

CITY COUNCIL MEETING
MONDAY, OCTOBER 30, 2017

Documents Received After Published Agenda

ITEMS #3 & 8

Agenda Questions & Answers

AGENDA QUESTIONS & ANSWERS
MEETING DATE: OCTOBER 30, 2017

Item #3: Adoption of Ordinance of the Council of the City of Hayward Enacting Comprehensive Regulations for Personal Cannabis Cultivation and Commercial Cannabis Land Uses through the Amendment of Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance); Article 2 (Off-Street Parking Requirements); Article 24 (South Hayward BART/Mission Boulevard Form-Based Code); and Article 25 (Hayward Mission Boulevard Corridor Form-Based Code)

Q: Would someone please clarify the difference between Neighborhood Commercial (CN) and Neighborhood Residential (CNR)? Would you please also add in the distinction between these two and the form based code zones?

A: The differences between the two are subtle but the CN district tends to be more commercial oriented uses located NEAR residential neighborhoods vs. the CNR district, which tends to include both commercial and residential uses in a few areas around downtown. The reality, though, is that the CN-R district only occupies a very small area in the City (per the attached map). Staff has excluded this zoning district from the current recommended areas where retail dispensaries would be allowed.

Item #8: Approval of Resolution Accepting the Transfer of Parking Facilities from the Hayward Successor Agency

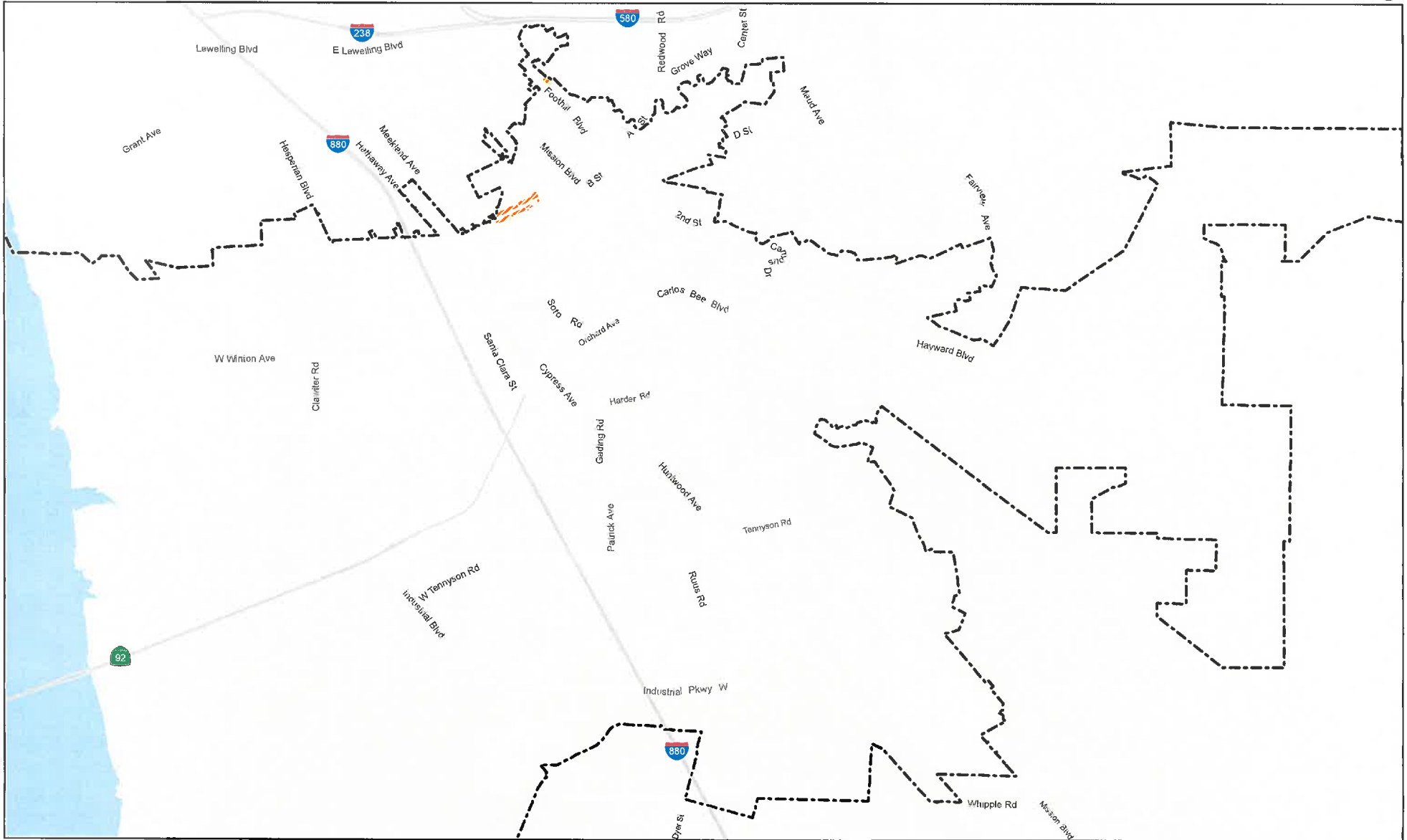
Q: Can the Department of Finance block this action again? Or is this action truly final?

A: The transfer of the properties is subject to DOF review. The DOF will have approximately 45 days to review and comment on the action.

If the DOF challenges the transfer, then the Successor Agency could transfer the property pursuant to the terms of the approved LRPMP as property designated for future development. That transfer would specifically be exempted from additional DOF scrutiny under 34179(h)(1)(E). The City would, however, need to negotiate a compensation agreement with regards to the properties.

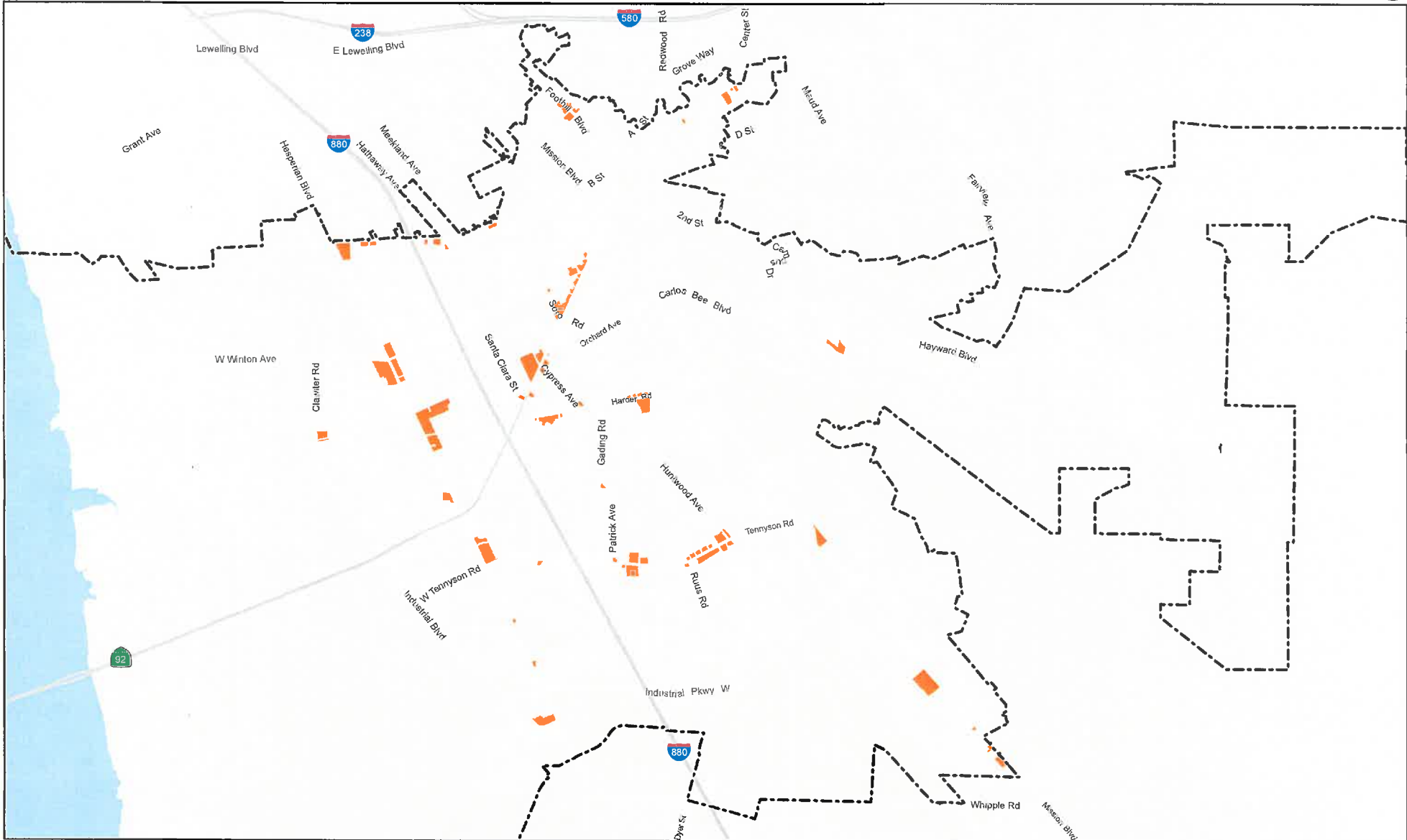


Neighborhood Commercial/Residential Zones





Neighborhood Commercial Zones



PUBLIC COMMENTS

Cannabis

- **Natalie Juntz**
- **Bernard Kidwell**
- **Lauren Mendelsohn**
- **Michael Sweeney**
- **California State University, East Bay**

From: nataliejuntz
To: [List-Mayor-Council](#)
Subject: Marijuana dispensary on Hayward Blvd.
Date: Sunday, October 29, 2017 5:36:38 PM

Dear Mayor and Council Members,

It is with a heavy heart that I write this to you as I have never been against marijuana-smoking. I have enjoyed it a time or two myself in private homes back in the day. However, dispensaries at Bon Faire markets are, in my opinion, taking civil liberties one step too far. I believe it is doing a lot of wishful thinking when you tell us that the restrictions are such that no problems will arise.

The Hayward Boulevard Bon Faire Market is one block from Cal State. Students walk across the street, through a gate on Harder Road. One block up Old Dobbel from the university sits Bon Faire. What better way to get your pot than from a machine a block from where your classes are held.

It has been pretty easy in the past to find a doctor who will write a prescription for cannabis. Now, putting a dispensary in a residential neighborhood just isn't right. I'm no soothsayer, but I'm pretty sure this will not create a healthy environment in our neighborhood. My neighbors and I have been talking about this in our court. We do not wish to support this proposal and certainly don't want to continue to support the store should this come to fruition. College Heights Park is one block up Hayward Blvd. and there is a pre-school right across the street from Bon Faire on Civic St. But, it is the close proximity of Cal State that can blow this thing up. Don't get me wrong; Cal State is my alma mater. I also worked there while getting my teaching credential.

This is not a good idea. Please hear our plea. We have CSUEB students, who won't buy parking permits, crowding their cars onto College Heights streets, so that we have to do a dance trying to drive our cars into our own neighborhood. They are already using the park to smoke pot. It is a park with lovely children's play equipment on it that hardly gets used. We worked hard to afford to live here and we'd like to try to enjoy the fruits of our labors. Yes, there are quite a number of apartments immediately surrounding our Bon Faire. But, just a block beyond that, the homes are single-family dwellings in the Hayward Hills. Please don't put these dispensaries in residential neighborhoods, and especially not in a store one block from Cal State (where they are supposed to be studying) and one block, as the crow flies, from our homes in College Heights. Thank you for hearing me.

Sincerely,

Natalie Juntz
Hayward, CA

From:
To: [List-Mayor-Council](#)
Subject: URGENT! VOTE NO ON 10-30-17
Date: Sunday, October 29, 2017 2:15:32 PM

Hon. Mayor, Council Members;

I am just now getting on-line information from the East Bay Times. I understand you are due to vote Monday.

I have been spending most of the last two months in Shasta County helping an ill relative and not paying much attention to my home in Hayward. I will continue to do so for probably the next two or three months, maybe more. I have had family here for over fifty-five years and am familiar with the history and issues of the area. I am even more familiar with Hayward, having lived there most of the last forty-five years. I've been in the near east bay (between Berkeley and Union City) since 1961.

This area has a long history of economic depression and social distress. The invasion by various sorts of drug dealers on many levels has not helped. On this point, I have seen Hayward's future, and it is horrible.

I could write extensive comments that I know you won't take time to read, but consider:

There is nothing about the marijuana "industry" that is legal. Under federal law, it is still felonious. Aiding and abetting a felony is also felonious. Think carefully about that.

Pretending to make drug dealers legal will not bring them into the light. They are simply making too much money doing what they are doing and will continue to do so without your permitting processes. They pay no taxes now; why should they start?

These regulations cannot be enforced; these taxes and fees cannot be collected. Very rudimentary reading of contract law tells us it is not possible to have a legally binding contract for an illegal purpose. They cannot report revenue and banks cannot do business with them. A few months ago, you had one of their lawyers speaking to you about how he advised his clients to get around these facts, essentially committing both banking and tax fraud.

There is nothing "medical" about it. There is no testing, no standard of dosing, no safety regulation in production, no standardized tests for efficacy. Do you really think Bayer, et al, would not already have been doing this?

Even using the model of tobacco or alcohol, there can be no reasonable claim of harmlessness. Can that claim really be made for those products? I could talk about those, as well, but I doubt you have the time or interest. Even Amsterdam has been closing its famous cafes over this issue.

Please, before you vote, talk to people in the north state area about the experience here. Talk to them about the social, economic, and environmental damage. Talk to them about the invasion of cartels and their money, about getting paper money that smells of drugs, the increase in homelessness, and the burden on law enforcement.

Visit the cities of Yreka, Eureka, Crescent City, Redding, Susanville, and smaller towns like Trinity Center, Weaverville, and Douglass City. Ask about clearcut forests, diverted streams, hearing gunshots at night, and drinking water wells poisoned by chemicals that were banned in the United States decades ago.

Ask the Siskiyou County Sheriff about the tow drug producers who are so brazen as to have openly offered him a one million dollar bribe to leave them alone. Do you really think they care about needing your stinkin' permits?

Do this, then come back and tell us how this is good for Hayward.

Just two last questions: Who's side are you on, really? Who is paying you?

s/s

Bernard Kidwell



October 30, 2017

Hayward City Council
ATTN: Miriam Lens, City Clerk
777 B Street
Hayward, California, 94541
Miriam.Lens@hayward-ca.gov

Re: Cannabis Tax Rate for the City of Hayward and Operator Selection Process

Dear Council Members,

My name is Lauren Mendelsohn and I am an attorney at the Law Offices of Omar Figueroa, a boutique law firm focusing on cannabis law. I represent cannabis businesses and help them achieve and remain in compliance, as well as to obtain permits and licenses to operate legally under state law. One of my clients, Ms. Feeney, is interested in opening a medical cannabis dispensary in Hayward. I am supportive overall of the proposed policy, but have a few comments and suggestions I wish to make.

I. Measure EE Tax Rate

Measure EE allows City Council to enact a general tax of up to 15%. However, I would urge the city not to impose a tax rate that high, or even half of that amount. As noted in the staff report, commercial cannabis cultivators will already be subject to a cultivation tax of \$9.25 per ounce of flower and \$2.25 per ounce of trim; and there will also be an excise tax on all purchasers of cannabis and cannabis products at a rate of 15% of the “average market price” of any retail sale by a cannabis retailer. In addition, due to Section 280E of the Internal Revenue Code, cannabis operators have a much higher effective federal tax rate than other businesses, since they cannot deduct normal business expenses.¹

Over-taxation can result in lower levels of compliance.² Put another way, people are more likely to pay a tax if they can afford it. Additionally, operators won't choose to locate in Hayward if the effective tax rate here is higher than another nearby city where permits are also available. For example, the cities of Berkeley, Oakland, and San Leandro are all geographically close to Hayward and have tax rates of 2.5%, 5%, and 6-8% respectively.

Also, I would urge Council to impose either no tax on medical cannabis operators or a lower tax on medical cannabis operators than on recreational operators. This is because medical cannabis is what it sounds like—medicine. Other types of medicine, such as prescription drugs and certain medical devices, are exempt from sales and use tax in California. The same idea should apply to medical cannabis, as oftentimes people are using cannabis as a replacement for pharmaceutical drugs. One of the rationales for imposing a tax on a vice like tobacco or alcohol is to curb usage of a dangerous substance; yet this rationale does



not apply to medical cannabis patients.³ Other nearby cities, such as Oakland and Berkeley, have lower tax rates for medical cannabis than they likely impose on recreational cannabis.

Qualified medical cannabis patients can be exempt from paying sales tax on medical cannabis products, but this is different from the excise tax and cultivation tax which will still be imposed on operators of medical products at the state level. Additionally, to take advantage of this sales tax exemption, patients must possess not just their doctor's recommendation but their official county-issued medical cannabis ID card as well as a valid photo ID. Thus, not all sales of cannabis products would be exempt from local sales tax, and the taxes on the other parts of the supply chain would still be in effect even if a medical cannabis product in question is destined for a card-holding patient.

Hayward could consider imposing varying tax rates on different parts of the cannabis supply chain. By way of examples, Sonoma County and the city of Santa Rosa have approached their tax structure this way. In Sonoma County, there is an initial tax rate of 3% of gross receipts for manufacturing and a tax rate of 2% of gross receipts tax for dispensaries. There is an initial tax rate of 0% on distributors and testing laboratories. Tax rates on cultivators varies based on the type of operation (indoor, outdoor, mixed light) as well as the size of the operation, with rates ranging from \$1.00 per square foot to \$11.25 per square foot. In Santa Rosa, there is a tax rate of 1% of gross receipts on manufacturing, 2% of gross receipts (or \$5 per square foot of canopy) for cultivators, 0% of gross receipts for distributors and 0% for medical retailers.

Considering that cultivators and retailers will already be subject to significant taxation at the state level, I would encourage the city to consider imposing cannabis taxes at a low rate on other parts of the supply chain, such as manufacturing, distribution, and/or testing.

II. Selection Process for Cannabis Business Operators

The staff report lays out criteria and an estimated timeline for the RFP process for cannabis operators. The timeline allotted to prepare and submit the RFP—slightly more than a month—seems rather short, considering the Thanksgiving holiday. I also think more weight during the ranking process should be given to Management Experience, though I will leave how to achieve that in Council's discretion.

Three questions I have regarding the selection process are (1) whether the RFPs (or portions of them) will be made publicly available; (2) whether an applicant whose RFP was not selected is precluded from submitting another RFP for a cannabis business at a later date; and (3) and whether there is any kind of appeal procedure for applicants who wish to challenge their ranking.

III. Capping the Number of Dispensaries at Three

On October 17, the City Council indicated that they wished to cap the number of retail cannabis dispensaries to three. I would like more clarification as to whether this includes



both medical and adult-use retail facilities, or if this limitation applied exclusively to adult-use (“recreational”) retail facilities. Additionally, I was wondering whether this cap also included retail operators that conduct business exclusively by delivery and who do not have a storefront that is open to the public. For the following reasons, I think that there should not be an inflexible cap on the number of medical dispensaries, and also do not think that any proposed cap should apply to delivery-only retailers.

First, I am curious what methodology the city used to come up with the number of three for retail facilities. Was this based on the geographic or population size of the city? Did the city conduct any research to learn how many medical cannabis patients live in Hayward? Was the fact that patients from surrounding cities who currently lack access to medicine may want to shop at a medical cannabis retail facility in Hayward taken into consideration? While I would love responses to those questions, they are meant rhetorically to encourage further thought on this topic.

Imposing a rigid cap on the number of cannabis retail facilities, and including medical cannabis retailers within this, puts patients at a disadvantage. An elderly individual who needs a salve or tincture to help ease their pain should not have to wait in line behind a millennial looking to get high—there should be enough options for both medical users and recreational users, who are typically seeking a different experience when visiting a cannabis dispensary. The city also runs the risk of not receiving as many high-quality RFPs for medical retail compared to adult use retail, which could result in only one or none of the city’s three allotted retail permits going to medical operators. Clearly, such a situation would not serve the interests of the many patients in Hayward who currently lack safe and convenient access to their medicine.

Thus, City Council should consider raising the cap on the number of cannabis retail facilities allowed within the city; exempting medical cannabis retailers from the cap; setting different caps for medical and adult-use retail (at least two of each type to begin with); or at the very least, making it easy for Council to adjust the cap in the future.

Thank you for your time, and I welcome any questions you may have.

Lauren A. Mendelsohn, Esq.
lauren@omarfigueroa.com

¹ See <https://thecannabisindustry.org/uploads/2015-280E-White-Paper.pdf>.

² See, for example, <https://taxfoundation.org/marijuana-taxes-lessons-colorado-washington/>.

³ See <https://itep.org/wp-content/uploads/marijuanaissuesreport.pdf> at page 5.

-----Original Message-----

From: Michael Patrick Sweeney

Sent: Monday, October 30, 2017 3:16 PM

To: Barbara Halliday <Barbara.Halliday@hayward-ca.gov>; Michael Lawson <Michael.Lawson@hayward-ca.gov>; Miriam Lens <Miriam.Lens@hayward-ca.gov>

Subject: Thoughts on the proposed Cannabis Policy/Ordinances/etc

Please share this email with the City Council, appropriate staff, and have it read into the record at tonight's special meeting. Thank you.

Dear Mayor and City Council:

1-There is nothing in the cannabis proposition that requires Hayward to allow any dispensaries or any cannabis businesses. There is a world of difference between voters voting to legalize cannabis so people who possess or use it don't spend 10 years in prison, and wanting a dispensary in their neighborhood or local shopping center. And I think you all know better than to hide behind an easily manipulated and weak online survey, when a scientific survey would have obviously been more appropriate.

2-You need to make a better effort to communicate with the community about this issue. This is particularly challenging given the destructive tenor of public discourse these days. I've had a couple of business people and several citizens express strong opposition to cannabis dispensaries in our community, but they are unwilling to comment publicly for fear of retribution of some sort.

Nevertheless, you owe it to Hayward Citizens to be more forthcoming about where a dispensary maybe located. Simply saying it could be located in any business area not near a school, child care center, etc., depending on the RFP process/scoring, day of the week, weather, etc., and that the council can deny any proposal for any reason, and/or close down any dispensary for any reason you all want, is all so general and vague as to be meaningless to most people.

You all know how difficult it can be to close down any use, and that, at best, it takes a great deal of time and effort. Do you really think the folks in Fairway Park will be all warm and fuzzy, if the top RFP scored proposal is for a Fairway Park Shopping Center dispensary. Or should the Fairway Park folks believe that since this is Councilman Mendall's neighborhood, the fix will be in, and such a proposal will be magically denied.

I've heard some of you say the Tennyson Road neighborhood will probably get a dispensary, it is hard to believe that anyone could seriously believe that a cannabis dispensary is just what Tennyson needs.

I've also heard some of you say downtown will probably get a dispensary. Surely, you have not already forgotten the city's previous experience with cannabis dispensaries in the downtown. It was a disaster, downtown businesses hated it, and people stayed away because of it. When I was elected mayor in 2006, the city got rid of both dispensaries, and that clearly helped our downtown.

3-Access is also not an issue, as you know, 5 minutes from city hall, on Foothill Blvd., in unincorporated Hayward is a dispensary, 5 minutes from that one is another one on Lewelling Blvd. Of course, people can also have their cannabis delivered.

4-You may have missed it, but the Bay Area has just suffered through a brutal fire season, so why you would want to make it easier to locate a dispensary closer to parks and open space, than other "sensitive" uses is beyond me. You may have also missed that users frequently smoke cannabis, which apparently involves matches, lighters, and fire.

5-Money! I've also heard a few of you say something like "we need to get in on this" for the supposed revenue it will bring. I may have missed it, but I didn't find an objective analysis on the revenue cannabis might bring in and the costs (including public health costs) to the city and Hayward of such businesses, in the staff report. If this is just about the money then shame on you.

6-Dr. Stan Glantz at UCSF is widely recognized and honored for his work on tobacco and its impacts, and for standing up to "Big Tobacco". Before moving forward on any of this, you should all read his comments and observations on cannabis and how it should be treated. Dr. Glantz's background and work is easily available on line.

7-Despite pages and pages of staff reports and ordinances, the city's approach to all of this cannabis stuff seems to be no more than a series of "it depends", "we don't know yet", "that's part of the CUP process", and "trust us", that basically kicks the can down the road. This sort of approach invariably leads to convoluted and poor decision making. Hayward deserves better!

8-I urge you to take a step back, rethink your approach, and that you not adopt the proposed ordinances, rules, etc., on tonight's agenda. In addition, I urge you to decide to not allow any dispensaries in the City of Hayward. I think many of you know it's the right thing to do, the question is whether you will have the courage to do it.

Thank you.

Michael Sweeney

Sent from my iPad



CAL STATE
EAST BAY
Rising in the East

CALIFORNIA STATE UNIVERSITY, EAST BAY
25800 Carlos Bee Boulevard, Hayward, CA 94542-3000
510-885-3000 · www.csueastbay.edu

October 30, 2017

The Hon. Barbara Halliday, Mayor
City of Hayward
777 B St.
Hayward, CA 94541

RE: City of Hayward Cannabis Ordinance (oppose)

Dear Mayor Halliday:

On behalf of California State University East Bay, I write in strong opposition to the inclusion of the Bonfare Market shopping plaza as a potential dispensary site under the City of Hayward's proposed cannabis ordinance.

While we do not have any objections to the proposed ordinance based on its merits, we are *deeply* concerned by the close proximity of this potential dispensary site to the University. Indeed, many of our students, faculty and staff frequent this plaza throughout the day to both shop and dine. As such, this raises serious safety concerns for them and the surrounding neighborhood especially when taking into account that there is minimal patrol activity in the area above the University. Should an emergency occur, University Police will frequently be the first to respond which will divert them from their first priority of safeguarding the campus.

Therefore, I would respectfully ask that the City Council remove the Bonfare Shopping Plaza from the list of proposed sites before adopting the ordinance at its October 30th meeting.

Should you have any questions or concerns, please do not hesitate to contact me at (510) 885-3803. Thank you for your consideration.

Sincerely,



Debbie Chaw
Vice President Administration and Finance
Chief Financial Officer

cc: Hayward City Council Members
Hayward Police Chief Mark Koller
Hayward City Manager Kelly McAdoo
CSU East Bay Police Chief Sheryl Boykins
CSU East Bay President Leroy Morishita

ITEM # 9 – PH 17-096

Accessory Dwelling Units

Comments

- **Sherry Blair**

From: Sherry Blair
To: [Al Mendall](#); [Barbara Halliday](#); [Elisa Marquez](#); [Francisco Zermeno](#); [Mark Salinas](#); [Marvin Peixoto](#); [Sara Lamnin](#)
Cc: [Leigha Schmidt](#); [Aisha Wahab](#); [Miriam Lens](#); [Kelly McAdoo](#)
Subject: Ordinance: Accessory Dwelling Units
Date: Sunday, October 29, 2017 1:16:30 PM

I had to laugh while I was watching the video of the City Council meeting in March of this year when one of you rather passionately said the following about the new state law on ADUs:

“This kind of idiotic, one size fits all solution that the legislature likes to impose on cities is really not the right way to go, especially when you got a city like Hayward... We’re doing our part and to have things like this imposed on even cities like us who are doing our part...It’s really very frustrating...”

I TOTALLY understand your frustration, because I experience it too! Only it’s not the State but the City of Hayward that makes me feel that way. Please try to understand that your actions affect the citizens of Hayward in much the same way as the State’s actions affect you. This is certainly true when it comes to this new State law and the recommendations of the City staff.

So here I am, begging you for consideration again. I apologize ahead of time for how long this email is, but I am an old lady. This issue has been painful to me for many years and I have a lot to say about it. I would have gotten this to you earlier, but I had to wait until I saw what the City staff posted on Friday just in case there was some change of heart.

I am a law abiding citizen who is doing the best I can to do my part like you and most of my neighbors. A few years ago, when one of my adult sons went through a divorce and became a single dad, we dreamed of building an ADU to accommodate him and my grandson on my property which, at 12,000 sq. ft., has plenty of space. My son, who works in construction, knew how to draw up the plans and build it and had just enough money to pay for the material. It would have been a real asset to my property and to the City of Hayward.

I could see right away that it would enable him to be the kind of “hands on father” he wanted to be and he could help me to care for things I could no longer do myself. Also, it would help us both by allowing us to share expenses. I plan to age in place on Social Security and this is exactly the kind of thing that would enable me to do just that. The best part for me was that my grandson and I could spend time together on a more regular basis.

However, the permit proved to be too expensive and restrictive to allow us to make this dream

come true. I don't know when the old ordinance was last updated, but it was an "idiotic one size fits all solution" that didn't work, discouraged property owners from building ADUs and actually discriminated against low income families like ours. In other words, "The law is an ass." (A phrase from Oliver Twist, a novel about poverty and social class.)

I believe in a nation of laws, but not just ANY laws. From time to time, civil disobedience IS in order. Personally I don't even like to walk on the grass, but we live in a time where there is not only a severe housing crisis, but there is a crisis of income inequality in addition to the problems of immigrants and refugees and the city is even encouraging us to convert our grass into water efficient landscapes. We, in Hayward, pride ourselves on our diversity and say we are a sanctuary city, but that very diversity must be supported all the way down to the bottom of the economic scale. Otherwise it is just words.

Those who are priced out of housing, which is a basic human right under international law, are forced to find ways to house themselves regardless of what ordinances may decree. When they do, the city loses control as it did years ago when the fire department was finally forced to make a sweep through the city to locate and close down unsafe dwellings and fire traps. And we all are aware now of the problem of homeless people who are forced to camp in places we don't want them to camp. Yet somehow we manage to tear down those camps without taking any action to provide other places where the homeless can shelter themselves safely. That is NOT REALISTIC and it hasn't worked for years. People are tired of it.

When the city does not understand its complicity in these problems and excludes whole groups from having shelter, innumerable problems arise, setting one group against another, one neighbor against another, one neighborhood against another. I believe this is the time for the City of Hayward and its residents to finally make peace. Certainly after watching cities burning down in Northern California so recently, we must see how interdependent we are. We must make sure that housing is built in a safe way for all of us not just those who can afford it.

When the city ordinance prevented me from providing additional housing for my family, I researched the whole issue of ADUs. I found other cities in California that were much more inviting and equitable than Hayward. Cities waived fees altogether or charged on a sliding scale according to the ability of the applicant to pay. They actively encouraged ADUs. They took responsibility. I sent material about that to our Council at the time, but nothing came of it. Why does the city staff miss this kind of information in its background reports?

I joined the Task Force to End Homelessness and Hunger in Hayward when it first formed right after the City Hall teach-in. Time and time again I spoke about the benefits of ADUs and the need to change the city ordinance, but nothing came of it.

Last year, when the State finally acted to force cities to change, I celebrated! “NOW there is a chance we can make things better here in Hayward,” I thought. But, when I read these staff recommendations, it seems that the whole spirit and intent of the new law was sucked right out of it! WHO can be encouraged by this when the fees have actually been raised and every relaxation in the law was met with a restriction in the ordinance? Burdens to home owners were added, burdens that would be passed down for generations to come. Ordinary citizens and especially low income families, the ones most in need of affordable, accessible housing, CANNOT AFFORD TO BUILD ADUs under this proposal, even though they know how to do so in a safe way on their own property with their own sweat and materials, IF ONLY the city would get out of the way!

Although it doesn't show up in the minutes, if you look at the video of the Planning Commission meeting on July 17th when ADUs were being discussed, Eduardo Padilla, an electrician and homeowner in Hayward, made a passionate plea for help. He wanted to move his dying father to an ADU so they could be together at the end of his life. He was passionate, but also desperate and frustrated. As I watched the staff person talking to him, I was reminded of Nurse Ratched talking to the inmates in “The Cuckoos Nest.”

His problem was a lot like my own. He could not manage the outrageous fees, nor did he think he should have to! When he brought up the in-lieu fees everyone passed the buck to HARD as if the city had no influence there. I know better. The city has a lot of influence. Did anyone even ask? These fees and the increase in fees that come with the new ordinance are indefensible. No effort has been made to mitigate them that I can see.

I distinctly remember during the last recession when the city came up with WAIVERS FOR DEVELOPERS so they would build housing in the Burbank neighborhood. Councilman Salinas brought that up at one of your meetings and our City Manager told him that the city has the flexibility to do a “relief ordinance.” If that is possible for developers during hard times, why not for low income property owners at a time when affordable housing is so desperately needed? Couldn't this be exactly the right time?

In view of the present day problems of extreme income inequality, the severe housing shortage and the value of diversity to long term sustainability, our city must expand its point of view to include and no longer discriminate against those on the bottom. People who are not on the bottom may not want low income people in their neighborhoods, but the city cannot be allowed to keep discriminating against them and excluding them from the community as a whole. We need each other, especially in times of disaster and together, we can actually prevent disasters. We CAN be a well balanced caring community that cooperates and treats all its citizens with the same respect and consideration. There IS a place here for ALL our residents.

I would like to stop there but in case that doesn't make a difference, here are some specifics that you can consider:

1. Even this late in the game, this ordinance should be sent back to staff for a re-write that will actually accomplish the intent of the legislation to encourage the building of ADUs. If you want it, they will do it. They are really good at their jobs.

2. Location: Not all parts of zones are alike. Some neighborhoods, like the old Burbank neighborhood where I live, are perfect for ADUs. Others, like the newer development on the old Burbank School site and the Cannery neighborhood next to ours are not. College neighborhoods where street parking is scarce are not, at least not without available on site additional parking. These places should be identified and that information made available to the council and residents. We need a community that is as diverse as its people.

3. Design and Development Standards for All ADUs: One size does NOT fit all when it comes to design standards! My home for instance has been designated by the city as historically significant, but it's not in a designated historic district. It is small, less than 1000 sq. ft. An ADU would have to be VERY small to meet the under 50 % requirement. Yet, my lot size is very large with plenty of room for additional housing, parking or an urban farm. While I want to maintain the historic character of my front house, I also want some flexibility in putting our large lot to good use. Why not? Why take away my need to be creative?

4. Parking Requirements: It should not be a surprise to you that some people do not like parking on the street because of vandalism. These people want to use the space that is available on their lots for parking and where there is ample space I see no reason for the city to keep them from doing that. Some of the houses on our street are set way back from the street with plenty of room for additional parking between their homes and the street without parking on the sidewalk. My next door neighbor has a main front house with a small parking lot next to it and four apartments in the back. My house doesn't have ANY space in front. We park our cars in the back where there is plenty of space and they will be safe. In that way, we contribute to the number of on street parking places available to the public.

5. Owner occupancy and short term rentals: I see no reason why an owner should not be able to rent his ADU on a short term basis. Obviously the city isn't ready for Airbnb, but people are and you have to think of the future when you develop ordinances. I know seniors who can afford to travel ONLY because of Airbnb and some who can finally increase their fixed incomes by renting their ADUs for a short term.

One of the advantages to short term rentals is that if you get a bad tenant, they will soon be gone from a short term rental. A tenant who has rented for 30 days is a lot more difficult to

evict. Let's face it, people are becoming more mobile and seniors are living longer. Airbnb should be allowed in the same way as Uber is allowed on city streets. (Uber is another thing that seniors really appreciate.) I have not heard any reasonable argument against this. If you want to rent to Airbnb customers, you have to maintain standards and the renters give feedback. The City rental housing inspection program should be where this is regulated NOT in the ADU building permits.

6. Deed Restrictions: I don't believe that deed restrictions are necessary either. The problem of absentee landlords can be solved more easily through rental inspections, use permits or business licenses in general. Property owners deserve to get the best value for their long term investments! They might even want to sell to a developer who will build more apartments. Why limit them? Property is often all people have to show for a life of hard work and they want to leave it to their children UNENCUMBERED.

I might add that where deed restrictions ARE needed is for low income housing projects, to insure that they remain affordable to low income people on a permanent basis. Summerwood is a place like that. It was built for low income tenants and then sold and now the rents there are apparently uncontrolled and unaffordable.

Keep in mind too that "absentee landlord" has become a pejorative term. Not all owners that don't live on the premises are evil. The property owner next door to me does not live there. He rents out the front house and 4 apartments in the back. He is a great neighbor, much better than the owners who actually lived there before. He visits often and takes care of his property. He talks to me and asks me if I have any concerns. His tenants never cause problems in the neighborhood. One size does not fit all! That's diversity.

7. Utility Impact Fees: Although State law allows the city to require separate utility connections; I don't think it is justifiable. I see no benefit to the City. It might be an asset for an owner renting his ADU on a long term basis, but it should not be a requirement for either building or renting. Those who need it and can afford it could do it voluntarily as the market dictates. It certainly would not be indicated in an ADU needed for family or even for short term rentals. Just the opposite would be true. Further, many houses in Hayward have only one bathroom. Adding one more bathroom and kitchen should not warrant any additional utilities.

8. Permits: FEES SHOULD NOT STAND IN THE WAY OF HOUSING, certainly not in the way of sheltering a sick family member! As discussed above, we need fee waivers for low income residents. That is the only way to insure an inclusive, equitable complete community and provide a mix of housing stock for all Hayward residents. Please note that the new HEART team found that THE BIGGEST OBSTACLE was PROJECT COST and unfamiliarity with the City's process for ADUs. Both of these obstacles can and should be removed.

9. Legalizing: Although the subject has come up at both Planning Commission and City Council workshops, no information has been given about a process for legalizing unpermitted ADUs that now exist and may or may not meet safety standards. This should be a priority and could be offered as part of a comprehensive plan to increase housing availability in Hayward.

Thank you for all you do for us.

Sherry Blair