

**MINUTES FOR THE ADJOURNED
REGULAR CITY COUNCIL MEETING
CITY OF UNION CITY
JANUARY 11, 2005, 6:00 P.M.
COUNCIL CONFERENCE ROOM
34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA**

Mayor Green called the meeting to order at 6:10 p.m.

ROLL CALL: Present: Councilmembers Fernandez, Navarro, Valle, Mayor Green
Absent: Mayor Green, Vice Mayor Dutra-Vernaci

There were no public comments. The Council met in closed session on the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Pursuant to Subdivision (a) of Section 54956.8)

Property: 1100 Decoto Road, APN 087-0019-004-02

Agency negotiator: Larry Cheeves, Executive Director; Mark Leonard, Assistant Executive Director; Mark Evanoff Redevelopment Agency Manager

Under Negotiation: Various terms and conditions and encumbrances that are impacting value of property

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9)

Potential Cases: Three

C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to subdivision (a) of Section 54956.9)

Name of Case: ANG NEWSPAPERS, INC., dba The Argus v. Union City, Hayward Superior Court, Case No. HGO4190105

Meeting adjourned at 7:35 p.m.

**MINUTES FOR THE REGULAR
CITY COUNCIL MEETING OF
THE CITY OF UNION CITY
TUESDAY, JANUARY 11, 2005, 7:00 P.M.
COUNCIL CHAMBERS
34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA**

Mayor Green called the meeting to order at 7:47 p.m. and led the audience in the salute to the flag.

ROLL CALL: Present: Councilmembers Fernandez, Navarro, Valle, Mayor Green
Absent: Vice Mayor Dutra-Vernaci

Mayor Green read the rules for conduct of the meeting.

Mayor Green stated there was no reportable action taken in closed session.

UNFINISHED BUSINESS - NONE

APPROVAL OF MINUTES

A. Approval of Minutes of the regular City Council meeting of Tuesday, December 14, 2004

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

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

PROCLAMATIONS/PRESENTATIONS

A. Resolution proclaiming January 2005 as National Volunteer Blood Donor Month

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

AYES: 4 NOES: 0 ABSENT: 1 (CDV ADOPT RESO.
NO. 2805-05

Mayor Green read the resolution adopted by this motion and presented it to Sarah O'Brien of the American Red Cross.

B. Presentation on Multifamily Green Building Guidelines

Karen Kho, Program Manager of Alameda County Waste Management Authority, will present information to the Council on Multifamily Green Building Guidelines.

Karen Kho, Program Manager, gave a presentation on the Multifamily Green Building Guidelines and responded to Council questions.

There was Council concurrence to place the Multifamily Green Building Guidelines in front of the Planning Commission to start incorporating practices in multi-family, single family as well as commercial buildings throughout construction and return to Council in approximately three months.

ORAL COMMUNICATIONS

Chris Maxwell spoke regarding a newly formed grass roots effort to raise money for the victims of the Tsunami Relief effort.

George Adas spoke about a proposed festival June 11-13; requested redevelopment monies in four corners area; and requested financial support for the Fisher House in Palo Alto.

Hugh McNamara stated St. Anne's is having a sign-up for blood donors and February 12 is a blood drive. Mr. McNamara stated the sidewalk by the abandoned Seymore School needs to be cleaned up.

HEARINGS

A. HEARINGS RE:

Councilmember Fernandez recused himself from Items A and B due to conflict of interest because of his proximity of this project to his personal property.

1. **PAN-CAL, 32727 ALVARADO-NILES ROAD, GENERAL PLAN AMENDMENT AG-03-04 (a)** (Resolution)

Leonard Hufton, on behalf of Pan-Cal, is requesting approval of a General Plan Amendment (AG-03-04) from CR (Retail Commercial) to R6-10 (6-10 units/acre). The subject property is located on the south side of Alvarado-Niles Road, east of Medallion Drive. The City, as lead agency, has prepared a Negative Declaration for the property.

2. **CITY OF UNION CITY GENERAL PLAN AMENDMENT AG-03-04 (b)**

The City of Union City is seeking approval of General Plan Amendment (AG-03-04 (b)) to amend the text of the General Plan Land Use Element for Union Landing and add a new figure to illustrate the boundaries of the various development types described for Union Landing. The application is considered exempt from CEQA as no new project will result from these proposed modification and no further environmental review is required.

Joan Malloy, Community Development Manager, gave the staff report.

Mayor Green opened the hearing for public comment, those speaking in favor first.

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

Councilmember Valle moved, seconded by Councilmember Navarro to approve resolution, numbered appropriately.

AYES: 3 NOES: 0 ABSENT: 2 (MF/CDV)

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVAL OF AN AMENDMENT TO THE GENERAL PLAN (AG-03- 04(a) AND AG-03-04 (b) AMENDING THE LAND USE DIAGRAM AND THE UNION LANDING POLICIES	ADOPT RESO. NO. 2806-05
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- B. HEARING RE: **PAN-CAL, 32727 ALVARADO-NILES ROAD, ZONING MAP AMENDMENT A-06-04, AND TENTATIVE TRACT MAP TTM 7576** (Introduction of Ordinance and adoption of Resolution)

Leonard Hufton, on behalf of Pan-Cal, is requesting approval of a Zoning Map Amendment (A-06-04) from CN (Neighborhood Commercial) to RS 4500 (Single Family Residential) on property located at 32727 Alvarado-Niles Road (APN 475-0157-051). The applicant is also requesting a Tentative Tract Map to allow the subdivision of the subject property into 15 lots, including 13 single-family residential lots and two (2) duplex lots with a minimum single-family lot size of 4,500 square feet. The subject property is located on the south side of Alvarado-Niles Road, east of Medallion Drive. The City, as lead agency, has prepared a Negative Declaration for the property.

Joan Malloy, Community Development Manager, gave the staff report.

Mayor Green opened the hearing for public comment, those speaking in favor first.

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

Councilmember Valle moved, seconded by Councilmember Navarro to approve resolution, numbered appropriately.

AYES: 3 NOES: 0 ABSENT: 2 (MF/CDV)

The title of the Ordinance introduced by this motion is as follows:

AN ORDINANCE OF THE CITY OF UNION CITY AMENDING
THE OFFICIAL ZONING MAP OF THE CITY OF UNION CITY,
A-06-04

INTRO ORD.
642-05

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
UNION CITY APPROVING TENTATIVE TRACT MAP TTM-
7576

ADOPT RESO.
NO. 2807-05

Councilmember Fernandez returned to the meeting at this time.

C. HEARING RE: **CITY OF UNION CITY, ZONING TEXT AMENDMENT AT-06-04**
(Introduction of Ordinance)

Initiated by the City of Union City, as applicant, a request to modify Chapter 18.39, Union Landing Commercial (CUL) District of the Municipal Code to strengthen and clarify the text to support regional and sub-regional uses. This application is considered exempt from CEQA as there is no proposed change in land use intensity and no new project that will result from these changes, therefore, no further environmental review is required.

Joan Malloy, Community Development Manager, gave the staff report.

Mayor Green opened the hearing for public comment, those speaking in favor first.

Bhupin Amin, Holiday Express, requested and received clarification as to where the hotel falls in the development types and the types of uses permitted in that zone. Mr. Amin stated the hotel has some opposition to the suggested zoning and requested their parcel be considered for something less restrictive than proposed.

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

Councilmember Navarro moved, seconded by Councilmember Fernandez to waive reading of the ordinance and introduce the ordinance.

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

The title of the Ordinance introduced by this motion is as follows:

AN ORDINANCE OF THE CITY OF UNION CITY AMENDING
CHAPTER 18.39 OF THE UNION CITY MUNICIPAL CODE AT-
06-04

INTRO ORD.
643-05

REPORTS FROM CITY MANAGER

A. Report on Rotational Towing Agreement

This item is brought forth to advise the Council of the current status of the Police Department's Rotational Towing Agreement and of proposed changes to the Agreement.

Captain Greg Stewart gave the staff report.

Councilmember Fernandez moved, seconded by Councilmember Valle to authorize staff to negotiate a franchise fee for towing services.

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

Councilmember Valle recused himself from Item B due to conflict of interest as an employee of Tri-Ced Recycling.

B. FRANCHISE AGREEMENT FOR SOLID WASTE COLLECTION AND ORGANIC WASTE COLLECTION AND PROCESSING (Resolution)

A resolution has been prepared authorizing a Franchise Agreement between the City and BFI Waste Systems of North America, Inc., dba BFI of Alameda County, for Solid Waste, Recyclable Materials, and Organic Waste Collection Services.

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

Traci Swanborn, Consultant, spoke about the franchise agreement.

Barry Ferrier commented about the reduction to two annual bulky waste pickups and questioned what items would be picked up.

John Haley commented on the increase in fee.

Hugh McNamara questioned the commercial rates, and commented on apartments, townhouses and condo fees.

Mayor Green moved, seconded by Councilmember Fernandez to waive the reading of the ordinance and introduce the ordinance.

AYES: 3 NOES: 0 ABSENT: 2 (RV/CDV)

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING A FRANCHISE AGREEMENT BETWEEN THE CITY OF UNION CITY AND BFI WASTE SYSTEMS OF NORTH AMERICA, INC. (dba BFI OF ALAMEDA COUNTY) FOR SOLID WASTE, RECYCLABLE MATERIALS, AND ORGANIC MATERIALS COLLECTION SERVICES

ADOPT RESO.
NO. 2808-05

Councilmember Valle returned to the meeting at this time.

REDEVELOPMENT AGENCY - NONE

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).

Mayor Green requested Item D removed from the consent agenda.

A member of the audience requested Item J removed from the consent agenda.

Councilmember Valle moved, seconded by Councilmember Fernandez to adopt Items A-C, E-I and K, numbered appropriately.

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

The titles of the resolutions and ordinances adopted by this motion are as follows:

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AMENDING THE EMPLOYEE CLASSIFICATION AND COMPENSATION PLAN FOR 2003/2004 AND 2004/2005 ADOPT RESO.
NO. 2809-05

This resolution will approve the City's Employee Classification and Compensation Plan for FY 04/05 and amend the FY 03/04 Employee Classification and Compensation Plan to include the plan reflecting the base salary plus PERSable benefits for management employees. The resolution will also approve the title change of the classification for the Senior Computer Analyst to Senior Systems Analyst in the Administrative Services Division.

- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZATION TO GO TO BID FOR THE PARK AT JOHNSON PROPERTY SITE, CITY PROJECT NO. 03-16 ADOPT RESO. NO. 2810-05

This project consists of developing Phase I of the Johnson property site into a park. The general work description includes planting trees, shrubs, lawn, and irrigation, hardscape to include concrete walls, pilasters, seat walls and asphalt trail walks, custom metal fencing, lighting, grading and drainage, and park amenities to include play structures, safety surface and a water feature.

- C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING NON-COMPETITIVE PROCUREMENT FOR THE DIGITAL SECURITY SYSTEM FOR THE POLICE DEPARTMENT AND CIVIC CENTER COMPLEX ADOPT RESO. NO. 2811-05

Staff is requesting Council approval to seek non-competitive procurement for a digital security system to replace and upgrade the existing security system in use at the Police Department and Civic Center complex.

- E. RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF UNION CITY AUTHORIZING CONSULTING CONTRACT WITH WILLIAM CLAGGETT ASSOCIATES CALENDAR YEAR 2005 ADOPT RDA RESO. NO. 308-05

This authorizes a \$40,000 contract between the Redevelopment Agency and William Claggett Associates to provide Project Management Assistance in the formation of a Disposition and Development Agreement with TMG Partners to privately develop a portion of the Intermodal Station District owned by the Redevelopment Agency. The Agency will be reimbursed for the \$40,000 contract from TMG Partners under the terms of the Exclusive Negotiating Rights Agreement (Former PG&E Pipe Storage Yard within the Intermodal Station District Development Project), which was authorized by the Agency Board on November 9, 2004.

RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF UNION CITY AUTHORIZING CONSULTING CONTRACT WITH KEYSER MARSTON ASSOCIATES CALENDAR YEAR 2005

ADOPT RDA
RESO NO. 309-05

This authorizes a \$40,000 contract between the Redevelopment Agency and Keyser Marston Associates to provide Project Management Assistance in the formation of a Disposition and Development Agreement with TMG Partners to privately develop a portion of the Intermodal Station District owned by the Redevelopment Agency. The Agency will be reimbursed for the \$40,000 contract from TMG Partners under the terms of the Exclusive Negotiating Rights Agreement (Former PG&E Pipe Storage Yard within the Intermodal Station District Development Project), which was authorized by the Agency Board on November 9, 2004.

- F. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING CITY MANAGER TO EXECUTE AND DELIVER THE REVISED CORE NATURAL GAS SALES AND AGGREGATION AGREEMENT WITH ABAG POWER

ADOPT RESO.
NO. 2812-05

The City of Union City is a participating member of the ABAG Power Natural Gas Aggregation Program. The current Agreement between the City and ABAG POWER is due for renewal in June 2005. The new contractual arrangement will give ABAG POWER a continuous three year ahead planning window and allow ABAG staff to take advantage of longer-term beneficial pricing opportunities. Staff expects this will result in continued lower natural gas costs for the municipal users for years to come.

- G. FINAL ORD. 641-04: AN ORDINANCE OF THE CITY OF UNION CITY ADDING CHAPTER 10.53 TO TITLE 10 OF THE UNION CITY MUNICIPAL CODE CONCERNING THE PURCHASE AND SALE OF POCKET BIKES AND MOTORIZED SCOOTERS

FINAL ORD.
641-04

This ordinance will prohibit pocket bikes from driving on public streets; prohibit motorized scooters from driving on city streets with a speed limit over 25 mph; and will require retail owners to provide each purchaser of a pocket bike or motorized scooter with relevant California Vehicle Code provisions.

- H. Introduction of Ordinance: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING CHAPTER 15.20.180 TO TITLE 15 OF THE UNION CITY MUNICIPAL CODE CONCERNING HAZARDOUS MATERIALS
- INTRO ORD.
644-05

This ordinance will removing Risk Management and Prevention and inserting Federal Risk Management Program (RMP) and California's Accidental Release Prevention (CAL ARP) to the City Hazardous Materials Ordinance.

- I. Introduction of Ordinance: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING CHAPTER 15.20.180 TO TITLE 15 OF THE UNION CITY MUNICIPAL CODE CONCERNING SWEARING IN OF NEW COUNCILMEMBERS
- INTRO ORD.
645-05

This ordinance is in response to Council direction at the Council meeting of December 14, 2004 to change the swearing in date for newly elected (or reelected) Councilmembers, and the selection of the Vice Mayor.

- K. Claims Nos. 590 and 609

Staff is recommending rejection of Claim No. 590 filed by Cynthia Dorsey for alleged injuries as a result of a fall.

Staff is recommending rejection of Claim No. 609 filed by Bruce King for alleged improper towing charges.

Claims Nos. 590 and 609 were rejected by the earlier stated motion.

The title of Item D is as follows:

- D. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING PBP LIMITED PARTNERSHIP, 30639-30995 UNION CITY BOULEVARD, TENTATIVE TRACT MAP TTM 7578

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING PBP LIMITED PARTNERSHIP, 30639-30995 UNION CITY BOULEVARD, SITE DEVELOPMENT REVIEW SD-12-04

Initiated by Rob Peterson, on behalf of PBP Limited Partnership, the applicant is requesting approval to construct a mixed-use (residential and commercial) development with approximately 20,000 square feet of commercial area and 22 residential units. The applicant is seeking approval of a Variance for Parking, a Use Permit approval to allow a Planned Unit Development designation on the project site, and a Tract Map to merge the five existing parcels. The project

site is located at 30639-30995 Union City Boulevard (APN(s): 482-0010-086-00, 482-0011-001-002, 482-0011-002, 482-0011-003-004, 482-0011-014-002) and is currently zoned CS, Specialty Commercial. The City has determined that the above referenced project will not have a significant, adverse effect or impact on the environment and as lead agency has prepared a Negative Declaration that is available for review at City Hall and no further environmental review is required.

Mayor Green removed this item from the consent agenda to comment on the improvement in the architectural design of the building, and also to suggest a wall and a stop sign at the back exit.

Mayor Green moved, seconded by Councilmember Fernandez to adopt resolution, numbered appropriately.

AYES: 4 NOES: 0 ABSENT: 1 (CDV) ADOPT RESO.
NO. 2813-05

ADOPT RESO.
NO. 2814-05

The title of Item J is as follows:

J. Introduction of Ordinance: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING CHAPTER 7.16, "PROPERTY MAINTENANCE", OF THE UNION CITY MUNICIPAL CODE

The proposed amendment to the ordinance will place into effect general property maintenance provisions that will provide the City with the flexibility and option to address, through the code enforcement process, any property maintenance issues that give rise to conditions that threaten the peace, health and safety of the public. This ordinance will also expand the application of the City's property maintenance provisions to conditions on non-residential properties that are not visible from a public street, but which still threaten the peace, health and safety of the public.

John Haley commented on problems in Seven Hills and questioned if this ordinance will address some of those problems.

Glenn Kirby, Neighborhood Preservation, stated this ordinance will give additional powers to alleviate problems in commercial properties and areas such as Seven Hills.

Councilmember Valle moved, seconded by Councilmember Navarro to waive reading of ordinance and introduce Ordinance.

AYES: 4 NOES: 0 ABSENT: 1 (CDV) INTRO ORD.
646-05

ORAL COMMUNICATIONS

There were no oral communications.

CORRESPONDENCE - NONE

APPROVAL OF BILLS - MONTH OF DECEMBER

A. Approval of disbursements issued for month of December

Councilmember Valle moved, seconded by Councilmember Navarro to waive reading of ordinance and introduce Ordinance.

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

SCHEDULED ORAL COMMUNICATIONS - NONE

ITEMS REFERRED BY COUNCIL

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

GOOD OF THE ORDER

Councilmember Valle thanked staff for the tour that took place on Saturday.

Take photographs of areas that are unsightly, tight curves at Contempo or video camera

Can we stop at Turk Island?

Mayor Green commented that our inclusionary zoning ordinance has allowed a lot of people to come and stay in Union City; however, he would like the Council to consider making the ordinance more flexible and suggested the Planning Commission revisit this issue.

Meeting recessed at 9:44 p.m. and reconvened in closed session at 9:50 p.m.

Councilmember Fernandez moved, seconded by Councilmember Valle to adjourn closed session at 10:40 p.m.

City Attorney Michael Riback reported that no reportable action was taken in closed session.

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