



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 25, 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 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 three items: 1) conference with legal counsel pursuant to Government Code 54956.9 regarding Joseph Ley v. City of Hayward, Workers' Compensation Appeals Board Case No. ADJ10557863, ADJ10557894, ADJ10557862, and ADJ10557861; 2) Tom Cassells v. City of Hayward, Workers' Compensation Appeals Board Case No. ADJ10406200; and 3) conference with legal counsel pursuant to Government Code 54956.9(d)(1) regarding Stoddard-Nunez v. City of Hayward, et al., USDC Case Number 13-cv-04490 KAW. City Attorney Lawson announced there was no reportable action.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, spoke about various items including the Conditions of Approval for Taqueria El Mezcal and related trees.

The following individuals spoke about flavored tobacco products, how they are currently affecting youth, and asked Council to further regulate the sale of flavored tobacco products.

Mr. Tim Romano-Pugh, Hayward Coalition for Healthy Youth, Manager
Ms. Jessica Fuentes, Youth Advisory Council representative
Mr. Karter Woods submitted a card but did not speak
Ms. Rosaura Mendoza, Youth Advisory Council worker
Ms. Rosalyn Moya, Alameda County Tobacco Control Coalition co-chair

Ms. Nayeli Marquez, spoke on behalf of her family-owned restaurant, Acqua E'Farina, reporting incidents with vandalism that occurred since surveillance cameras were removed, and suggested a meeting with business owners, City Council and the Police to discuss the issues.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about electric charging stations.

Mr. Gleno Silva submitted a card but did not speak.

Consent Item 2 and Consent Item 3 were removed for separate vote.

CONSENT

1. Minutes of the City Council Meeting on June 4, 2019 **MIN 19-086**

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on June 4, 2019.

2. Adoption of an Ordinance Adding Chapter 12, Article 1, to the Hayward Municipal Code Regarding the Residential Rent Stabilization and Tenant Protection Ordinance **CONS 19-474**

Staff report submitted by City Clerk Lens, dated June 25, 2019, was filed.

Mayor Halliday opened the public comments section at 7:27 p.m.

Ms. Alicia Lawrence, Hayward resident and Hayward Collective member, urged the Council to approve the ordinance as introduced and suggested that any further considerations be referred to the Homelessness Housing Task Force.

Mr. Matthew Herz, property manager, spoke against the adoption of the ordinance noting the proposed regulations were not addressing the issue of housing supply and asked the Council to reconsider approval of the ordinance.

Mayor Halliday closed the public comments section at 7:33 p.m.

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

Ordinance 19-12, "Ordinance of the City of Hayward, California, Adding Chapter 12 Article 1 to the Hayward Municipal Code Regarding the Residential Rent Stabilization and Tenant Protection Ordinance"

Council Member Márquez disclosed she had to recuse herself from participating and voting on Consent Item 3 because her family owns property in close proximity to the proposed parcel and left the Council Chambers.

3. Adopt a Resolution of Denial for a Proposed Cannabis Retail Dispensary at 1004 B Street (Assessor Parcel No. 428-0061-056-00) by Siavash Afshar on Behalf of Hayward Station (Applicant); Alfred J Antonini (Property Owner), Conditional Use Permit Application No. 201806005 **CONS 19-466**



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Staff report submitted by Development Services Director Simpson, dated June 25, 2019, was filed.

Mayor Halliday opened the public comments section at 7:35 p.m.

Ms. Gina Antonini, family member of property owner at 1004 B Street, spoke in support of the cannabis retail dispensary proposed by Hayward Station.

Mr. Pat Doherty and supporters, listed below, urged the City Council to reconsider its decision to deny the cannabis retail dispensary noting there were security measures in place as well as community benefits. Supporters responded to questions posed by members of the Council related to the proposed operation, security measures, and plans for the renovation of the building.

Mr. Sid Afshar
Ms. Alicia Darrow
Mr. Miguel Rodriguez
Mr. Justin Sarin

Mr. Kim Huggett, Hayward Chamber of Commerce President, noted the proposed area was not an area where school age children walk but an area for adult entertainment, and urged the Council to allow the applicant to move forward with the permit application.

Mr. Alfred Antonini, property owner, referred to documents submitted in advance of the meeting, asked the Council to reconsider denial of the cannabis dispensary and reported there was a petition with 59 signatures from business owners in support of the proposed cannabis retail dispensary.

Mr. Timothy Tuck, Hayward resident, spoke about approved legislations aimed to legalize cannabis for recreational use and medical purposes, and noted the dispensary was needed to save lives.

Mr. Bryan Roy, with Erik's DeliCafe, expressed that businesses deserved the opportunity to feel embraced by the community.

Mr. Allen Davidson, with Eden Jewelry, noted he was in favor of eliminating a vacant property in downtown and filling it with the proposed retail dispensary.

Mr. Tim Romano-Pugh, with Hayward Coalition for Healthy Youth, spoke about the negative effect of cannabis use on youth.

Mr. Miguel Rodriguez noted that the approach to prevent youth from accessing cannabis was through regulation and taxation and offered to join efforts with youth service providers.

Ms. Maria Gutierrez, Hayward tenant and via an English-Spanish interpreter, asked for compassion for renters in Hayward and to take into consideration rent control.

Mayor Halliday closed the public comments section at 8:08 p.m.

Council Member Salinas offered a motion per staff's recommendation. Mayor Halliday seconded the motion.

Council Member Mendall asked Council Members to reconsider how they voted on May 28, 2019, when the motion to approve the cannabis dispensary failed to pass, noted there were strong regulations in place, mentioned Hayward Station was the highest scoring applicant in the retail category, spoke about the community benefit and in favor of approving the permit application.

Council Member Wahab noted the applicant's presentation on May 28, 2019, was poorly done, noted the cannabis industry was heavily regulated, was impressed with the amount of security seen by cannabis businesses, and indicated she would be voting against denial of the permit application.

Council Member Lamnin noted Hayward had worked hard to be welcoming to the community and she would not oppose a business for adult or medical use that is well regulated.

Council Member Zermeño noted there was a good process in place for cannabis dispensaries but had to weight in benefits and drawbacks.

Council Member Salinas noted he did not support the approved legislation because he suspected the dispensaries would be disproportionately located in communities of color, mentioned there was oversaturation of dispensaries in Hayward, particularly in Downtown and the proposed site was in the busiest and key economic corner.

It was moved by Council Member Salinas, seconded by Mayor Halliday, and failed with the following vote, to deny the Conditional Use Permit for a cannabis retail dispensary:

AYES:	COUNCIL MEMBER Salinas MAYOR Halliday
NOES:	COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab
ABSENT:	COUNCIL MEMBER Márquez

Council Member Wahab offered a motion to approve a Conditional Use Permit for a cannabis retail dispensary at 1004 B Street. Council Member Wahab noted that any violation of the regulations would result in revoking the permit.



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Council Member Mendall seconded the motion and offered a friendly amendment by adding a condition to the findings of approval that would require the applicant to contribute one percent of revenue to the Hayward Community Foundation and remit taxes on a quarterly basis, unless some alternative agreement could be reached between the City and the applicant.

Council Member Wahab accepted the amendment to the motion.

Council Member Lamnin noted there was a typographical error in the findings of approval (Item C) and requested that "manufacturing use" be replaced with "retail use".

Council Member Wahab and Council Member Mendall approved the change.

Mayor Halliday noted there was an opportunity to improve the appearance of a prominent building in Downtown and there were protections in place in anticipation of any problems.

Council Member Zermeño noted he was inclined to vote in favor of the proposal after considering that the building would be restored.

Council Member Salinas noted the City was penetrating the cannabis industry in one neighborhood, the Downtown, and not in other more prominent neighborhoods.

It was moved by Council Member Wahab, seconded by Council Member Mendall, and carried with the following vote, to approve a resolution approving a Conditional Use Permit for a cannabis retail dispensary at 1104 B Street with a friendly amendment by adding a condition to the findings of approval that would require the applicant to contribute one percent of revenue to the Hayward Community Foundation and remit taxes on a quarterly basis, unless some alternative agreement could be reached between the City and the applicant.

AYES: COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab
MAYOR Halliday
NOES: COUNCIL MEMBER Salinas
ABSENT: COUNCIL MEMBER Márquez

Resolution 19-139, "Resolution Approving a Conditional Use Permit for a Cannabis Retail Dispensary at 1004 B Street; Siavash Afshar on Behalf of Hayward Station/Alfred J Antonini (Applicant/Owner)"

4. Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 4 to the Professional Services Agreement with CSG Consultants, Inc., (CSG) for Private Development Plan Check Review and Related Services **CONS 19-438**

Staff report submitted by Public Works Director Ameri, dated June 25, 2019, was filed.

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

Resolution 19-137, "Resolution Authorizing the City Manager to Execute Amendment No. 4 to the Agreement with CSG Consultants, Inc. for Plan Check Review and Related Services Associated with the City of Hayward Development Review"

5. Authorize the City Manager to Negotiate and Execute a Contract Amendment with Chabot-Las Positas Community College District to Add an Additional \$22,000 for Outreach Work to be Completed in Summer 2019 **CONS 19-459**

Staff report submitted by Management Analyst Thomas, dated June 25, 2019, was filed.

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

Resolution 19-138, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract Amendment with Chabot-Las Positas Community College District to Increase the Professional Services Agreement for Outreach in South Hayward by \$22,000, for a total Not to Exceed Amount of \$87,000"

Council Member Márquez returned to the Council Chambers at approximately 8:33 p.m.

PUBLIC HEARING

6. Public Tax and Equity Fiscal Responsibility Act (TEFRA) Hearing as Required by the Internal Revenue Code of 1986, and Adoption of a Resolution Approving the Issuance by California Statewide Communities Development Authority of Tax-Exempt Bonds to Finance the Acquisition, Construction and Development of the Maple & Main Apartment Project (Report from City Manager McAdoo) **PH 19-063**

Staff report submitted by Deputy City Manager Ott, dated June 25, 2019, was filed.

Deputy City Manager Ott provided a synopsis of the staff report.



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Discussion ensued among City Council, City staff, and Mr. Blake Peters regarding concerns related to the commercial office component for the Maple and Main project, deed restriction in perpetuity, and the condition of the four-story office building.

Mayor Halliday opened the public hearing at 8:43 p.m.

Ms. Alicia Lawrence, Hayward Collective member, asked the City to evaluate policies and strengthen its regulatory authority over technology companies to protect tenants.

Mr. Blake Peters, developer, spoke about the challenges with the Maple and Main Apartment project and noted the bond allocation was extended four times and the last extension was until August 3, 2019. Mr. Peters responded to clarifying questions posed by members of the City Council.

Mayor Halliday closed the public hearing at 9:03 p.m.

Mayor Halliday offered a motion per staff's recommendation noting there had been complaints from people in the area about the condition of the property and she added there would be an opportunity to discuss Phase II of the project.

Council Member Márquez seconded the motion.

Council Member Mendall preferred the applicant return, in a couple of weeks, with a side agreement that would give him reassurance that the commercial building would be rehabilitated or rebuilt as part of the final redevelopment.

Council Member Lamnin expressed she was unsure the project would be built in the way envisioned when it was approved, and she preferred the blight be removed and the commercial component honored before moving forward.

Mayor Halliday modified her motion to include that the demolition of the two Phase I homes on Maple Court and McKeever Avenue would occur within 15 days of bond sell. Council Member Márquez accepted the modification to the motion.

Council Member Salinas noted he would be supporting the motion and expressed agreement that the two homes needed to be demolished.

It was moved by Mayor Halliday, seconded by Council Member Márquez, and carried with the following vote, to approve the resolution with an amendment to the motion that demolition of the two Phase I homes would occur within 15 days of bond sell.

AYES: COUNCIL MEMBERS Zermeño, Márquez, Salinas
MAYOR Halliday
NOES: COUNCIL MEMBERS Mendall, Lamnin, Wahab

Resolution 19-140, "Resolution of the City Council of the City of Hayward Approving the Issuance by the California Statewide Communities Development Authority of Multifamily Housing Revenue Bonds for the Maple & Main Apartments"

7. Introduction of an Ordinance to Establish a Soft Story Seismic Screening Program for Multifamily Residential Buildings and Voluntary Seismic Retrofit Standards for Soft Story Buildings (Report from Development Services Director Simpson) **PH 19-059**

Staff report submitted by Deputy City Manager Ott, dated June 25, 2019, was filed.

Development Services Director Simpson announced the report and introduced Management Analyst James who provided a synopsis of the staff report. City staff responded to a question related to liability and the mandatory screening program for soft story buildings.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:26 p.m.

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

Council Member Lamnin supported the motion and suggested to explore mechanisms to decrease fees and find financing opportunities to help with retrofit efforts.

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

AYES: COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
NOES: COUNCIL MEMBERS Márquez

Introduction of Ordinance 19-_, "An Ordinance Adding Article 7 to Chapter 9 of the City of Hayward Municipal Code to Require Seismic Screening of Certain Residential Buildings"



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8. Approve a Resolution Updating the FY 2020 Master Fee Schedule with New Fees and Charges in the Maintenance Services Section Related to Facility Rentals in City Hall and the 21st Century Library and Learning Center and Accept the Proposed Changes to the Maintenance Services Section of the FY 2020 Master Fee Schedule (Report from Maintenance Services Director Rullman and Library Services Director Addleman) **PH 19-058**

Staff report submitted by Library Services Director Addleman and Maintenance Services Director Rullman, dated June 25, 2019, was filed.

Maintenance Services Director Rullman and Management Analyst II Olson provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding technology to book facility rentals in City Hall and the Library and Learning Center, AV technician fee, fee structure for pre-function areas, and policy for political events.

There was Council consensus in support of a written policy for political events that are held in City property for non-partisan groups.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:49 p.m.

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

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

Resolution 19-141, "Resolution Updating the Previously Adopted FY 2020 Master Fee Schedule with New Fees and Charges in the Maintenance Services Section Specific to Facility Rentals in City Hall and in the New 21st Century Library and Learning Center"

LEGISLATIVE BUSINESS

9. Adoption of Emergency Ordinance Establishing a Temporary Moratorium on Rent Increases Exceeding Five Percent of Current Rent on All Pre-1979 Units Except Single Family Homes and Condominiums (Report from City Manager McAdoo) **LB 19-036**

Staff report submitted by Deputy City Manager Ott, dated June 25, 2019, was filed.

City Manager McAdoo announced the report and introduced Housing Manager Morales who provided a staff recommendation. There was clarification about the purpose of the emergency ordinance.

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

Ms. Alicia Lawrence, Hayward Collective member, expressed support for the emergency ordinance.

Mayor Halliday closed the public hearing at 9:58 p.m.

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

Council Member Márquez seconded the motion.

Council Member Wahab was commended for bringing the emergency ordinance forward, and City staff as well as stakeholders, were acknowledged for the work done to protect families.

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

Ordinance 19-13, "An Interim Emergency Ordinance of the City Council of the City of Hayward Establishing a Temporary Moratorium on Certain Residential Rent Increases Not to Exceed Five Percent in the City of Hayward"

10. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2020 (Report from Human Resources Director Collins) **LB 19-034**

Staff report submitted by Human Resources Director Collins, dated June 25, 2019, was filed.

Human Resources Director Collins provided a staff recommendation.



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There being no public comments, Mayor Halliday opened and closed the public hearing at 10:00 p.m.

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

Resolution 19-142, "Resolution Approving the Amended Fiscal Year 2020 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 18-247 and all Amendments Thereto"

City Clerk Lens and City Attorney Lawson left the Council Chambers because their contracts were going to be considered during the next item on the agenda.

11. Adoption of Resolutions Approving Extensions of the Employment Agreements Between the City of Hayward and the City Attorney and City Clerk and Authorizing the Mayor to Execute Those Agreements on Behalf of the Council (Report from Human Resources Director Collins) **LB 19-033**

Staff report submitted by Human Resources Director Collins, dated June 25, 2019, was filed.

Human Resources Director Collins provided a staff recommendation.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:05 p.m.

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

Resolution 19-143, "Resolution Approving the Extension and Modification of the City Attorney's Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council"

Resolution 19-144, "Resolution Approving the Extension and Modification of the City Clerk's Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council"

City Clerk Lens and City Attorney Lawson returned to the Council Chambers.

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Márquez invited all to the 6th Annual Tennyson All America Festival on June 29, 2019, at the Mt. Eden Mansion.

Council Member Salinas announced the Words for Lunch Program, where kids will receive free lunch and participate in reading activities, started June 24, 2019 and would occur through August 1, 2019, at Weekes Park.

COUNCIL REFERRALS

None submitted.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:12 p.m., in memory of Des Patten and former Mayor Roberta "Bertie" Cooper.

Des Patten was a Hayward resident, was the founding member of the Spring Grove Neighborhood Association, worked to save Spring Grove Park, served on the Metropolitan Transportation Commission Advisory Board, was active in various community activities, and was the husband of former Planning Commission and Library Commission Member Linda Bennett.

Mayor Bertie Cooper served on the City Council as Council Member from 1988 through 1994, served three terms as Hayward Mayor from 1994 until 2006, was a longtime Hayward teacher, volunteered for the Wheels on Meals organization, led the redevelopment in the downtown, was a longtime Board Member of the Kids' Breakfast Club, supported Lesbian, Gay, Bisexual, and Transgender (LGTB) rights, and Hayward was one of the first cities in the area to adopt a Climate Action Plan under her leadership.

Mayor Halliday asked staff to work with both families and find places to plant trees in their memory.



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APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward