There are fences in disrepair, litter strewn over various properties, vacant lots, and on the sidewalks, along fences, and that garbage is a sanitation hazard and attracts vermin and rats. She said there are overflowing dumpsters, and the City's own garbage cans are overflowing on a constant basis. Ms. Schultz said that the Sanitation Department comes out and picks up when asked; however, within 24 hours the garbage can is filled and overflowing once again. Ms. Schultz said that there are tarps instead of roofs, cardboard instead of fences, and said it is like a shanty town, unlike City Hall. Ms. Schultz said that she would like the Committee to come and walk these streets before imposing a tax on owners and occupants who need to do desperate work to their houses just to bring it up to minimal standards. She said that additional tax is the last thing they need on the work and repairs that they try to do on their property to keep up with other problems in the neighborhood.

Mayor Sweeney commented that he was walking up and down Tyrrell Avenue the past Saturday picking up trash with some students from the Keep Hayward Clean and Green Committee. He said to Ms. Schultz that he did not see her there helping out and told her that she is always welcome to join in and help. Mayor Sweeney indicated that the Keep Hayward Clean and Green Committee generally meets on the fourth Saturday of the month and they go out and pick up trash and paint out graffiti. Mayor Sweeney invited Ms. Schultz to bring her friends along, that the Committee would appreciate the help.

Cynthia Chiasson, resident, said that she has attended most of the Sustainability Committee meetings and has spoke regarding RECO. Ms. Chiasson said that she is most concerned about timeliness of what the City is trying to do. She said that she is not objecting to the concept and the passion of what Hayward is trying to do; it is the manner in which it is being done. She said that she would like to suggest pushing out this wonderful idea to 3-5 years. Ms. Chiasson said that we are in a no job recovery time and this idea is bad for Hayward, bad for homeowners, and bad for business. She said she use to be a realtor full time but is now a realtor part-time, and works for her son's company on a full-time basis, which is located in Hayward. She said she is very passionate about making RECO a fair thing, cleaning up Hayward, helping Hayward, but not doing it on the backs of the people during this hard time.

Patrick Virgin, resident, said that he is in disagreement with the need for a RECO, and has his personal views about global warming which he expressed at the last

Sustainability Committee. He said that one of the things that he does not like about RECO is the government imposing it on him. Mr. Virgin said that he was reviewing the City's permit fees schedule and wonder if the 1 percent or 5 percent as proposed in the RECO goes towards the cost. Mr. Virgin continued by providing many examples of permit fee costs associated with upgrading a house (i.e., to fix a chimney and insulation would cost \$240.00; installation of a solar system, \$300.00; stucco siding permit, \$503.00, etc.), and noted that of the \$5,000, you could spend \$2,500 on permit fees. Mr. Virgin said that this is not fair and asked if the permit fee expenses are the owner's responsibility, because he cannot afford it.

Mayor Sweeney noted that Mr. Virgin raised a good issue and asked David Rizk, Development Services Director, to address it when this item is later discussed on the agenda, on whether permit fees go towards the cost or not.

Judy Virgin, resident, said she has been a homeowner in Hayward for almost 47 years. She said that she has seen Hayward go up and go down, and said that if she could figure out a way to move from here, she would be the first one to sell. She said that she got a quote on Facebook from a young man that was born, raised, and educated in Hayward and who has now moved to Marysville. She said that the young man indicated to her that between dealing with Mission Boulevard and the Building Department when trying to get a permit for a solar system, he thinks he will keep his jobs in the valley; she said that she hears this repeatedly. Ms. Virgin said that they needed a new sidewalk in front of their home and they did everything accordingly, went to the Building Department, paid for it, etc. She said that when the City inspector came to approve the work, he indicated that he does not like the color of the cement and said they will have to change it. She said that her husband asked the inspector if he likes the color of the cement across the street, and the inspector replied no, that he would not have approved that color either. Ms. Virgin said that her husband said to the inspector that the City installed the cement and color across the street, which is the same color that they have; the inspector approved their cement project.

Heather Reyes, resident, said that she is pleased to be part of a community that wants to improve; but asked if the timing is right. Ms. Reyes said that she is speaking on behalf of the homeowners that she recently spoke with to get their thoughts on RECO and first of all, they were unaware of the proposed RECO. Ms. Reyes asked if in making the RECO mandatory, is the Committee taking into account the current state of the economy in California. She said that the economic stability within Hayward proves that the unemployment rate is up by at least 10 percent; at least 1 out of 8 people are looking for a job. She asked if we really think these people are going to be concerned about energy efficiency on their homes. Ms. Reyes said that she has had multiple friends lose their homes due to foreclosures; there were 1,500 plus foreclosures over the last year, and asked if these foreclosed homes are going to fall under RECO as well. She said that she would like Hayward to become a green city, but at what cost? Ms. Reyes asked why the Sustainability Committee meetings begin at 4:30, when so many homeowners work. She said that she works in San Francisco and had to find two baby sitters and leave work

early to attend this meeting. Ms. Reyes proposes for the meeting to begin at 7:00 pm, same as Planning Commission, in order to make it more available for the homeowners to attend and speak.

Victoria Rodriguez, real estate broker, said that she has been doing business in Hayward for 35 years, and currently has an interest in a couple of properties with clients in the area. Ms. Rodriguez said that Hayward has many amenities to offer and among the ones that she emphasizes to her clients are convenient location, weather, and affordability. She said that the most obvious objections that she has to address to her clients are the school district, gang activity, and crime. Ms. Rodriguez said her experience has been that the majority of the buyers are choosing affordability, that most of her buyers are barely able to put together the required down payment and, consequently, will often seek assistance from the seller with credit for closing costs. Ms. Rodriguez said that the affordable cities in the area are Hayward, San Leandro, San Lorenzo, and Castro Valley. She said that if she knows in advance that she will be asking a seller for a reduction in their net proceeds because of a RECO, in addition to selling a home at foreclosure cost, her first option would be to eliminate Hayward and work with neighboring cities. She said that with all the good intentions, the City would be pounding the last nail on Hayward's value coffin. Ms. Rodriguez said that as a member of the Hispanic community, she is very aware of the struggles that we are facing during this economy. Ms. Rodriguez handed a letter to staff for distribution to the Sustainability Committee.

Luis Munoz, resident, said that he is concerned about the RECO requirements; that it will create a very destructive cycle with the three options that are being presented. For the remodel trigger, Mr. Munoz said that it does not take much to rack up \$30,000 in remodeling expenses and said that he knows this because of the type of work that he does. He said for the folks that will try to get away with not having to deal with the issue, the problem with unpermitted improvements will get even bigger than what it is now. Mr. Munoz said that if you look at the transfer trigger, just because you postpone it does not mean that low and moderate-income families will be able to afford it later. If they do not do the upgrades, then they are going to rack up fines and make it worst. Finally, a base certain trigger – again, it doesn't change the math if you don't have the money, unless you are very clear how you define low income, then you will have folks that are not able to do it, try and circumvent it, etc., so it really won't address what you are trying to accomplish. Mr. Munoz said that he supports the concept but not the way it is being presented.

David Stark, Bay East Association of Realtors, noted that page two of the staff report references how priority was given to the various measures presented in the Climate Action Plan. He said the criteria included ease of implementation with potential for reduced emissions and the cost of implementation. Mr. Stark said that based on the information provided today, it is easy to conclude that the latest version of the RECO would be difficult to implement, would not reduce greenhouse gas emissions, and would be expensive for the City and for Hayward homeowners. He said that the Sustainability Committee still does not know if Hayward homeowners and homebuyers can afford to

pay the upfront cost to retrofit, and simply stating there are grants available to pay for mandatory requirements is naïve. Mr. Stark said that the Committee does not know if the measures described in the staff reports will reduce energy use in homes located in Hayward. He said that the Committee does not know the unintended consequences from adopting a RECO ranging from health impacts, to the impact that the RECO will have on homeowners securing a mortgage. It is okay to conclude that a RECO is not good for Hayward or for reducing greenhouse gas emissions. Mr. Stark indicated that the Committee does not have to recommend the adoption of a RECO. He said that state law does not require the City of Hayward to adopt a RECO and, according to City staff, the Energy Efficiency Grants Programs available to the City of Hayward does not require adoption of a RECO; and the Climate Action Plan does not mandate the adoption of a RECO. Mr. Stark said that the push to adopt the RECO has put the cart before the horse. He would like to ask the Committee to first promote voluntary programs and energy efficient incentives; study the effectiveness of energy retrofits on real homes in Hayward, owned by real Hayward residents; and then use that data to make informed decisions about adopting a RECO.

Michael Chaney, resident, said that he is a realtor and property manager. He said that he thinks the approach that the Committee is making is not fair to the residents and homeowners. He said it should be approached from a different aspect by using the incentives and working with banks to give the proper loan incentives to make it happen; otherwise, the banks are going to look at this as a major problem. Mr. Chaney said that this is a big concern for him, his clients and renters. He asked the Committee if they have considered this approach, same as PG&E's offer to lower-income homeowners. Mayor Sweeney responded that this will be addressed later in the meeting.

Timothy May, Executive Director for the Rental Housing Owners Association, thanked the Committee for offering him the opportunity to speak before them today. Mr. May said that he hopes the Committee received the correspondence that he sent via email the other day. He said that he would like to reaffirm the fact that the California Apartment Association and their local do believe in conservational resources, that it is one of their primary tenants. Mr. May said he is concerned that the proposed RECO may affect the smaller rental property owners in Hayward. He indicated that some of their members are rental owners that are not necessarily landlords by choice, that they have been put in this position for various reasons, and the time certain trigger can really put a serious burden on these owners. Mr. May said that the good news is cities like Dublin and Union City have managed to create Community Climate Action Plans without RECOs, using incentives and education in very positive ways that have helped those communities hit the targets that have been put before them. Mr. May said that he is asking Hayward to consider a similar approach using incentives and education and continue to work to provide a positive business model for people who want to live and work in Hayward.

Rich LaPlante, resident, said that he stands in support of the concept of what the City is trying to do throughout Hayward with clean and green and environmental improvements; however, he totally stands in opposition to the enactment of a RECO. Mr. LaPlante said

that he is currently responsible for a family home that was put up for sale in July of 2010. He said the home was offered at a fair price and had up to \$40,000 in improvements, and he has not received a single offer despite lowering the price twice. Mr. LaPlante said that due to foreclosures situations in Hayward and in his neighborhood, real estate is pathetic. He said that he does not need a real estate profession to tell him that Hayward is near the bottom of the real estate market in Alameda County, and Alameda County is near the bottom for the counties in the Bay Area. He said that he does not need the City to make it more difficult to sell homes and this is not the time to impose more construction costs to those of us that are trying to move more homes, nor the time to impose more government fees; a fee is a tax. He said that he does not support a government process that wants to protect him from himself. Mr. LaPlante said that he stands in opposition to a process that has yet to conduct an extensive outreach to the homeowners in Hayward. He said yes, he has a copy of the water bill insert that was just received, and he has a copy of the February 12 Daily Review article that talks about this topic, and he has read all the minutes from all the meetings that have been conducted. Mr. LaPlante asked which of you elected leaders has sponsored a neighborhood meeting to engage affected homeowners that don't have what I have. Mr. LaPlante said that he supports increased education regarding RECO, for as long as it will take.

Craig Ragg said that he lives in Castro Valley, has a real estate business and owns property in Hayward. Mr. Ragg said that he is concerned about different parts of the RECO, one being the transfer of sale. He said that in theory, if the seller cannot afford to pay for upgrades, then the buyer negotiates and has two years to complete the upgrades. Mr. Ragg said that most of the buyers are buying with a minimum down, and bank and FHA fees are going up, so there will be very little money left over. He said that if they go in assuming that the costs are a certain amount based on the numbers that day, and they still have the two years, the homeowner would be chasing the numbers and that is a potential problem. Mr. Ragg said that his other concern is about the homes that were built over the last 10 years that met the Title 24 codes, that are being updated constantly, but the older homes are being sold and not updated until date certain. Mr. Ragg said that it seems crazy to have to continue to update homes that were built with high standards at the time; and not deal with the older homes. Mr. Ragg said it seems like a bad way to deal with this process and that he agrees with the speakers about education and doing it on a voluntary basis.

Laura Owen, resident, said that she has lived in Hayward for 21 years and her mother-in-law has lived in her Hayward home for 52 years. Ms. Owen said that she is a real estate agent and has been selling homes in Hayward for 18 years and is very concerned about Hayward taking a hit on home prices. She said that transferring and selling properties by trigger would hurt the community, would bring it down in value and, as already discussed, there is the cost of obtaining permits. Ms. Owen said that her income has taken a hit over the last couple of years and she is worried about the expense involved with doing a RECO. She said her mother-in-law is 75 years old and retired; how will she and other homeowners be able to afford these upgrades. She said that she strongly

believes that Hayward is one of the lowest communities in the Bay Area and has already taken a huge hit. Ms. Owen said that some investors do not want to purchase in Hayward because of the every 2 to 3-year inspections. Ms. Owen said that she is against RECO through the transfer.

Clyde Nazareth said that he has a real estate office in Hayward and has been selling homes in the Hayward area for over 20 years. Mr. Nazareth said that he would like to address the most important point that the City should be focusing on right now. He said that we are looking at a community that is the starter area for the Bay Area, and we do not need more hindrances placed in the way of selling homes. Mr. Nazareth said that Berkeley is the only other community that has an active RECO law and Hayward does not need to emulate them. He said that the real estate industry has enough competition for home sales in the surrounding areas, and the surrounding areas do not have the restrictions that a RECO will bring. He said that we are talking about people who suffer greatly, much more than other people in the Bay Area as far as proportional drop, and the City does not need to add more to it. Mr. Nazareth encouraged the Committee to not set a deadline to try to enact a RECO in the future; at this point, it is better to suspend an action of this law and look at sustaining home equity. Mr. Nazareth said that Berkeley is a community at 28 percent above the average income for California; Hayward is 17 percent below. Everything the City does will have an impact, and it will impact it greatly.

Teresa Nazareth, broker at Century 21 for over 20 years, said that she would like to bring to the Committee's attention a letter addressed to the editor of the Daily Review from Jim Ferry, where he talks about the RECO's costly retrofits. Ms. Nazareth said that if the RECO is in the interest of the community, the homeowners do not know about it. She said everybody is trying to hold a job and 4:30 for this meeting is not a viable time. Ms. Nazareth said that a lot of audience is opposed to it; that if we educate the public, she is sure the Committee will have a lot more people telling you what they think about RECO. Ms. Nazareth suggests that we educate people, homeowners, and low-income people, with a little flyer in the electric or water bill.

Rene Mendieta said that he lives in San Leandro and is a local real estate agent. Mr. Mendieta said that he agrees with what the City is trying to achieve and especially addressing the issues of global warming, which in his opinion is definitely creating catastrophic climate change. He said that this legislation does not even put a close dent on the issue; however, he thinks it is still good legislation, but misguided. Mr. Mendieta said that Mr. Clyde Nazareth made an excellent presentation of his opposition to this legislation. Mr. Mendieta said he would like to point out that the exempt foreclosure and distressed sales represent about 70/30 percent of the transactions, which already shows that it is misguided. He said this will deter people from wanting to remodel their homes and deter them from wanting to sell their homes. Mr. Mendieta said that he is not an advocate real estate agent; he is here because he thinks it is unfair for local homeowners and, again, it is misguided.

John White, resident, asked to what degree the Committee has looked at other possibilities and programs like a RECO, whereby the incentive may be, for example, the City of Hayward doing an energy audit or better than that, the CPU City utilities do an energy audit. Mr. White asked how can we piggyback on all of those programs to get more leverage without building a bureaucracy to go out and do the audits. He said they exist now and there has to be opportunities, again, to partner with the utilities, CPUC to get to the goals that we are trying to achieve in saving energy. Mr. White asks to what degree have we given consideration to the new homes being built in the City of Hayward; what degree would those homes allow us to achieve our goals without the expense on the existing homes. Mr. White said third and final thought, perhaps the city can put an “E” stamp on an incentive if you are selling your property, that this home is energy efficient, and that might give some leverage for a few extra dollars as well.

Jan Leby, resident, said that she owns two homes and has lived in Hayward for 34 years. She said they have enjoyed their home and have done many upgrades to maintain their property. Ms. Leby asked if we are going to bring homeowners to live and enjoy Hayward, what is there to offer. She said there have been upgrades to some areas, along B Street, and a new theater, and these type of upgrades will bring people to Hayward. Ms. Leby said to bring them in under this RECO is a negative thing, and if the seller cannot afford to make the improvements, then the buyer is going to have to do this. She said right now home prices are low enough to bring in more people, especially with the starter homes, people will be able to make their improvements as they go along and raise their families. Ms. Leby said that we do not want to discourage anyone so we need to do whatever we can to help people come to Hayward. She said that if Hayward does not offer affordability and if there isn't a reason to come to Hayward, then Pleasanton and Dublin are 10 minutes down the road, and they have a lot to offer there.

Mary Ann Falle, resident, said that she has lived in Hayward for about 20 years. Ms. Falle said that sustainability and being kind to the environment are values that she holds near and dear to her heart; that this is how she chooses to live her life and these are choices that she makes for herself. However, she said that when she heard about RECO yesterday for the very first time, it felt very disrespectful to her as a homeowner. She said it should be up to her on how she chooses to make her home energy efficient; that it should be her decision based on how much money she makes. Ms. Falle said that now is not the time for a mandatory law and suggests that the City look into something voluntary. She explained, for example, to set a goal for people and say, “we as a City want to achieve these goals; these are some things that you can do in your home to help us achieve these goals,” and then people can make the choices that are right for them. Ms. Falle said that if the Committee does decide to recommend a RECO, she would like to ask that the whole section on the shower fixture, sink faucet, lavatory faucet, and toilets be omitted, because the reality is that you don't get any savings on gas and electricity by changing those things. She said energy efficiency comes from changing your water heater, wrapping your water heater, wrapping your pipes, and if we are already asking people to do those things, it is not fair to ask them to do these other

things. Ms. Falle said that the goal is to reduce energy efficiency with this proposal, not to preserve water, and for the City to stick to its goal.

Wade Winblad, resident, said that he does not have a problem with new construction, energy efficiency, or extensive remodels, but forcing people to retrofit when they are not ready is not called for these days. Mr. Winblad said there are many people in attendance tonight that are not represented, and those are the people that he hopes he can speak for. People that are still at work, people on assembly lines and at hospitals, and he bets the people in the audience can probably buy insulation for their attic, but the people that aren't here, might not be able to afford it. Mr. Winblad said that the mandatory requirement to retrofit houses is totally wrong, and asked if the Committee are public servants or our rulers, which is it?

Otto Catrina, property owner in Hayward and President of Bay East Association of Realtors, said that he is involved with a transaction in Alameda where they have a point-of-sale on a sewer lateral. Mr. Catrina said that he is a big advocate for this because of the toxic leaks in the sewer lateral getting into the high water cable and the adverse affect it would have on the community. He said that Bay East Association is advocating on the proposed RECO incentives; however, they want to make sure that it is not mandated and that it is voluntary. He said that it is unfortunate that a lot of the community is not in attendance; there is a population of 158,000 in Hayward and only about 50 people are in the audience. Mr. Catrina said that the communication and collaboration with the community in trying to identify and resolve a solution is missing, and needs to be addressed.

Fadi Dib, resident, said that four years ago he remodeled his home and went the extra mile to make his home more efficient. He said that some of the items disclosed in the RECO indicate that he would have to do some of these things again. Mr. Dib said that he went through a lot with the City in dealing with permits, licensing, inspectors, and other horrible things that were mentioned earlier in the meeting, and he is not willing to do that again. Mr. Dib said that if incentives are offered, then basically, homeowners would achieve what they need to achieve.

Mayor Sweeney closed the Public Comments session and thanked the speakers for their comments.

- IV. Approval of Minutes of February 2, 2011 - minutes approved with minor revisions from Planning Commissioner, Al Mendall.
- V. Residential Energy Conservation Ordinance (RECO)

David Rizk, Development Services Director, said there has been a lot of effort in the last several months to develop the framework for a potential RECO for Hayward. Based on the direction from the Sustainability Committee, staff has tried to balance the adopted goal of reducing greenhouse gas emissions associated with energy use in existing homes

while minimizing the cost to homeowners. Mr. Rizk said that since the February Sustainability Committee meeting, staff has made revisions to potential components of the future RECO to provide more flexibility for compliance, more exemptions, and as many incentives as possible to encourage homeowners to reduce energy use, which will all be addressed by Erik Pearson during the presentation.

Mr. Rizk said that he would like to take a moment to introduce and acknowledge the team that has been working on the proposed RECO. First, Erik Pearson, Senior Planner, has been the lead on developing many of the components of the RECO. Second, a tremendous amount of work has been done by Mike Gable of Gable and Associates, who not only developed the RECO report for Hayward, but also developed a cost effective study that was used by Hayward and other cities in the Bay Area related to adopting Green Building Ordinances for new construction. Third, Marc McDonald of QuEST and the City's Sustainability Coordinator, who is on contract through the end of next year. He said that Mr. McDonald will be the lead on rolling out the three energy efficiency incentive programs that total about \$750,000 in Federal Energy Efficiency and Conservation Block Grants funds, and of that amount, \$250,000 relates to rebates for improvements in existing homes. Mr. Rizk also introduced Bachi Brunato, who has been doing general contracting and construction work for over 30 years and has worked on hundreds of homes involving remodels and retrofits, and worked on homes with the current utility program incentives and energy efficiency installations. He said that Mr. Brunato is here to answer any questions in terms of cost and construction and any questions related to his contracting experience.

Mr. Rizk said that Mr. Pearson will be providing a PowerPoint presentation and overview of the proposed RECO, and will explain what a RECO is and why the City has been spending time in trying to develop a RECO. Mr. Rizk said that Mr. Pearson will also be providing the Committee with some options to consider as they move forward to the City Council, which is scheduled for Work Session on May 31.

Mr. Pearson said that he will be providing a few of the basis for a RECO, focus on some of the major components that might go in the RECO, and focus on some of the changes that have been made since the last Sustainability Committee meeting in February.

Mayor Sweeney asked Mr. Pearson if he may interrupt for a moment, and continued by saying that the Committee has heard from many people this evening, and now he sees that people are walking out. Mayor Sweeney said that it is a little disingenuous for folks to tell the Committee what they don't like, and then when the information is about to be shared, for them to walk out of the room. Mayor Sweeney offered the suggestion to the other audience members to encourage the folks that walked out to come back in and listen to the presentation. He said that it is unfortunate for people to talk about certain things they don't like without hearing what the program is and what the ordinance might actually include. Mayor Sweeney indicated he is just making a suggestion and that he is sure the rest of the Committee members would appreciate this, as well. Mayor Sweeney apologized to Mr. Pearson for the interruption and asked him to proceed.

Mr. Pearson indicated that the State adopted the Global Warming Solutions Act in 2006, which includes greenhouse gas emissions reduction goals and that it includes Hayward's goals. In addition, the California Public Utilities Commission released a Long-Term Energy Efficiency Strategic Plan that includes goals for reducing energy use in existing homes, and that plan recommends that local governments adopt RECOs. Mr. Pearson said that Hayward's Climate Action Plan was adopted in 2009, and includes emission reduction goals to those of the State. He said that a RECO is one of the recommended options in the Climate Action Plan, which estimates savings of 639 metric tons annually by 2020, and 39,000 metric tons annually by 2050.

Mr. Pearson provided a brief overview of the schedule of Sustainability Committee meetings that were held in 2010 and 2011, and noted there were a couple of special meetings outside of the regular meeting schedule, as well as several meetings with the Climate Action Management Team. He indicated that all meeting agendas are posted to the website; email notifications have been sent out; and inserts were included with the water bill accounts. Mr. Pearson said there is background information and reports on the RECO page of the website and you may visit it by clicking on the Green Hayward link located on the website page.

Mr. Pearson said that the main components of the RECO are the retrofit measures triggers, cost caps, and exemptions, and proceeded to explain each of these components. Details are available in the March 2 Staff Report.

Mr. Pearson said that staff plans to provide a draft ordinance to City Council on May 31, and has drafted several options that the Sustainability Committee may want to recommend to City Council, as outlined below:

1. Adopt a RECO consistent with today's report (effective approximately 2 years after adoption);
2. Adopt a RECO that differs with today's report (effective approximately 2 years after adoption);
3. Delay adoption of a RECO until a County-wide model ordinance is developed;
4. Don't adopt a RECO and amend the City's Climate Action Plan; or
5. No recommendation at this time.

Mr. Pearson said that this concludes his presentation.

Bill Quirk, Council Member, thanked everyone for being at the meeting tonight, and clarified that they are not rulers, they are representatives. Mr. Quirk said that he thinks it is critical that we fight global warming; however, the Committee is losing the argument with the community, and thinks they should begin with a voluntary program. Mr. Quirk said that they are partly losing the argument because they should have removed the change on sale; this has all the realtors talking with the community, and also it doesn't make sense with the status of the current market. Mr. Quirk said that we should start

with a model ordinance and a lot of education, and also educate the community about the problems with global warming. Mr. Quirk indicated that Berkeley put a measure on the ballot asking the community to come up with a goal for reducing greenhouse gases, and they did and it brought the community out and a lot of the discussion forward. He said that as a member of Hayward Area Shoreline Planning Agency, they brought forward a plan to deal with sea level rise, and if something is not done we are going to lose part of Hayward's industrial district and the City's sewage treatment plant. Mr. Quirk said he thinks we need to start with something that is voluntary and that he doesn't see them proceeding any other way at this time; however, he wants to hear what his colleagues have to say.

Olden Henson, Council Member, thanked everyone for attending the meeting and for their interest, and thanked staff for all their hard work. Mr. Henson wanted to point out that staff is not initiating, staff is moving forward at the directive of the Sustainability Committee, who wanted to see how we can address some of the issues that are relative to reduction in carbon footprint. Mr. Henson said that the key to any adopted program are incentives; and to have a major program without any incentives or funding mechanisms, will probably be a failure up front. He said that one of the things that he has done in the past year or so is to represent the City on the Stopwaste.org board, which is the waste authority for the County. Mr. Henson said that he had a couple of opportunities to look at RECO audiences in that venue as well, and asked that staff to look at Hayward proposals and what could be done, in lieu. Mr. Henson said that he just learned from the Executive Director of Stopwaste.org, that his concern with Hayward's RECO at this moment, is that another program was recently unveiled called Energy Upgrade California, which is an incentive program. He said if Hayward were to move forward with a RECO, there might be confusion with the mandatory programs and the incentive programs, such as the PG&E incentive programs, many of which are forthcoming, and this would offset some of the RECO actions. Mr. Henson indicated that the main program that Stopwaste.org staff has been working on over the last year is with the Department of Energy on major grants that might make the RECO unnecessary. In addition to that is the PACE program with Fannie Mae and other agencies, and it may be that the many incentive programs along with the City of Hayward's program, may offset that need, however, we do not know that yet. Mr. Henson said that he is suggesting, as one member of the Committee, to wait for a model ordinance from the entire County, so that Hayward is not stepping out and providing another City an unfair advantage over Hayward.

Mr. Henson said there are a number of recommendations from staff, and then asked staff for their recommendation. Mr. Rizk responded that he thinks there are valid reasons for delaying in order to allow for several things to happen, such as education and outreach, full utilization of incentives, including any future incentive programs, and the ability to collect data to see how efficient some of these improvements would be for those who do take advantage of the incentives. Mr. Rizk said the final thought is to have staff review their analysis on what the capacity is of City staff, including future staffing levels, would be to administer and oversee this type of ordinance and implementation. Mr. Henson

said that his suggestion, more specifically, is to look at what all the other cities are doing and to come under one umbrella, and approach it this way. He said that he thinks it is critical to educate the community. Mr. Henson addressed Mr. Stark in asking that his organization do their part as well. He asked that when the incentive programs roll out, that Mr. Stark make sure that these incentive programs are out there and indicated that there is an education component that is needed on his part, as well. Mr. Henson said to Mr. Stark that he has asked something of the Committee, and the Committee is asking something of him, and he fully expects that to go into play.

Sara Lamnin, Planning Commissioner, said that she also wants to add her thanks to everyone that has done work on this, including the community and that they attended this meeting and are speaking out. Ms. Lamnin said the government's role is to manage and to protect, that is what people were appointed for, and that is what people were voted for; but not to do what the community does not want. She said there must be community involvement and community engagement, so the question is whether we move forward. Ms. Lamnin said that she heard some good support and good ideas about delay in terms of what else could happen. She thinks that focusing on education and making sure that the incentives get out through homeowners groups and community networks in the City, and giving people the tools that they need to make sure we are all taking care of each other, that energy conservation will provide for us. Ms. Lamnin said that she is hesitant because 2020 is nine years away, so if we delay for everybody to get together on the same page, we are never going to get there. She said she is wondering if instead of a prescriptive measure where people have to do these things, that we talk about a date certain home energy audit, with solid information that helps to make sure that what is happening in a home, is what needs to happen, to allow people flexibility with a really clear goal. Ms. Lamnin said in addition, to clarify that this is where we are trying to get to; here is what the City has already done to try and meet its requirements; here are the next steps; and here is the role that we are asking everybody in the City to do. Ms. Lamnin asked that we do not exempt people who are low income or have disabilities from participating. She said that she does not mean we add extra burden to people who are already burdened; she means that we do not eliminate the opportunity for everybody to participate. She said there are many free programs and ways to mitigate costs to share burdens; however, if someone is living in substandard housing, that could be a huge burden to the environment and if we do not address that, she thinks we are doing a disservice to the community, as well.

Al Mendall, Planning Commission, said that this is very difficult for him and there is no doubt in his mind that we need to do this. He said that global warming is real and it is getting worst every year, and many speakers tonight acknowledge that we need to do something to combat global warming. He said when the green building ordinance came before the Committee, the builders came and said yes, we need to do something about global warming, but not with new construction. If we have something that is going to affect businesses, the business owners will come down and say we need to do something, but do not affect businesses. Mr. Mendall said if we all take that approach, then we get paralyzed and do nothing. He said that doing nothing is not acceptable. Mr. Mendall

said that he lives three miles in from the bay and his house is 16 feet above sea level. Mr. Mendall said that global warming is going to affect Hayward first; 20 percent of the town is approximately 10 – 15 feet above sea level or less. He said that we just can't hope for the best and do nothing. Mr. Mendall said that he cannot disagree with what some of his colleagues are saying regarding trying to force something down the community's throats; it is not the right way to do it, even though he knows it the right thing to do. Mr. Mendall said that he is left in a little bit of a pickle; to do nothing is wrong; to force something that the community is opposed to is wrong; and that he honestly does not have an answer, except move to higher grounds.

Dianne McDermott, Planning Commissioner, thank everyone for their various opinions and observations. She said she works in a financial investors office and is familiar with lenders, FHA, conventional, Freddie Mac, etc., and it does concern her with the timing, and we need to do something. She said that Hayward is suffering a decline in market value and it is difficult to sell a home. She said that some folks have already done work to improve heating and conservation and now, according to what is being required, it would have to be certified and an inspector would have to come and look at it. Ms. McDermott said she is not against the fact that we need something to come into place, she just doesn't think, based on the timing, if we can do it, or not. She said she believes that we should make incentives available for those people that want to do upgrades voluntarily, and measure the success of those improvements to see how significant they really are. Ms. McDermott said that in taking a look at implementation, we don't really have proper staffing at this point; it would require hiring and right now we have budget concerns and we are losing funding. Ms. McDermott said that she feels education is important and that we continue to do our best to make the public aware of what is going on with education.

Mayor Sweeney said that it appears that the consensus of the Committee is to start with a voluntary program, look at the County-wide model ordinance, when available, and emphasize education and outreach.

Mr. Quirk said that he would like to add that the community has said that all we need is a voluntary program to get the improvements, and we need to see that happen. Mr. Quirk said that once we have a loan program and we have shown that payments on the loan are going to be saving energy, then we can move forward with the mandatory program. Mr. Quirk said that all those things need to happen first and we are still going to need to sell it to the community before we can move forward.

Mr. Mendall said that those incentive programs have been in place for a long time and they have not worked. He said that we have new incentives and different programs now and that he is not optimistic that they will work. Mr. Mendall said that for those of you that don't want to see something mandatory, he will challenge you, encourage you, plead with you, to help us to make the voluntary path work. He said that if we can do it in a voluntary way to meet the goals that we need to meet, then great. He asked the audience to help the City to get different results this time or when we come back in three or four

years, we may end up with a different result and a difficult kind of RECO that would not be as friendly.

Mayor Sweeney said that Mr. Mendall's point is a good one. Mayor Sweeney addressed Mr. Rizk and said that this leads to another element of some sort of monitoring to track and see if the walk is matching the talk. Mayor Sweeney said if it does not match the talk, then of course the next logical step would be the sort of steps that Mr. Mendall is suggesting. Mr. Rizk responded that they anticipate monitoring the program and part of the requirements for participating in our program for rebates, is to provide data and allow PG&E to submit that data. He said it would help track our overall greenhouse gas emissions and update our inventory.

Mayor Sweeney asked if there were further questions; there being none, Mayor Sweeney closed the RECO discussion.

IV. Summary of Last Climate Action Management Team Meeting

Mr. Mendall said that many of the items that were discussed tonight were discussed at the last CAMT meeting. There was general approval for the staff recommendations with one dissent from Mr. Stark who wanted it said that the RECO could have a negative effect on a buyer's ability to qualify for purchase financing.

V. General Announcements and Information Items from Staff

Mr. Rizk said that the City Council is going to have a Work Session on the RECO on May 31. Also, there will be a Green Expo in the rotunda on March 11, from 12:00 – 7:00 pm, and everyone is invited to that event. Mr. Rizk said that staff would continue to attend the Neighborhood Partnership meetings and get the word out on the various incentive programs, including the cities that are getting ready to launch.

Mayor Sweeney said that Mr. Rizk has been attending the meetings and does an excellent job in presenting the program. Mayor Sweeney thanked Mr. Rizk, Mr. Pearson, Mr. Gable, and everyone for their good work.

VI. Committee Referrals and Announcements – none.

VII. Next Meeting: Wednesday, April 6, 2011

Update on Food Scraps Programs

Senate Bill 7 – Water Conservation

Annual Review of CAP Implementation and Priorities

VIII. Adjournment: Meeting adjourned at 6:18 p.m.

Public Comments on the Residential Energy Conservation Ordinance

CHERRY CREEK

MORTGAGE COMPANY

*John
Marian*

4301 Hacienda Drive, Suite 120
Pleasanton, California 94588
(925) 828-7057

March 1, 2011

RE: Residential Energy Conservation Ordinance (RECO)

To Whom It May Concern:



The purpose of this letter is to explain our policy, as required by our investors, regarding "holdbacks" for repair/improvement and credit for future repairs. I am afraid that the inspections and repairs the City of Hayward is considering will only serve to decimate the home values in Hayward even more. If people cannot get loans for the reasons stated below, they will be driven to purchase property in other cities that do not have such repair requirements. With the housing recovery so fragile, I think this is exactly the wrong policy to implement. While a noble idea, mortgage lending rules will not support such requirements at this time.

03/08/11 09:57 CLK

Our investors will not allow:

- 1) Credit towards repairs – only credit for closing costs
- 2) Holdback of funds for repairs to be completed after close of escrow

In addition, a limit is imposed on the amount of credit towards closing costs. If the credit exceeds the allowable limit, the additional funds will be returned to the seller and cannot be used towards repairs.

I just cannot see how the City of Hayward's thoughts on home repairs could be implemented without seriously damaging the value of property in Hayward even more than it already has been.

Should additional information be required, please contact me at 925-474-1115.

Thank you.

Claudia Kim
Loan Officer
CA-DOC 295059

Erik Pearson

From: Miriam Lens
Sent: Thursday, March 03, 2011 12:10 PM
To: Barbara Halliday; Barbara Halliday; Bill Quirk; Francisco Zermeno - Forward; Mark Salinas; Marvin Peixoto; Michael Sweeney; Mike Sweeney; Olden Henson; Olden Henson
Cc: Fran David; Joanne Burkman; David Rizk; Erik Pearson
Subject: Re: Residential Energy Conservation Ordinance

Dear Mayor and Council Members:

At the bottom of this e-mail you will find a message from Julie Machado regarding the RECO report, which was presented to the City Council Sustainability Committee meeting on March 2, 2011.

Thanks,

Miriam

Miriam Lens, CMC MPA

City Clerk

777 B Street, 4th Floor
Hayward, CA 94541
Phone: 510-583-4401
Fax: 510-583-3636
www.hayward-ca.gov

[City Clerk's Blog: www.hayward-ca.gov/cityclerk/](http://www.hayward-ca.gov/cityclerk/)



Apply for Passports at the Office of the City Clerk

From: Julie Machado [mailto:juliemac@pacbell.net]
Sent: Thursday, March 03, 2011 6:43 AM
To: CityClerk
Subject: Fw: Fwd: Residential Energy Conservation Ordinance

----- Forwarded Message -----

From: Francisco Zermeno <fzermeno@chabotcollege.edu>
To: juliemac@pacbell.net
Sent: Thu, March 3, 2011 6:05:30 AM
Subject: Re: Fwd: Residential Energy Conservation Ordinance

Hola,
thank you for your enote
good points
please send it to your City Clerk, Miriam Lens so that they will be taken into account
have a good upcoming weekend!
Teach on!

>>> Julie Machado <juliemac@pacbell.net> 03/02/11 6:48 PM >>>

According to the report on the City's website for today's meeting on RECO, it doesn't look to me like they are addressing historical houses in an adequate way. This ordinance appears to put the burden on the homeowner to know that there's a historical building ordinance and to prove it to staff that they should be allowed to follow it instead of these new RECO guidelines.

I am concerned that the upshot will be anyone with a historical house will just go ahead and replace windows, etc, compromising the integrity of their building, not knowing any better and feeling forced to meet the RECO requirements. (Many contractors also don't know how to honor historical aspects of a structure while making improvements, so relying on the contractors won't help, either.)

While I am a big fan of putting in insulation and reducing global warming, we also have to be sensitive to our historical resources. And replaced windows are a big problem in historic homes, as the types of windows put in are frequently not appropriate to the design of the structure. This can completely ruin the historical integrity of a structure. And to a trained eye, the aesthetic results can also be disastrous.

I am hopeful that this will be a voluntary ordinance. Even better, this aspect of the ordinance regarding historic structures should be cleaned up and clarified--for the benefit of homeowners, staff, and contractors.

Thank you,

Julie Machado

Erik Pearson

From: FLORENCE SAMUELS [flosamuels@msn.com]
Sent: Tuesday, March 15, 2011 4:52 PM
To: Erik Pearson
Subject: RE: RECO - Samuels on 3-15

Being that information on this proposal has never been disseminated to property owners for the entire year it was under consideration I was not at the meeting. And being that the minutes of that meeting were not part of the .pdf on the Hayward website when I saw the info on the RECO, I was doubly not aware of it.

Just a suggestion but you guys really need to publicize things a lot better. The majority of home owners do not take the Daily Review nor do they check the Hayward website. I only saw it because I am on CAC and was looking for something related to paratransit. Now about 50 of my neighbors are ready to tar and feather the council members. Had this whole process been made known to homeowners way back last year, I and a lot more others would have probably been at the meeting where it was decided not to do so.

Flo Samuels

From: Erik.Pearson@hayward-ca.gov
To: flosamuels@msn.com
Date: Tue, 15 Mar 2011 15:55:09 -0700
Subject: RE: RECO

Ms. Samuels,

The RECO that has been discussed would not apply to condos. It would only apply to single-family homes and duplexes. The ordinance would apply to all single-family homes and duplexes regardless of whether they are rental properties or if they are owner-occupied.

As you may be aware, the Sustainability Committee, at their March 2 meeting, decided to recommend that the City Council not move forward with adoption of a RECO. Staff will be presenting that recommendation, along with a summary of previous discussions related to the RECO, at the May 31 Council meeting.

Please let me know if you have any other questions. Thanks.

Erik J. Pearson, AICP
Senior Planner
City of Hayward
777 B Street
Hayward, CA 94541
tel: 510-583-4210
fax: 510-583-3649
erik.pearson@hayward-ca.gov
www.hayward-ca.gov

From: FLORENCE SAMUELS [mailto:flosamuels@msn.com]
Sent: Tuesday, March 15, 2011 1:40 PM
To: Erik Pearson
Subject: RECO

Erik

I recently learned about the proposed RECO ordinance and the fact that I learned about it one year after the City started spending money on investigating it does not go over well. However, because my neighbors want me to address this issue with the City Council as soon as possible, I need some information that I haven't been able to find. (Actually, after

plowing through all the info from the last meeting, I don't want to plow through any more.)

First, will RECO apply to condos?

Second, what is currently in effect that requires rental owners to meet the specifics of the proposed ordinance? Or are they considered as single family residence owners just by the fact that the property is a SFR/duplex?

Thanks, Flo Samuels

Erik Pearson

From: shrtmem@aol.com
Sent: Monday, March 21, 2011 4:29 PM
To: Erik Pearson
Subject: Energy efficiency ordinance

Hello Eric,

I spoke with you on the phone, you told me you would pass this message along.

To Whom It May Concern:

I received notice of the proposed Energy Efficiency Ordinance in my water bill. There was a meeting regarding this proposal on March 2, but I did not receive my bill till last week! It is not fair to schedule a meeting, have the meeting and then invite the people this ordinance will effect AFTER the meeting.

I would like you to know that at this moment I am against this proposal. I am like many other home owners in Hayward. Just trying to make ends meet. At this time I could not afford to make any energy efficiency improvements on my home. I know I could save money in the long run with improvements, but I just cannot afford this at this time. Imposing this would be a hardship for many people in Hayward like myself. What would be the consequences if you create this ordinance and then people like me cannot comply?

Please rethink this proposal. At this time, it is not a good idea.

Janice McCready

Erik Pearson

From: Thegirlsrn@aol.com
Sent: Thursday, March 24, 2011 4:37 PM
To: Erik Pearson
Subject: Energy efficiency ordinance--from Maureen Bessette

Do not agree that compliance should be required--would rather it be recommended. Some people could not afford the cost of compliance.

**Maureen Bessette
24881 Yoshida Drive
94545**

Erik Pearson

From: David Rizk
Sent: Tuesday, April 12, 2011 10:55 AM
To: Erik Pearson
Subject: FW: RECO

FYI

From: Fran David
Sent: Tuesday, April 12, 2011 8:51 AM
To: David Rizk
Subject: FW: RECO

FYI

FRAN DAVID
City Manager
City of Hayward
510.583.4300

From: Bill Quirk [mailto:BillQuirkForHayward@comcast.net]
Sent: Monday, April 11, 2011 9:41 PM
To: 'Daniel Breaud'
Cc: List-Mayor-Council
Subject: RE: RECO

Dear Betty and Daniel,

The recommendation of the sustainability committee to the council is that the program be voluntary.

Richard Muller has complained about some exaggeration of global greenhouse science.

He testified to congress yesterday and I heard him say on the radio today that global warming is occurring and that a part of it is caused by humans. His research project is to find out how much is human induced and how much may be from other factors such as fewer volcanic eruptions or an increase in solar radiation.

Here is some of what was said on the radio program:

NEAL CONAN, host:

After they won the majority in the House of Representatives last November, Republicans promised new questions on climate change. Last month, the Committee on Science, Space and Technology called a panel of three scientists, a lawyer and an economist to testify, essentially to answer this question posed by ranking member Eddie Bernice Johnson, a Democrat from Texas.

Representative EDDIE BERNICE JOHNSON (Democrat, Texas): There seems to be some attitudes that there is an elaborate hoax orchestrated by the scientific community on global change. Based on your work, the three of you, do you agree that the global temperatures are rising and will continue to rise, and that greenhouse gas concentrations are at least partly to blame?

CONAN: Those at the witness table that day included Richard Muller, a professor of physics at Berkeley, considered by some as a climate skeptic. When he responded in the affirmative to both those questions, he found himself in the middle of a debate where emotion and politics intersect with science

You can read the transcript of the interview or listen the interview at:

<http://www.npr.org/2011/04/11/135320209/climate-change-skeptic-says-warming-is-real?ft=1&f=5>

I was doing modeling of global climate in the 1970s. The only thing wrong with our predictions on warming and that it is happening faster than we predicted, because of positive feedbacks in the earth atmosphere system that we could not model at the time.

Bill

Bill Quirk
26420 Parkside Drive
Hayward CA 94542
Home Phone 510-581-5498
Email BillQuirkForHayward@comcast.net

From: Daniel Breaud [mailto:dbreaud@sbcglobal.net]
Sent: Monday, April 11, 2011 5:52 PM
To: List-Mayor-Council@hayward-ca.gov
Subject: RECO

Dear Mayor Sweeney and City Council Members:

We are writing to vehemently oppose implementing RECO. We own our home and property. Should we decide to sell it then the RECO items should be considered. Government should not be allowed to demand changes to existing property. It's up to the property owner, the Government doesn't own our home.

We suggest you read Physics for Future Presidents (author Richard A. Muller) and the section on Climate Change/Greenhouse gas emissions. You're going down the wrong path!!

Thank you for your attention.

Betty Tatsuno Breaud
Dan Breaud

1729 Osage Ct
Hayward

April 11, 2011

To:

Mayor Sweeney, City Planner Eric Pearson and Hayward Sustainability Committee.

On reading the article "Hayward's green effort has a price" in the Daily Review I had to write. Then a few days later it seemed that Hayward came to their senses, and decided not to force homeowners to make costly changes to our homes. This week I received in my water bill that this ordinance is back on the agenda, so here is my letter.

In an ideal world this would be a wonderful plan. Everyone would have the money to pay for very costly permits, products and installers to make everyone in Hayward energy efficient.

This is not an ideal world!! Do any of the people running our city realize there are many people without jobs, without steady income, people losing their homes, people taking

Cuts in pay, people taking forced furlough days (another paycut), seniors living on fixed incomes with no extra money to pay for costly work on their old home?

I think this is one more ordinance that will cause people not to buy a home in Hayward. Hayward already has more rentals than it needs --- with this ordinance you'll see more homeowners moving out of Hayward. This city needs more homeowners; not less.

Before you start making ordinances that harm our city; try to work to get HUSD to be a district that parents want their children to attend. Get the gang and drug dealers off our streets. Get the criminals that are shooting and attacking and stealing from our citizens and put them in jail.

When we first moved here (forty years ago) Hayward was a nice city; but it's going downhill. I really hate to have to say that.

I think part of the downfall is that too many people in Hayward government don't live in Hayward. They don't really care about our city. The same is true with Hayward fire fighters and police.

Years ago, the people that ran Hayward had to live in Hayward. Now that's an ordinance I could agree with!

Thanks for your time and I hope you'll put this green ordinance in the trash can.

Sincerely,

A very concerned
Citizen of Hayward

CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING
Hayward City Hall – Council Chambers
777 B Street, Hayward, CA 94541-5007

March 2, 2011
4:30 p.m.

MEETING MINUTES

I. Call to Order – Meeting called to order at 4:35 p.m. by Mayor Sweeney.

II. Roll Call

Members:

- Michael Sweeney, Mayor
- Olden Henson, Council Member
- Bill Quirk, Council Member
- Dianne McDermott, Planning Commissioner
- Sara Lamnin, Planning Commissioner
- Al Mendall, Planning Commissioner
- Doug Grandt, Keep Hayward Clean and Green Task Force (Absent)

Staff:

- Fran David, City Manager
- David Rizk, Development Services Director
- Bob Bauman, Public Works Director
- Erik Pearson, Senior Planner
- Marc McDonald, Sustainability Coordinator
- Katy Ramirez, Administrative Secretary (recorder)

***Others:**

- Mike Gable, Gable Associates, LLC
- Bachi Brunato, Ultimate Home Performance
- Simon Wong, Government Editor, Tri-City Voice Newspaper
- Florine Banks
- Otto Catrina, Bay East Association of Realtors
- Michael Chaney
- Cynthia Chiasson, Realtor
- Jeffrey Conner, Attorney
- Fadi Dib, Resident
- Mary Ann Falle, Resident
- Alex Hicke
- Kim Huggett, Hayward Chamber of Commerce
- Miroslav Kulias, Resident
- Angie LaPlante, Resident

- Rich LaPlante, Resident
- Jan Lebby, Realtor
- Rodney Loché
- Timothy May, Rental Housing Owners Association
- Rene Mendieta, Legacy Real Estate
- Lyman Menger, Realtor
- Murline Monat, Coldwell Banker
- Luis Munoz, Resident
- Clyde Nazareth
- Teresa Nazareth
- Laura Owen, Coldwell Banker/Realtor, Resident
- Craig Ragg
- Heather Reyes
- Victoria Rodriquez, BEAR
- Jane Rowson, Realty World Neighbors
- Elizabeth Schultz
- David Stark, Public Affairs Director, Bay East Association of Realtors
- Carrol Stegall, Resident
- Judy Virgin, Resident
- Patrick Virgin, Resident
- Wade Winblad, Realtor
- John White

**There were other attendees in the audience that did not sign in.*

Mayor Sweeney welcomed everyone and explained that because there is a special City Council meeting this evening, the Sustainability Committee meeting will have to be finished by 6:00 pm to allow set-up for the Council meeting. Mayor Sweeney indicated that the Committee normally meets in Conference Room 2A; however, since we anticipated a large audience, this meeting was moved to the Council Chambers so that everyone would be comfortable.

III. Public Comments

Mayor Sweeney said that since there are so many people speaking, and without objection from the Committee, he is going to allow each speaker two minutes for their public comment. This will help to get through all the speakers and for staff discussion and questions. There were no objections from the Committee.

Miroslav Kulias, resident, said that he has owned his house in Hayward since 1972. Mr. Kulias said that he is surprised that the City is going to force homeowners to do unnecessary improvements; and if the improvements are not done, there will be a penalty should the homeowner decide to sell their house. He said that he believes the cost of the house is determined by its features, and if the house is not up-to-date, the selling price would be lower and the homeowner would be punished as a result. Mr. Kulias said that

the current housing market in Hayward is down by 50 percent of the original price, and with the required upgrades, the homeowners would be punished twice.

Elizabeth Schultz, resident, distributed a document to the Committee. Ms. Schultz said that she owns property on Tyrrell Avenue and invited the Committee to come down to one of the vacant lots on Manon or Shephard Avenues and hold a meeting there. She asked the Committee to look at the pictures in the document and see the real Hayward outside of City Hall, which is in a nice location with marble steps, litter free lawn, and trimmed trees. Ms. Schultz said that litter is typical in the area along West Tennyson Road and South Hayward, and said that you will find it everywhere if you walk the streets rather than drive by on the freeway. There are fences in disrepair, litter strewn over various properties, vacant lots, and on the sidewalks, along fences, and that garbage is a sanitation hazard and attracts vermin and rats. She said there are overflowing dumpsters, and the City's own garbage cans are overflowing on a constant basis. Ms. Schultz said that the Sanitation Department comes out and picks up when asked; however, within 24 hours the garbage can is filled and overflowing once again. Ms. Schultz said that there are tarps instead of roofs, cardboard instead of fences, and said it is like a shanty town, unlike City Hall. Ms. Schultz said that she would like the Committee to come and walk these streets before imposing a tax on owners and occupants who need to do desperate work to their houses just to bring it up to minimal standards. She said that additional tax is the last thing they need on the work and repairs that they try to do on their property to keep up with other problems in the neighborhood.

Mayor Sweeney commented that he was walking up and down Tyrrell Avenue the past Saturday picking up trash with some students from the Keep Hayward Clean and Green Committee. He said to Ms. Schultz that he did not see her there helping out and told her that she is always welcome to join in and help. Mayor Sweeney indicated that the Keep Hayward Clean and Green Committee generally meets on the fourth Saturday of the month and they go out and pick up trash and paint out graffiti. Mayor Sweeney invited Ms. Schultz to bring her friends along, that the Committee would appreciate the help.

Cynthia Chiasson, resident, said that she has attended most of the Sustainability Committee meetings and has spoke regarding RECO. Ms. Chiasson said that she is most concerned about timeliness of what the City is trying to do. She said that she is not objecting to the concept and the passion of what Hayward is trying to do; it is the manner in which it is being done. She said that she would like to suggest pushing out this wonderful idea to 3-5 years. Ms. Chiasson said that we are in a no job recovery time and this idea is bad for Hayward, bad for homeowners, and bad for business. She said she use to be a realtor full time but is now a realtor part-time, and works for her son's company on a full-time basis, which is located in Hayward. She said she is very passionate about making RECO a fair thing, cleaning up Hayward, helping Hayward, but not doing it on the backs of the people during this hard time.

Patrick Virgin, resident, said that he is in disagreement with the need for a RECO, and has his personal views about global warming which he expressed at the last

Sustainability Committee. He said that one of the things that he does not like about RECO is the government imposing it on him. Mr. Virgin said that he was reviewing the City's permit fees schedule and wonder if the 1 percent or 5 percent as proposed in the RECO goes towards the cost. Mr. Virgin continued by providing many examples of permit fee costs associated with upgrading a house (i.e., to fix a chimney and insulation would cost \$240.00; installation of a solar system, \$300.00; stucco siding permit, \$503.00, etc.), and noted that of the \$5,000, you could spend \$2,500 on permit fees. Mr. Virgin said that this is not fair and asked if the permit fee expenses are the owner's responsibility, because he cannot afford it.

Mayor Sweeney noted that Mr. Virgin raised a good issue and asked David Rizk, Development Services Director, to address it when this item is later discussed on the agenda, on whether permit fees go towards the cost or not.

Judy Virgin, resident, said she has been a homeowner in Hayward for almost 47 years. She said that she has seen Hayward go up and go down, and said that if she could figure out a way to move from here, she would be the first one to sell. She said that she got a quote on Facebook from a young man that was born, raised, and educated in Hayward and who has now moved to Marysville. She said that the young man indicated to her that between dealing with Mission Boulevard and the Building Department when trying to get a permit for a solar system, he thinks he will keep his jobs in the valley; she said that she hears this repeatedly. Ms. Virgin said that they needed a new sidewalk in front of their home and they did everything accordingly, went to the Building Department, paid for it, etc. She said that when the City inspector came to approve the work, he indicated that he does not like the color of the cement and said they will have to change it. She said that her husband asked the inspector if he likes the color of the cement across the street, and the inspector replied no, that he would not have approved that color either. Ms. Virgin said that her husband said to the inspector that the City installed the cement and color across the street, which is the same color that they have; the inspector approved their cement project.

Heather Reyes, resident, said that she is pleased to be part of a community that wants to improve; but asked if the timing is right. Ms. Reyes said that she is speaking on behalf of the homeowners that she recently spoke with to get their thoughts on RECO and first of all, they were unaware of the proposed RECO. Ms. Reyes asked if in making the RECO mandatory, is the Committee taking into account the current state of the economy in California. She said that the economic stability within Hayward proves that the unemployment rate is up by at least 10 percent; at least 1 out of 8 people are looking for a job. She asked if we really think these people are going to be concerned about energy efficiency on their homes. Ms. Reyes said that she has had multiple friends lose their homes due to foreclosures; there were 1,500 plus foreclosures over the last year, and asked if these foreclosed homes are going to fall under RECO as well. She said that she would like Hayward to become a green city, but at what cost? Ms. Reyes asked why the Sustainability Committee meetings begin at 4:30, when so many homeowners work. She said that she works in San Francisco and had to find two baby sitters and leave work

early to attend this meeting. Ms. Reyes proposes for the meeting to begin at 7:00 pm, same as Planning Commission, in order to make it more available for the homeowners to attend and speak.

Victoria Rodriquez, real estate broker, said that she has been doing business in Hayward for 35 years, and currently has an interest in a couple of properties with clients in the area. Ms. Rodriquez said that Hayward has many amenities to offer and among the ones that she emphasizes to her clients are convenient location, weather, and affordability. She said that the most obvious objections that she has to address to her clients are the school district, gang activity, and crime. Ms. Rodriquez said her experience has been that the majority of the buyers are choosing affordability, that most of her buyers are barely able to put together the required down payment and, consequently, will often seek assistance from the seller with credit for closing costs. Ms. Rodriquez said that the affordable cities in the area are Hayward, San Leandro, San Lorenzo, and Castro Valley. She said that if she knows in advance that she will be asking a seller for a reduction in their net proceeds because of a RECO, in addition to selling a home at foreclosure cost, her first option would be to eliminate Hayward and work with neighboring cities. She said that with all the good intentions, the City would be pounding the last nail on Hayward's value coffin. Ms. Rodriquez said that as a member of the Hispanic community, she is very aware of the struggles that we are facing during this economy. Ms. Rodriquez handed a letter to staff for distribution to the Sustainability Committee.

Luis Munoz, resident, said that he is concerned about the RECO requirements; that it will create a very destructive cycle with the three options that are being presented. For the remodel trigger, Mr. Munoz said that it does not take much to rack up \$30,000 in remodeling expenses and said that he knows this because of the type of work that he does. He said for the folks that will try to get away with not having to deal with the issue, the problem with unpermitted improvements will get even bigger than what it is now. Mr. Munoz said that if you look at the transfer trigger, just because you postpone it does not mean that low and moderate-income families will be able to afford it later. If they do not do the upgrades, then they are going to rack up fines and make it worst. Finally, a base certain trigger – again, it doesn't change the math if you don't have the money, unless you are very clear how you define low income, then you will have folks that are not able to do it, try and circumvent it, etc., so it really won't address what you are trying to accomplish. Mr. Munoz said that he supports the concept but not the way it is being presented.

David Stark, Bay East Association of Realtors, noted that page two of the staff report references how priority was given to the various measures presented in the Climate Action Plan. He said the criteria included ease of implementation with potential for reduced emissions and the cost of implementation. Mr. Stark said that based on the information provided today, it is easy to conclude that the latest version of the RECO would be difficult to implement, would not reduce greenhouse gas emissions, and would be expensive for the City and for Hayward homeowners. He said that the Sustainability Committee still does not know if Hayward homeowners and homebuyers can afford to

pay the upfront cost to retrofit, and simply stating there are grants available to pay for mandatory requirements is naïve. Mr. Stark said that the Committee does not know if the measures described in the staff reports will reduce energy use in homes located in Hayward. He said that the Committee does not know the unintended consequences from adopting a RECO ranging from health impacts, to the impact that the RECO will have on homeowners securing a mortgage. It is okay to conclude that a RECO is not good for Hayward or for reducing greenhouse gas emissions. Mr. Stark indicated that the Committee does not have to recommend the adoption of a RECO. He said that state law does not require the City of Hayward to adopt a RECO and, according to City staff, the Energy Efficiency Grants Programs available to the City of Hayward does not require adoption of a RECO; and the Climate Action Plan does not mandate the adoption of a RECO. Mr. Stark said that the push to adopt the RECO has put the cart before the horse. He would like to ask the Committee to first promote voluntary programs and energy efficient incentives; study the effectiveness of energy retrofits on real homes in Hayward, owned by real Hayward residents; and then use that data to make informed decisions about adopting a RECO.

Michael Chaney, resident, said that he is a realtor and property manager. He said that he thinks the approach that the Committee is making is not fair to the residents and homeowners. He said it should be approached from a different aspect by using the incentives and working with banks to give the proper loan incentives to make it happen; otherwise, the banks are going to look at this as a major problem. Mr. Chaney said that this is a big concern for him, his clients and renters. He asked the Committee if they have considered this approach, same as PG&E's offer to lower-income homeowners. Mayor Sweeney responded that this will be addressed later in the meeting.

Timothy May, Executive Director for the Rental Housing Owners Association, thanked the Committee for offering him the opportunity to speak before them today. Mr. May said that he hopes the Committee received the correspondence that he sent via email the other day. He said that he would like to reaffirm the fact that the California Apartment Association and their local do believe in conservational resources, that it is one of their primary tenants. Mr. May said he is concerned that the proposed RECO may affect the smaller rental property owners in Hayward. He indicated that some of their members are rental owners that are not necessarily landlords by choice, that they have been put in this position for various reasons, and the time certain trigger can really put a serious burden on these owners. Mr. May said that the good news is cities like Dublin and Union City have managed to create Community Climate Action Plans without RECOs, using incentives and education in very positive ways that have helped those communities hit the targets that have been put before them. Mr. May said that he is asking Hayward to consider a similar approach using incentives and education and continue to work to provide a positive business model for people who want to live and work in Hayward.

Rich LaPlante, resident, said that he stands in support of the concept of what the City is trying to do throughout Hayward with clean and green and environmental improvements; however, he totally stands in opposition to the enactment of a RECO. Mr. LaPlante said

that he is currently responsible for a family home that was put up for sale in July of 2010. He said the home was offered at a fair price and had up to \$40,000 in improvements, and he has not received a single offer despite lowering the price twice. Mr. LaPlante said that due to foreclosures situations in Hayward and in his neighborhood, real estate is pathetic. He said that he does not need a real estate profession to tell him that Hayward is near the bottom of the real estate market in Alameda County, and Alameda County is near the bottom for the counties in the Bay Area. He said that he does not need the City to make it more difficult to sell homes and this is not the time to impose more construction costs to those of us that are trying to move more homes, nor the time to impose more government fees; a fee is a tax. He said that he does not support a government process that wants to protect him from himself. Mr. LaPlante said that he stands in opposition to a process that has yet to conduct an extensive outreach to the homeowners in Hayward. He said yes, he has a copy of the water bill insert that was just received, and he has a copy of the February 12 Daily Review article that talks about this topic, and he has read all the minutes from all the meetings that have been conducted. Mr. LaPlante asked which of you elected leaders has sponsored a neighborhood meeting to engage affected homeowners that don't have what I have. Mr. LaPlante said that he supports increased education regarding RECO, for as long as it will take.

Craig Ragg said that he lives in Castro Valley, has a real estate business and owns property in Hayward. Mr. Ragg said that he is concerned about different parts of the RECO, one being the transfer of sale. He said that in theory, if the seller cannot afford to pay for upgrades, then the buyer negotiates and has two years to complete the upgrades. Mr. Ragg said that most of the buyers are buying with a minimum down, and bank and FHA fees are going up, so there will be very little money left over. He said that if they go in assuming that the costs are a certain amount based on the numbers that day, and they still have the two years, the homeowner would be chasing the numbers and that is a potential problem. Mr. Ragg said that his other concern is about the homes that were built over the last 10 years that met the Title 24 codes, that are being updated constantly, but the older homes are being sold and not updated until date certain. Mr. Ragg said that it seems crazy to have to continue to update homes that were built with high standards at the time; and not deal with the older homes. Mr. Ragg said it seems like a bad way to deal with this process and that he agrees with the speakers about education and doing it on a voluntary basis.

Laura Owen, resident, said that she has lived in Hayward for 21 years and her mother-in-law has lived in her Hayward home for 52 years. Ms. Owen said that she is a real estate agent and has been selling homes in Hayward for 18 years and is very concerned about Hayward taking a hit on home prices. She said that transferring and selling properties by trigger would hurt the community, would bring it down in value and, as already discussed, there is the cost of obtaining permits. Ms. Owen said that her income has taken a hit over the last couple of years and she is worried about the expense involved with doing a RECO. She said her mother-in-law is 75 years old and retired; how will she and other homeowners be able to afford these upgrades. She said that she strongly

believes that Hayward is one of the lowest communities in the Bay Area and has already taken a huge hit. Ms. Owen said that some investors do not want to purchase in Hayward because of the every 2 to 3-year inspections. Ms. Owen said that she is against RECO through the transfer.

Clyde Nazareth said that he has a real estate office in Hayward and has been selling homes in the Hayward area for over 20 years. Mr. Nazareth said that he would like to address the most important point that the City should be focusing on right now. He said that we are looking at a community that is the starter area for the Bay Area, and we do not need more hindrances placed in the way of selling homes. Mr. Nazareth said that Berkeley is the only other community that has an active RECO law and Hayward does not need to emulate them. He said that the real estate industry has enough competition for home sales in the surrounding areas, and the surrounding areas do not have the restrictions that a RECO will bring. He said that we are talking about people who suffer greatly, much more than other people in the Bay Area as far as proportional drop, and the City does not need to add more to it. Mr. Nazareth encouraged the Committee to not set a deadline to try to enact a RECO in the future; at this point, it is better to suspend an action of this law and look at sustaining home equity. Mr. Nazareth said that Berkeley is a community at 28 percent above the average income for California; Hayward is 17 percent below. Everything the City does will have an impact, and it will impact it greatly.

Teresa Nazareth, broker at Century 21 for over 20 years, said that she would like to bring to the Committee's attention a letter addressed to the editor of the Daily Review from Jim Ferry, where he talks about the RECO's costly retrofits. Ms. Nazareth said that if the RECO is in the interest of the community, the homeowners do not know about it. She said everybody is trying to hold a job and 4:30 for this meeting is not a viable time. Ms. Nazareth said that a lot of audience is opposed to it; that if we educate the public, she is sure the Committee will have a lot more people telling you what they think about RECO. Ms. Nazareth suggests that we educate people, homeowners, and low-income people, with a little flyer in the electric or water bill.

Rene Mendieta said that he lives in San Leandro and is a local real estate agent. Mr. Mendieta said that he agrees with what the City is trying to achieve and especially addressing the issues of global warming, which in his opinion is definitely creating catastrophic climate change. He said that this legislation does not even put a close dent on the issue; however, he thinks it is still good legislation, but misguided. Mr. Mendieta said that Mr. Clyde Nazareth made an excellent presentation of his opposition to this legislation. Mr. Mendieta said he would like to point out that the exempt foreclosure and distressed sales represent about 70/30 percent of the transactions, which already shows that it is misguided. He said this will deter people from wanting to remodel their homes and deter them from wanting to sell their homes. Mr. Mendieta said that he is not an advocate real estate agent; he is here because he thinks it is unfair for local homeowners and, again, it is misguided.

John White, resident, asked to what degree the Committee has looked at other possibilities and programs like a RECO, whereby the incentive may be, for example, the City of Hayward doing an energy audit or better than that, the CPU City utilities do an energy audit. Mr. White asked how can we piggyback on all of those programs to get more leverage without building a bureaucracy to go out and do the audits. He said they exist now and there has to be opportunities, again, to partner with the utilities, CPUC to get to the goals that we are trying to achieve in saving energy. Mr. White asks to what degree have we given consideration to the new homes being built in the City of Hayward; what degree would those homes allow us to achieve our goals without the expense on the existing homes. Mr. White said third and final thought, perhaps the city can put an “E” stamp on an incentive if you are selling your property, that this home is energy efficient, and that might give some leverage for a few extra dollars as well.

Jan Leby, resident, said that she owns two homes and has lived in Hayward for 34 years. She said they have enjoyed their home and have done many upgrades to maintain their property. Ms. Leby asked if we are going to bring homeowners to live and enjoy Hayward, what is there to offer. She said there have been upgrades to some areas, along B Street, and a new theater, and these type of upgrades will bring people to Hayward. Ms. Leby said to bring them in under this RECO is a negative thing, and if the seller cannot afford to make the improvements, then the buyer is going to have to do this. She said right now home prices are low enough to bring in more people, especially with the starter homes, people will be able to make their improvements as they go along and raise their families. Ms. Leby said that we do not want to discourage anyone so we need to do whatever we can to help people come to Hayward. She said that if Hayward does not offer affordability and if there isn't a reason to come to Hayward, then Pleasanton and Dublin are 10 minutes down the road, and they have a lot to offer there.

Mary Ann Falle, resident, said that she has lived in Hayward for about 20 years. Ms. Falle said that sustainability and being kind to the environment are values that she holds near and dear to her heart; that this is how she chooses to live her life and these are choices that she makes for herself. However, she said that when she heard about RECO yesterday for the very first time, it felt very disrespectful to her as a homeowner. She said it should be up to her on how she chooses to make her home energy efficient; that it should be her decision based on how much money she makes. Ms. Falle said that now is not the time for a mandatory law and suggests that the City look into something voluntary. She explained, for example, to set a goal for people and say, “we as a City want to achieve these goals; these are some things that you can do in your home to help us achieve these goals,” and then people can make the choices that are right for them. Ms. Falle said that if the Committee does decide to recommend a RECO, she would like to ask that the whole section on the shower fixture, sink faucet, lavatory faucet, and toilets be omitted, because the reality is that you don't get any savings on gas and electricity by changing those things. She said energy efficiency comes from changing your water heater, wrapping your water heater, wrapping your pipes, and if we are already asking people to do those things, it is not fair to ask them to do these other

things. Ms. Falle said that the goal is to reduce energy efficiency with this proposal, not to preserve water, and for the City to stick to its goal.

Wade Winblad, resident, said that he does not have a problem with new construction, energy efficiency, or extensive remodels, but forcing people to retrofit when they are not ready is not called for these days. Mr. Winblad said there are many people in attendance tonight that are not represented, and those are the people that he hopes he can speak for. People that are still at work, people on assembly lines and at hospitals, and he bets the people in the audience can probably buy insulation for their attic, but the people that aren't here, might not be able to afford it. Mr. Winblad said that the mandatory requirement to retrofit houses is totally wrong, and asked if the Committee are public servants or our rulers, which is it?

Otto Catrina, property owner in Hayward and President of Bay East Association of Realtors, said that he is involved with a transaction in Alameda where they have a point-of-sale on a sewer lateral. Mr. Catrina said that he is a big advocate for this because of the toxic leaks in the sewer lateral getting into the high water cable and the adverse affect it would have on the community. He said that Bay East Association is advocating on the proposed RECO incentives; however, they want to make sure that it is not mandated and that it is voluntary. He said that it is unfortunate that a lot of the community is not in attendance; there is a population of 158,000 in Hayward and only about 50 people are in the audience. Mr. Catrina said that the communication and collaboration with the community in trying to identify and resolve a solution is missing, and needs to be addressed.

Fadi Dib, resident, said that four years ago he remodeled his home and went the extra mile to make his home more efficient. He said that some of the items disclosed in the RECO indicate that he would have to do some of these things again. Mr. Dib said that he went through a lot with the City in dealing with permits, licensing, inspectors, and other horrible things that were mentioned earlier in the meeting, and he is not willing to do that again. Mr. Dib said that if incentives are offered, then basically, homeowners would achieve what they need to achieve.

Mayor Sweeney closed the Public Comments session and thanked the speakers for their comments.

- IV. Approval of Minutes of February 2, 2011 - minutes approved with minor revisions from Planning Commissioner, Al Mendall.
- V. Residential Energy Conservation Ordinance (RECO)

David Rizk, Development Services Director, said there has been a lot of effort in the last several months to develop the framework for a potential RECO for Hayward. Based on the direction from the Sustainability Committee, staff has tried to balance the adopted goal of reducing greenhouse gas emissions associated with energy use in existing homes

while minimizing the cost to homeowners. Mr. Rizk said that since the February Sustainability Committee meeting, staff has made revisions to potential components of the future RECO to provide more flexibility for compliance, more exemptions, and as many incentives as possible to encourage homeowners to reduce energy use, which will all be addressed by Erik Pearson during the presentation.

Mr. Rizk said that he would like to take a moment to introduce and acknowledge the team that has been working on the proposed RECO. First, Erik Pearson, Senior Planner, has been the lead on developing many of the components of the RECO. Second, a tremendous amount of work has been done by Mike Gable of Gable and Associates, who not only developed the RECO report for Hayward, but also developed a cost effective study that was used by Hayward and other cities in the Bay Area related to adopting Green Building Ordinances for new construction. Third, Marc McDonald of QuEST and the City's Sustainability Coordinator, who is on contract through the end of next year. He said that Mr. McDonald will be will be the lead on rolling out the three energy efficiency incentive programs that total about \$750,000 in Federal Energy Efficiency and Conservation Block Grants funds, and of that amount, \$250,000 relates to rebates for improvements in existing homes. Mr. Rizk also introduced Bachi Brunato, who has been doing general contracting and construction work for over 30 years and has worked on hundreds of homes involving remodels and retrofits, and worked on homes with the current utility program incentives and energy efficiency installations. He said that Mr. Brunato is here to answer any questions in terms of cost and construction and any questions related to his contracting experience.

Mr. Rizk said that Mr. Pearson will be providing a PowerPoint presentation and overview of the proposed RECO, and will explain what a RECO is and why the City has been spending time in trying to develop a RECO. Mr. Rizk said that Mr. Pearson will also be providing the Committee with some options to consider as they move forward to the City Council, which is scheduled for Work Session on May 31.

Mr. Pearson said that he will be providing a few of the basis for a RECO, focus on some of the major components that might go in the RECO, and focus on some of the changes that have been made since the last Sustainability Committee meeting in February.

Mayor Sweeney asked Mr. Pearson if he may interrupt for a moment, and continued by saying that the Committee has heard from many people this evening, and now he sees that people are walking out. Mayor Sweeney said that it is a little disingenuous for folks to tell the Committee what they don't like, and then when the information is about to be shared, for them to walk out of the room. Mayor Sweeney offered the suggestion to the other audience members to encourage the folks that walked out to come back in and listen to the presentation. He said that it is unfortunate for people to talk about certain things they don't like without hearing what the program is and what the ordinance might actually include. Mayor Sweeney indicated he is just making a suggestion and that he is sure the rest of the Committee members would appreciate this, as well. Mayor Sweeney apologized to Mr. Pearson for the interruption and asked him to proceed.

Mr. Pearson indicated that the State adopted the Global Warming Solutions Act in 2006, which includes greenhouse gas emissions reduction goals and that it includes Hayward's goals. In addition, the California Public Utilities Commission released a Long-Term Energy Efficiency Strategic Plan that includes goals for reducing energy use in existing homes, and that plan recommends that local governments adopt RECOs. Mr. Pearson said that Hayward's Climate Action Plan was adopted in 2009, and includes emission reduction goals to those of the State. He said that a RECO is one of the recommended options in the Climate Action Plan, which estimates savings of 639 metric tons annually by 2020, and 39,000 metric tons annually by 2050.

Mr. Pearson provided a brief overview of the schedule of Sustainability Committee meetings that were held in 2010 and 2011, and noted there were a couple of special meetings outside of the regular meeting schedule, as well as several meetings with the Climate Action Management Team. He indicated that all meeting agendas are posted to the website; email notifications have been sent out; and inserts were included with the water bill accounts. Mr. Pearson said there is background information and reports on the RECO page of the website and you may visit it by clicking on the Green Hayward link located on the website page.

Mr. Pearson said that the main components of the RECO are the retrofit measures triggers, cost caps, and exemptions, and proceeded to explain each of these components. Details are available in the March 2 Staff Report.

Mr. Pearson said that staff plans to provide a draft ordinance to City Council on May 31, and has drafted several options that the Sustainability Committee may want to recommend to City Council, as outlined below:

1. Adopt a RECO consistent with today's report (effective approximately 2 years after adoption);
2. Adopt a RECO that differs with today's report (effective approximately 2 years after adoption);
3. Delay adoption of a RECO until a County-wide model ordinance is developed;
4. Don't adopt a RECO and amend the City's Climate Action Plan; or
5. No recommendation at this time.

Mr. Pearson said that this concludes his presentation.

Bill Quirk, Council Member, thanked everyone for being at the meeting tonight, and clarified that they are not rulers, they are representatives. Mr. Quirk said that he thinks it is critical that we fight global warming; however, the Committee is losing the argument with the community, and thinks they should begin with a voluntary program. Mr. Quirk said that they are partly losing the argument because they should have removed the change on sale; this has all the realtors talking with the community, and also it doesn't make sense with the status of the current market. Mr. Quirk said that we should start

with a model ordinance and a lot of education, and also educate the community about the problems with global warming. Mr. Quirk indicated that Berkeley put a measure on the ballot asking the community to come up with a goal for reducing greenhouse gases, and they did and it brought the community out and a lot of the discussion forward. He said that as a member of Hayward Area Shoreline Planning Agency, they brought forward a plan to deal with sea level rise, and if something is not done we are going to lose part of Hayward's industrial district and the City's sewage treatment plant. Mr. Quirk said he thinks we need to start with something that is voluntary and that he doesn't see them proceeding any other way at this time; however, he wants to hear what his colleagues have to say.

Olden Henson, Council Member, thanked everyone for attending the meeting and for their interest, and thanked staff for all their hard work. Mr. Henson wanted to point out that staff is not initiating, staff is moving forward at the directive of the Sustainability Committee, who wanted to see how we can address some of the issues that are relative to reduction in carbon footprint. Mr. Henson said that the key to any adopted program are incentives; and to have a major program without any incentives or funding mechanisms, will probably be a failure up front. He said that one of the things that he has done in the past year or so is to represent the City on the Stopwaste.org board, which is the waste authority for the County. Mr. Henson said that he had a couple of opportunities to look at RECO audiences in that venue as well, and asked that staff to look at Hayward proposals and what could be done, in lieu. Mr. Henson said that he just learned from the Executive Director of Stopwaste.org, that his concern with Hayward's RECO at this moment, is that another program was recently unveiled called Energy Upgrade California, which is an incentive program. He said if Hayward were to move forward with a RECO, there might be confusion with the mandatory programs and the incentive programs, such as the PG&E incentive programs, many of which are forthcoming, and this would offset some of the RECO actions. Mr. Henson indicated that the main program that Stopwaste.org staff has been working on over the last year is with the Department of Energy on major grants that might make the RECO unnecessary. In addition to that is the PACE program with Fannie Mae and other agencies, and it may be that the many incentive programs along with the City of Hayward's program, may offset that need, however, we do not know that yet. Mr. Henson said that he is suggesting, as one member of the Committee, to wait for a model ordinance from the entire County, so that Hayward is not stepping out and providing another City an unfair advantage over Hayward.

Mr. Henson said there are a number of recommendations from staff, and then asked staff for their recommendation. Mr. Rizk responded that he thinks there are valid reasons for delaying in order to allow for several things to happen, such as education and outreach, full utilization of incentives, including any future incentive programs, and the ability to collect data to see how efficient some of these improvements would be for those who do take advantage of the incentives. Mr. Rizk said the final thought is to have staff review their analysis on what the capacity is of City staff, including future staffing levels, would be to administer and oversee this type of ordinance and implementation. Mr. Henson

said that his suggestion, more specifically, is to look at what all the other cities are doing and to come under one umbrella, and approach it this way. He said that he thinks it is critical to educate the community. Mr. Henson addressed Mr. Stark in asking that his organization do their part as well. He asked that when the incentive programs roll out, that Mr. Stark make sure that these incentive programs are out there and indicated that there is an education component that is needed on his part, as well. Mr. Henson said to Mr. Stark that he has asked something of the Committee, and the Committee is asking something of him, and he fully expects that to go into play.

Sara Lamnin, Planning Commissioner, said that she also wants to add her thanks to everyone that has done work on this, including the community and that they attended this meeting and are speaking out. Ms. Lamnin said the government's role is to manage and to protect, that is what people were appointed for, and that is what people were voted for; but not to do what the community does not want. She said there must be community involvement and community engagement, so the question is whether we move forward. Ms. Lamnin said that she heard some good support and good ideas about delay in terms of what else could happen. She thinks that focusing on education and making sure that the incentives get out through homeowners groups and community networks in the City, and giving people the tools that they need to make sure we are all taking care of each other, that energy conservation will provide for us. Ms. Lamnin said that she is hesitant because 2020 is nine years away, so if we delay for everybody to get together on the same page, we are never going to get there. She said she is wondering if instead of a prescriptive measure where people have to do these things, that we talk about a date certain home energy audit, with solid information that helps to make sure that what is happening in a home, is what needs to happen, to allow people flexibility with a really clear goal. Ms. Lamnin said in addition, to clarify that this is where we are trying to get to; here is what the City has already done to try and meet its requirements; here are the next steps; and here is the role that we are asking everybody in the City to do. Ms. Lamnin asked that we do not exempt people who are low income or have disabilities from participating. She said that she does not mean we add extra burden to people who are already burdened; she means that we do not eliminate the opportunity for everybody to participate. She said there are many free programs and ways to mitigate costs to share burdens; however, if someone is living in substandard housing, that could be a huge burden to the environment and if we do not address that, she thinks we are doing a disservice to the community, as well.

Al Mendall, Planning Commission, said that this is very difficult for him and there is no doubt in his mind that we need to do this. He said that global warming is real and it is getting worst every year, and many speakers tonight acknowledge that we need to do something to combat global warming. He said when the green building ordinance came before the Committee, the builders came and said yes, we need to do something about global warming, but not with new construction. If we have something that is going to affect businesses, the business owners will come down and say we need to do something, but do not affect businesses. Mr. Mendall said if we all take that approach, then we get paralyzed and do nothing. He said that doing nothing is not acceptable. Mr. Mendall

said that he lives three miles in from the bay and his house is 16 feet above sea level. Mr. Mendall said that global warming is going to affect Hayward first; 20 percent of the town is approximately 10 – 15 feet above sea level or less. He said that we just can't hope for the best and do nothing. Mr. Mendall said that he cannot disagree with what some of his colleagues are saying regarding trying to force something down the community's throats; it is not the right way to do it, even though he knows it the right thing to do. Mr. Mendall said that he is left in a little bit of a pickle; to do nothing is wrong; to force something that the community is opposed to is wrong; and that he honestly does not have an answer, except move to higher grounds.

Dianne McDermott, Planning Commissioner, thank everyone for their various opinions and observations. She said she works in a financial investors office and is familiar with lenders, FHA, conventional, Freddie Mac, etc., and it does concern her with the timing, and we need to do something. She said that Hayward is suffering a decline in market value and it is difficult to sell a home. She said that some folks have already done work to improve heating and conservation and now, according to what is being required, it would have to be certified and an inspector would have to come and look at it. Ms. McDermott said she is not against the fact that we need something to come into place, she just doesn't think, based on the timing, if we can do it, or not. She said she believes that we should make incentives available for those people that want to do upgrades voluntarily, and measure the success of those improvements to see how significant they really are. Ms McDermott said that in taking a look at implementation, we don't really have proper staffing at this point; it would require hiring and right now we have budget concerns and we are losing funding. Ms. McDermott said that she feels education is important and that we continue to do our best to make the public aware of what is going on with education.

Mayor Sweeney said that it appears that the consensus of the Committee is to start with a voluntary program, look at the County-wide model ordinance, when available, and emphasize education and outreach.

Mr. Quirk said that he would like to add that the community has said that all we need is a voluntary program to get the improvements, and we need to see that happen. Mr. Quirk said that once we have a loan program and we have shown that payments on the loan are going to be saving energy, then we can move forward with the mandatory program. Mr. Quirk said that all those things need to happen first and we are still going to need to sell it to the community before we can move forward.

Mr. Mendall said that those incentive programs have been in place for a long time and they have not worked. He said that we have new incentives and different programs now and that he is not optimistic that they will work. Mr. Mendall said that for those of you that don't want to see something mandatory, he will challenge you, encourage you, plead with you, to help us to make the voluntary path work. He said that if we can do it in a voluntary way to meet the goals that we need to meet, then great. He asked the audience to help the City to get different results this time or when we come back in three or four

years, we may end up with a different result and a difficult kind of RECO that would not be as friendly.

Mayor Sweeney said that Mr. Mendall's point is a good one. Mayor Sweeney addressed Mr. Rizk and said that this leads to another element of some sort of monitoring to track and see if the walk is matching the talk. Mayor Sweeney said if it does not match the talk, then of course the next logical step would be the sort of steps that Mr. Mendall is suggesting. Mr. Rizk responded that they anticipate monitoring the program and part of the requirements for participating in our program for rebates, is to provide data and allow PG&E to submit that data. He said it would help track our overall greenhouse gas emissions and update our inventory.

Mayor Sweeney asked if there were further questions; there being none, Mayor Sweeney closed the RECO discussion.

IV. Summary of Last Climate Action Management Team Meeting

Mr. Mendall said that many of the items that were discussed tonight were discussed at the last CAMT meeting. There was general approval for the staff recommendations with one descent from Mr. Stark who wanted it said that the RECO could have a negative effect on a buyer's ability to qualify for purchase financing.

V. General Announcements and Information Items from Staff

Mr. Rizk said that the City Council is going to have a Work Session on the RECO on May 31. Also, there will be a Green Expo in the rotunda on March 11, from 12:00 – 7:00 pm, and everyone is invited to that event. Mr. Rizk said that staff would continue to attend the Neighborhood Partnership meetings and get the word out on the various incentive programs, including the cities that are getting ready to launch.

Mayor Sweeney said that Mr. Rizk has been attending the meetings and does an excellent job in presenting the program. Mayor Sweeney thanked Mr. Rizk, Mr. Pearson, Mr. Gable, and everyone for their good work.

VI. Committee Referrals and Announcements – none.

VII. Next Meeting: Wednesday, April 6, 2011

Update on Food Scraps Programs

Senate Bill 7 – Water Conservation

Annual Review of CAP Implementation and Priorities

VIII. Adjournment: Meeting adjourned at 6:18 p.m.

Public Comments on the Residential Energy Conservation Ordinance

CHERRY CREEK

MORTGAGE COMPANY

*John
Mullin*

4301 Hacienda Drive, Suite 120
Pleasanton, California 94588
(925) 828-7057

March 1, 2011

RE: Residential Energy Conservation Ordinance (RECO)

To Whom It May Concern:



The purpose of this letter is to explain our policy, as required by our investors, regarding "holdbacks" for repair/improvement and credit for future repairs. I am afraid that the inspections and repairs the City of Hayward is considering will only serve to decimate the home values in Hayward even more. If people cannot get loans for the reasons stated below, they will be driven to purchase property in other cities that do not have such repair requirements. With the housing recovery so fragile, I think this is exactly the wrong policy to implement. While a noble idea, mortgage lending rules will not support such requirements at this time.

03/08/11 09:57 CLK

Our investors will not allow:

- 1) Credit towards repairs – only credit for closing costs
- 2) Holdback of funds for repairs to be completed after close of escrow

In addition, a limit is imposed on the amount of credit towards closing costs. If the credit exceeds the allowable limit, the additional funds will be returned to the seller and cannot be used towards repairs.

I just cannot see how the City of Hayward's thoughts on home repairs could be implemented without seriously damaging the value of property in Hayward even more than it already has been.

Should additional information be required, please contact me at 925-474-1115.

Thank you.

Claudia Kim

Claudia Kim
Loan Officer
CA-DOC 295059

Erik Pearson

From: Miriam Lens
Sent: Thursday, March 03, 2011 12:10 PM
To: Barbara Halliday; Barbara Halliday; Bill Quirk; Francisco Zermeno - Forward; Mark Salinas; Marvin Peixoto; Michael Sweeney; Mike Sweeney; Olden Henson; Olden Henson
Cc: Fran David; Joanne Burkman; David Rizk; Erik Pearson
Subject: Re: Residential Energy Conservation Ordinance

Dear Mayor and Council Members:

At the bottom of this e-mail you will find a message from Julie Machado regarding the RECO report, which was presented to the City Council Sustainability Committee meeting on March 2, 2011.

Thanks,

Miriam

Miriam Lens, CMC MPA

City Clerk

777 B Street, 4th Floor

Hayward, CA 94541

Phone: 510-583-4401

Fax: 510-583-3636

www.hayward-ca.gov

[City Clerk's Blog: www.hayward-ca.gov/cityclerk/](http://www.hayward-ca.gov/cityclerk/)



Apply for Passports at the Office of the City Clerk

From: Julie Machado [mailto:juliemac@pacbell.net]
Sent: Thursday, March 03, 2011 6:43 AM
To: CityClerk
Subject: Fw: Fwd: Residential Energy Conservation Ordinance

----- Forwarded Message -----

From: Francisco Zermeno <fzermeno@chabotcollege.edu>
To: juliemac@pacbell.net
Sent: Thu, March 3, 2011 6:05:30 AM
Subject: Re: Fwd: Residential Energy Conservation Ordinance

Hola,
thank you for your enote
good points
please send it to your City Clerk, Miriam Lens so that they will be taken into account
have a good upcoming weekend!
Teach on!

>>> Julie Machado <juliemac@pacbell.net> 03/02/11 6:48 PM >>>

According to the report on the City's website for today's meeting on RECO, it doesn't look to me like they are addressing historical houses in an adequate way. This ordinance appears to put the burden on the homeowner to know that there's a historical building ordinance and to prove it to staff that they should be allowed to follow it instead of these new RECO guidelines.

I am concerned that the upshot will be anyone with a historical house will just go ahead and replace windows, etc, compromising the integrity of their building, not knowing any better and feeling forced to meet the RECO requirements. (Many contractors also don't know how to honor historical aspects of a structure while making improvements, so relying on the contractors won't help, either.)

While I am a big fan of putting in insulation and reducing global warming, we also have to be sensitive to our historical resources. And replaced windows are a big problem in historic homes, as the types of windows put in are frequently not appropriate to the design of the structure. This can completely ruin the historical integrity of a structure. And to a trained eye, the aesthetic results can also be disastrous.

I am hopeful that this will be a voluntary ordinance. Even better, this aspect of the ordinance regarding historic structures should be cleaned up and clarified--for the benefit of homeowners, staff, and contractors.

Thank you,

Julie Machado

Erik Pearson

From: FLORENCE SAMUELS [flosamuels@msn.com]
Sent: Tuesday, March 15, 2011 4:52 PM
To: Erik Pearson
Subject: RE: RECO - Samuels on 3-15

Being that information on this proposal has never been disseminated to property owners for the entire year it was under consideration I was not at the meeting. And being that the minutes of that meeting were not part of the .pdf on the Hayward website when I saw the info on the RECO, I was doubly not aware of it.

Just a suggestion but you guys really need to publicize things a lot better. The majority of home owners do not take the Daily Review nor do they check the Hayward website. I only saw it because I am on CAC and was looking for something related to paratransit. Now about 50 of my neighbors are ready to tar and feather the council members. Had this whole process been made known to homeowners way back last year, I and a lot more others would have probably been at the meeting where it was decided not to do so.

Flo Samuels

From: Erik.Pearson@hayward-ca.gov
To: flosamuels@msn.com
Date: Tue, 15 Mar 2011 15:55:09 -0700
Subject: RE: RECO

Ms. Samuels,

The RECO that has been discussed would not apply to condos. It would only apply to single-family homes and duplexes. The ordinance would apply to all single-family homes and duplexes regardless of whether they are rental properties or if they are owner-occupied.

As you may be aware, the Sustainability Committee, at their March 2 meeting, decided to recommend that the City Council not move forward with adoption of a RECO. Staff will be presenting that recommendation, along with a summary of previous discussions related to the RECO, at the May 31 Council meeting.

Please let me know if you have any other questions. Thanks.

Erik J. Pearson, AICP
Senior Planner
City of Hayward
777 B Street
Hayward, CA 94541
tel: 510-583-4210
fax: 510-583-3649
erik.pearson@hayward-ca.gov
www.hayward-ca.gov

From: FLORENCE SAMUELS [mailto:flosamuels@msn.com]
Sent: Tuesday, March 15, 2011 1:40 PM
To: Erik Pearson
Subject: RECO

Erik

I recently learned about the proposed RECO ordinance and the fact that I learned about it one year after the City started spending money on investigating it does not go over well. However, because my neighbors want me to address this issue with the City Council as soon as possible, I need some information that I haven't been able to find. (Actually, after

plowing through all the info from the last meeting, I don't want to plow through any more.)

First, will RECO apply to condos?

Second, what is currently in effect that requires rental owners to meet the specifics of the proposed ordinance? Or are they considered as single family residence owners just by the fact that the property is a SFR/duplex?

Thanks, Flo Samuels

Erik Pearson

From: shrtmem@aol.com
Sent: Monday, March 21, 2011 4:29 PM
To: Erik Pearson
Subject: Energy efficiency ordinance

Hello Eric,

I spoke with you on the phone, you told me you would pass this message along.

To Whom It May Concern:

I received notice of the proposed Energy Efficiency Ordinance in my water bill. There was a meeting regarding this proposal on March 2, but I did not receive my bill till last week! It is not fair to schedule a meeting, have the meeting and then invite the people this ordinance will effect AFTER the meeting.

I would like you to know that at this moment I am against this proposal. I am like many other home owners in Hayward. Just trying to make ends meet. At this time I could not afford to make any energy efficiency improvements on my home. I know I could save money in the long run with improvements, but I just cannot afford this at this time. Imposing this would be a hardship for many people in Hayward like myself. What would be the consequences if you create this ordinance and then people like me cannot comply?

Please rethink this proposal. At this time, it is not a good idea.

Janice McCready

Erik Pearson

From: Thegirlsrn@aol.com
Sent: Thursday, March 24, 2011 4:37 PM
To: Erik Pearson
Subject: Energy efficiency ordinance--from Maureen Bessette

Do not agree that compliance should be required--would rather it be recommended. Some people could not afford the cost of compliance.

Maureen Bessette
24881 Yoshida Drive
94545

Erik Pearson

From: David Rizk
Sent: Tuesday, April 12, 2011 10:55 AM
To: Erik Pearson
Subject: FW: RECO

FYI

From: Fran David
Sent: Tuesday, April 12, 2011 8:51 AM
To: David Rizk
Subject: FW: RECO

FYI

FRAN DAVID
City Manager
City of Hayward
510.583.4300

From: Bill Quirk [mailto:BillQuirkForHayward@comcast.net]
Sent: Monday, April 11, 2011 9:41 PM
To: 'Daniel Breaud'
Cc: List-Mayor-Council
Subject: RE: RECO

Dear Betty and Daniel,

The recommendation of the sustainability committee to the council is that the program be voluntary.

Richard Muller has complained about some exaggeration of global greenhouse science.

He testified to congress yesterday and I heard him say on the radio today that global warming is occurring and that a part of it is caused by humans. His research project is to find out how much is human induced and how much may be from other factors such as fewer volcanic eruptions or an increase in solar radiation.

Here is some of what was said on the radio program:

NEAL CONAN, host:

After they won the majority in the House of Representatives last November, Republicans promised new questions on climate change. Last month, the Committee on Science, Space and Technology called a panel of three scientists, a lawyer and an economist to testify, essentially to answer this question posed by ranking member Eddie Bernice Johnson, a Democrat from Texas.

Representative EDDIE BERNICE JOHNSON (Democrat, Texas): There seems to be some attitudes that there is an elaborate hoax orchestrated by the scientific community on global change. Based on your work, the three of you, do you agree that the global temperatures are rising and will continue to rise, and that greenhouse gas concentrations are at least partly to blame?

CONAN: Those at the witness table that day included Richard Muller, a professor of physics at Berkeley, considered by some as a climate skeptic. When he responded in the affirmative to both those questions, he found himself in the middle of a debate where emotion and politics intersect with science

You can read the transcript of the interview or listen the interview at:

<http://www.npr.org/2011/04/11/135320209/climate-change-skeptic-says-warming-is-real?ft=1&f=5>

I was doing modeling of global climate in the 1970s. The only thing wrong with our predictions on warming and that it is happening faster than we predicted, because of positive feedbacks in the earth atmosphere system that we could not model at the time.

Bill

Bill Quirk
26420 Parkside Drive
Hayward CA 94542
Home Phone 510-581-5498
Email BillQuirkForHayward@comcast.net

From: Daniel Breaud [mailto:dbreaud@sbcglobal.net]
Sent: Monday, April 11, 2011 5:52 PM
To: List-Mayor-Council@hayward-ca.gov
Subject: RECO

Dear Mayor Sweeney and City Council Members:

We are writing to vehemently oppose implementing RECO. We own our home and property. Should we decide to sell it then the RECO items should be considered. Government should not be allowed to demand changes to existing property. It's up to the property owner, the Government doesn't own our home.

We suggest you read Physics for Future Presidents (author Richard A. Muller) and the section on Climate Change/Greenhouse gas emissions. You're going down the wrong path!!

Thank you for your attention.

Betty Tatsuno Breaud
Dan Breaud

1729 Osage Ct
Hayward

April 11, 2011

To:

Mayor Sweeney, City Planner Eric Pearson and Hayward Sustainability Committee.

On reading the article "Hayward's green effort has a price" in the Daily Review I had to write. Then a few days later it seemed that Hayward came to their senses, and decided not to force homeowners to make costly changes to our homes. This week I received in my water bill that this ordinance is back on the agenda, so here is my letter.

In an ideal world this would be a wonderful plan. Everyone would have the money to pay for very costly permits, products and installers to make everyone in Hayward energy efficient.

This is not an ideal world!!
Do any of the people running our city realize there are many people without jobs, without steady income, people losing their homes, people taking

Cuts in pay, people taking forced furlough days (another paycut), seniors living on fixed incomes with no extra money to pay for costly work on their old homes?

I think this is one more ordinance that will cause people not to buy a home in Hayward. Hayward already has more rentals than it needs --- with this ordinance you'll see more homeowners moving out of Hayward. This city needs more homeowners; not less.

Before you start making ordinances that harm our city: try to work to get HUSD to be a district that parents want their children to attend. Get the gang and drug dealers off our streets. Get the criminals that are shooting and attacking and stealing from our citizens and put them in jail.

When we first moved here (forty years ago) Hayward was a nice city; but it's going downhill. I really hate to have to say that.

I think part of the downfall is that too many people in Hayward government don't live in Hayward. They don't really care about our city. The same is true with Hayward fire fighters and police.

Years ago, the people that ran Hayward had to live in Hayward. Now that's an ordinance I could agree with!

Thanks for your time and I hope you'll put this green ordinance in the trash can.

Sincerely,

A very concerned
Citizen of Hayward



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 12, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Loché.

ROLL CALL

Present: COMMISSIONERS: Faria, Márquez, McDermott, Mendall, Lamnin, Lavelle
CHAIRPERSON: Loché
Absent: COMMISSIONER:

Commissioner McDermott led in the Pledge of Allegiance.

Staff Members Present: Conneely, Fakhrai, Patenaude, Philis, Strojny

General Public Present: None

PUBLIC COMMENTS

None

ACTION ITEMS

PUBLIC HEARING

1. Recommended Capital Improvement Program FY12 Update

Deputy Public Works Director Morad Fakhrai explained that in the second year of a 2-year budget cycle, the FY12 Update was much less detailed than the CIP introduced in 2011 with fewer new projects. Mr. Fakhrai then introduced Public Works Administrative Analyst II Todd Strojny who gave the report.

Commissioner Márquez asked who determines how projects are prioritized. Deputy Public Works Director Fakhrai explained that the different types of projects are prioritized in different ways. For sidewalk rehabilitation projects for example, he said the City has ten districts and each year two districts are given priority so every five years all districts have been maintained. Mr. Fakhrai said the City also has paving districts. Streets are assessed by their pavement condition, indexed, and then appropriate treatments (reconstruction, rehabilitation or slurry seal) are identified for streets in each district. Requests from citizens are also taken into consideration when determining priorities and are incorporated as much as possible, he said. Additional priority for new sidewalks is given to areas with high pedestrian traffic like schools, churches and shopping centers, he concluded.

Commissioner Márquez asked if speed lump installation was determined the same way and Mr. Fakhrai said no, speed lumps are installed at the request of neighborhood groups or residents only. A petition is created by the City, he said, and circulated by a resident, to determine if two-thirds of the neighborhood supports the installation. Commissioner Márquez pointed out that she had never heard of these districts and asked if the Planning Commission could be provided with a list. She also asked if a resident could request a traffic study because, for example, in her neighborhood, the stop sign is backing traffic up for blocks. Mr. Fakhrai said responding to citizen requests was the most common task handled by his department and if a citizen had a request for a stop sign, speed lump or traffic signal, they could contact his office or create an Access Hayward case online.

Commissioner Mendall wanted more information on the Co-Generation project at the Waste Water Treatment Facility. He asked if it was a back-up power generator. Deputy Public Works Director Fakhrai explained that right now, it is an analysis to be conducted next year that will determine the most efficient method to generate more energy.

In the CIP report, Commissioner Mendall said there was a discussion about hiring consultants to analyze the water system to determine capacity needs, etc., and he asked why the analysis needed to be outsourced when the City had qualified staff. Deputy Public Works Director Fakhrai agreed that staff was very qualified, but said the analysis would take more time than staff had available so the main work would be given to consultants and staff would review the findings. Commissioner Mendall commented that many departments were probably short staffed and Mr. Fakhrai said Engineering often contracts out more complex and larger projects.

Commissioner Lamnin said she appreciated the effort put into the report. She asked how the decrease in funding will impact the Neighborhood Partnership Program and asked if it will still be effective and responsive to the community's needs. Deputy Public Works Director Fakhrai pointed out that the funding was reduced last year and staff has been able to maintain consistent levels of service.

Commissioner Lamnin suggested involving community members in the maintenance of the demonstration garden outside City Hall. She said the garden could be the living example of what the City wanted residents to do in their own yards, and to involve students by forming partnerships with local schools, universities, and HARD to promote programs.

Commissioner Lamnin asked if building fixtures and/or technological items replaced or discarded during improvements could be reused or donated to local agencies. Mr. Fakhrai said the Facilities Department was responsible for the upgrade of City-owned buildings and that they do make an effort to recycle what they can. Some items cannot be given to a particular group, he said, but the City does auction off items, if possible. He said they could look into working with non-profits to recycle more items. Commissioner Lamnin suggested several networks that could help make the process smoother.

Commissioner Lamnin said she appreciated the separation of projects and the ease of tracking progress and costs, but asked if there was a loss of economy of scale or increase in project management costs when projects were separated. Deputy Public Works Director Fakhrai said the City tries to combine similar type projects whenever possible, citing for example, sidewalk rehabilitation projects and wheelchair ramp projects that were advertised and bid at the same time.



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Commissioner Lamnin asked why the sealing of the Centennial Hall parking lot was still on the list when the Hall was gone. Mr. Fakhrai said the parking lot was also the roof of the Safeway store, which has been experiencing some leaks, and the City was still responsible.

Commissioner Lamnin echoed Commissioner Mendall's comment about using existing City staff rather than hiring outside consultants saying that when reviewing the budget, the City should strategize how to use staff rather than consultants. She said the City had the expertise needed, and while she acknowledged that the City needed more staffing, that should be part of the budget determination to create the resources the City needs.

Commissioner Lamnin asked for more information about the proposed solar study for a recently completed project. Deputy Public Works Director Fakhrai explained that the City recently completed the installation of a 1 megawatt solar project that was already producing energy and the City wanted to expand on that to generate perhaps 8 to 10 megawatts. He said the study would look at where to place the panels and what technology to use. He pointed out that technology changes rapidly and the City wanted to use the most up-to-date technology to move from being an energy consumer to an energy producer. He said once the study was completed this year, they could identify location, type and funding sources. Commissioner Lamnin asked if data gathered for the previous study was no longer relevant and Mr. Fakhrai said it would be if the City wanted to build a similar-sized project.

Commissioner Lamnin asked for clarification about the \$156,000 report preparation cost for the Sulpher Creek project. Deputy Public Works Director Fakhrai explained that Sulpher Creek crossed the airport and the FAA (Federal Aviation Administration) had expressed concern about an open channel between the runways because of the hazard it would pose for planes and because the water could attract birds which could also impact airplane safety. The study would consider enclosing the channel and/or redirecting it through another part of the City. He said the study was part of a process required by the FAA and the Water Quality Control Board. Mr. Fakhrai explained that the monitoring project was a condition of the Water Quality Board and required the City to produce annual reports on the condition of the channel and that cost would be spread over 10 years.

Commissioner McDermott thanked staff for the glossary of terms included with the report indicating that it was very helpful. She suggested that, with the decrease in funding to the Neighborhood Partnership Program, residents be asked to prioritize projects so they have input for their neighborhoods, understand that funds are limited, and staff can base decisions on that input.

Regarding Calpine Energy Center's \$10 million donation to fund Library improvements, Commissioner McDermott asked what would happen if the Center wasn't built and the donation didn't happen. Deputy Public Works Director Fakhrai said the donation from Calpine was only part of the required funding for the new library building, actually just a down payment for the \$50 million cost. He said the City was considering asking voters to approve a bond measure to fund

the Library improvement as well as improvements to fire and the police facilities. Mr. Fakhrai said it was unlikely that the Calpine project won't go through as construction had already started and as soon as they start pouring the concrete foundation they will cut the City the \$10 million check. Commissioner McDermott confirmed that the City had not received the check yet and Mr. Fakhrai said no, but the likelihood that they would was high.

Commissioner McDermott asked if anything was written into the City contracts made between the City and outside contractors that require the company to hire local, qualified workers. Deputy Public Works Director Fakhrai explained that some projects do have a PLA (Project Labor Agreement), which would require the contractor to use local labor, but those are uncommon in Hayward because the PLA was associated with large building projects and the City didn't have a lot of those. He noted, however, that a PLA might be considered for the construction of the new library. He noted that a majority of contractors working on the Route 238 project were from Alameda County per Measure B funding and the Alameda County Transportation Commission requirements.

Commissioner Faria asked staff how the gas tax funds were allocated. Deputy Public Works Director Fakhrai said funds are allocated based on the number of gallons of gas sold in the county and the population of each city. He noted that because of the increase in the price of gas, the number of gallons purchased has gone down and Hayward's funding has gone down too. Commissioner Faria said that was exactly her point and asked how a decrease in funding would impact current and future projects. Mr. Fakhrai said gas consumption estimates have been very accurate for this year and appear fairly accurate for fiscal year 2012. He said the following years were based on estimates generated from forecasts from the Finance Department and State. Commissioner Faria confirmed that forecasts have been adjusted to take into consideration people were driving less due to the high price of gas and Mr. Fakhrai said yes.

Commissioner Faria asked if the upgrade to the Hetch-Hetchy infrastructure would have any impact to Hayward, and Deputy Public Works Director Fakhrai said sadly, yes, water prices will go up. Commissioner Faria asked if the City would also be paying more as a water consumer and Mr. Fakhrai said yes, since the City was one of the largest users of water in Hayward.

Commissioner Faria said the report mentioned installing solar panels on the library on its list of possible future projects and Deputy Public Works Director Fakhrai said the library would be the last building considered under the facility projects because of the potential for construction of a new library building. Mr. Fakhrai said City Hall, the Watkins Street parking structure, and some buildings at the corporation yard would be considered first. Commissioner Faria asked if solar panels could be transferred onto a new building if the library was remodeled and Mr. Fakhrai said installation on the library would only be considered after all other building options were exhausted and it appeared the remodel wasn't going to go through.

Commissioner Lavelle said it was both impressive and exhausting to receive the CIP book every year and see the incredible array of projects the City is undertaking. That noted, she asked about the unmet capital needs listed at the back of the book and asked if those projects were listed in any sort of order. Deputy Public Works Director Fakhrai said staff had tried to present that list in a prioritized order, but the order would change usually due to the availability of a funding source. Commissioner Lavelle said the first project listed under Streets Improvement Projects, Walpert



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Street from Second Street to Fletcher Lane, should stay at the top of the list. She asked about the technology improvements listed and asked if staff had tried to form any partnerships with local businesses to generate grant funding or donated services. Mr. Fakhrai said he was sure staff was trying, but would check with the Technology Services Director and report back. She said she hoped staff was trying because according to the news, that was one segment of the economy that seemed to be generating revenue.

Commissioner Lavelle asked for more information about the \$450,000 SharePoint project, one of the five new technology projects listed. Mr. Fakhrai said SharePoint was a software system that would allow city staff to gain access via the City's website to the progress information of various projects. Commissioner Lavelle asked if the City already had it and wanted to upgrade or if it was something new. Mr. Fakhrai said IT already had it but it was not City-wide. Commissioner Lavelle said she hoped the City could find grant funding to obtain the program.

In response to Commissioner Faria's comment about the price of water in Hayward, Commissioner Lavelle said she lives in Hayward and received a notice from East Bay Municipal Utilities District (the other supplier of water in Hayward) that her rates were definitely going up very soon. She also pointed out that gas prices were a little lower in Hayward and encouraged everyone to keep gas tax monies in Hayward and tell all their friends to come to Hayward to eat lunch, grocery shop and gas up before driving home.

Chair Loché said he was pleased to hear that the Neighborhood Partnership Program continues to be effective because he had been concerned about the impact the budget situation would have to services. Regarding the mural program, Chair Loché said he was huge fan of the program and understood funding was at risk. He asked for confirmation that the goal of the mural program was to discourage graffiti and asked if graffiti was the main factor considered when the City selected a location for a mural. Deputy Public Works Director Fakhrai said graffiti was the major reason for installing a mural, and noted the program has been very successful except for the Peterman Bridge over Highway 880 which continues to get hit by graffiti. Mr. Fakhrai continued, saying that Stacey Sorensen, Neighborhood Partnership Manager, selects locations based on inquiries from the public and then works with building owners to get permission to have the mural installed.

Commissioner Mendall said the mural program was great and really wanted to see it continued because it pays for itself by saving the City money in repainting. Besides the cost savings, he said, the murals also change people's opinion about Hayward. Commissioner Mendall said he was surprised at the impact the murals have had on friends and co-workers. "They just feel differently about the town," he said, "at least about downtown, and I'd like to see them feel differently about the entire town." He encouraged staff to paint murals throughout Hayward, and because they pay for themselves, encouraged the Commissioners to push the program as much as they can.

Commissioner Mendall said he also liked the energy efficiency programs because, over time, they pay for themselves by saving the City money and that money can be spent on other things. When times are tight he encouraged staff to choose projects that will bring revenue back to the City in

future years. He also echoed other commissioners' comments regarding continued funding for the Neighborhood Partnership Program, saying that the program may not generate revenue, but residents care about it, ask for it, and the program provides a way for residents to see that the government can respond to them.

Commissioner Mendall made a motion to recommend the Capital Improvement Program FY12 Update. Commissioner Lamin seconded the motion saying the CIP FY12 Update was consistent with the General Plan and that a lot of work had been done by staff to prioritize projects in a way that the budget was consistent with need. She encouraged staff to continue to not only look at ways to combine projects but to overlap with other agencies such as the County, the university, and local schools. She pointed out that nobody has money so collaborative applications for grant opportunities could make the City more competitive.

The motion passed unanimously (7:0:0).

AYES: Commissioners Faria, Lamnin, Márquez, Mendall, McDermott,
Lavelle
Chair Loché

NOES:

ABSENT:

ABSTAINED:

COMMISSION REPORTS:

2. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude reminded the commissioners, and the public watching, of the Volunteer Open House taking place in the City Hall rotunda on Thursday, June 30, 2011. Mr. Patenaude encouraged everyone to attend and learn about the City's various boards, commissions, and committees, which depend on volunteers. He said there will also be information about the Keep Hayward Clean & Green Task Force. He thanked Commissioners Lavelle and Lamnin for agreeing to staff the Planning Commission table at the Open House.

3. Commissioners' Announcements, Referrals

None

ADJOURNMENT

Chair Loché adjourned the meeting at 7:54 p.m.

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner



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ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk



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CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
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777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Loché.

ROLL CALL

Present: COMMISSIONERS: Faria, Márquez, McDermott, Mendall, Lamnin
CHAIRPERSON: Loché
Absent: COMMISSIONER: Lavelle

Commissioner McDermott led in the Pledge of Allegiance.

Staff Members Present: Buizer, Conneely, Nguyen, Patenaude, Philis

General Public Present: 15

PUBLIC COMMENTS

None

ACTION ITEMS

PUBLIC HEARING

1. **Zone Change Application No. PL-2010-0403 and Vesting Tentative Tract Map Application No. PL-2010-0405 – Perry Hariri of Urban Dynamic (Applicant); City of Hayward (Owner)** – Request to Change the Zoning from Medium Density Residential/SD-4 to Planned Development and to Subdivide the Property to Construct Fifty-Seven Detached Single Family Homes - The Project is Located on a 3.84-Acre Parcel at the Southwest Corner of B Street and Myrtle Street east of Burbank Elementary School

Senior Planner Sara Buizer gave a brief synopsis of the report indicating that she received one phone call protesting the development of residential units at this site, and one e-mail from resident Sherry Blair outlining her concerns with the application.

Regarding the e-mail received, Commissioner Márquez said initially a community center was proposed for this site and she asked how Burbank Elementary School was serving as a replacement community facility. Senior Planner Buizer said she would have to confirm, but generally if someone wanted to use the facility for community space they would contact the school district and pay a rental fee. Commissioner Márquez asked staff to explain the relationship Hayward Area Parks and Recreation Department (HARD) plays in the area and Ms. Buizer said she believed there was Joint Use Agreement in place between the school district and HARD.

Commissioner Márquez asked what the developer plans to do to bring LEED (Leadership in Energy and Environmental Design) scores to 100 points rather than the standard 50. Senior Planner Buizer said since the score of 100 points on the GreenPoint rating system was a condition of approval she couldn't say exactly what will bring the score to 100, but indicated that most projects, as long as they are being built "green" from the beginning (for example, using green materials, low VOC paint, installing solar panels and/or an electrical charging station, etc.), would earn points for each item under different categories to reach a certain point range. Ms. Buizer said if green materials were used from the beginning, it was relatively easy to reach the 100 point mark.

Commissioner Faria asked if the options available to future homeowners were counted as part of the score and Senior Planner Buizer said yes, clarifying that all homes would score 100 points and those homeowners taking advantage of available options would bring the unit above and beyond the 100 point score.

Chair Loché interjected saying that the applicant could also address questions regarding the point system and what items were optional versus baseline.

Commissioner Lamnin asked if the development would have any impact on community services including police and fire. Senior Planner Buizer said there were always impacts, but the development would be part of a community facilities district, which would require homeowners to pay a fee for services, and that would offset the impact. Commissioner Lamnin asked if the units would still be marketable with both the district fees and homeowner association (HOA) dues, and Ms. Buizer said she couldn't answer that. Commissioner Lamnin asked what repairs would be the responsibility of the HOA, and Ms. Buizer confirmed that the cost of replacing or repairing the decorative pavement would be the responsibility of the HOA.

Commissioner Lamnin asked if any discussion had been held regarding grey water usage for landscaping and Senior Planner Buizer said no. Commissioner Lamnin asked if it was possible to score 100 points without installing solar panels and Senior Planner Buizer deferred the question to the applicant.

Commissioner Mendall reviewed the history of the site noting that the original plan called for a community center, some commercial and a little bit of housing. He asked for confirmation from staff that 17 units of housing were originally planned. Senior Planning Buizer confirmed 12 dwelling units per acre were planned for the two acre site, or 24 dwelling units total for the property. Commissioner Mendall asked for confirmation that in 2008, the number of units allowed on the site was increased to 33. Ms. Buizer said in 2008 there was a change to the General Plan, the Zoning Designation, and the Cannery Plan, to increase the density to medium density, which would allow for 14.8 dwellings units per acre or more than 33 dwelling units on the site.

Commissioner Mendall asked about parking, noting the report stated there were 57 units with a two-car garage each, but 176 parking spots were available overall. He asked where the other 62 parking spaces were located. Senior Planning Buizer said the garages hold two cars, six units have driveways that can accommodate two additional cars, and the remaining parking spots would be on the surrounding public streets.



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Commissioner Mendall said he was pleased to see that under the Conditions, Covenants, and Restrictions (CC&Rs) residents were required to park in their garages, but he said in his neighborhood, for example, the HOA does a poor job of enforcing the rule. Noting that parking in the Burbank area was already impacted, he asked how the City could make sure the condition was enforced. Assistant City Attorney Conneely said if there was evidence that the garage was not being used to accommodate vehicles, that would be an ordinance violation and a Code Enforcement Officer could take appropriate action. Commissioner Mendall pointed out that if neighbors felt the HOA wasn't enforcing that condition, they could file a complaint.

Commissioner Mendall noted that staff had responded well to comments made at a community meeting held April 25 and that he had questions for the applicant.

Chair Loché said he was glad to see that there were a number of Neighborhood Partnership Community meetings held regarding this project and that he was always excited to see the opinion of residents being sought out by staff. He asked staff what comments were made at the April 25th meeting regarding the undergrounding of utilities and Senior Planner Buizer said the community wanted to make sure the undergrounding happened.

Commissioner Mendall asked staff what Conditions of Approval specifically listed the green requirements and Senior Planner Buizer directed his attention to Condition of Approval number 106 indicating that the Conditions were organized by the timing of the different stages of development.

Commissioner Márquez disclosed that she met with the consultant for an overview of the project.

Commissioner Mendall said he also met with the applicant and attended the April 25th community meeting where he spoke to a number of residents.

Commissioner McDermott said she also met with the consultant.

Commissioner Lammin asked staff to explain what the clean water treatment facility was and why it was included in the report. Senior Planner Buizer explained that post development run-off levels cannot exceed pre-development run-off levels so the developer had included vegetative swales in the common areas to gather and treat the run-off and proposed a bio-retention facility at the corner that would also gather, treat and disperse run-off so levels didn't exceed pre-development levels.

Chair Loché disclosed that he also met with the applicant.

Chair Loché opened the Public Hearing at 7:34 p.m.

Jesús Armas, with business address on Main Street and representing the applicant, introduced applicant Perry Hariri and architect Jill Williams requesting that Ms. Williams be given an opportunity to address questions regarding the 100 GreenPoint rating, followed by a discussion regarding the undergrounding of utilities along B Street.

Perry Hariri of Urban Dynamic LLC, applicant with business address on Bridge Parkway in Redwood City, said he was proud to present the project for Planning Commission consideration indicating he had spent over a year working with staff, the community and consultants, to develop a project the City, community, and Urban Dynamic could be proud of. At the behest of the City and community, he said they had taken great measures to go above and beyond a typical production development and said he thought this was going to be one of the nicer developments in the community. He spoke about the architecture, hardscape and landscape, and noted the cost of the solar panels was substantial at approximately \$6,000 per unit. He said the design of the homes accommodated universal living with many units with ground floor bedrooms, and all with three bedrooms and a two-car garage contained in two-stories.

Jill Williams, principle architect with KTG Y Group, with business address on Second Street in Oakland, said the City challenged them to find a balance between density, variety, style, and keeping the housing detached, only two levels, with individual outdoor areas while remaining green and sustainable. Noting nearby transit options, Ms. Williams said to them, “sustainability” also meant creating a “livable environment,” where people would stay, age in place, raise families, and really make this their home and community.

Regarding the architecture, Ms. Williams said using staff feedback, they selected the highest quality siding, and plan to “wrap” the house so details can be seen from all sides. She acknowledged the enhanced conditions due to side elevations that face streets saying they would pick up special elements to create a complete picture both from in and outside of the unit. She noted the variety in roof pitches, window types, the character of porches, and the potential interaction with public streets. Ms. Williams explained that “sustainability” means a lot of things besides the electric bill, including livability, universal design, variety of housing, roof sizes that can accommodate solar panels, and including electric car charging stations in the plans.

Regarding the 100 point GreenPoint rating, Ms. Williams said the standard rating is 50 points, which is fairly easy to reach, and now they were going to look for 50 more points. She said besides the solar panels, they will be looking at the mechanical system, but she said she hated to commit to something today because they will really have to sit down with construction, mechanical, Title 24, and structural engineers to find the best way to reach the 100 points. Ms. Williams said the features would be standard and if homeowner chose any of the options, their house would exceed the 100 points. She concluded by saying that they can only count what was absolutely being built and offered as a standard to hit the 100 points.

Commissioner Mendall asked if solar panels were going to be installed for sure or not. Mr. Hariri said they will offer the standard 2.5Kw solar panel package. Commissioner Mendall asked him if there was any chance they might change their minds and Mr. Hariri said it was part of the conditions of approval and they had made a commitment to the City. Mr. Hariri said homeowners could supplement that system and also add a solar water heater option, but the proposed standard solar package should accommodate half the power usage of the home and, if supplemented, substantially more. Commissioner Mendall acknowledged the \$6,000 cost per unit to the developer for installing the solar panels saying he installed a smaller array of solar panels than was being proposed on his house after it was built and without the economy of scale they cost him \$13,000. Commissioner Mendall said there is value in timing and said he hoped Mr. Hariri would



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be able to recoup his investment and asked him to comment. Mr. Hariri said he had looked for studies that could quantify the investment and hadn't found any because offering solar as part of a standard package was new. He said the proposal certainly appealed to the neighborhood and the City's efforts to be sustainable. Commissioner Mendall said the 2.5Kw system would save the homeowner about \$1,000 a year so even if the person wasn't interested in being green, everyone cared about saving money, and he pointed out to Mr. Hariri that could add value if marketed as such. Mr. Hariri said he should hire Mendall for the sales marketing.

Addressing his comment to Ms. Williams, Commissioner Mendall said the front porches were a great idea in concept, but nobody in his neighborhood used theirs. He asked Ms. Williams if a balcony on the second level would be more appealing because people wouldn't have to be concerned about having items stolen. Ms. Williams said balconies tend to be off of bedrooms and structurally, to build one big enough for a small table and chair, can be a challenge. She said she shared his concern, and not every house has a porch, but they do like to include porches for the treatment, the shadow line, the columns and railings, and because it was part of the package, she said she hoped residents would take advantage of them.

Commissioner McDermott asked if a tankless water heater would be one of the standard options offered to homeowners. Ms. Williams said right now a tank water heater was showing in the plans, but as they moved forward with the plans, they would consider going tankless. Ms. Williams pointed out that tankless water heaters don't receive a lot of credit under the LEED point system and people have mixed feelings about them. She said they are looking to option solar hot water which would mount on the roof above the other solar panels. Commissioner McDermott said she hoped they did because it would save space in the garage and wouldn't have to be secured like a traditional hot water heater. Commissioner McDermott commented that she liked the porches because it reminded her of her childhood and concluded by asking how many points were gained by the standard option solar panels and Ms. Williams said she didn't know, but would look it up and report back.

Commissioner Márquez asked if every house would come with a garage and a ground floor bedroom. Ms. Williams said all houses will have a garage but only two of the three plans offer a bedroom (and bathroom) on the ground floor and in one plan it could be an office. Commissioner Márquez asked if a charging station in the garage would be a standard feature and Ms. Williams said yes.

Commissioner Lamnin asked if any consideration was given to including one-story units with more than one bedroom downstairs for residents with mobility issues. She also expressed concern about the small size of the lots and asked if people would want to spend the money to live so close to their neighbor. Ms. Williams said her company has built quite a few medium density developments in the Bay Area and have learned a lot over time by possibly pushing the envelope too far. Taking that in consideration, she said she felt comfortable with the proposed setbacks which she said were eight feet, versus the traditional 10, and pointed out that nobody was more concerned about creating an attractive home people would want to buy than her team. She said the homes were designed to provide the privacy people wanted so, for example, one house would have the majority of windows on one side,

while the house next door would not. Regarding single story housing, she said buyers weren't interested in a 1,200 square foot home that took up twice the land. Ms. Williams said there was an inequity between how much land a single story home used versus how marketable it was.

Commissioner Faria asked Ms. Williams if the proposed yards would be big enough for a swing set and for small children to play safely in a confined area. Ms. Williams said for very small children size of the yard area was sufficient with room for a patio and some grass. She said bigger kids would want to play at the park or on the street and that was why this location was so great.

Regarding the environmental review and the associated mitigation, Commissioner Faria asked if those mitigating conditions had all been accepted by the project developer. Mr. Hariri said Urban Dynamic had complied with consultants that have conducted the Phase I and II soil analysis, and was working with the City to receive a clearance letter for the site before any development occurs.

Regarding the tankless water heaters, Commissioner Mendall commented that they are expensive, but the cost was in the piping, not in the unit itself. He said he hoped that the developer could find a balance and build the house tankless hot water heater-ready. He also pointed out that installation of the piping might earn the developer green points.

Regarding any remaining toxins at the site, Chair Loché asked if there were any stipulations regarding construction due to the location being so close to the school. Senior Planner Buizer pointed out this site was the location of the original school and that all development in the Cannery Area has had to go through clearances and continue to be monitored. She said City staff was very familiar with evaluating assessments for this area and getting clearances before beginning any development.

Mr. Armas asked staff to bring up the PowerPoint slide with the overview of the school and surrounding area to discuss the remaining arsenic residue. Mr. Armas said in the past other uses had been proposed for the site and those uses each had their own set of conditions. The City worked under its own auspices but also with the Department of Toxic Substances Control to receive a clearance letter from the State for the entire site of the new school, he said, and the conditions were the same at this site. He said staff had received preliminary information from the current consultant and Urban Dynamic was already on track to clean up the site.

Chair Loché commented that the proposed group open space was drastically smaller than the required amount and he asked to see the overview slide to see where it was situated and how far away it was from some of the units. Ms. Williams said the open space was centrally located and could be accessed by exiting through backyards and following a path.

Chair Loché invited Mr. Armas to the podium to address Commissioner's questions regarding the undergrounding of the utilities. Mr. Armas said the team was generally in support of, and could live with, the conditions of approval, but were requesting discussion and a different conclusion regarding condition 70, sub items A and F. Regarding item A (undergrounding of the overhead wires), Urban Dynamic was asking for reconsideration because in 2007, when Burbank Elementary School was completed and the park area improved, the City didn't require undergrounding of the utilities at that time. Secondly, he pointed out that if the utilities were placed underground, to avoid creating an expense to the existing homes on the north side of the street, new poles would have to be installed on the south side for connecting service lines, which didn't make sense. He pointed out that poles were



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just being moved from one side of the street to the other. Finally, he asked the commission to take into account that the HOA and CFD dues would add to the cost, and therefore the price, and the requirement of undergrounding continued that pattern and didn't take in account the developer's added enhancements such as the solar panels. He requested that the commission not approve Condition 70a.

Regarding Condition 70f (the resurfacing of a half-width of B Street), Mr. Armas said it wasn't clear if this was a stand-alone request or tied to the undergrounding of the utilities. He pointed out that normally when utilities are moved underground they run under the sidewalk but that was not the case on B Street because of the potential harm to existing sycamore trees. In this instance, he said they believed it would be appropriate to not require the undergrounding of the utilities. He concluded by saying they were otherwise in agreement with the other conditions of approval and thanked staff for their hard work.

Donald Yee, 333 C Street, said 2008 was the last time he heard they were going to have a community center at that location and he just found out that day that they have a community center in the school. He said he drove around the school and didn't see it so he went into the school and was told it was the cafeteria. He asked if HARD used the cafeteria and the school administrator helping him said she wasn't sure. Basically, he said, it was a gym for rent and not a community center. Mr. Yee said he didn't like the rezoning to medium density and was concerned that after a few years, rather than parking in their garages, residents would use it for storage and park on the street. He also expressed concern about safety saying the site location was only two blocks from A Street and the back entrance to the garages left residents vulnerable to home invasion robberies which would eventually cause them to park on the street and go through their front door because it was safer. Regarding the main driveway off C Street, he said his house was across the street and potentially 58 cars were going use the driveway in the morning with their headlights shining right at his house and also create too much traffic past the school. He concluded by saying there was no community center, parking would be a problem, and the design was dangerous.

Commissioner Mendall asked Mr. Yee if the site wasn't used for a community center what would he want and Mr. Yee said a sports fitness center like the one in Union City or a water facility like Newark's.

John Super, 22884 Myrtle, said he had lived at this address for 36 years, was part of the original Burbank Neighborhood Task Force and said he was there to speak against the project. He said years ago the City took the Matt Jimenez Boys & Girls Club on Soto Road and turned it into the City's corp yard. He said he missed the Club and wanted it back and in the neighborhood. He asked if Burbank Elementary had a large enough capacity to meet future needs and if more kids moved in, would they put portables on the school grounds. Mr. Super said the houses being built in the area were so dense they had to have kids in them because 66 year-old men couldn't climb the stairs to the third floor bedrooms. He said he liked the proposed covered porches, and if they are going to offer solar water heaters then plumb the house for it, and include the necessary roof supports so people can upgrade. Mr. Super said he liked the design of the houses, but would prefer a lower density so kids can play in the yard. He said there was no place to play at the houses being built and the nearby park was already

completely utilized. He asked where families would put their barbeques and entertain their friends without disturbing their neighbors or how 57 families would compete for the community open space. Mr. Super concluded his statement by pointing out that C Street was wide, noisy and cars love to spin their tires there.

Mark Wagter, 628 B Street, said the architectural design of the project was Craftsman-like which was similar to houses in the area, but if you walk around there were also a lot of stucco houses so he suggested they include some in the project to better tie the development in with the neighborhood. Regarding parking, he said he thought three parking spaces were required per house so he said 51 parking spaces are missing, which equals 1250 linear feet and that's not available around those four streets. Chair Loché said parking was covered but they will double check the numbers. Mr. Wagter said it looked like a great project, with very little open space, but located near parks, and there was the potential problem of too many children going to the one school. Mr. Wagter asked if there was any way the project could proceed with less density.

Chair Loché stated for the record that the development was required to provide 171 parking spaces and actually provided 176.

Chair Loché closed the Public Hearing at 8:22 p.m.

Commissioner Mendall asked staff to address some of the questions raised, namely, the undergrounding of utilities.

Planning Manager Richard Patenaude said Mr. Armas was correct that during the construction of the school and park it was a great opportunity to underground the utilities, but because of the joint agencies involved previous City administrations opted not to require the undergrounding. Mr. Patenaude also concurred that undergrounding was generally done under sidewalks, but, as was recently determined with a nearby Eden Housing project, to avoid the tree roots undergrounding would happen in the street. He also acknowledged that utility poles of a smaller stature would have to be installed on the north side of B Street, but noted that power lines wouldn't have to cross or run along B Street.

Chair Loché asked if the City had any plans to underground the utilities in the neighboring blocks and Mr. Patenaude said that was the City's vision, but would depend on the availability of funding. He noted that typically with a subdivision the City required the undergrounding of utilities and it would be a precedent-setting event to not require undergrounding at this point.

Commissioner Mendall asked staff to review how the Eden Housing project undergrounding issue was resolved. Planning Manager Patenaude said due to a budgeting issue for Eden Housing they had to know the cost of undergrounding upfront and include that cost in the development total. Commissioner Mendall confirmed that Eden Housing will have to underground the utilities and staff said yes. Commissioner Mendall asked staff what the difference in cost was for undergrounding all at once versus section by section. Planning Manager Patenaude said the cost Public Works had determined for the Eden Housing project was slightly more than half of what the developer had estimated. Commissioner Mendall asked why there was such a large discrepancy and staff didn't know.



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Commissioner Lamnin said she was still not clear why the riser poles would be necessary if the utilities are underground. Planning Manager Patenaude said the houses on the north side would still receive their utilities via overhead lines connected by the riser poles to the underground.

Commissioner Márquez asked staff if there would be any cost to existing homeowners for the undergrounding of utilities if the development goes through as proposed and staff said no.

Commissioner Lamnin asked staff to comment on questions regarding traffic and the impact of additional students on the school. Mr. Armas pointed out that the school parking lot was available to residents when school was not in session. Regarding the impact to Burbank Elementary, Mr. Armas said no one would support adding portables and school boundaries could be manipulated to control school population. He noted that this school was designed to accommodate 850 students and that capacity took into account future residential development.

Commissioner Faria asked how many students attend Burbank Elementary now and Mr. Armas said he thought school population was in the 700 range.

Commissioner Lamnin asked staff to comment on Mr. Yee's complaint regarding traffic in and out of the development. Senior Planner Buizer explained that driveways were placed on Myrtle and C Streets because staff did not want an entrance on Filbert Street due to of the impact to school traffic circulation, and B Street was avoided because of the traffic circulation patterns, the sycamore trees, and the traditional look of B Street. Ms. Buizer said Public Works reviewed the development and determined that a traffic study wasn't necessary because the impacts would be minimal.

Commissioner Mendall asked Mr. Armas if Urban Dynamic was opposed to condition 70n that required undergrounding of utilities on Myrtle Street. Mr. Armas pointed out the condition wasn't really applicable because there weren't any utilities on Myrtle Street that need to be placed underground. Mr. Armas said in preparation for this meeting he spoke with the Eden Housing project planner and learned that only the utility pole at B and Grand needed to be removed.

Commissioner McDermott said she shared Commissioners' concern regarding the capacity of the school. She said the latest demographics indicate the average age for the area is 33 years old and therefore made it safe to assume that the majority of residents in the development would have school age children. She said in 2010 the total number of students at Burbank Elementary was 797 students. She pointed out that if 850 was the limit it wouldn't be too long before capacity was reached.

Assistant City Attorney Conneely said state law prohibits the Commission from denying a subdivision project based on impacts to local schools. She pointed out that school impact fees were supposed to offset any potential impacts to the school district.

Chair Loché said he thought this development was a very attractive project, but admitted he was dismayed when it came to them in 2008 instead of a community center. He said he would be pushing for a community center if he thought there was any chance of bringing it back to the table.

Commissioner Mendall said this was an interesting project and wanted to explain the thinking behind his vote. He said this was the densest single family home project he could recall, but it was located a quarter mile from BART and creating density near public transit had been a stated goal of the Commission. The density fits with other developments in the area and he said he liked that the homes were detached. Regarding open space, Commissioner Mendall acknowledged there was very little and for a development of this size, said there should be more; however, the fact that it was located across the street from a park was a mitigating factor. If the park was not there he said he would vote against the project. Due to the development being “exceedingly green,” he agreed with Mr. Armas that it would be a showcase project that would add value not only to homeowners but to the City as a whole. He pointed out that 20 years from now homes that were not energy efficient would be old-fashioned and the fact that they are so green moved his vote and made it easier for him to accept some of the other things that were “less than perfect.” He said three years ago he was part of the majority that voted against residential, but they were overruled by the City Council and now, even though he would prefer a mixed use for this site, he was ready to move on and focus on the current application and the current zoning. He said he was going to support the project and he really was excited about the “green showcase” and he thanked staff for pushing sustainability and the developer for embracing it.

Commissioner McDermott said she wanted to acknowledge the communication from Sherry Blair saying it was passionate and conveyed a strong sense of wanting a community center. Commissioner McDermott said she would like to see an exploration for residents to determine a location where they could hold community meetings without paying a fee. Also, while she understood why the applicant was resentful that undergrounding wasn’t done before, she said the Commission shouldn’t make the same mistake a second time. If the Commissioner has an opportunity to improve a situation, she said they should take it. She concluded by saying that she agreed with Commissioner Mendall’s comments that the developer should prepare the house for additional amenities such as a tankless water heater.

Commissioner Lamnin said this wasn’t an ideal project in some ways and had several concerns for the community. She said having a place for residents to gather was important, as was open space, and after driving by the site, she wasn’t convinced of what the best use of the space was. She said she wanted to hear the community’s concerns. She said the community needed jobs and a healthy place to live and she asked if the trade-off was worth it.

Commissioner Lamnin made a motion to move the staff recommendation but said she wanted to include “strong recommendations” that the City, HARD and Hayward Unified School District (HUSD) work together to create community places and communicate those locations to the community. She also asked that the applicant and City try to make the project more viable by working with PG&E to find incentives to underground utilities and improve the community while building. She said she wanted the applicant to not just “nod” at green standards but really embrace the green elements the City desired. Rather than building homes to accommodate air conditioning, she asked the applicant to build the homes so they would not need air conditioning; to make sure



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homes are prepared for amenities like tankless water heaters; to use recycled building materials, etc. She expressed concern about the density of the project and said if the project wasn't creating jobs and other things the community needs, she would vote against it. She also asked that a condition be added that would phase construction to lessen the impact on the students.

Commissioner Mendall asked if those recommendations were included in the motion and Commissioner Lamnin asked for guidance from counsel. Planning Manager Patenaude pointed out that the project was a planned development so a precise plan would have to come back to staff to review for compliance and all comments from the Commission and City Council would be taken into consideration at that time.

Chair Loché asked if Commissioner Lamnin was satisfied with that response and she said she was.

Commissioner Márquez seconded the motion and agreed that more collaboration was needed with the community. For future reference, she said representatives from HARD and HUSD should be present during discussions for projects like this. Commissioner Márquez said she understood the community was concerned about the density of the project, but preferred development over dilapidated land and the project did build a walkable community close to BART and the park. She said she liked that there was an option for a bedroom on the ground level and that was an option definitely needed by families. She said the project was put together well, that she appreciated everybody's input, and would be supporting the motion especially the collaboration between HARD, HUSD and the neighborhood about community spaces.

Regarding the density of the project, Commissioner Mendall pointed out that lowering the density might impact the project in other ways, by, for example, eliminating the requirement for undergrounding of the utilities, or including fewer green features, or less variation of building design and elevations. Because of the potential tradeoffs, he said the Commission was forced to make a difficult decision and he was supportive of the density in return for all the other things the City was getting. He said he was supportive of Commissioner Lamnin's motion, but only if her recommendations were included as comments rather than conditions. He pointed out that Condition 106 didn't actually include language that required solar and because the applicant was indicating they would install solar, Commissioner Mendall asked that 2.5Kw solar installation was made a condition of approval and included in the motion.

Commissioner Lamnin agreed with the friendly amendment to require solar.

Commissioner Mendall confirmed that the applicant was accepting of the amendment and Mr. Hariri said it was a balancing act and the requirement to underground utilities was going to cost as much as installation of the solar.

Chair Loché reiterated that the friendly amendment had been accepted as part of the motion.

Commissioner Mendall said he was flexible regarding the power lines but it didn't sound like the other Commissioners were.

Regarding the undergrounding of utilities, Chair Loché said he was in agreement that the Commission should not make the same mistake twice. Regarding this proposal being a balancing act, he agreed, saying residential was not his first choice, but if it had to be residential then this was a good project that was attractive, green, and he believed, a model project for the City. He said he strongly believed in higher densities near public transit so he had no problem with the density of the project. He said he liked porches, thought the project was well put together, and said he would be supporting the motion.

Chair Loché called for a vote on the motion.

The motion to approve staff recommendation with an amendment to the conditions of approval to require developer to install a 2.5Kw solar energy package in every home, and with recommendations to have staff pursue the following: create community places, work with PG&E to find incentives to underground utilities, and phase construction so as not to disturb students at Burbank Elementary School passed with the following vote (6:0:1).

AYES: Commissioners Faria, Lamnin, Márquez, Mendall, McDermott
Chair Loché
NOES:
ABSENT: Commissioner Lavelle
ABSTAINED:

COMMISSION REPORTS:

2. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude noted that both regular meetings would be held in June and he discussed scheduled topics. He also reported back that comments made at an earlier Work Session regarding telecommunication poles had been relayed to staff and implemented.

3. Commissioners' Announcements, Referrals

Commissioner Mendall suggested to staff that more work sessions be scheduled on topics like the telecommunication poles to give Commissioners an opportunity to discuss before an actual application was in front of them. Planning Manager Patenaude said he welcomed suggestions from the Commission and mentioned he was working with the police department on some particular uses that impacted the community and would be bringing the discussion to the Commission. Commissioner Mendall pointed out that the more familiar the Planning Department was with Commission opinions, they could push particular points with applicants, and the more likely the recommendation would be approved.

Commissioner Faria asked if the Planning Commission could be informed when approved past projects were completed. Planning Manager Patenaude pointed out that the City hadn't had a lot of projects lately, and Commissioner Faria said she would like to know if and when even small projects, like the telecommunication poles recently approved, were completed. Mr. Patenaude said the City wasn't



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always notified. Chair Loché reminded the Commission that at a previous meeting Commissioner Lavelle had raved about the cell phone service at Stonebrae. He suggested Commissioner Faria ask staff for the outcome or status of a particular project and Mr. Patenaude said was always available to provide updates, but that he would look into how he could report back to the Commission on the outcome of projects.

Commissioner Mendall said he supported Commissioner Faria's request.

Commissioner Lamnin asked if an e-mail could be sent when the final inspection takes place for these projects to create a feedback loop. She said she also supported Commissioner Mendall's comment about community input and being pro-active and said the project discussed that evening might have benefitted from a Public Hearing earlier on. She said she understood community meetings were held, but she couldn't attend every meeting and she didn't get to hear the public comments. For big projects that might have a big impact, she asked if staff could do that. Planning Manager Patenaude said staff could make sure the Planning Commissioners received notification of neighborhood meetings and Commissioner Lamnin said that would be fine.

Commissioner Lamnin asked staff if there was any response to her previous request regarding traffic on Walker Landing and North Lane and Planning Manager Patenaude said he expected some information soon and would forward it via e-mail.

APPROVAL OF MINUTES

4. Minutes from April 28, 2011, approved with Commissioners Marquez and McDermott abstaining.

ADJOURNMENT

Chair Loché adjourned the meeting at 9:10 p.m.

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk