



**MINUTES OF THE SPECIAL CITY COUNCIL  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 14, 2010, 7:00 p.m.**

---

**MEETING**

The Special Meeting of the City Council was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Zermeño.

**ROLL CALL**

Present: COUNCIL MEMBERS Zermeño, Quirk, Halliday, Peixoto, Salinas,  
Henson  
MAYOR Sweeney  
Absent: COUNCIL MEMBER None

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson reported that Council met with Legal Counsel pursuant to Government Code 54956.9 (a) regarding existing litigation - City of Hayward v. California State University, et al., Superior Court Case No. RG09480852; pursuant to Pursuant to Government Code 54956.9 (a) regarding existing litigation: Joya/Ali v. City of Hayward, U.S.D.C., Case Nos. C07-04718 (CRB) and C07-04739 (CRB); and pursuant to Government Code 54956.9 regarding anticipated litigation (One Case). Council also met with Real Property Negotiators pursuant to Government Code 54956.8 to update Council on negotiations with BART, Wittek Development, LLC, Big Sky Holdings and Eden Housing, Inc., concerning outstanding issues with the South Hayward BART Transit-Oriented Development Project. City Attorney Lawson noted that there was no reportable action.

**PRESENTATION**

**Business Recognition Award**

The City of Hayward presented the Business Recognition Award for September 2010 to Sugar Bowl Bakery, located at 1963 Sabre Street in Hayward. This bakery operation earned \$36 million in 2009. Growing by 15 percent per year, they now have 180 employees between their two Hayward facilities. Sugar Bowl has been named Bakery of the Year by the Consumer Business Review for ten years and was identified as one of the fastest growing private companies in the Bay Area. The award was given in recognition of the contributions the company has made to the community by: locating and expanding their corporate headquarters and bakery operations in Hayward; providing job opportunities to local residents; being an industry leader; and contributing to the overall economic well-being of the Hayward community. Mr. Michael Ly, Vice President and General Manager, accepted the award and thanked the City for such a special recognition.

**DRAFT**

## **PUBLIC COMMENTS**

Ms. Marilyn Foxx, Del Mar Avenue resident, expressed that she has experienced various burglaries since 1987 and mentioned that she has already contacted the Police Department. Ms. Foxx requested assistance from the City. Mayor Sweeney advised Ms. Foxx to speak to the Police Chief, who was in attendance at the meeting.

Mr. Rob Simpson, Grandview Avenue resident and real estate broker, noted that City staff completed a subdivision of City-owned property on the Shoreline and added that the proposed power plant will triple the pollution in Hayward. He mentioned that while the City did not provide public notice/hearings of this subdivision, other agencies, such as the Alameda County Health Department, had a hearing about the power plant and its health concerns. He referred to a PG&E report about the gas line.

Mr. Doug Ligibel, Grand Terrace resident, commended Council Member Zermeño for volunteering to form a local clean-up in his neighborhood. Mr. Ligibel noted the escalating murder rate in Hayward indicating how adolescents are motivated by their peer groups. He noted that the City will have to increase law enforcement to deal with those crimes. Mr. Ligibel asked staff for a revenue report on Measure A. Mayor Sweeney noted that Measure A has helped protect Police department staffing levels and will help with the gang injunction program.

## **BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCE**

1. Approval Appointments and Reappointments to Various Boards, Commissions, Committees and Task Force and Administration of Oath of Affirmation

Staff report submitted by City Clerk Lens, dated September 14, 2010, was filed.

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

Resolution 10-138, "Resolution Confirming the Appointment and Re-Appointment of Members to Various Boards, Commissions, Committee and Task Force"

City Clerk Lens administered the oath of office to the newly appointed members of the various bodies.

## **WORK SESSION**

2. South Hayward BART Transit-Oriented Development Mixed-Use Project – *Access Study*



**MINUTES OF THE SPECIAL CITY COUNCIL  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 14, 2010, 7:00 p.m.**

---

Staff report submitted by Development Services Director Rizk, Public Works Director Bauman and Project Manager DeClercq, dated September 14, 2010, was filed.

Director of Development Services Rizk highlighted the purpose of the staff report and introduced Mr. Tim Chan, BART Senior Planner, who gave a synopsis of the report. It was concluded that Scenario A of the BART Ridership, Access, and Parking Analysis would be the recommended scenario.

Council Member Peixoto asked if the projected analysis, 73% replacement parking for scenario A and C, would be sufficient for the next ten years. Ms. Jessica Ter Schure from Nelson/Nygaard Consulting Associates responded there is no guarantee that 73% replacement parking would be sufficient, but added that different parking management strategies would be used.

Council Member Halliday raised a concern about the placement of the garage in relation to the placement of retail stores and indicated that separating the garage from the retail would not be as effective for the retail. Ms. Halliday asked if there was any thought about placing something on the ground floor of the station to capture people walking from their cars to the station. Development Review Director Rizk responded that there is space for small retail on the north side of the garage and south side of the parcel adjacent to the BART plaza.

Council Member Henson was pleased with the recommendation and asked if the consultant had examined the need for parking at the station relative to the proximity to other stations. Mr. Chan responded that the study determined that there is no significant demand for parking at the station. In response to Mr. Henson's inquiry for a model project similar to this study, Mr. Jeff Ordway, BART Manager of Property Development, offered comparisons to other stations. Mr. Henson noted that Dixon Street would have to be transformed in order to make the area pedestrian oriented with retail attraction.

Council Member Zermefio suggested a "rent a bicycle" program. In response to Mr. Zermefio's inquiry regarding the meaning of "Wayfinding," Mr. Chan responded that it is signage that directs people to a particular location.

Council Member Salinas asked the consultants if the plan has considered a "car-less" or close to "car-less" approach. Mr. Chan responded that Scenario C does not have a parking garage on the development site, which does not eliminate cars, but distributes them somewhere else. Mr. Salinas added that if the City is considering building a green community, one should consider a pedestrian-oriented development with as few cars as possible.

In response to Council Member Quirk's inquiry regarding the ridership for the different replacement parking scenarios, Ms. Jessica Ter Schure mentioned that ridership for the three scenarios are about the same, approximately 3,500 riders per day in South Hayward and 3,569

riders with Scenario C. Mr. Quirk did not agree with the determination that Scenario A is recommended if scenario C gives more ridership. Ms. Ter Schure responded that currently, there is no funding to support the operating cost of the shuttle system. Discussion ensued and Mr. Quirk asked Mayor Sweeney if Council members who are interested in this item could meet with Nelson/Nygaard Consulting at a public meeting to understand the model, answer questions from the community, and then report back to Council. Mayor Sweeney suggested that City staff could facilitate such a meeting.

Council Member Halliday asked about the proposed hours of operations of the shuttle. Ms. Ter Schure responded the assumption is based on the shuttle running all day; however, the operating hours in the analysis would need to be revised.

Mayor Sweeney asked City Manager David to facilitate the meeting forum that Council Member Quirk suggested.

Consent Items 3, 9, and 10 were removed for further discussion.

## CONSENT

3. Approval of Minutes of the Special City Council/Redevelopment Agency Meeting on June 29, 2010

It was moved by Council/RA Member Halliday, seconded by Council/RA Member Zermefio, and carried with Council Member Peixoto abstaining from voting, to approve the minutes of the Special City Council/Redevelopment Agency Meeting of June 29, 2010.

4. Approval of Minutes of the Special City Council/Redevelopment Agency Meeting on July 20, 2010

It was moved by Council/RA Member Henson, seconded by Council/RA Member Zermefio, and carried unanimously, to approve the minutes of the Special City Council/Redevelopment Agency Meeting of July 20, 2010.

5. Approval of Minutes of the Special City Council Meeting on July 27, 2010

It was moved by Council Member Henson, seconded by Council Member Zermefio, and carried unanimously, to approve the minutes of the Special City Council Meeting of July 27, 2010.

6. Resignation of Meg Shaw from the Downtown Business Improvement Area Advisory Board and Dulce Andrade from the Hayward Youth Commission

Staff report submitted by City Clerk Lens, dated September 14, 2010, was filed.

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



**MINUTES OF THE SPECIAL CITY COUNCIL  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 14, 2010, 7:00 p.m.**

---

Resolution 10-139, "Resolution Accepting the Written Resignations of Meg Shaw from the Downtown Business Improvement Area Advisory Board and Dulce Andrade from the Hayward Youth Commission"

7. Local Streets and Roads Arterial Pavement Rehabilitation Federal Funding- Resolution of Local Support

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 14, 2010, was filed.

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

Resolution 10-140, "Resolution Authorizing the Filing of an Application for Federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) Funding and Committing the Necessary Non-Federal Match and Stating the Assurance to Complete the Project"

8. Resolution of Support for the Cooperative Study of the Impact of Sea Level Rise on the Infrastructure of the Hayward/San Leandro Shoreline

Staff report submitted by Senior Planner Pearson, dated September 14, 2010, was filed.

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

Resolution 10-141, "Resolution of Support for the Cooperative Study of the Impact of Sea Level Rise on the Infrastructure of the Hayward/San Leandro Shoreline"

9. Sidewalk Repair - B Street from Grand Street to Martin Luther King Drive: Approval of Addendum and Award of Contract Project

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 14, 2010, was filed.

Council Member Zermeño commended City staff for protecting the trees during the completion of this project.

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

Resolution 10-144, "Resolution Approving Addendum No. 1, Increasing the Administrative Change Order Amount for the Sidewalk Repair - B Street from Grand Street to Martin Luther King Drive Project, Project No. 5142, and Awarding Contract to FBD Vanguard Construction, Inc."

#### 10. Centennial Hall Building Deconstruction: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 14, 2010, was filed.

Mr. Ray Baker, downtown business owner, suggested that if the tower building is developed into a hotel or apartment complex, then Centennial Hall could serve as a convention center. Mr. Baker requested that Council defer the demolition of the Centennial Hall building until plans for the tower building are confirmed.

City Manager David noted that the plan for the tower building is a Hotel/Conference Center. Ms. David added that Centennial Hall is not situated properly for the proposed hotel to go in. She added that operational costs and security liability are also reasons for the proposed deconstruction.

Council Member Halliday acknowledged the costs associated with keeping the Centennial Hall building, but also believed that the building is a historic structure that should be preserved. Ms. Halliday made a motion to defer action on the proposed item. The motion on the floor died for lack of a second.

Council Member Henson understood the sensitivity regarding the Centennial Hall building, but mentioned the potential for a Hotel/Conference Center, which the City needs. Mr. Henson made a motion per staff recommendation. Council Member Quirk seconded the motion.

Council Member Salinas asked if the Chamber of Commerce had provided input on this issue and asked Chamber President Haggett to come forward.

Mr. Kim Haggett, newly appointed President of the Hayward Chamber of Commerce, did not know if the Chamber had taken any official position on this proposal, but understood that the Chamber was in support of plans for the tower building.

Council Member Quirk noted that the Centennial Hall building did not have a chance of becoming a convention center and was becoming a nuisance.

It was moved by Council Member Henson, seconded by Council Member Quirk, and carried with Council Member Halliday voting against, to adopt the following:



**MINUTES OF THE SPECIAL CITY COUNCIL  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 14, 2010, 7:00 p.m.**

---

Resolution 10-145, "Resolution Approving Plans and Specifications for the Centennial Hall Building Deconstruction Project, Project No. 6993, and Call for Bids"

11. Resolution in Support of Property Assessed Clean Energy (PACE) Program Financing

Staff report submitted by Sustainability Coordinator Schmale, dated September 14, 2010, was filed.

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

Resolution 10-142, "Resolution in Support of Property Assessed Clean Energy (PACE) Programs"

12. Utility Service Agreement (USA 10-01) – Hallmark Community Services (Owner) – Authorize the City Manager to Execute a Utility Service Agreement and a Public Street Improvements Agreement Related to a Request for Sewer Service at 27971 Fairview Avenue in the Fairview Area of Unincorporated Alameda County

Staff report submitted by Development Review Engineer Nguyen, dated September 14, 2010, was filed.

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

Resolution 10-143, "Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval to Allow the City to Provide Sewer Service to Property Located at 27971 Fairview Avenue, and Further Authorizing the City Manager to Execute Utility Service (USA 10-01) and Public Street Improvements Agreements"

**PUBLIC HEARING**

13. Inclusionary Housing Interim Relief Ordinance

Staff report submitted by Redevelopment Director Bartlett, dated September 14, 2010, was filed.

Redevelopment Director Bartlett provided a synopsis of the report.

**DRAFT**

Council Member Quirk stated his preference for In-Lieu Fee Option Four (fees for single-family housing only) for the proposed Inclusionary Housing Interim Relief Ordinance.

Council Member Quirk expressed concern about the fee options, with the exception of option four, because condominiums in the South Hayward BART development are already affordable housing and questioned the need for an in-lieu affordable housing fee. Redevelopment Director Bartlett stated that the South Hayward BART project is deemed in compliance with the Inclusionary Housing Ordinance and noted that the anticipated condominium and townhome developments will not have any affordable housing requirement.

Council Member Peixoto asked how significant the proposed reduction from 15% to 13% affordable housing requirement would be for the developers. Redevelopment Director Bartlett responded that developers were supportive of the relief measures, but not supportive of the conclusions of the Nexus analysis. She added that the more important measures for sale-housing developers would be the ability to pay a fee “by right” and to defer payment of fee until units are sold.

Council Member Zermefio agreed with the idea of stimulating new residential construction; however, he was undecided about the in-lieu fee options. Mr. Zermefio was glad to hear that developers were supportive of the relief measures and noted the importance of maintaining the Inclusionary Housing Ordinance.

Council Member Henson asked where a senior housing development would fit in the in-lieu fee options. Redevelopment Director Bartlett responded it would fit under option two, market-rate rental housing, and the development would pay \$3.50 per square foot for a 100-unit development. She added that under option six, there would be no fee for all senior-housing development. Mr. Henson inquired if the proposal is consistent with surrounding jurisdictions in response to any legal concerns. Ms. Bartlett responded that Fremont and Palo Alto have reviewed in-lieu fees and staff in collaboration with counsel has reviewed the proposed fees, which are very low.

City Manager David clarified that the deferral of fee, the lower fee, the lower percentage, and the fee “by right,” is what makes this proposal attractive to prospective developers.

Mayor Sweeney opened the public hearing at 9:04 p.m.

Ms. Andrea Osgood, representing Eden Housing, stated Eden’s support for the proposed Inclusionary Housing Interim Relief Ordinance and staff’s recommendation of In-Lieu Option Two. Ms. Osgood also indicated opposition to repealing the Inclusionary Zoning Ordinance as it supports state mandated affordable housing requirement.

Mr. Jim Bergdoll, representing Habitat for Humanity East Bay, expressed Habitat’s support for the Inclusionary Policy because it is one of the main ways that affordable housing can get supported. Habitat concurred with staff’s recommendation of In-Lieu Fee Option Two because of the need for low/very low-income housing in Hayward. Mr. Bergdoll urged Council to support a temporary change and not repeal the proposal in order to help the economy and the developers with more flexibility.



**MINUTES OF THE SPECIAL CITY COUNCIL  
MEETING OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 14, 2010, 7:00 p.m.**

---

Mayor Sweeney closed the public hearing at 9:08 p.m.

Council Member Quirk noted that in speaking with three local developers he learned that none of them thought that at the current time it would make sense to build condominiums/townhomes capable of generating profit. Mr. Quirk noted that if in-lieu fees are placed on townhomes/condominiums, then developers will not built them and revenue will not be generated. Mr. Quirk expressed preference for option four indicating that there are single family homes being built and option four fees are not too high but is supportive of the Inclusionary Housing Ordinance. Mr. Quirk made a motion to support option four and direct staff to bring back a recommendation and resolution supportive of the option.

Council member Henson seconded the motion.

Council Member Halliday expressed that City staff outreach to the development community produced work that represents a fair compromise. Ms. Halliday concurred with staff's recommendation of option two. Ms. Halliday also stressed that now more than ever many people need affordable housing. She disagreed with the motion on the floor.

Council Member Salinas asked for clarification on options two and four and the difference between 13% and 15% affordable housing percentages. Mr. Salinas also asked if Council were to choose option four, would developers be willing to participate. Redevelopment Director Bartlett responded that it would depend on the development as every real estate development is unique. She added that condominium developments that have higher density are less feasible and townhomes are more feasible and, therefore, more cost sensitive.

Council Member Henson noted he seconded the motion to get clarity on the differences among the options.

Council Member Quirk noted that he is in support of option four because otherwise it would be difficult to build condominiums and townhomes. Council Member Quirk restated his motion indicating that Council recommends Fee Option Four and directs staff to bring back in two weeks supportive documents indicating that the Inclusionary Housing Interim Relief Ordinance would be a temporary deferral until December 2012.

Council Member Peixoto offered an amendment to incorporate the impact that the proposal would have on the General Plan Housing Element. Council Members Quirk and Henson were amenable to the amendment.

It was moved by Council Member Quirk, seconded by Council Member Henson, and carried with Council Members Zermeno and Halliday voting against, to recommend that staff bring back a report and supportive documents for In-Lieu Fee Option Four, which provides an interim

exemption from the inclusionary housing requirement for townhomes and condominiums. It was noted that the Inclusionary Interim Housing Relief Ordinance would be in effect until December 2012. An amendment was added to incorporate the impact that this proposal would have on the General Plan Housing Element.

### **COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Zermefio extended an invitation for all to attend the Chamber of Commerce/Downtown BIA Hayward Street Party on Saturday, September 18, 2010, from 11:00 am to 3:00 pm.

Council Member Salinas thanked City directors for the tour they provided and the warm welcome he received during the recess in August. Mr. Salinas also congratulated the new commissioners.

Council Member Henson announced a ribbon cutting ceremony for the I-580 Castro Valley Interchange Improvement Project on Monday September 20, 2010, at 1:00 p.m. He explained that this project would release some of the traffic on D Street and facilitate better access onto 580 East and West in Castro Valley. He also announced the groundbreaking of the I-680 Express (HOT) lane project, scheduled for September 26, 2010.

### **ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 9:30 p.m., in memory of four friends of Hayward: Marla Murphy, Felix Elizalde, Ruby Snipes, and Christopher Tubbs. Marla Murphy was employed by the Hayward Unified School District, the Hayward Police Department, and former president of the Oakland A's Boosters. She was one of the great leaders of the Hayward Neighborhood Alert. Mayor Sweeney asked staff to work with her family to plant a tree in her memory. Felix Elizalde served on the Alameda County Board of Education and was a Castro Valley resident. Ruby Snipes was a community member of the Fairview District, a school crossing guard for 25 years at the Fairview School District, and the wife of Charles Snipes. She was instrumental in organizing and being part of the neighborhood watch groups. Long-time city employee, Christopher Tubbs, worked in Public Works – Utilities Distribution Division as a Water Meter Mechanic. He passed away on September 8, 2010. Mayor Sweeney asked staff to work with his family to plant a tree in his memory. Council Member Salinas added that a memorial service for Felix Elizalde was scheduled at the Alameda County Office of Education on Saturday, September 18, 2010 at 11:00 a.m.

### **APPROVED:**

\_\_\_\_\_  
Michael Sweeney, Mayor, City of Hayward

### **ATTEST:**

\_\_\_\_\_  
Miriam Lens, City Clerk, City of Hayward