



SPECIAL MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 29, 2019, 7:00 p.m.

The meeting of the 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, Lamnin, Wahab, Salinas
MAYOR Halliday
Absent: None

CLOSED SESSION

City Attorney Lawson reported the City Council convened in closed session at 5:00 p.m., concerning three items: 1) conference with legal counsel pursuant to Government Code 54956.9, regarding one anticipated litigation; 2) conference with legal counsel pursuant to Government Code 54956.9, regarding Russell City Energy Company LLC v. City of Hayward Court of Appeal No. A155117 (First District); and 3) conference with property negotiators pursuant to Government Code 54956.8, regarding State owned parcels along the Route 238 Bypass Alignment. City Attorney Lawson noted there was no reportable action related to Items 1 and 2. Related to Item 3, Mr. Lawson noted the Council did not have time to discuss.

PRESENTATION

Council Member Márquez, also the Alameda County Mosquito Abatement Board Chair, introduced Alameda Mosquito Abatement District Manager, Mr. Ryan Clausnitzer, who provided an update of the services provided by the Alameda County Mosquito Abatement District and the challenges and opportunities related to modern mosquito control.

PUBLIC COMMENTS

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about ethanol and provided related documents.

Mr. Jim Drake, Hayward resident, spoke about the eucalyptus trees that were replaced with cypress shrubs at his property.

Mr. Alejandro Galindo, Chabot College teacher of radio production, asked for the Council's support with the Hayward 2020 Election television production.

Mr. Kim Huggett, Hayward Chamber of Commerce President, thanked the Council for attending the Hayward Chamber of Commerce Gala on January 27, 2019, and announced future events sponsored by the Chamber of Commerce.

Ms. Amanda Groziak, Hayward resident, offered support for Council Member Wahab's request of a gender pay parity proposal.

Ms. Nellie Reiswiq, Hayward, requested to be notified before a decision is reached of the application for zone change concerning affordable housing development at Depot Road

CONSENT

1. Minutes of the Special City Council Meeting on January 8, 2019 **MIN 19-007**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council Meeting on January 8, 2019.
2. Minutes of the Special City Council Work Session on January 15, 2019 **MIN 19-010**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council Work Session on January 15, 2019.
3. Authorize the City Manager to Amend the Cooperating Agreement with the East Bay Municipal Utility District for Preparation of a Groundwater Sustainability Plan for the East Bay Plain Subbasin **CONS 19-029**

Staff report submitted by Utilities and Environmental Services
Director Ameri, dated January 29, 2019, was filed.

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

Resolution 19-017, "Resolution Authorizing the City Manager to Amend the Cooperating Agreement with East Bay Municipal Utility District for Preparation of a Groundwater Sustainability Plan for the East Bay Plain Subbasin"

4. Resolution Declaring Intention to Vacate Excess Right-of-Way Easement Fronting 3138 Baumberg Avenue and Setting the Date and Time of the Public Hearing **CONS 19-056**

Staff report submitted by Interim Public Works Director Ameri,
dated January 29, 2019, was filed.

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



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Resolution 19-018, "Resolution Declaring an Intention to Vacate Excess Right-of-Way Easement Fronting 3138 Baumberg Avenue and Setting the Date and Time of the Public Hearing"

5. Resolution Declaring Intention to Vacate Excess Right-of-Way Easement Fronting 26010 Production Avenue and Setting the Date and Time of the Public Hearing **CONS 19-057**

Staff report submitted by Interim Public Works Director Ameri, dated January 29, 2019, was filed.

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

Resolution 19-019, "Resolution Declaring Intention to Vacate Excess Right-of-Way Easement Fronting 26010 Production Avenue and Setting the Date and Time of the Public Hearing"

WORK SESSION

6. Consider a Moratorium on Certain Businesses Including Massage Parlors, Alcohol-only Establishments, Tobacco or Vaping Retail, Check Cashing, and Fast Food (Report from Development Services Director Simpson) **WS 19-006**

Staff report submitted by Development Services Director Simpson, dated January 29, 2019, was filed.

Development Services Director Simpson announced the report and introduced Planning Manager Buizer who provided a synopsis of the staff report.

Mayor Halliday opened the public comments section at 7:50 p.m.

Mr. Aric Yeverino, Hayward resident and business owner, spoke against a moratorium on certain businesses and supported language similar to regulations set by the department of Alcoholic Beverage Control where it does not define a restaurant by percentage of sales.

Mr. Kim Huggett, Hayward Chamber of Commerce President, spoke against a moratorium by extension because it is not business friendly and noted the City can protect against over concentration of certain businesses by existing regulatory controls.

Ms. Audrey Abadilla, Youth Programs Manager at Breathe California Golden Gate, urged the Council to consider a policy to eliminate the sale of flavored tobacco and provided Council with related educational materials.

Mr. Darren Guillaume, Hayward business owner, noted the request for 60 percent food over alcohol sales is unreasonable and asked the City to modify the language so there is no percentage on the amount of food sold.

Mayor Halliday closed the public comments section at 8:08 p.m.

City staff responded to questions posed by members of the Council regarding massage parlors including the three unlicensed to operate; drive-thru establishments that require a Conditional Use Permit (CUP), modification to the 60 percent requirement of gross receipts from the sale of meals which would require a zoning text amendment; tobacco retail establishments and vaping launches; and liquor establishments.

The City Council was in general agreement in speaking against a citywide moratorium and including discussion about alcohol and tobacco regulations in the goal and prioritization setting for the Council in April.

Council Members offered the following recommendations: consider a zoning text amendment to reduce the 60 percent requirement of gross receipts from the sale of meals and modify the definition of restaurant; conduct enforcement of unlicensed to operate businesses (massage parlors and pay day lenders and check cashing); provide clarity to the business community about business uses that are not supported by the Council and are oversaturated; discuss predatory practices and controls during the priority setting session in April; consider eliminating/reducing the number of oversaturated business types; consider revising the ordinance to separate certain businesses from oversaturated businesses such as liquor stores; have the Council Economic Development Committee vet alcohol and tobacco establishment uses; update alcohol beverage outlet regulations; clarify locations for Wendy's, Subway drive-thru and Starbucks; shore up enforcement of tobacco retailers; engage the Hayward Chamber of Commerce and the business community when considering regulatory changes; create a definition for entertainment business that serves alcohol; include conversation of alcohol and tobacco regulations in the April prioritization setting session; reevaluate the vision for Hayward in terms of drive-thru establishments and family style establishments having in mind feasibility and different demographics; evaluate rules and check and balances for massage technicians and operators of illegitimate businesses; and provide different options for the April priority setting session.

LEGISLATIVE BUSINESS

7. Authorize the Formation of a Council Homelessness-Housing Task Force for a Period of Two Years, Beginning March 2019 through March 2021 (Report from City Manager McAdoo) **LB 19-006**



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Staff report submitted by Assistant City Manager Hurtado, dated January 29, 2019, was filed.

City Manager McAdoo provided a synopsis of the staff report and highlighted an error in the resolution which would be corrected to instruct the Mayor to appoint three members from the Council to serve on the Task Force as done with other Council Standing Committee assignments.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:56 p.m.

Council Member Zermeño offered a motion per staff's recommendation including the revised resolution. Council Member Márquez seconded the motion.

Council Member Wahab voiced her interest in being appointed to the Council Homelessness Housing Task Force especially given that the workplan of the Council Technology Application Committee (CTAC) will be folded into the Council Infrastructure Committee and the CTAC will be eliminated as a committee to which she was appointed.

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried unanimously, to approve the following with a revision to reflect that the Mayor will appoint three members from the Council to serve on the Council Homelessness Housing Task Force:

Resolution 19-020, "Resolution to Establish a Council Homelessness-Housing Task Force and Appointment of Council Members to the Newly Formed Council Homelessness-Housing Task Force"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Mayor Halliday reported she attended a special event at City Hall today recognizing City employee, Everett Veal, for his sixty years of dedicated service to the Hayward Police and Fire departments.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:04 p.m., in memory of Jess Duran.

Mayor Halliday noted that Mr. Jess Duran was an outstanding athlete and baseball player; was selected to play for the Alameda County All-star Baseball Team in 1950; was selected to represent the county on the US High School All-Star team and went to New York to play in the Polo Grounds where he met Casey Stengel and was the winning pitcher in relief; was honored by Carlos Bee and the City of Hayward upon his return from New York with a downtown parade and was given the key to the City; was drafted and served two years in the US Army in 1953; and served as an anti-aircraft artillery man during the Korean War. Mayor Halliday asked staff to work with the Duran family to identify a suitable place to plant a tree in memory of Mr. Jess Duran.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward