

**CITY COUNCIL MEETING
TUESDAY, JANUARY 16, 2018**

Documents Received After Published Agenda

AGENDA QUESTIONS & ANSWERS

Items 6 and 12

AGENDA QUESTIONS & ANSWERS
MEETING DATE: JANUARY 16, 2018

Item #6: Authorization for the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency for Our Kids Our Families Services Provided by the Youth and Family Services Bureau of the Hayward Police Department

Why was this grant not included in our previous FY 2018 budget? We have received this grant for 10 straight years and we already budgeted the expense; so I would think that we would want to include our projected receipt of the grant in the budget as well.

FISCAL IMPACT

These revenues are previously unbudgeted in the General Fund and will result in a net additional \$220,000 to be used to offset expenditures already included in the FY 2018 Investigation Division's operating budget for the YFSB program. The program provides funding for school-based mental health consultation and services at six school sites in the Hayward Unified School District.

The City does not typically budget grant revenues from pending grant applications until the City receives confirmation that the grant has been awarded and an agreement is established or the money has been obligated by the granting agency. In this case, there was not only a reorganization of the grant application process and the City did not want to count on the funding until we received confirmation that the funds were awarded, but also this past year has been extraordinarily unique given the uncertainty at the Federal level related to funding for California cities due to the State's sanctuary designation.

Item #12: Proposed Amendments to Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code to Amend Airport Terminal (AT) District Regulations Related to Height; Application No. 201706359; City of Hayward (Applicant/Owner) (Report from Interim Development Services Director Bristow)

Regarding changes to the Airport Zoning, on page 3 of 4 of the Resolution (Attachment III), please review item D. Are there also amendments proposed regarding fencing in this item?

"D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified. The proposed text amendments would allow property owners to install perimeter fences around vacant properties in order to secure and protect the properties. Fence design and performance standards will ensure that the fences are aesthetically pleasing and contribute to a positive image of the City until such time as the properties are ready for development."

No there were not. We have fencing regulations in general but did not put any requirements in for this item.

PUBLIC COMMENTS

Mr President: VW Smog Check game

By Charlie Peters, cc: Eagle Forum of California, March 21, 2017

Honorable President Trump

Voice Mail (202) 456-1111 / fax: 395-1051

In a 1992 visit to Washington DC Environmental Protection Agency (EPA) upper management, EPA ask for an opinion of Smog Check test performance, can the IM 240 generate desired results?

The opinion provided was NO, even Federal Test Procedure (FTP) could not, NOT, control cheating results.

EPA was provided the opinion that the ethics of regulator and regulated with a proper audit system could perform superior to the modeled technology only results.

So what does it take to consider a audit pilot study concept demonstration?

A California Department of Consumer Affairs (DCA) / Bureau of Automotive Repair meeting in 1993 resulted in an “agreement” to start a pilot study to demonstrate proof of concept within 45 days.

Is it time to consider a California Air Resources Board (CARB) / Environmental Protection Agency (EPA) Attorney General Review For The Rest of The Story?

People matter.

Respectfully, Clean Air Performance Professionals (CAPP) an award winning coalition of motorists



Charlie Peters

CAPP

21860 Main Street Ste “A”

Hayward CA, 94541

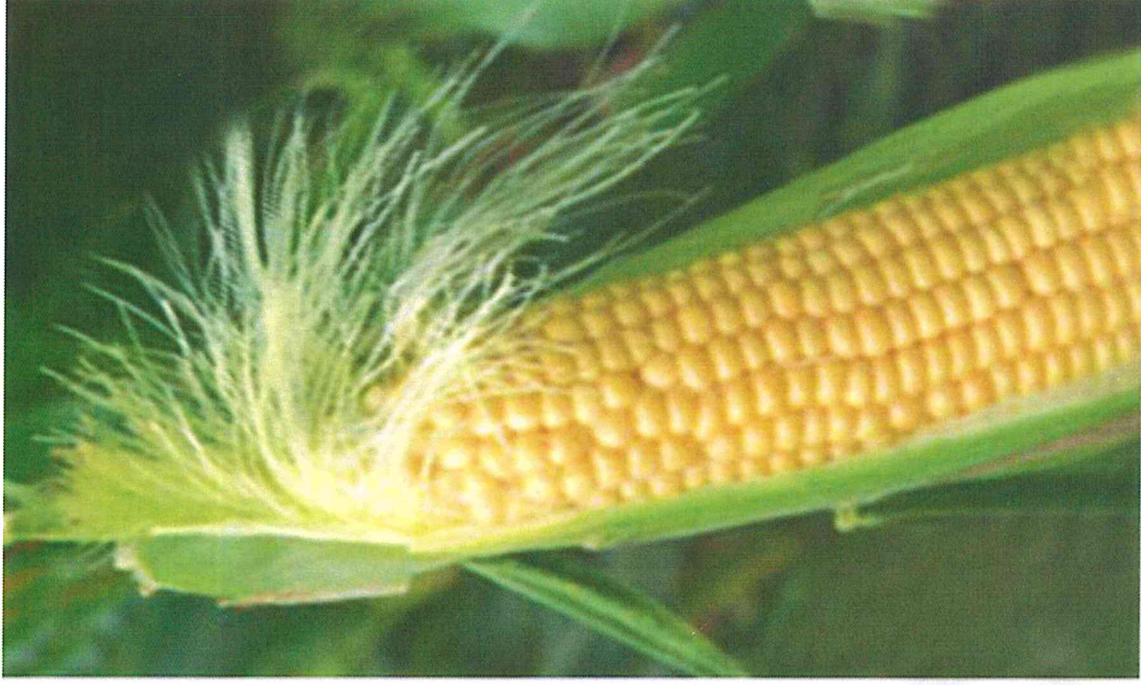
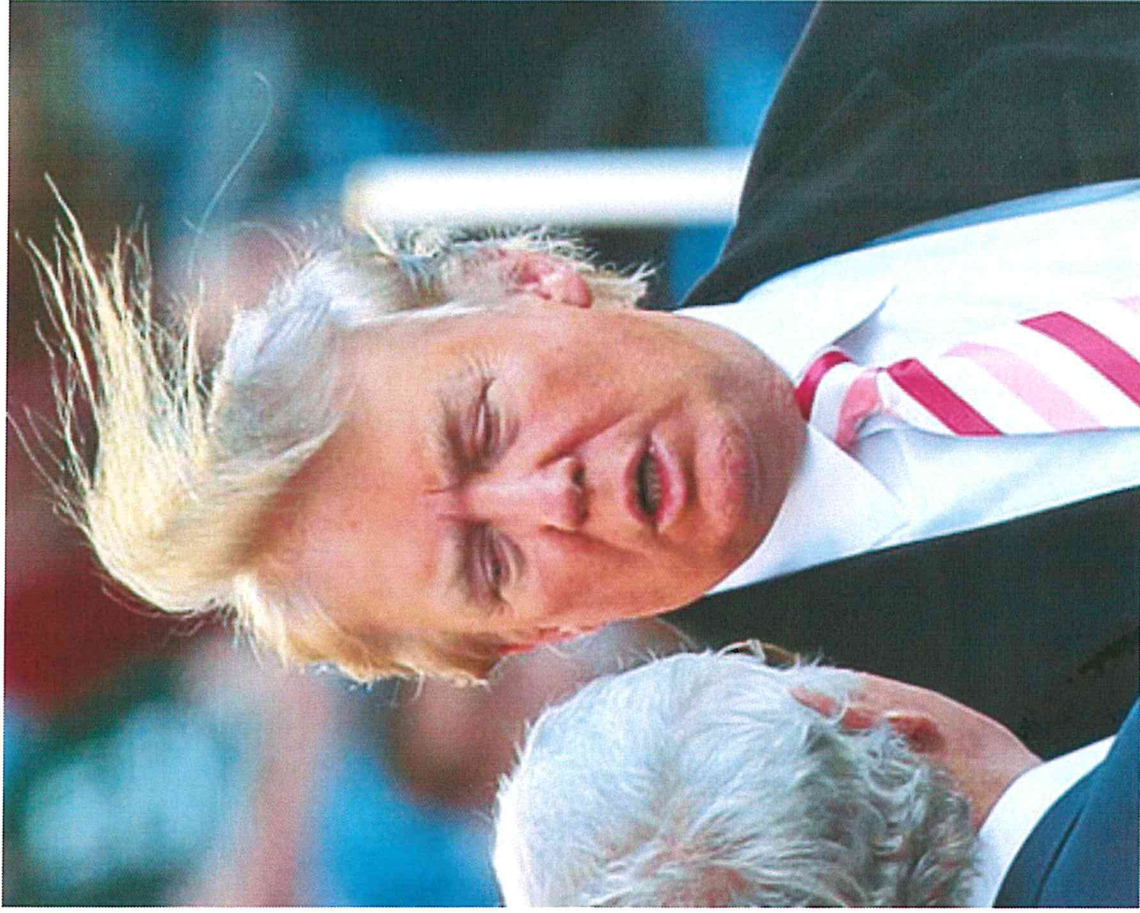
510-537-1796

cappcharlie@earthlink.net

cc: interested parties

<http://www.foxbusiness.com/features/2017/03/05/german-chancellor-angela-merkel-to-testify-on-volkswagen-emissions-scandal.html>

CAPP contact: Charlie Peters (510) 537-1796 cappcharlie@earthlink.net



Trump Corn Ethanol Waiver For Clean Air and Clean Water

<https://www.arb.ca.gov/lists/sip07/112-0777com0010.pdf>

CAPP contact: Charlie Peters (510) 537-1796 cappcharlie@earthlink.net

ITEM 12 – PH 18-002

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION TO ADOPT A ZONING TEXT AMENDMENT TO CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE) OF THE HAYWARD MUNICIPAL CODE RELATED TO HEIGHT REGULATIONS FOR AIRPORT TERMINAL DISTRICT PROPERTIES LOCATED WITHIN THE BOUNDARIES OF THE HAYWARD EXECUTIVE AIRPORT

WHEREAS, on November 7, 2017, the Airport Manager submitted a City-initiated request to amend Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to allow an increase in height for new development within the boundaries of the Hayward Executive Airport to make the properties more marketable.

WHEREAS, the proposed amendments would allow an increase in height for new development on certain Air Terminal (AT) District properties (AT-Commercial, AT-Aviation Commercial, AT-Operations, AT-Recreational, and AT-Industrial Park) located within the boundaries of the Hayward Executive Airport, with special findings that the increased height will not pose a safety hazard pursuant to Federal Aviation Administration (FAA) review and approval, and if staff finds that the proposed increase in height will result in a better site layout for future projects or provide additional amenities that would not be achievable under current zoning regulations.

WHEREAS, on December 14, 2017, the Planning Commission considered Zoning Text Amendment Application No. 201706359 at a public hearing, and voted (6-0-1), that the City Council approve the Zoning Text Amendment; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on January 16, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed project includes zoning text amendments to allow for an increase in building height within the boundaries of the Hayward Executive Airport provided that the FAA reviews and approves the proposed height increase, and if the proposed increase in height will result in a better site layout, or additional amenities that

would not be achievable under current zoning regulations. Future development projects would be evaluated on a case-by-case basis for environmental impacts pursuant to CEQA.

FINDINGS FOR A ZONING TEXT AMENDMENT TO THE HAYWARD MUNICIPAL CODE

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed zoning text amendments would allow for an increase in height for new development on properties located within the boundaries of the Hayward Executive Airport. The increase in height would be subject to special findings that it would not pose a safety concern based on the FAA's review and approval of the development, and that the increase in height would result in a more beneficial site layout. Flexibility in height would allow developers to combine uses on a single site, provide amenities such as increased landscaping, and offer enhance architecture with higher ground floor entrances, higher internal ceilings and varied roof pitches that might not otherwise be achievable under current zoning standards. Such site and building enhancements would promote higher quality development and a variety of uses and amenities that would promote the general welfare of the residents, employees and visitors to Hayward. Further, the Airport property is hundreds of acres in size and separated from nearby neighborhoods with wide roadways and tree-lined medians. The site can accommodate taller structures without disrupting the scale and pattern of development in the surrounding area.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed text amendments would not conflict with the underlying General Plan designation purposes, allowable uses, or development standards. The proposed text amendments are consistent with the following Land Use and Economic Development General Plan Policies to provide flexibility in development standards and to offer incentives for amenity rich development that would not be achievable under current zoning regulations:

- Policy LU-5.2, Flexible Land Use Regulations. To maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.
- Policy ED-6.7, Business Incentives. To provide incentives to attract, expand, and retain businesses that offer high quality jobs, generate local sales tax revenue, and/or provide needed goods or services to residents.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

No properties are proposed to be reclassified. Rather, the proposed text amendments would allow for an increase in building height provided that the FAA reviews and approves the proposed height increase and if the proposed increase in height will result in a better site layout, or additional amenities that would not be achievable under current zoning regulations

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified. Rather, the proposed text amendments are intended to provide flexibility from the AT District development standards for properties located within the boundaries of the Hayward Executive Airport. All proposed developments that request an increase in height over the base district regulations will be reviewed for compatibility with surrounding development and will be subject to special findings that the FAA reviews and approves the proposed height increase, and that the height increase will result in a better site layout, or additional amenities that could not be achieved under current zoning regulations.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Zoning Text Amendment Application No. 201706359, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 18-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA 16th of January 2018.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Miriam Lens

From: Horvath, Cindy, CDA <cindy.horvath@acgov.org>
Sent: Tuesday, January 16, 2018 6:16 PM
To: Leigha Schmidt; Michael Lawson; Miriam Lens
Cc: Weddle, Andrea L., County Counsel; Lopez, Albert, CDA; McElligott, Elizabeth, CDA
Subject: City Council Agenda Item 12, City Council Meeting January 16, 2018

Importance: High

Good afternoon,

Earlier today I was alerted to an agenda item set for approval at tonight's City Council Meeting, convening at 7:00pm January 16, 2018:

- **Agenda Item 12 - Proposed Amendments to Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code to Amend Airport Terminal (AT) District Regulations Related to Height; Application No. 201706359; City of Hayward (Applicant/Owner)**

Specifically, the item concerns an amendment to the Zoning Ordinance to allow building/structure heights to exceed the City's existing 40 foot height limit on airport property.

The Alameda County Airport Land Use Commission (ALUC) adopted an Airport Land Use Compatibility Plan (ALUCP) for the Hayward Executive Airport in August 2012. Subsequently, the City of Hayward completed a General Plan Update in July 2014, that included policies incorporating the ALUCP for the Hayward Airport. State law provides that once a jurisdiction achieves consistency between their General Plans and the applicable ALUCP, the jurisdiction no longer must refer all proposed land use actions to the ALUC for review, unless certain land use actions are proposed. The following policy excerpts in the ALUCP for the Hayward Airport address which proposed actions must always be referred to the ALUC:

2.6 Scope of ALUC Review

As specified by the State Aeronautics Act and described in the [California Airport Land Use Planning] *Handbook*, review of local actions pertaining to airport land use compatibility is one of the fundamental reasons for the formation of ALUCs. Plans that undergo mandatory review by ALUCs prior to their adoption include general and specific plans and ordinances prepared by local jurisdictions.. as well as airport and heliport plans, including master plans, expansion plans, and plans for the construction of new facilities. Other types of actions proposed within the AIA that have the potential to affect land use or airport operations should also be reviewed by the ALUC for a determination of consistency with this ALUCP (see Section 2.6.2.).

2.6.1 ACTIONS REQUIRING ALUC REVIEW

2.6.1.1 Land Use Plans and Zoning Ordinances

As noted in the *Handbook*, the following plans or ordinances shall be reviewed by the ALUC for determination of consistency with the ALUCP prior to their approval by the local jurisdiction:

- a. The adoption or approval of any amendment to a general or specific plan that proposes new land uses, or increases the intensity or density of Existing Land Uses within an AIA (California Public Utilities Code Section 21676).

This item has not been referred to the ALUC for review and consistency determination. To comply with State Law and the policies in the ALUCP for the Hayward Airport, we request that the Council continue this agenda item until after the ALUC can agendaize this item at its next regularly scheduled meeting on March 21, 2018. Alternatively, the ALUC could convene a Special Meeting in February for this item.

Thank you for consideration of this request.

Cindy Horvath | Senior Transportation Planner
Staff, Airport Land Use Commission

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ALAMEDA COUNTY • Community Development Agency
224 W. Winton Avenue, Suite 111 • Hayward, CA 94544

Airport Land Use Compatibility Plans can be found here:
<http://www.acgov.org/cda/planning/generalplans/airportlandplans.htm>

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