



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 15, 2015, 7:00 p.m.

The City Council meeting 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, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR Halliday
Absent: None

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez was not present when the City Council convened in closed session.

Council Member Zermeño noted that the fence located at the corner of A and Montgomery Streets needs to be improved. Council Member Zermeño spoke about the Project Labor Agreement (PLA). There was Council support to direct staff to prepare a work session report related to PLAs.

Mayor Halliday referred to an email regarding a resolution to urge the California State Legislature and Governor to adopt a law banning powdered alcohol for consumption in California. There was Council support to direct staff to review the letter and prepare a letter for the Mayor to sign, and prepare an analysis and present it to the City Council.

Council Member Lamnin referred to a letter addressed to the California Public Utilities Commission regarding the power charge indifference adjustment proposed increase and proposed decision in A.15-16-001, PG&E's 2016 ERRRA Proceeding.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session regarding three items: (1) Conference with property negotiators pursuant to Government Code 54596.8 regarding the 9/11 Memorial; (2) Conference with legal counsel pursuant to Government Code 54956.9 regarding three anticipated litigation cases; and (3) Conference with property negotiators pursuant to Government Code 54956.8 regarding approximately 400 Parcels owned by the California Department of Transportation in the Route 238 Corridor; and there was no reportable action. Mr. Lawson added that the City Council did not have time to discuss Item (4) Public employment regarding the City Manager.

PUBLIC COMMENTS

Mr. Antonio Isais, Community Services Commission member, thanked the Hayward Police Department for its work.

Mr. Jim Drake, Hayward resident, spoke about the Fire Chief and requested that a breathalyzer be placed in his City vehicle.

Ms. Wynn Grcich, Hayward resident, spoke about a newspaper article “Hayward fire chief allowed to keep job”, and also referred to the incident during a Hayward Unified School District Board closed session.

Mr. Ray Baker, Hayward business owner, commended the Hayward Police Department, and expressed concern about the high speed traffic in downtown.

Ms. Nina Marley, Hayward resident, commended the Hayward Police Department for its work in improving the Tennyson area.

Mr. John Super, Hayward resident, noted a police officer was killed in the area at Myrtle and C Streets and requested that a traffic calming measure be installed and dedicated to the officer.

Consent Item Nos. 2, 3, 4, and 6 were removed for discussion and separate vote.

CONSENT

1. Approval of the Minutes of the City Council Meeting on December 1, 2015 [MIN 15-038](#)
It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the City Council Meeting on December 1, 2015.

2. Adoption of Ordinance Adding Article 6 to Chapter 11 of the Hayward Municipal Code Regarding Recycled Water Use [CONS 15-363](#)

Staff report submitted by City Clerk Lens, dated December 15, 2015, was filed.

Mr. Jim Drake, Hayward resident, expressed concern about putting recycled water in the aqueducts and suggested increasing its use for non-drinking purposes.

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

Ordinance 15-33, “An Ordinance Adding Article 6 to Chapter 11 of the Hayward Municipal Code Regarding Recycled Water Use”

3. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2016 [CONS 15-381](#)

Staff report submitted by Human Resources Director Collins, dated December 15, 2015, was filed.



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In response to Council Member Márquez' inquiry about an update on the salary surveys for the other union groups, Human Resources Director Collins responded that the only one outstanding was SEIU Local 1021, which was anticipated to be done by February.

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

Resolution 15-232, "Resolution Approving the Amended Fiscal Year 2016 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 15-189 and All Amendments Thereto"

4. Authorization for the City Manager to Execute Professional Services Agreements with Lordy Rodriguez, Rob Ley, Kana Tanaka, and We Are Matik for Structural Art Installations in the 21st Century Library [CONS 15-385](#)

Staff report submitted by Library and Community Services Director Reinhart and Public Works Director Fakhrai, dated December 15, 2015, was filed.

Ms. Gail Lundholm, Hayward resident, expressed disappointment that the art community was not contacted about the proposed art installations in 21st Century Library facility, and stressed the importance of having local artists be a part of the public process.

Council Member Lamnin shared the same concern expressed by Ms. Lundholm noting that only one out of ninety responses to the Requests for Qualifications (RFQ) was from Hayward, and added it was not evident that there was a public process and she was concerned about some of the elements in the proposed art installations.

Council Member Lamnin offered a motion to reopen the selection process.

Council Member Zermeño seconded the motion.

Mayor Halliday was disappointed there was not a public member on the committee that reviewed the responses to the RFQ.

Library and Community Services Director Reinhart noted that the consultant, Beth Jones Art Consultant, had personally contacted arts organizations in Hayward as stated in the staff report, and assured the Council that a public process was in place for the proposal. Discussion ensued about the process.

Discussion ensued among City Council and staff about reopening the selection process.

Council Member Zermeño withdrew his support for the motion and the motion on the floor died for lack of a second.

Council Member Mendall offered a motion to table the item until January, and directed staff to bring back recommendations.

Council Member Jones seconded the motion.

Mayor Halliday suggested that the item be placed under legislative business to allow for discussion.

It was moved by Council Member Mendall, seconded by Council Member Jones, and carried unanimously, to table the item until January and direct staff to bring back recommendations.

5. Resolution Approving a Memorandum of Understanding between the City of Hayward and the Hayward Police Management Unit [CONS 15-389](#)

Staff report submitted by Human Resources Director Collins, dated December 15, 2015, was filed.

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

Resolution 15-231, “Resolution Approving the Memorandum of Understanding between the City of Hayward and the Hayward Police Management Unit”

6. Amendment to Agreement for Consulting Services with Dutra Cerro Graden [CONS 15-393](#)

Staff report submitted by Economic Development Manager Hinkle, dated December 15, 2015, was filed.

Mr. Jim Drake, Hayward resident, inquired about the consulting services with Dutra Cerro Graden. City Manager David provided information from the staff report.

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

Resolution 15-233, “Resolution Authorizing the City Manager to Negotiate and Execute Amendment to Agreement for Consulting Services between the City of Hayward and Dutra Cerro Graden for Valle Vista Catalyst Site”



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Mayor Halliday asked if Legislative Business Item No. 12 could be heard after the Work Session. There was City Council consensus to move Legislative Business Item No. 12 prior to Public Hearing Item No. 9.

WORK SESSION

7. FY 2015 Preliminary Year-End General Fund Review [WS 15-033](#)

Staff report submitted by Acting Budget Officer Barton, dated December 15, 2015, was filed.

Director of Finance Vesely provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding: the General Fund forecast; OPEB Liability Contribution; economic development and potential new revenue sources; Sales Tax; Council's budget policies for one-time revenues; moving positions from the General Fund into the Enterprise Fund; healthcare cost; pension cost; and the renewal of the Utility Users Tax Measure.

8. Review of First Quarter Progress for Police Department [WS 15-035](#)

Staff report submitted by Program Analyst Turner, dated December 15, 2015, was filed.

Police Chief Urban provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding: the high speed traffic in downtown and enforcement mechanisms; "Avoid the 21" DUI Campaign and Selective Traffic Enforcement Program during the holiday season; mail packages theft; the E.Y.E.S Program and registering privately owned surveillance camera systems with the Hayward Police Department; homeless encampments and social services; bicycle police presence in the Tennyson area; long-term trends or multi-year statistics for different priorities and reporting on a category per quarter; the Hayward Neighborhood Alert and neighborhood watch groups; vacancies in the Department; and discussion on how Measure C has improved the operations of the Department.

Legislative Business Item No. 12 was moved up and heard prior to Public Hearing No. 9.

PUBLIC HEARING

9. Proposed subdivision and construction of forty-two detached single-family homes on a 3.2-acre site at 81 Fagundes Court, requiring adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Medium Density Residential and Single-Family Residential to Planned Development District, Vesting Tentative Tract Map 8266, and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; KB Home Bay Area (Applicant)/ Steven Amaral (Owner) [PH 15-106](#)

Staff report submitted by Assistant Planner Christensen, dated December 15, 2015, was filed.

Development Services Director Rizk announced the staff report and introduced Assistant Planner Christensen who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: lack of a sound wall along the railroad on the east side of the property; the proposed gated community and the contradiction with the walkable community objective; parking standard requirements and informing prospective buyers; the ratio of bedroom to parking spaces; parking impact to already impacted neighborhoods; requirement for tree replacement; permeable pavement; gates; and public comments.

Mayor Halliday opened the public hearing at 10:11 p.m.

Mr. John Compaglia, Senior Planner with KB Home Bay Area, noted support for the proposed Conditions of Approval, and added the project would have a Homeowners' Association and a permeable paving at the entrance.

Mayor Halliday closed the public hearing at 10:17 p.m.

Council Member Zermeño offered a motion per the staff recommendation. There being no second, the motion died.

Council Member Mendall liked the detached single-family nature of the project, but was concerned about the inadequacy of parking in the neighborhood and the gated aspect of the proposal.

Council Member Mendall offered a motion to refer the item back to the Planning Commission with the following recommendations: to eliminate the private gated community nature of the project, create a public park, and consider mitigation measures for the current parking situation.

Council Member Peixoto seconded the motion.

Council Member Lamnin encouraged the project proponent to consider community improvements by environmental design and also contemplate park-in-lieu fees for



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neighborhood improvements.

Council Member Márquez expressed support for the motion acknowledging that there was a perception issue with gated communities.

Council Member Jones asked staff to clarify the policy related to gated communities and noted the inadequacy of parking in the proposed neighborhood needed to be addressed or perhaps mitigated by the apartment complex across the street of the proposal.

Mayor Halliday expressed support for the motion because she was concerned about the gated aspect for a single-family residential, and added that perhaps the project needed additional parking spaces.

It was moved by Council Member Mendall, seconded by Council Member Peixoto, and carried unanimously, to refer the item back to the Planning Commission with the following recommendations: to eliminate the private gated community nature of the project, create a public park, and consider mitigation measures for the current parking situation.

10. Adoption of a Resolution of Intention to Introduce an Ordinance Approving an Amendment to the Contract between the City of Hayward and the California Public Employees Retirement System (PERS) for Miscellaneous Members in HAME, Local 21, and the Unpresented Employee Group [PH 15-107](#)

Staff report submitted by Human Resources Analyst II Adams, dated December 15, 2015, was filed.

Human Resources Director Collins provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:34 p.m.

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

Resolution 15-237, "Resolution Authorizing Intention to Approve an Amendment to Contract Between the Board of Administration, California Public Employees Retirement System and the City of Hayward"

Introduction of Ordinance 15-_, "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"

LEGISLATIVE BUSINESS

11. Introduction of an Ordinance to Amend the Hayward Building Code to Rescind Previously Adopted Amendments to the State Building Code that Restricts Issuance of Permits Only to Licensed Contractors and Resident Owners, and that Limits all Building Permits to a Duration of One Year [LB 15-034](#)

Staff report submitted by City Building Official Cullum, dated December 15, 2015, was filed.

City Building Official Cullum provided a synopsis of the staff report and responded to questions related to the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:39 p.m.

Council Member Lamnin offered a motion per staff recommendation noting that the safety measures were in place to deal with nuisance abatement in the event a project is not completed.

Council Members Jones and Mendall seconded the motion.

Council Member Jones thanked staff for bringing the item forward noting that the proposed amendment will encourage property owners to apply for a building permit and make sure such building projects are done in a safe manner and consistent with the California Building Code.

Council Member Mendall expressed support for the motion and noted a minor typographical error in the third line of Section 105.5 of the proposed Ordinance amendment, which needed to be fixed.

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

Introduction of Ordinance 15-_, “An Ordinance Amending Hayward Building Code Section 105.3.1 (Relating to Restrictions on Issuance of Building Permits) and Section 105.5 (Relating to Time Limitations on Building Permit Expiration)”

12. Authorization for the City Manager to Implement Near-Term Strategies to Assist Homeless Individuals in Hayward [LB 15-042](#)

Staff report submitted by Community Services Manager Jaeger, dated December 15, 2015, was filed.



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Library and Community Services Director Reinhart provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: funding for employment and job skills training for homeless individuals beyond the one-year pilot; location for the winter warming center; and the social services component at the winter warming center.

Council Member Márquez recommended that the location of the winter warming center be accessible and that the City's lobbyist explore State revenue opportunities to fund the employment program beyond the one-year pilot such as resources through the Mattress Recycling Council.

Council Member Peixoto encouraged staff to tap into the expertise of Building Opportunities for Self Sufficiency (BOSS), make direct contact with Workforce Investment Board, and consider other federal employment resources.

Council Member Lamnin requested information about the number of people who have been placed in housing by Abode Services in Hayward; and that staff incorporate data into the report from the Hayward Homeless Count and the Alameda County Everyone Counts Campaign.

Council Member Jones asked for a contingency plan for funding the program in the event of an emergency when the warming center needs to be open beyond the estimated fifty nights.

Council Member Zermeño encouraged staff to continue to collaborate with BOSS and County agencies.

Mayor Halliday opened the public hearing at 9:22 p.m.

Ms. Sue Merrill, Executive Director of South Hayward Parish, thanked everyone for the support and noted that she expected there would be a need for additional funding in anticipation of a wet winter.

Ms. Marcy Timberman, Hayward resident, praised the Downtown Streets Team model in San Jose.

Mayor Halliday closed the public hearing at 9:26 p.m.

Council Member Lamnin was concerned that stakeholders were not given an opportunity to be a part of the proposal.

Council Member Lamnin offered a motion to authorize the execution of an agreement to provide up to \$25,000 to open a new winter warming center for homeless individuals and

coordinate social services; have a letter of support for the \$180,000 county effort with language that speaks for accountability standards; and recommend that the \$205,000 in Community Development Block Grant be allocated for a workforce model and that there be a short RFP process.

Council Member Zermeño seconded the motion and asked that the motion include language that would provide flexibility to increase the allocation in the event the center needs to be open for more than fifty nights.

Council Member Mendall did not support the motion, but was inclined to support the three recommendations offered in the staff report.

Council Member Jones noted that staff responded to Council's direction for immediate action and suggested that each of the three resolutions be taken as separate items to allow for discussion related to specific elements in the recommendation.

Mayor Halliday expressed support for staff's recommendation.

Council Member Márquez expressed support for staff's recommendation because the service for homeless individuals was needed immediately.

Council Member Lamnin withdrew her motion and offered a motion per staff's recommendation with two requests for staff: include at least one individual in Hayward who has been affected by homelessness in future proposals that are developed; and that proposed policies be reviewed by the Community Services Commission for community vetting before they are presented to the City Council.

Council Member Márquez seconded the motion.

Council Member Zermeño asked that the motion include language that would provide flexibility to increase the allocation in the event the winter warming center needs to be open for more than fifty nights. Council Members Lamnin and Márquez were amenable to the motion.

Council Member Mendall supported the motion and noted that it was implied in the motion that future recommendations would have a more deliberate process.

Mayor Halliday expressed support for the motion.

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to adopt the following with request of staff to: include at least one individual in Hayward, who has been affected by homelessness, in future proposals that are developed; that proposed policies be reviewed by the Community Services Commission for community vetting before they are presented to the City Council; and give staff the flexibility, in the event of an emergency, to increase the allocation in the event the winter warming center needs to be open for more than fifty nights.



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Resolution 15-234, "Resolution Appropriating \$25,000 from the City of Hayward Fiscal Year 2016 General Fund and Authorizing the City Manager to Partner with the County of Alameda and Community-Based Service Providers to Implement a Winter Warming Center for Homeless Individuals in North Hayward"

Resolution 15-235, "Resolution In Support of the Efforts of the County of Alameda and Abode Services to Expand Outreach Services to Homeless Individuals Living in Outdoor Encampments in Hayward"

Resolution 15-236, "Resolution Amending the City of Hayward Community Development Block Grant (CDBG) FY 2016 Annual Action Plan to Utilize \$205,000 in Restricted Program Income Funds for the Implementation of the Hayward Downtown Streets Team Homeless Employment Program"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Lamnin asked staff to consider unbundling parking from housing for the KB Home Bay Area housing project.

Council Member Jones reported that 21 animals were adopted at the Hayward Animal Shelter during the "Home for the Holidays" event sponsored by the SantaCon Hayward on December 12 and 13, 2015.

Council Member Zermeño thanked City staff and his colleagues for a productive 2015 and wished everyone a happy holiday season.

Mayor Halliday shared a video clip of the performance by Mayor Halliday, Council Member Lamnin, City Attorney Lawson, Development Services Director Rizk, and Mr. Jonathan Zimmerman at the Ballet Petit's 37th Annual Nutcracker production on December 6, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:51 p.m., in memory of Mr. Edward "Eddie" Muniz and Ms. Vana Chavez.

Mr. Edward “Eddy” Muniz was a longtime Hayward resident, attended Hayward schools, excelled in sports, had a great sense of humor, dedicated his life serving the Hayward Police Department from 1968 to 1999, and had been selected Policeman of the Year for the City of Hayward.

Ms. Vana Chavez served on the Eden Youth and Family Center’s Board of Directors representing as the President, Vice President and Treasurer; and was honored at the Hayward Volunteer Recognition and Awards Dinner on October 6, 2015.

Mayor Halliday noted the City Council would reconvene on January 12, 2016.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward