

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, July 26, 2016

7:00 PM

Council Chambers

City Council

Mayor Barbara Halliday
Mayor Pro Tempore Sara Lamnin
Council Member Francisco Zermeño
Council Member Marvin Peixoto
Council Member Al Mendall
Council Member Elisa Márquez
Council Member Mark Salinas

SPECIAL CITY COUNCIL MEETING**Via Teleconference Location**

**Hotel Camino Real
Avenida Vallarta, No. 5005
Colonia Chapalita
Guadalajara, Jalisco 45040, México**

Pursuant to Government Code Section 54953 (b) (4), this meeting will include a teleconference location at Hotel Camino Real, Avenida Vallarta, No. 5005, Colonia Chapalita, Guadalajara, Jalisco 45040, México. Council Member Zermeño will be participating via teleconference. The public will have the opportunity to address the City Council at this teleconference location pursuant to Government Code Section 54954.3. All votes during the teleconferencing session will be conducted by roll call vote. The teleconference location will be accessible to the public and the agenda will be posted at the teleconference location 72 hours before the meeting.

CALL TO ORDER Pledge of Allegiance: Council Member Salinas**ROLL CALL****PUBLIC COMMENTS**

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

ACTION ITEMS

The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.

LEGISLATIVE BUSINESS

1. [LB 16-088](#) Adoption of a Resolution Appointing Kelly McAdoo City Manager of the City of Hayward Effective August 1, 2016 (Report from Mayor Halliday)

Attachments: [Attachment I Resolution](#)

2. [LB 16-090](#) Submission of Cannabis Tax Measure to Hayward Voters on November 8, 2016 (Report from City Attorney Lawson)

Attachments: [Attachment I Resolution](#)
[Attachment II Draft Key Dates and Deadlines](#)

CITY MANAGER'S COMMENTS

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

ADJOURNMENT**CITY COUNCIL WILL RECESS FOR THE MONTH OF AUGUST****NEXT SPECIAL MEETING, SEPTEMBER 13, 2016, 7:00 PM****PUBLIC COMMENT RULES**

The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.



CITY OF HAYWARD

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Staff Report

File #: LB 16-088

DATE: July 26, 2016

TO: City Council

FROM: Mayor

SUBJECT

Adoption of a Resolution Appointing Kelly McAdoo City Manager of the City of Hayward Effective August 1, 2016

RECOMMENDATION

That the Council approves the attached resolution appointing Kelly McAdoo as the City Manager of the City of Hayward effective August 1, 2016.

BACKGROUND AND DISCUSSION

In June 2016, current City Manager Fran David announced her retirement effective no later than September 30, 2016 and the Council and Ms. David have selected the last business day of July 2016 as her last date of employment with the City of Hayward. The Council met several times in closed session to discuss the options for choosing a successor to Ms. David. In addition, the Council also interviewed Ms. Kelly McAdoo, current Assistant City Manager, to determine her ability to serve as the next City Manager. After reviewing Ms. McAdoo's education and experience, the Council unanimously decided that she would be an excellent candidate to succeed Ms. David as the next City Manager.

Ms. McAdoo has served as Hayward's Assistant City Manager since October 2010. She has over 17 years of experience in local government, primarily with the cities of Hayward, Palo Alto and Fremont. She received a Bachelor's degree and a Master's degree in Public Administration, both from the University of Kansas. Council has expressed its confidence that she has demonstrated the ability and skills to effectively lead the City of Hayward organization as its next City Manager.

While the Council and Ms. McAdoo have agreed to basic terms of employment, both parties need more time to draft and review the formal employment agreement. Given the Council's summer recess during the month of August and Ms. David's departure from City service at the end of July, the Council must take action to appoint Ms. McAdoo as City Manager until the approval of the employment agreement. The Council intends to approve the employment agreement at the first regular Council meeting in September.

ECONOMIC AND FISCAL IMPACT

As City Manager, Ms. McAdoo will be compensated 7% above her current salary and will maintain her

File #: LB 16-088

current benefits and contributions to employee savings targets.

NEXT STEPS

The Council and Ms. McAdoo will negotiate the formal employment agreement during the month of August and the Council will consider approval of this agreement at the first regular Council meeting in September.

Approved by:

A handwritten signature in blue ink that reads "Barbara Halliday". The signature is written in a cursive style with a large, looped final letter.

Barbara Halliday, Mayor

Attachments:

Attachment I

Resolution

HAYWARD CITY COUNCIL
RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION APPROVING THE APPOINTMENT OF KELLY MCADOO AS CITY
MANAGER OF THE CITY OF HAYWARD EFFECTIVE AUGUST 1, 2016

WHEREAS, current City Manager Fran David has announced her intention to retire from City service effective the last business day of July 2016; and

WHEREAS, the City Council has reviewed Kelly McAdoo’s experience and education as well as her current performance as Assistant City Manager of Hayward since October 2010; and

WHEREAS, the City Council has determined that Ms. McAdoo possesses the requisite knowledge, experience and background to ably serve as the next City Manager for the City of Hayward; and

WHEREAS, the Council and Ms. McAdoo have agreed to basic terms of employment and need additional time to finalize and ratify the formal employment agreement between the parties; and

WHEREAS, the Council intends to ratify the employment agreement with Ms. McAdoo at their first business meeting in September.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby approves the appointment of Kelly McAdoo as City Manager of the City of Hayward effective August 1, 2016 pending approval of the employment agreement in September 2016.

BE IT FURTHER RESOLVED that Ms. McAdoo will be compensated for her role in accordance with the information identified in the accompanying staff report.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney



CITY OF HAYWARD

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Staff Report

File #: LB 16-090

DATE: July 26, 2016

TO: Mayor and City Council

FROM: City Attorney

SUBJECT

Submission of Cannabis Tax Measure to Hayward Voters on November 8, 2016

RECOMMENDATION

That the Council adopts the attached resolution calling a special election for a general tax measure regarding adult use of recreational cannabis and medical cannabis to Hayward voters on November 8, 2016, and calling a special municipal election to be consolidated with the statewide presidential election on said date.

SUMMARY

On July 19, 2016, the City Council considered a report and recommendation regarding the submission of a cannabis tax to Hayward voters on November 8, 2016. That report LB 16-087 can be found [here](https://hayward.legistar.com/MeetingDetail.aspx?ID=496111&GUID=82000040-3EB8-4D7B-B392-B429A68D16C4&Options=&Search=>) [<https://hayward.legistar.com/MeetingDetail.aspx?ID=496111&GUID=82000040-3EB8-4D7B-B392-B429A68D16C4&Options=&Search=>](https://hayward.legistar.com/MeetingDetail.aspx?ID=496111&GUID=82000040-3EB8-4D7B-B392-B429A68D16C4&Options=&Search=>).

After discussion on July 19, 2016 regarding the ballot question, staff was directed to revise the ballot question consistent with Council's direction. Pursuant to that direction, the revised ballot question is as follows:

TO ASSURE LOCAL CONTROL AND CLOSE ON-GOING DEFICITS, SHALL THE CITY BE AUTHORIZED TO ENACT A GENERAL TAX ORDINANCE NOT EXCEEDING 15% OF GROSS SALES FOR ALL PRODUCTS ASSOCIATED WITH MEDICAL OR ADULT USE OF CANNABIS, FROM CULTIVATION, DISTRIBUTION, MANUFACTURING, AND RETAILING OF CANNABIS OR PRODUCTS DERIVED THEREFROM, IF THE CITY OF HAYWARD PERMITS CANNABIS BUSINESS ACTIVITIES, SUCH TAX TO BE IN ADDITION TO ANY OTHER TAXES IMPOSED BY THE CITY OR THE STATE? (count: 71)

The revised ballot question is included in the resolution (Attachment I) which the Council must adopt in order to call a special municipal election that is consolidated with the statewide presidential election on November 8, 2016.

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The City Clerk's updated schedule of deadlines is also attached (Attachment II).

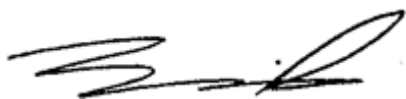
FISCAL IMPACT

As previously discussed, the cost of the special election is approximately \$258,000, though the final cost could be lower.

The amount that could be generated from a cannabis tax is difficult to project because of the multiple variables discussed in the July 19, 2016 staff report.

Prepared and Recommended by: Michael Lawson, City Attorney

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II

Resolution
Draft Key Dates and Deadlines

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION CALLING A SPECIAL MUNICIPAL ELECTION IN THE CITY OF HAYWARD FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE RELATING TO THE ENACTMENT OF A CANNABIS TRANSACTION AND USE TAX; SETTING FORTH THE STATEMENT OF THE MEASURE TO BE VOTED UPON; FIXING THE DATE AND MANNER OF HOLDING THE ELECTION; AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO PROVIDE FOR THE CONSOLIDATION OF THE SPECIAL MUNICIPAL ELECTION WITH THE STATEWIDE PRESIDENTIAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, AND TO PROVIDE ELECTION SERVICES.

WHEREAS, the City Council of Hayward desires to call a Special Municipal Election to be held on November 8, 2016, for the purpose of submitting to the voters the following statement:

TO ASSURE LOCAL CONTROL AND CLOSE ON-GOING DEFICITS, SHALL THE CITY BE AUTHORIZED TO ENACT A GENERAL TAX ORDINANCE NOT EXCEEDING 15% OF GROSS SALES FOR ALL PRODUCTS ASSOCIATED WITH MEDICAL OR ADULT USE OF CANNABIS, FROM CULTIVATION, DISTRIBUTION, MANUFACTURING, AND RETAILING OF CANNABIS OR PRODUCTS DERIVED THEREFROM, IF THE CITY OF HAYWARD PERMITS CANNABIS BUSINESS ACTIVITIES, SUCH TAX TO BE IN ADDITION TO ANY OTHER TAXES IMPOSED BY THE CITY OR THE STATE?

WHEREAS, a State of California statewide presidential election will be held on Tuesday, November 8, 2016; and

WHEREAS, voters statewide will be presented with Proposition 64, an initiative measure which, if adopted, would legalize the sale and use of adult use of recreational cannabis and medical cannabis; and

WHEREAS, the City of Hayward is permitted to hold a special municipal election on November 8, 2016, that is consolidated with said statewide presidential election to be held on said date; and

WHEREAS, Proposition 218, California Constitution Article XIII C, sec. 2(b) requires a proposed tax to be submitted to voters at a general municipal election at which members of the City Council stand for election, except in cases of emergency declared by a unanimous vote of the Council; and

WHEREAS, in each of the last seven fiscal years, the City has had to budget for the significant use of reserves as a result of the ongoing structural budget deficit and in some years was eventually able to barely avoid the use of reserves to balance the budget due to mostly one time revenue or expense adjustments, as reflected in Exhibit A; and

WHEREAS, the City's ten-year forecast indicates the general fund operating budget gap will grow because of increased costs of doing business without a matching increase in revenues, but with declining reserves that will be unavailing for purposes of closing the gaps, as reflected in Exhibit B; and

WHEREAS, the proposed cannabis tax revenue might assist in closing the gap and would avoid elimination of important City services such as police, fire and emergency medical response times, social and cultural programs, support for community-based organizations, and youth and family counseling programs; and

WHEREAS, such proposed tax must be considered at the November 8, 2016 special municipal election because the next general municipal election will not be held until November, 2018; and

WHEREAS, the City of Hayward desires to submit to its voters a City Council-proposed measure enacting a not-to-exceed transaction and sales tax rate of fifteen percent of retail sales and business-to-business non-retail cultivation, distribution and manufacturing of adult use cannabis sales and medical cannabis sales; and

WHEREAS, the City of Hayward measure, if adopted, would authorize the City Council to determine whether or if such adult use of cannabis and medical cannabis would be permitted, in its discretion, and the regulatory framework within which such sales might be permitted; and

WHEREAS, Elections Code section 13119(b) requires the ballot question to include the estimated revenue of the proposed tax if such tax is proposed in an initiative measure that has qualified; and

WHEREAS, the proposed cannabis tax measure is a City Council-sponsored measure pursuant to Elections Code Section 9222 and not an initiative measure, and therefore Elections Code section 13119(b) is deemed inapplicable to the above-stated ballot question; and

WHEREAS, the sale of adult use cannabis has previously not been legal in the State of California or the City of Hayward and therefore no reasonable methodology is available to estimate the revenue from such tax;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward takes the following actions:

1. Calls for a Special Municipal Election to be held on Tuesday, November 8, 2016, for the purpose of submitting to the voters a measure concerning the enactment of a Cannabis Transaction and Use Tax; and
2. The City Council hereby finds that the City's ongoing budget gaps, as reflected in Exhibits A and B, constitute a fiscal emergency as required by California Constitution Article XIII, section 2(b)(2) in order submit this tax measure at a special municipal election; that the next general municipal election at which the offices of mayor and council members are to be filled will not be held until November, 2018.
3. Requests the Board of Supervisors of Alameda County to order the consolidation of the Special Municipal Election of the City of Hayward with the Statewide Presidential Election to be held on November 8, 2016, and to further provide that, within the territory affected by such order of consolidation, to wit, the City of Hayward, the election precincts, polling places and voting booths shall in every case be the same and there shall be only one set of election officers in each of said precincts.
4. Requests the Board of Supervisors of Alameda County to order the County Clerk and the Registrar of Voters to:
 - a. Set forth on all sample ballots that are to be mailed to the voters of the City the statement set forth above and mail with the sample ballots copies of the arguments (if any) for and against said measure; and
 - b. Provide absent voter ballots for the Special Municipal Election therewith for use of voters of the City who are entitled thereto, in the manner provided by law; and
 - c. Prepare and supply indices to precinct information, assist in the canvass of returns and provide services to complete the official canvass of returns.
5. The Board of Supervisors of Alameda County is hereby further authorized to canvass, or cause to be canvassed, as provided by law, the returns of the Special Municipal Election with respect to the votes cast for the measure and to certify such canvass of the votes cast.
6. The City Clerk is hereby authorized and directed to certify the adoption of this resolution and to transmit a copy thereof so certified with the County Clerk of the County of Alameda. The City Clerk is further authorized and directed to prepare, execute, and transmit to the County all documents necessary to carry out the purposes of this resolution.
7. The City Attorney is hereby authorized and directed to prepare and transmit to the City Clerk the official ballot title, impartial analysis, and statement of the measure as set forth herein.

8. The City Council shall meet at a regular meeting to review the canvass of the returns of the Special Municipal Election and declare the results thereof.
9. Upon the passage and adoption of this resolution, the City Clerk is directed to publish a synopsis of the measure pursuant to Election Code section 12111 and Government Code section 6061.

IN COUNCIL, HAYWARD, CALIFORNIA July 19, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A

General Fund	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Adopted Budgeted Additions to (Use of) General Fund Reserves*	3,382	(2,881)	(4,212)	(5,596)	(2,579)	(5,063)	0
Actual Additions to (Use of) General Fund Reserves	4,245	210	(2,531)	274	(547)	(1,594)	(3,800) est**

Dollars are in \$1,000s

* Amounts shown are as originally adopted and do not include adjustments made at mid-year

** Use of reserves in FY2016 is estimated based on year to date actuals in May 2016

General Fund Ten-Year Plan - FY 2017 Adopted

General Fund	PY1 Projected FY 2016	Year 1 Adopted FY 2017	Year 2 Forecast FY 2018	Year 3 Forecast FY 2019	Year 4 Forecast FY 2020	Year 5 Forecast FY 2021	Year 6 Forecast FY 2022	Year 7 Forecast FY 2023	Year 8 Forecast FY 2024	Year 9 Forecast FY 2025	Year 10 Forecast FY 2026
Total Projected Revenue/Resources	148,885	144,665	147,284	150,119	152,302	156,610	161,078	165,715	170,519	175,510	179,730
Total Projected Expenditures	152,853	149,029	153,285	162,420	169,074	175,427	179,898	183,813	187,884	192,025	196,275
Total Surplus/(Shortfall)*	(3,968)	(4,364)	(6,002)	(12,301)	(16,772)	(18,816)	(18,820)	(18,099)	(17,364)	(16,514)	(16,545)
Ending Fund Balance	19,490	15,126	9,124	(3,177)	(19,948)	(38,765)	(57,585)	(75,683)	(93,048)	(109,562)	(126,107)

*This amount, also known as "the Gap" increases or reduces the General Fund Reserve



SPECIAL NOVEMBER ELECTION CALENDAR
Tuesday, November 8, 2016
DRAFT KEY DATES AND DEADLINES

DATE	DESCRIPTION
August 1, 2016	Semi-Annual Filing FPPC Form 460 * - Period covers – 6/30/16
July 26, 2016	Council approves resolution requesting the County Board of Supervisors consolidation of a municipal election with other local elections to be held on the same date. Resolution includes calling of the election, ballot measure question, and ballot measure full text.
July 29-August 8, 2016	Public review period for Impartial Analysis
August 9, 2016	Last day to file direct arguments (EC 9286)
August 9-19, 2016	Public review period for direct arguments (EC 9295)
August 19, 2016	Last day to file rebuttal arguments (EC 9285)
August 19-29, 2016	Public review period for rebuttal arguments (EC 9295)
August 29, 2016	Last day to submit direct arguments and rebuttal arguments to the Registrar of Voters
September 29, 2016	Pre-Election Campaign Statement Deadline FPPC Form 460 - Period covers 7/1/16 - 9/24/16
September 29 – October 18, 2016	Voter information and sample ballot pamphlet mailing period
October 10 – November 1, 2016	Period to obtain Vote-by-Mail ballots.
October 24, 2016	Last Day to Register to Vote for the November 8, 2016 General Election
October 25 – November 8, 2016	New Citizens (sworn in after October 24, 2016) Voter Registration Period.
October 27, 2016	Pre-Election Campaign Statement Deadline FPPC Form 460 - Period covers 9/25/16-10/22/16
November 8, 2016	Election Day – Polls open at 7:00 a.m. and close at 8:00 p.m.
December 8, 2016	Last day for County to certify election results to city (EC 15372)
January 31, 2017	Semi-Annual Filing FPPC Form 460 – Period covers 10/23/16 – 12/31/16

***Period Covered:** The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.