



Hayward Area Recreation and Park District

1099 "E" Street, Hayward, CA 94541

(510) 881-6700

MINUTES

June 8, 2009

MEETING

The Regular Meeting of the Board of Directors of the Hayward Area Recreation and Park District was called to order by President Carol A. Pereira at 5:05 p.m. on Monday, June 8, 2009 in the Board Room of the Administration Building at 1099 'E' Street, Hayward.

PLEDGE TO FLAG

The Pledge of Allegiance was followed by Roll Call.

PRESENT

Directors: Andrade, Hodges, Jameson (5:08 p.m.), Pereira, Waespi

Staff: Shue, Silva, Gouveia, Lepore, Hamid

CONSENT CALENDAR

It was moved by Director Andrade, second by Director Hodges, and unanimously carried to approve the Consent Calendar as set forth below (Absent: Jameson).

Minutes

The Minutes of the Regular Meeting of the Board of Directors on Monday, May 26, 2009 at 7:00 p.m.

Finance

The Invoices payable and Warrants paying the Invoices were prepared and presented for Board of Directors' approval.

R-0809-104
Personnel

Adoption of Resolution No. R-0809-104, authorizing appointments and the separation of Hourly Employees.

MISSION HILLS OF HAYWARD GOLF COURSE

Resurfacing
Of Parking Lot

Staff reported that the contractor, Dennis Severs Construction Co., has completed the resurfacing of the Mission Hills of Hayward Golf Course parking lot. Staff said that as part of the project, a subcontractor not listed on the original public bid proposal was used to complete a portion of the work, which violated the California Public Contract Code. The subcontractor's work had exceeded more than half of one percent of the total project. Staff said that the estimated cost is \$1,170, which was paid by the contractor and not charged to the Hayward Area Recreation and Park District.

CA Public Contract
Code Requires Listing
of All Subcontractors
on Bid Proposal

Additionally, Staff reported that California Public Contract Code requires that the prime contractor list all subcontractors on their bid proposal. If a prime contractor uses a subcontractor not listed on the bid proposal, the prime contractor is subject to penalties. Staff said that the District, as the awarding authority, may exercise the option, in its own discretion, to assess a penalty in an amount not more than ten percent of the amount of

**MISSION HILLS OF
HAYWARD GOLF
COURSE (Continued)**

	the subcontractor work. In addition, the penalty shall be deposited in the fund out of which the prime contract was awarded, which was the Repair and Maintenance Account of the Golf Department.
BOD to Determine If Penalty Should Be Assessed	Staff said that the Capital Outlay Committee and the Golf Operations Committee met with Mr. Dennis Severs and a representative from the Laborers' Local 304. Staff requested that the Board of Directors determine if a penalty should be assessed, with the maximum amount not to exceed \$117.
BOD & Staff Comments	For the Board's clarification, President Pereira stated that it is Staff's intent to receive direction from the Board on whether a penalty should be assessed to Dennis Severs Construction Co.
Director Andrade Moves to Waive Penalty	Director Andrade expressed that he was not clear on the issue when it was initially presented to the Board, and since it was not an agenda item, he was not permitted to ask questions. In addition, he said that he thought the District would be liable and would be assessed a penalty from the State. However, Director Andrade said that now that he understands the issue, he believes that the contractor acted in good faith, and since the assessed penalty is very minimal, he moved to waive the penalty. He reiterated that he did not understand the issue when it was first presented, that Staff's report was not clear, and expressed his apologies for the misunderstanding. Director Andrade's motion failed for lack of a second.
Motion Failed for Lack of Second	
President Pereira Clarifies Staff's Request	President Pereira reiterated that the Board has been asked to determine if a penalty should be assessed, with the maximum amount not to exceed \$117, as presented by Staff.
Director Hodges - Maximum Penalty Should Be Assessed	Director Hodges stated that the California Public Contract Code as presented in the Description of Items was precise and it was clear that the Code had been violated. He said that Mr. Severs appears to be a very nice gentleman; however, he made an error, which obviously violated the Code. Director Hodges added that the maximum penalty was a minimal amount and should be assessed by the District, the awarding authority. He concluded that the District's action to assess a penalty would demonstrate that the Hayward Area Recreation and Park District has adequately enforced and met the requirements of the California Public Contract Code.
Director Waespi - States That Penalty Should Be Assessed	Director Waespi stated that he concurs that Mr. Severs acted in good faith; however, he should have been more thorough in his bid proposal and that imposing a penalty would be appropriate.
Director Jameson – HARD R'c'd Paperwork Forwarded by Laborer's Local 304	Director Jameson addressed Mr. Chris Stampolis, Laborers' Local 304, seated in the audience. She stated that the Board was in receipt of the paperwork forwarded by the Union, which was duplicated, and thanked him for doing so. She added that this is an example that correspondence received gets forwarded to the Board.

MISSION HILLS OF HAYWARD GOLF COURSE (Continued)

Motion Carried To Assess A Penalty To Dennis Severs Construction Co.

There being no further comments, it was moved by Director Waespi, second by Director Hodges, and carried to adopt the following:

Motion carried to assess a penalty to Dennis Severs Construction Co., contractor of the Mission Hills of Hayward parking lot resurfacing project, with the maximum amount of the penalty not to exceed \$117, for the contractor's violation of the California Public Contractors Code. (Noes: Andrade).

BOARD OF DIRECTORS' COMMITTEE REPORTS

Adoption of a Resolution to Oppose the Suspension of Proposition 1A

Program, Policy and Public Relations: Staff reported that in the Governor's May Revision of the State budget, Governor Schwarzenegger declared his intent to borrow just over \$2.0 billion from cities, counties and special districts in the coming fiscal year. The passage of Proposition 1A in 2004, allows the State to borrow up to 8% of local governments' property tax revenue, which must be repaid within three budget years, with interest, and cannot be employed again within ten years.

Proposed Additional \$2.2 Million Transfer of HARD Property Tax Revenue to the State of CA

Staff said that based on the current property tax transfer to the State, an additional 8% from the Hayward Area Recreation and Park District calculates to approximately \$2,273,000 of additional local property tax revenue being transferred to the State of California. Last fiscal year, \$12 million of the Hayward Area Recreation and Park District's local property taxes were transferred to the State under the California's Educational Revenue Augmentation Fund (ERAF). Through June 30, 2009, more than \$124 million will have been transferred to the State of California from the Hayward Area Recreation and Park District alone.

Loss of Property Tax Revenue Has Severely Restricted District's Day-to-Day Operations and Capital Outlay Program

Further, Staff said that the Hayward Area Recreation and Park District has suffered numerous budgetary reductions over the years due to the permanent annual shift of property tax revenue, which has severely restricted the District's day-to-day operation, and the Capital Outlay Program. Staff said that the shift of an additional \$2,273,000 will not only adversely impact the District's ability to maintain much-needed services, programs and facilities, but would also result in far-reaching reductions in the District's budget, which has diminished considerably and placed the District's budget under serious fiscal pressure since ERAF first began in fiscal year 1992/93.

Staff Recommends Adoption of Resolution Opposing State From Borrowing Additional Property Tax Revenue

Staff recommended that the Board of Directors adopt a Resolution opposing the State of California from borrowing additional taxes from local governments that cannot sustain the loss of any more property tax revenue as that will only deepen the financial challenges facing the Hayward Area Recreation and Park District, and seriously impact the services to the constituents served by the District; further, encourage the Legislature to continue to work and seek alternative solutions. Staff said

BOARD OF DIRECTORS' COMMITTEE REPORTS
(Continued)

BOD & Staff
Comments

that local revenue should be kept locally to provide services and facilities to the residents, property owners and participants, and to meet the park and recreation needs and improve the quality of life of the District's 270,000 residents.

Joint-Letter to Be Forwarded to Governor Schwarzenegger

In response to Board questions, Staff said that a joint-letter opposing the suspension of Proposition 1A will be forwarded to Governor Schwarzenegger from President Pereira and Mayor Michael Sweeney. In addition, a copy of the letter will be forwarded to the Board and posted on the District's website, along with a copy of the Resolution. Staff reiterated that the Governor has signed his Executive Order to suspend Proposition 1A.

It was moved by Director Jameson, second by Director Andrade and unanimously carried to adopt the following:

R-0809-105
Opposing the Suspension of Proposition 1A

Resolution No. R-0809-105, opposing the suspension of Proposition 1A, and opposing the Governor's proposal to borrow or seize additional local property taxes to fund the State budget.

REPORT ON BOARD MEMBERS' ACTIVITIES

Director Jameson –
Adobe Park
Dedication Ceremony
- 6/5/09

Director Jameson was very pleased to report that she attended the Adobe Park Dedication Ceremony on Friday, June 5, 2009 at 10:30 a.m., which she said was a great celebration. She added that she had noticed a photograph published in the newspaper of skateboarders not wearing safety helmets. Staff responded that the skateboarders had been directed to leave the premises if they did not wish to abide by the rules. President Pereira commented that it is very difficult to enforce helmet regulations to patrons in their early twenties.

Bay Trail 20th
Anniversary
Celebration – HSIC
6/6/09

Director Andrade was pleased to report that he was in attendance to the Bay Trail 20th Anniversary Celebration at the Hayward Shoreline Interpretive Center on Saturday, June 6, 2009. He commended Director Jameson for doing a fine job as Mistress of Ceremonies.

In response to Board requests, Staff said that flyers on current happenings are mailed out to District residents and are posted under the "What's New" section of the District's website.

Director Hodges
Extends Appreciation
to Staff

Director Hodges extended his appreciation to Staff for their assistance in explaining the Capital Outlay budget, which he said was very helpful to him personally.

Next BOD
Meeting –
6/22/09

President Pereira announced that the next Board of Directors' Meeting will be held on Monday, June 22, 2009 at 7:00 p.m. at the District Administration Office, 1099 'E' Street, Hayward.

ADJOURNMENT

There being no further business to conduct, President Pereira declared the meeting adjourned at 5:25 p.m. to a Board of Directors' field trip to the Shannon Community Center, Dublin.

Minane Jameson, Secretary
Board of Directors