



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 18, 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 Lamnin.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
Absent: NONE

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 4:00 p.m., regarding conference with labor negotiators pursuant to Government Code 54957.6 concerning all groups. Mayor Halliday reported there was no reportable action.

PRESENTATIONS

Council Member Zermeño read a Certificate of Commendation presented to Maile Annunziato for earning a Gold medal at the California State Skills USA Competition in First Aid/CPR and for representing her Hayward community at the National Skills USA First Aid/CPR Competition in Louisville, Kentucky at the end of June.

Mayor Halliday read a Proclamation recognizing the week of May 12, 2019 through May 18, 2019 as National Police Week and May 13, 2019 as Peace Officers' Memorial Day in the City of Hayward. Hayward Police Department representatives accepted the proclamation on behalf of the City of Hayward.

Mayor Halliday read and presented a Certificate of Commendation to Hayward Police Chief Mark Koller upon his retirement from the City of Hayward and in honor of his commitment to the City of Hayward and his more than 38 years of public service. Hayward Police Chief Koller accepted the commendation and thanked everyone for the recognition.

PUBLIC COMMENTS

Ms. Diane Fagalde, Hayward resident, announced the 6th Annual Tennyson All America Festival at Mt. Eden Mansion on June 29, 2019.

Ms. Davida Scott, Adult School teacher, spoke about the success with Raising Leaders in Hayward-Workshops and the \$55,000 fund approved by the Alameda County Board of Supervisors to expand the program and provide 40 internship opportunities at \$15 per hour.

Ms. Wynn Grcich, Hayward resident, spoke about illegal fireworks in Hayward, fire alarms in Hayward schools, and liquified human remains that are poured down the drain.

Mr. Manuel Flores, Hayward resident, commended City staff for getting potholes in the street fixed.

Mr. Kim Huggett, Hayward Chamber of Commerce President, invited all to the State of the City Address at the Library on June 27, 2019, and the Downtown Hayward Street Parties on June 20, 2019.

Ms. Linda Cardott, Hayward resident, expressed concern about the proposed water and sewer rate increase and illegal fireworks.

Mr. Thomas Birt, Hayward resident, expressed that the density proposed for Parcel Group 5 was concerning and asked for a compromise.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about ethanol and MTBE (methyl tertiary butyl ether) and submitted related documents.

Mr. Jim Drake, Hayward resident, read a quote from a speech by Henry Clay, asked about the status of the opening of the library, and spoke about conditions of approval and Eucalyptus trees.

Mr. Mario Alejandro, Hayward resident, strongly disagreed about the relocation of students from Harder School to Cherryland School. Mayor Halliday advised him to attend a Board meeting of the Hayward Unified School District to express his concerns.

ACTION ITEMS

1. Appointment and Reappointment to the Hayward Youth Commission (Report from City Clerk Lens) **APPT 19-006**

Staff report submitted by City Clerk Lens, dated June 18, 2019, was filed.

City Clerk Lens provided a synopsis of the staff report.

It was moved by Council Member Zermeño, seconded by Mayor Halliday, and carried unanimously, to approve the following:

Resolution 19-131, "Resolution Confirming the Appointment and Reappointment of Members of the Hayward Youth Commission"



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City Clerk Lens swore-in the newly appointed and reappointed members of the Hayward Youth Commission.

CONSENT

2. Minutes of the Special Joint City Council/Hayward Redevelopment Successor Agency/Hayward Housing Authority Meeting on May 21, 2019 **MIN 19-083**

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the Special Joint City Council/Hayward Redevelopment Successor Agency/Hayward Housing Authority Meeting on May 21, 2019.

3. Minutes of the City Council Meeting on May 28, 2019 **MIN 19-084**

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the City Council Meeting on May 28, 2019.

4. Adopt Resolutions Authorizing Sole Source Purchase of a John Deere 245G Excavator from PAPÉ Machinery and Transfer and Appropriation of Funds from the Water Replacement Fund to the Fleet Capital Management Fund **CONS 19-398**

Staff report submitted by Public Works Director Ameri, dated June 18, 2019, was filed.

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

Resolution 19-132, "Resolution Authorizing a Sole Source Purchase of a John Deere 245g Excavator from Papé Machinery, in an amount Not to Exceed \$245,770"

Resolution 19-133, "Resolution Authorizing the Transfer of \$245,770 from the Water Replacement Fund to the Fleet Management Capital Fund Amending Resolution 18-091 to Authorize the Appropriation of \$245,770 from the Fleet Management Capital Fund – Enterprise Fund (Fund 737) to Water Vehicle Replacement Project No. 07353"

5. Approval of a Resolution Amending the Fiscal Year 2019 Operating Budget and Authorization to Transfer and Appropriate Water Operating Fund in the amount of \$45,400 for the Car Sharing Pilot Program **CONS 19-429**

Staff report submitted by Public Works Director Ameri, dated June 18, 2019, was filed.

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

Resolution 19-134, "Resolution Authorizing the Amendment to Resolution 18-089, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2019, Relating to the Transfer and Appropriation of \$45,400 from the Water Operating Fund to Implement a Car Sharing Pilot Program in Hayward"

LEGISLATIVE BUSINESS

6. Approval of Round 1, Tier 2 Commercial Cannabis Permit for Always on Time Consulting and Precision Apothecary (Report from City Manager McAdoo) **LB 19-029**

Staff report submitted by Development Services Director Simpson, dated June 18, 2019, was filed.

City Manager McAdoo announced the report and introduced Management Analyst II Stefanski who provided a synopsis of the staff report.

Mayor Halliday opened the public hearing at 8:21 p.m.

Mr. Sean Kali-Rai, president and founder of the Silicon Valley Cannabis Alliance, commended the City's efforts related to cannabis.

Mr. Doug Chloupek, Morgan Hill resident, urged the Council to issue a Commercial Cannabis Permit to his companies Precision Apothecary and Always on Time Consulting.

Mayor Halliday closed the public hearing at 8:25 p.m.

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

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

Resolution 19-135, "Resolution Awarding Microbusiness Commercial Cannabis Permits for Precision Apothecary and Always on Time Consulting"



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7. Introduction of an Ordinance adding Chapter [X] of the Hayward Municipal Code to Adopt a New Residential Rent Stabilization and Tenant Protection Ordinance to Mitigate Displacement of Hayward Residents, including an Associated Budget Allocation and Updated Rent Review Fee to Administer the Program, and to Repeal the Existing Residential Rent Stabilization Ordinance No. 83-023 and the Emergency Ordinance Requiring Just Cause for Eviction Ordinance No. 19-04 (Report from City Manager McAdoo) **LB 19-031**

Staff report submitted by Deputy City Manager Ott, dated June 18, 2019, was filed.

City Manager McAdoo announced the report and introduced Deputy City Manager Ott and Housing Division Manager Morales who provided a synopsis of the staff report. Deputy City Manager Ott read into the record further corrections to Section 7(b), Section 7(j)(6), Section 10, Section 11, and Section 12(b)(5) of the proposed ordinance.

Discussion ensued among Council Members and City staff regarding: the annual fee increase for Mobilehome units; provision for a landlord's failure to provide the required notices to tenants and/or the City; consideration of a flat fee for all units related to issues outside rent amounts; deleting reference in Section 12(b)(5) regarding reporting tenants to U.S. Immigration and Customs Enforcement; consistency with notices sent to tenant/landlord; materials in additional languages; capital improvements; educating tenants and landlords about the City's efforts; late payment fees; governmental-utility service passthrough; petition process and timeline; limitation on banking; inclusion of "veteran" and "terminally ill" as protected class; inclusion of language "under the penalty of perjury" in forms that need to be filed; and terms of lease or rental agreement.

Mayor Halliday opened the public hearing at 9:26 p.m.

The following speakers spoke in opposition to the proposed amendments to the Residential Rent Stabilization and Tenant Protection Ordinance (RRS&TPO) indicating: the regulation would discourage investment, put landlords out of business, and reduce the supply of rental housing. The speakers requested modifications to the RRS&TPO as follows: exempt "mom-and-pop" housing providers and rental properties of 1-4 rental units and retain the ability to opt back in at a future date; set the binding arbitration threshold at 7%+CPI; and build more housing and explore opportunities to subsidize the cost of housing for underserved communities.

The following sections were requested to be modified: add language to Section 7 (the Rent Dispute Resolution Process); remove language from Section (7)(j)(5); add to Section 9(a)(3)(iii) regarding unauthorized tenants; delete language "great bodily harm" from

Section 13(b)(15) (Just Cause of Eviction); change the rent review officer for unbiased committee; in Section 4, the arbitrator must be identified as an attorney; and further modifications to Section 7(b) (Tenant Right to File a Petition), Section 9(b) (Grounds for Denial), Section 12 (Prohibition against Retaliatory Eviction and Harassment Against Tenants), Section 17 (Landlord Fees), Section 4(w) (Security Deposits), Section 9(6)(i) (Standards of Review), and Section 13(b)(15) (Just Cause for Eviction).

Mr. Gary Thomsen

Ms. Joanne Gardiner, Hayward resident and rental property owner

Mr. Mike Godfrey, landlord

Ms. Nancie Allen, Bay East Association of Realtors President

Mr. Bill Mulgrew, Rental Housing Association (RHA), Vice President of Public Affairs

Ms. Caryl Mahar, RHA, Executive Director

Mr. Ralph Watkins, Real estate broker and property manager and RHA Board member

Mr. Lee McEachern, Rental Housing Association (RHA)

Mr. Nick Bruce, Rental Housing Association (RHA) Board member

Mr. Joe Rega, realtor

Mr. Roe Pathak, brokerage firm representative

Ms. Irene Ralston, landlord

Mr. Rob Cooper, landlord

Mr. Gerald Halligan, real estate broker and investor

Mr. Michael Chaney, landlord

Ms. Jade Tchoy, small unit landlord

Mr. Ben James, landlord

Ms. Wynn Grcich, Hayward resident

Mr. Bill Espinola, "mom-and-pop" housing provider

The following speakers spoke in favor of the proposed amendments to the Residential Rent Stabilization and Tenant Protection Ordinance (RRS&TPO) indicating the regulation added protection for tenants. The speakers requested further modifications to the RRS&TPO as follows: expand rent control and protections to as many units as possible; establish clear enforcement of rent increase limitation enforced by the City; craft regulations that protect tenants from groups that hold political and economic power; set a rent increase limitation tied to CPI, generally at 2% to 3% a year; shift the responsibility of managing local regulations from tenants to landlords; exempt deferred maintenance that gets passed to tenants; and revise length of time to file a petition.

A petition with 181 signatures was filed in support of a strong rent control program in Hayward.

Ms. Paola Hernandez, Centro Legal de La Raza housing advocate

Mr. Diego Castro, Hayward resident

Ms. Lacei Amodei, Hayward tenant and community organizer

Mr. Isaac Harris, East Bay Democratic Socialist of America representative

Ms. Allie Lahey, East Bay Democratic Socialist of America, Co-Chair of Housing Committee

Ms. Emily Hislop, with Project Sentinel (agency administering the rent review ordinance)



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Ms. Annie Koruga

Mr. Manuel Flores

Mr. Zachariah Oquenda, Hayward renter and Community Services Commission (CSC) member

Ms. Araceli Orozco, Hayward resident

Mr. Xavier Johnson, legal fellow with Centro Legal de la Raza

Mr. Nestor Castillo, San Francisco State educator and community organizer

Mr. Eric Vance, Hayward renter and East Bay Democratic Socialist of America representative

Mr. Igor Tregub

Ms. Alicia Lawrence, Hayward resident, The Hayward Collective member and CSC member

Ms. Lorena Luna, Hayward resident and Centro Legal de la Raza representative

Ms. Jeannette Johnigan, Hayward tenant, noted the ordinance did not cover properties that receive low-income tax credits.

Mr. Mario Aguilar spoke on behalf of seven tenants from an apartment complex about the excessive increase in rent.

Mr. Richard Hand submitted a speaker card but did not speak.

Mayor Halliday closed the public hearing at 11:09 p.m.

Council Member Márquez offered a motion per staff's recommendation with amendments to Section 7(b), Section 7(j)(6), Section 10, Section 11, and Section 12(b)(5) of the RRS&TPO as presented by staff, and indicated the Ordinance was not perfect but would protect tenants.

Council Member Zermeño seconded the motion noting the Ordinance was a first step to stabilize rents, protect tenants, prevent displacement and help solve homelessness and any further changes could be incorporated later.

Council Member Lamnin offered amendments to the proposed Ordinance by replacing the word "mediation" with "arbitration" in Section 7(j)(4) (Arbitration Hearing) and replacing the word "police" with "policy" in Section 12(n) (Non-waiverability).

Council Member Márquez and Zermeño accepted the changes.

In response to Council Member Lamnin's request for consideration of a flat fee to extend mediation services to all rental units to address issues outside of rent amounts, it was recommended that the item be referred to the Homelessness Housing Task Force for further evaluation. Council Member Lamnin also asked to consider language capacity for both landlords and tenants as language assistance is evaluated.

Council Member Salinas indicated he would be supporting the motion noting the proposed Ordinance had been prompted by poorly run apartment complexes and excessive rent increases.

In response to Council Member Wahab's inquiry about when further changes to the Ordinance would be considered, City staff indicated that staff could prepare a staff report within 30 days after six months of experience with the ordinance, which could be presented to the Homelessness Housing Task Force for consideration.

Council Member Wahab asked consideration for an interim emergency ordinance as a temporary moratorium that would cap rent increases at five percent until the RRS&TPO went into effect, in order to protect tenants from rent increases.

Discussion ensued among City staff and members of the City Council regarding the emergency ordinance.

Council Member Márquez noted the draft emergency ordinance had been provided to the Council right before the meeting and requested that it be tabled for consideration at the next Council meeting to allow for review.

Council Member Wahab noted she would be supporting the motion and offered an additional modification to the Ordinance which would include the word "veteran" under protected classes. Council Member Márquez and Council Member Zermeño accepted the amendment.

Council Member Márquez was commended for her leadership in recognizing housing as a priority. Members of the Homelessness Housing Task Force, comprising Council Members Lamnin, Wahab and Salinas, as well as City staff, and community stakeholders were acknowledged for the work done.

Mayor Halliday noted the database would provide the needed information to enact further modifications to the Ordinance.

Council Member Lamnin suggested staff evaluate a possible conflict of interest with Project Sentinel, and if necessary, conduct an RFP for mediation and arbitration services and leverage the Task Force as needed.

Mayor Halliday offered a friendly amendment to remove Mobilehome fees from staff's recommendation and have staff return with proposed fees as a separate item after notifying the Mobilehome community. Council Member Márquez and Council Member Zermeño accepted the amendment.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to approve the resolution and ordinance with modifications to Section 7(b), section 7(j)(4), Section 7(j)(6), Section 10, Section 11, Section 12(b)(5), section 12(j)(2) and Section 12(n). The motion included removing the proposed Mobilehome fees and



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bringing them back at a future meeting.

Resolution 19-136, "Resolution Authorizing the Amendment to Resolution 19-103, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2020, Relating to the Transfer of the Rent Review Budget Allocation in the Amount of Two Hundred and Seventy-Four Thousand Six Hundred Sixty-Eight Dollars (\$274,668) from the General Fund to the Rental Housing Program Fund; and Appropriating Three Hundred and Fifty-Nine Thousand Dollars (\$359,000) to the Rental Housing Program Fund to Cover the Cost of Administering the Residential Rent Stabilization and Tenant Protection Ordinance and the Mobile home Space Rent Stabilization Ordinance"

Introduction of Ordinance 19-_, "Ordinance of the City of Hayward, California Adding Chapter [] of the Hayward Municipal Code Regarding the Residential Rent Stabilization and Tenant Protection Ordinance"

CITY MANAGER'S COMMENTS

City Manager McAdoo announced the City had been awarded almost \$1 million in Prop 47 funding for the Navigation Center.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Zermeño announced the 6th Annual Tennyson All America Festival at Mt. Eden Mansion on June 29, 2019.

Council Member Márquez made three announcements: the deadline to apply for service on any City Commission or KHCG Task Force was July 5, 2019; the Keep Hayward Clean and Green Task Force beautification event on June 22, 2019 at the Hayward Animal Shelter; and the Downtown Hayward Street Party on June 20, 2019.

COUNCIL REFERRALS

8. Consider an Item for Discussion on a Future City Council Agenda Regarding Providing a Down Payment Assistance Program to Hayward Residents to Purchase Their First Home in Hayward, CA (Report from Council Member Wahab) **RPT 19-313**

Council memorandum submitted by Council Member Wahab, dated June 18, 2019, was filed.

Council Member Wahab spoke about the referral memorandum and Council Members sought clarification.

It was noted that the item was on the list of future agenda items for the Homelessness Housing Task Force and it could be discussed during a Task Force meeting.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 12:07 a.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward