



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m. The meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order No 29-20 dated March 17, 2020, and the Alameda County Health Officer Order No. 20-10 dated April 29, 2020 regarding the COVID-19 pandemic.

Members of the City Council, City Staff, and members of the public participated via the Zoom Webinar platform.

CALL TO ORDER: Mayor Halliday

Pledge of Allegiance: Mayor Halliday

ROLL CALL

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

Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:30 p.m. regarding a conference with property negotiators pursuant to Government Code 54956.8 regarding Master Lease Renewal- Hayward Area Recreation and Park District; 28846 Bay Heights Rd, N Third St at Crescent Ave, 27020 Fielding Dr, 19501 Hesperian Blvd, 26780 Chiplay Ave, 22325 N 3rd St, 30504 Vanderbilt St, 27182 Patrick Ave, 275 Industrial Parkway West, Farm Hill Dr and Daisy Ct, N 3rd St and Crescent Ave, Colette St & Luvena Dr, Ward Creek Canyon, Eden Ave & Middle Ln, 27600 Decatur Way, Dickens Ave and Folsom Ave, 25610 Spring Dr, Stratford Rd & Canterbury Ln, Hamrick Ln and Rieger Ave, E 10th and Jefferson St, 301 Arrowhead Way, Santa Clara St and Winton Ave, 275 Goodwin St, 2580 Eden Park Pl, Tahoe Ave and Morningside Dr, 22798 Ross Pl, Panjon St and Huntwood Ave, 24176 Mission Blvd, Leonardo Way and Reed Way, 2841 Seahaven Ct, 22737 Main St, Bush Ln, 25625 Cypress Ave. City Attorney Lawson announced there was no reportable action related to the item.

PUBLIC COMMENTS

Council Member Wahab asked the City Manager to give an update on eviction moratoriums.

City Manager McAdoo noted the commercial moratorium will continue until July 31, 2021 unless extended by Council and added the State had enacted its own residential moratorium which prevents Cities from enacting or extending their own.

CONSENT

Consent items 2, 3, and 6 were removed from the Consent Calendar for separate discussion.

1. Approve City Council Minutes of the Special City Council Meeting on November 10, 2020
MINS 20-125

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council meeting on November 10, 2020.

2. Adopt a Resolution Authorizing the City Manager to Purchase an Unmanned Aerial System (UAS) and Adopt a UAS Program for the Hayward Police Department **CONS 20-039**

Staff report submitted by Chief of Police Chaplin dated December 1, 2020, was filed.

City Manager McAdoo noted the item was continuing to January to allow the Police Community Advisory Panel to hold a meeting and review the item.

Council Member Mendall stated the staff report mentioned that the Council Infrastructure Committee had recommended approval of the item instructing staff to include a timeline for a wider community conversation on the citywide umbrella surveillance policy and input from the Community Advisory Panel prior to review by the Council, and asked staff to ensure both components are addressed prior to bringing it back to the Council, stressing the need to have a conversation that the public can comment on how these types of technologies are managed before approving any more.

3. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Axon Enterprise, Inc. for Renewal of the Body Worn Camera Program in an Amount Not to Exceed \$191,000 Per Year **CONS 20-589**

Staff report submitted by Director of Information Technology Kostrzak dated December 1, 2020, was filed.

The item was pulled by Council Member Wahab. Council Member Wahab voiced concerns on how data is shared with outside vendors and the impact to residents and suggested a privacy policy and privacy clause in all contracts; noted body-worn cameras provide oversight and accountability for officers and residents; and noted she would like to see the Fire Department manage calls related to homelessness and mental health.

Council Member Mendall shared he had similar concerns related to Item 2 but was more comfortable supporting the item because body-worn cameras have been vetted at the national, state, and local levels and there has been community discussion for many years; and noted the need to have discussions about data storage.



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

Mayor Halliday concurred with the need for further discussion and noted the item should be carefully reviewed by the Community Advisory Panel with a follow up discussion by the City Council.

It was moved by Council Member Wahab, seconded by Council Member Mendall, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeno
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-204, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Axon Enterprise, Inc. for Renewal of the Body Worn Camera Program"

4. Adopt a Resolution Accepting the Resignation of Ms. Alison Divine from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 20-604**

Staff report submitted by City Clerk Lens, dated December 1, 2020, was filed.

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeno
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-201, "Resolution Accepting the Resignation of Ms. Alison Divine from the Keep Hayward Clean and Green Task Force"

5. Adopt a Resolution Reappointing Council Member Márquez as the City of Hayward Representative to the Alameda County Mosquito Abatement District Board of Trustees for a Four-Year Term Ending December 31, 2024 **CONS 20-606**

Staff report submitted by City Clerk Lens dated December 1, 2020, was filed.

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermelo
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-202, "Resolution Reappointing Council Member Márquez as the City of Hayward Representative to the Alameda County Mosquito Abatement District Board of Trustees for the Next Four-Year Term Ending December 31, 2024"

6. Adopt Three Resolutions: 1) Amending the FY 2021 CIP Budget to Transfer and Appropriate Funds to Project Number 07267, Online Permitting, in the Amount of \$347,138 to Increase the Total Project Budget Amount Not to Exceed \$1,161,870 for the Purchase of Energov Online Permitting Solution and Other Related Project Management Services; 2) Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Tyler Technologies, Inc.; and 3) Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with SoftResources LLC **CONS 20-608**

Staff report submitted by Development Services Director Simpson dated December 1, 2020, was filed.

The item was pulled by Council Member Wahab. In response to Council Member Wahab's inquiries, City staff provided an update on the online permitting project including data security, customer service through the portal and ongoing costs for maintenance and support. Council Member Wahab stressed the importance of being fiscally responsible, practicing flexibility and retaining the ability to opt out of contracts.

It was moved by Council Member Wahab, seconded by Council Member Lamnin, and carried by the following roll call vote, to approve the resolutions:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermelo
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

Resolution 20-205, "Resolution to Amend the FY 2021 CIP Budget to Transfer and Appropriate Funds to Project Number 07267, Online Permitting, in the Amount of \$347,138 to Increase the Total Project Budget Amount Not to Exceed \$1,161,870 for the Purchase of Energov Online Permitting Solution and Other Related Project Management Services"

Resolution 20-206, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Tyler Technologies Inc."

Resolution 20-207, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with SoftResources LLC."

7. Adopt a Resolution Designating Council Member Márquez as the City's Representative and Council Member Wahab as the Alternate to the Board of Directors for East Bay Community Energy **CONS 20-612**

Staff report submitted by Director of Public Works Ameri, dated December 1, 2020, was filed.

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried by the following roll call vote, to approve the resolution:

| | |
|----------|---|
| AYES: | COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeno MAYOR Halliday |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

Resolution 20-203, "Resolution Designating Council Member Márquez as the City's Representative and Council Member Wahab as the Alternate to the Board of Directors for East Bay Community Energy (EBCE)"

PUBLIC HEARING

Council Member Márquez disclosed her family owns property in close proximity to the proposed commercial cannabis retail dispensary and needed to recuse herself from discussing and voting on the item. Council Member Márquez exited the Zoom meeting at 7:23 p.m.

8. Commercial Cannabis Retail Dispensary: Adopt a Resolution Approving a Conditional Use Permit for a Proposed Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery within an Existing Commercial Building located at 22701 Foothill Boulevard and 1055 C Street (Assessor Parcel Nos. 428-0066-058-01 and 428-0066-056-00), Application No. 201906312. Rajiv Pottabathni, Jiva Life LLC (Applicant); Ryan Bridge LLC (Property Owner) **PH 20-087**

Staff report submitted by Development Services Director
Simpson, dated December 1, 2020, was filed.

Development Services Director Simpson announced the item and introduced Associate Planner Martinez who provided a synopsis of the staff report.

Mr. Rajiv Pottabathni, Jiva Life LLC Applicant and Managing Director; Mr. Patrick Orosco, property owner; and Mr. Armando Guido-Lopez, project architect, provided a proposal overview including Jiva Life's local commitment, labor and employment, neighborhood compatibility, community benefits, operating procedures, project timeline, and project site plan.

Discussion ensued among members of the City Council, City staff, Jiva Life applicant Pottabathni, Mr. Orosco, and architect Guido-Lopez regarding: the three retail dispensaries in downtown and any impact to local businesses; current status of Auntie Honeys dispensary; state and local regulations regarding buffer zones; assessment regarding the private commercial dispute between Jiva Life and Juva Life in which Council does not have jurisdiction and would not be an appropriate basis for Council to evaluate the application; property renovation plans including compliance with regulations to remove asbestos and mitigating impact to public right-of-way, and traffic circulation; consideration of public art or sculpture component given the prominent proposed location; and consideration for non-profits after the introductory neighborhood compatibility letter goes out.

Mayor Halliday opened the public hearing at 8:04 p.m.

Mr. Hector Villasenor, Hayward resident, spoke in support of the applicant whom he had worked with on the project noting the proposal demonstrates a commitment to the community and will improve the dilapidated building.



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

Mr. Allen Baden, Counsel for Juva Life with Edge Law Group and author of the letter submitted to Council, indicated Senior Assistant City Attorney Vigilia referred to a commercial dispute, but argued his client had made a significant investment in Hayward and had already secured its conditional use permit and was in process for facilities to open in 2021, noted the issue was the name is remarkably similar to theirs as stated in his letter, and claimed the Council had not received his correspondence.

Mayor Halliday closed the public hearing at 8:10 p.m.

Council Member Zermeño noted the project received labor support, would improve the proposed building, cannabis garnered California voter approval, received support from Chamber of Commerce and local businesses, and was approved by the Planning Commission.

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

Council Member Mendall seconded the motion and confirmed the City Council had received Mr. Baden's correspondence.

Council Member Mendall offered a recommendation for an outdoor public art component with flexibility given to the applicant to decide if it would be a mural or sculpture and preference on the Foothill side to discourage graffiti. Council Member Zermeño was amenable to the recommendation.

Council Member Mendall noted the applicant was proposing to renovate a vacant building and would bring people to downtown and noted voters had approved cannabis businesses.

Council Member Lamnin expressed support for the motion and offered a friendly amendment that would add a condition of approval for the applicant to include a graffiti prevention plan for blank white wall areas and leaving the flexibility to the applicant for the building design intervention such as living walls via vines on trellis.

Council Member Zermeño and Council Member Mendall accepted the friendly amendment.

Council Member Lamnin added that traffic concerns would benefit from clear signage and markings; and encouraged the applicant to consider women-owned businesses for partners and asked that they do not work with Harborside as they have been previously turned down by the City.

Council Member Salinas expressed concern with impact to the neighborhood and saturation of business type; noted voters probably did not anticipate that businesses would be within a two-mile radius; added that parents find it difficult to send kids to downtown by themselves; noted the proposed location was the main corner in a central corridor and was concerned that it would be the first business people see when entering the loop; added that family friendly retail was closing or leaving; and added this was the wrong retail policy for downtown.

Council Member Wahab had reservations about the business planning; noted that when two similar businesses are in close proximity, one will suffer significantly; noted the City needed a variety of business types in downtown; added the increased traffic is and not reaping significant rewards; added the proposal was not family friendly and preferred to wait until the Commercial Cannabis Program is reviewed; and expressed concern with impact to businesses and black and brown communities. Council Member Wahab asked the applicant, should the application receive approval, to be mindful of marketing as to not be attractive to children.

Mayor Halliday mentioned the overall commercial cannabis regulations will be discussed during the next Council meeting; added that in reviewing the proposed application Council needed to determine if it was the right part of town and whether or not it meets standards and guidelines; noted the site was not in a walkable part of downtown; agreed with both amendments; and mentioned the Condition of Approval that would require the applicant to volunteer hours with the Keep Hayward Clean and Green Task Force.

It was moved by Council Member Zermeno, seconded by Council Member Mendall, and carried by the following roll call vote, to approve the resolution with two additional conditions of approval for the applicant to: 1) incorporate an outdoor public art component on the building or on the project site; and 2) submit a Graffiti Prevention Plan with building design interventions such as living walls via vines on trellis.

| | |
|----------|---|
| AYES: | COUNCIL MEMBERS Lamnin, Mendall, Wahab, Zermeno MAYOR Halliday |
| NOES: | COUNCIL MEMBER Salinas |
| ABSENT: | COUNCIL MEMBER Márquez |
| ABSTAIN: | None |

Resolution 20-208, "Resolution Approving a Conditional Use Permit for a Cannabis Retail Dispensary with Ancillary Retail Delivery at 22701 Foothill Boulevard and 1055 C Street; Rajiv Pottabathni, Jiva Life LLC (Applicant); Ryan Bridge LLC (Property Owner)"

Council Member Márquez rejoined the Zoom meeting at 8:52 p.m.



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

LEGISLATIVE BUSINESS

9. City Attorney Employment Agreement: Adopt a Resolution Approving the Amendment to the Employment Agreement Between the City of Hayward and the City Attorney and Authorizing the Mayor to Execute the Agreement **LB 20-058**

Staff report submitted by Assistant City Manager Hurtado, dated December 1, 2020, was filed.

Assistant City Manager Hurtado provided a synopsis of the staff report.

In response to Council Member Wahab's inquiries, Assistant City Manager Hurtado provided information about City Attorney Lawson's salary before and after the equity adjustment phased over two years, the five-year term proposal, and the average union contract term.

Council Member Márquez confirmed that the City Council will continue to evaluate all three Council Appointed Officer positions on an annual basis.

There being no public comment, Mayor Halliday opened and closed the public hearing at 9:02 p.m.

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

Council Member Márquez seconded the motion.

Council Member Márquez, Council Member Salinas, Council Member Wahab and Mayor Halliday praised the outstanding work performed by City Attorney Lawson and under his leadership.

It was moved by Council Member Salinas, seconded by Council Member Márquez, and carried by the following roll call vote, to approve the resolution:

| | |
|----------|--|
| AYES: | COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeno MAYOR Halliday |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

Resolution 20-209, "Resolution Approving an Amendment to the City Attorney's Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council"

10. City Clerk Employment Agreement: Adopt a Resolution Approving the Amendment to the Employment Agreement Between the City of Hayward and the City Clerk and Authorizing the Mayor to Execute the Agreement **LB 20-059**

Staff report submitted by Assistant City Manager Hurtado, dated December 1, 2020, was filed.

Assistant City Manager Hurtado provided a synopsis of the staff report.

In response to Council Member Wahab's inquiries, Assistant City Manager Hurtado provided information about City Clerk Lens' salary before and after the equity adjustment phased over two years and the five-year term proposal.

There being no public comment, Mayor Halliday opened and closed the public hearing at 9:15 p.m.

Council Member Salinas thanked his fellow members of the Council Appointed Officers Committee and City staff for their research on the item.

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

Council Member Wahab seconded the motion.

Council Member Salinas, Council Member Wahab, Council Member Márquez and Mayor Halliday praised the outstanding work performed by City Clerk Lens and the commitment and dedication of her office.

It was moved by Council Member Salinas, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:

| | |
|----------|--|
| AYES: | COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeño MAYOR Halliday |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

Resolution 20-210, "Resolution Approving an Amendment to the City Clerk's Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council"



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

11. FY 2021 Salary Plan Amendment: Adopt a Resolution Amending the City of Hayward Salary Plan for Fiscal Year 2021 **LB 20-057**

Staff report submitted by Assistant City Manager Hurtado, dated December 1, 2020, was filed.

Assistant City Manager Hurtado announced the report and introduced Human Resources Analyst Phillip who provided a synopsis of the staff report.

Discussion ensued among members of the City Council and City staff regarding: the current and adjusted salary for the Communications and Marketing Officer/PIO and the Human Resources Director; equity adjustments compared with union employees; benefit differences between union employees and unrepresented employees and terms of their MOUs; furloughs and deferred Cost of Living Adjustment (COLA) increases and cost saving measures; a financial update that will be presented to the Council in January after property taxes are received at the end of December; and concerns raised at the Personnel Commission about the COLAs for various bargaining groups and compacting differentials between employees and supervisors due to increases applied to individual positions.

There being no public comment, Mayor Halliday opened and closed the public hearing at 9:45 p.m.

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

Council Member Salinas seconded the motion.

Council Member Wahab noted that when talking about salaries, the budget and tax revenues, the City wants to be transparent and disciplined in how revenues are spent and work towards ensuring stronger policies in expenditures, and added that every City employee deserves a living wage as they are willing to work with the Council during difficult times.

It was moved by Council Member Wahab, seconded by Council Member Salinas, and carried by the following roll call vote, to approve the resolution:

| | |
|----------|--|
| AYES: | COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeno MAYOR Halliday |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

Resolution 20-211, "Resolution Approving the Amended Fiscal Year 2021 Salary Plan Designating Positions of Employment in the City of Hayward and Salary Range; and Superseding Resolution No. 20-109 and All Amendments Thereto"

CITY MANAGER'S COMMENTS

City Manager McAdoo acknowledged Assistant City Manager Hurtado on her upcoming retirement at the end of December; announced the Lawyer in the Library Program, sponsored by the Alameda County Law Library, was returning with phone appointments and directed interested parties to the Library webpage for more information; reminded community members to wear masks and stay home to stop the spread of COVID-19 and shared that street sweeping and parking enforcement operations were suspended until December 10 due to COVID-19 impacts on staffing levels and folks could report issues via Access Hayward.

Council Member Lamnin asked City Manager McAdoo to consider having traffic studies include comparable businesses in Hayward for future developments.

In response to Council Member Wahab's safety concerns about vendors selling food out of their trucks, City Manager McAdoo noted the new regulations for street vendors were meant to help enable smaller minority businesses and referred to the Alameda County's microenterprise home kitchen program.

Council Member Márquez asked staff to prepare information about the warming shelters, their occupancy rate and requirements for overnight stay and status of assistance provided through Project Homekey funding. City Manager McAdoo noted the City would be providing information at the next City Council meeting.

COUNCIL REPORTS AND ANNOUNCEMENTS

There were none.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:06 p.m. in memory of former Hayward Mayor Ilene Weinreb.

Former Mayor Ilene Weinreb was first elected to the Hayward City Council in 1968; was Hayward's first elected female Mayor serving two terms from 1974 until 1982; was a long-time member of the Eden Housing Board and helped launch Eden Housing; served on the Alameda County's Public Hospital Consortium Board and founded MOMS (Maximizing Mothers to Succeed) a partnership with the Alameda County Sheriff's Office that supports incarcerated



**CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, December 1, 2020, 7:00 p.m.**

mothers seeking to build connections with their children; helped start Alameda County's 211 telephone line; and along with her husband served the community well.

Mayor Halliday noted it was appropriate to plan honoring, through historic markers, women who have been part of Hayward's history with Ilene Weinreb at the top of the list, and also asked staff to work with the Weinreb family and plant a tree in memory of Ilene Weinreb.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward