



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541

Virtual Platform (Zoom)

<https://hayward.zoom.us/j/88521514106?pwd=bTZtMzRtZnIyYmYzdmMwNlhLOStmdz09>

Tuesday, February 28, 2023, 7:00 p.m.

The City Council meeting was called to order by Mayor Salinas at 7:00 p.m. The City Council held a hybrid meeting in the Council Chambers and virtually via the Zoom platform.

Pledge of Allegiance: Council Member Goldstein

Present: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño
MAYOR Salinas

Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:30 p.m., with all members present and no public comment, regarding two items: (1) annual performance evaluation of the City Clerk pursuant to Government Code section 54957; and (2) conference with property negotiators pursuant to Government Code section 54956.8 regarding Master Lease Renewal - Hayward Area Recreation and Park District; 28846 Bay Heights Rd, N Third St at Crescent Ave, 27020 Fielding Dr, 19501 Hesperian Blvd, 26780 Chiplay Ave, 22325 N 3rd St, 30504 Vanderbilt St, 27182 Patrick Ave, 275 Industrial Parkway West, Farm Hill Dr and Daisy Ct, N 3rd St and Crescent Ave, Colette St & Luvena Dr, Ward Creek Canyon, Eden Ave & Middle Ln, 27600 Decatur Way, Dickens Ave and Folsom Ave, 25610 Spring Dr, Stratford Rd & Canterbury Ln, Hamrick Ln and Rieger Ave, E 10th and Jefferson St, 301 Arrowhead Way, Santa Clara St and Winton Ave, 275 Goodwin St, 2580 Eden Park Pl, Tahoe Ave and Morningside Dr, 27798 Ross Pl, Panjon St and Huntwood Ave, 24176 Mission Blvd, Leonardo Way and Reed Way, 2841 Seahaven Ct, 22737 Main St, Bush Ln, 25625 Cypress Ave.

Senior Assistant City Attorney Vigilia reported that Council discussed both items on the agenda and took no reportable action. The closed session adjourned at 6:32 p.m.

PUBLIC COMMENTS

Ms. TJ, Hayward Concerned Citizens representative, retracted her comments expressed during the February 21, 2023 Council meeting about public comments not being captured in the December 6, 2022 Council minutes, and noted it was brought to her attention that the comments were appropriately noted in minutes.

Mr. Vladimir Balazosa, owner of El Causa Peruvian food truck operating at the Hayward Ranch site, shared that his business was given twenty days to vacate the area, and requested Council's consideration to allow his business to continue to operate or an extension to vacate.

Mr. Ralph Farias shared the City's Planning Division had issued a 30-day notice to vacate businesses leasing at the Hayward Ranch property, urged for a Zoning ordinance amendment

that would allow small businesses to continue to operate until the property owner finalizes plans for the site; and underscored the importance of returning foot traffic to downtown and remaining competitive with neighboring cities.

Mr. Rusty Fox, Hayward Ranch Property Manager, expressed support for the food truck businesses leasing space at the property noting the economic and safety benefit to downtown; and added that the current use was not permanent as the property owner had plans to develop the site.

Mr. Ivan Medina, via a Spanish interpreter, indicated he was the owner of Tacos El Camara food truck, requested that Council reconsider the decision to vacate businesses at the Hayward Ranch property; and added that businesses keep the area clean and the operations at the site prevent the congregation of homeless individuals.

Ms. Reena Johl, Hayward property owner, spoke about the challenges she had with tenants who were not paying rent and were causing damage to her property, acknowledged that the County eviction moratorium was about to expire, and urged the Council to consider protections for tenants and landlords.

Council Member Márquez acknowledged Mayor Pro Tempore Andrews in honor of Black History Month and as the first Black African American woman elected to the City Council and presented her with a bouquet of flowers. Mayor Pro Tempore Andrews thanked all for the recognition.

CITY MANAGER'S COMMENTS

City Manager McAdoo noted that COVID-19 state of emergency for California, Alameda County and Hayward was ending February 28, 2023; stated that the City's committee, commission and task force meetings were resuming in-person meetings with limited exceptions and hybrid participation available for some meeting bodies; added the City's new solid waste and recycling contract with Alameda County Waste Management starts March 1, 2023; and shared that unleaded aviation fuel was now provided for at the Hayward Executive Airport.

CONSENT

Mayor Salinas announced that Consent Item 3 was continuing to the March 21, 2023 Council meeting. Consent Items No. 1, 2, 4, 5, 6, and 7 were removed from the Consent Calendar for comment and separate vote.

1. Adopt a Resolution Approving Plans and Specifications and Call for Bids for the FY23 Pavement Improvement Project No. 05240 **CONS 23-082**

Staff report submitted by Public Works Director Ameri, dated February 28, 2023, was filed.



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Council Member Syrop communicated his interest in making sure the City is building protected bike lanes, noting there was an opportunity to make the city more bikeable and to reach sustainability goals.

Council Member Roche echoed comments expressed by Council Member Syrop advocating for designing bike lanes properly and supporting the collaboration with Bike East Bay.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas

NOES: None

ABSENT: None

ABSTAIN: None

Resolution 23-045, "Resolution Approving Plans and Specifications for the FY23 Pavement Improvement Project, Project No. 05240 and Call for Bids"

2. Adopt a Resolution Approving Plans and Specifications and Call for Bids for the La Vista Park Project No. 06914 **CONS 23-114**

Staff report submitted by Director of Public Works Ameri, dated February 28, 2023, was filed.

In response to Council Member Syrop's inquiry about keyway funding, any impact to the construction of the park, and whether the developer of the landscape and lighting district would pay for the changes, City Manager McAdoo noted keyways were required to help facilitate the development on the Caltrans Parcel Group 3, and help build the park, noted City staff was working with Hayward Area Recreation and Park District (HARD) to figure out funding options for keyways, and ongoing maintenance could potentially be funded through a Geologic Hazard Abatement District (GHAD) which Parcel Group 3 would be required to join.

In response to Council Member Goldstein's inquiry if there were more recent conversations with HARD about the changes in the budget, City Manager McAdoo shared that she was in communication with the General Manager and Public Works staff was in communication with HARD staff regarding capital planning and the funding agreement for La Vista Park.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-046, “Resolution Approving Plans and Specifications and Call for Bids for the La Vista Park Project No. 06914”

3. Adopt Resolutions Authorizing the City Manager to Execute MOUs and Accepting and Appropriating up to \$101,000 for the Operation of Family Education Program Services for Hayward Unified School District (HUSD) Schools **CONS 23-090**

Staff report submitted by Library Services Director Addleman, dated February 28, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolutions.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-047, “Resolution Authorizing the City Manager to Execute MOUs with Hayward Unified School District (HUSD) and California State University, East Bay (CSUEB), Allowing the Library to Offer Library Programs and Mobile Outreach Services at Four (4) HUSD Schools During the 2022-2023 School Year”

Resolution 23-048, “Resolution Authorizing the City Manager to Accept and Appropriate Up to \$101,000 for the Operation of Family Education Program Services for Hayward Unified School District Schools”

4. Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 3 to the Professional Services Agreement with EKI Environment & Water, Inc., for As-Needed Technical Support Related to Implementation of the Groundwater Management Plan Increasing the Contract Amount by \$50,000 for a Total Not-to-Exceed Amount of \$145,000 **CONS 23-095**



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Staff report submitted by Public Works Director Ameri, dated February 28, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-049, "Resolution Authorizing the City Manager to Execute Amendment No. 3 to the Agreement with EKI Environment & Water, Inc. for As-Needed Technical Support Related to Implementation of the Groundwater Management Plan Increasing the Contract Amount by \$50,000 for a Total Not-to exceed Amount of \$145,000"

5. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Landscape Maintenance Contract for the Hayward Medians with Brightview Landscape in an Annual Amount of \$122,406 for a Total Not-to-Exceed Amount of \$489,624, and Appropriate \$30,000 from the General Fund to Fund the Annual Contingency **CONS 23-103**

Staff report submitted by Maintenance Services Director Rullman and Landscape Maintenance Manager Nield, dated February 28, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-050, “Resolution Authorizing the City Manager to Negotiate and Execute a Contract for Hayward Median Maintenance with Brightview Landscape in an Annual Amount of \$122,406 for a Total Not-to-Exceed Amount of \$489,624 and Appropriating \$30,000 from the General Fund to Fund the Annual Contingency”

6. Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Galls to Purchase Point-Blank (Origin) Ballistic Body Armor for Hayward Police Department Special Response Unit Members, in an Amount-Not-to-Exceed \$130,000 **CONS 23-109**

Staff report submitted by Acting Chief of Police Matthews, dated February 28, 2023, was filed.

Council Member Syrop received confirmation that funds for the purchase of body armor would come from monies allocated to Hayward Police Department (HPD) from the City’s Capital Improvement Program (CIP). In response to Council Member Syrop’s question about ballistic vests, Acting Chief Matthews explained they have a five-year warranty and are issued when onboarding staff and replaced five years thereafter.

Council Member Syrop spoke about the research he conducted on expired bulletproof vests and noted that the five-year warranty by the manufacturer was a way to continue to have agencies purchase their product; added that \$130,000 was sufficient to fund a staffing position with benefits to provide community services; referenced the 2/21 Council packet noting that approximately \$70,000 in grant funding was accepted from the Alameda County Sheriff’s Office for operations; and expressed reservations about staff’s proposed recommendation.

Council Member Zermeño thanked Acting Chief Matthews for the information, underscored that the ballistic vests were for the safety of officers and moved the item per staff recommendation. Council Member Goldstein seconded the motion.

It was moved by Council Member Zermeño, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES:	COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Zermeño MAYOR Salinas
NOES:	COUNCIL MEMBER Syrop
ABSENT:	None
ABSTAIN:	None

Resolution 23-051, “Resolution Authorizing the City Manager to Execute an Agreement with Galls for the Purchase of Point-Blank (Origin) Ballistic Body Armor for Hayward Police Department Special Response Unit Members, in an Amount Not to Exceed \$130,000”



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7. Adopt a Resolution Authorizing the City Manager to Accept Up to 1.5 million Dollars in Revenue from Bay Area Rapid Transit as the Fiscal Agent for the South Hayward Bay Area Rapid Transit Station Access Authority **CONS 23-112**

Staff report submitted by Assistant City Manager Claussen, dated February 28, 2023, was filed.

Council Member Syrop stated that in the Agenda Questions and Answers log it was noted that staff could evaluate whether funds could be utilized towards incentivizing transit-oriented-development or housing at the South Hayward BART; and he expressed his interest as the item becomes available for review by the Council Infrastructure Committee.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-052, "Resolution Authorizing the City Manager to Accept and Appropriate up to \$1.5 Million Dollars to Fund 295 in Revenue from Bay Area Rapid Transit as the Fiscal Agent for the South Hayward Bay Area Rapid Transit Station Access Authority"

LEGISLATIVE BUSINESS

8. Cannabis Regulations Revised Ordinance: Introduction of an Ordinance Amending Article 14, Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses by Amending Section 6-14.13 Relating to Commercial Cannabis Permit Applications, Amending Section 6-14.14 Relating to Operating and Performance Standards and Adding Section 6-14.18 Relating to Enforcement; Finding that this Action is Subject to CEQA Common Sense Exemption **LB 23-009**

Staff report submitted by City Attorney Lawson, dated February 28, 2023, was filed.

Senior Assistant City Attorney Vigilia provided a synopsis of the staff report.

Discussion ensued among members of the City Council and City staff regarding: the first cannabis violation would be set at \$5,000 and the penalty amount would increase for subsequent violations up to \$15,000; a violation for establishments operating outside of the conditions of the approved license and the proposed penalties provided an additional enforcement tool that could be applied in addition to any criminal activities; the fees were non-refundable as there was uncaptured cost and unreimbursed time; the 2021 update included a provision that any change in branding or any change of mode or character of operation would require City approval; the process to obtain a cannabis license to operate in the city was explained; the updated ordinance was not too different from what the state requires in terms of background checks; calls for service for HPD and Code Enforcement were stemming from illegal operations and the proposed penalty structure was to serve as a deterrent; the \$2,500 fee covers the cost of staff review which includes hiring an outside consultant that has expertise to guide staff and ensure the City gets solid operators; in terms of land use entitlements, there are certain expirations protected in the Hayward Municipal Code that give certain time limits to vest before they expire; staff confirmed that Garden of Eden is not located in Hayward and was within Alameda County's jurisdiction; and Code Enforcement tracks complaints, especially for illegal cannabis, and has not received any reports related to activities outside of active cannabis shops, and has a way to monitor and conduct enforcement.

Council Member Andrews suggested that staff explore specific restorative justice programs with respect to enforcement and partner with the Keep Hayward Clean and Green Task Force or other community service groups to benefit the community.

There being no public comment, Mayor Salinas opened and closed the public hearing at 8:03 p.m.

Council Member Márquez made a motion to approve staff recommendation. Council Member Roche seconded the motion.

Council Member Syrop concurred with Council Members Andrews' suggestion about a restorative justice approach; was reluctant to vote in favor of the ordinance without further violation data from HPD; was concerned the ordinance would continue to punish cannabis retailers who lack capital to create official brick and mortar businesses; noted the state background check was another discriminatory practice against individuals who have a record due to building a market for cannabis; and preferred approving the ordinance after it is adjusted to be more proactive with developing entrepreneurs who may be violating the law currently, and with the City's support, may be able to support the City through tax revenue.

Council Member Andrews asked if the maker of the motion would consider a friendly amendment for staff to consider review of restorative justice elements as an alternative response to violations and consider working with the Economic Development Division to create an infographic on how to submit a permit application.



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In response to Council Member Marquez’s request for clarification on the timeline, Council Member Andrews was agreeable for staff to explore and return to Council in six months with updates.

Council Member Márquez and Council Member Roche were amenable to the friendly amendment.

It was moved by Council Member Márquez, seconded by Council Member Roche, and carried by the following roll call vote, to approve the introduction of the ordinance with a friendly amendment for staff to consider a review of restorative justice elements as an alternative response to violations and to consider working with the Economic Development Division to create an infographic on how to submit a permit application; and return to Council in six months with updates.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Intro Ordinance 23-, “Ordinance of the City of Hayward, California Amending Article 14, Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses by Amending Section 6-14.13(D) Relating to Commercial Cannabis Permit Application, Amending Section 6-14.14 Relating to Operating and Performance Standards and Adding Section 6-14.18 Relating to Enforcement”

COUNCIL REPORTS AND ANNOUNCEMENTS

In response to Council Member Roche’s inquiry if a thirty-day extension for the food truck businesses operating at the Hayward Ranch property was an option, City Manager McAdoo noted the use was permitted during COVID-19’s state of emergency provisions and current Zone regulations do not allow temporary use permits for longer than one year; and noted that some of the concerns raised would be addressed in the street vendor ordinance. Council Member Roche favored continued communication about the matter and supported an opportunity to extend allowing food trucks if the Hayward Ranch property owner encountered delays developing the site.

Council Member Márquez spoke about her attendance, along with Council Member Andrews, at the Oscar Grant Foundation Gala on February 25, 2023.

Council Member Andrews mentioned the Tri-City Delta Sigma Theta Sorority was having a listening session for African American students and parents grades six through twelve on March 18, 2023 at the Hayward downtown library.

Council Member Zermeño shared that Chabot College Men's Basketball team had qualified for the California Community College Championship Tournament and congratulated Chabot College.

Council Member Syrop shared that on February 24, 2023, HARD, HUSD and the Deputy Sheriff's Activity League worked together to open a futsal court at Cherryland Elementary School for the community to use and play.

Council Member Andrews commented that February 28, 2023, marked the last day of Black History Month and acknowledged that March was Women's History Month.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Salinas adjourned the City Council meeting at 8:29 p.m., in memory of longtime City employee Louis Jordan, former Public Works employee Majid Hafezieh and Alameda County Supervisor Richard Valle.

Mr. Louis Jordan worked for the City of Hayward for twenty-nine years, was the first African American employee to retire from active duty from the City, had volunteered for many hours as a member of the Northern California Chapter of the Boys and Girls Club, was active in other community service organizations, and highly revered and respected by staff.

Mr. Majid Hafezieh, started working for the City of Hayward in 1990 as an Assistant Engineer, later as an Associate Engineer, and promoted to Acting City Traffic Engineer until he retired in 2018, throughout his career he worked on every major traffic and road project in the City, and was well liked by his colleagues.

Mayor Salinas shared that on February 25, 2023, individuals in Alameda County gathered at the Union City Veterans Memorial to honor the contributions and the memory of Alameda County Board Supervisor, District 2, Richard Valle. Council Members shared fondly memories about his character and dedication to the community and expressed thoughtful comments about the legacy Supervisor Valle left for the community through his commitment toward service on the County Board, Tri-CED Community Recycling, and Raising Leaders among other initiatives. Council Member Zermeño suggested considering naming the future Stack Center after Supervisor Valle as he had started the project.



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Mayor Salinas asked City staff to plant trees in memory of Louis Jordan, Majid Hafezieh, and Alameda County Board of Supervisor Richard Valle.

APPROVED

Mark Salinas
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward