



**MINUTES OF THE SPECIAL JOINT
CITY COUNCIL/REDEVELOPMENT AGENCY
MEETING OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 19, 2006, 8:00 p.m.**

MEETING

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member/RA Rodriquez.

ROLL CALL

Present: COUNCIL/RA MEMBERS Rodriquez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR/CHAIR Sweeney
Absent: COUNCIL MEMBERS None

PUBLIC COMMENTS

Dr. B. Lokelani Wilson spoke regarding the Council discussion that occurred at an earlier work session and asked that she be notified of the next meeting on the revisions to the condo conversion ordinance.

Robert Imazumi spoke regarding his appointment to the Alameda County Transportation Improvement Board.

CONSENT

1. Approval of Minutes of the City Council Meeting of December 12, 2006

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to approve the minutes of the City Council Meeting of December 12, 2006 with revisions on page 4 as requested.

2. Co-Generation Alternative Study and Implementation – Authorization for Professional Services

Staff report submitted by Deputy Director of Public Works Ameri, dated December 19, 2006, was filed.

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

Resolution 06-152, “Resolution Authorizing the City Manager to Execute a Professional Services Agreement with HDR Consulting Engineers to Conduct a Co-Generation Alternative Study and Prepare a Report”

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3. Fire Station No. 2 Workshop Conversion and Fire Station No. 6 Women's Bathroom Addition

Staff report submitted by Deputy Director of Public Works Fakhrai, dated December 19, 2006, was filed.

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

Resolution 06-153, "Resolution to Call for Re-Advertisement of the Previously Approved Plans and Specifications for the Fire Station No. 2 Workshop Conversion and Fire Station No. 6 Women's Bathroom Addition"

LEGISLATIVE BUSINESS

4. Adoption of the FY 2005-06 Redevelopment Agency Annual Report

Staff report submitted by Redevelopment Director Bartlett, dated December 19, 2006, was filed.

Redevelopment Director Bartlett presented the staff report, noting that the report includes the Audit, as well as the statutory payments that were made. This year, the Education Revenue Augmentation Fund (ERAF) payment that is paid annually will be redirected to another project. She reported that the Agency's total tax increment revenue for the fiscal year increased to \$9.1 million.

With no requests to speak, Mayor/Chair Sweeney opened and closed the public hearing at 8:20 p.m.

There was a brief discussion regarding the balance on the unrestricted tax increment funding, the low and moderate income housing fund, the Agency's involvement with the B Street Marketplace development and the compliance with the Government Accounting Standards Board (GASB) regulations.

In response to Mayor/Chair Sweeney's query, City Manager/Executive Director Armas reported that the use of the Agency's funds for operational costs is not applicable.

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

Resolution 06-154, "Resolution Adopting the Annual Report of Redevelopment Agency Activities for Fiscal Year 2005-06"

RA Resolution 06-24, "Resolution Adopting the Annual Report of Redevelopment Agency Activities for Fiscal Year 2005-06"



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5. Limited Extension of Agreement with the Hayward Patients Resource Center

Staff report submitted by City Manager Armas, dated December 19, 2006, was filed.

City Manager Armas presented the staff report and provided the background of the medical marijuana dispensaries that resulted in agreements with two dispensaries, the Local Patients Cooperative and the Hayward Patients Resource Center to operate out of facilities on Foothill Boulevard. As there is conflict between federal and state laws, the Council agreed to withhold enforcement action for non-compliance with the zoning ordinance as long as certain conditions were met. Recently, the Local Patients Cooperative violated conditions and was notified to cease operations by the end of the year. The Hayward Patients Resource Center has been in compliance and has requested an extension to its agreement. At the work session in November, Council was open to extending the agreement and suggested additional conditions. The staff recommendation is to extend this agreement for 90 days so that the dispensary operator can find a more suitable location.

Council Member Dowling thanked City Manager Armas for his work on this issue.

In response to Council questions, City Manager Armas reported that this item will return for Council review no later than 90 days. He stated that some suggested preliminary sites have not been suitable for several reasons, i.e., near children's centers or schools, the availability of public transportation, as well as finding a landlord that will rent for this type of facility.

Mayor Sweeney opened the public forum at 8:54 p.m.

Nancy Glenk Janiak commented that she has lived in the Fairview area for the past 30 years, is retired from Alameda County, and now a patient with the Hayward Patients Resource Center. She supported Proposition 215 and the ability to access medicinal marijuana. She noted that parking is difficult, but appreciated that it is on the first level. She spoke in support of the extension.

Jessica Mery spoke in support of the dispensary, noting that her mother previously worked with Mr. Lemos to open this dispensary. She appreciated City Manager Armas and the Council for their compassion towards this issue.

Tom Lemos, Thomas Avenue, stated that he has conducted his dispensary since 1996 and is in agreement with the staff recommendation. He reported that he has a real estate broker, whose name and potential locations were provided to the City Manager. He commended Council for being compassionate towards the Center. He stated that his lawyer has spoken with the District U.S. Attorney on this issue, who emphasized the need to avoid becoming a public nuisance. Mr.

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Lemos responded to Council questions related to the three pound limit, physician referrals, and education of patients on the use of cannabis. There is a particular website that lists dispensaries for medical marijuana and there has been an increase of Hayward patients due to the recent closure of another Hayward dispensary by the Drug Enforcement Administration (DEA). Lastly, Mr. Lemos reported that 18 percent of the patients at his dispensary are in the age range of 18-25 years old.

Julie Alameda, Seymour Place, indicated that she is a patient of this dispensary and urged its continued operation.

Ken Estes of Oakland reported that he had a dispensary but voluntarily closed it two years ago due to the limit of two in Hayward. He currently operates the hydroponics store at the same location. He described his distribution process, offered to re-open his dispensary and felt that there should be competition. He offered his location for this purpose at the end of Mission Boulevard, near the Mitsubishi dealership.

Rich Trullinger, Barbara Court, stated that he has a business and is actively involved with the Democratic Party. He spoke as a patient in support of another facility. He urged that the Council approve a second facility as it would be good competition, perhaps provide easier access and offer the patients a better price.

Rob Simpson, Grandview Drive, spoke in support of the use of marijuana for medicinal use and commented on his family member experiences with cancer. He would prefer to see it dispensed from a medical facility. He indicated that with the assistance of his sister, a retired police officer, he could open a second facility that could be located appropriately in the vicinity of St. Rose Hospital. He realized that this would be a risk with the federal government, but felt that with his experience he could operate a model business of this type.

Mayor Sweeney closed the public forum at 9:16 p.m.

Council Member Ward asked for clarification on whether there is a limit of dispensaries in Hayward. In response, City Manager Armas stated that the zoning ordinance prohibits this type of business, but the Council authorized two dispensaries (already in business) with the provision that if one left the other could remain an additional year. At that time, Council set the terms of the dispensaries for two years due to possible property acquisitions from the Rt. 238 bypass or that the conflict between federal and state law is resolved. It was noted at the time of the agreements, that if the conflict was resolved, staff would return with new zoning regulations.

The option to close the dispensary in Hayward if it does not re-locate was also discussed by Council Member Ward.

Council Member Quirk did not agree with this option. He discussed research done on the usefulness and benefits of some of the chemicals found in marijuana. He noted that patients still need medical marijuana. He agreed with the staff recommendation. Council Member Quirk also suggested that staff consider and review the possibility of a second dispensary. He also suggested the increase of the three pound limit to five pounds. He moved the staff recommendation to extend the agreement for 90 days with two additional stipulations: 1) ask staff to review the



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question of what it would take to not enforce regulations against the second dispensary; and, 2) ask staff to look at the question of increasing the three pound limit to five pounds.

Council Member Halliday seconded this motion with the clarification that Council would review the pros and cons of the two stipulations added to the staff recommendation. She spoke on the dilemma that is faced by patients who seek this type of medical assistance. She felt that this facility had been assisting those who need medical marijuana. She hoped that the federal government would remedy the current law that would resolve this issue.

Council Member Dowling appreciated the motion on the floor, but he would not be supporting the motion, pointing out and recalling the recent DEA raid on one of the dispensaries in Hayward. He received a number of calls regarding this as an embarrassment. He agreed that Mr. Lemos, the operator, is experienced, has complied with the City's agreement and emphasized that the operator is not requesting a pound limit increase. Increasing the limit would raise another security issue for the dispensary. In his opinion other cities need to step up, rather than set up bans against medicinal marijuana dispensaries. He urged his colleagues to support the staff recommendation. As a substitute motion, he moved the staff recommendation with a second from Council Member Rodriquez.

Mayor Sweeney interjected that his parliamentary preference was to consider and take action on any motion in chronological order rather than utilize the process of substitute motions. At this time Council Members Dowling and Rodriquez withdrew the substitute motion.

Council Member Rodriquez commented on the medicinal qualities of marijuana and spoke favorably of Mr. Tom Lemos, operator of the dispensary, for providing the product safely to patients. She hoped that his real estate broker will be able to find a suitable location. She criticized the federal government for not responding to conflicting issues with states.

Council Member Henson spoke in support of those needing relief from pain, noting his experience with three back surgeries. He commented that Mr. Lemos' facility is self-regulated and safe. He appreciated the staff work and felt that the staff focus should be on finding an appropriate location for Mr. Lemos. He agreed with Council Member Dowling regarding the number of calls received from his constituents against allowing such dispensaries. He was in agreement with his colleagues that other cities should step forward to allow such facilities in their jurisdictions.

Council Member Halliday observed that during the public hearing, two speakers suggested that they had the ability to open a second dispensary in Hayward. For that reason and to be fair, she was supporting that part of Council Member Quirk's motion to ask staff to consider a second dispensary. She spoke on taking proactive steps to establish and set suitable criteria for dispensaries.

Mayor Sweeney did not see that this motion would be in the right direction, noting that Mr. Lemos is not requesting a higher limit on the amount of marijuana in his establishment.

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It was moved by Council Member Quirk, seconded by Council Member Halliday, and failed by the following roll call vote to approve the staff recommendation, direct staff to pursue a second marijuana dispensary and increase the three pound limit per dispensary to five pounds:

AYES: Council Members: Quirk, Halliday,
NOES: Council Members: Rodriquez, Ward, Dowling,
Henson
Mayor Sweeney
ABSENT: None

Council Member Dowling, seconded by Council Member Rodriquez, moved to approve the staff recommendation to extend the agreement with Hayward Patients Resource Center for ninety days.

Mayor Sweeney asked staff for clarification on the next steps to this extension, if approved. City Manager Armas responded that if Mr. Lemos is successful in finding another location that would be presented to the Council for approval. If he is not successful in finding another location for the dispensary, it would come before the Council for further action.

It was moved by Council Member Dowling, seconded by Council Member Rodriquez, and unanimously carried to approve the staff recommendation to extend the agreement with Hayward Patients Resource Center for 90 days.

COUNCIL REPORTS

Council Member Henson reported on his recent attendance at the National League of Cities (NLC). He commented on a report from Henry Cisneros on housing as well as from Mayor Nagin of New Orleans of its continued re-building needs. He toured Reno in terms of its housing and noted that home prices have increased due to Californian migration. Reno is also considering light rail in its downtown. Council Member Henson also indicated that the NLC Board passed a resolution that endorses comprehensive immigration reform that includes a guest worker program. He noted that Hayward's GIS model was used as an example at the conference by the vendor, ESRI.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 9:48 p.m., in memory of two distinguished residents and friends of Hayward. He provided time for Council Member Rodriquez to speak and honor Ignacio Ramirez, a former cannery worker who, along with his wife, founded Los Compadres Restaurant that has been a perfect example of a family business. Mayor Sweeney also honored Maggie Morrison, a speech communications teacher and wife of Douglas, who served on the Hayward Area Recreation and Park District Board. He directed staff to work with their families to plant trees in their memory.

Lastly, he noted that this is the last meeting of the year and wished everyone a happy holiday season.



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APPROVED:

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

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency