



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 4, 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 Márquez.

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 5:30 p.m., concerning three items: 1) public employment pursuant to Government Code 54957 regarding the City Attorney's annual evaluation; 2) conference with legal counsel pursuant to Government Code 54956.9(d)(1) regarding the AGG, et al. v. City of Hayward, et al., United States District Court Case No. 4:19-cv-00697 DMR; and 3) conference with real property negotiators pursuant to Government Code 54956.8 regarding City Center, 22300 Foothill Boulevard, Hayward, APNs: 415-0250-112-00, 415- 0250-111-02 and 415-0250-113-00. Mayor Halliday reported there was no reportable action related to Item 1 and City Attorney Lawson indicated there was no reportable action related to Items 2 and 3.

PRESENTATION

Mayor Halliday read a Proclamation declaring June 2019 as Elder Abuse Awareness Month in the City of Hayward in recognition of elders who have the right to live safely and securely in Hayward. Two proclamations were accepted on behalf of the Alameda County District Attorney's Office by Cheryl Poncini, Deputy District Attorney and Vanessa Baker, Adult and Aging Services Program Manager. Both representatives spoke about the services provided for the elderly.

Mayor Halliday recommended, with Council's concurrence, that Work Session Item No. 7 be heard after Public Hearing Item No. 13.

PUBLIC COMMENTS

Mayor Halliday asked that everyone respect each other's right to speak and read language from the Rules of Order and Decorum of the City Council.

Mr. Jim Drake, Hayward resident, spoke about the Conditions of Approval for Taqueria El Mezcal Restaurant regarding trees, and also the delay in opening the library.

Ms. Alicia Lawrence, Hayward Collective member, spoke in support of the Agustin Gonzalez family and noted the City must preserve the safety of diverse community members.

Mr. Charlie Peters, Clean Air Performance Professional representative, spoke about the quality of Hayward water and making the use of ethanol and gasoline voluntary.

Mr. Frank Runninghorse read a statement from the Oscar Grant Committee about the Agustin Gonzalez's tragic incident and following related protests and requests for an independent investigation.

CONSENT

1. Minutes of the Special City Council Meeting on May 14, 2019 **MIN 19-076**

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council Meeting on May 14, 2019.

2. Adoption of an Ordinance Amending the Zoning Map and Chapter 10, Article 1 (Zoning Ordinance) and Article 2 (Parking Regulations) of the Hayward Municipal Code Related to a Comprehensive Update of Industrial District Regulations **CONS 19-377**

Staff report submitted by City Clerk Lens, dated June 6, 2019, was filed.

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

Ordinance 19-10, "An Ordinance Amending the Zoning Map and Chapter 10, Article 1 (Zoning Ordinance) and Article 2 (Parking Regulations) of the Hayward Municipal Code Related to a Comprehensive Update of the Industrial District Regulations"

3. Adoption of an Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201603891 to Accommodate 19 Single-Family Homes at 29080 Fairview Avenue **CONS 19-415**

Staff report submitted by City Clerk Lens, dated June 6, 2019, was filed.

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

Ordinance 19-11, "An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning



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Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201603891 to Accommodate 19 Single-Family Homes at 29080 Fairview Avenue”

4. Authorization for the City Manager to Execute a Three-year Agreement with the Alameda County Probation Department for Delinquency Prevention Network (Local Service Center) Services Provided by the Hayward Police Department’s Youth and Family Services Bureau and Appropriation of \$237,500 Annually, for a Total of \$712,500 **CONS 19-379**

Staff report submitted by Police Chief Koller, dated June 6, 2019, was filed.

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

Resolution 19-117, “Resolution Authorizing the City Manager to Execute an Agreement with the Alameda County Probation Department for Delinquency Prevention Network (Local Service Center) Services Provided by the Youth and Family Services Bureau of the Hayward Police Department”

5. Authorize the City Manager to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. and Appropriate \$150,000 from the Measure BB, Fund 212 for Completion of the Hayward Boulevard Safety Improvements Feasibility Study **CONS 19-422**

Staff report submitted by Public Works Director Ameri, dated June 6, 2019, was filed.

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

Resolution 19-118, “Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for the Hayward Boulevard Safety Improvements Feasibility Study”

Resolution 19-119, “Resolution Appropriating Funds from the Local Transportation Fund (Fund 212) to the Hayward Boulevard Safety Improvements Feasibility Study”

6. Adoption of a Resolution Approving an Adjustment to the Bid Process Schedule for the Trash Capture Device Installation on Arf Avenue **CONS 19-424**

Staff report submitted by Public Works Director Ameri, dated June 6, 2019, was filed.

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

Resolution 19-120, "Resolution Changing the Submittal Deadline for Bids for the Arf Avenue Trash Capture Device Installation Project, Project No. 07675, and Call for Bids"

WORK SESSION

7. Hayward Police Department 2018 Year-End Report (Report from Police Chief Koller) **WS 19-037**

Staff report submitted by Police Chief Koller, dated June 6, 2019, was filed.

Hayward Police Chief Koller, Police Captain Matthew and Youth and Family Services Bureau Counselor Dr. Young, Police Lieutenant Cantrell, provided a synopsis of the staff report.

Mayor Halliday opened the public comments section at 8:25 p.m.

The following speakers spoke about District Attorney O'Malley's investigation report which found insufficient evidence to prosecute Hayward police officers Phillip Woolley and Michael Clark for the death of Agustin Gonzalez; and requested an independent unbiased investigation, accountability, transparency, and justice. There was also recommendation for further mental health and de-escalation training for police officers and consideration of a Citizen Oversight Committee.

- Ms. Melissa Nold, civil rights attorney
- Ms. Jessica Aquino, mother of Agustin Gonzalez's two children
- Ms. Rachel Schenkel, medical student representing Do No Harm Coalition
- Ms. Irene Palacios
- Ms. Jessica Aguillo Hurtado, Brown Beret National Organization representative
- Mr. Stan Woods, Oscar Grant Committee representative and Oakland resident
- Mr. Craig Emery, Concord resident
- Ms. Samantha Watts, cousin of Agustin Gonzalez
- Ms. Rosaura Mendoza, Hayward Collective organizer and Hayward resident
- Ms. Rebecca
- Ms. Cynthia Nunes, cousin of Agustin Gonzalez
- Ms. Wanda Johnson, mother of Oscar Grant



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Ms. Megan C, cousin of Agustin Gonzalez
Ms. Beatrice Johnson (Aunt B)
Mr. Cephus Johnson (Uncle Bobby)
Ms. Cynthia Canto, aunt of Agustin Gonzalez
Ms. Herminia Gutierrez, Hayward resident
Ms. Jessica Hernandez, Hayward resident and family member of Agustin Gonzalez
Mr. Steve Jacobson with Oscar Grant Committee
Mr. Danny Rey, family member of Agustin Gonzalez
Ms. Lindsay Williams

Mayor Halliday called for a recess at approximately 9:30 p.m. and reconvened the meeting at 9:33 p.m.

Mr. Lacey Amodei, Hayward resident
Ms. Jacqueline Gonzalez
Ms. Michael Kerr
Ms. Araceli Orozco, Hayward resident
Mr. Gilbert Espinoza, Hayward resident
Mr. Dwight Ost
Ms. Nayeli Marquez
Mr. Keanu Estrada
Ms. Marilyn Thurman
Ms. Karla Gonzalez, mother of Agustin Gonzalez
Ms. Angelita Gonzalez

Ms. Marnelle Tomson, Hayward resident, noted Kimberlee Burks was an advocate for homeless individuals who had passed away, and requested an independent investigation in memory of Kimberlee Burks.

Mayor Halliday closed the public comments section at 10:03 p.m.

Members of the City Council offered condolences to family members of deceased Agustin Gonzalez.

Discussion ensued among Council Members and City staff regarding: the Commission on Accreditation for Law Enforcement Agencies (CALEA) accreditation; Police Community Advisory Panel recommended by the Community Task Force and community involvement; ongoing criminal investigation about the Gonzalez case and Internal Affairs investigation on police policies; increase in mental health and de-escalation training; ICAT (Integrating Communications, Assessment, and Tactics) training; transient encampments abated through District Command and the Homeless Liaison Officer; data on cannabis; and staff development.

Members of the City Council provided the following suggestions: consider additional Zero electric motorcycles for the entire fleet; expand services provided for the youth to the adult population; consider Youth and Family Services Bureau (YFSB) programs to connect families with service providers; provide data on response time of Police calls for service to scene; pursue mental health trainings provided by CIT International Conference, Alameda County Behavioral Health Services, POST (California Police Officer Standards and Training), and NAMI California Annual Conference; expand from six to 12 months the success rate for preventing arrest or re-arrest after completion of services provided through YFSB programs; provide data related to tagging calls to legitimate calls in the call center; provide data on discretionary stops to address concerns with racial profiling; provide data on each district command related to calls for service; provide data on efforts partnering with non-profit agencies to address situations with homeless individuals; provide data on applications received by gender and educational background related to recruitment efforts; consider engaging faculty from Chabot College and/or California State University East Bay to create pathways for recruitment; strengthen efforts in school resources and connecting people to them.

The Police Department was acknowledged for all its successes, particularly related to services provided through YFSB programs, efforts to achieve a sanctuary city status, CALEA re-accreditation, community engagement and commitment efforts, interagency efforts and innovations, and overall recruitment efforts.

LEGISLATIVE BUSINESS

8. Approval of Actions Necessary for the City of Hayward to Enter into a Purchase and Sale Agreement with 37 Hayward, LLC for Purchase of the City Center Tower Property Located at 22300 Foothill Boulevard for a Purchase Price of \$5,200,000 and Up to an Additional \$100,000 in Associated Costs (Report from Deputy City Manager Ott) **LB 19-030**

Staff report submitted by Deputy City Manager Ott, dated June 6, 2019, was filed.

Deputy City Manager Ott provided a synopsis of the report.

Mayor Halliday opened the public comments section at 7:36 p.m.

Mr. Kim Huggett, Hayward Chamber of Commerce President, urged the Council to support staff's recommendation.

Mayor Halliday closed the public comments section at 7:38 p.m.

It was moved by Council Member Zermeño, seconded by Council Member Salinas, and carried unanimously, to approve the resolution:



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Resolution 19-121, "Resolution Approving the Acquisition of Property Located at 22300 Foothill Boulevard (APN 415-250-112), Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with 37 Hayward, LLC, and Finding that the Acquisition is Exempt from Review under the California Environmental Quality Act Pursuant to Sections 15061 and 15301 of the California Environmental Quality Act Guidelines"

Resolution 19-122, "Resolution Appropriating \$3,300,000 from the Route 238 Corridor Lands Development Fund (Fund 411) and \$2,000,000 from the General Fund (Fund 100) for a Total of \$5,300,000 for the Purchase of Real Property Located at 22300 Foothill Boulevard (APN 415-250-112)"

PUBLIC HEARING

9. Adopt Resolutions to Approve the Engineer's Report, Reconfirm Base Maximum Assessment Amount, Confirm the Assessment Diagram and Fiscal Assessment, Order the Levy and Collection of Fiscal Assessments, and Approve Funding Recommendations and Appropriate Special Revenue Funds for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 16, for Fiscal Year 2020 (Report from Maintenance Services Director Rullman) **PH 19-039**

Staff report submitted by Maintenance Services Director Rullman, dated June 6, 2019, was filed.

Maintenance Services Director Rullman announced the report and introduced Management Analyst II Blohm who provided a synopsis of Public Hearing No. 9, Public Hearing No. 10, and Public Hearing No. 11, and responded to a question regarding public comments.

There being no public comments, Mayor Halliday opened and closed the public hearing at 7:45 p.m. for Public Hearing 9, Public Hearing 10, and Public Hearing 11.

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

Resolution 19-123, "Resolution Approving the Engineer's Report, Reconfirming Base Maximum Assessments, Confirming the Assessment Diagrams and Fiscal Assessments, and Ordering Levy and Collection of Fiscal Assessments for Fiscal Year 2020 for the Landscaping and Lighting District No. 96-1, Zones 1-16"

Resolution 19-124, "Resolution Approving Funding Recommendations and Appropriating Special Revenue Funds for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 16 for Fiscal Year 2020"

10. Adopt Resolutions to Approve the Engineer's Report, Reconfirm Maximum Base Assessment Rate, Confirm the Assessment Diagram and Fiscal Assessment, Order the Levy and Collection of Fiscal Assessments, and Approve Funding Recommendations and Appropriate Revenue Funds for Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - for Fiscal Year 2020 (Report from Maintenance Services Director Rullman) **PH 19-040**

Staff report submitted by Maintenance Services Director Rullman, dated June 6, 2019, was filed.

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

Resolution 19-125, "Resolution Approving the Engineer's Report, Reconfirming Maximum Base Assessment Rate, Confirming the Assessment Diagram and Fiscal Assessment, and Ordering Levy and Collection of Fiscal Assessments for Fiscal Year 2020 for Maintenance District No. 1: Storm Drainage Pumping Station and Storm Drain -Pacheco Way, Stratford Road, and Ruus Lane"

Resolution 19-126, "Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds for Maintenance District No. 1 For Fiscal Year 2020"

11. Adopt Resolutions to Approve the Engineer's Report, Reconfirm Maximum Base Assessment Rate, Confirm the Assessment Diagram and Fiscal Assessment, Order the Levy and Collection of Fiscal Assessments, and Approve Funding Recommendations and Appropriate Revenue Funds for Maintenance District No. 2 - Eden Shores Storm Water Buffer and Facilities, for Fiscal Year 2020 (Report from Maintenance Services Director Rullman) **PH 19-041**

Staff report submitted by Maintenance Services Director Rullman, dated June 6, 2019, was filed.

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



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Resolution 19-127, "Resolution Approving the Engineer's Report, Confirming the Assessment Diagram and Fiscal Assessment, and Ordering Levy and Collection of Assessments for Fiscal Year 2020 for Maintenance District No. 2: Eden Shores Water Buffer Zone and Pre-Treatment Pond"

Resolution 19-128, "Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds for Maintenance District No. 2 For Fiscal Year 2020"

12. Public Hearing to Consider the Formation of Benefit Zone No. 17 of the Consolidated Landscaping and Lighting Assessment District No. 96-1 for the Parkside Heights Property (Report from Development Services Director Simpson) **PH 19-052**

Staff report submitted by Development Services Director Simpson, dated June 6, 2019, was filed.

Mr. Kyle Tankard, Senior Consultant with SCI Consulting Group, provided an overview for Public Hearing Item No. 12 and Public Hearing Item No. 13.

There being no public comments, Mayor Halliday opened and closed the public comments section at 7:49 p.m.

City Clerk Lens announced there was one ballot from property owner Pulte Home Co LLC and the owner had voted Yes to approve the formation of the property into Benefit Zone No. 17 of the Landscaping and Lighting Assessment District 96-1.

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

Resolution 19-129, "Resolution Approving the Engineer's Report, Confirming Diagram and Assessment and Ordering Levy of Assessment for Fiscal Year 2019-20 for the Formation of Benefit Zone No. 17 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Parkside Heights Property"

13. Public Hearing to Consider the Formation of Benefit Zone No. 18 of the Consolidated Landscaping and Lighting Assessment District No. 96-1 for the SoHay Properties (Report from Development Services Director Simpson) **PH 19-053**

Staff report submitted by Development Services Director Simpson, dated June 6, 2019, was filed.

There being no public comments, Mayor Halliday opened and closed the public comments section at 7:52 p.m.

City Clerk Lens announced there was one ballot from property owner SoHay, Hayward L.P. and the owner had voted Yes to approve the formation of the property into Benefit Zone No. 18 of the Landscaping and Lighting Assessment District 96-1.

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

Resolution 19-130, "Resolution Approving the Engineer's Report, Confirming Diagram and Assessment and Ordering Levy of Assessment for Fiscal Year 2019-20 for the Formation of Benefit Zone No. 18 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the SoHay Properties"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Wahab announced this was the first day of a three-day Muslim festival, Eid al-Fitr, marking the end of the fasting month of Ramadan, and wished "Eid Mubarak" to those who celebrate.

COUNCIL REFERRALS

14. Consider an Item for Discussion on a Future City Council Agenda Regarding Officer Involved Use of Deadly Force Being Subject to an Independent Investigation **RPT 19-303**

Referral memorandum submitted by Council Member Aisha Wahab, dated June 6, 2019, was filed.

Council Member Wahab spoke about the referral memorandum, clarification about the memorandum ensued, and City staff responded to questions posed by City Council members.

Mayor Halliday opened the public comments section at 10:58 p.m.

The following individuals spoke in support of an independent investigation for the Agustin Gonzalez case and an independent investigation policy. A speaker urged for the investigator to not be paid by the Police Officers Association.



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Ms. Andrea Cambra, friend of the Agustin Gonzalez family
Ms. Emily Messick
Ms. Karla Gonzalez, mother of Agustin Gonzalez
Mr. Agustin Gonzalez, father of Agustin Gonzalez
Ms. Cynthia Nunes, cousin of Agustin Gonzalez
Ms. Nayeli Marquez, submitted a card but did not speak
Uncle Bobby
Aunt B
Mr. Michael Kerr
Ms. Jessica Nunes
Ms. Lindsay Williams
Mr. Pat Koonse

Mayor Halliday closed the public comments section at 11:16 p.m.

Council Member Wahab offered a motion to move the referral memorandum directing staff to work on a policy for an independent investigation for the use of deadly force with a modification that the first use of the policy be for the Agustin Gonzalez case.

Council Member Márquez seconded the motion.

Members of the City Council asked clarifying questions and addressed public members.

It was moved by Council Member Wahab, seconded by Council Member Márquez, and carried unanimously, to approve the referral memorandum with a modification that, should the policy be approved, the first use of the policy would be used for the Agustin Gonzalez case.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 11:44 p.m., in memory of Ms. Priscilla Robertson and Ms. Kimberlee Burks.

Ms. Priscilla Robertson was a registered nurse for Kaiser, lived in Hayward for over forty years, and sang the national anthem at the beginning of the July 8, 2008 Council meeting.

Ms. Kimberlee Burks was born at St. Rose Hospital, was an advocate for addressing homelessness in Hayward, helped individuals find resources and opportunities for self-sufficiency, was a peer advocate at Hayward CAN and the Downtown Streets Team, and was a Travel Trainer with Community Resources for Independent Living (CRIL).

Mayor Halliday asked City staff to work with both families to plant trees in memory of Kimberlee Burks and Priscilla Robertson.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward