



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 17, 2002, 8:00 p.m.

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Jimenez.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PRESENTATION: Pride in Hayward Award

The following Santa Clara neighbors received the December Pride in Hayward Award: Jose and Amelia Zaragoza; Sherry, David and Jean Moreir; Inga Lourdes; Janice Hollowell; and Marjorie Suydam. Mayor Cooper congratulated them with a round of applause on taking pride in their neighborhood and beautifying the City of Hayward.

PUBLIC COMMENTS

Jason Moreno showed photos of Home Depot and asked if any Fire Codes were violated and what has been done since he reported these to the Department.

In response to Mayor Cooper's request, Fire Chief Arfsten reported that within two days of this call, the matter was resolved.

Jim Drake commented on drainage problems in his neighborhood and stated that the water was disappearing into the sewage system.

Mayor Cooper asked the Public Works Department to re-investigate this matter and report to Council.

Barbara Swarr commented on bonds, fees and interests that are associated with such and the projects they fund.

CONSENT

1. Approval of Minutes of the City Council Meeting of December 10, 2002

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It was moved by Council Member Henson, seconded by Council Member Rodriguez, and unanimously carried to approve the minutes of the City Council Meeting of December 10, 2002.

2. Final Map Tract 6993 – Tricon Development Inc. (Subdivider) – Approve the Final Map, Authorize the City Manager to Execute a Subdivision Agreement – The Property is Located at 22879 Grand Street

Staff report submitted by Development Review Engineer Gaber, dated December 17, 2002, was filed.

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

Resolution 02-180, “Resolution Approving Final Map for Tract 6993 and Authorizing the City Manager to Execute a Subdivision Agreement”

3. Authorization for Execution of a Professional Services Agreement to Update City Traffic Model

Staff report submitted by Deputy Director of Public Works/Engineering Bauman, dated December 17, 2002, was filed.

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

Resolution 02-181, “Resolution Authorizing the City Manager to Execute a Professional Service Agreement between the City of Hayward and Hexagon Transportation Consultants for the City’s Traffic Model Update Project, Project 6960”

Resolution 02-182, “Resolution Amending Resolution 02-084, as Amended, the Budget Resolution for Fiscal Year 2002-03, Relating to an Appropriation of Funds from the Capital Improvement Fund, Fund 410 to the Traffic Model Update Project, Project No. 6960”

HEARINGS

4. Continuation of Hearing of Appeal of Planning Commission Denial of Variance to Retain a Storage Room at 26476 Cascade Street – Ernest Armijo (Applicant/Owner)

Staff report submitted by Consulting Project Planner Weisbrod, dated December 17, 2002, was filed.



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Planning Manager Anderly explained that during a previous City Council meeting, staff was directed to provide additional information. She noted that a building inspector visited the site and determined it had been originally built as an aluminum carport. Mr. Armijo admitted that he converted the carport into a shed. There is no power to the building. She added Community Preservation had cited four individuals in the neighborhood during this past year.

Council Member Henson asked whether staff could find sufficient grounds for Mr. Armijo to retain it.

Planning Manager Anderly stated that staff could not find grounds to retain the structure. She noted that City practice is to respond to complaints rather than take action against homeowners unless the violation is so egregious.

Council Member Dowling commented that Mr. Armijo enclosed the shed.

Council Member Ward thanked staff for their further research and felt that it was important for the City to strive to accommodate the applicant. However, it does not appear to be feasible to do so.

Council Member Jimenez asked staff to explain the front yard/back yard confusion.

Planning Manager Anderly explained the setback requirements for front yards and how the determination was based on the size. Anything else would be substandard under the Zoning Ordinance.

Mayor Cooper opened the public hearing at 8:25 p.m.

Jim Drake asked about the concrete on the side yard and now being used for parking.

Planning Manager Anderly explained that it is allowable to have up to 50 percent in concrete or non-landscaping.

Ernest Armijo commented that on Wednesday when the Planner visited his home, he told him that the cars were being kept off the street for the City sweeper to come by. He added that the shed is not harming anyone.

Jason Moreno commented on the variations in driveway configuration throughout the City of Hayward. He asked about widening of driveways.

Mayor Cooper closed the public hearing at 8:29 p.m.

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Mayor Cooper suggested that staff be more proactive than reactive. She commented that it was disturbing to realize that City inspectors do not report violations that they see when they travel throughout the City. She noted that it gives a sense of unfairness for those who are cited. She said she hoped the Department would review their policy.

Council Member Dowling commented on Council's effort to strengthen the City's Community Preservation program. He noted that it is very difficult to ask someone to tear down a long-time structure, but he felt consistency with City policies was necessary.

Council Member Henson also mentioned the difficulty of asking Mr. Armijo to remove the structure. He added that Council has asked staff to strengthen the Community Preservation component of the Municipal Code and act whenever there is an apparent violation of the City's Community Preservation Ordinance.

Council Member Rodriguez was disturbed that there seems to be an undercurrent in this neighborhood that is over and above this issue. She expressed her sympathies and wished a better solution for the applicant.

Mayor Cooper again stressed the need for City staff to be proactive in neighborhoods.

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

Resolution 02-183, "Resolution Finding the Project Categorically Exempt from CEQA Review and Denying the Variance Application No. PL02002-0400 and Related Request for Exception to City's Design Guidelines"

5. Soto Road Improvements for Bicycle Lane between Ambrose Court and Greenway Belt near Culp Avenue: Approval of Plans and Specifications, Call for Bids, Approval of Negative Declaration, and Authorization for Eminent Domain

Staff report submitted by Deputy Director of Public Works/Engineering Bauman, dated December 17, 2002, was filed.

Deputy Director of Public Works/Engineering Bauman provided the staff report, using slides of the proposed project. He noted that there had been an impasse with the property owner's disagreement and dispute on the amount of payment as well as the location of the right of way. He noted that staff would continue to negotiate with the owner. He enumerated the findings and recommended the approval of the negative declaration. He noted that work is to be started in March and completed in October of next year.

Council Member Jimenez asked whether this project would conflict with the Harder Road project.



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Deputy Director of Public Works/Engineering Bauman responded that it would not as scheduled.

Council Member Henson asked about the right of way acquisition cost and whether the amount projected is for the entire 7 properties for nine feet along the right-of-way. He then expressed concern on the potential impact to traffic on Soto Road.

Deputy Director of Public Works/Engineering Bauman said the City is improving the safety by adding bicycling lanes rather than having bicyclists ride with traffic. He commented that this is a better solution than a bicycle route.

Council Member Dowling commended staff for being aggressive about obtaining funds for these projects. He expressed concern about the tree and whether it might be salvageable.

Deputy Director of Public Works/Engineering Bauman said staff had looked at several options for saving the tree; however, there were a number of safety issues raised since it is in the City right-of-way. He noted that the tree is relatively healthy and old. As a result, it might not last too long. It is not being removed for any other reason than safety and visibility concerns. He said staff discussed curbing around the tree, but felt it was not feasible to do so.

Council Member Ward discussed his own experiences with traveling on that route. He said he was concerned about bicyclists in that area.

Deputy Director of Public Works/Engineering Bauman agreed there was a lot of traffic on that street, but that putting a lane in was the safest way to go.

Council Member Rodriguez also expressed her concern about the bottlenecks that occur on this road. She stated that sidewalks are greatly needed, but felt that it could be very dangerous. Deputy Director of Public Works/Engineering Bauman responded that when they looked at the Bicycle Master Plan they looked at what the acceptable standards for bike lane facilities are. He noted that the City needs to provide bicyclists with a safer standard. This is an acceptable project for those standards.

Council Member Hilson asked whether there were traffic counts for this road.

Deputy Director of Public Works/Engineering Bauman commented that the City is experiencing extremely heavy traffic flow due to the Harder Road project. It will be further changed.

City Manager Armas explained that when Harder was opened, there was substantially more traffic. He commented that there is no clear demarcation for a number of areas with people parking on the sides of the road.

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Council Member Hilson asked whether improvements to the road would, in turn, improve traffic flow and provide safety to bicyclists and pedestrians.

Mayor Cooper opened the public hearing at 8:58 p.m.

Jason Moreno commented on his discussions with residents on Soto Road. He noted that the proposed use of eminent domain was welcome in this case.

Reinhold Koshmieder said he was the property owner. He made his statements related to his driveway and access to his property. He said he was not agreeable to the removal of the tree, although the City maintains that his property line and boundaries are different from what he believes. He said he has disagreed with the first revisions and asked for better arrangements. He was not against the street improvements, but against the bike lanes.

Council Member Henson asked about the improvements on his street.

Mr. Koshmieder said the original measurements on the road were different from the way the City is presenting it. He maintained that the road narrows too much for a bike lane farther up the road.

Mayor Cooper closed the public hearing at 9:06 p.m.

Mayor Cooper commented that the tree is really quite lovely and asked how the City of Hayward can maintain the tree for as long as it is living. She said Mr. Koshmieder has a valid point. If it cannot be done fully, why do it.

Deputy Director of Public Works/Engineering Bauman maintained that the funding is for bike lanes as well as sidewalks, etc. He noted that the second part of the project would also require acquisition of right-of-way further down the road. He said the Resolution by Council would include a driveway for Mr. Koshmieder when the tree is removed.

Mayor Cooper maintained that this was a mess. She asked whether there could be access to the garage and saving the tree.

Council Member Hilson moved, with Council Member Ward seconding, the staff recommendation.

Council Member Hilson commented that the tree was a safety issue since it blocks the line of sight. He suggested that the City of Hayward name a bicycle lane segment in Ron Custer's memory.

Council Member Rodriguez agreed with that comment and said she was concerned with unfinished business and was disturbed with having a bike lane on that street. She agreed with the curbing and sidewalks, but would not support the motion.



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Council Member Dowling said he is supportive of the concept of a bike lane, however, this may not be the best plan. He did say he was still very concerned about the tree, very beautiful and would like to make an amendment to keep the tree.

Council Member Hilson disagreed with keeping the tree, however, the sight line is a serious consideration. He commented that a new walnut tree could be planted. He said he would not accept this amendment as a friendly amendment.

He then asked for a substitute motion but lacked a second. He then said he would support the motion.

Council Member Henson said he dislikes street parking and suggested no parking on Soto.

Deputy Director of Public Works/Engineering Bauman emphasized that parking in the front on the street is needed because homes on this segment are set closer to the front.

Council Member Henson said he likes the tree, but felt that it is necessary that it be removed for this project. He said he would support the project even though he has unanswered questions about the project and serious concerns about much of the safety in the area.

Council Member Ward asked about community discussions and the community response to destroying the tree.

Deputy Director of Public Works/Engineering Bauman discussed the original meetings, which were held on all projects, and residents were informed as well as letters sent to property owners. He said all of the residents who attended the meetings were informed about the tree and no one responded.

Council Member Ward asked whether another tree could be planted.

Deputy Director of Public Works/Engineering Bauman said the City would not want to have another site line problem so it would have to be on Mr. Koshmieder's property or on that of a neighbor.

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with the following vote, to adopt the following:

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AYES: Council Members Jimenez, Hilson, Ward,
Dowling, Henson
MAYOR Cooper
NOES: Council Member Rodriquez
ABSENT: None

Resolution 02-184, "Resolution Approving the Negative Declaration and the Plans and Specifications for the Soto Road Bicycle Lane Improvements, Project No. 6923, Between Ambrose Court and Greenway Belt Near Culp Avenue, and Call for Bids"

Resolution 02-185, "Resolution Finding and Declaring a Public Need and Authorizing the Acquisition and Immediate Possession by Eminent Domain Proceedings or Otherwise as to Certain Real Property Located at 25185 Soto Road"

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Wishing all season's greetings, Mayor Cooper adjourned the meeting at 9:29 p.m., and commended Sanford Groves, Assistant City Manager, as he leaves the City to work in the private sector. The next regular meeting will be held on January 7, 2003.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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