



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 6, 2018, 7:00 p.m.

The Meeting of the Hayward City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Lamnin.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin,
MAYOR Halliday
Absent: COUNCIL MEMBER Salinas

City Manager McAdoo noted that Council Member Salinas was out ill.

CLOSED SESSION ANNOUNCEMENT

Mayor Halliday announced the City Council convened in closed session at 4:00 p.m., pursuant to Government Code Section 54957, regarding the annual performance evaluations of the City Attorney and City Clerk; and noted there was no reportable action.

City Attorney Lawson announced the City Council also discussed three items: 1) conference with legal counsel pursuant to Government Code Section 54956.9 concerning Nelson v. City of Hayward, et al., Alameda County Superior Court, No. RG16822362; 2) conference with legal counsel regarding James v. City of Hayward, et al., U.S. District Court, N.D.CA., No. C13-1092; 3) conference with labor negotiators pursuant to Government Code Section 54957.6 regarding all groups; and noted there was no reportable action related to Items 2) and 3). Regarding Item 1), Mr. Lawson noted that the City Council approved the recommendation to settle the case with Council Member Zermeño moving and Council Member Lamnin seconding the item and Council Member Salinas absent.

PRESENTATION

Keep Hayward Clean and Green Task Force Chair Andrews spoke about the #HaywardBeautiful Yard Contest and the goal to commend efforts of maintaining beautiful landscaped yards, and acknowledged first place winner Elizabeth Will and second place winners Shabana and Mohammed Khan. Both recognitions were presented in memory of Kurt Otto Will. Mayor Halliday and Council Member Mendall presented certificates of recognition to Elizabeth Will and Shabana and Mohammed Khan.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, expressed concern about the March 6, 2018 Council presentation by the Police Department reporting an increase in rapes, and noted the need for more police officers.

Ms. Wynn Grich, Hayward resident, spoke about fluoride in drinking water, and submitted related materials.

CONSENT

1. Minutes of the City Council Meeting on February 20, 2018 **MIN 18-033**

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to approve the minutes of the City Council Meeting on February 20, 2018.

2. Resignation of Kingsley Macmadu from the Community Services Commission **CONS 18-135**

Staff report submitted by City Clerk Lens, dated March 6, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to adopt the following:

Resolution 18-025, "Resolution Accepting the Resignation of Kingsley Macmadu from the Community Services Commission"

3. Filing Nuisance/Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations **CONS 18-116**

Staff report submitted by Interim Development Services Director Bristow, dated March 6, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to adopt the following:

Resolution 18-026, "Resolution Confirming the Report and Non-Abatable Code Violations and Penalties Liens List Associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs"

LEGISLATIVE BUSINESS

4. Introduction of Ordinance and Resolution for Taxation of Adult Use Cannabis (Report from Finance Director Claussen) **LB 18-011**

Staff report submitted by Finance Director Claussen and City Attorney Lawson, dated March 6, 2018, was filed.

Finance Director Claussen provided a synopsis of the staff report.



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Discussion ensued among Council members and City staff regarding: state and federal taxes; proposed tax rate and business type; and annual audits.

There being no public comments, Mayor Halliday opened and closed the public hearing section at 7:38 p.m.

Council Member Zermeño offered a motion per staff's recommendation and Council Member Márquez seconded the motion.

Council Member Lamnin recommended that Article 21, Chapter 8, Section 8-21.00 (Findings and Purpose) (d) be amended by adding "education" to the list of valid purposes for which the cannabis business tax might be used. Council Member Zermeño and Council Member Márquez were amenable to the amendment. Ms. Lamnin also offered that staff explore if cities have the option of taxing cannabis testing laboratories.

Council Member Mendall noted that there was a justification for a higher tax rate because it would be used for valid municipal purposes. Mr. Mendall added he would support a higher rate or a two-tier rate with a higher rate on the retail component.

Council Zermeño noted a higher tax rate would create a "leakage of dollars" and was comfortable with the proposed 6% tax rate with the flexibility of adjusting it at a later time.

Council Member Peixoto noted the proposed tax rate would be easier to administer, a deterrent for people opting to the black market, and provided flexibility to revisit once the City gets historical data.

Council Member Márquez offered a friendly amendment to the motion to review the cannabis business tax, set at a rate of 6% of gross sales, one year after the issuance of a business permit. Ms. Márquez noted that the proposed rate would give the City time to assess the situation and a higher rate would incentivize the continued operation in the black market. Council Member Zermeño was amenable to the amendment.

Mayor Halliday expressed she would be supporting the proposed rate with the compromise that the City will revisit the rate one year after the issuance of a business permit.

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried with the following vote, to adopt the resolution:

AYES:	COUNCIL MEMBERS Zermeño, Márquez, Peixoto, Lamnin MAYOR Halliday
NOES:	COUNCIL MEMBER Mendall
ABSENT:	COUNCIL MEMBER Salinas

Resolution 18-027, “Resolution of the City Council of the City of Hayward Establishing the Cannabis Gross Receipts Tax Rate at 6%”

5. Resolutions Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy (EBCE) for City Facilities and to Request that EBCE Set Brilliant 100 as the Default Product for all Hayward Customers Served by EBCE (Report from Utilities and Environmental Services Director Ameri) **LB 18-009**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated March 6, 2018, was filed.

Utilities and Environmental Services Director Ameri announced the report and introduced Environmental Services Manager Pearson who provided a synopsis of the staff report. Mr. Pearson noted the Council was in receipt of a memorandum with an email from East Bay Community Energy (EBCE) CEO Chaset confirming that cities could choose Brilliant 100 as the default product and recommending against selecting Brilliant 100 as the default product for residential customers served by EBCE.

It was noted that Council Member Mendall serves on the EBCE Board as the City’s delegate and Council Member Márquez as the alternate.

Discussion ensued among Council Members and City staff regarding: the proposed Brilliant 100 product; opt-out opportunities; customer outreach; noticing requirements for the default option; and the rushed deadline for cities to decide to choose Brilliant 100 as the default product.

Mayor Halliday opened the public comments section at 8:13 p.m.

Mr. Jim Drake, Hayward resident, opposed the opt-out process and the City’s involvement in providing energy.

Mr. Tom Kelly, former lead consultant for Alameda County, supported requesting EBCE to set Brilliant 100 as the default product for all Hayward customers.

Mayor Halliday closed the public comments section at 8:19 p.m.

Council Member Mendall offered a motion per staff’s recommendation including the revised resolution. Council Member Mendall noted that Council’s action to select Brilliant 100 as the default product for customers served by EBCE would help meet the City’s Climate Action Plan goals for 2020; and added that customers would have an opportunity to change to Bright Choice or opt out of the program completely.

Council Member Zermeño seconded the motion noting that he preferred Brilliant 100 because it represented 100% carbon free and was not too persuaded by any savings that the other product might offer.



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Mayor Halliday noted she would be supporting the motion noting that environmentally conscious residents had supported green measures and the proposal was another effort to lower greenhouse gas emissions.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with the following vote, to adopt a resolution authorizing the City Manager to purchase Brilliant 100, and a revised resolution setting Brilliant 100 as the default product for all Hayward nonresidential customers served by EBCE:

AYES: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: COUNCIL MEMBER Salinas

Resolution 18-028, "Resolution Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy for City Facilities"

Resolution 18-029, "Resolution Authorizing the City Manager to Request that East Bay Community Energy (EBCE) Set Brilliant 100 as the Default Product for All Hayward Nonresidential Customers Served by EBCE"

PUBLIC HEARING

6. Solar Photovoltaic Project - Phase II: Approval of the Mitigated Negative Declaration; Authorization for the City Manager to Negotiate and Execute a Design-Build Contract to Construct a Two-Megawatt Solar Energy System and Submit an Application to the California Energy Commission for Financing; and Appropriation of Additional Funds (Report from Utilities and Environmental Services Director Ameri) **PH 18-016**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated March 6, 2018, was filed.

Utilities and Environmental Services Director Ameri provided a synopsis of the staff report.

Discussion ensued among Council members and City staff regarding: Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) tariff, and the California Energy Commission (CEC) low-interest rate loan.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:38 p.m.

Council Member Márquez offered a motion per staff's recommendation noting the staff report included feedback from the Council Sustainability Committee. Council Member Zermeño seconded the motion.

It was noted that the Council's action would contribute to the City's goals to reduce greenhouse gas emissions.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried with the following vote, to adopt the resolutions:

AYES: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: COUNCIL MEMBER Salinas

Resolution 18-030, "Resolution Approving the Initial Study and Draft Mitigated Negative Declaration for a Two-Megawatt Solar Photovoltaic Renewable Energy System Project, Project NO. 07530, at the Water Pollution Control Facility (WPCF)"

Resolution 18-031, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract with Engie Services U.S., INC., for a Two-Megawatt Solar Photovoltaic Energy System at the Water Pollution Control Facility (WPCF), Project NO. 07530 in an Amount Not to Exceed \$5,740,000"

Resolution 18-032, "Resolution Authorizing the City Manager to Submit an Application for a Low Interest Loan from the California Energy Commission for a Two-Megawatt Solar Photovoltaic Renewable Energy System Project, Project NO. 07530, at the Water Pollution Control Facility (WPCF), in an Amount Not to Exceed \$3,000,000"

Resolution 18-033, "Resolution Appropriating \$955,000 From the Capital Improvement Program Sewer Improvement Fund for the Solar Photovoltaic Project-Phase II, Project NO. 07530"

INFORMATION ITEM

7. Informational Report on Tiny Homes RPT 18-043



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Staff report submitted by Interim Development Services Director Bristow, dated March 6, 2018, was filed.

City Manager McAdoo noted the item was informational.

In response to Council Member Zermeño's request for the item to be agendaized, City Manager McAdoo agreed to bring back the item at a future Council meeting for discussion.

CITY MANAGER'S COMMENTS

City Manager McAdoo noted the traffic signal at the intersection of B and Watkins Streets was out due to work performed by Comcast.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Mendall noted he would be attending the next East Bay Community Energy (EBCE) meeting to announce that Hayward will be the first municipality to provide local renewable energy in Alameda County.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 8:51 p.m., in memory of Retired Hayward Police Chief and Alameda County Sheriff Charles "Charlie" Plummer.

Retired Alameda County Sheriff Plummer had over 54 years of service in law enforcement, began his career in the Berkeley Police Department in 1952, became Hayward's Police Chief in 1976; and was elected in 1986 as the 21st Sheriff of Alameda County where he served until 2007. He lived in Hayward, initiated the Youth and Family Services Bureau in Hayward, led the Hayward Police Department to become CALEA (Commission on Accreditation for Law Enforcement Agencies) accredited, and was active in the community through the 100 Club, Hayward Rotary, Boy Scouts of America, and Salvation Army.

Mayor Halliday asked City staff to work with the Hayward Police Department and members of his family to have a tree dedicated in memory of Charlie Plummer.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward