

**MINUTES FOR THE ADJOURNED
REGULAR CITY COUNCIL MEETING
CITY OF UNION CITY
SEPTEMBER 14, 2004, 6:00 P.M.
COUNCIL CONFERENCE ROOM
34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA**

Mayor Green called the meeting to order at 6:12 p.m.

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

There being no one present to speak before the Council, the Council met in closed session on the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: APN 087-0020-003
Negotiators: City Manager Larry Cheeves; City Attorney Michael Riback; Economic and Community Development Director Mark Leonard
Under negotiation: Price and terms

Councilmember Elias arrived at the meeting at 6:21 p.m.

**B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Subdivision (b) of Section 54956.9a)**

Name of case: Shin vs. City of Union City
Case No. C-02-2648, U.S. District Court, Northern Division

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

Name of case: Brian Benitez, et al vs. Don Montoya, et al., United States District Court, Northern District of California, Case No. C 03-0392

Councilmember Valle arrived at meeting at 6:55 p.m.

**D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Subdivision (b) of Section 54956.9a)**

Name of case: Bay Area Cellular Telephone Company et al, vs. City of Union City, Alameda County Superior Court, Case No. HG 04-161366

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

Name of Case: Munoz vs. City of Union City, Alameda County Superior Court Case H204672-7

Meeting adjourned at 7:05 p.m.

**MINUTES FOR THE REGULAR
CITY COUNCIL MEETING OF
THE CITY OF UNION CITY
TUESDAY, SEPTEMBER 14, 2004, 7:00 P.M.
COUNCIL CHAMBERS
34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA**

Mayor Green called the meeting to order at 7:15 p.m.

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

Presentation of the Colors was led by the Union City Police Department Explorers.

Phyllis Gray, on behalf of the Human Relations Commission, welcomed those in attendance.

A moment of silence was observed for the Victims of September 11, 2001.

The Schola Quartet sang a beautiful rendition of God Bless America.

PROCLAMATIONS/PRESENTATIONS

- A. Resolutions recognizing Fire and Police Department volunteers for their contributions to Public Safety in conjunction with the City of Union City's Public Safety Appreciation Day

Councilmember Elias moved, seconded by Vice Mayor Fernandez to adopt resolution, numbered appropriately, and read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
NO. 2714-04

- B. Resolution recognizing and welcoming the City of Chiang Rai, Thailand as Sister City to the City of Union City

Councilmember Elias moved, seconded by Councilmember Valle to adopt resolution, numbered appropriately, and read in its entirety.

AYES: 5 NOES: 0 ABSENT: 0 ADOPT RESO.
NO. 2715-04

*There was a short reception at this time in honor of the
Public Safety volunteers and the City of Chiang Rai.*

UNFINISHED BUSINESS - NONE

APPROVAL OF MINUTES

- A. Approval of Minutes of the adjourned regular and regular City Council meeting of Tuesday, August 10, 2004

Councilmember Dutra-Vernaci moved, seconded by Vice Mayor Fernandez to approve minutes of August 10, 2004.

AYES: 5 NOES: 0 ABSENT: 0

Mayor Green called the meeting back to order at 8:02 p.m.

Mayor Green thanked Ms. Gray, the Human Relations Commission and volunteers for their service to the City.

ORAL COMMUNICATIONS

Mani Patel, 30824 Tidewater Drive, commented on harassment that is taking place in the Tidewater neighborhood.

Maria Adas, 3502 Oyster Court, commented on the condition of the freeway offramp.

Winton Turner, 32532 Regents Blvd., commented on graffiti and youth crime reported to him by veterans, and spoke in support of Tidewater neighborhood.

Paul Reeves, Oyster Court, commented on youth crime he has witnessed in the Tidewater area.

Dave Bhatia commented on Chiang Rai, and suggested neighborhood watch groups.

Alodeia T. Baliao, Rosewood Terrace resident, read a letter sent to resident supervisor at Rosewood Terrace.

Rukhsana Qurashi commented on problems at mother's Tidewater residence.

Jim Lewis, 33637 8th Street, submitted name for bicycle advisory committee and questioned the status.

Gaganpreet Bains 30800 Tidewater Drive, spoke in support of neighborhood and to complain about the youth in the neighborhood.

Economic and Community Development Director Mark Leonard stated a consultant has been engaged and notification will go to the participants in the next several weeks regarding the Bicycle Advisory Committee.

Larry Cheeves, City Manager, stated an investigation will take place and pressure will be exerted to have the problem at Rosewood Terrace resolved.

HEARINGS - NONE

Councilmember Valle left the meeting at 8:57 p.m.

REPORTS FROM CITY MANAGER

A. Establishing procedures for administering low income refunds of Measure K Parcel Tax payments

Staff is proposing a simple procedure for refunding Measure K parcel tax payments made by low-income households in Union City. The proposed refund procedure is consistent with the low-income Measure K exemption established by the Council.

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

Councilmember Valle returned to meeting at 9:01 p.m.

Hugh McNamara stated that the prior year's tax year should be used for this exemption.

Councilmember Elias moved, seconded by Mayor Green to direct staff to send notification (mail) to each household regarding the refund process and process checks within 10 working days from date of verification. Refunds can be made for the full tax year.

AYES: 5 NOES: 0 ABSENT: 0

REDEVELOPMENT AGENCY - NONE

AUTHORITIES/AGENCIES - NONE

- G. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY DECLARING CERTAIN VEHICLES NOT IN USE AS SURPLUS ADOPT RESO. NO. 2719-04

There are 14 surplus vehicles in storage at the Corporation Yard which are all in poor condition and have become too costly to maintain and are retired from service. Staff is requesting that these vehicles are declared as surplus and authorization to send them to auction at Nation Wide Auto Action in Benicia, CA. Money received from the action will be put back into the vehicle replacement account.

- H. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING DONATION OF ONE 1987 JEEP CHEROKEE TO THE POLICE ATHLETIC LEAGUE ADOPT RESO. NO. 2720-04

The 2004/05 budget included authorization for the replacement of one 1987 Jeep Cherokee which has been replaced. The Police Athletic League has requested this vehicle donated to them.

- I. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AWARDED CONTRACT AND PURCHASE OF ONE BACKUP NATURAL GAS COMPRESSOR SKID, CITY PROJECT NO. 04-19 ADOPT RESO. NO. 2721-04

The Alameda County Congestion Management Agency and the Bay Area Air quality Management District approved a grant for the purchase and installation of one backup compressor for the compressed natural gas fuel station in the amount of \$50,000. Staff is requesting authorization to approve an agreement with Accel Project systems, Inc. to install this backup compressor.

- J. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING EXECUTION OF AN EASEMENT AGREEMENT AND AUTHORIZING ACCEPTANCE OF AN EASEMENT FOR PIPELINE CONSTRUCTION PURPOSES IN CONNECTION WITH DEVELOPMENT OF A STORM WATER DETENTION BASIN SYSTEM ON THE PSSC ROUTE 84 PROPERTY BEING ACQUIRED BY THE CITY ADOPT RESO. NO. 2722-04

The City is constructing a Detention Basis system within the PSSC Route 84 right-of-way that will provide drainage for development of the former PG&E property and the former PSSC property. One component of the system is constructing two pipes within the 2C detention basin owned by 2C Development Co., LLC. The two pipes will connect the Route 84 Detention Basin to the Line M Flood Control Channel. The Council is requested to accept an easement from the 2C Development Co. to construct and operate two pipes within the 2C detention basin.

K. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING THE FIRST RESPONDER ADVANCED LIFE SUPPORT AGREEMENT WITH THE COUNTY OF ALAMEDA

ADOPT RESO.
NO. 2723-04

Union City has participated in the County's First Responder Advanced Life Support agreement for ten years. The agreement provides revenue to the city for providing medical Advanced Life support services by the Fire Department. Monies are paid to the County by the private ambulance contractor as a provision of the transport agreement. Portions of these monies are passed on to the cities providing these services to offset a portion of the total costs to provide this service level.

The title of Item A is as follows:

A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING AGREEMENT WITH HILTON FARNKOPF & HOBSON LLC FOR RECYCLING/REFUSE COLLECTION VEHICLE IMPACT FEE ANALYSIS

The daily operation of heavy refuse collection vehicles (i.e., garbage trucks) on residential streets has been identified as a significant factor that contribute to the wear and tear. The constant starting and stopping of these vehicles which can exceed 25 tons in weight when fully loaded, shortens the useful lifespan of residential streets resulting in higher repair costs for the City. Staff is recommending an agreement with the firm of Hilton Farnkopf & Hobson to perform a resident refuse vehicle impact fee analysis.

Due to a conflict of interest with Item A, Councilmember Valle left the meeting.

Mayor Green questioned and received response that this is directed at garbage trucks only. It was also stated that this will be implemented in time for the 2005/06 contract.

Councilmember Elias moved, seconded by Vice Mayor Fernandez to approve Item A, numbered appropriately.

AYES: 4 NOES: 0 ABSENT: 1 (RV) ADOPT RESO.
NO. 2724-04

The title of Item B is as follows:

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING AN AGREEMENT WITH HILTON FARNKOPF & HOBSON LLC TO PROVIDE ANALYTICAL SERVICES REQUIRED FOR THE SETTLEMENT PROCESS OF COMPENSATION CLAIMS FILED BY WASTE MANAGEMENT, INC. OF ALAMEDA COUNTY FOR CALENDAR 2003 AND TAX YEAR 2003-04

Due to the complexity of the current franchise agreement between the City and Waste Management, Inc. of Alameda County, a series of compensation claims have been filed by Waste Management against the City for the past eight years. These claims continue with the most recent claim related to revenues the City owes Waste Management for calendar year 2003. Staff is recommending authorization of an agreement with Hilton Farnkopf & Hobson LLC to provide analytical services required for the settlement process of compensation claims.

Due to a conflict of interest with Item B, Councilmember Valle left the meeting.

Mayor Green questioned and received response that we will probably see claims from Waste Management for 2004 year as well.

Councilmember Elias moved, seconded by Councilmember Dutra-Vernaci to approve Item A, numbered appropriately.

AYES: 4

NOES: 0

ABSENT: 1 (RV)

ADOPT RESO.
NO. 2725-04

Councilmember Valle returned to the meeting at this time.

The title of Item F is as follows:

- F. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY AUTHORIZING THE CITY MANAGER TO EXECUTE THE ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY (CMA) FUND TRANSFER AGREEMENT FOR CMA TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FUNDS FOR THE UNION CITY INTERMODAL STATION, PHASE 1 PROJECT

The Alameda County Congestion Management Agency (CMA) has prepared a Fund Transfer Agreement under the CMA Transportation Improvement Program (CMA TIP) which specifies the terms and conditions for reimbursement from the CMA to the City for the Intermodal Station Phase 1 project. The \$1,000,000 in funds available from CMA TIP are eligible for the preliminary engineering and final design cost as part of the design contract with Roma Design Group, Inc.

Mayor Green removed Item F to compliment the presentation made last Saturday at the PG&E site.

Mayor Green moved, seconded by Councilmember Elias to approve Item F, numbered appropriately.

AYES: 5

NOES: 0

ABSENT: 0

ADOPT RESO.
NO. 2726-04

The title of Item L is as follows:

- L. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPROVING SITE DEVELOPMENT REVIEW SD-08-04 TO ALLOW A MEDICAL CLINIC AND RETAIL COMMERCIAL BUILDING

Washington Hospital and Berkeley Land are requesting approval of a Site Development Review Permit to construct a 5,490 square foot one-story medical office building for Washington Hospital with an associated 2,050 square foot conference center on property located at 33077 Alvarado-Niles Road and a 7,350 square foot one-story retail commercial building on property located at 33121 Alvarado-Niles Road. The proposed project is considered Categorical Exempt per Section 15332, Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

Councilmember Valle removed this item to compliment the architect on the plan for foliage and landscaping, but is concerned with the design of the building.

John Eddy, representing Washington Hospital, responded to concerns raised by the Council.

Barry Ferrier, expressed appreciation for the storage space, and availability of meeting and training rooms that will be made available to CERT.

Councilmember Valle moved, seconded by Councilmember Elias to approve Item L, numbered appropriately.

AYES: 5

NOES: 0

ABSENT: 0

ADOPT RESO.
NO. 2727-04

The title of Item M is as follows:

- M. FINAL READING ORDINANCE NO. 633-04: AN ORDINANCE OF THE CITY OF UNION CITY AMENDING SECTIONS 7.20.050 AND 7.20.130 OF THE UNION CITY MUNICIPAL CODE PERTAINING TO AUTHORIZING REFUNDING OF 911 EMERGENCY COMMUNICATION SYSTEM RESPONSE FEES

This ordinance amends Sections 7.20.05 and 7.20.130 of the Union City Municipal Code and authorizes the refunding of 911 Emergency Communication System Response Fee (911 Fees) paid for phones that are physically located outside of Union City and do not have a 510 area code; and 911 fees paid by businesses that exceed 20% of the total monthly telecommunications bills for the company, on a carrier by carrier basis.

A representative from ECM handed out spread sheets to Council which showed that the 911 fee is more than their regular phone bill and stated the refund recommendation on the agenda tonight is not a viable solution for his company.

Mayor Green moved, seconded by Vice Mayor Fernandez to approve ordinance, and approving an administrative policy to work with companies on providing a more frequent allowable reimbursement.

AYES: 5 NOES: 0 ABSENT: 0 FINAL ORD.
633-04

ORAL COMMUNICATIONS

Barry Ferrier commented on the presentation last Saturday at the PG&E site.

Kenneth Ryan urged Council to ask staff for full review on 84.

Jim Lewis commented on neighborhood watch meetings.

CORRESPONDENCE - NONE

APPROVAL OF BILLS - MONTH OF AUGUST

- A. Approval of disbursements for month of August 2004

Councilmember Elias moved, seconded by Councilmember Dutra-Vernaci to approve disbursements for month of August 2004.

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 Dutra-Vernaci stated she will be attending the League of California Cities annual conference next week and will report back at the next meeting.

Vice Mayor Fernandez reported there will be a subcommittee meeting with NHUSD on September 27th.

GOOD OF THE ORDER

Councilmember Elias commented on a truck that drops off several people at the end of a block and then proceed to empty all recyclable bins. Is there anything the city can do (ordinance) to prevent this or stiffen the fine. Councilmember Elias requested follow-up on the next agenda.

Councilmember Dutra-Vernaci thanked staff for work on Measure K and 911 fee for tonight's agenda items.

Councilmember Valle commented on the need for repair on the brick work at Michael's center.

Economic and Community Development Director Mark Leonard responded that we have tried to get compliance with no success. Property owner will be cited soon.

Councilmember Valle requested clean up of weeds at the entry ways to Union Landing.

Mayor Green questioned the effectiveness of the increase in traffic fines in school zones.

Captain Greg Stewart stated the signs appear to be working and drivers are adhering to the warning.

Mayor Green commented on last night's presentation by CORO.

At 10:40 p.m. Councilmember Valle moved, seconded by Councilmember Elias to adjourn meeting to Tuesday, September 21, 2004 for Planning Commission interviews.

AYES: 5 NOES: 0 ABSENT: 0