



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 24, 2015, 7:00 p.m.**

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:46 p.m.

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

AYES: Council Members Zermeño, Mendall, Peixoto, Lamnin
MAYOR Halliday
NOES: None
ABSENT: Council Members Jones, Márquez
ABSTAINED: None

Ordinance 15-12, “Ordinance of the City of Hayward, California Adding Article 20 to Chapter 8 of the Hayward Municipal Code Relating to Establishment of Community Benefit Districts”

Council Members Márquez and Jones returned to the Council Chambers at about 8:48 p.m.

PUBLIC HEARING

6. Establishment of New Regulations for Unattended Collection Boxes and Collection Facilities Requiring Introduction of Ordinances to Amend Chapter 5, Article 7 (Community Preservation and Improvement), and Chapter 10, Article 1 (Zoning Ordinance), of the Hayward Municipal Code; and Adoption of Resolutions to Make Findings Related to Text Amendments and Establishment of New Fees; City of Hayward (applicant)

Staff report submitted by Senior Planner Schmidt, dated March 24, 2015, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Schmidt who provided a synopsis of the report. Senior Planner Schmidt noted that the City was in receipt of two letters that were submitted after the Council agenda packet was published. The letters were from Recycle for Change and TENAX Law Group PC and were added to the record.

Discussion ensued among Council members and City staff related to the fee for an Administrative Use Permit and a reduced fee for non-profit organizations; bin locations with 2500 foot buffers; inventory of unattended collection boxes; boxes and waste diversion; boxes in multi-family and single-family properties; and penalty fees for violations and accountability of the responsible party.

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

Mr. Arthur Boone, chair of Zero Waste Advocacy Committee of the Northern California Recycling Association, expressed general support for the proposed regulations for unattended collection boxes, but found the fee structure unfriendly for profit organizations.

Mr. Henry Rogers, USAgain representative, noted that USAgain was a Hayward based for-profit textile recycling company whose goal was to divert clothing and textiles from landfills and returning them to the stream of commerce. Mr. Rogers was concerned about the company's ability to continue to operate clothing collection and recycling boxes on public and private properties.

Mr. Tobin Costen, USAgain representative, noted that most of the company's bins were at apartment complexes and some at businesses. Mr. Costen noted that USAgain had agreements in place with property owners and business agents to hold USAgain responsible for collection boxes. He requested to be allowed to continue to do business in Hayward.

Pastor Jethroe Moore II, President of the San Jose Silicon Valley NAACP, spoke on behalf of Recycle for Change and urged the Council to reconsider the proposed regulations and fee structure and to consider making the ordinance more effective from a recycling perspective.

Ms. Alexandra Hoffman, Recycle for Change representative, noted that Recycle for Change offers municipalities a self-subsidized approach of diverting textiles from landfills at no cost to taxpayers. Ms. Hoffman indicated that the proposed Administrative Use Permit (AUP) fee was cost prohibitive and the zoning limitation and 2500 feet restriction would hinder the success of the program.

Mayor Halliday closed the public hearing at 9:38 p.m.

Mayor Halliday and Council Members Lamnin, Márquez and Mendall disclosed having met with representatives from USAgain.

Council Member Lamnin expressed general consensus with the proposed regulations and suggested that staff have conversations with the Rental Housing Association and organizations that put boxes in apartment complexes and also consider having boxes accessible for people with mobility challenges. Ms. Lamnin expressed disapproval for having a different rate for non-profit organizations and asked staff to review the fee for having a second box. Ms. Lamnin suggested giving staff more time to continue to work on the proposed regulations.

Council Member Mendall noted the industry itself was not doing well at self-regulating and the City needed to put regulations in place. Mr. Mendall suggested that by reducing the number of boxes throughout the city, the industry would be more profitable and would help to offset some of the cost that the city had to bear. Mr. Mendall favored having one reasonable fee structure for all groups and to consider regulations that allow good operators to operate well at fewer locations and give the city the tools to enforce regulations for non-compliant operators.

Development Services Director Rizk offered an option to consider a special permit with basic operating standards, as opposed to having an Administrative Use Permit. The special permit would eliminate the noticing and findings requirement and therefore would reduce the cost of an involved process. The special permit would be required and would give the City the ability to track locations.



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Council Member Jones favored the idea of having the option of a special permit as this would simplify the process and would record the location to allow for enforcement. Mr. Jones noted there was need for consistent regulations and thought the 2500 feet distance seemed extreme. Mr. Jones did not support a fee differential and suggested a master fee with one process and operators can have more locations so that the per box fee is reduced.

Council Member Márquez concurred with giving staff more time to present Council other options such as the special permit and continue to work with representatives from the industry to improve the ordinance. Ms. Márquez supported the concept and shared that she had heard concerns about blight issues at collection locations.

Council Member Zermeño noted that the goal of the ordinance was to eliminate boxes that created garbage and graffiti, as relayed to him by constituents.

Mayor Halliday noted there was general consensus to defer the proposed ordinance to a future agenda and give staff time to consider the recommendations and come back with modifications to the ordinance. There was general consensus that staff needed to balance the value of unattended collection boxes with the need to regulate them. Mayor Halliday noted the fee structure was of concern and thought that non-profit groups should not be treated differently. Mayor Halliday questioned the need to regulate unattended collection boxes placed in private multi-family properties which are out of the public view. Mayor Halliday noted that staff would notify speakers when the ordinance would come back to the Council.

Council Member Lamnin left the Council Chambers at 9:57 p.m.

INFORMATION ITEMS

8. Interstate 880 Express Lane Implementation by Metropolitan Transportation Commission

A written report was provided.

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced the Keep Hayward Clean and Green Task Force Litter Clean-Up event on March 28, 2015 at John Muir Elementary School.