



MINUTES OF THE SPECIAL CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 29, 2019, 7:00 p.m.

The Special 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 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., regarding four items: 1) conference with legal counsel pursuant to Government Code 54956.9(d)(1) regarding City of Hayward v. California State University Trustees, Alameda County Superior Court, No. RG 18895213; 2) conference with legal counsel pursuant to Government Code 54956.9(d)(1) regarding City of Hayward v. Russell City Energy Company, Alameda County Superior Court, No. RG 14752278; 3) conference with legal counsel pursuant to Government Code 54956.9 regarding AGG, et al. v. City of Hayward, et al., U.S. District Court, ND CA, No. #4: 4:19-civ-00697-DMR; and 4) conference with labor negotiators pursuant to Government Code 54957.6 regarding Hayward Police Management Unit. City Attorney Lawson noted Item 4 was not discussed and there was no reportable action related to Items 1, 2, and 3.

PUBLIC COMMENTS

Mr. Kim Huggett, Hayward Chamber of Commerce President, gave an update on October activities in pursuit of economic development and announced the Light Up the Season event on December 7, 2019 in downtown Hayward.

Ms. Corina Vasaure, Hayward resident, submitted a petition with signatures asking the City to prioritize a public restroom in Heritage Plaza due to lack of access to public restrooms in downtown. There was Council agreement for staff to meet with interested parties to consider options.

Ms. Theresa Rezendes, Hayward resident, urged the City to trim trees as a preventative measure and not wait for PG&E to do so, and referred to the "Link Between Powerlines and Wildfires" article from [Electrical Contractor](#).

City Manager McAdoo shared that Hayward firefighters worked all weekend to put out fires caused by downed powerlines, helped fight the Sonoma County's Kincade Fire, noted 3,000 Hayward households were impacted with power outages and praised efforts by City departments involved in mitigating impact to the community.

Consent Item No. 6 was removed from the Consent Calendar for separate vote.

CONSENT

1. Minutes of the Special City Council Meeting on October 7, 2019 **MIN 19-132**
It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the City Council meeting on October 7, 2019.
2. Minutes of the Special City Council Meeting on October 15, 2019 **MIN 19-133**
It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the City Council meeting on October 15, 2019.
3. Adoption of Ordinance Adding Article 29 to Chapter 10 of the Hayward Municipal Code Relating to Vacant Properties **CONS 19-706**

Staff report submitted by City Clerk Lens, dated October 29, 2019, was filed.

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

Ordinance 19-16, “An Ordinance of the City of Hayward, California Adding Article 29 to Chapter 10 of the Hayward Municipal Code Relating to Vacant Properties”

4. Resignation of Ms. Sharon Eva from the Keep Hayward Clean and Green Task Force, Effective September 24, 2019 **CONS 19-670**

Staff report submitted by City Clerk Lens, dated October 29, 2019, was filed.

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

Resolution 19-197, “Resolution Accepting the Resignation of Sharon Eva from the Keep Hayward Clean and Green Task Force”

5. Resignation of Ms. Linhdan Le from the Hayward Youth Commission, Effective September 30, 2019 **CONS 19-707**

Staff report submitted by City Clerk Lens, dated October 29, 2019, was filed.

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



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Resolution 19-198, "Resolution Accepting the Resignation of Linhdan Le from the Hayward Youth Commission"

6. Adopt a Resolution Amending the Fiscal Year 2020 Operating and Capital Improvement Program Budget, Transferring and Appropriating \$60,000 from General Fund to the Capital Projects Fund and Transferring and Appropriating \$35,000 from General Fund to Fleet Capital Management Fund for the Purchase of a Parking Enforcement Vehicle and other Related Equipment **CONS 19-649**

Staff report submitted by Public Works Director Ameri, dated October 29, 2019, was filed.

Council Member Wahab expressed concern about license plate recognition systems and the sharing of information and accumulation of data.

Council Member Mendall noted the item was vetted by the Council Infrastructure Committee and thanked staff for efforts to ensure the system would be secure; and asked staff to plan for a public discussion about a policy governing license plate readers and camera surveillance data in the next fiscal year.

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

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

Resolution 19-201, "Resolution Authorizing Amendment of the Fiscal Year 2020 Operating and Capital Improvements Program Budgets Relating to the Transfer and Appropriation of Funds for the Purchase of a Parking Enforcement Vehicle and Other Related Equipment"

7. Request for Sewer Service for 27398 Fairview Avenue in Unincorporated Alameda County, Application No. USA 19-01; Joseph and Margaret Revolinsky (Owners) **CONS 19-662**

Staff report submitted by Development Services director Simpson, dated October 29, 2019, was filed.

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

Resolution 19-199, “Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval of an Out-Of-Service Area Agreement to Allow the City to Provide Sewer Service to 27398 Fairview Avenue in Unincorporated Alameda County, Bearing Assessor’s Parcel Number 085A-6200-010-00, and Further Authorizing the City Manager to Execute Utility Service (USA 19-01) and Public Street Improvement Agreements ”

8. Adopt a Resolution Awarding a Contract to Asbestos Management Group of CA, Inc. in the Amount of \$1,300,708 and Authorizing an Administrative Change Order Contingency of \$130,092 for a Total Not to Exceed Contract Amount of up to \$1,800,000 for the Abatement and Deconstruction for Route 238 Bypass Property Project **CONS 19-722**

Staff report submitted by Public Works Director Ameri, dated October 29, 2019, was filed.

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

Resolution 19-200, “Resolution Awarding the Construction Contract to Asbestos Management Group of CA, Inc., for the Abatement and Deconstruction for Route 238 Bypass Property Project, Phase II, Project No. 05276, and Authorizing the City Manager to Approve Plans and Specifications and Call for Bids for Future Phases”

PUBLIC HEARING

9. Proposed Development of a Mixed-Use Project Consisting of 189 Condominium and Townhome Units; Approximately 10,800 Square Feet of Ground Floor Commercial Space; a Variety of Open Spaces; and Related Site Improvements Requiring Approval of a Purchase and Sale Agreement and Zone Change and Tentative Tract Map Application No. 201806355 (Report from Development Services Director Simpson) **PH 19-087**

Staff report submitted by Development Services Director Simpson, dated October 29, 2019, was filed.

Senior Planner Schmidt provided a synopsis of the staff report and noted staff was recommending adding the following language, “... trash and recycling receptacles ...” to Condition of Approval 25.i.



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Discussion ensued among Council Members and City staff regarding: the purchase and sale agreement between the City and the True Life Companies and use of 50% of Caltrans funds for paying the City's long-term obligations; preference points for local residents as part of affordable housing placement; residential parking configuration, unbundled parking, commercial parking space signage; project amenities and smart appliances; park dedication fees; process for becoming income eligible for affordable housing; merging of Parcel 1 and Parcel 2 would produce more affordable units and more mixed-use; protected drop-off site for childcare service; connection trails and how they integrate with the parks and parcels; and density designation based on existing topography and geological condition.

Mayor Halliday opened the public hearing at 7:56 p.m.

Mr. Kim Huggett, Hayward Chamber of Commerce President, noted the Chamber supported the proposed development because it will contribute to the vision to make Mission a multi-modal transit corridor.

Ms. Leah Beniston, the True Life Companies representative, satisfactorily addressed questions posed by Council members. Ms. Beniston noted there were continued conversations with various labor union members; provided price range for townhomes, condominium and affordable housing units; added that the Transportation Demand Management parking reporting program would address parking issues; the City's preferential housing list could be used; the parcel would be maintained by the Homeowners' Association; there was flexibility to make color tweaks to Buildings A and B; and there would be water conservation efforts in the project under the park and energy efficiency in all of the units.

Mr. Michael Torres, the True Life Companies associate, noted he had met with the trades but had nothing to report.

Mayor Halliday closed the public hearing at 8:12 p.m.

Council Member Mendall moved the staff's recommendation with the added language, "... trash and recycling receptacles ..." to Condition of Approval 25.i. Council Member Mendall praised the proposed development and noted that as a part of future concept reviews, the Council Economic Development Committee should ensure that developments include mixed units and size such as studios, one, and two-bedroom units.

Council Member Zermeño and Council Member Salinas seconded the motion.

Council Member Lamnin noted she envisioned complete communities consisting of different price points within any housing complex and urged staff to look at the University Hill complex for smart design and different size units. Council Member Lamnin supported the motion and urged staff to evaluate the Homeowners' Association's 100% responsibility for the park space and request for contribution towards a path.

Council Member Márquez expressed support for the motion and asked staff to provide the Council with an update one year out on who is occupying the units, concurred with Council Member Lamnin about affordability by design and urged the applicant to continue the conversations with the building trades.

Council Member Wahab noted that a large number of California State University East Bay students might want to rent or occupy units in the Mission area, asked that park paths be accessible for those who are less-able-bodied and of all ages, and recommended consideration for an apprenticeship program.

Mayor Halliday expressed support for the proposed project and echoed the Council's sentiment for continued discussions with the trades and encouragement of local hiring, and apprenticeship programs.

Members of the City Council disclosed having met with the project applicant and interested parties.

It was moved by Council Member Mendall, seconded by Council Member Zermeño and Council Member Salinas, and carried unanimously, to approve the following with the added language, "... trash and recycling receptacles ..." to Condition of Approval 25.i.:

Resolution 19-202, "Resolution Approving Zone Change and Vesting Tentative Map (Tract 8502) for the True Life Companies Mixed Use Development; and Approving the Related Infill Checklist; The True Life Companies/TTLC Mirza LLC and City of Hayward (Applicant/Owners)"

Resolution 19-203, "Resolution Approving Government Code Section 52201 Summary Report and Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with TTLC Management Inc., for Specified Properties Located in South Hayward near Mission Boulevard and Tennyson Road and Making Specified Findings in Association Therewith"

Introduction of Ordinance 19-_, "An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806355 for the True Life Companies Mixed Use Development"



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10. Appeal of Planning Commission Approval of a Three Story, 40-Unit Townhouse Style Development on a 1.66-acre Site Located at 21229 Oak Street (APN 415-0170-019-00, 415-0170-020-00, 415-0170-021-00, 415-0170-022-00, 415-0170-023-00, 415-0170-024-00, 415-0170-025-00, 415-0170-029-02) Requiring Site Plan Review Application No. 201800932. Ann E. Maris PhD, Organizer, Grove Way Neighborhood Association (Appellant); Steven Kodama, Kodama Diseno Architects (Applicant)/ Robert Chen (Owner) (Report from Development Services Director Simpson) **PH 19-085**

Staff report submitted by Development Services Director Simpson, dated October 29, 2019, was filed.

Associate Planner Emura provided a synopsis of the staff report.

Council Member Mendall sought clarification that according to existing zoning regulations, a townhouse development conforms with a Commercial Office zoning district.

Mayor Halliday opened the public hearing at 8:37 p.m.

Dr. Ann E. Maris, Grove Way Neighborhood Association representative, noted her neighborhood was not notified about the proposed development, asked for access to the Hill's Coffee Shop by having a gate opening up to the Hill's driveway, and noted the proposal did not include smaller affordable housing units.

Staff shared that residences within 300 feet of the subject project, even those residing within the County, were notified about the project.

Dr. Marlina Selva, Grove Neighborhood Association member, spoke against building more housing and removing natural environments due to the correlation between building more housing with more mental health problems.

Mr. Jared Perkins was concerned the proposed development and other developments in the area did not provide benefits to the neighborhood and its infrastructure, would impact class sizes of local schools and was concerned about the safety of the neighborhood. Mr. Perkins submitted a petition with signatures of individuals opposing the project as currently planned.

Ms. Shareen Purrell expressed she was not notified about the proposed development and noted that if massive housing was going to be built, the plan should include studios, low-income housing, micro units, housing for homeless individuals, a park, and green features such as solar panels.

Mayor Halliday closed the public hearing at 8:55 p.m.

Discussion ensued among Council Members and City staff regarding the affordable housing aspect of the proposed plan; access to the Hill's Coffee Shop; the 300-foot radius notification and feasibility and proper assessment to notify beyond the legal requirement; notifications via email; the California Building Code and solar panels on projects; uses in a Commercial Office district; and park dedication fees.

Council Member Zermeño offered a motion to deny the appeal of the Planning Commission approval of the three story, 40-unit townhouse development on Oak Street with direction for staff to explore a trail connection to Foothill Boulevard.

Council Member Mendall seconded the motion.

Council Member Lamnin noted the proposed project did not meet the Council's vision for complete communities, did not agree that "for sale" townhomes would be allowed without extra review for a Commercial Office district, and expressed she could not support the motion. Council Member Lamnin suggested the City expand the noticing restrictions beyond the 300-foot radius when feasible.

Council Member Wahab expressed she would be opposing the proposed project because she did not think the requests in the appellant letter were difficult to fulfill, preferred more affordable housing and natural fences, and thought the project needed to be reworked to include more community benefits.

Council Member Mendall asked that the Grove Way Neighborhood Association be included in the same notifications that are sent to other associations in the city. Council Member Mendall was troubled at the fact that a residential only development was in compliance with the Commercial Office use zoning and asked staff for that to be fixed with a zoning review in the next fiscal year.

Council Member Salinas favored protecting commercial opportunities along the Foothill and Mission Boulevard corridor and noted he was distraught at the current zoning designation for the proposed site.

Council Member Márquez expressed she would be supporting the motion because the City was legally bound to follow existing regulations, concurred with Council Member Lamnin to expand the noticing parameters beyond the 300-foot radius, encouraged the applicant to continue to work with the neighbors exploring access to the shopping plaza.

Mayor Halliday expressed support for the motion and Council Member Mendall's suggestion to amend existing zoning regulations and urged staff to review existing noticing requirement.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried with the following vote, to approve the resolution:



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

Resolution 19-204, "Resolution Denying the Appeal and Approving Site Plan Review Pertaining to Construction of a Three-Story, 40-Unit Townhouse Style Development"

11. Proposal to Subdivide a 0.50-Acre Site into 7 Parcels to Allow the Construction of 5 Single-Family Homes with Common Open Space and Related Site Improvements at 24763 Mohr Drive (APN 441-0077-003-04) Requiring Approval of a Tentative Tract Map, Planned Development (PD) Rezone, and Environmental Consistency Checklist. Application No. 201806740. Applicant: Jeffrey Lawrence for Nuvera Homes on Behalf of Owner: Ben Hsiao-Pang Liu (Report from Development Services Director Simpson) **PH 19-081**

Staff report submitted by Development Services Director Simpson, dated October 29, 2019, was filed.

Associate Planner Blanton provided a synopsis of the staff report and noted there were three new conditions of approval (two under the heading "General", one under "Fire Department", and one under "Utilities") and one amendment to Condition of Approval 51.h under the heading "Engineering" to ensure consistency with other development projects.

Council Member Zermeño, Council Member Salinas, and Council Member Lamnin disclosed they had no personal financial conflict of interest with the item and could participate in the deliberation.

Discussion ensued among Council Members and City staff regarding the responsibility of the Homeowners' Association for enforcing parking requirements, affordable housing in-lieu fees and issuance of notice of funding availability, and flood zone plans for projects.

Mayor Halliday opened the public hearing at 9:48 p.m.

Mr. Jeff Lawrence, Nuvera Homes applicant, noted he is the president of the Homeowners' Association at the beginning and brings in professional management to enforce regulations.

Mayor Halliday closed the public hearing at 9:52 p.m.

Council Member Mendall offered a motion per staff's recommendation.

Council Member Salinas seconded the motion.

Council Member Lamnin noted that while the proposal was a better design than the prior project, she remained concerned that the units would all have the same price point.

Mayor Halliday expressed she would be supporting the motion.

It was moved by Council Member Mendall, seconded by Council Member Salinas, and carried unanimously, to approve the following with three new conditions of approval (two under the heading "General", one under "Fire Department", and one under "Utilities") and one amendment to Condition of Approval 51.h under the heading "Engineering" to ensure consistency with other development projects.:

Resolution 19-205, "Resolution Adopting the Environmental Consistency Checklist and Approving the Planned Development Rezone with a Vesting Tentative Tract Map Pertaining to Construction of 5 New Single-Family Residences at a Site Located at 24763 Mohr Drive"

Introduction of Ordinance 19-_, "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. 201806740 to Accommodate 5 Single-Family Homes at 24763 Mohr Drive"

12. Proposal to Subdivide Two Existing Parcels into 17 Parcels to Allow the Construction of 12 Detached Single-Family Residences and Five Accessory Dwelling Units (ADU) with Common Open Space Areas and Related Site Improvements at 28571 & 28591 Harvey Avenue (APNs 464-0060-005-02 & 464-0060-006-00) Requiring a Vesting Tentative Tract Map, Planned Development (PD) Rezone, Site Plan Review, and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP). Application No. 201706649; Nuvera Homes (Applicant), Ngai Ming Wang (Owner) (Report from Development Services Director Simpson) **PH 19-084**

Staff report submitted by Development Services Director Simpson, dated October 29, 2019, was filed.

Associate Planner Emura provided a synopsis of the staff report and noted there were three additional conditions of approval under the heading "General" and one amendment to Condition of Approval No. 77 by adding the word "feet" after "seven" to ensure consistency with other development projects.



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Discussion ensued among Council Members and City staff regarding deed restricting Accessory Dwelling Units (ADU) as affordable units; affordable housing in-lieu fees; ADU controls if they are rented out; parking spaces according to current regulations and changes at the beginning of the year; square footage of units proposed; and consideration of building smaller unit sizes to encourage additional housing production and increase affordability.

Mayor Halliday opened the public hearing at 10:14 p.m.

Mr. Jeff Lawrence, project developer, shared that one home was vacant and the other property was occupied, and the resident was given proper notice, acknowledged the affordable housing fee, and applauded staff for bringing the idea of ADUs forward.

Mayor Halliday closed the public hearing at 10:19 p.m.

Council Member Salinas offered a motion per staff's recommendation with three additional conditions of approval under the heading "General" and an amendment to Condition of Approval No. 77 by adding the word "feet" after "seven" to ensure consistency with other development projects.

Council Member Mendall seconded the motion.

It was moved by Council Member Salinas, seconded by Council Member Mendall, and carried unanimously, to approve the following with three additional conditions of approval under the heading "General" and one amendment to Condition of Approval No. 77:

Resolution 19-206, "Resolution Approving the Planned Development Rezoning with Vesting Tentative Tract Map and Site Plan Review, and the Adoption of a Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP) Pertaining to Construction of 12 New Detached Single-Family Dwellings and Five Accessory Dwelling Units at 28571 & 28591 Harvey Avenue"

Introduction of Ordinance 19-, "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, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12 Single-Family Dwellings and Five Accessory Dwelling Units at 28571 & 28591 Harvey Avenue"

LEGISLATIVE BUSINESS

13. Update on Commercial Cannabis Permit Process and Program (Report from Development Services Director Simpson) **LB 19-045**

The item was continued to a future City Council meeting.

14. Introduction of an Ordinance Increasing the Commercial Cannabis Tax Rate to 7% of Gross Sales (Report from City Manager McAdoo) **LB 19-046**

The item was continued to a future City Council meeting.

CITY MANAGER'S COMMENTS

City Manager McAdoo had two announcements: 1) the first of a series of community workshops regarding Hayward's minimum wage starts November 12, 2019 at City Hall; 2) the October 19, 2019 Compost Giveaway organized by Public Works in partnership with Waste Management EarthCare Homegrown Compost was successful with more than 800 households participating.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Salinas, Council Member Lamnin and Mayor Halliday reported on their attendance at the League of California Cities 2019 Annual Conference in Long Beach.

Council Member Salinas wished everyone a happy Halloween and advised the public to exercise caution.

Council Member Márquez spoke highly of the October 26, 2019 beautification event organized by the Keep Hayward Clean and Green Task Force and thanked everyone who participated.

Council Member Lamnin and Mayor Halliday reported on their attendance at a CalPERS Education Forum in Oakland.

Council Member Zermeño noted the Dia de los Muertos celebration was commemorated from October 31, 2019 to November 2, 2019 to honor those who have died.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:29 p.m.



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APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward