



**MINUTES OF THE SPECIAL CITY COUNCIL/  
REDEVELOPMENT AGENCY MEETING OF  
THE CITY OF HAYWARD**  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, April 27, 2010, 7:00 p.m.

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**MEETING**

The Special Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Dowling.

**ROLL CALL**

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

**PRESENTATION Business Recognition Award**

Mayor Sweeney presented the May 2010 Business Recognition Award to ConXtech. ConXtech designs and delivers innovative, mass customizable, and sustainable structural steel building systems and components. ConXtech, located at 24493 Clawiter Road, has 60 employees. The Business Recognition Award was presented to ConXtech in recognition of the contributions this company has made to the community by: locating their corporate headquarters in Hayward; providing job opportunities to local residents; being an industrial leader; and contributing to the overall economic well-being of the Hayward community. The award was accepted by Robert Simmons, Founder and CEO, and Kelly Luttrell, Co-Founder, Vice President Business Development.

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that Council met pursuant to Government Code 54957 regarding public employment for the City Manager and City Attorney and Government Code 54956.9 (a) regarding Rental Housing Owners Association of Southern Alameda County, Inc. v. City of Hayward Superior Court Case No. HG09433908. There was no reportable action on the items discussed.

**PUBLIC COMMENTS**

Dulce Andrade, Youth Commissioner and delegate, along with Cynthia Munoz, Daniel Manzanarez and Carlos Ruiz, delegates to the Youth Leadership Summit, provided a summary of the Youth Leadership Summit seminar. They spoke about the benefits of their attendance. Mr. Jose Flores, La Familia Youth Services Director, invited all to attend the Cinco de Mayo celebration at City Hall.

**DRAFT**

Ms. Odessa C. Staggers, Chair of the Hayward-South Alameda County - National Association for the Advancement of Colored People (NAACP), on behalf of the NAACP, presented Council Member Quirk with a plaque and Silver Lifetime Membership to NAACP in recognition of his involvement for the advancement of colored people. It was noted that he is the second Council Member to be awarded with this membership. Council Member Quirk noted he is honored to be a part of the NAACP.

Mr. Jim Drake, Franklin Avenue resident, addressed the Hayward Unified School District Board's intention to place a measure on the November ballot to substitute a simple majority vote for the current two-thirds vote required to pass a measure and noted the School Board wants to put a \$250 parcel tax on Hayward residents. He questioned the need to raise funds given the hefty remuneration that some district staff receives when the District's test scores ranks poorly.

Mr. Ben Henderson, CEO and Director of East Bay Aviators, Inc, announced its third annual Open House at the Hayward Executive Airport on July 10, 2010, sponsored by the East Bay Aviators, Inc., the Bay Area Black Pilots Association, Tuskegee Airman, and Hayward Airport. Mr. Henderson described the scheduled events and invited all to attend.

Mr. Brian Spanke, Hayward resident, thanked staff for the opportunity to participate in the South Hayward/Mission Boulevard Form-Base Code project and provided written comments. Mr. Spanke expressed concern regarding the following: the low density levels in the T4 and T5 zones; that the T4 zone should be changed to allow for courtyard-style buildings; residential streets marked 34' should be 28'; the Kmart site and Colette connection does not have a street type; the bike/pedestrian overpass at Tennyson is missing; and the proposed slip lanes along Mission Boulevard have disappeared.

Mr. Jesús Armas, with business address on Main Street and HUSD Board member, clarified for the audience that the Board has not made any recommendations about a parcel tax, but the Board has decided to endorse a petition, and if the petition qualifies, it will be presented to the voters.

## **WORK SESSION**

### **1. Draft South Hayward BART Mission Boulevard Form-Based Code**

Director of Development Services Rizk introduced the project team members and their areas of expertise. Ms. Laura Hall, Principal Hall-Alminana, gave an update of the community engagement process to date. Mr. Robert Alminana gave an overview of the attachments in the report. Mr. Kevin Colin spoke about Code Administration. Mr. Bill Lee provided an overview of the economic and fiscal impacts.

Council Member Dowling acknowledged work done by staff, consultants and community. Mr. Dowling expressed concern regarding vacant areas and property owners who will be resistant to the proposed project, noting the Caltrans and Dixon Street properties, and asked if property owners had been contacted. Mr. Dowling did not consider it practical to put new streets where there is existing successful development. He suggested staff should concentrate on the South Hayward BART area. Director of Development Services Department Rizk described planned incentives for current and



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future owners to improve their properties by adding value to the land and this will be done by increasing densities. Mr. Rizk explained the purpose of the form-based code and what areas it promotes based on the Smart Code template. Mr. Colins referred to a non-conformity provision that allows the retail use of the property to remain if property owners are resistant.

Council Member Henson asked if the form-based code addresses the relocation of businesses in the areas on the west side of Mission to a more appropriate location. Director of Development Services Rizk noted the relocation of businesses would be through the efforts of the City and Redevelopment Agency. Mr. Rizk reiterated the purpose of the form-based code is to incentivize owners to sell to allow development to occur. Mr. Henson stressed the importance that Dixon Street needs to be transformed to provide amenities to the citizens living near a transit village. Mr. Henson asked about the availability of parking in the Dixon area and inquired about emergency vehicle movement. Mr. Alminana explained the design vision for the Dixon Street area and noted that in meetings with the Fire Chief no access problems for emergency vehicles were found.

Council Member Halliday supported the proposal and noted this project will provide the City with a roadmap for the future. Ms. Halliday referred to the Smart Growth Manual and cited the sections that referred to the principles of regional design. Ms. Halliday stated that the City recognized the need for increased density in urban areas. Ms. Halliday asked if the garages planned for the South Hayward BART station included street level retail that follows the standards from the Smart Growth Manual. Director of Development Services Rizk responded that the plan has been approved and the principles are integrated into the plan. Mr. Rizk added that staff is pursuing grants to help improve the South Hayward BART area.

Council Member Quirk mentioned that there is a Dixon Street property owner who is willing to participate in the process. He noted that the Kmart property is a large lot and if parking requirements are reduced there will be room for additional stores. In response to Mr. Quirk's concerns regarding disabled accessibility, Mr. Colins explained this is covered under the Universal Access in the Code. Mr. Quirk asked for renderings in regards to how the wheelchair ramps could be integrated into the new building designs. In response to Mr. Quirk's concerns regarding access, overpasses and crossings, Director of Development Services Rizk noted the items are still on the plans if funding can be found. Mr. Quirk spoke about the need for a linear park along a stream in the area near the Kmart lot. Mr. Quirk commended work done by staff and consultants and the recommendations provided by Mr. Brian Stanke.

Council Member Zermefio was delighted by all the changes that are occurring in Hayward. Mr. Zermefio's concern was that staff makes sure that, with this growth, the infrastructure for additional support and safety personnel is taken into consideration.

Council Member May indicated that the north side of Hayward needs higher density and that with increased density the City will be able to attract solid retailers. Ms. May commented that large retailers study the demographics of a neighborhood and she stated that she is a proponent of

live/work spaces and sees a need for this type of development in Hayward. In response to Ms. May's inquiry about the demand of live/work spaces, Ms. Laura Hall explained that even when developers increase the number of live/work units to be built, there is still a shortage. Ms. May stated that she appreciates the concept of higher density.

Mayor Sweeney commented that the community appreciated the opportunity to be involved and noted that involvement is one of the strong points of the Plan. Mayor Sweeney concurred with Council Member Henson that Dixon Street is a key area and will be a test of whether or not the form-based code will work. Mayor Sweeney stated key issues that need to be addressed are proper lighting and safety. Mr. Sweeney also indicated that Hayward presently has a large amount of affordable housing and quality of housing will be critically important to the success of the entire corridor. He referred to the Community Services District as being a support for the general fund and its purpose is to ensure that the infrastructure provides for additional support personnel. He directed staff to review this and make sure that it is adequate for the increased demand for police, fire and public works. He noted that overpasses are not community oriented and the funds could be better spent on something else. Mayor Sweeney suggested that staff take a second look at lighting, safety, and housing that can support the retail, commercial and shopping opportunities to make this area pedestrian friendly. Mayor Sweeney confirmed for Director of Development Services Rizk that Council does want the traffic impact analysis as the next step. Mayor Sweeney asked for assurance that this plan does not give away density, and spoke about the need to replace the existing long narrow lots and neighbors working together.

## **CONSENT CALENDAR**

Consent Items 2 and 3 were removed for further discussion at the request of Mr. Jim Drake.

2. Authorization for Executive Director to Negotiate and Execute a Professional Services Agreement with the Bay Area Homebuyer Agency in an Amount not to Exceed \$80,000 and Supplemental Appropriation of \$200,000 for the First-Time Homebuyer Program

Staff report submitted by Housing Development Specialist Cortez, dated April 27, 2010, was filed.

Mr. Jim Drake, Franklin Street resident, inquired if this is a local business and how many hours are being worked for the \$80,000.

Redevelopment Director Bartlett noted that the Bay Area Homebuyer Agency is being contracted to organize seminars for prospective first time homebuyers, conduct outreach, and provide a number of services. Mayor Sweeney suggested that Mr. Drake meet with Redevelopment Director Bartlett to further discuss his concerns.

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

RA Resolution 10-07, "Resolution Authorizing the Appropriations of Funds from Fund 453, the Redevelopment Agency First-Time



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Homebuyer Program Revolving Loan Fund, for the First-Time Homebuyer Program”

RA Resolution 10-08, “Resolution Authorizing the Executive Director to Negotiate and Execute an Agreement with Bay Area Homebuyer Agency to Provide Consulting Services Related to the Agency’s Affordable Housing Programs”

3. Carlos Bee Boulevard Realignment: Approval of Plans and Specifications and Call for Bids; and Authorization for the City Manager to Execute an Amendment to the Professional Services Agreement with BKF Engineers

Mr. Drake, Franklin Street resident, asked what the amount of the contract was with BKF Engineers and about their hourly rates. He also asked if BKF Engineers was a local business.

Public Works Director Bauman responded that BKF Engineers was hired to perform the design of the Carlos Bee Boulevard Realignment Project and that during the design there were revisions made that called for an amendment to the original contract. Mr. Bauman noted that the total cost of the project is \$1.4 million and the design portion was cost efficient at \$125,000. Mr. Bauman confirmed for Mayor Sweeney that the City was successful in obtaining federal highway monies in the amount of \$750,000 to partially fund the project. Mayor Sweeney requested Mr. Bauman to meet with Mr. Drake to further discuss his concerns.

In response to Council Member Henson, Public Works Director Bauman confirmed that whenever federal funds are involved, the Federal Disadvantaged Business Enterprise Program (DBE) needs to be followed.

Staff report submitted by Deputy Director of Public Works Fakhrai, dated April 27, 2010, was filed.

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

Resolution 10-059, “Resolution Approving Plans and Specifications for Carlos Bee Boulevard Realignment Project, Project No. 5105, and Call for Bids”

Resolution 10-060, “Resolution Authorizing an Increase in Additional Professional Services with BKF Engineers for the Carlos Bee Boulevard Realignment Project, Project No. 5105”

## **PUBLIC HEARING**

### **4. Master Fee Schedule Update**

Staff report submitted by Accounting/Revenue Manager Gudino, dated April 27, 2010, was filed.

Interim Director of Finance Susan Stark presented a synopsis of the report.

In response to Council Member Henson's inquiry, City Attorney Lawson confirmed that the rent stabilization administration fee increase is for both mobilehome and residential properties. Mr. Henson acknowledged the work done by staff and inquired about the new fees under the Airport Division. Public Works Director Bauman responded that the fees that went to the Airport Committee would need to be incorporated as part of the budget review.

Council Member Dowling expressed concern from the community about the increase in child care facility inspection fees and asked Fire Chief Bueno to address the issue. In response, Fire Chief Bueno noted that there have been adjustments and reductions in some areas and that the Fire Department has met with child care administrators in an attempt to resolve any issues. Fire Marshall Arteaga indicated that all of the inspections performed are governed by the State Fire Code and noted that according to the State Fire Code, large child care facilities (nine or more children) are subject to annual inspections. It was noted that small child care facilities consisting of eight children or less, are not covered by the Code and that the Fire Department performs inspections when the business first opens as required by the State.

In response to Council Member Dowling's inquiry, Acting City Manager David clarified that the proposed new fees for rental of chairs and tables is for the City Hall Rotunda. Ms. David stated that there is a large amount of staff time spent setting up and taking down the tables and chairs. Ms. David added that several times when there is no advance notice for an event, staff ends up working overtime. Mr. Dowling suggested that staff take a look at this issue and noted that the Rotunda is a facility that is underutilized and its rates need to be competitive.

Council Member Halliday spoke on behalf of mid-size child care facilities whose fire inspection fees were raised by 400%. Fire Marshall Arteaga restated that the State Fire Code mandates that the child care facilities that serve over eight children be required to have annual inspections. Ms. Halliday noted that it is necessary to provide the public with information in regards to the process involved with an inspection and to ensure that the fees correspond with the actual services. She indicated the providers are appreciative of the services provided and noted that the City benefits from having quality child care providers.

Council Member Zermefio commented that inspection fees are tax deductible and there are more benefits in having the fire inspections.

In response to Mayor Sweeney, Fire Marshall Arteaga mentioned that typical child care facility violations involve the lack of exit doors, a two-story residence where children occupy the second



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floor without the proper sprinkler system, required by code, and an inadequate evacuation plan in case of fire.

There being no comments, Mayor Sweeney opened and closed the public hearing at 9:36 p.m.

Council Member Henson made a motion per staff recommendation. Council Member Quirk seconded the motion.

Council Member Quirk added to the motion that for identified organizations that are forgiven the facility rental fee at City Hall that they also be forgiven the chair and table rental fee. Council Member Henson concurred with the motion on the floor.

In response to Council Member Halliday's inquiry, Acting City Manager David mentioned a meeting with midsize child care providers (between eight and eighteen) where it was suggested that Fire perform two annual inspections at the cost of one. Ms. David noted that this would reduce revenue and does not cover the inspection costs. Ms. Halliday stated that one of the City's goals should be to analyze these costs to ensure that they truly reflect the time and effort spent. She also suggested that the City look for ways to be more efficient and reduce costs and then pass those savings on to citizens who utilize these services. Ms. Halliday asked to include in the motion that staff be directed to consider if inspection fees could be reduced for the midsize child care providers.

Fire Chief Bueno noted that the number of complaints has not changed with the increase in fees and the increase in compliance has been significant. He also noted that this would constitute a significant loss to revenue.

Ms. Halliday withdrew her request and asked that providers be dealt with on a case by case basis and to offer assistance in hardship situations.

It was moved by Council Member Henson, seconded by Council Member Quirk, and unanimously carried, to adopt the following with an amendment to the Maintenance Services fees regarding the fee for rental of chairs and tables. Identified organizations that are already forgiven the facility rental fee at City Hall will also be forgiven the chair and table fee.

Resolution 10-061, "Resolution Adopting a Revised Master Fee Schedule Relating to Fees and Charges for Departments in the City of Hayward and Rescinding Resolution No. 09-084 and All Amendments Thereto"

## **LEGISLATIVE BUSINESS**

5. Proposed New Alameda County Transportation Commission Joint Powers Agreement

**DRAFT**

Staff report submitted by Deputy Director of Public Works Fakhrai, dated April 27, 2010, was filed.

Public Works Director Bauman provided a synopsis of the report and presented Alameda County Transportation Authority/Alameda County Transportation Improvement Authority (ACTA/ACTIA) Deputy Director Art Dao and Alameda County Congestion Management Agency (ACCMA) Executive Director Dennis Fay.

Mr. Art Dao and Mr. Fay presented a joint PowerPoint presentation outlining the advantages of merging the two agencies and about the approval of the Joint Powers Agreement (JPA). They provided materials for the record.

Council Member Henson, as a member of the committee that explored the JPA that will create the Alameda County Transportation Commission (ACTC), explained the membership composition based on population and the allocation of votes. Mr. Henson indicated that the threshold set for 152,000 residents would equal 2 votes for Hayward. Mr. Henson noted the benefits of working as Hayward's representative on the Board of Supervisors and working with other cities. Mr. Henson noted the timeline as presented in the report.

Council Member Dowling commended Council Member Henson for his efforts on the committee and noted that with the formation of this new commission the City will have two votes.

Council Member Henson acknowledged the work of Mr. Dao and Mr. Fay. Mr. Henson indicated that a County poll was commissioned for the Vehicle Registration Fee (VRF) and the results showed that 61% supported a \$10 increase in VRF fee. He reiterated that the area that garnered the largest amount of support was for repair and rehabilitation of local streets and roads.

There being no comments, Mayor Sweeney opened and closed the public hearing at 10:12 p.m.

In response to Council Member Halliday's inquiry about the half-cent sales tax increase for the 2012 ballot, Mr. Dao explained that this would extend the half-cent sales tax from 2022 to a future date. Mr. Dao explained that if the tax is extended this would be used to bond against future revenue and explained how these monies could be utilized for future endeavors. Mr. Dao noted that part of these monies would be used to restore the lost monies to transit operations for local, street, and roads. Ms. Halliday supported using part of these monies to augment the cost of public transit options that will help reduce congestion and encourage residents to get out of their cars.

Mr. Henson concurred with Council Member Halliday's comments and noted that in the draft evaluation, bicycle and pedestrian safety and transit effectiveness and efficiency are listed as fundable options. Council Member Henson offered a motion per the staff recommendation and Council Member Quirk seconded it.

Mayor Sweeney commended Council Member Henson for doing a great job of representing the City. The Mayor commented that the merger of the two agencies makes sense and asked for annual reports that will show cost savings. He noted that the voting structure could make it more difficult



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when voters are asked to support funding for local road and streets improvements. In regard to the VRF, Mayor Sweeney noted that it is not acceptable that the State takes money away from local governments and expects tax-payers to fund projects for local communities. He noted that it would be unfortunate if local mayors and city councils decided to not go to the voters and organize a No campaign if the State continues taking monies.

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

Resolution 10-062, "Resolution Approving the Creation of the Alameda County Transportation Commission and the Joint Powers Agreement Therefore and Approving an Amendment to the Joint Powers Agreement for the Alameda County Congestion Management Agency"

#### **COUNCIL REPORTS**

There were none.

#### **ADJOURNMENT**

Mayor/Chair Sweeney adjourned the meeting at 10:21 p.m., in memory of Jerrel "Jerry" Cooper, a teacher, a friend, a Hayward resident, artist, father, and husband of former Hayward Mayor Cooper. Mr. Sweeney noted that a memorial service was scheduled for April 28, 2010 at Chapel of the Chimes. Mr. Sweeney asked staff to work with the family to find a suitable place to plant a tree in his memory.

#### **APPROVED:**

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

#### **ATTEST:**

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

**DRAFT**