



**MINUTES OF THE SPECIAL CITY COUNCIL/  
REDEVELOPMENT AGENCY/HOUSING AUTHORITY  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, October 6, 2009, 8:00 p.m.**

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**MEETING**

The Special Meeting of the City Council/Redevelopment Agency/Housing Authority 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/HA MEMBERS Zermeño, Quirk, Halliday, May, Dowling,  
Henson  
MAYOR/Chair Sweeney  
Absent: COUNCIL/RA/HA MEMBER None

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson reported that Council met with Legal Counsel pursuant to Government Code 54956.9 (c); and pursuant to Government Code 54956.9 regarding Eden Gardens MHP, LLC v. City of Hayward, et al, Alameda County Superior Court No. RG08-395185 and Eden Gardens MHP, LLC v. City of Hayward, et al, Alameda County Superior Court No. HG09-460275. There was no reportable action.

**PUBLIC COMMENTS**

Ms. Linda Bennett, Hayward resident, submitted a letter regarding Caltrans housing. Ms. Bennett showed photos of Caltrans properties on B Street, which are not well maintained. Ms. Bennett is hopeful that if Caltrans delays the process, the City Council will take action and petition the State to get this property sold as soon as possible. Ms. Bennett said that the property will look better once it is privately owned.

Mr. Doug Ligibel, Grand Terrace resident, expressed concern about gang violence, foreclosures, and drug distribution near Burbank Elementary School. Mr. Ligibel encouraged the City Council to watch the Discovery Channel's special on Gang Wars where it is documented that there are 10,000 gang members in Oakland. Mr. Ligibel recommended that the City hire more sworn officers and to institute an injunction process.

Mr. Wayne Beasley, Pappas Place resident, thanked Council, especially Council Members Quirk, May, and Henson for their time and responses to his inquiries regarding the food scrap and recycling programs.

Ms. Wynn Gricich, Industrial Parkway resident, referred to materials from Fluoride Action Network and enviroblog.org indicating that chloramine, lead pipes, and fluoride are contributors to

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contaminated tap water. Ms. Greich talked about the correlation of lead content in water to breast cancer. Ms. Greich feels the City Council should pass a resolution to change the building codes to address these concerns.

## CONSENT CALENDAR

Consent Items 3 and 4 were pulled for further discussion.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting on September 22, 2009

It was moved by Council/RA Member Henson, seconded by Council/RA Member Dowling, and carried unanimously, to approve the minutes of Special Joint City Council/ Redevelopment Agency Meeting of September 22, 2009.

2. Annual Investment Review, Adoption of Statement of Investment Policy, and Delegation of Investment Authority

Staff report submitted by Budget Administrator Blohm, dated October 6, 2009, was filed.

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

Resolution 09-146, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

RA Resolution 09-20, "Resolution Accepting the Annual Report on Investment Program and Activity for the Redevelopment Agency of the City of Hayward, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

HA Resolution 09-01, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward Housing Authority, Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance"

3. Adoption of State Route 238 Local Alternative Transportation Improvement Program (LATIP) Project List

Staff report submitted by Deputy Director of Public Works Fakhrai, dated October 6, 2009, was filed.



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

Resolution 09-147, "A Resolution Approving the State Route 238 Hayward Bypass Local Alternative Transportation Improvement Program (LATIP)"

4. Approval of Terms Related to the 238 Corridor Settlement Agreement

Staff report submitted by City Attorney Lawson and Assistant City Manager David, dated October 6, 2009, was filed.

Mayor Sweeney allowed for public comment on this item.

Mr. Matthew Plicner, Carlos Bee Boulevard resident and teacher, asked that all Caltrans tenants be treated fairly throughout the settlement agreement. Mr. Plicner requested that tenants who have resided in their homes for less than two years be given the same opportunities as long-time tenants. Also, that they be given the first opportunity to purchase the home they reside in either by reworking the existing formula or waiving any restrictions. Mr. Plicner noted that he is a good and responsible tenant.

Ms. Debbie Frederick, Bunker Hill Boulevard resident, spoke on behalf of the Bunker Hill area that also includes the areas of Maitland Drive and Central Boulevard. Ms. Frederick addressed the fact that Bunker Hill has been listed as "unclassified," and asked for the City's assistance in being afforded the same rights and purchase options as the other tenants. Ms. Frederick read a letter to Council and submitted it for the record.

Mr. Timothy Tuck, Maitland Drive resident, asked for the opportunity to continue to build communities. Mr. Tuck asked for transparency and open communication. Mr. Tuck requested Council's guidance as to whom the tenants should ask to remain informed of current negotiations.

Mr. Anthony Fidel, Maitland Drive resident, thanked Council and City staff for working with Caltrans. Mr. Fidel expressed his desire to purchase the house he is currently occupying. Mr. Fidel said he has done outreach work in Hayward and would like to continue contributing to the local community. He asked that Council keep him and his neighbors in their thoughts throughout the process.

Ms. Donna Tiano, Bunker Hill Boulevard resident, indicated that she lives in the area designated for demolition. Ms. Tiano noted that it would be in the best interest of the City, and the community, if the proposed houses were sold individually to private persons rather than as a unit wholesale to a developer. She asked Council for their consideration.

Mr. R. J. Johnson, a 20-year resident of Bunker Hill Boulevard, thanked Council for their involvement. Mr. Johnson requested clarification on the situation for the Bunker Hill area. Mr. Johnson noted that due to the economy, it is not a good time to purchase a home.

Mayor Sweeney closed the public comments section and asked that City staff address the issues raised.

Assistant City Manager David reminded everyone of an ongoing lawsuit and noted that there was a substitute resolution for Council's consideration, which did not change any of the meaning in the draft resolution, but simply made some administrative changes. Ms. David noted that Caltrans policy regarding selling property to tenants previously required tenants to live at the address for five years or more, and that through negotiations, City staff was able to get it reduced to two years. Assistant City Manager David noted that she has spoken to Mr. Plicner and other families and has encouraged them to continue their efforts to qualify for some of the City's housing programs. Ms. David addressed the issues raised by Bunker Hill residents reiterating that the "unclassified" label is in the best interest of Bunker Hill residents but reiterated that the decision resides with Caltrans. Ms. David noted that the City is receptive to issues such as: public safety, ingress and egress, access, trail overlay district, sewer services, zoning approved through the 238 Land Use Study, home ownership, and individuals' desire to stay in Hayward. Ms. David stated that the City, Caltrans and the Public Interest Law Project are all committed to having an open process that allows the public to understand how decisions are made.

In response to Mayor Sweeney's inquiry regarding private homeowners, Assistant City Manager David indicated that the agreement does not impact private homeowners.

Council Member Henson encouraged staff to give those speakers who are eligible to purchase their homes the appropriate information. Assistant City Manager David confirmed that she will get Housing Development Specialist Cortez in touch with those that might be eligible for housing programs. Mr. Henson confirmed with Ms. David that funding for the infrastructure of Bunker Hill is not available.

Council Member Quirk recalled that when the sale of this property was imminent, most of the people living along the 238 right-of-way were Hayward residents. Mr. Quirk mentioned that through negotiations, City staff has done a good job of obtaining a good deal for those residents. Unfortunately, he noted that there are some infrastructure problems with the Bunker Hill area.

Council Member Quirk moved the item and it was seconded by Council Member Zermefio.

It was moved by Council Member Quirk, seconded by Council Member Zermefio, and carried unanimously, to adopt the following with revisions to Resolution 09-149:

Resolution 09-148, "A Resolution of the City Council of the City of Hayward Authorizing the City Manager to Execute an Agreement Compromising and Settling Legal Issues Related to the Route 238



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Bypass Project Lawsuit Entitled Swanson, et al. v. California Department of Transportation, et al.”

Resolution 09-149, “A Resolution of the City Council of the City of Hayward Authorizing the City Manager to Appropriate Funds and Expend Funds for Implementation of the Compromise and Settlement Agreement Related to the Route 238 Bypass Project Lawsuit, Entitled Swanson, et al. v. California Department of Transportation, et al.”

5. Authorization to Design, Procure and Install Two LED Signs on B Street for the City Hall Parking Garage

Staff report submitted by Redevelopment Director Bartlett, dated October 6, 2009, was filed.

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

RA Resolution 09-21, “Resolution Authorizing the Executive Director to Negotiate and Execute Contract(s) for the Design, Procurement and Installation of Two LED Signs on B Street for the City Hall Parking Garage”

## **PUBLIC HEARING**

6. Public Hearing and Resolution Adopting Neighborhood Stabilization Program (NSP) Income Reuse Plan

Staff report submitted by Redevelopment Director Bartlett, dated October 6, 2009, was filed.

Housing Development Specialist Cortez provided a synopsis of the report.

Council Member Henson asked when Council will see programs addressing the foreclosure issue and noted that the City has contracted with Habitat for Humanity.

Housing Development Specialist Cortez confirmed that Habitat for Humanity has started canvassing properties and indicated that the contract with the State is pending. Mr. Cortez noted that staff has completed all the requirements to start implementing the program and the City is required to spend some of the funds before December 31<sup>st</sup> of this year. Council Member Henson inquired how specifically the incoming funds from the rehabilitation program would be used. Mr.

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Cortez explained that designated homes would be sold to low and moderate income households. Mr. Henson inquired and Mr. Cortez confirmed that after 2013, income from the program would no longer revert back to U.S. Department of Housing and Urban Development, but instead be cycled back into the program.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:45 p.m.

Council Member Dowling made a motion and Council Member Henson seconded it.

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

Resolution 09-150, "Resolution Adopting the Neighborhood Stabilization Program Income Reuse Plan"

7. Introduction of an Ordinance Amending Article 12 of Chapter 4 of the Hayward Municipal Code, Regarding Spectators at Illegal Street Races

Staff report submitted by Lieutenant Keener, dated October 6, 2009, was filed.

Lieutenant Keener provided a synopsis of the report.

Council Member Dowling thanked Lieutenant Keener for bringing the item forward and asked which specific areas are most affected. Lieutenant Keener responded that in the South, the area of San Antonio and Zephyr Roads, and in the North, Depot Road and the side streets of Eichler, Connecticut and Cabot. Mr. Dowling noted that the City has initiated cameras to catch graffiti and public dumping and inquired if the Police Department could employ those same cameras to help combat these races. Lt. Keener stated that Police can get the racers to stop, but the ordinance had more to do with the spectators who will sooner or later become participants.

Council Member Henson asked if racing is different from side shows. Lt. Keener confirmed that they are both exhibitions of speed with distinct differences. Mr. Henson inquired if Police considered working with the Street Division for street modifications as a deterrent. Lt. Keener responded that the racers would go elsewhere as there are ample locations within Hayward. Lt. Keener added that street modifications made by other cities and counties have caused an influx of racers into Hayward. In response to Mr. Henson's inquiry if vehicles can be seized, Lt. Keener noted that his research revealed that seizing vehicles has not been very effective at stopping the problem.

Council Member Zermefio asked if perpetrators are Hayward residents or if they come from other cities. Lt. Keener stated that the Police Department has documented a mixture of both, and that some come across the San Mateo Bridge because the participants have been pushed out of the Peninsula area.



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There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:54 p.m.

Council Member Henson made a motion and Council Member Zermefio seconded it.

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

Intro Ordinance 09-\_\_, "Ordinance Amending Article 12 of Chapter 4 of the Hayward Municipal Code Relating to the Prohibition of Spectators at Illegal Speed Contests or Exhibitions of Speed"

8. Introduction of an Ordinance Amending Sections of Article 5 of Chapter 9 of the Hayward Municipal Code Relating to the Residential Rental Inspection Ordinance

Staff report submitted by City Attorney Lawson and Director of Development Services Rizk, dated October 6, 2009, was filed.

City Attorney Lawson provided a synopsis of the report.

Council Member Halliday had a question regarding the wording of the last paragraph on the first page of the ordinance and inquired if the ordinance will place the City in compliance with the Court. Mr. Lawson noted that the City's goal is to make sure that a tenant is properly notified and that the responsibility for that notification is placed upon the owner. Ms. Halliday confirmed with Mr. Lawson that the new language should satisfy the Court.

In response to Council Member Zermefio's inquiry if there has been any reaction by the owner's organization, City Attorney Lawson confirmed that a copy of the draft ordinance was provided to the Residential Housing Owners (RHO) and there have not been any comments. Mr. Lawson stated that the Executive Director of Eden Council for Hope and Opportunity (ECHO) supported the ordinance and noted that the ordinance requires notification to landlords and tenants of proposed inspection. Mr. Lawson added that he has been in touch with RHO's attorneys regularly since August in regards to the noticing of this hearing and the content of staff's recommendation.

Council Member Zermefio inquired if the ordinance language would clearly define "owner", "landlord" and "tenant." City Attorney Lawson responded that the staff report only included the partial Residential Rental Inspection Program text and the full text provided an extensive list of definitions.

There being no comments Mayor Sweeney opened and closed the public hearing at 9:04 p.m.

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

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Intro Ordinance 09-\_, "Ordinance Amending Sections of Article 5 of Chapter 9 of the Hayward Municipal Code Relating to the Residential Rental Inspection Ordinance"

## LEGISLATIVE BUSINESS

9. Authorize Issuance of Tax-Exempt Multi-Family Housing Revenue Refunding Bonds (Tennyson Gardens) 2009 Series A and Approval of the Execution of Related Documents, and Approval of a \$1,500,000 Redevelopment Agency Loan for Rehabilitation of Tennyson Gardens

Staff report submitted by City Attorney Lawson and Director of Development Services Rizk, dated October 6, 2009, was filed.

Redevelopment Director Bartlett provided a synopsis of the report.

Council Member Henson expressed support for Eden Housing's involvement in this project. Mr. Henson indicated that the improvement and repairs of Tennyson Gardens should have been completed with a rehabilitation loan received in 2001 and questioned the apartments' deterioration. Redevelopment Director Bartlett responded that the development was not new in 2001 and when the property was inspected after the work was done, the units were in good shape. Ms. Bartlett noted that the items that need rehabilitation are due to age and not a reflection of neglect. She stated that the security upgrades were a different matter. Mr. Henson asked if the loan amount would be adequate as he did not want City staff to come back in a couple of years in need of more funds. Ms. Bartlett confirmed that based on staff's inspections and review of the cost breakdown for the rehabilitation, the loan amount was adequate.

Council Member Quirk also expressed approval of Eden Housing's involvement and asked to hear from Eden Housing regarding the rehabilitation and any foreseen issues. Mr. Quirk inquired as what percentage of interest Eden Housing will hold in the Tennyson Gardens Apartments.

Council Member Zermefio was also glad that Eden Housing would be involved and asked how soon Eden Housing will be taking charge of Tennyson Gardens. Redevelopment Director Bartlett responded that the closing should take place in the beginning of November.

Mayor Sweeney opened the public hearing at 9:21 p.m.

Ms. Linda Mandolini, Executive Director of Eden Housing, thanked staff for their time and effort. Ms. Mandolini noted that as buildings age, they become harder to maintain and that Tennyson Gardens was managed using all the resources they had available. Ms. Mandolini noted that Eden Housing owns several properties in the neighborhood and would very much like to own Tennyson Gardens. She mentioned that the project is in the 8<sup>th</sup> year of a 15 year partnership with U.S. Bank. Ms. Mandolini noted that part of the City's money will be going into a reserve to help Eden stabilize the property. Ms. Mandolini explained that since Eden Housing is a non-profit developer and does not need tax benefits, Eden is a 0.1 % owner and 99% of the tax benefits go to the limited



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partner, U.S. Bank. Ms. Mandolini thoroughly explained the bonds and the how the existing reserves will be used. Ms. Mandolini stated that Eden Housing can make a difference with Tennyson Gardens and asked for Council's support.

Council Member Halliday asked for confirmation that Eden Housing will continue to act as manager of Tennyson Gardens and thus oversee the work. Ms. Mandolini explained that Eden Housing handles day-to-day responsibilities and the 0.1% means that Eden has less ownership but more responsibility. Eden Housing will have an option to acquire the property at year 15. In response to Ms. Halliday's inquiry if U.S. Bank can remove Eden Housing, Ms. Mandolini replied that U.S. Bank can remove Eden Housing if the property is not managed well. Ms. Mandolini noted that Eden Housing and U.S. Bank are partners in a number of other projects in Hayward and that U.S. Bank wants Eden Housing involved with the Tennyson Gardens project. Ms. Halliday noted that Council wants Eden Housing on the project because it will be well managed. Ms. Halliday inquired if any tenants will have to be relocated because of the work that needs to be done. Ms. Mandolini stated that if there is any relocation, it will only be for a day.

Council Member Zermefio thanked Ms. Mandolini and Eden Housing for taking on this project and noted its importance to South Hayward.

Mayor Sweeney closed the public hearing at 9:28 p.m.

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

Resolution 09-151, "Resolution of the City of Hayward Authorizing the Issuance, Sale and Delivery of the City of Hayward Multifamily Housing Revenue Refunding Bonds (Tennyson Gardens Apartments) 2009, Series A, Authorizing the Execution and Delivery of a Master Pledge and Assignment, A Master Agency Agreement, an Amended and Restated Regulatory Agreement and Refunding Instructions, and Authorizing the Execution and Delivery of and Approving Other Related Documents and Approving Other Related Actions in Connection Therewith"

RA Resolution 09-22, "Resolution Authorizing Approval of a Loan for Rehabilitation of the Tennyson Gardens Apartments"

RA Resolution 09-23, "Resolution Appropriating Funds from the Redevelopment Agency's Low and Moderate Income Housing Fund for a Loan for Rehabilitation of the Tennyson Gardens Apartments"

Resolution 09-152, "Resolution Making Necessary Findings in Connection with Redevelopment Agency Loan for Rehabilitation of the Tennyson Gardens Apartments"

10. Adoption of an Ordinance Amending Chapter 4, Article 3, Section 4-3.18 of the Hayward Municipal Code Relating to Card Club Regulations

Staff report submitted by City Clerk Lens, dated October 6, 2009, was filed.

Mayor Sweeney noted that the proposed ordinance was introduced on September 22, 2009 and since the item did not receive unanimous vote, it was placed under Legislative Business.

There being no comments Mayor Sweeney opened and closed the public hearing at 9:28 p.m.

It was moved by Council Member Henson, seconded by Council Member Dowling, and carried with the following roll call vote to amend Section 4-3.18 of the Hayward Municipal Code relating to Card Club Regulations:

AYES: Council Members Zermefio, Quirk, Halliday,  
Dowling, Henson  
NOES: Council Member May  
MAYOR Sweeney  
ABSENT: None  
ABSTAINED: None

Ordinance 09-10, "An Ordinance Amending Section 4-3.18 of the Hayward Municipal Code Relating to Card Club Regulations"

## COUNCIL REPORTS

Council Member Zermefio reminded the attendees of the 1<sup>st</sup> Annual Hayward/Union City Chamber Business Expo at the St. Rose Hospital Grand White Tent on October 7<sup>th</sup> at 4:00 p.m.

## ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 9:30 p.m., in memory of some friends of Hayward: William (Bill) Jardin, who served as a San Leandro Councilman; Art Vargas, who grew up in Hayward and served as a local elected official; and Virginia Slovik, a long time Schafer Park resident. He offered condolences to their families.

## APPROVED:

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



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**ATTEST:**

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Miriam Lens, City Clerk, City of Hayward  
Secretary, Redevelopment Agency  
Secretary, Housing Authority