



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 19, 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 Wahab.

ROLL CALL

Present: COUNCIL MEMBERS Zermeno, Márquez, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
Absent: NONE

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported the City Council convened in closed session at 5:00 p.m., concerning four items: 1) public employment pursuant to Government Code 54957 regarding the City Clerk's annual performance evaluation; 2) conference with property negotiators pursuant to Government Code 54956.8, regarding City owned property at 1401 Golf Course Road; APN 432-0134-001-05; 3) conference with legal counsel pursuant to Government Code 54956.9(d)(2) regarding two anticipated litigation cases. Mayor Halliday noted there was no reportable action related to item 1. City Attorney Lawson noted there was no reportable action related to Items 2 and 3.

PRESENTATION

Mayor Halliday read a Proclamation declaring the month of March 2019 as American Red Cross Month and presented it to the American Red Cross Bay Area Chapter, Alameda County Leadership Council. Ms. Karen Fuller, American Red Cross Bay Area Chapter representative, accepted the Proclamation on behalf of the American Red Cross.

LEGISLATIVE BUSINESS (Unfinished Business from March 5, 2019)

1. Introduction of the Hayward Community Foundation Concept, Formation Process, and Authorization for the City Manager to Establish an Affiliate Fund with the East Bay Community Foundation to Create the Hayward Community Foundation (Report from City Manager McAdoo) **LB 19-011**

Staff report submitted by Management Analyst II Stefanski, dated March 19, 2019, was filed.

City Manager McAdoo announced the report and introduced Management Analyst II Stefanski who provided a synopsis of the report and acknowledged that Ms. Jeri Boomgaarden, Managing Director of Donor Services & Senior Development Officer from the East Bay Community Foundation (EBCF) was available to respond to questions. Staff

responded to questions regarding fund assets and composition of the distribution committee.

Mayor Halliday opened the public hearing at 7:25 p.m.

Ms. Karla Gonzalez asked if there were any funds for mental health training.

Mayor Halliday closed the public hearing at 7:27 p.m.

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

Resolution 19-045, "Resolution Authorizing the City Manager to Establish an Affiliate Fund with the East Bay Community Foundation to Create the Hayward Community Foundation"

PUBLIC COMMENTS

City Attorney Lawson stated the Gonzalez family had filed a Federal lawsuit, AAG v. City of Hayward, against the City, which precluded any further conversation from the City Council and staff; and there were parallel investigations occurring and at their conclusion he can support an independent review. City Attorney Lawson advised the City Council and staff to not engage because of pending litigation.

Mr. Jim Drake, Hayward resident, spoke about the conditions of approval for Taco Bell and eucalyptus trees on Harder Road.

The following individuals spoke in solidarity with the Gonzalez family and demanded the following: unbiased independent investigation; passage of legislation similar to the Richmond Ordinance; justice for Agustin "Augie" Gonzalez; removal of officers involved in the shooting from the force; accountability; justice to prevent negative impact to the physical and mental health of the community; have mental health and de-escalation training for officers; recommend to District Attorney Nancy O'Malley that the officers involved be prosecuted; and support the demands made by the Gonzalez family.

Mr. Frank Running Horse, Oscar Grant Committee Against Policy Brutality and State Repression member
Mr. Gerald Smith, Oscar Grant Committee Against Policy Brutality and State Repression member
Ms. Tracy Rosenberg, Media Alliance Director and Oakland Privacy member
Mr. Carlos Archuleta also spoke about PEG Broadcasting Services at Chabot College.
Mr. Craig Emery
Ms. Amanda Hallberg
Ms. Rachel Schenkel, primary care physician and Do No Harm Coalition member
Ms. Juliana Morris, physician-in-training and Do No Harm Coalition member
Ms. Lacei Amodei, Hayward Collective member
Ms. Cynthia Nunes
Ms. Lindsay Williams



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Ms. Rosaura Mendoza, Hayward Collective member and community organizer
Mr. Danny Rey
Ms. Stan Woods, Oscar Grant Committee Against Policy Brutality and State Repression member
Luis, cousin of Augie Gonzalez –
Mr. Michael Kerr, Veterans for Peace, Greenpeace, and Revolution Contra Costa member
Ms. Jessica Nunes, cousin of Agustin Gonzalez
Ms. Araceli Orozco
Ms. Karla Gonzalez, mother of Agustin Gonzalez
Frankie
Augie Gonzalez, father of Augie Gonzalez
Mr. Eduardo Orozco
Ms. Iman Siddiqi
Ms. Veronica Solorio, Hayward Collective member and Clinical Case Manager at La Familia
Aunt B
Ms. Melissa Mallory
Ms. Andy Briseño, Co-President for the Stay Woke Collective at Chabot College
Mr. Mo Kim, Hayward resident and High School teacher
Mr. Steve Jacobsen, Oscar Grant Committee Against Policy Brutality and State Repression member

The following individuals submitted speaker cards but did not speak.

Ms. Diana Ponce
Ms. Amaya Rodriguez
Mr. Warren Foster
Ms. Angelika Lewis

Consent Item 3 and 5 were removed from the Consent Calendar for separate vote.

CONSENT

2. Minutes of the City Council Meeting on February 19, 2019 MIN 19-027
It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council meeting on February 19, 2019.
3. Minutes of the City Council Meeting on February 26, 2019 MIN 19-033
The item was continued to March 26, 2019 for review of information in the "Council Reports, Referrals, and Future Agenda Items" section by Council Member Wahab.
4. Authorize the City Manager to Accept and Appropriate up to \$150,000 from the California State Library for Hayward Library's Education Services Programs CONS 19-163

Staff report submitted by Library Services Director Addleman, dated, March 19, 2019, was filed.

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

Resolution 19-046, "Resolution Authorizing the City Manager to Accept and Appropriate up to \$150,000 from the California State Library for Education Services, and Supersede Resolution No. 18-227"

5. Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program Permit Application Review Services, for Round 1, Tier 2 Applications, and Increasing the Compensation Amount Not to Exceed \$250,838 **CONS 19-158**

Staff report submitted by Development Services Director Simpson, dated, March 19, 2019, was filed.

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

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

Resolution 19-049, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program Permit Application Review Services, for Round 1, Tier 2 Applications, and Increasing the Compensation Amount Not to Exceed \$250,838"

6. Resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 19-161**

Staff report submitted by City Clerk Lens, dated, March 19, 2019, was filed.

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



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Resolution 19-047, "Resolution Accepting the Resignation of Frederica Brewer from the Keep Hayward Clean and Green Task Force"

7. Resolution to Initiate the Formation and Annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1 CONS 19-162

Staff report submitted by Development Services Director Simpson, dated March 19, 2019, was filed.

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

Resolution 19-048, "Resolution of the City Council of the City of Hayward Initiating Proceedings 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"

PUBLIC HEARING

8. Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 Related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring the Introduction of an Ordinance and the Adoption of a Resolution Approving Zoning Text Amendment Application No. 201900727 (Report from Development Services Director Simpson) PH 19-020

Staff report submitted by Development Services Director Simpson, dated March 19, 2019, was filed.

Council Member Salinas disclosed he had to recuse himself from discussing and voting on the item due to the proximity of one of the entities proposed for modification to the Kids' Breakfast Club where he serves as the Executive Director; and he left the Council Chambers.

Development Services Director Simpson announced the report and introduced Principal Planner Lochirco who provided a synopsis of the staff report and clarified a question about revocation of permits.

Mayor Halliday opened the public hearing at 9:15 p.m.

Mr. Marc Whitlow, LDT Laboratory representative, spoke in favor of the zone text amendment because it would allow flexibility to find laboratory space.

Ms. Melissa Mallory, Hayward resident and employee of a Cannabis business in Berkeley, spoke against a large buffer for commercial cannabis retail dispensaries.

Mr. Jesus Reynoso, Hayward resident and via an English/Spanish interpreter, spoke against the consumption of cannabis in public places.

Mayor Halliday closed the public hearing at 9:21 p.m.

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

Mayor Halliday requested that the motion be separated into two separate votes because she supported modification of the setback for commercial cannabis business but did not support reducing the setback for retail dispensaries. Council Member Mendall and Council Member Zermeño were amenable to the split.

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

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

Resolution 19-050, "Resolution to Adopt a Zoning Text Amendment to Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(b) Related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses"

Introduction of Ordinance 19-, "An Ordinance of the Council of the City of Hayward Amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(b) Related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses"

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



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NOES: MAYOR Halliday
ABSENT: COUNCIL MEMBER Salinas

Resolution 19-051, "Resolution to Adopt a Zoning Text Amendment to Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(c)(1) Related to Reduction of Overconcentration Buffer from 1,000 Feet to 500 Feet for Commercial Cannabis Retail Dispensaries"

Introduction of Ordinance 19-_, "An Ordinance of the Council of the City of Hayward Amending the Hayward Municipal Code, Chapter 10, Article 1, (Zoning Ordinance), Section 10-1.3607(c)(1) Related to Reduction of Overconcentration Buffer from 1,000 Feet to 500 Feet for Commercial Cannabis Retail Dispensaries"

Council Member Salinas returned to the Council Chambers.

LEGISLATIVE BUSINESS

9. Adoption of Proposed Revisions to the Council Member Handbook Section on "Order of Business related to Council Reports, Referrals and Future Agenda Items" (Report from City Manager McAdoo) **LB 19-017**

Staff report submitted by City Manager McAdoo, dated March 19, 2019, was filed.

City Manager McAdoo provided a synopsis of the staff report.

Discussion ensued among Council Members and City Manager McAdoo concerning the: process for Council's priority setting; Council-Manager form of government; current and proposed process to make a Council Referral; and information provided in the staff report and process followed by surveyed municipalities.

Mayor Halliday opened the public hearing at 9:56 p.m.

The following individuals spoke against the proposed Council Referral process because there was not enough data to backup the proposal to limit the number of referrals that Council Members can make, the community relies on Council Members to voice concerns and make referrals; and urged the Council not to approve the proposed process and take the time to revise the proposal to produce a transparent process that is not restrictive.

Ms. Araceli Orozco
Mr. Eduardo Orozco
Ms. Melissa Mallory
Ms. Martha Kreeger
Mr. Scott Moore
Ms. Annie Komga
Ms. Cynthia Nunes
Ms. Lacei Amodei
Hector
Mr. Luis Baquirero
Ms. Karla Gonzalez
Ms. Iman Siddiqi

Mayor Halliday closed the public hearing at 10:36 p.m.

There was consensus among Council Members about separating the "Council Reports, Referrals and Future Agenda Items" into two sections: 1) Council Reports and 2) Council Referrals.

Council Member Lamnin supported having a "Strategic Initiatives" section in the proposed memo to reference how the referral relates to the Council Strategic Initiatives; recommended language to distinguish between a referral that is related to existing governmental operations, such as items handled through Access Hayward, and a referral that requires policy direction.

Council Member Mendall supported the written memo and was fine with eliminating the limit on the number of times that Council Members can make referrals.

Council Member Zermeño supported the written memo and was amenable to eliminating the number of times that Council Members can make referrals.

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

Council Member Lamnin seconded the motion subject to agreement to the two written suggestions provided in the "agenda questions and answers" document: 1) clarify language in the Council Referrals section to indicate that the Council can direct the appropriate Council Appointed Officers to read as follows, "Any Council Member ... possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff."; and 2) have clarifying language to distinguish between a referral that is related to existing governmental operations, such as items handled through Access Hayward, and a referral that requires policy direction. Council Member Lamnin also suggested that the Council separate the motion into two: 1) the memo process and 2) the number of referrals.

Council Member Zermeño was amenable to the recommendations.



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Council Member Salinas was supportive of continuing with the current process and having a one-page memo to make Council referrals. Council Member Salinas noted he would be voting against the motion.

Council Member Wahab offered the following about the Council Referral process. Part 1: Section A (prior to preparing the memo, Council Members can consult with the City Manager) was not necessary; Section B (in advance of the Council meeting, submit a memo) was fine with a definitive and measurable timeline attached, e.g., 30-60 day return process; and did not agree with Section C (notify the City Manager at least two weeks before the meeting) or Section D (3-5 referrals a year). Part 2: Section A (referring Council Member describes the policy issue) was fine; Section B (discussion to determine staff time and resources and to drop a matter) needed to have a vote for items that are dropped; and did not agree with Section C (City Manager determines when to place the item on a future agenda and maintains a log of referrals) but was amenable to the log of referrals as long as that was available with each agenda packet. Council Member Wahab agreed with a one-page memo with a 30-60-day timeline process, a clear vote to agendize the item or refer it to a committee but disagreed with limiting referrals to 3-5 a year.

Mayor Halliday offered a friendly amendment to eliminate the limit on the number of referrals by striking Part 1, Section D of the proposed Council Referral process. Council Member Zermeño and Council Member Lamnin were amenable to the friendly amendment.

Discussion ensued among Council Members and City staff regarding the Council Referral process and the Brown Act inability to submit a memo the day of the meeting.

Mayor Halliday offered a second friendly amendment to Part 1, Section C of the proposed Council Referral process, by changing the deadline to submit a memo from two weeks to one week prior to the meeting. Council Member Zermeño and Council Member Lamnin were amenable to the friendly amendment.

Council Member Zermeño suggested that the Council implement the proposed process and evaluate it for the next six months.

Council Member Mendall suggested that the Ad Hoc Committee (tasked with reviewing the Council Member Handbook) could review the Council Referral section after it has been enacted.

City Manager McAdoo suggested a modification for Part 2, Section C as follows, "Upon the concurrence... and place on a Council agenda. The Council can discuss the proposed timeline put forth by the Referring Council Member in concurrence with the City Manager or in consultation with the City Manager on staff resource impacts."

City Manager McAdoo summarized the motion on the floor: the process would require that a Council Referral Memo be submitted one week prior to the Council meeting; that the Referring Council Member memo be addressed to the Mayor and Council, and submitted to the City Manager and City Clerk with a copy to the Mayor; that there be no limit on the number of referrals that a Council Member can make; that the Council Referral Memo include a recommended timeline from the Referring Council Member that the Council can discuss when the referral comes for discussion at the Council meeting; that there will be a formal vote on the Council Referral Memo and also when deciding to drop consideration of the matter; that the log of the referrals be made available to the public with the agenda packet or in another public document; that there be inclusion of the City Attorney and City Clerk in referrals for items that are under their purview; and that the process is for policy items that require Council consideration and is not intended for routine governmental operation matters or items that may be handled through Access Hayward.

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

AYES:	COUNCIL MEMBERS Zermeño, Márquez, Mendall, Lamnin MAYOR Halliday
NOES:	COUNCIL MEMBERS Wahab, Salinas
ABSENT:	NONE

Resolution 19-052, "Resolution Accepting the Revision to the Council Reports, Referrals and Future Agenda Items Section of the Council Member Handbook"

CITY MANAGER'S COMMENTS

City Manager McAdoo made three announcements: 1) Hayward Police Chief Koller's retirement effective July 1, 2019 and recruitment process for the new Hayward Police Chief; 2) Homelessness-Housing Task Force meeting on March 21, 2019 at City Hall; and 3) Community Housing Workshop on April 6, 2019 at a place to be determined.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Salinas commended Maintenance Services Director Rullman and his team for his diligent work related to Access Hayward requests.

Council Member Zermeño announced that Hayward's 143rd anniversary will be celebrated at the Latino Business Roundtable meeting on March 22, 2019 at St. Rose Hospital; and shared he helped the Landscaping Division beautify the Portuguese Park on March 16, 2019.

Council Member Márquez made two announcements: 1) East Bay Community Energy (EBCE) community presentation on March 28, 2019 at the Matt Jimenez Community Center in English at 5:30 p.m. and Spanish at 7:00 p.m., and 2) Cesar Chavez Day Celebration on March 30, 2019 at City Hall Plaza sponsored by La Alianza de Hayward.



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ADJOURNMENT

Mayor Halliday adjourned the meeting at 12:06 a.m., on Mach 20, 2019, in memory of Muslim people who lost their lives at the two mosques in Christchurch, New Zealand on March 15, 2019.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward