

REGULAR JOINT MEETING OF THE
CONCORD CITY COUNCIL AND
REDEVELOPMENT AGENCY
CITY COUNCIL CONFERENCE ROOM
COUNCIL CHAMBER
1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA
MARCH 6, 2007

The Concord City Council and Redevelopment Agency met in regular session in the City Council Conference Room at 5:30 p.m. on Tuesday, March 6, 2007 with all members present and Mayor/Agencymember Mark Peterson presiding. There were no public comments and at 5:35 p.m. the meeting adjourned to reconvene in closed session with all members present to 1) confer with Legal Counsel to discuss significant exposure to potential litigation against the City pursuant to Government Code Section 54956.9(b)(3)(C) regarding the claim of Chris Anastos; 2) Confer with Legal Counsel pursuant to Government Code Section 54956.9(a) regarding existing litigation entitled: *Helen Ng v. City of Concord, et al.* Contra Costa County Superior Court Case No. 06-00728; and 3) confer with Labor Negotiators pursuant to Government Code Section 54957.6 with City Negotiators: Cherie Rosenquist, Director of Human Resources, and Michelle Tellez, Employee Relations Manager and Employee Organizations: Concord Police Officers Association and Police Management Unit.

The meeting adjourned at 6:40 p.m. to reconvene in the City Council Chamber at 6:50 p.m. in a regular joint meeting with Mayor/Agencymember Peterson presiding. The pledge to the flag was led by Councilmember Allen. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT: Helen Allen, Michael Chavez, Laura Hoffmeister, Bill Shinn, Mark Peterson,

COUNCILMEMBERS ABSENT: None

STAFF PRESENT: Lydia Du Borg, City Manager; Craig Labadie, City Attorney; Mark Deven, Assistant City Manager; Mary Rae Lehman, City Clerk; Peggy Lefebvre, Director of Finance; Peter Dragovich, Director of City Management; Jim Forsberg, Director of Planning and Economic Development; Cherie Rosenquist, Director of Human Resources; Alex Pascual, Director of Building, Engineering, and Neighborhood Services; Qamar Khan, Director of Public Works; Deborah Raines, Planning Manager; Helen Bean, Economic/ Redevelopment Manager; Michael Wright, Reuse Project Director; Ron Puccinelli, Director of Information Technology; Frank Abejo, Senior Planner;

MEMBERS OF THE AUDIENCE
WHO ADDRESSED COUNCIL:

Jamie Perkins, Oakland; Gabrielle Diaz, Concord; Gregg Tate, Concord; Mike Stone, Concord; Donna LaBue, Concord; Jerry Littlefield, Antioch; Don Beecher, Concord; Richard Shuler, Concord; Bobbi Acord, Concord; Karen Williams, Concord; Dawn Johnson, Concord; Samuel Woodruff, Concord; Kenneth Barley, Pleasant Hill; Bill Wygal, Martinez; Fred Seely, Walnut Creek; Jane Sullivan, Concord; Caleb Heikkila, Concord; William Hyde, Concord; Linda Hyde, Concord; Leonard Holmes, Lafayette; Rick Connett, Concord; David Platt, Walnut Creek; Casey Sawyers, Concord; Jim Gardner, Concord; James Disney, Concord; Tim Burgess, Concord; Charles Peters, Fords, NJ; Tanya Gunderson, Concord; Sheryl Dron, Concord; Sean Ross, Concord; Cynthia Bennington, Concord; Rich Henderson, Walnut Creek; Brian Fealy, Concord; Amy Martin, Concord; Kris Hunt, Martinez; Joe Livoti, Concord; Joseph Moore, Concord; David Travers, Concord; Brad Smith, Concord; Gregg Davidson, Concord; Gail Hayden, Concord; Bettye Greer, Concord; Kevin VanBuskirk, Pleasant Hill; Mike Hunt, Concord; Linda Walling-Stone, Concord; Marlenee Emigh, Concord; Naomi Stine, Concord;

PUBLIC COMMENT PERIOD

There were no public comments.

PRESENTATION – Update on the Concord Community Reuse Plan

Reuse Project Director Michael Wright advised that the Navy had published the Notice of Surplus for the inland portion of the Concord Naval Weapons Station on March 6, 2007, which officially designates the 5,028 acres of property in the inland area as surplus after 63 acres are transferred to the U.S. Coast Guard and 115 acres are transferred to the U.S. Army. He stated that in accordance with regulations and statutes established under the Base Realignment and Closure Act, the publication begins the time line for preparation of the community's reuse plan and screening for homeless and public interests. He stated that the City anticipates publishing the Notice of Interest for homeless and public interests during the week of March 26, 2007.

Director Wright explained that the project team had continued planning efforts in spite of the recent uncertainties, and that Stage 1 work was ahead of schedule and budget. He announced that Stage 1 planning would culminate with an informal presentation to the public of key findings at a "Get the Facts" Open House scheduled for March 17, 2007 at the Concord Senior Center. He went on to explain that Stage 2 planning efforts were commencing to develop, with the input of the community through two workshops, a mix of alternative uses and concluded by stating that the Technical Advisory Group are beginning to be established, with the solicitation of members for a transportation group and that shortly the team would be setting up similar groups for Parks/Recreation and Open Space, Education and Public Services.

CITY COUNCIL
MATTERS

AWARD OF CONTRACT – Project No. 1728, Replacement of the Computer Aided Dispatch (CAD) System at the Concord Police Department

The following bids were opened on Thursday, July 13, 2006, at 2:00 p.m. in the City Clerk's Office:

Valor Systems Inc.	Westmont, IL	\$ 721,366
InterAct Public Safety Systems	Ashville, NC	\$ 749,823
Positron Public Safety Systems	Montreal, Canada	\$ 874,907
CompuDyne	Pleasanton, CA	\$1,028,253
TriTech Software Systems	San Diego, CA	\$1,130,702
New World Systems	Troy, MI	\$1,313,638
Intergraph Public Safety Inc.	Madison, AL	\$1,724,029

Motion was made by Allen and seconded by Shinn to award a contract in the amount of \$1,126,998 to TriTech Software Systems as the lowest responsible bidder for CIP Project No. 1728, Replacement of the Computer Aided Dispatch (CAD) System at the Concord Police Department. Motion passed by unanimous vote of the Council.

AMENDMENT TO GROUND LEASE – Premier Waterworld Concord, Inc.

Motion was made by Allen and seconded by Shinn to approve the third amendment to the Ground Lease for Waterworld USA with Premier Waterworld Concord, Inc. increasing the base rent per month to \$11,297 in accordance with the provisions of the lease. Motion passed by unanimous vote of the Council.

CONTINUATION OF EMERGENCY ACTION – Project 2034, Ygnacio Valley Road Landslide Repair

Motion was made by Allen and seconded by Shinn to authorize the continuation of emergency action at Ygnacio Valley Road Landslide, Project 2034, pursuant to Section 220250 of the Public Contract Code. Motion passed by unanimous vote of the Council.

AWARD OF CONTRACT – Project No. 2043, Hillcrest Park Playground Replacement

Motion was made by Allen and seconded by Shinn to award a contract in the amount of \$244,714.85 to Gametime, a contract supplier with U.S. Communities, formed under U.S. Code, Title 26, Internal Review Code and incorporated in California under the Nonprofit Public Benefit Corporation Law, for Project No. 2043, Hillcrest Park Playground Replacement, a playground for children of all abilities. Motion passed by unanimous vote of the Council.

AGREEMENT WITH FRANCISCO & ASSOCIATES – Professional Services Agreement for Public Noticing and Mailing

Motion was made by Allen and seconded by Shinn to approve an agreement for professional services with Francisco & Associates in the amount of \$20,500 for preparation and mailing of the Proposition 218 public notice for a \$36 sewer service charge increase. Motion passed by unanimous vote of the Council.

AWARD OF CONTRACT – Project No. 2048, Todos Santos Plaza Improvements

The following bids were opened on Wednesday, February 14, 2007 at 1:00 p.m.:

Rodan Builders, Inc.	\$ 292,300
Golden Bay	\$ 328,114
Biland Construction	\$ 329,515
AJ Vasconi	\$ 458,975

Motion was made by Allen and seconded by Shinn to award a construction contract in the amount of \$292,300 to Rodan Builders, Inc. of Belmont as the lowest responsible bidder and waiving a minor defect in the bid proposal for Project No. 2048, Todos Santos Plaza Improvements, and to approve \$300,000 in related budget transfers. Motion passed by unanimous vote of the Council.

AWARD OF CONTRACT – Project No. 2039, Police Department Service Desk Improvements

The following bids were opened on Friday, January 19, 2007 at 4:00 p.m.:

Melloni Construction	\$ 36,226.95
Elan Construction	\$ 41,000.00
Pacific Coast Reconstruction & Building, Inc.	\$ 47,700.00
Rodan Builders, Inc.	\$ 56,150.00

Motion was made by Allen and seconded by Shinn to award a construction contract to Melloni Construction of Brentwood as the lowest responsible bidder in the amount of \$36,226.95 for Project No. 2039, Police Department Service Desk Improvements, and to approve a related budget transfer in the amount of \$16,000. Motion passed by unanimous vote of the Council.

LICENSE AGREEMENT WITH EAST BAY REGIONAL PARK DISTRICT - Delta De Anza Regional Trail

This item was pulled from the agenda by Jamie Perkins, representing the East Bay Regional Park District, who thanked the City for the cooperation it has given in support of the East Bay Regional Park Trail system stating that the 29 trails intersect towns and cities in Alameda and Contra Costa County and that the De Anza Trail, when completed will connect Concord, Bay Point, Pittsburg, Antioch and Oakley and provide access to Contra Loma Regional Park through Antioch Community Park.

Motion was made by Hoffmeister and seconded by Shinn to approve a 25-year License Agreement with the East Bay Regional Park District for operation and maintenance of portions of the Delta De Anza Regional Trail which follows the edge of Hillcrest Park and to authorize the City Manager to execute the agreement. Motion passed by unanimous vote of the Council.

JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY

SETTING OF PUBLIC HEARING – Home Depot Sale

Motion was made by Allen and seconded by Chavez to set a public hearing for Tuesday, March 27, 2007 at 6:30 p.m. in the Council Chamber to consider a resolution of the Redevelopment Agency of the City of Concord authorizing its Executive Director to execute an Agreement of Purchase and Sale including all exhibits thereto by and between the

Redevelopment Agency of the City of Concord and Home Depot U.S.A., Inc. for the purchase and sale of that certain property located at 2090 Meridian Park Blvd. within the City of Concord. Motion passed by unanimous vote of the Council/Agency.

CITY COUNCIL MATTERS

APPLICATION FOR DEVELOPMENT – Proposed Retail Center

Mayor Peterson advised that on February 27, 2007, a public hearing on the application submitted by Winton Jones Development for a new retail center on a 28.05-acre site at 1923-1985 and 2001 Arnold Industrial Way was opened and testimony taken. By vote of the Council, the public hearing remained open and was continue to this date. Mayor Peterson announced that he had reviewed a tape of the February 27, 2007 hearing and would be continuing the hearing.

Senior Planner Frank Abejo gave a brief report clarifying crime impacts and concluding that the Concord Police Department has advised that construction of the retail center would have less than significant impact on available services. He went on to share data on the impact to other established businesses in the area of Walmart operations in other communities and stated that other locations have not imposed impact fees. Mr. Abejo confirmed that there would be no Redevelopment Agency assistance to the project and addressed the parking ratios concerns of the Council indicating they were consistent with the services offered and within the standards set for another center within the community. He concluded that conditions 12, 13, & 15 had been changed to reflect concerns expressed on February 27, 2007, advising that the changes would thwart the potential for Walmart to expand to a SuperCenter in the future and to reflect a more accurate square footage.

Councilmember Hoffmeister expressed her questions and concerns over the proposed reduced parking ratios, enforcement which would prohibit Walmart from allowing Recreation Vehicles to park in their parking lot overnight, and the proposed 24 hour operation.

Erica Jones-Starkey, representing the Winton Jones Development, submitted a petition with over 3000 names from persons in the community and surrounding area who were in support of a retail center off Arnold Industrial Way that would include a Walmart store.

Steve Abrams, a Traffic Engineer, presented information on the studies that had been conducted on the project as they related to traffic congestion and impacts on residential streets and Highway 4 stating that overall the impacts were less than significant. He also addressed questions from the Council on potential traffic impacts.

Mayor Peterson announced that the Public Hearing would be continued and that those persons who spoke on February 27, 2007, would not be given an opportunity to speak again.

Gabrielle Diaz, student from Concord; Donna LoBue, Concord; Bill Wygal, Martinez; Jane Sullivan, Concord; Caleb Heikkila, Concord; Casey Sawyer, Concord; Jim Gardner, Concord; Tim Burgess, Concord; and Charlie Peters, Fords, New Jersey presented comments stating their opposition to the development citing various reasons.

Gregg Tate, Concord; Jerry Littlefield, Antioch; Don Beecher, Concord; Richard Shuler, Concord; Bobbi Acord, Concord; Karen Williams, Concord; Dawn Johnson, Concord; Samuel Woodruff, Concord; Kenneth Barley, Pleasant Hill; Ken Barley,....; Fred Seely, Walnut Creek; William Hyde, Concord; Linda Hyde, Concord; Leonard Holmes, Lafayette; Rick Connett, Concord; David Platt, Walnut Creek; James Disney, Concord; and Tanya Gunderson, Concord presented comments stating their support for a development and citing various reasons.

Mayor Peterson called a recess at 8:30 p.m. He reconvened the meeting at 8:50 p.m. and continued taking public testimony.

Sean Ross, Concord; Cynthia Bennington, Concord; Brian Fealy, Concord, Amy Martin, Concord; Joe Livoti, Concord; Joseph Moore, Concord; Craig Peterson, Pleasant Hill; Anne-Martin Moore, Concord; David Travers, Concord; Gail Hayden, Concord; Kevin Van Buskirk, Pleasant Hill; Mike Hunt, Concord; Linda Walling-Stone, Concord; Marlenee Emigh, Concord; and Naomi Stine, Concord spoke in opposition to the development and cited various reasons.

Sheryl Dron, Concord; Rich Henderson, Walnut Creek; Kris Hunt, Martinez; Brad Smith, Concord; and Bettye Greer, Concord expressed their support of the project citing various reasons.

Gregg Davidson, Appellant and representative for No More on 4, stated that the proposed project will bring a higher number of vehicles to the area than stated in the Environmental Impact Report and stated that his research had revealed that Walmart had been fined for various violations which were not desirable for this community. He concluded his remarks by stating that the Environmental Impact Report needed to be redone.

Erika Jones-Starkey introduced Walmart Representative Kevin Loscotoff who addressed several of the issues expressed by the public speakers, and answered questions posed by the Councilmembers concerning store size, location, and employee practices.

Olin Jones, owner of the project location, stated that his family had been longtime members of the community and that the family is currently attempting to develop the family property with the best interests of the community in mind. He stated that the project has the support of a large portion of the community and expressed his belief that the proposal would be a beneficial addition to the City.

Following the conclusion of questions posed by the Councilmembers, Mayor Peterson closed the public hearing.

Jim Musbach and Jason Moody, representing Economic and Planning Systems, provided answers to several questions posed by the City Council regarding potential sales opportunities and the sales tax revenue the City might expect from the project.

Chief of Police David Livingston responded to questions posed by Vice Mayor Shinn concerning the type of crimes other cities had experienced because of 24-hour operations of a Walmart stating that they were primarily calls for service.

Councilmember Hoffmeister expressed her concern over several aspects of the project stating that in her opinion the Environmental Impact Report was inadequate and Vice Mayor Shinn expressed his support of the project.

Motion was made by Hoffmeister and seconded by Allen to not certify the Environmental Impact Report. Motion passed by the following vote of the Council:

AYES: Allen, Chavez, Hoffmeister NOES: Shinn, Peterson ABSTAIN: None

Mayor Peterson called a recess at 11:15 p.m. and reconvened the meeting at 11:27 p.m.

City Attorney Craig Labadie recapped the actions which had occurred prior to the recess and stated that because the Environmental Impact Report was not certified the project could not go forward, that no action would be required on the project or the appeal presented by Gregg Davidson, and that the only additional action required would be approval of a resolution that would confirm the action taken which would be brought back at a later date.

CORRESPONDENCE

- a. Clean Air Performance Professionals presents "A Practical Solution for Pollution Prevention".
- b. Petitions of support presented by Erica Starkey containing 3148 signatures.
- c. Letter dated August 23, 1988 addressed to the Mayor and City Council submitted by Allie Gramm.
- d. Miscellaneous newspaper articles concerning Wal-Mart submitted by Linda Walling-Stone.
- e. Petitions of opposition containing 25 signatures submitted by unidentified individual.
- f. Benched letter dated March 6, 2007 from Keith Wagner, objecting to the proposed Jones ranch project on behalf of No More on 4.
- g. Benched memorandum dated March 6, 2007 from Frank Abejo, Senior Planner presenting minor revisions to the Statement of Overriding Considerations.
- h. Benched page 7 of the proposed Conditions showing revisions to Condition #15.
- i. Four pieces of correspondence concerning the proposed Jones Ranch development.
- j. Forty-seven pieces of correspondence concerning the proposed Jones Ranch development.

CLOSED SESSION REPORTS

City Attorney Craig Labadie announced the City Council had met in closed session to consider the proposed settlements of a lawsuit and a claim. By a 5-0 vote, the Council approved a \$35,500 settlement of the personal injury claim filed by Chris Anastos and a \$30,000 settlement of the property damage lawsuit filed in Contra Costa County Superior Court in the case of Helen Ng v. City of Concord, et al. (Case No. 06-00728).

COUNCIL AND STAFF REPORTS

Vice Mayor Shinn reported on his attendance at a planning session on the development of alternatives for youth who are at risk for gang involvement and on a meeting held in Sacramento on sexual offender laws.

By order of the Mayor, the meeting was adjourned at 11:40 p.m.

MARK A. PETERSON
MAYOR/AGENCYMEMBER

HELEN M. ALLEN
COUNCILMEMBER/AGENCY CHAIR

MARY RAE LEHMAN
CITY CLERK/AGENCY SECRETARY