

**MINUTES FOR THE REGULAR
CITY COUNCIL MEETING OF
THE CITY OF UNION CITY
TUESDAY, NOVEMBER 9, 2004, 7:00 P.M.
COUNCIL CHAMBERS
34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA**

Mayor Green called the meeting to order at 7:08 p.m. and led the audience in the salute to the flag.

ROLL CALL: Present: Councilmembers Dutra-Vernaci, Elias, Valle, Vice Mayor
Fernandez, Mayor Green
Absent: None

Mayor Green read the rules for conduct of the meeting.

UNFINISHED BUSINESS - NONE

APPROVAL OF MINUTES

A. Approval of Minutes of the regular City Council meeting of Tuesday, October 26, 2004

Councilmember Elias moved, seconded by Councilmember Valle to approve minutes as submitted.

AYES: 5 NOES: 0 ABSENT: 0

PROCLAMATIONS/PRESENTATIONS - NONE

A. Resolution in honor of Bob Kruger upon his retirement from the Union City Police Department

Councilmember Elias moved seconded by Councilmember Valle to approve resolution, read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
2762-04

Officer Kruger thanked the Council and the City for this recognition.

Leonor Amaya commented on actions of Bob Kruger regarding the shooting of her daughter.

Police Chief Randy Ulibarri spoke in support of Officer Kruger.

B. Resolution in honor of the 2004 Public Works/Leisure Services/Transit Employee of the Year

Councilmember Elias moved seconded by Vice Mayor Fernandez to approve resolution, read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
2763-04

Mayor Green presented the resolution to Alex Quintero who thanked the Council and the City for this recognition.

C. Resolution in honor of 2004 Public Safety Employee of the Year

Councilmember Elias moved seconded by Councilmember Dutra-Veranci to approve resolution, read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
2764-04

Mayor Green presented the resolution to Officer Jared Rinetti who thanked the Council and the City for this recognition.

D. Resolution in honor of 2004 General Government Employee of the Year

Councilmember Dutra-Vernaci moved, seconded by Councilmember Elias to approve resolution, read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
2765-04

Mayor Green presented the resolution to Diane Moriumune who thanked the Council and the City for this recognition.

ORAL COMMUNICATIONS

John Haley stated his concern that the golf course proposed for the Masonic Home property will not be built.

Leonor Amaya thanked a Councilmember for recognizing her daughter.

Mike Brown requested the release of the 2004 Dr. Murphy report.

Susie Garcia requested the release of the 2004 Dr. Murphy report.

Vice Mayor Fernandez requested City Manager Cheeves address the issue for the request for the Dr. Murphy report.

City Manager Cheeves stated that the City Attorney has determined that this document is a personnel matter and it is exempted from the public records request.

HEARINGS

A. **HEARING RE: VACATION OF RIGHTS-OF-WAY IN THE CITY OF UNION CITY**
(Resolution)

Pinn Brothers Construction has requested vacation for a portion of property on the west of existing Union City Boulevard right-of-way alignment south of Bettencourt Way. The proposed right-of-way vacation consists of three parcels, designated Parcel 1, Parcel 2, and Parcel 4. (Parcel 3, now right-of-way and being used for road purposes, will be granted separately to the City).

Larry Cheeves, City Manager, gave the staff report.

At this time, Mayor Green opened the hearing for public comment.

There being no public comment, Mayor Green closed the hearing.

Vice Mayor Fernandez moved, seconded by Councilmember Valle to approve resolution, numbered appropriately.

AYES: 5 NOES: 0 ABSENT: 0

The title of the resolution adopted by this motion is as follows:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY VACATING A PUBLIC RIGHT-OF-WAY	ADOPT RESO. 2766-04
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REPORTS FROM CITY MANAGER

A. Report on Shorty Garcia Park improvements

This report provides background information and recommendations regarding future actions that can be taken to enhance the public recreational amenities in Shorty Garcia Park.

Tony Acosta, Deputy City Manager, gave the staff report.

Jerry Catanzano commented that the amenities for Shorty Garcia Park have still not been provided.

George Adas commented on various issues within the City.

Mayor Green moved to accept staff recommendation to refer this item to the Park and Recreation Commission to be addressed at their November 10th Commission meeting. This motion was seconded by Councilmember Valle.

AYES: 5 NOES: 0 ABSENT: 0

B. Report on surrounding cities' citizenship requirements or registered voter status for City Commissions

This report is in response to Council's consideration of revising the City's requirement that register voter status be a condition of membership on the City's Commissions.

Michael Riback, City Attorney, gave the staff report

Mayor Green moved to direct staff to amend the Municipal Code to remove the requirement for applicants to the City's Commissions regarding citizenship requirements or registered voter status.

Councilmember Elias second this motion.

AYES: 5 NOES: 0 ABSENT: 0

C. Report and recommendations for a new Solid Waste Collection Franchise Agreement

Councilmember Valle recused himself from this item because of the conflict of interest as an employee of Tri-Ced Recycling.

This report summarizes the evaluation of proposals recently received for solid waste collection and disposal services. Recommendations regarding the selection of a solid waste collection contractor and next steps in the procurement process are provided.

Tony Acosta, Deputy City Manager, gave the staff report.

Consultant with Tri-Ced Community Recycling gave a presentation regarding their proposal for solid waste collection and disposal services.

Kathleen Minzer, Waste Management, gave a presentation regarding their proposal for solid waste collection and disposal services.

Councilmember Elias left the meeting at 8:35 p.m. and returned at 8:37 p.m.

Bill Jones, District Manager for BFI, gave an overview of their proposal for solid waste collection and disposal services.

Tracy Sandborn, Hilton Farnkopf & Hobson spoke of the impact of both proposals.

Vice Mayor Fernandez left the meeting at 9:07 p.m. and returned at 9:08 p.m.

Jim Navarro requested this item deferred until after he assumes office.

Linda Getson, resident of Union City, former resident of Fremont, spoke in favor of awarding contract to Waste Management and Tri-Ced.

Sam Cavallero, Waste Management employee, spoke of the benefits of the company.

Councilmember Dutra-Vernaci left the meeting at 9:33 p.m.

Loren Lookabill, Fremont resident, commented on the disadvantages of choosing BFI.

Greg Scott, Newark resident, employee of Waste Management, commented on benefits of Waste Management.

Mr. Prasad, employee of Waste Management, commented on benefits of Waste Management.

Ralph Campa, BFI employee, commented on the personal service he will help provide to the residents of Union City.

At 9:38 p.m., Council recessed, reconvening the meeting at 9:58 p.m.

Councilmember Dutra-Vernaci returned to meeting at 9:59 p.m.

Mayor Green moved to direct staff to return with an agreement with BFI that would include Tri-Ced, seeking an equalized rate structure and returning to Council at the December 14th meeting. This motion was seconded by Councilmember Elias.

AYES: 4 NOES: 0 ABSENT: 1 (RV)

D. Status report on Urgency Ordinance for Union Landing Commercial (CUL) District

Councilmember Valle returned to the meeting at this time.

The Council adopted an urgency ordinance on October 18, 2004 making the finding and establishing a moratorium on approval of permits for development in the Union Landing Commercial District pending the completion of an update to Chapter 18.39 of the City's Municipal Code. The Government Code requires a written report submitted to the Council ten days prior to the expiration of the interim ordinance which describes the measures taken to alleviate the condition identified in the interim Ordinance.

Mark Leonard, Community Development Director, gave the staff report.

Councilmember Elias moved, seconded by Councilmember Dutra-Vernaci to accept report.

AYES: 5 NOES: 0 ABSENT: 0

E. Fiscal Year 2004/05 First Quarter Report on Budget to Actual Results

This report provides an analysis of the City's General Fund finances (revenues and expenditures) during the first three months of the 2004-05 fiscal year and compares the results with the financial plan contained in the Annual Budget.

Rich Digre, Administrative Services Director, gave the staff report.

John Haley questioned if we are spending money at a faster rate than it is coming in to the City.

Councilmember Elias moved, seconded by Vice Mayor Fernandez to accept report.

AYES: 5 NOES: 0 ABSENT: 0

REDEVELOPMENT AGENCY

A. Resolution authorizing the Community Redevelopment Agency to enter into an Exclusive Negotiating Rights Agreement with TMG Partners for the Former PG&E Storage Yard within the Intermodal Station District

This resolution authorizes staff to prepare an Exclusive Negotiating Agreement with TMG Partners for the purpose of establishing procedures for negotiating a Disposition and Development Agreement between the Redevelopment Agency and TMG Partners to develop the former PG&E Pipe Storage Yard within the Intermodal Station District Development Plan.

Mark Evanoff, Redevelopment Agency Manager, gave the staff report.

Agencymember Elias moved, seconded by Vice Mayor Fernandez to accept report.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RDA
RESO. NO. 305-04

AUTHORITIES/AGENCIES - NONE

REPORTS FROM CITY COMMISSIONS/COMMITTEES - NONE

CONSENT CALENDAR/RESOLUTIONS

(All matters listed under the Consent Calendar are considered routine City Council or Redevelopment Agency items by the City Staff and may be enacted by the City Council/Agency by one motion in the form listed below. There will be no separate discussion of these items unless, before the City Council/Agency votes on the motion to adopt, Members of the City Council/Agency, staff, or the public request specific items to be removed from the Consent Calendar for separate action).

Vice Mayor Fernandez requested to remove Item B.

Councilmember Valle requested Item N removed from the consent agenda.

Staff requested Item D removed from the Consent Calendar to be addressed at the November 23, 2004 meeting.

Councilmember Elias moved, seconded by Councilmember Valle to adopt Items A, C-M, numbered appropriately.

AYES: 5 NOES: 0 ABSENT: 0

The titles of the resolutions and ordinance introduced by this motion are as follows:

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING AN AGREEMENT WITH WASTE MANAGEMENT, INC. OF ALAMEDA COUNTY FOR EXTENSION OF TERM OF COLLECTION AGREEMENT AND TO PROVIDE SHORT-TERM LANDFILL DISPOSAL CAPACITY THROUGH JUNE 30, 2005 ADOPT RESO. NO. 2767-04

The City and WMIAC have negotiated a proposed agreement to extend the current solid waste/yard waste collection agreement, as well as to provide short term landfill disposal services at the Tri City landfill, which is nearing the end of its useful lifespan.

- C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPOINTING CITY REPRESENTATIVES TO THE STATE LIBRARY CONSTRUCTION BOARD MEETING OF NOVEMBER 29-30, 2004 ADOPT RESO. NO. 2768-04

This resolution designates City Council representative(s) for the upcoming grant selection meeting of the State Library Construction Board to be held in Sacramento on November 29-30, 2004.

- E. RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF UNION CITY DECLARING THE OFFICIAL INTENT OF THE AGENCY TO REIMBURSE CERTAIN CAPITAL EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS ADOPT RESO. NO. 306-04

This Agency resolution approves the Community Redevelopment Agency's intent to reimburse the City from bond proceeds for costs related to certain public improvements.

- F. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY ACCEPTING A GRANT OF RIGHT-OF-WAY ADOPT RESO. NO. 2769-04

Pinn Brothers Construction has submitted a Grant Right-of-Way which will clear title to a small triangular portion of right-of-way, 0.022 acres between Bettencourt Way and Cambridge Way created in the realignment of Union City Boulevard.

- G. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING APPROVAL TO APPLY FOR 2002 RESOURCE BOND ACT, ROBERTI-Z'BERG-HARRIS URBANIZED AREA NEED-BASIS PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 FOR RENOVATION OF CHARLES F. KENNEDY PARK YOUTH (AGES 8-11) AND JUNIOR (AGES 9-13) PLAY LOTS ADOPT RESO. NO. 2770-04

This resolution authorizes approval to apply for grant funding in the amount of \$250,000 from the Roberti-Z-Berg-Harris (RZH) Grant Program to renovate Charles F. Kennedy Park youth (ages 8-11) and junior (ages 9-13) play lots. Approval is also requested to allocate funds from Park Dedication Fees in the amount of \$107,142.85 to meet the required local match if grant funding is approved.

- H. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING THE APPLICATION FOR GRANT FUNDS IN THE AMOUNT OF \$778,606 UNDER THE YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM OF THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 FOR THE YOUTH RESOURCE CENTER (GYMNASIUM) PROJECT ADOPT RESO. NO. 2771-04

This resolution authorizes the Leisure Services Department and the City Manager to apply for funds in the amount of \$778,606 for the Youth Resource Center (gymnasium) project. Local matching funds are already appropriated to this project in amounts that far exceed the grant request.

- I. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY ACCEPTING IMPROVEMENTS FOR 2002-03 OVERLAY PROGRAM, CITY PROJECT NO. 02-46 ADOPT RESO. NO. 2772-04

DeSilva Gates Construction has completed the improvements for 2002-03 Overlay Program. This project consisted of doing base repair of failed pavement areas, asphalt concrete pavement milling, installation of pavement reinforcing fabric and asphalt concrete overlay of the project streets in order to extend service life and to improve ride quality.

- J. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING TENTATIVE PARCEL MAP TPM 8509 ADOPT RESO. NO. 2773-04

The City of Union City is requesting approval of a revised Tentative Parcel Map to consolidate land at the Union Landing Transit Center and establish a remnant parcel of approximately 9,507 square feet. The parcel map includes consolidating several remnant pieces that are part of the transit center and establishing a remnant parcel that is located between the transit center and Alvarado-Niles Road.

- K. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY ADOPTING REVISED ANNUAL REVENUE PROJECTIONS FOR FISCAL YEAR 2004-05 ADOPT RESO. NO. 2774-04

This resolution will revise the General Fund Budget based on the new information received wherein the State will replace a part of the City's Sales Tax dollars with a like amount of Property Tax dollars (known as the Triple Flip). There is no fiscal impact on the City's General Fund revenues. This revision will serve to correctly state the City's revenue sources between Sales Taxes, Property Taxes, and Motor Vehicle License Fees (MVLFF).

L. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY IN SUPPORTING THE APPLICATION SUBMITTED BY ST. ROSE HOSPITAL FOR MEASURE A FUNDING FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH MEDICAL SERVICES PROVIDED TO LOW INCOME, UNINSURED AND/OR MEDICALLY INDIGENT ADULTS IN UNION CITY AND SOUTHERN ALAMEDA COUNTY

ADOPT RESO.
NO. 2775-04

This resolution is in support of the efforts of St. Rose Hospital to secure Measure A funding for reimbursement of costs associated with medical services provided to uninsured and medically indigent adults in Union City and Southern Alameda County. This financial commitment is estimated to benefit 92% of the low income residents in Hayward, Union City, Newark and Fremont.

M. FINAL READING ORDINANCE 636-04: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING TITLE 18 OF THE UNION CITY MUNICIPAL CODE TO ALLOW A PLANNED UNIT DEVELOPMENT DESIGNATION ON MIXED-USE PROJECTS WITHIN THE OLD ALVARADO AND MISSION BOULEVARD NEIGHBORHOODS, ZONING TEXT AMENDMENT AT-05-04

FINAL ORD.
636-04

Initiated by the City of Union City, a proposal to amend Chapter 18.44, Planned Unit Development, to permit planned unit developments on mixed-use (commercial and residential) parcels smaller than five acres in the Community Commercial (CC) and Specialty Commercial (CS) Districts within the Old Alvarado and Mission Boulevard neighborhoods with density limitations based on the RM 1500 standards. Also, proposed is an amendment to add a section to Chapter 18.36, Commercial District, to specifically address special design and siting criteria for the Mission Boulevard commercial corridor.

The title of Item B is as follows:

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING A TEN YEAR EXTENSION TO THE LICENSE AGREEMENT BETWEEN THE CITY OF UNION CITY AND THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT FOR USE OF CERTAIN DESIGNATED FLOOD CONTROL CHANNELS FOR TRAILS AND RELATED RECREATIONAL USES THROUGH NOVEMBER 4, 2014

This resolution authorizes a ten year extension to an existing license agreement between the City and the Alameda County Flood Control and Water Conservation District for the City's continued use of flood control channels located in Union City for trail and related recreational purposes.

Vice Mayor Fernandez removed Item B to receive information as to what is included with the use of the flood control channels.

City Manager Larry Cheeves responded that the city maintains what we improve.

Vice Mayor Fernandez moved, seconded by Councilmember Elias to adopt Item B, numbered appropriately.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
NO. 2776-04

Item D was removed from the agenda at the staff's request. This item will return on the November 23, 2004 agenda.

- D. Introduction of Ordinance: AN ORDINANCE OF THE CITY OF UNION CITY ADOPTING AN AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE UNION CITY COMMUNITY REDEVELOPMENT PROJECT PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 33333.2(c) AND 33333.6(e)(2)(C), AND AMENDING RELATED ORDINANCES IN CONNECTION THEREWITH

The State Legislature passed a law that required redevelopment agencies to contribute to the Educational Revenue Augmentation Fund. The law included a provision that allowed an agency board by ordinance to extend the term of a redevelopment plan by one year to compensate for the ERAF payment. Staff is recommending introduction of the ordinance approving the amendment to the Redevelopment Plan and adoption of the proposed Notice of Exemption for the Ordinance.

The title of Item N is as follows:

- N. INTRODUCTION OF ORDINANCE: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING SECTION 7.04.130 OF THE UNION CITY MUNICIPAL CODE TO MAKE THE COLLECTION OF CURBSIDE RECYCLING MATERIALS BY UNAUTHORIZED PERSONS AN INFRACTION

This legislation will revise the Union City Municipal Code to provide for a revised bail schedule and infraction ordinance applicable to curbside recyclable theft in Union City.

Councilmember Valle requested Item N removed from the consent agenda in order to recuse himself due to the conflict of interest as a Tri-Ced employee.

Vice Mayor Fernandez moved, seconded by Councilmember Elias to approve Item D, reading of title by City Attorney to suffice.

AYES: 4 NOES: 0 ABSENT: 1 (RV) INTRO ORD.
637-04

Councilmember Valle returned to the meeting at this time.

At this time Mayor Green moved, seconded by Councilmember Elias to revisit Item C.

AYES: 4 NOES: 0 ABSENT: 1 (RV)

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPOINTING CITY REPRESENTATIVES TO THE STATE LIBRARY CONSTRUCTION BOARD MEETING OF NOVEMBER 29-30, 2004

This resolution designates City Council representative(s) for the upcoming grant selection meeting of the State Library Construction Board to be held in Sacramento on November 29-30, 2004.

Mayor Green moved, seconded by Councilmember Elias to appoint Mayor Green as the Council representative to appear before the State Library Construction Board.

AYES: 5 NOES: 0 ABSENT: 0

ORAL COMMUNICATIONS

There were no oral communications.

CORRESPONDENCE - NONE

APPROVAL OF BILLS - MONTH OF OCTOBER

A. Approval of disbursements for month of October 2004

Councilmember Elias moved, seconded by Vice Mayor Fernandez to accept report.

AYES: 5 NOES: 0 ABSENT: 0

SCHEDULED ORAL COMMUNICATIONS - NONE

ITEMS REFERRED BY COUNCIL

A. Oral reports by Councilmembers on meetings of County or Regional Boards and Commissions

Councilmember Valle commented on the Youth Violence Summit scheduled for January 15 and requested Tommie Lindsay to get students to do presentation on youth violence.

GOOD OF THE ORDER

Councilmember Valle reported the back wall near BART track, Whipple and Railroad, is covered with graffiti.

Councilmember Valle commented that businesses along Western and Pacific have reported street lights out.

Mayor Green questioned if the Youth Summit will require a facilitator?

Tony Acosta stated staff is preparing a report for future agenda which will address this concern.

Mayor Green reported that the number one issue across town during the campaign was that Logan is too big. He would like to see the Council NHUSD subcommittee address this issue of the community wanting a new high school, where it would be, and how much the community is willing to pay for one.

Mayor Green suggested Council field tours.

Staff will provide a report on the next agenda for locations and available dates.

Mayor Green commented on Sherry Lund's need of consensus as to how she will put the strategic plan together as cost effective and timely as possible. Mayor Green requested this issue placed on November 23 as to the process for construction of the strategic plan.

Councilmember Dutra-Vernaci moved, seconded by Councilmember Valle to adjourn meeting at 11:16 p.m.

AYES: 5 NOES: 0 ABSENT: 0