



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 18, 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 Salinas

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas
MAYOR Halliday
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported the City Council convened in closed session at 5:30 p.m., concerning two items: 1) conference with property negotiators pursuant to Government Code 54956.8, regarding State owned parcels along the Route 238 Bypass Alignment; and 2) conference with labor negotiators pursuant to Government Code 54957.6, regarding all groups; and noted there was no reportable action related to the items. City Attorney Lawson added that Mayor Halliday had to recuse herself from participating on Item No. 1 due to the proximity of her house to the discussed parcels.

Mayor Halliday announced the Public Comments section of the agenda was going to be moved after the appointments and reappointments of Council's appointed members.

PRESENTATION

Alameda County Supervisor Richard Valle, who also serves as Tri-CED's representative, spoke about the history of recycling in Hayward, restrictions imposed by China on contaminated materials, international recycling markets, commodity price comparison, and the formation of a stakeholders' task force to address the recycling crisis.

ACTION ITEMS

1. Appointments and Reappointments to the Community Services Commission, Keep Hayward Clean and Green Task Force, Library Commission, Personnel Commission and Planning Commission (Report from City Clerk Lens) **APPT 18-002**

Staff report submitted by City Clerk Lens, dated September 18, 2018, was filed.

City Clerk Lens provided a synopsis of the staff report.

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

Resolution 18-186, “Resolution Confirming the Appointment and Reappointment of Members of Various Commissions and Task Forces”

City Clerk Lens administered the oath of affirmation to the newly appointed and reappointed members of the Community Services Commission, Keep Hayward Clean and Green Task Force, Library Commission, Personnel Commission and Planning Commission.

Council Member Márquez left the Council Chambers.

PUBLIC COMMENTS

Mr. Butch Kille, U.S. Marine Corps veteran, invited the Council to attend the 24th Annual U.S. Marine Corp Birthday Breakfast celebrating the 243rd Marine Corps Birthday on November 3, 2018, at the Veterans’ Memorial Building in Hayward.

Mr. Jerry Turney, Hayward Hangar Group (HHC) representative, noted the HHC continued to work with City staff regarding hangar rents; and invited all to the Airport Open House on September 23, 2018.

Mr. Kim Huggett, Hayward Chamber of Commerce President, invited all to the 33rd Hayward Chamber of Commerce Business Expo on October 10, 2018, at the St. Rose Hospital Grand White Tent.

Ms. Alicia Lawrence, Hayward resident and Hayward Collective member, invited all to a Community Empowerment Fair event on October 6, 2018, at Glad Tidings Church.

Mr. Charlie Peters, Clean Air Performance Professionals representative, provided a copy of a letter that was sent to Governor Brown about ethanol impacts on the environment and the economy.

Ms. Wynn Grcich, Hayward resident, recommended to add instructions to recycling bins in Spanish and to add water filters in schools to reduce consumption of bottled water. Ms. Grcich spoke against November 2018 ballot Measure H and Measure T.

Mr. Nicholas Harvey, Hayward resident, suggested that trees at the library planned to be removed and trees in other areas of Hayward be collected and turned into consumer goods that are made from trees.

Consent Items 6, 7, 15, and 18 were removed from the Consent Calendar for discussion and separate vote.



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CONSENT

2. Minutes of the City Council Meeting on July 17, 2018 **MIN 18-109**

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with Council Member Márquez absent, to approve the minutes of the City Council Meeting on July 17, 2018.

3. Minutes of the Special City Council Meeting on July 23, 2018 **MIN 18-110**

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with Council Member Márquez absent, to approve the minutes of the Special City Council Meeting on July 23, 2018.

4. Minutes of the City Council Meeting on July 24, 2018 **MIN 18-111**

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with Council Member Márquez absent, to approve the minutes of the City Council Meeting on July 24, 2018.

5. Adoption of Ordinance Amending Chapter 10, Article 1, Sections 10-1.845.j (5) and (6); and 10-1.1045.j(5) and (6) (Minimum Design and Performance Standards) of the Hayward Municipal Code Related to Drive-Through Restaurants and Drive-Through Coffee/Espresso Shops in the City of Hayward **CONS 18-561**

Staff report submitted by City Clerk Lens, dated September 18, 2018, was filed.

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

Ordinance 18-11, "An Ordinance Amending Chapter 10, Article 1, Sections 10-1.845.j (5) and (6); and 10-1.1045.j(5) and (6) (Minimum Design and Performance Standards) of the Hayward Municipal Code Related to Drive-Through Restaurants and Drive-Through Coffee/Espresso Shops in the City of Hayward"

6. Approval of Final Map Tract 8335 (Telles/Mission), Associated with the Previously Approved Vesting Tentative Tract Map and Proposed Development of 35 Townhomes on a 2.7-Acre Site Located at 26601 Mission Blvd; KB Home (Applicant/Owner) **CONS 18-576**

City Manager McAdoo requested that Consent Item 6 be continued to October 2, 2018, to allow staff time to address questions raised prior to the meeting.

7. Approval of Final Map Tract 8233 (Parkside Heights), Associated with the Previously Approved Vesting Tentative Tract Map and Proposed Development of 97 Single-Family Homes on a 10.68-Acre Site Located at the Southern Corner of 2nd Street and Walpert Street; Pulte Homes (Applicant/Owner) **CONS 18-577**

Staff report submitted by Development Services Director Simpson, dated September 18, 2018, was filed.

Mayor Halliday opened the public comments section at 7:48 p.m.

Ms. Ynez Jasper, Hayward resident, provided a document for the record, expressed that Pulte Homes' proposal would potentially impair her access and parking easement rights, and noted that Pulte Homes was willing to address her concerns.

Mr. Perry Harnage, Hayward resident, provided documents for the record, noted that his mother, Candi Cross, tried to voice concerns to Pulte Group and City staff about the proposed development, and asked that the initial plan for the retaining wall be followed.

Ms. Candi Cross, Hayward resident, submitted a document for the record, spoke about the impacts to her property by the excavation done by Pulte Group, and the lack of notification.

Mayor Halliday closed public comments section at 8:02 p.m.

City staff was amenable to continuing the item by one week to ensure that the grading work happening on the site was done in accordance with the grading permit.

Council Member Zermeño offered a motion to continue the item for one week to ensure that any concerns expressed by the property owners are addressed and reported to Council.

Council Member Lamnin seconded the motion, and asked staff to address the difference between the Tentative Tract Map and Final Tract Map when the item comes back before the Council.

It was moved by Council Member Zermeño, seconded by Council Member Lamnin, and carried with Council Member Márquez absent, to continue the item for one week.

8. Approval of Final Map Tract 8151 (Eden Village), Associated with the Previously Approved Vesting Tentative Tract Map and Proposed Development of Thirteen (13) Single-Family Homes on a 1.45-Acre Site Located at 24582/24570 Eden Avenue and 24655 Mohr Drive; Nuvera Homes (Applicant/Owner) **CONS 18-578**

Staff report submitted by Development Services Director Simpson, dated September 18, 2018, was filed.



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

Resolution 18-187, "Resolution Approving Final Map for Tract 8151 and Authorizing the City Manager to Execute a Subdivision Agreement"

9. Approval of Final Map Tract 8394 (Mission Seniors), Associated with the Previously Approved Vesting Tentative Tract Map and Proposed Development of 200 Condominium Units for Seniors and Three (3) Detached Single Family Homes on a 4.95-Acre Site Located at 29312 Mission Boulevard; Chu Rao (Applicant/Owner) **CONS 18-579**

Staff report submitted by Development Services Director Simpson, dated September 18, 2018, was filed.

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

Resolution 18-188, "Resolution Approving Final Map for Tract 8394 and Authorizing the City Manager to Execute a Subdivision Agreement"

10. Summary Vacation of a Storm Drain Easement located at 28168 Mission Boulevard **CONS 18-580**

Staff report submitted by Interim Public Works Director Ameri, dated September 18, 2018, was filed.

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

Resolution 18-189, "Resolution to Summarily Vacate a 5-Foot Wide Storm Drain Easement on 28168 Mission Boulevard"

11. Alameda County Transportation Commission East 14th/Mission/Fremont Blvd Multimodal Corridor Project - Authorization for the City Manager to Execute a Project Charter **CONS 18-592**

Staff report submitted by Interim Public Works Director Ameri, dated September 18, 2018, was filed.

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

Resolution 18-190, “Resolution of the City Council of the City of Hayward Authorizing Execution of a Project Charter as a Partnering Agency with the Alameda County Transportation Commission for the East 14th Street-Mission and Fremont Boulevard Multimodal Corridor Project”

12. FY19 Sidewalk Rehabilitation and Wheelchair Ramps Repair Project: Approval of Plans and Specifications and Call for Bids **CONS 18-596**

Staff report submitted by Interim Public Works Director Ameri, dated September 18, 2018, was filed.

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

Resolution 18-191, “Resolution Approving Plans and Specifications for Sidewalk Rehabilitation, and Wheelchair Ramps FY19 Project, Project NOS. 5249 and 5213, and Call for Bids”

13. Mission Boulevard Corridor Improvements Phase 2 Project - Grant of Public Utility Easement to Pacific Gas & Electric (PG&E) **CONS 18-597**

Staff report submitted by Interim Public Works Director Ameri, dated September 18, 2018, was filed.

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

Resolution 18-192, “Resolution Authorizing the City Manager to Execute a Grant of Public Utility Easement to Pacific Gas & Electric in Relation to the Mission Boulevard Corridor Improvements Phase 2 Project”

14. Water Pollution Control Facility-Valve Operating Mechanism Replacement: Authorization for City Manager to Execute a Sole Source Purchase of REXA Actuators **CONS 18-605**

Staff report submitted by Interim Public Works Director Ameri, dated September 18, 2018, was filed.



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

Resolution 18-193, "Resolution Authorizing the City Manager to Execute a Sole Source Purchase with REXA Electraulic Actuation for the Purchase of Eight REXA Actuators, in an Amount not to Exceed \$235,000"

Mayor Halliday announced she had to recuse herself from participating on Consent Item No. 15 due to the proximity of her property to the proposed parcels and left the Council Chambers. Council Member Lamnin was selected to preside over the meeting and act as Mayor Pro Tem.

15. Authorization for the City Manager to Negotiate and Execute a Purchase and Sale Agreement with Moussa Group LLC for the Sale of Six City Parcels **CONS 18-598**

Staff report submitted by Economic Development Manager Hinkle, dated September 18, 2018, was filed.

Mayor Pro Tem Lamnin opened the public comment section at 8:05 p.m.

Mr. Bill Espinola, Hayward resident, urged the Council to table the item and wait until a decision is made for Parcel 7 and give the option of the six parcels to the developer.

Mayor Pro Tem Lamnin closed the public comment section at 8:09 p.m.

Council Member Mendall offered a motion per staff's recommendation noting that staff's recommendation was for a negotiating period which would leave enough time to work out any potential issues.

Council Member Zermeño seconded the motion.

Mayor Pro Tem Lamnin added that in deciding about the proposed sites to keep in mind that the proposed site was an important gateway to the community.

Mayor Pro Tem Lamnin reopened the public comment section to allow a public comment.

In response to Mr. Nicholas Harvey's request for clarification about the report, Mayor Pro Tem Lamnin noted that the actual sale was tied to the entitlement and there would be an opportunity for public input and the Council had discretion about that process.

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

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

Resolution 18-197, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with Mousa Group LLC for Specified Properties Located at the Northeast Corner of Mission Boulevard and Carlos Bee Boulevard"

Mayor Halliday returned to the Council Chambers to preside over the rest of the meeting.

16. Authorization for the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency (HCSA) for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau (YFSB) of the Hayward Police Department **CONS 18-562**

Staff report submitted by Police Chief Koller, dated September 18, 2018, was filed.

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

Resolution 18-194, "Resolution Authorizing the City Manager to Appropriate Funds and Accept a Contract with the Alameda County Health Care Services Agency for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau of the Hayward Police Department"

17. Authorization for the City Manager to Accept and Appropriate \$7,500 in Awarded Grant Funding from the California State Library **CONS 18-620**

Staff report submitted by Interim Library Director Light, dated September 18, 2018, was filed.

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



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Resolution 18-195, "Resolution Authorizing the City Manager to Accept and Appropriate \$7,500 in Grant Funding from the California State Library to Purchase Books for the Hayward Library Collection"

18. Approval of a Resolution Opposing California Proposition 6, the Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative (2018) **CONS 18-604**

Staff report submitted by Assistant City Manager Hurtado, dated September 18, 2018, was filed.

Mayor Halliday highlighted that Proposition 6 was on the November 2018 ballot and spoke about the negative impact the proposition would have on the community.

It was moved by Mayor Halliday, seconded by Council Member Zermeño, and carried with Council Member Márquez absent, to adopt the following:

Resolution 18-198, "Resolution Opposing California Proposition 6, the Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative (2018)"

19. Resolution Affirming the Continuance of the Hayward Poet Laureate Program, the Establishment of City Protocol for Poet Laureate Appointments, and the Extension of the Appointment of Bruce Roberts as the City of Hayward Poet Laureate through June 30, 2019 **CONS 18-599**

Staff report submitted by Interim Library Director Light, dated September 18, 2018, was filed.

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

Resolution 18-196, "Resolution to Affirm the Continuance of the Hayward Poet Laureate Program, to Establish Protocol for the Selection of Hayward Poet Laureates Effective July 1, 2019, and to Extend the Appointment of Bruce Roberts as the Hayward Poet Laureate Through June 30, 2019"

PUBLIC HEARING

20. City Council Call-Up of the Planning Commission's Approval for the Proposed Establishment of a Cocktail Bar and Lounge with Cabaret Entertainment Located at 990

“B” Street, Assessor Parcel No. 428-0056-057-00. VGJB, Inc. (Applicant); Corinne and Timoleon Zaracotas (Property Owners), Requiring Approval of Conditional Use Permit Application No. 201802339 (Report from Development Services Director Simpson) **PH 18-068**

Staff report submitted by Development Services Director Simpson, dated September 18, 2018, was filed.

Development Services Director Simpson announced the report and introduced Assistant Planner Martinez who provided a synopsis of the report.

Mayor Halliday opened the public hearing at 8:29 p.m.

Mr. Aric Yeveerino, Dirty Bird Lounge business owner, urged the City to incentivize businesses that serve food and not overregulate with ordinances; and suggested to revise the ordinance and expand upon the definition of restaurant.

Ms. Corinne Zaracotas, property owner of the proposed establishment, spoke in favor of the proposed cocktail bar and lounge.

Mr. Jay Singh, Hayward resident, spoke in favor of the proposed establishment.

Mr. Glen Silva, B Street business owner, spoke in favor of the proposed establishment.

Mr. Nicholas Harvey noted that revenue could be generated by turning bars into coworking spaces or coffee shops during the day; and spoke about seismic retrofit and additional parking space for the establishment.

Mr. Jay Baltazar and his team members Mr. Vic Gill, Mr. James Vierra and Mr. Jackson Fan spoke about their experience in the hospitality industry and opening bars; business plan for 990 Lounge - a high-end bar and lounge; discount for patrons visiting restaurants in the area; and responded to questions related to plans for entertainment and music genre, hours of operation, and building renovation.

Mayor Halliday closed the public hearing at 9:07 p.m.

Council Members Lamnin and Peixoto disclosed having individually met with Mr. Vic Gill. Mayor Halliday and Council Member Mendall disclosed having had separate conversations with Mr. Jay Baltazar and Mr. Vic Gill.

Council Member Mendall noted that according to a survey of call for service in downtown, 80 percent of alcohol-related calls for police service were coming from two poorly run bars; and believed that a full-service bar with food model worked better for the City.

Council Member Salinas noted the expectation for downtown was for bars with meal service, was disappointed the establishment proponents did not engage the City Council



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early in the process and was disappointed that the Planning Commission approved an application that was inconsistent with the expectation for downtown.

Council Member Zermeño noted the proposal had a good business plan but needed to provide meal service and suggested that the proponent add a kitchen to the second floor of the proposed establishment.

Council Member Zermeño offered a motion to deny the Conditional Use Permit Application for the proposed establishment of a cocktail bar and lounge with cabaret entertainment.

Council Member Salinas seconded the motion and cautioned all that businesses could fail when their business model does not include meal service but are forced to do so.

Council Member Peixoto noted his recollection of the vision for downtown was to make it an entertainment and retail venue, noted there were vacant spaces in downtown, and added that the proposed upscale cocktail bar and lounge had a different business model than bars that were not well managed.

Council Member Lamnin noted the establishment could use additional entertainment for all ages such as an indoor mini golf course, bocce ball court, coworking spaces; added there was an opportunity to partner with music and security industries; suggested that patrons could order food from nearby restaurants; and preferred that both floors of the building be occupied.

Council Member Lamnin offered an amendment to the motion so that the denial would be without prejudice to allow the applicant to come back with a revised application proposal.

Council Member Zermeño accepted the amendment to the motion but Council Member Salinas was not amenable to the amendment.

Mayor Halliday suggested that the establishment could use additional entertainment that involved physical activity.

Council Member Salinas noted the issue was about the Council's expectation and equitably applying what was done to every other business in downtown.

It was moved by Council Member Zermeño, seconded by Council Member Salinas, and failed, with the following vote, to deny the Conditional Use Permit Application for the establishment of a cocktail bar and lounge with cabaret entertainment:

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

Council Member Mendall offered a motion to deny the application without prejudice to allow the applicant to modify the application to full-service restaurant.

Council Member Zermeño seconded the motion and noted that the applicant had an opportunity to explore food scenarios so the Council could be consistent with other businesses in downtown.

Council Member Lamnin suggested holding a work session to reevaluate the vision for downtown and how to support businesses.

City Manager McAdoo noted that the Downtown Specific Plan might be an appropriate opportunity to review overall alcohol regulations.

Mayor Halliday suggested that the applicant proponent consider the suggestions expressed for opportunities from noon to 9pm as to create an asset for the community beyond offering drinking.

Council Member Salinas hoped the applicant would return with a new concept that includes food service.

It was the Council's consensus for staff to bring the item before the City Council and not the Planning Commission.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with the following vote, to deny the application without prejudice to allow the applicant to modify the application to full-service restaurant:

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

CITY MANAGER'S COMMENTS

City Manager McAdoo invited all to the Hayward Executive Airport Open House and the Tuskegee Airmen Drive dedication on September 23, 2018.



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COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were no comments.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:49 p.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward