



## MINUTES OF THE CITY COUNCIL MEETING

Council Chambers

777 B Street, Hayward, CA 94541

Tuesday, July 24, 2018, 7:00 p.m.

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The Meeting of the Hayward City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Halliday.

### ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas  
MAYOR Halliday

Absent: None

### CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced the City Council convened in closed session at 4:30 p.m., concerning five items: 1) conference with legal counsel pursuant to Government Code 54956.9, regarding pending litigation Toshikazu Yoshihata, WCAB Nos.: ADJ10750593; ADJ10750580; ADJ9767625; 2) conference with legal counsel pursuant to Government Code 54956.9, concerning Nelson, et al. v. City of Hayward, et al., Case No. 3:16-cv-07222 SK, U.S. District Court, N.D. CA; 3) conference with property negotiators pursuant to Government Code 54956.8, regarding City owned properties and easements located at 22300 Foothill Boulevard, APN Nos: 415-0250-112-00, 415-0250-111-02, and 415-0250-113-00; 4) conference with property negotiators pursuant to Government Code 54956.8, regarding City owned property located off of Mission Boulevard and Tennyson Road known as Parcel Group 2 of the former Route 238 properties; and 5) conference with labor negotiators pursuant to Government Code 54957.6, regarding all groups; and noted there was no reportable action related to the items.

### PUBLIC COMMENTS

Ms. Karla Weninghaus, KHWD hangar tenant, submitted a letter and requested that the City Council disapprove hangar rent increases without the input and agreement of airport tenants.

Mr. Douglas Watkins spoke about parking issues in front of a cannabis club on Foothill Boulevard; and expressed concern about registering burglar alarms.

Mr. Kim Huggett, Hayward Chamber of Commerce President, announced two events: 1) the Downtown Street Party on August 16, 2018; and 2) the Oakland A's Neighborhood Day on August 18, 2018, noting that a portion of tickets sold in Hayward's section would benefit the Hayward Rotary Dictionary Project.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about efforts to replace transportation with self-driving vehicles and provided related documents.

Mr. Jim Drake, Hayward residents, spoke about the need for parking spaces in Hayward.

Mr. Eddy Quilice, Bunker Hill Boulevard resident, requested more time to evaluate if residents qualify for assistance before they are evicted, and shared he started an online petition entitled, "Stop City of Hayward from evictions of 50+ residents".

Ms. Jeena Morales, Bunker Hill Boulevard resident, noted the rent in Hayward is unaffordable and her family did not receive relocation assistance and needed more time to find housing.

City Attorney Lawson noted that staff requested to amend the City Council agenda by adding one Consent Item [Consent No. 11.1 (CONS 18-554 - Alameda County Transportation Commission – Active Transportation Program Grant Letter of Support)] because the item was not timely received by the City Clerk to agendaize it, the letter had a deadline of July 31, 2018, and this was the last Council meeting before the August recess. City Attorney Lawson added that, pursuant to Government Code Section 54954.2 (b)(2), the Council needed a two-thirds vote to approve adding the item to the agenda with the finding that there is a need to take immediate action and the item came to the attention of the City Clerk subsequent to the agenda being posted.

**Council Member Mendall offered a motion, seconded by Council Member Salinas, to add Item 11.1 to the Consent Calendar; APPROVED, 7:0:0 (AYES: Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas, Halliday)**

Council Member Mendall noted the item was heard by the Council Sustainability Committee a few months ago at a public meeting.

## **CONSENT**

1. Minutes of the Special Joint City Council/Hayward Housing Authority Board Meeting on July 10, 2018 **MIN 18-099**

It was moved by Council/HHA Member Lamnin, seconded by Council/HHA Member Márquez, and carried unanimously, to approve the minutes of the Special Joint City Council/Hayward Housing Authority Board Meeting on July 10, 2018.

2. Resolution to Authorize the City Manager, on Behalf of the Hayward Area Shoreline Planning Agency (HASPA), to Accept an Adaptation Planning Grant from the California Department of Transportation (Caltrans) for \$509,000, and to Negotiate and Execute a Memorandum of Understanding with the Hayward Area Recreation and Park District (HARD) and East Bay Regional Park District (EBRPD), to Complete the Hayward Regional Shoreline Master Plan **CONS 18-463**

Staff report submitted by Development Services Director Simpson, dated July 24, 2018, was filed.



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

Resolution 18-172, "Resolution to Authorize the City Manager, on Behalf of the Hayward Area Shoreline Planning Agency, to Accept an Adaptation Planning Grant from the California Department of Transportation (Caltrans) for \$509,000, and to Negotiate and Execute a Memorandum of Understanding with the Hayward Area Recreation and Park District and East Bay Regional Park District, to Complete the Hayward Regional Shoreline"

3. PG&E's Rule 20A Program Audit - Amendment to Professional Services Agreement with Mikkelsen & Associates, LLC. **CONS 18-470**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-173, "Resolution Authorizing the City Manager to Negotiate and Execute Amendment No. 2 to the Professional Services Agreement with Mikkelsen and Associates, LLC., for Additional Professional Services related to PG&E's Rule 20A Program"

4. Advanced Metering Infrastructure (AMI) Project: Authorization to Execute an Amendment to the AMI System Material Supply Contract to Purchase Additional Water Meters and Related Equipment **CONS 18-494**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-174, " Resolution Authorizing the City Manager to Amend the Contract with Delta Engineering Sales, LLC, to Increase the Contract Amount by \$748,182 to a Not to Exceed Amount of \$10,248,182, for Purchase of Additional Water Meters and Related Equipment"

5. Municipal Parking Lot No. 2 Improvement Project - Rejection of Lone Bid **CONS 18-499**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-175, “Resolution Rejecting the Lone Bid Received for the Municipal Parking Lot No. 2 Improvement Project, Project No. 05248”

6. Sulphur Creek Mitigation Design Project at Hayward Executive Airport - Authorization to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc., and Acceptance of FAA Grant for Design **CONS 18-501**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-176, “Resolution Authorizing the City Manager to Negotiate and Execute a Contract with Kimley-Horn and Associates, Inc. for Airport Consulting Services; and Authorizing the City Manager to Accept and Execute a Grant from the Federal Aviation Administration for Design of the Sulphur Creek Project at Hayward Executive Airport”

7. Renewal of Rental Housing Grant Subsidy Agreement with Abode Services **CONS 18-506**

Staff report submitted by Assistant City Manager Hurtado, dated July 24, 2018, was filed.

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

Resolution 18-177, “Resolution Authorizing the Use of HOME Funds for Rental Assistance to Emancipated and Former Foster Care Youth System through Abode Services’ Project Independence and Authorizing the City Manager to Negotiate and Execute a Rental Housing Subsidy Grant Agreement”



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8. Abatement and Deconstruction for Route 238 Bypass Property Project - Approval of Plans and Specifications and Call for Bids **CONS 18-518**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-178, "Resolution Approving Plans and Specifications for the Abatement and Deconstruction for Route 238 Bypass Property Project, Project No. 05276, and Call for Bids"

9. Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement with Contra Costa Electric for the Completion of a City-Wide Fiber Asset Audit **CONS 18-537**

Staff report submitted by Information Technology Director Kostrzak, dated July 24, 2018, was filed.

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

Resolution 18-179, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Contra Costa Electric for the Completion of a City-Wide Fiber Asset Audit, in an Amount Not to Exceed \$105,000"

10. Adoption of a Resolution Approving Updates to the FY19 Master Fee Schedule **CONS 18-545**

Staff report submitted by Development Services Director Simpson, dated July 24, 2018, was filed.

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

Resolution 18-180, "Adoption of a Resolution Updating the FY19 Master Fee Schedule"

11. Authorization for the City Manager to Negotiate and Execute a Memorandum of Understanding with the Chabot-Las Positas Community College District to Establish the Basis for a Ground Lease, Design, and Construction of the Fire Training Center **CONS 18-547**

Staff report submitted by Fire Chief Contreras, dated July 24, 2018, was filed.

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

Resolution 18-181, “Resolution Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the Chabot-Las Positas Community College District to Establish the Basis for a Ground Lease of a Portion of the Fire Training Center and for the Design and Construction of the Classrooms and Other Fire Training Center Facilities”

11.1 Alameda County Transportation Commission – Active Transportation Program Grant Letter of Support **CONS 18-554**

Staff report submitted by Interim Public Works Director Ameri, dated July 24, 2018, was filed.

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

Resolution 18-182, “Resolution of the City Council of the City of Hayward Authorizing the City Manager to Execute a Non-Binding Commitment to Fund the Operations and Maintenance for the East Bay Greenway Project within the City of Hayward’s Jurisdictional Boundaries”

**PUBLIC HEARING**

12. Application to Amend Chapter 10, Article 1(Zoning Ordinance), Sections 10-1.845.j (5) and (6); and 10-1.1045.j (5) and (6) (Minimum Design and Performance Standards) of the Hayward Municipal Code Related to Drive-Through Restaurants and Drive-Through Coffee/Esspresso Shops in the City of Hayward by United Growth Capital Management, LLC. (Applicant), Requiring the Introduction of an Ordinance and the Adoption of a Resolution Approving Zoning Text Amendment Application No. 201802227 (Report from Development Services Director Simpson) **PH 18-064**

Staff report submitted by Development Services Director Simpson, dated July 24, 2018, was filed.



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Planning Manager Buizer announced the report and introduced Assistant Planner Martinez who provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding: the proposed Zoning Text Amendment; litter and the Minimum Design and Performance Standards; the half-mile buffer zone between restaurants; and the expectation that any new drive-through establishment in Hayward be unique and different than existing establishments.

Mayor Halliday opened the public hearing at 7:48 p.m.

Mr. Kim Huggett, Hayward Chamber of Commerce President, spoke in support of the request for the Zoning Text Amendment application submitted by United Growth Capital Management LLC.

Mr. David Whatley, noted that the issue of homelessness needed to be discussed when development proposals for new business establishments are considered, and submitted a related item.

Mr. Brad LaRue, United Growth Capital Management Chief Executive Officer, spoke about United Growth; the zoning regulations from the 80's and 90's and the zone text amendment application; spoke about potential retailers; and the project's timeline.

Ms. Alexandra Saffold, Hayward resident, suggested that the buffer zone around the freeway be a quarter-mile buffer between drive-through restaurants to allow for new establishments.

Mayor Halliday closed the public hearing at 8:03 p.m.

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

Council Member Lamnin noted this was an opportunity to review the quality of existing drive-through establishments in Hayward and appreciated the flexibility to amend the zoning text amendment with required findings.

Council Member Mendall expressed support for the motion and noted that negatives (unhealthy food, litter producer, and low-wage payer) of drive-through establishments can be outweighed if establishments provide something new and unique to Hayward residents. Mr. Mendall added that if he sees a fourth, fifth or sixth of another exiting establishment getting approval by staff or the Planning Commission, he will request review by "calling-up" the item because he is only willing to accept the negatives in establishments if they provide variety for Hayward residents.

Council Member Salinas supported the motion and concurred with Council Member Mendall's comments. Council Member Salinas noted there was an overwhelming number of fast-food restaurants and wanted future developers to know that he will support applications for establishments that provide healthier options and will reject applications that do not provide something unique and outweigh the negatives of drive-through establishments.

Council Member Zermeño noted that United Growth provided a unique concept and added that he did not want to see more of existing food-fast restaurants.

Council Member Márquez noted she wants the community to have healthy food options, that the identified drive-through establishments need to be a good employer and good community partner; the amendment will include findings and Conditional Use Permit (CUP) and Administrative Use Permit (AUP) requirements; and added that aesthetics is important for all establishments.

Council Member Peixoto noted there is the need to have healthy alternatives which can be provided by certain establishments; and the CUP and AUP provide needed protections.

Mayor Halliday supported the motion noting that the additional findings address the concerns with having more drive-through establishments in the proposed area. Mayor Halliday was encouraged by the type of fast, casual healthier food options proposed and was hopeful United Growth would bring something that the City does not already have.

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

Resolution 18-182, "Resolution to Adopt a Zoning Text Amendment to Chapter 10, Article 1 (Zoning Ordinance), Sections 10-1.845.J (5) and (6); and 10-1.1045.J (5) and (6) (Minimum Design and Performance Standards) of the Hayward Municipal Code Related to Drive-Through Restaurants and Drive-Through Coffee/Esspresso Shops in the City of Hayward"

Ordinance 18-\_, "An Ordinance Amending Chapter 10, Article 1, Sections 10-1.845.j (5) and (6); and 10-1.1045.j(5) and (6) (Minimum Design and Performance Standards) of the Hayward Municipal Code Related to Drive-Through Restaurants and Drive-Through Coffee/Esspresso Shops in the City of Hayward"

## **LEGISLATIVE BUSINESS**

13. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2019 (Report from Director of Human Resources Collins) **LB 18-043**





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Staff report submitted by Human Resources Director Collins, dated July 24, 2018, was filed.

Human Resources Director Collins provided a synopsis of the report and responded to a question related to the Senior Water Resource Engineer designation.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:00 p.m.

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

Resolution 18-183, "Resolution Approving the Amended Fiscal Year 2019 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 18-136 and all Amendments Thereto"

#### **CITY MANAGER'S COMMENTS**

There were no comments.

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

Council Member Márquez announced the Keep Hayward Clean and Green Beautification event was on July 28, 2018, at Bay Hills Community Church. Council Member Márquez requested that information about the September 11, 2018 meeting, be publicized in The Stack, the official newsletter of the City of Hayward.

Council Member Zermeño thanked all for a productive year.

Mayor Halliday made three announcements: 1) the Hayward Neighborhood Alert's Car-A-Van on July 30, 2018; 2) the National Night Out on August 7, 2018; and 3) the Special City Council meeting on September 11, 2018 in south Hayward.

#### **ADJOURNMENT**

Mayor Halliday adjourned the meeting at 8:30 p.m., in memory of Dr. Marian Kramer.

Council Member Lamnin noted that Dr. Marian Kramer was an obstetrician-gynecologist who graduated from a medical college in Pennsylvania; was a longtime Hayward resident; served in Hayward for forty-seven years and was one of few obstetrician-gynecologists in

the community; helped open the Women's Health Center on Tennyson Road; worked at St. Rose Hospital and Eden Hospital; served on the St. Rose Hospital Foundation; served on the Sun Gallery Board; supported multiple non-profit agencies; and was generous with her time helping people. Mayor Halliday asked that staff work with Dr. Marian Kramer's family or associates to organize a tree planting in her memory.

**APPROVED**

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Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward