

**AGENDA  
CITY OF UNION CITY  
CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

**TUESDAY, SEPTEMBER 11, 2007  
7:00 P.M.**

**COUNCIL CHAMBERS  
34009 ALVARADO NILES ROAD**

**I. CALL TO ORDER**

- I.a Pledge of Allegiance
- I.b Roll Call

**II. UNFINISHED BUSINESS - None**

**III. PROCLAMATIONS AND PRESENTATIONS**

- 3.a Introduction of New and Promoted Employees
- 3.b Presentation by the Superintendent of Schools, New Haven Unified School District, on Key Issues Facing the District

**IV. ORAL COMMUNICATIONS**

*Comments from the audience on non-agenda items will be accepted for a period of 30 minutes. Speakers are limited to three minutes each. Persons wishing to speak must complete a speaker card available at the rear of the Council Chamber or from the City Clerk. If the number of speakers exceeds the time allotment, cards will be shuffled and 10 speakers chosen at random. The remaining speakers may speak under Section XI of the agenda.*

**V. CONSENT CALENDAR**

*All matters listed on the Consent Calendar are considered routine in nature and will be enacted by one motion. If discussion is required on a specific item, it will be removed from the Consent Calendar and considered separately.*

- 5.a Motion to Waive Further Reading of Proposed Ordinance (This permits reading the title only in lieu of reciting the entire text of any proposed Ordinance)
- 5.b Approve Minutes for the Special and Regular Meetings of August 28, 2007
- 5.c Second Reading and Adoption of an Ordinance, commonly referred to as a "Social Host Ordinance", to reduce underage drinking by prohibiting loud or unruly gatherings where alcoholic beverages are served to, consumed by, or in the possession of underage persons; and authorizing civil fines for violations and imposing civil penalties for the recovery of costs for public safety responses to such gatherings. (Introduced August 28, 2007)

- 5.d Reject Claim No. 711, filed by Jasprett Chug, as Recommended by the City's Claims Administrator
- 5.e Adopt a Resolution Awarding Contract for the Union City Library HVAC Equipment , City Project No. 05-44
- 5.f Adopt a Resolution of the City Council to increase budgeted revenue by \$40,000 and increase budgeted expense by \$25,000 for the Union Landing PBID (Fund 8200) for FY 07/08
- 5.g Adopt a Resolution Accepting Improvements for Temporary Parking Lot Located East of 11th Street, City Project No. 07-04

**VI. PUBLIC HEARINGS - None**

**VII. CITY MANAGER REPORTS**

- 7.a Analysis of Regional Fair Share Housing Allocation

**VIII. REDEVELOPMENT AGENCY - None**

**IX. AUTHORITIES AND AGENCIES - None**

**X. CITY COMMISSION/COMMITTEE REPORTS - None**

**XI. ORAL COMMUNICATIONS**

**XII. SCHEDULED ORAL COMMUNICATION - None**

**XIII. ITEMS REFERRED BY COUNCIL**

- 13.a Oral Reports by Mayor and Councilmembers on meetings of County or Regional Boards and Commissions

**XIV. GOOD OF THE ORDER**

**XV. CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATORS**

(Pursuant to Government Code Section 54957.6)

Agency designated representatives: Larry Cheeves, Rich Digre, Eddie Kreisberg

Employee organizations: International Association of Firefighters, Local 1946; Management Employees

**XVI. ADJOURNMENT**

*A complete agenda packet is available for review at City Hall or our website [www.unioncity.org](http://www.unioncity.org)*

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested person must request the accommodation at least two working days in advance of the meeting by contacting the City Clerk at (510) 675-5348.*



## Agenda Item

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DATE: September 11, 2007  
TO: City Council  
FROM: Richard Digre, Administrative Services Director  
SUBJECT: Introduction of New and Promoted Employees

Staff presents the following new employees to the Mayor and City Council:

### ***Police Department***

#### **New Hires:**

- ***Joseph Cota*** was hired March 3, 2007 and completed the police academy June 20, 2007. He will work for the Police Department as a Police Officer Recruit II. This appointment fills a vacancy.
- ***Daniel DeJong*** was hired March 3, 2007 and completed the police academy on June 20, 2007. He will work for the Police Department as a Police Officer Recruit II. This appointment fills a vacancy.
- ***Alexander Lentz*** was hired June 18, 2007. He will work for the Police Department as a Police Officer. This appointment fills a vacancy.
- ***Robert Young*** was hired June 18, 2007. He will work for the Police Department as a Police Officer. This appointment fills a vacancy.

#### **Promotions:**

- ***Jared Rinetti*** was promoted from Police Corporal to Police Sergeant effective June 18, 2007.
- ***Nicole Fay*** was promoted from Police Officer to Police Corporal effective June 18, 2007.

Prepared by:  
Leticia Najera  
Personnel Analyst

Submitted by:  
Richard Digre  
Administrative Services Director

Approved by:  
Larry Cheeves  
City Manager

**MINUTES  
OF  
SPECIAL MEETING**

**CITY OF UNION CITY  
CITY COUNCIL MEETING  
Tuesday, August 28, 2007  
6:30 P.M.  
City Council Conference Room  
34009 Alvarado Niles Road**

**I. CALL TO ORDER**

Mayor Green called the meeting to order at 6:30 p.m.

1.1 Roll Call

Present: Councilmembers Dutra-Vernaci, Fernandez and Valle, Vice Mayor Navarro, Mayor Green

Absent: None

**II. ORAL COMMUNICATIONS**—None.

**III. CLOSED SESSION – CONFERENCE WITH LABOR NEGOTIATORS**

(Pursuant to Government Code Section 54957.6)

Agency designated representatives:

Larry Cheeves, Tony Acosta, Rich Digre, Eddie Kreisberg

Employee organizations:

Union City Police Management Employees; International Association of Firefighters, Local 1946; Management Employees.

**IV. ADJOURNMENT**

Mayor Green adjourned the meeting at 7:07 p.m.

Respectfully submitted,

Renee Elliott  
City Clerk

**MINUTES  
CITY OF UNION CITY  
CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

**TUESDAY, AUGUST 28, 2007  
7:00 P.M.**

**COUNCIL CHAMBERS  
34009 ALVARADO NILES ROAD**

**I. CALL TO ORDER**

Mayor Green called the meeting to order at 7:17 p.m.

Mayor Green reported a unanimous vote had been taken earlier in Closed Session approving a Memorandum of Understanding for the Union City Police Management Employees.

I.a Pledge of Allegiance – Mayor Green led the salute to the flag.

I.b Roll Call

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

Absent: None

**II. UNFINISHED BUSINESS – None**

***It was moved by Councilmember Dutra-Vernaci, seconded by Councilmember Valle, to advance Item 7.a, to follow Item 3.a, on the meeting agenda. Motioned carried unanimously.***

**III. PROCLAMATIONS AND PRESENTATIONS**

3.a Resolution of the City Council of the City of Union City Honoring Lisamaria Martinez

Mayor Green read the resolution aloud and presented it to Lisamaria Martinez. Ms. Martinez expressed her appreciation.

**Mayor Green announced Item 7.a would be considered at this time.**

**VII. CITY MANAGER REPORTS**

7.a Introduce an ordinance, commonly referred to as a "Social Host Ordinance", to reduce underage drinking by prohibiting loud or unruly gatherings where alcoholic beverages are served to, consumed by, or in the possession of underage persons and authorizing civil fines for violations and imposing civil penalties for the recovery of costs for public safety responses to such gatherings

Police Chief Stewart presented the staff report and responded to questions from Councilmembers.

Alameda County Supervisor Alice Lai-Bitker spoke about the serious problem of underage drinking, and expressed her appreciation for staff's work and the Council's initiative in considering the adoption of a social host ordinance. Roy Tucker expressed various concerns regarding the proposed ordinance. Barry Ferrier spoke about the risks of uninvited persons attending a party. Victor Diaz spoke in favor of the proposed ordinance. There were no other speakers on the matter.

It was moved by Mayor Green, seconded by Councilmember Valle, to approve the introduction of an ordinance adding Chapter 9.18 to the Union City Municipal Code commonly referred to as "Social Host Ordinance" to reduce underage drinking by prohibiting loud or unruly gatherings where alcohol is served to, consumed by, or in the possession of underage persons and authorizing civil fines for violation and imposing civil penalties for the recovery of costs for the public safety responses to such gatherings. Motion carried unanimously.

#### IV. ORAL COMMUNICATIONS

Roy Tucker expressed various concerns regarding altercations with his neighbors. Police Chief Stewart stated a police report had been taken regarding the incident.

#### V. CONSENT CALENDAR

Consent Calendar items 5.f, 5.g, 5.h, 5.i, 5.j, 5.k, and 5.m were removed for separate consideration.

It was moved by Vice Mayor Navarro, seconded by Councilmember Valle, to approve Consent items 5.a through 5.e, 5.l, and 5.n through 5.q, as recommended by staff. Motion carried unanimously.

- 5.a Motion to Waive Further Reading of Proposed Ordinance (This permits reading the title only in lieu of reciting the entire text of any proposed Ordinance)
- 5.b Approved Minutes for the Special and Regular Meetings of July 24, 2007, and for the Special Meeting of August 2, 2007
- 5.c Approved Minutes for the Special Meeting of August 15, 2007
- 5.d Rejected Claim No. 709, filed by Gerald and Hamidah Ha, as Recommended by the City's Claims Administrator
- 5.e Rejected Claim No. 710, as submitted by Paul Bower, as Recommended by the City's Claims Administrator
- 5.l Adopted **Resolution No. 3409-07** Approving Final Tract Map 7800, 33377 Croatian Way, North Side of Pacific Street, Thomas R. White, Owner

- 5.n Adopted **Resolution No. 3410-07** Authorizing the City Manager to Enter into a Contract Agreement for Professional Services with Jones & Stokes to Prepare an Environmental Document for the Proposed Barry Swenson Mixed-Use Project Located on Blocks 2, 3 & 4 of the Intermodal Station District
- 5.o Adopted **Resolution No. 3411-07** Supporting Eden I&R as the 2-1-1 Provider in Alameda County for Identifying Available Social Service Programs in the County and to Appropriate the amount of \$25,000 each year for Fiscal Year 2007-08 and Fiscal Year 2008-09
- 5.p Adopted **Resolution No. 3412-07** Approving Revisions to the Memorandum of Understanding between the City and the Union City Police Officer's Association for the period from July 1, 2007 through June 30, 2008
- 5.q Adopted **Redevelopment Agency Board Resolution No. 367-07** Authorizing a Grant Agreement with Contempo Homeowners Association to Install Internal Lighting Improvements

**Consideration of Items 5.f through 5.k, and Item 5.m, removed from the Consent Calendar.**

- 5.f Adopt Resolution Designating the Voting Delegate and Alternate Voting Delegate for the League of California Cities Annual Conference in Sacramento, September 5-8, 2007

It was moved by Mayor Green, seconded by Councilmember Fernandez, to adopt **Resolution No. 3413-07** designating Councilmember Dutra-Vernaci as the Voting Delegate to the League of California Cities Annual Conference in Sacramento, California, and designating Vice Mayor Navarro as the Alternate Voting Delegate to said League Annual Conference. Motion carried unanimously.

- 5.g Adopt a Resolution Approving the Purchase of Six (6) Police Department Patrol Cars, City Project No. 07-16

It was moved by Mayor Green, seconded by Councilmember Valle, to adopt **Resolution No. 3414-07** approving the specifications for the purchase of six (6) Police Department Patrol Cars, City Project No. 07-16, and to identify within the resolution the funding source for said project. Motion carried unanimously.

- 5.h Adopt a Resolution Approving Specifications for the Purchase of One (1) Sports Utility Vehicle for the Fire Department, City Project No. 07-17

It was moved by Mayor Green, seconded by Councilmember Valle, to adopt **Resolution No. 3415-07** approving the specifications for the purchase of one (1) Fire Department Sports Utility Vehicle, City Project No. 07-17, and to identify within the resolution the funding source for said project. Motion carried unanimously.

- 5.i Adopt a Resolution Approving Plans and Specifications for Emergency Generator for Fire Station No. 1, City Project No. 02-27

It was moved by Mayor Green, seconded by Councilmember Valle, to adopt **Resolution No. 3416-07** approving the specifications for furnishing of one new emergency generator at Fire Station No. 1, City Project No. 02-27, and to identify within the resolution the funding source for said project. Motion carried unanimously.

- 5.j Adopt a Resolution Approving Plans and Specifications for 2007-08 Tree Pruning and Removal Program, City Project No. 07-15

Public Works Superintendent Sealana responded to questions from Councilmembers. It was moved by Councilmember Fernandez, seconded by Councilmember Dutra-Vernaci, to adopt **Resolution No. 3417-07** approving plans and specifications for the 2007-2008 tree pruning and removal project, City Project No. 07-15. Motion carried unanimously.

- 5.k Adopt a Resolution Approving Final Tract Map 7668, 4312 Dyer Street at Meteor Drive, Pacific Gold LLC, a California Limited Liability Company

Hugh McNamara inquired about the number of off-street parking spaces required for the development. Economic and Community Development Director Leonard stated there was limited parking (6-7 spaces) along Meteor Drive, plus 2 spaces per unit for inside parking.

It was moved by Councilmember Dutra-Vernaci, seconded by Vice Mayor Navarro, to adopt **Resolution No. 3418-07** approving the final Tract Map 7668. Motion carried unanimously.

- 5.m Adopt a Resolution Awarding Contract for the 2006-07 Slurry Seal Program, City Project No. 07-01

Mayor Green stated Lewis Street was in poor condition and should be included in the Slurry Seal program. City Manager Cheeves noted that prior to being sealed, Lewis Street would need reconstruction work due to tree root damage. Staff will include Lewis Street in its work program.

Barry Ferrier commended the City for the crack seal work done on his neighborhood street.

It was moved by Mayor Green, seconded by Councilmember Valle, to adopt **Resolution No. 3419-07** awarding a contract to Valley Slurry Seal Company for the 2006-07 Slurry Seal Program, City Project No. 07-01. Motion carried unanimously.

Mayor Green announced a recess at 8:35 p.m.

Mayor Green reconvened the meeting at 8:45 p.m.

## VI. PUBLIC HEARINGS

- 6.a Public Hearing to Adopt a Resolution Authorizing the City of Union City to record a Nuisance Abatement Lien and Special Assessment against 2800 Pelican Drive, Union City, California with the Alameda County Recorder's Office

Neighborhood Preservation Coordinator Kirby presented the staff report and an amended nuisance abatement cost report, and responded to questions from Councilmembers. Coordinator Kirby stated he had received notification that Attorney Joseph Kafka was opposing the matter on behalf of his clients Mr. and Mrs. Lyberopoulos.

Mayor Green opened the public hearing. Mr. Lyberopoulos Jr. stated his father had owned the property since 1975, and was requesting a continuance in order for his father to seek legal counsel. There were no other speakers on the matter. Mayor Green closed the public hearing.

It was moved by Mayor Green, seconded by Vice Mayor Navarro, to approve the Nuisance Abatement Cost Report, and adopt **Resolution No. 3420-07** confirming the costs of nuisance abatement and authorizing the imposition of a nuisance abatement lien and special assessment. Motion carried unanimously.

- 6.b Public Hearing regarding Appeal of a Planning Commission Decision approving Administrative Site Development Review (ASD-11-07) to allow the construction of a new two-story single-family residence on a vacant lot at the corner of Marsten Avenue and Union City Boulevard (APN: 482-0030-020-03)

Assistant Planner Schultz presented the staff report and responded to questions from Councilmembers. Economic and Community Development Director Leonard acknowledged property values had been enhanced in those areas where a bouquet canyon wall was required. Councilmembers noted that requiring a bouquet canyon wall would be more expensive than wooden fencing, but consistency is important along major streets and boulevards.

Mayor Green opened the public hearing. Property owner Saul Loza spoke in opposition to a requirement for a pre-cast bouquet canyon wall, but stated he would be amenable to constructing a concrete wall. Mr. Loza acknowledged the eight-foot high concrete wall would lower to three feet in height within 35 feet of the front property line along the property frontage of Union City Boulevard. Mr. Loza acknowledged the design of the wall would be subject to review and approval by the Economic and Community Development Department and match the bouquet canyon design used along Union City Boulevard. There were no other speakers on the matter. Mayor Green closed the public hearing.

It was moved by Mayor Green, seconded by Councilmember Valle, to include a condition requiring a concrete wall matching the bouquet canyon design used along Union City Boulevard, and to adopt **Resolution No. 3421-07** approving administrative site development review ASD-11-07 for a new single-family residence at the corner of Marsten Avenue and Union City Boulevard. Motion carried unanimously.

**VII. CITY MANAGER REPORTS (See page 1 of these Minutes)**

**VIII. REDEVELOPMENT AGENCY - None**

**IX. AUTHORITIES AND AGENCIES - None**

**X. CITY COMMISSION/COMMITTEE REPORTS - None**

**XI. ORAL COMMUNICATIONS - None**

**XII. SCHEDULED ORAL COMMUNICATION - None**

**XIII. ITEMS REFERRED BY COUNCIL**

13.a Oral Reports by Mayor and Councilmembers on meetings of County or Regional Boards and Commissions

Vice Mayor Navarro stated he would be attending a health symposium sponsored by Supervisor Steele's office on October 17, 2007. The event will be held in Union City Council Chambers beginning at 7:00 p.m.

Vice Mayor Navarro reported he will attend an Airport Noise workshop at the Oakland Airport on October 17.

Councilmember Valle reported he would be attending an Alameda County Library Foundation committee meeting on August 29.

Councilmember Dutra-Vernaci stated the League of California Cities and Housing Commission do not have meetings in August. She did attend a hearing in San Carlos on August 27 regarding regional rail plans.

Mayor Green stated he and Vice Mayor Navarro had discussed transportation issues (ACE train to Union City) over lunch with former Congressman Richard Pombo.

Mayor Green inquired regarding shifting library hours of operation. Deputy City Manager Acosta stated the Union City librarian had expressed an interest in lengthening library hours to accommodate the demand since the library is busy all of the time.

Mayor Green stated he had spoken at a Rotary Club meeting in Castro Valley.

Mayor Green inquired about the status of the police sub-station at Dyer and Alvarado. City Manager Cheeves stated next steps would include design work and discussions with Duckett-Wilson regarding costs and funding options.

Mayor Green reported attending an EDAB meeting and youth radio in Oakland.

Mayor Green reported attending an FIA parade in Fremont.

Mayor Green stated East Bay Regional Park District does not have any interest in renovating the horse stable area on the land that the county owns, but the Alameda

County Board of Supervisors may be supportive of improvements for recreational uses. Fire Chief Rodriguez stated staff was considering the possibility of using the area for fire training exercises as well.

Mayor Green stated he had testified for high speed rail at the regional rail meeting on the 15<sup>th</sup>.

Mayor Green reported participating as a panelist at an administrative services symposium with Administrative Services Director Digre.

Councilmember Fernandez reported attending a meeting with Pete Stark where Dumbarton funding was discussed.

#### **XIV. GOOD OF THE ORDER**

Councilmember Dutra-Vernaci requested BART be notified about suspicious activities occurring late at night involving kids in the BART parking lot.

Councilmember Dutra-Vernaci stated there was an over abundance of pine needles and trash on the sidewalk, and ivy growing on trees, on the east side of Alvarado-Niles Road between Hartnell and Sherman.

Councilmember Valle stated a resident had complained about the lack of notice for the closure of Arce Street, and suggested staff might hold neighborhood meetings in the future. Public Works Director Cheng stated staff would do a better job noticing in the future.

Councilmember Fernandez reported progress had been made in removing ivy from the trees along the Alameda County Creek trail.

Councilmember Fernandez stated staff should involve Council in neighborhood preservation issues before the \$15,000 level is reached.

Mayor Green stated lane number one northbound on Union City Boulevard had been shut down before 8:00 a.m. for median work, adding to the commuter congestion problems.

Mayor Green spoke favorably about the center-line bumps and striping that Cal Trans had completed in Niles Canyon, noting it provided very effective visible and audible warnings.

Mayor Green stated he had attended the successful, sold-out Sister City event, and a larger venue should be located for next year.

Mayor Green stated Board/Commission interviews were being scheduled for October 2.

#### **XV. CLOSED SESSION - None**

#### **XVI. ADJOURNMENT**

Mayor Green adjourned the meeting at 10:02 p.m.

Respectfully submitted,

Renee Elliott  
City Clerk



## Agenda Item

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DATE: September 11, 2007

TO: City Council

FROM: Chief of Police Greg Stewart

SUBJECT: Second Reading and Adoption of an Ordinance Adding Chapter 9.18 to the Union City Municipal Code, "Liability for Cost of Public Safety Responses and Imposition of Civil Fines for Loud and Unruly Gatherings Where Alcohol is Served to, Consumed by, or in the Possession of Underage Persons".

### **BACKGROUND**

This item is brought forth to the Council for the second reading and adoption of an Ordinance adding Union City Municipal Code Section 9.18, "Liability for Cost of Public Safety responses and Imposition of Civil Fines for Loud and Unruly Gatherings Where Alcohol is Served to, Consumed by, or in the possession of Underage Persons".

### **DISCUSSION**

On August 28, 2007 the City Council unanimously approved adopting Union City Municipal Code Section 9.18, "Liability for Cost of Public Safety responses and Imposition of Civil Fines for Loud and Unruly Gatherings Where Alcohol is Served to, Consumed by, or in the possession of Underage Persons". There were two public speakers on the proposed ordinance.

### **FISCAL IMPACT**

The fiscal impact at this time is difficult to evaluate but it is estimated that there would be negligible effect either positively or negatively relative to City finances.

## **RECOMMENDATION**

It is recommended that the City Council conduct the second reading and adopt an Ordinance adding Union City Municipal Section. 9.18, “Liability for Cost of Public Safety responses and Imposition of Civil Fines for Loud and Unruly Gatherings Where Alcohol is Served to, Consumed by, or in the possession of Underage Persons”.

Prepared and Submitted by:  
Greg Stewart  
Chief of Police

Approved by:  
Larry Cheeves  
City Manager

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNION CITY ADDING CHAPTER 9.18 TO THE UNION CITY MUNICIPAL CODE COMMONLY REFERRED TO AS “SOCIAL HOST ORDINANCE” TO REDUCE UNDERAGE DRINKING BY PROHIBITING LOUD OR UNRULY GATHERINGS WHERE ALCOHOL IS SERVED TO, CONSUMED BY, OR IN THE POSSESSION OF UNDERAGE PERSONS AND AUTHORIZING CIVIL FINES FOR VIOLATION AND IMPOSING CIVIL PENALTIES FOR THE RECOVERY OF COSTS FOR THE PUBLIC SAFETY RESPONSES TO SUCH GATHERINGS**

THE COUNCIL OF THE CITY OF UNION CITY ORDAINS AS FOLLOWS:

**SECTION 1.** Chapter 9.18 is hereby added to the Union City Municipal Code, to read as follows:

**CHAPTER 9.18**

**LIABILITY FOR COST OF PUBLIC SAFETY RESPONSES AND IMPOSITION OF CIVIL FINES FOR LOUD OR UNRULY GATHERINGS WHERE ALCOHOL IS SERVED TO, CONSUMED BY, OR IN THE POSSESSION OF UNDERAGE PERSONS**

Sections:

9.18.010	Title
9.18.020	Legislative Purpose
9.18.030	Legislative Findings
9.18.040	Definitions
9.18.050	Prohibition of Loud or Unruly Gatherings Where Alcohol Is Served to, Consumed by or in the Possession of Underage Persons
9.18.050(a)	Violations/Civil Fines
9.18.050(b)	Imposition of Civil Penalty for Cost Recovery for Public Safety Responses
9.18.050(c)	Administrative Penalties
9.18.055	Hearings on the Imposition of Civil Fine and/or Imposition of Civil Penalty for Cost Recovery for Public Safety Responses; Appeals
9.18.060	Civil Fine and Civil Penalty for Cost Recovery for Public Responses – Debt to County; Enforcement
9.18.070	Severability and Preemption
9.18.080	Enforcement Authority
9.18.090	Cumulative Remedies

**9.18.010      Title**

This Chapter shall be known and may be cited as the “Social Host Ordinance.”

**9.18.020      Legislative Purpose**

The purposes of this Ordinance are:

- (a) to protect the public health, safety, and general welfare;
- (b) to promote the reduction of underage drinking by imposing a Civil Fine on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of underage persons;
- (c) to facilitate the enforcement of laws prohibiting the service to, consumption of or possession of alcoholic beverages by underage persons;
- (d) to offset the municipal costs associated with providing fire, police and other emergency services to loud or unruly gatherings by imposing civil cost recovery penalty upon social hosts and /or landowners who conduct or allow such loud or unruly gatherings to occur on their premises, at their residences, or at rented facilities where alcoholic beverages are served to, consumed by in the possession of underage persons.

**9.18.030      Legislative Findings**

The City Council finds as follows:

- (a) The City of Union City, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents;
- (b) The occurrence of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by or in the possession of underage persons is harmful to the underage persons themselves and is a threat to the public health, safety or quiet enjoyment of residential property and the general welfare;
- (c) Alcohol use by youth remains a serious problem in Union City, contributing significantly to the incidence of adolescent crime, addiction, sexual assault, truancy, driving under the influence of alcohol, and motor vehicle crashes involving alcohol and causing injury and/or death;

- (d) Underage persons often obtain alcoholic beverages at gatherings held at private residences or at rented residential and commercial premises that are under the control of a person who knows or should know of the service to, possession by, and/or consumption of alcohol by underage persons. Persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages are not served to, consumed by, or possessed by underage persons at these gatherings;
- (e) Residents have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages were served to, consumed by or possessed by underage persons, on private property, which seriously disrupts neighboring residents' quiet enjoyment of their property;
- (f) Control of loud or unruly gatherings on private property where alcoholic beverages were served to, consumed by or possessed by underage persons is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public;
- (g) Persons held responsible for abetting or allowing loud or unruly gatherings where alcoholic is served to, consumed by or in the possession of underage persons will be more likely to properly supervise or to stop such conduct at gatherings held on property in their possession or under their control;
- (h) In the past and present, emergency response services personnel have responded and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property at which alcoholic beverages are served to, consumed by or in the possession of underage persons, and responses to such gatherings result in a disproportionate expenditure of public resources of Union City and also result in a delay of responses to regular and emergency calls to the rest of the City;
- (i) Problems associated with loud or unruly gatherings at which alcoholic beverages are served to, consumed by or in the possession of underage persons would be greatly deterred and alleviated if the Union City Police Department has the additional legal authority to issue a civil citation for a civil fine and/or a civil citation for the cost of public safety response;
- (j) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. Persons who actively or passively aid, abet, or allow loud or unruly gatherings shall be held liable for the nuisances created by such

gatherings, the Civil Fine(s) for such violations and costs associated with responding to such gatherings;

- (k) Section 25658 of the State of California Business and Professions Code makes it unlawful for a person under the age of twenty-one (21) years to purchase or attempt to purchase, or consume alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of twenty-one (21) years;
- (l) According to local, state and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels. A child who begins alcohol use prior to age fifteen(15) is four times likely to experience alcohol dependence than one who refrains from alcohol use until age twenty (20) or older;<sup>1</sup>
- (m) The City Council therefore determines that this Ordinance is a reasonable and necessary means to protect and promote the health, safety and general welfare of the youth and other residents of the City of Union City.

#### **9.18.040      Definitions**

For the purposes of this chapter, the following definitions shall apply:

- (a) “Alcoholic beverage.” The definition of “Alcoholic beverage” in Section 23004 of California Business and Professions Code as amended from time to time shall apply to this chapter.
- (b) “Juvenile” means any person less than eighteen (18) years of age.
- (c) “Loud or unruly gathering” means a party or gathering of two or more persons at a residence or on other private property or rented public property upon which loud or unruly conduct occurs. Such loud or unruly conduct constitutes a public nuisance and includes but is not limited to:
  - (1) excessive noise;
  - (2) excessive traffic;
  - (3) obstruction of public streets and/or the presence of unruly crowds that have spilled into public streets;
  - (4) public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;

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<sup>1</sup> Grant, B.F. and D.A. Dawson. Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from National Longitudinal Alcohol Epidemiologic Survey *Journal of Substance Abuse* 9:103-110, 1997

- (5) assaults, batteries, fights, domestic violence or other disturbances of the peace;
  - (6) vandalism;
  - (7) litter; or
  - (8) any other conduct which constitutes a threat to the public health, safety or quiet enjoyment.
- (d) “Minor” means any person less than twenty-one (21) years of age.
- (e) “Person responsible for the event” means and includes, but is not limited to:
- (1) the person who owns, rents, leases or otherwise has control of the premises where the gathering occurs; and or
  - (2) the person in charge of the premises; and/or
  - (3) The person who organized or supervises or conducts the event or any other person(s) accepting responsibility for such a gathering;
  - (4) A responsible person for the loud or unruly gathering need not be present at such gathering resulting in the response giving rise to the imposition of civil money penalties or response costs;
  - (5) If the person responsible for the event is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally responsible for the Civil Fine and/or for the costs incurred for public safety services pursuant to this chapter and/or for any administrative penalties set forth in subsection 9.18.050.
- (f) “Public Safety Services” and/or “Response Costs” means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings, including but not limited to:
- (1) the portion of the cost of salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the loud or unruly gathering(s), and the administrative costs attributable to such response(s);
  - (2) the cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering; and
  - (3) the cost of the use of any City equipment or property, and the cost of repairing any City equipment or property damaged, in responding to, remaining at or leaving the scene of a loud or unruly gathering.

- (4) Any other costs recoverable in compliance with California Civil Code Section 1714.9.
- (g) “Underage person” means any person less than twenty-one (21) years of age and shall have the same meaning as “minor,” defined in subsection (d) above.
- (h) “Hearing Officer” should be defined in Social Host Ordinance as “the City Manager or any person appointed by the City Manager to conduct a hearing authorized by this Ordinance.”
- (i) “Enforcement Officer” should be defined in Social Host Ordinance as “the City Manager or any person who is authorized or directed by the City Manager to enforce any provision of this Ordinance.”

**9.18.050      Prohibition of Loud or Unruly Gatherings Where Alcohol Is Served to, Consumed by or in the Possession of Underage Persons**

Except as permitted by Article 1, Section 4, of the California Constitution, no person shall knowingly suffer, permit or host a gathering at his or her place of residence or other private property, place or premises or host a gathering at a public place under his or her control where two or more persons under the age of twenty-one (21) are present, where the gathering is loud or unruly and alcoholic beverages are in the possession of, being consumed by, or served to any underage person. In addition to any fine or penalty that may be imposed by law, any violation of the provisions of this Chapter shall be subject to a civil or penalty as provided herein. The following fines or penalties apply to this Chapter:

**(a)      Violation(s)/Civil Fine(s)**

It shall be a civil violation for a person to knowingly conduct or allow a loud or unruly gathering where alcohol is served to, consumed by or in the possession of an underage person or persons on the premises owned by the person responsible for the event, on premises rented by or to the person responsible for the event, on premises where the person responsible for the event resides or on premises where the person responsible for the event is in control of such premises during the loud or unruly gathering. The Police Chief, at his or her discretion, may immediately issue a citation for this civil violation upon evidence of the violation. There is no requirement of a first warning in order for the Police to issue this civil citation.

- (1) Civil Fine: a first violation of this Section shall result in a citation with a \$100.00 fine. A second violation shall result in a citation with a \$500.00 fine. A third or subsequent violation shall result in a citation with a \$1,000.00 fine.
- (2) The Police Chief shall give notice of a violation of this Section by issuing a citation to any and all responsible persons identified by the Police Chief within 30 days of the violation. The citation shall also give notice of the right to request an administrative hearing to challenge the validity of the citation and the time for requesting that hearing [see Section 9.18.055].
- (3) The Civil Fine prescribed in subsection (1) is in addition to any imposition of Civil Penalty for Cost Recovery for public safety responses that may be assessed pursuant to subsection (b) of this section.
- (4) In the event that the responsible person who is in violation of this section is a juvenile, then the juvenile and the parents or guardians of that juvenile shall be jointly and severally liable for the civil violation.

**(b) Imposition of Civil Penalty for Cost Recovery for Public Safety Responses**

In addition to any Civil Fine imposed for violation of this section, when any loud or unruly gathering where alcohol is served to, consumed by or in the possession of underage person(s) occurs on private property and a public safety officer at the scene determines that there is a threat to public peace, health, safety or general welfare, the public safety officer shall give the person(s) responsible for the event written warning that a second or follow up violation of this Section on the same date or within twelve (12) hours of the violation will result in his/her/their liability for the cost of providing public safety services (i.e., fire, ambulance, sheriff, or other emergency providers). The requirement of a first warning does not limit the ability of the public safety personnel to issue a civil citation for the imposition of civil penalties for cost recovery on the same day that the warning is given if the warning does not end the loud or unruly gathering. The cost recovery for public safety responses shall be separate and distinct from a citation and fine for a civil violation described in subsection (a) of this section.

- (1) The amount of cost recovery under this subsection shall be calculated pursuant to 9.18.040(f) of this Chapter.
- (2) In the event that the responsible person who is in violation of this section is a juvenile, then the juvenile and the parents or guardians of that juvenile shall be jointly and severally liable for the imposition of civil penalties for the cost of providing public safety services.
- (3) Civil Cost Recovery penalties will not be imposed in those situations where those present at the gathering call for emergency services for an actual emergency at the premises.

**(c) Administrative penalties**

Taking into consideration the age and/or financial ability of the responsible person(s) to pay, the Hearing Officer may impose, in addition to or in lieu of civil fines and/or cost recovery penalties in subsections (a) and (b) of this section:

- (1) community service work on behalf of the City; and/or
- (2) training or classes that are relevant to the legislative purpose and findings of this Chapter as set forth in subsections 9.18.020 and 9.18.030;
- (3) failure to complete the administrative penalties as directed will result in that penalty or penalties being converted to civil fines and/or cost recovery penalties as set forth herein without further right to appeal.

**9.18.055 Administrative Hearing on the Imposition of Civil Fine and/or Imposition of Civil Penalty for Cost Recovery for Public Safety Response; Judicial Appeal**

**(a) Request for Administrative Hearing.**

Any person subject to a Civil Fine pursuant to Section 9.18.050(a) or subject to a Civil Cost Recovery Penalty for public safety responses pursuant to Section 9.18.050(b) shall have a right to request a hearing within fifteen (15) days from the date of service of the notice of the issuance of a citation for a Civil Fine and/or Civil Cost Recovery Penalty as specified in this Ordinance

[Section 9.18.050(a) and (b)]. To request such a hearing, the person requesting the hearing shall obtain a “request for hearing” form from the City Clerk and return it fully completed within fifteen days from the date of service of the notice of Civil Fine and/or Civil Cost Recovery Penalty. The notice of the issuance of a citation shall notify the person of the right to request a hearing and the procedures for doing so.

- (1) The City Clerk shall refer any request for a hearing to a neutral Hearing Officer. The neutral Hearing Officer shall set a date for the hearing not less than fifteen days nor more than sixty days from the date the “request for hearing” form is filed with the City Clerk, unless the Enforcement Officer determines that the matter is urgent or that good cause exists for an extension of time, in which case the date for such hearing may be shortened, or extended, as warranted by the circumstances.

**(b) Conduct and Determination of Administrative Hearing.**

A hearing under authority of this section shall be conducted according to the procedures set forth in this subsection. The failure of any responsible party to appear at the hearing shall constitute a waiver of the right to such hearing and a failure by such party to exhaust their administrative remedies.

- (1) When a request for hearing is filed, the Enforcement Officer shall set the time and place for the hearing pursuant to Section 9.18.055(A)(1), and shall serve a “notice of hearing” by regular mail to the person(s) requesting the hearing at the address provided in the “request for hearing” form. The time for such hearing shall be no sooner than ten days from the date of said “notice of hearing.”
- (2) At the place and time set forth in the “notice of hearing,” the Hearing Officer shall conduct a hearing on the imposition of the Civil Fine and/or Civil Cost Recovery Penalty. The Hearing Officer may consider any written or oral testimony and evidence regarding the violation or penalty presented by the alleged violator, the owner, any officer, employee, or agent of the City, and any interested party.

- (3) After receiving all of the evidence presented, the public portion of the hearing shall be closed. The Hearing Officer may deliberate and consider what action, if any, should be taken, or may adjourn the hearing and take the matter under consideration.
- (4) Within thirty (30) days following the conclusion of the hearing, the Hearing Officer shall issue written findings and make a determination regarding the imposition of the Civil Fine and/or Civil Cost Recovery Penalty. If the Hearing Officer finds by a preponderance of the evidence that the imposition of the Civil Fine and/or Civil Cost Recovery Penalty is valid, the Hearing Officer shall issue its decision, including any administrative order, in accordance with Section 9.18.055(c), below. If the Hearing Officer finds that the imposition of the Civil Fine and/or Civil Cost Recovery Penalty is not valid, the Hearing Officer shall issue a decision with written findings of those facts.
- (5) The person(s) requesting a hearing shall be served with a copy of the decision of the Hearing Officer, including any administrative order if one is issued, personally or by registered or certified U.S. mail, and if by registered or certified U.S. mail to the person(s) requesting a hearing last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by registered mail or certified mail, service shall be deemed complete at the time of deposit into the United States mail.

(c) **Judicial Appeal of Administrative Decision.** The Hearing Officer considering the imposition of the Civil Fine and/or Civil Cost Recovery Penalty may confirm, vacate, or modify but shall not increase, any such fine and/or penalty imposed by the Enforcement Officer, and order the payment thereof.

- (1) The decision shall state that the person to whom a Civil Fine and/or Civil Cost Recovery Penalty is imposed may appeal the decision of the Hearing Officer in Alameda County Superior Court pursuant to California Government Code Section 53069.4. Any such appeal shall be filed as a limited civil case.

the decision shall provide written notice of the time limits prescribed by California Government Code Section 53069.4 in substantially the following form:

“the time within which judicial review of the penalty imposed by this order must be sought is governed by Government Code Section 53069.4. Judicial review must be sought no later than 20 days after service of the order imposing or confirming such fine and/or penalty.”

**9.18.060      Civil Fine and Civil Penalty for Cost Recovery for Public Safety Responses – Debt to City and Police; Enforcement**

The amount of a Civil Fine and/or Civil Cost Recovery Penalty for Public Safety Responses shall be deemed a debt owed to the City by the person(s) found in violation of Section 9.18.050 and therefore liable for a fine under Section 9.18.050(a) and/or penalties under Section 9.18.050(b), and if that person is a juvenile, then also his/her parents or guardians. Any person owing such fine and/or penalties shall be liable in an action brought in the name of the City for recovery of such fine and/or penalties. These recovery costs may include reasonable attorney fees incurred in the action if the City prevails, as the City reserves the right to seek to recover reasonable attorney fees, on a case by case basis, pursuant to California Government Code Section 38773.5. In those cases in which the City seeks to recover reasonable attorney fees, the other party may likewise do so.

**9.18.70      Severability and Preemption**

If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application, and to this end the provisions of this section are severable.

The civil fines and penalties imposed by this Ordinance do not preclude other potential civil actions or criminal prosecution under any other provision of law, including but not limited to Penal Code Sections 272 and 415 and Business and Professions Code Sections 25658, 25658.2 and 25662.

This Ordinance shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the State of California.

**9.18.80            Enforcement Authority**

A loud or unruly gathering at a residence or other private property at which service to or consumption of alcohol or alcoholic beverages by underage persons occurs constitutes a public nuisance and an immediate threat to public health and safety and shall be summarily abated by the Police Chief by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and citation under this chapter as well as citation and/or arrest of any law violators under any other applicable ordinances and State statutes.

**9.18.090            Cumulative Remedies**

Nothing in this chapter shall be construed as a waiver by the City of Union City of any right to seek reimbursement for actual costs of response services through other legal remedies or procedure.



## Agenda Item

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DATE: September 11, 2007  
TO: Mayor and Councilmembers  
FROM: Renee Elliott, City Clerk  
SUBJECT: Claim No. 711 filed by Jasprett Chug

### **BACKGROUND**

An insufficient claim was filed by Jasprett Chug, through his attorney Burke Bradley, on July 9, 2007. A subsequent amended claim was filed by Mr. Bradley on August 3, 2007. Mr. Chug is requesting damages for costs associated with the relocation of his automotive repair business from Union City to the City of Fremont.

### **FISCAL IMPACT**

None at this time.

### **RECOMMENDATION.**

Reject Claim No. 711, filed by Jasprett Chug, as recommended by the City's Claims Administrator.

Submitted by:  
Renee Elliott  
City Clerk

Approved by:  
Larry Cheeves  
City Manager



**DATE:** SEPTEMBER 11, 2007  
**TO:** CITY COUNCIL  
**FROM:** MINTZE CHENG, PUBLIC WORKS DIRECTOR  
**SUBJECT:** AWARD CONTRACT FOR THE UNION CITY LIBRARY HVAC EQUIPMENT REPLACEMENT, CITY PROJECT NO. 05-44

**BACKGROUND:**

The Union City Library Facility is over 20 years old. The HVAC units were installed as part of the original facility. During the past few years, we have performed minor repairs numerous times to prolong their service life. This summer, one HVAC unit was completely out of service and the other three were barely functional.

**DISCUSSION:**

Cost estimates were solicited for the project. The City obtained five (5) quotes for the HVAC System as follows:

BIDDER	BID AMOUNT
Accel Air Systems, San Jose	\$90,946
MTECH, Campbell	\$148,625
Cool Roofing Systems, Inc., Manteca	\$150,000
Nowak Heating & A/C, Castro Valley	\$155,000
Cal-Bay Construction, Inc., San Leandro	\$379,902

Accel Air Systems (Accel) was the low bidder. Replacement work for the HVAC should not impact the existing roof. On August 27, 2007, a field meeting was conducted with Accel and City representatives to ensure the contractor is aware of the necessary work. At the meeting, it was apparent that the contractor will need to provide additional electrical and duct work. Accel was also asked to provide temporary portable air conditioning units for the Library during construction. Accel's quote for the additional scope items was \$21,213, bringing their

total proposal for the HVAC contact work to \$112,159 from ACCEL. Since the other bidders were above Accel's total price even without the additional scope items, Accel remains the low bidder.

Staff recommends the City Council award the Union City Library HVAC Equipment Replacement contract to Accel Air Systems, Inc. of San Jose in the amount of \$112,159.

**FISCAL IMPACT**

This project is funded by Capital Facility Funds (Fund 6200). Currently the HVAC Equipment Replacement Project is budgeted for \$125,000 (6200-30-80544). There are sufficient funds to award this contract.

**RECOMMENDATION**

It is recommended that the City Council adopt the attached resolution awarding contract in the amount of \$112,159 to ACCEL Air Systems, Inc. of San Jose for Replacement of Union City Library HVAC Equipment, City Project No. 05-44:

Prepared & Submitted by:  
Mintze Cheng, Public Works Director

Approved by:  
Larry Cheeves, City Manager

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
AWARDING CONTRACT FOR THE  
UNION CITY LIBRARY HVAC EQUIPMENT REPLACEMENT PROJECT**

**WHEREAS**, the Public Works Department of the City of Union City has conducted informal bid procedure in accordance with California Public Contract Code for the Union City Library HVAC Equipment Replacement Project, City Project No. 05-44; and

**WHEREAS**, Five (5) bid proposals were received and Accel Air Systems, Inc. of San Jose, California had the lowest bid in the amount of \$90,946 for this project; and

**WHEREAS**, additional scope items were required to better facilitate the Contractor work in the general roof area and to provide portable AC units for the Library use during construction which resulted in additional \$21,213 and the total project price to \$112,159.

**WHEREAS**, sufficient Capital Facility funds are available in the Union City Library HVAC Equipment Replacement Project, Project Account 6200-30-80544;

**NOW, THEREFORE, BE IT RESOLVED** that Accel Air Systems, Inc. of San Jose be awarded the contract in the amount of \$112,159 to construction the Union City Library HVAC Equipment Replacement Project, City Project No. 05-44; and

**BE IT FURTHER RESOLVED** that the City Manager of the City of Union City is hereby authorized and directed to execute the hereinabove mentioned Contract in the name of the City of Union City.



**DATE:**                    **SEPTEMBER 11, 2007**

**TO:**                        **CITY COUNCIL**

**FROM:**                 **MARK LEONARD, DIRECTOR OF ECONOMIC &  
COMMUNITY DEVELOPMENT**

**SUBJECT:**             **RESOLUTION OF THE CITY COUNCIL TO INCREASE  
BUDGETED REVENUE BY \$40,000 AND INCREASE  
BUDGETED EXPENSE BY \$25,000 FOR THE UNION LANDING  
PBID (FUND 8200) FOR FY 07/08**

In reviewing the FY 07/08 budget for the Union Landing PBID, staff finds that both revenue and expense have been understated. The attached resolution is presented to correct this situation.

**DISCUSSION**

The Union Landing PBID supports services that would typically be paid by the General Fund, if such General Fund monies were available. As such, budgeted expenditures may be recorded directly to the Union Landing PBID Fund (Fund 8200) or to the General Fund (Fund 1000). However, in reviewing the FY 07/08 budget, it appears that approximately \$20,000 for substation rent and \$5,000 of telephone and other expenses were not budgeted at all. It also appears that the budgeted revenue from assessments was understated by \$40,000. The results of the proposed adjustments on the adopted FY 07/08 budget are shown on Exhibit A.

**FISCAL IMPACT**

Budgeted fund balance for the Union Landing PBID (Fund 8200) will increase by \$15,000. There is no fiscal impact on the General Fund and no increase in assessments in the PBID.

## **RECOMMENDATION**

Staff recommends that the City Council approve the attached resolution to increase budgeted revenue by \$40,000 and increase budgeted expense by \$25,000 for the Union Landing PBID (Fund 8200) for FY 07/08.

Prepared by:  
Steve Sprotte  
Management Analyst

Submitted by:  
Mark Leonard  
Director of Economic & Community Development

Approved by:  
Larry Cheeves  
City Manager

**RESOLUTION OF THE CITY COUNCIL TO INCREASE BUDGETED  
REVENUE BY \$40,000 AND INCREASE BUDGETED EXPENSE BY \$25,000  
FOR THE UNION LANDING PBID (FUND 8200) FOR FY 07/08**

**WHEREAS**, upon review of the FY 07/08 budget for the Union Landing PBID (Fund 8200), staff has determined that both revenue and expense have been understated; and

**WHEREAS**, staff wishes to correct this situation as shown on Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Union City to increase budgeted revenue by \$40,000 and increase budgeted expense by \$25,000 for the Union Landing PBID (Fund 8200) for FY 07/08.

City of Union City					Exhibit A	
Fund 8200 - Union Landing PBID						
			Projected	Adopted	Proposed	Adjusted
			FY 06/07	Budget	Adjustment	Budget
				FY 07/08		FY 07/08
<b>Beginning Fund Balance</b>			<b>6,851</b>	<b>6,851</b>		<b>6,851</b>
<b>Revenues</b>						
Taxes and Assessments			480,149	452,500	40,000	492,500
<b>Total Revenues</b>			<b>480,149</b>	<b>452,500</b>	<b>40,000</b>	<b>492,500</b>
<b>Expenditures</b>						
Outside Services			47,509	4,500	25,000	29,500
Transfers Out			432,640	448,000	0	448,000
<b>Total Expenditures</b>			<b>480,149</b>	<b>452,500</b>	<b>25,000</b>	<b>477,500</b>
<b>Ending Fund Balance</b>			<b>6,851</b>	<b>6,851</b>	<b>15,000</b>	<b>21,851</b>



**DATE:**                    **SEPTEMBER 11, 2007**

**TO:**                        **CITY COUNCIL**

**FROM:**                  **MINTZE CHENG, PUBLIC WORKS DIRECTOR**

**SUBJECT:**               **ACCEPTANCE OF WORK FOR THE TEMPORARY  
PARKING LOT LOCATED EAST OF 11<sup>TH</sup> STREET, CITY  
PROJECT NO. 07-04**

**BACKGROUND:**

The City Council at its regular meeting of April 10, 2007 awarded the Temporary Parking Lot Construction to DeSilva Gates Construction Company in the amount of \$409,700. The Contractor has completed the work in accordance with the plans and specifications approved for this project and has supplied the City with all bonding requirements as specified in the contract.

The project is to provide a total of 366 stalls parking lot to accommodate the temporary parking displacement during BART Site Improvement Project. The work for the temporary parking lot consisted, generally, of doing clearing & grubbing, grading, compaction, and installing aggregate base and asphalt concrete paving surface. The project also included installation of light poles, fence, striping and drainage items, etc.

**DISCUSSION:**

DeSilva Gate Construction's proposal in the amount of \$409,700 was \$190,300 or 32% lower than the engineer's estimate of \$600,000. The final project construction cost of \$427,776.28 is \$18,076.28 or 4.4% over the contract amount due to net increase in actual quantities of the materials placed and some minor change orders. Thus, staff recommends the acceptance of the project work in the final amount of \$427,776.28.

Since we were using our City staff to perform the inspection work, other support work such as construction staking and compaction testing resulted in about \$30,000 expense to the project. The total project cost including the support cost is about \$458,000.

**FISCAL IMPACT:**

This City Project No. 07-04 was approved for \$500,000 and was funded by RDA Fund from the approved Intermodal Station District Project (9123-30-06675). The balance of the project fund will be reverted back to the Intermodal Station District Project.

**EXHIBITS:**

- A. Certificate of Completion
- B. Notice of Completion and Notice of Acceptance

**RECOMMENDATION.:**

It is recommended that the City Council adopt the attached resolution accepting this project.

Prepared by:  
Carlos Jocson, City Engineer

Submitted by:  
Mintze Cheng, Public Works Director

Approved by:  
Larry Cheeves, City Manager

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY  
ACCEPT WORK FOR TEMPORARY PARKING LOT  
LOCATED EAST OF 11<sup>TH</sup> STREET,  
CITY PROJECT NO. 07-04**

WHEREAS, *DeSilva Gates Construction* has successfully completed the improvements for *Temporary Parking Lot Located East of 11<sup>th</sup> Street, City Project No. 07-04*, per plans and specifications, and;

WHEREAS, the work has been completed to the satisfaction of the City Engineer;

WHEREAS, the final construction cost for this project is \$427,776.28;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Union City does hereby accept the improvements for *Temporary Parking Lot Located East of 11<sup>th</sup> Street, City Project No. 07-04*;

BE IT FURTHER RESOLVED that the City Clerk of the City of Union City be directed to record the Notice of Completion with the Office of the County Recorder of Alameda County, California;

BE IT FURTHER RESOLVED that the City Council of the City of Union City does hereby authorize the City to make a final retention payment in the amount of **\$42,777.63** to *DeSilva Gates Construction* for the completion of improvements of *City Project No. 07-04* in accordance with the plans and specifications on file at the Office of the City Engineer.

The City of Union City  
Public Works Department  
34009 Alvarado-Niles Road  
Union City CA, 94587

The City Engineer  
The City of Union City  
34009 Alvarado-Niles Road  
Union City, CA 94587

NOTICE OF COMPLETION  
AND NOTICE OF ACCEPTANCE

General Contract or Assessment Proceedings

TITLE:           TEMPORARY PARKING LOT, CITY PROJECT NO. 07-04

NOTICE IS HEREBY GIVEN that I, MINTZE CHENG, Public Works Director of the City of Union City, County of Alameda, California, on the 29th day of August, 2007, did file with the Department of Public Works of said City, the Certificate of Completion of the following described work, the contract for which was heretofore awarded to DeSilva Gates Construction, 11555 Dublin Blvd., Dublin, CA 94568 and entered into on April 10, 2007, in accordance with the specifications for said work filed with said Department of Public Works and adopted by the Public Works Director of said City.

That said work and improvements, located at: East side of 11<sup>th</sup> Street just south of its intersection with Decoto Road

were actually accepted by the Public Works Director of the City of Union City on the 28<sup>th</sup> day of August, 2007, and that the name of the surety on the Contractor's bond for labor and materials is the Travelers Casualty and Surety Company of America.

That the following work has been completed: 366-stall parking lot which involved doing clearing & grubbing, grading, compaction, aggregate base, asphalt concrete paving, light poles, fence, striping and drainage items, etc.

Dated: \_\_\_\_\_, 2007.

\_\_\_\_\_  
MINTZE CHENG  
PUBLIC WORKS DIRECTOR

STATE OF CALIFORNIA    )  
  ) ss  
COUNTY OF ALAMEDA    )

MINTZE CHENG, being first duly sworn, deposes and says:

That she is the duly appointed Public Works Director of the City of Union City, California; that she has read the foregoing Notice of Completion and Notice of Acceptance and knows the contents thereof, and that the same is true of her own knowledge except as to the matters therein stated on her own information and belief, and as to those matters that she believes it to be true.

\_\_\_\_\_  
MINTZE CHENG  
PUBLIC WORKS DIRECTOR

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
CITY CLERK in and for the City of Union City,  
County of Alameda, State of California

**CERTIFICATE OF COMPLETION**  
**(Sec. 4005 Government Code)**  
**(Exhibit A)**

**TITLE:        TEMPORARY PARKING LOT, CITY PROJECT NO. 07-04**

I, MINTZE CHENG, Director of Public Works of the City of Union City, County of Alameda, State of California, do hereby certify as follows:

- a.     That this project, consisting of constructing a 366-stall parking lot has been completed; and
- b.     That contract agreement was approved by the City Council for the amount of \$409,700; and
- c.     That the adopted and approved plans and specifications have been changed in the following respects:

CCO #	CONTRACT CHANGE DESCRIPTION	AMOUNT
	Original Contract	\$409,700
	Increase in quantities	\$12,561.28
	Decrease in quantities	(5,955.00)
1	Manhole adjustment, Vault removal	\$3,770
2	Purchase, haul and install rock in channel	\$4,500
3	Furnish and install 32 Wheel stops	\$3,200
<b>Total Construction Contract Cost to City</b>		<b>\$427,776.28</b>

- d. That the work performed has been done in accordance with such plans and specifications.
- e. That DeSilva Gates Construciton performed the work, at a total cost of \$427,776.28 including the above noted contract change description.
- f. That the Final retention amount of \$42,777.63 will be released after 35 days of the project is accepted.

Dated: August 28, 2007.

\_\_\_\_\_  
MINTZE CHENG  
PUBLIC WORKS DIRECTOR



## Agenda Item

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**DATE:** SEPTEMBER 11, 2007  
**TO:** CITY COUNCIL  
**FROM:** LARRY CHEEVES  
**SUBJECT:** REVIEW OF REGIONAL HOUSING NEEDS ALLOCATION

### **BACKGROUND**

Attached for the City Council's information is a brief analysis of the Regional Housing Needs Allocation (RHNA) from ABAG, prepared by Mintier & Associates, who have been our Housing Element consultants for several rounds. In summary, our allocation looks very similar to the 2001 allocation, with a heavier weighting on very-low and low income housing. The attached letter briefly describes the weighting methodologies used and the issues related to interpreting them and the likely reasons for the numbers being as they are.

In spite of the inaccurate portrayal set forth in a recent Argus article, staff has only been in an analysis mode since the numbers were issued. There has never been any intent to automatically appeal the numbers without the analysis. In fact, upon the analysis and discussions with the consultant, Staff does not recommend that we appeal the numbers. Our concern has always been that we have a reasonable understanding of how the numbers were derived.

The State and ABAG have long recognized that the allocation is a goal for each city, and that each city shows that it has the **capacity** to meet the numbers, not that it necessarily can build all the units. Although the allocation is a little surprising, we have every intent of showing that we have the available land zoned properly to meet the allocation in our next Housing Element, due in 2009, which is the state requirement. Furthermore, as in the past, staff is dedicated to continuing to be a recognized leader in developing affordable housing opportunities for our community.

### **FISCAL IMPACT**

None at this time. However, there is the possibility that future legislation may somehow tie program and grant dollars to a city's performance in meeting its RHNA Allocation.

### **RECOMMENDATION**

This is an informational item only. Staff recommends that the City Council receive and file the report.

Prepared by: Vernon M. Smith, HCD Coordinator

Submitted by: Mark Leonard, Economic & Community Development Director

Approved by: Larry Cheeves, City Manager

September 6, 2007

Vernon Smith  
Housing Coordinator  
Economic and Community Development Department  
City of Union City

Mr. Smith,

We have conducted a preliminary analysis of the Association of Bay Area Governments' (ABAG) *Regional Housing Needs Allocation Methodology, 4th Revision* adopted January 18, 2007 along with the accompanying *Technical Documentation* (revised August 3, 2007) for Union City compared to other Alameda County jurisdictions as well as to the previous *Regional Housing Needs Determination* for the 2001-2006 Housing Element cycle. This analysis supplements the work we did in support of comment letters from Union City to ABAG in January and March of this year regarding the RHNA methodology.

- Union City's 2007-2014 RHNA is almost identical to the previous round (1,944 vs. 1,951). However, the 2007-2014 RHNA for some other Alameda County cities is significantly less compared to 2001-2006: Dublin (61% of previous round), Fremont (65%), Livermore (66%), Newark (69%), and Pleasanton (65%).
- The following factors from ABAG's *Projections 2007* are used to calculate the 2007-2014 RHNA for each jurisdiction:
  - Projected household growth (45%)
  - Existing employment (22.5%)
  - Projected employment growth (22.5%)
  - Projected household growth near existing transit (5%)
  - Projected employment growth near existing transit (5%)

Without access to the "raw" data used to calculate the RHNA, we cannot provide an in-depth analysis of the reasons why Union City's RHNA is relatively high compared to some other jurisdictions. However, based on the factors used to calculate the RHNA, we can infer that Union City has better growth prospects than some other Alameda County jurisdictions and that this is reflected in the *Projections 2007* numbers and hence in the RHNA.

- Because of the two factors in the RHNA calculation that are related to existing transit facilities (projected household growth near existing transit and projected employment growth near existing transit), there is some "double-counting" involved in the RHNA calculation to the extent that projected household growth and projected employment growth are already considered as factors. ABAG states in its documentation that "those jurisdictions with existing transit stations, would receive a relatively higher proportion of the housing needs allocation than those jurisdictions without existing transit

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stations.” Since we do not have access to the data used to calculate the RHNA, we cannot tell the precise degree to which this affected Union City’s allocation. However, since the transit factors affect only 10 percent of the overall RHNA number, it could be responsible for an allocation for Union City that is 100 to 200 units more than it otherwise would have been.

- Union City's 2007-2014 RHNA by income group is weighted heavily toward the Very Low- and Low-Income categories (28.9% Very Low and 20.1% Low in the 2007-2014 RHNA compared to 17.3% Very Low and 9.7% Low in the 2001-2006 RHNA). The reason for this is that the 2001-2006 RHNA income allocation was based on 1990 Census data and the 2007-2014 RHNA income allocation is based on 2000 Census data. In 1990, Union City had household incomes that were well below the regional median, whereas in 2000, Union City had household incomes well above the regional median. Therefore, while the share of lower-income categories in the allocation for Union City have increased dramatically, this shift is consistent with Census figures and the general philosophy of the State in the RHNA and Housing Element process to address existing concentrations of low-income households, and promote an equitable regional income distribution. Although its share of low-income units has increased dramatically since the previous round, Union City's RHNA by income category for 2007-2014 is in-line with that of other jurisdictions in Alameda County: Union City (28.9% Very Low and 20.1% Low), Dublin (32.8% VL & 19.8% L), Fremont (30.8% VL & 20.3% L), Livermore (30.6% VL & 19.4% L), Newark (29.8% VL & 18.5% L), and Pleasanton (32.8% VL & 22.2% L).

Although getting detailed data from ABAG regarding the numbers behind the RHNA calculation would explain exactly why Union City has a relatively large overall allocation compared to some other jurisdictions in Alameda County, in our judgment we are unlikely to discover anything that would necessitate an appeal to ABAG. To a large degree, the RHNA allocation is determined through the numbers in *Projections 2007*, and those cannot be appealed. As stated previously, based on the factors used to calculate the RHNA, we can infer Union City has better growth prospects than some other Alameda County jurisdictions and this is reflected in the *Projections 2007* numbers and hence in the RHNA. Because of the way the RHNA methodology is constructed, Union City gets a relatively higher RHNA number because of higher growth projections.

Regards,

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