



**MINUTES OF THE SPECIAL CITY COUNCIL/
REDEVELOPMENT AGENCY MEETING OF
THE CITY OF HAYWARD**

**City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 8, 2008, 8:00 p.m.**

MEETING

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

ROLL CALL

Present: COUNCIL/RA MEMBERS Rodriguez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR/Chair Sweeney
Absent: COUNCIL/RA MEMBER None

PROCLAMATION: January – National Blood Donor Month

Mayor Sweeney read the proclamation declaring the month of January 2008 as National Blood Donor Month. Theresa Evangelista, Director, Donor Recruitment for the American Red Cross accepted the proclamation and thanked Council for hosting a blood drive on January 10, 2008. She urged all residents to pay tribute to those among us who donate for others in need and urged all Hayward residents in good health to donate regularly.

PUBLIC COMMENTS

Elizabeth Carte stated that she has been calling the police about the loitering on East Tennyson Road. She also commented on speeding police vehicles on that street. She asked for resolution to this problem and when this could be resolved.

CONSENT CALENDAR

Consent Items 2 and 3 were removed for further discussion.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of December 18, 2007

It was moved by Council/RA Member Ward, seconded by Council/RA Member Halliday, and unanimously carried, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of December 18, 2007.

2. Hayward Municipal Election – June 3, 2008

Staff report submitted by City Clerk Reyes, dated January 8, 2008, was filed.

Council Member Dowling asked about the two year and four year term candidacy. Mayor Sweeney requested that both the City Attorney's Office and the City Clerk research and respond to his question.

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

Resolution 08-001, "Resolution of the City Council of the City of Hayward Calling for a General Municipal Election and Requesting the Board of Supervisors of Alameda County to Provide for the Consolidation of a General Municipal Election of the City of Hayward with the State of California Primary Election to Be Held on June 3, 2008, for the Purpose of Electing the Four Members of the City Council for the Terms of Four Years and One Member for the Term of Two Years"

3. Mt. Eden Annexation Phase II – Request for Authorization to Contract with Pacific Municipal Consultants to Prepare LAFCo Application

Staff report submitted by Senior Planner Pearson, dated January 8, 2008, was filed.

Public Works Director Bauman responded to Council Member Quirk's question related to the infrastructure improvement costs and indicated that the \$700,000 is from the approved capital improvement program for the street system. This amount will eventually be refunded through tax increments as part of the tax sharing agreement.

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

Resolution 08-002, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract with Pacific Municipal Consultants (PMC) to Assist with Preparation of the LAFCo Application Package for the Mt. Eden Annexation Phase II Project"

Resolution 08-003, "Resolution Amending Resolution 07-079, As Amended, the Budget Resolution for Fiscal Year 2007-08 Relating to an Appropriation of Funds for the Mt. Eden Annexation Phase II Project"

HEARINGS

4. Zone Change Application No. PL-2006-0375 PD; Tentative Tract Map Application No. PL-2006-0374 TTM 7658; KB Home of South Bay, Inc. (Applicant)/Bernabe & Cruz Aranda and Robert and Roberta Pratt (Property Owners)- Request to Change Zoning from Medium Density Residential District to Planned Development District, and to Subdivide 1.5 Acres to Develop 22



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Residences in the Mt. Eden Area – The Project Site is Located at Eden Avenue and Saklan Road, Southerly of Middle Lane

Staff report submitted by Senior Planner Buizer, dated January 8, 2008, was filed.

Director of Community and Economic Development Daluddung stated that this area will be completely redeveloped, including the infrastructure. She provided on the tax sharing agreement. She indicated that Senior Planner Sara Buizar has been working with HARD Superintendent Lepore to expand Greenwood Park. Senior Planner Buizar made the report, displaying the area, describing the second phase of the annexation process, the number of units in the project and responded to questions. She noted that architectural style is the same as the first phase development and three model units are ready. She emphasized the three key issues of this project that include open space, parking and the planned development district findings and explained each. The parking standards for this development require 70 spaces; this project proposes 57. However such allowances have been approved for small lot projects. Staff is recommending a 3 space per unit minimum Condition of Approval that includes a deed restriction on lots 21 and 22 that would restrict development on those properties to accommodate parking to meet the per unit minimum. She explained that Phase I of the project did not require group open space as there was a waiver due to the close proximity of the Greenwood Park. Staff is recommending additional waiver as the applicant is proposing substantial park amenities as well as requiring that the developer contribute the amount of \$117,000 required to develop group open space towards the Greenwood Park amenities. She discussed the planned development standard exceptions that are supported by offsets such as the significant improvements to Greenwood Park by the applicant.

Council Member Henson asked about property acquisition for the park and its amenities. It was noted that additional acreage is needed to address the open space requirements of the project. Senior Planner Buizar explained that the former convalescent home property is privately owned and the Mt. Eden Neighborhood Plan and the General Plan designation is park area, but the City has no control of the property. Since the convalescent home was demolished, the property is vacant and no plans have been submitted, although the owners have inquired on potential development that requires parkland dedication of 1.25 acres.

Council Member Henson has experienced vehicle traffic at both Middle Lane and Saklan and asked if that intersection could be a four way stop as it is often used by commuters, who work in the industrial area, as a short cut to Hesperian Boulevard. Public Works Director Bauman responded that staff will review and analyze that situation.

Council Member Halliday expressed her concern on the waivers for this project on group and private open space, in particular when the property for expansion has not been acquired. She asked for further information on the two reserved lots and whether they could be used for open space. There was further discussion on the acquisition of the park land property that would require zone changes and there is sufficient land for an appropriate park dedication.

Mayor Sweeney clarified and it was confirmed that a Condition of Approval could be added to require the expansion of the park as part of this project.

Council Member Ward confirmed that Phase I of this project was approved in March 2006 and similar waivers on parking and open space were approved. He felt that those approvals have compounded the problem on this proposal.

Larry Lepore, HARD Superintendent of Parks, spoke on the current park needs and depicted the proposed improvements to Greenwood Park on the conceptual plan. He complimented the developer's landscape and planning staff for their input on this plan, but noted that the best solution for this park is its expansion. In response to Council Member Ward's question, he stated that the District considers one acre of land per 1,000 residents as a park standard.

There was further discussion on the park expansion, the acquisition efforts made by the developer and the concern about approving the project prior to the proposed park dedication. There was also concern that the purchase price could be exorbitant should the project be approved prior to its acquisition.

In response to Council questions, Senior Planner Buizar showed potential properties in the vicinity that could be purchased and developed, although there are no applications at this time. Public Works Director Bauman noted that the infrastructure costs for the first phase of annexation were funded by Mr. Dutra and the improvements will occur. When tax increments are generated, then Mr. Dutra will be reimbursed. Mr. Dutra continues to purchase properties in this area.

Council Member Dowling noted that the current residents were promised infrastructure improvements that include improved park amenities, making this a critical part of the project. He asked if staff has participated in the acquisition discussions and was informed that there have been several conversations, but nothing specific, such as an application. This property is now vacant land.

Mayor Sweeney stated that he agreed with the previous comments and concerns. He reiterated the trade off of a waiver of group home space and the waiver of the parking requirement for the expansion of Greenwood Park, and yet the expansion cannot occur as the land has not been acquired.

Mayor Sweeney opened the public hearing at 8:47 p.m.

Derek Farmer, representing KB Homes, South Bay, Inc. (KB), reiterated the Phase I Condition of Approval that required KB Homes to try to acquire the expansion area and at the time of the Final Map, KB Homes will bond with the City for the expansion and improvements. KB Homes has complied with this Condition of Approval and bonded for the amount of the costs for improvements. He described the acquisitions attempts, provided copies of the written communications to staff including seeking information on eminent domain processes. He stated that the potential acquisition was appraised with KB bonding for that amount. He felt that KB had made its best efforts to acquire the property for the park expansion, noting that the last attempt was made about six months ago. The owner was provided with the appraisal amount and an offer made,



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but it was unsuccessful. He hoped that the current owner would come forward soon.

Council Member Henson reiterated Council concerns and hopes that KB Homes could make another attempt. Council Member Ward indicated that he has supported KB Homes development in the past, but clarified his concern about the open space that is being proposed. Referring to Mayor Sweeney's prior suggestion, Council Member Ward asked if KB Homes would be willing to accept an additional condition of approval that prior to being issued a building permit; the acquisition would have been completed with KB Homes bearing the full cost of that acquisition.

Ray Panek, Senior Vice President of KB Homes, South Bay, Inc. described the various efforts to satisfy the open space requirements including making three offers for the convalescent property to no avail. Now the property is vacant and property values have changed, but he firmly stated that KB Homes cannot accept that condition of approval to bear the full cost of that acquisition for the proposed 22 units.

Council Member Ward asked that HARD Representative Lepore provide a range of land values on park property of \$1.1 million to \$1.4 million for that acquisition.

Senior Planner Buizar explained that as part of the final map approval for Phase I, KB Homes bonded for the land value of .94 acre based on the land appraisals at that time in addition to the costs of the overall park improvements. Some of those funds could be used to purchase the land, but could impact the improved amenities. She described the process of the park in lieu fees that are placed in zones funds with the possibility that there could be funds already there from other developments in this area. She discussed the boundaries as previously delineated and that could expand now that the proposed land is vacant. She also clarified there could be a potential land dedication when the vacant lot is developed as well as a group open space requirement in that future development.

Acting City Attorney Conneely advised that there be opportunity for staff to draft a condition of approval substantially in accordance to the Subdivision Map Act and similar to the condition placed on the Phase I development to address this.

Council Member Quirk commented on the amount of money available in the park dedication fees fund and stated that these funds are available for the purchase. He felt that the City has leverage including the possibility of the use of eminent domain. This issue is solvable, but there may need to be a delay in the approval.

Council Member Dowling discussed the potential development of the vacant property owned by Westlake, which is approximately three acres. It was noted that the owners have an interest to develop town homes. Council Member Dowling asked Mr. Panek whether there was pending development in this area.

Mr. Panek indicated that all of the property owners in this area have been contacted and Mr. Dutra

may be assembling properties, but at this time there are neither pending projects nor letters of intent in this area due, in part, to the current economic market. He calculated that KB Homes is paying fees of \$2.25 million towards the park. He stated that if Westlake would develop, Westlake's share towards park dedication would be more than sufficient towards the park amenities. KB Homes would be willing to accept a condition of approval that would include the future support from Westlake. In response to a question from Council Member Dowling, Mr. Panek reported that sales have been slow, but that Hayward seems to hold well in the housing market and was hopeful that his product would sell, in comparison to housing sales in east Contra Costa County.

Council Dowling urged strong City leadership from City staff to keep this project going.

Council Member Rodriguez reiterated and expressed her concerns about the many "ifs and chances" involved in this and the timing. She asked about eminent domain procedures in this instance as compared to what has been done in the downtown.

Acting City Attorney Conneely reiterated that the City is asking KB Homes to construct some offsite improvements and the developer has dedicated a dollar amount towards that. The Subdivision Map Act allows the City to impose those offsite improvement requirements. By the time the final map is approved, if the developer has not acquired the interests to the real property where the improvements are to be made, then the City can initiate eminent domain procedures, which must be done within 120 days or four months of the final map approval. The developer would need to enter into an agreement in that regard. The threshold is the valuation of the property and how much it would cost for the City to condemn it.

Council Member Halliday stated that she appreciates the KB Homes development that will definitely improve this area, but reiterated her concerns including the inadequate open space; thus is in favor of continuing this discussion. She asked for clarification on the zoning designations and the general plan designations.

Mayor Sweeney asked that staff address the issue of having properties designated in the General Plan to match its current zoning designation. Director of Community and Economic Development Daluddung stated that staff is addressing this issue as the properties are being developed as this seems to occur throughout Hayward and it would be a major effort at this time with limited staff. Staff can present a proposal in this regard. In this particular site, the General Plan designation is the ruling document, so the zoning is consistent with the General Plan. Mayor Sweeney recalled a similar issue where the General Plan designations for mobile home parks were in fact not zoned as such and amendment was approved to correct this.

Council Member Ward concurred with his colleagues and was in support of continued revitalization of this area, but he expressed the need to have open space and the consequences that could result if the City incrementally waives this requirement. He encouraged the staff of KB Homes to work with City staff and HARD staff to find a way to resolve this. He was not in favor of using eminent domain authority to help a developer comply with the open space requirement and that would not be in the public's interests.

Mayor Sweeney closed the public hearing at 9:22 p.m.



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There was consensus to continue this hearing with discussion as to the time needed to resolve the issue at hand. Council Members appreciated both KB Homes and City staff for their efforts to develop in this area and upgrade the park.

It was moved by Council Member Halliday, seconded by Council Member Rodriguez, and unanimously carried to continue this hearing up to six weeks. It was clarified that the time would be used by the City staff to resolve the issue and at this time no plans to initiate eminent domain.

LEGISLATIVE BUSINESS & INFORMATIONAL ITEMS

5. Keep Hayward Clean and Green Task Force

Staff report submitted by City Clerk Reyes, dated January 8, 2008, was filed.

City Clerk Reyes presented three recommendations related to the Keep Hayward Clean and Green Task Force (KHCG). She recommended approval of the draft resolution to accept the nine resignations, set term limits as other boards and commissions so that the current members serve through 2011 with re-appointment if desired, initiate recruitment as well as continue the requirement for KHCG members to file Statements of Economic Interests. During her presentation, she indicated that at the time of the interviews, potential members will be provided opportunity to review the filing form as well as informed of the KHCG time commitments.

Council Member Dowling commended Mayor Sweeney for his initiative to form this task force. He expressed concern on the number of resignations and suggested that there be joint meetings when the new members are appointed to discuss related issues and future endeavors.

Council Member Henson urged the recruitment and appointment process to include residents from different perspectives and occupations to include a broad array of talents and skills and experiences that brings variety to KHCG.

Council Member Halliday commended the task force for recruiting beyond its members towards the specific clean up efforts, the self-motivated efforts by families due to the KHCG outreach and education efforts. She emphasized the need to have an alternates list so that when a vacancy occurs there can be immediate opportunity for new members prior to the annual recruitment.

Council Member Quirk echoed his colleagues' comments, commented on the time commitment required of two meetings per month and commented on the politics involved. He commended the efforts of the KHCG task force in that it established its work plan on its own and thanked its leadership.

Mayor Sweeney reiterated his colleagues' commendations and noted that in addition to the two

meetings a month, there are special clean up events that are scheduled as well as planning for those meetings.

Mayor Sweeney opened the public hearing at 9:36 p.m.

John White appreciated the staff and cautioned on setting expectations of not just reviewing documents around a table, but also the expectation that members will be in the "field" as well. He recommended that information be provided so that these expectations are known, referring to the Mission Vision of KHCG. He thanked those who resigned for stepping aside to allow new members to become involved.

Council Member Rodriguez appreciated Mr. White's comments that those who resigned may not have been discontented, but simply not able to meet the time commitments.

Council Member Henson noted that some of the KHCG members have resigned but continue to participate in the clean up efforts.

Mayor Sweeney closed the public hearing at 9:44 p.m.

Assistant City Manager David stated that as the lead staff support, she can report that the current KHCG members have been "doers" and have persevered in all efforts. She indicated that an effort will be made to further discuss, perhaps in a joint work session the reasons for the resignations. She appreciated the work of the Chair of the KHCG and Mr. John White for their efforts to maintain the efforts of KHCG.

Council Member Quirk noted that the Chair is recommending leadership skills in future members. He urged his colleagues to seek out potential members and suggested that the application and letter of recruitment be e-mailed to each of the Council Members for distribution. He agreed with Council Member Dowling that there needs to be some work to clarify some aspects of the KHCG Task Force, and felt that Council Members could assist the KHCG leadership in working these out. He felt that some of the leaders or chairs of some of the committees may need assistance, perhaps training, in trying to bring forth their work effort. He commended Mayor Sweeney for his efforts towards the success of KHCG.

It was moved by Council Member Quirk, seconded by Council Member Halliday, and carried with Council Member Rodriguez absent, to adopt the following resolution with the addition of establishing an alternates list during the appointment process:

Resolution 08-005, "Resolution Accepting the Resignations of Nine Members from the Keep Hayward Clean and Green Task Force and Related Actions"

COUNCIL REPORTS

Council Member Henson reported on a National League of Cities conference call that he participated in earlier in the day. He commented on the topic related to the conversion of analog to



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digital broadcasting in 2009.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 9:51 p.m., in memory of Robert Madrid, a founding partner in the firm of Hansen, Madrid, Van Blaircom, and Garvella CPA's in Hayward. He served as a director and officer of the St. Rose Hospital Foundation and on the Hayward Planning Commission. He was past president and longtime member of the Hayward Lions Club and of the Hayward Chamber of Commerce. He received the Distinguished Citizen Award from the Hayward Lions Club. Mayor Sweeney asked that a tree be planted.

APPROVED:

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

ATTEST:

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