



**MINUTES OF THE CITY COUNCIL MEETING OF  
THE CITY OF HAYWARD  
Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, November 7, 2017, 7:00 p.m.**

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The City Council meeting 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, Peixoto, Lamnin, Salinas  
MAYOR Halliday  
Absent: None

**PRESENTATION**

Hayward Unified School District Rotary Scholars Awards

Mayor Halliday and Council Members Lamnin, Salinas, and Zermeño presented certificates of commendation to the following Hayward students for their scholastic achievements, exemplary attendance, and demonstration of positive character traits expected of all Hayward students: Alyannah Nadeen Mabana, 3<sup>rd</sup> grader at Southgate Elementary School; Joel Almodovar, 4<sup>th</sup> grader at Southgate Elementary School; Hadassah Reddy, 5<sup>th</sup> grader at Lorin Eden Elementary School; Nathen Lee, 8<sup>th</sup> grader at Martin Luther King Jr. Middle School; and Carol Villalobos, 8<sup>th</sup> grader at Martin Luther King Jr. Middle School. Hayward Rotary Club President A.T. Stephens and Hayward Unified School District Superintendent Dr. Matt Wayne also acknowledged the students.

**PUBLIC COMMENTS**

Mr. Jim Drake, Hayward resident, spoke about the trees that were planned to be replaced along Santa Clara and Jackson Streets.

Ms. Wynn Grcich, Hayward resident, spoke about lead, fluoride, and chloramine levels in water and the correlation to health issues.

Ms. Catherine Pelkey, Hayward resident, spoke about an email she sent to the Council regarding the increase in water consumption correlated to the timing of the new smart meter installation.

Mr. Monzella Curtis, Hayward resident, asked for a “just cause” eviction clause in the affordable housing ordinance.

Mr. Tony Duong, Arroyo High School student, noted he was working on a school project and suggested that the installation of additional security cameras in critical areas would help alleviate crime.

Mr. Bill Espinola, Hayward resident and long-term rental property owner, noted that rental property owners want to be included in discussions related to housing regulations.

Ms. Rosaura Mendoza, speaking on behalf of The Hayward Collective, expressed support for Aloha Apartments renters and asked for a “just cause” clause to protect people from evictions.

Council Member Márquez noted the Community Task Force meeting was rescheduled to November 15, 2017, and she announced the Keep Hayward Clean and Green Task Force ‘s Neighborhood Beautification and Cleanup event on November 18, 2017.

## **CONSENT**

### **1. Economic Development Incentives Program - Update and Approval of Program **CONS 17-668****

Staff report submitted by Economic Development Manager Hinkle, dated November 7, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Salinas, and carried unanimously, to adopt the following:

Resolution 17-163, “Resolution Authorizing the Economic Development Division to Offer Two New Economic Development Incentive Programs”

### **2. Amendments to the Multi-Year Services Agreement between the City of Hayward, the Hayward Recreation and Park District (HARD), and the Hayward Unified School District (HUSD) **CONS 17-675****

Staff report submitted by City Clerk Lens and City Attorney Lawson, dated November 7, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Salinas, and carried unanimously, to adopt the following:

Resolution 17-164, “Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Multi-Year Services Agreement with the Hayward Area Recreation and Park District (HARD) and the Hayward Unified School District (HUSD) Covering the Period July 1, 2016 Through June 30, 2019”



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**LEGISLATIVE BUSINESS**

3. Approval of a Resolution Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the Hayward Adult School Youth Enrichment Services Program to Extend Youth Internships in the Maintenance Services Department (Report from Maintenance Services Director Rullman) **LB 17-043**

Staff report submitted by Maintenance Services Director Rullman, dated November 7, 2017, was filed.

Maintenance Services Director Rullman provided a synopsis of the report and introduced a video about the Hayward Adult School Youth Enrichment Services (YES) Program. HUSD Director of Alternative Education Dr. Guy 'Zak' Zakrevsy spoke about the great collaboration between the City of Hayward and the Hayward Adult School. YES Program Manager, Davida Scott, spoke about the program, introduced the YES interns, and thanked the City for the collaboration. Hayward Unified School District Superintendent Dr. Matt Wayne also thanked the City for the partnership.

Mayor Halliday opened the public hearing section at 8:01 p.m.

Ms. Mary Mandele, foster care provider, noted the value of programs such as the YES Program.

Mr. Tony Dutra, Dutra Land & Consulting Services President/CEO, addressed the interns and noted that his family business would like to be involved with the YES Program.

Ms. Cecilia Chavez, Youth & Family Services Bureau Family Counselor, favored the expansion of the YES Program.

Mayor Halliday closed the public hearing section at 8:05 p.m.

Council Member Salinas made a motion per staff's recommendation and Council Member Márquez seconded the motion.

Council Members expressed support for the partnership and collaboration, and congratulated the agencies involved and the YES interns.

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

Resolution 17-165, "Resolution Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the Hayward Adult School Youth Enrichment Services Program and the City of Hayward Maintenance Services Department to Extend Youth Internship Paid Hours in an Amount Not to Exceed \$20,000"

Mayor Halliday called for a recess at 8:14 p.m., and reconvened the meeting at 8:19 p.m.

4. Adoption of an Ordinance Adding Section 10-1.2740 to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code to Revise and Update Regulations Related to the Development of Accessory Dwelling Units (Report from City Clerk Lens)  
**LB 17-046**

Staff report submitted by City Clerk Lens, dated November 7, 2017, was filed.

City Clerk Lens noted the adoption of the ordinance was placed as a legislative item because the introduction of the ordinance did not garner unanimous vote.

There being no public comments, Mayor Halliday opened and closed the public hearing section at 8:26 p.m.

Council Member Zermeño made a motion per staff's recommendation and Council Member Lamnin seconded the motion.

Council Member Márquez indicated there was not strong rent stabilization support in the Accessory Dwelling Units (ADU) ordinance, was concerned the fees would be cost prohibitive, and noted she would be voting against the motion.

It was moved by Council Member Zermeño, seconded by Council Member Lamnin, and carried to adopt with the following vote:

AYES:	COUNCIL MEMBERS Zermeño, Mendall, Peixoto, Salinas, Lamnin MAYOR Halliday
NOES:	COUNCIL MEMBER Márquez
ABSENT:	None
ABSTAIN:	None

Ordinance 17-16, "An Ordinance Adding Section 10-1.2740 to Chapter 10 (planning, Zoning, and Subdivisions) of the Hayward Municipal Code to Revise and Update Regulations Related to the Development of Accessory Dwelling Units"



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**PUBLIC HEARING**

5. Introduction of Amendments to the Affordable Housing Ordinance and Adoption of In-Lieu Fees (Report from City Manager McAdoo) **PH 17-099**

Staff report submitted by City Clerk Lens and City Attorney Lawson, dated October 17, 2017, was filed.

Assistant City Manager Hurtado announced the report and introduced Mr. David Doezema, with Keyser Marston Associates, Inc. (KMA) who presented the proposed amendments to the City's Affordable Housing Ordinance (AHO) and Fee Schedule. Assistant City Manager Hurtado also noted Barbara Kautz, with Goldfarb and Lipmann LLP, Interim Development Services Director Bristow, Planning Manager Buizer, and Acting Housing Manager Cortez were available to answer questions.

Discussion ensued among Council Members, City staff, and Ms. Barbara Kautz regarding: housing project applications in the pipeline that are not deemed complete by November 28, 2017 and discretion to waive fees; adoption of in-lieu fees effective sixty days from November 28, 2017; grandfathering provisions for housing projects in the pipeline; the November 28, 2017 deadline for deemed complete applications that were submitted by October 10, 2017; the percentage of affordable units required for denser projects; on-site units in ownership residential projects; conflict of interest and City employees who have policy-making authority or influence regarding housing programs; on-site requirements for rental apartments proposed at 6%; geographic requirements and inclusionary requirements for development in close proximity to transit and ability to compete for funds; and the proposed increase of AHO fees in the range of \$15 to \$20 per square foot.

Mayor Halliday opened the public hearing at 9:23 p.m.

Mr. Kyle Masters, with Grupe Company and speaking for the Ersted property, submitted a letter for the record and recommended that the date for applications to be deemed complete be moved from November 28, 2017 to the end of December, and that all projects in the pipeline be given the opportunity to be entitled by June 2018.

Ms. Lisa Vorderbrueggen, with BIA Bay Area, supported the fee-by-right option and the "combination of alternatives" provisions. Ms. Vorderbrueggen recommended that the AHO fee of \$20 be reduced and phased in over time, and echoed Mr. Masters' recommendation.

Ms. Chu Rao, project applicant for Mission Seniors, supported staff's recommendation related to the grandfathering provision and spoke about the proposed AHO fees.

Mr. Andy Madeira, with Eden Housing, expressed support for the fee-by-right option and supported the inclusion of “combination of alternatives” provisions; and noted that the regional aspect of where housing is built is important to consider as the City starts allocating funds through the in-lieu fees.

Rev. Sophia Dewitt, East Bay Housing Organizations program director, supported staff’s AHO recommendation and suggested that the dates for the grandfathering provision stay firm, and recommended the construction cost index for the rate of increase.

Mr. Tony Dutra, Dutra Land & Consulting Services President/CEO, asked if his project on Gading Road would qualify under the proposed grandfathering provision; and also asked for a different project on B Street.

Mayor Halliday closed the public hearing at 9:46 p.m.

Council Member Mendall made a motion per staff’s recommendation with two amendments: 1) projects that would qualify for the half in-lieu fee would have to submit their applications by October 10, 2017, have their applications deemed complete by December 20, 2017, and have applications approved and pull building permits within two years; and 2) that the inclusionary deed restriction for ownership be changed to “in perpetuity.”

Council Member Márquez seconded the motion and its amendments.

Council Member Lamnin expressed support for the motion and offered three amendments: 1) in areas that refer to affordable housing (ownership and rental) and affordability percentage level, add the language “or lower”; 2) change the inflation from CPI (Consumer Price Index) to ENR (Engineering News Record) construction cost index; and 3) clarify Section 10-17.700 [Development Incentives (b) Modified Development Standards to Increase Density (2)] regarding allowing for decreased number of parking spaces to allow for affordable units near a major transportation route, by ensuring the ability to have transit access.

Ms. Barbara Kautz noted there was a State definition that could be incorporated in Section 10-17.700 to add clarity.

Council Members Mendall and Márquez were amenable to the amendments offered by Council Member Lamnin.

Mayor Halliday and Council Members expressed support for the motion and thanked City staff, the development community, and the housing community for their input and advocacy.

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, per staff recommendation with five amendments: 1) projects that would qualify for the half in-lieu fee would have to submit their applications by October 10, 2017, have their applications deemed complete by December 20, 2017, and have applications approved and pull building permits within two years; 2) that the inclusionary deed



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restrictions (for ownership and rental) be changed to “in perpetuity”; 3) change the inflation adjustor from CPI (Consumer Price Index) to ENR (Engineering News Record) construction cost index; 4) allow for more deeply affordable units by adding the language “or lower” in places that specify the level of affordability as a range; and 5) modify Section 10-17.700 [Development Incentives (b) Modified Development Standards to Increase Density (2)] regarding allowing for decreased number of parking spaces to allow for affordable units near a major transportation route, by incorporating the State definition to allow the ability to have transit access.

Resolution 17-166, “Resolution Finding that the Enactment of an Ordinance Amending Chapter 10, Article 17, of the Hayward Municipal Code Regarding Affordable Housing Requirements for New Housing Developments is Exempt from the California Environmental Quality Act (CEQA)”

Resolution 17-167, “Resolution Rescinding Resolution 16-189 and Establishing Affordable Housing In-Lieu Fees”

Introduction of Ordinance 17-\_, “An Ordinance of the City of Hayward Amending Chapter 10, Article 17, of the Hayward Municipal Code Regarding Affordable Housing Requirements for New Housing Developments”

6. Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (CalPERS) for Miscellaneous Members in Unrepresented Executive and Council Appointed Officer Groups (Report from Director of Human Resources Collins) **PH 17-088**

Staff report submitted by Human Resources Director Collins, dated November 7, 2017, was filed.

Human Resources Director Collins provided a synopsis of the report.

Council Member Peixoto recommended that, moving forward, there be a chart for all employee groups showing the employee share contribution, the employer share contribution, and the total amount; and additionally, have it split by Classic and Public Employees Pension Reform Act (PEPRA).

There being no public comments, Mayor Halliday opened and closed the public hearing section at 10:24 p.m.

It was moved by Council Member Márquez, seconded by Council Member Salinas, and carried to adopt with the following vote:

Ordinance 17-17, “An Ordinance Authorizing the Amendment of the Contract Between the City of Hayward and the Board of Administration of the California Public Employees’ Retirement System”

**CITY MANAGER’S COMMENTS**

Assistant City Manager Hurtado noted the City hosted a successful free Compost Giveaway event in South Hayward at Tennyson High School on October 21, 2017.

**COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Peixoto spoke about his attendance today at the first meeting of the Fairview Municipal Advisory Council held at the Hayward Recreation and Park District office.

Council Member Lamnin spoke about her attendance at a CalPERS employer conference and noted that next year there will be a track for elected officials.

Council Member Márquez announced the Light-Up the Season event was scheduled for December 2, 2017 at Hayward City Hall. Ms. Márquez also stated she attended a League of California Cities meeting on housing items.

Council Member Zermeño noted he attended the South Hayward BART Station Access Authority Board meeting on November 6, 2017 where parking issues at Alta Mira Apartments were addressed.

Mayor Halliday announced the City Council will be holding a special meeting on November 14, 2017.

**ADJOURNMENT**

Mayor Halliday adjourned the meeting at 10:35 p.m., in memory of the twenty-six people who were shot on November 5, 2017 at the First Baptist Church in Sutherland Springs, Texas.

**APPROVED:**

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Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward