



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 28, 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 Mendall.

ROLL CALL

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

Mayor Halliday noted that Council Member Márquez was attending her sister's graduation, and she would not be participating on Public Hearing No. 11 due to the close proximity to her family's business.

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:00 p.m., concerning four items: 1) conference with real property negotiators pursuant to Government Code 54956.8 regarding City Center, 22300 Foothill Boulevard, Hayward, APNs: 415-0250-112-00, 415- 0250-111-02 and 415-0250-113-00; 2) conference with real property negotiators pursuant to Government Code 54956.8 regarding Caltrans Parcel Group 8: Grove Way APNs: 415-0180-070-00, 415-0180-068-01, 415-0180-076-00, 415-0180-084-01, 415-0180-073-00, 415-0180-074-00, 415-0180-075-00, 415-0180-072-00, 415-0180-071-00, 415-0180-069-01, 415-0190-064-00, 415-0180-083-01, 415-0180-080-00, 415-0180-082-01, 415-0180-081-01; 3) conference with legal counsel pursuant to Government Code 54956.9(d)(2) regarding one anticipated case; and 4) public employment pursuant to Government Code 54957 regarding the City Attorney's annual evaluation. Mayor Halliday reported there was no reportable action related to Item 4 and City Attorney Lawson indicated there was no reportable action related to Items 1, 2 and 3.

The following speakers addressed the City Council prior to the Closed Session and expressed concern about the sale of Caltrans Parcel Group 8 and supported a Community Land Trust to ensure affordability of homes for underserved community residents.

Ms. Ida Alvarez
Mr. Nestor Castillo
Mr. Tyler Dragoni
Ms. Sandy Frost
Mr. Paul Keim
Ms. Ann Maris
Mr. Peter Rosen
Ms. Barisha Spriggs

PRESENTATION

Mayor Halliday read a Proclamation declaring the month of June as Lesbian, Gay, Bisexual, Transgender, Questioning, Queer, Intersex, 2-Spirit and Gender Non-Conforming Pride Month in the City of Hayward and further recognized Gay Queer Youth Prom as an affirmative, valuable, welcoming, and all-inclusive diverse community event. Ms. Rochelle Collins, Project Eden Program Director, accepted the Proclamation.

PUBLIC COMMENTS

Mayor Halliday, with City Council's concurrence, moved Public Hearing No. 9 before public comments as the item had been continued from the May 14, 2019 Council meeting.

CONSENT

1. Minutes of the Special City Council Meeting on May 11, 2019 **MIN 19-075**

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the Special City Council Meeting on May 11, 2019.

2. Approval of FY 2019-2020 Proposed Downtown Business Improvement Area Budget **CONS 19-387**

Staff report submitted by Deputy City Manager Ott, dated May 28, 2019, was filed.

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

Resolution 19-108, "Resolution Accepting the Final Funding Recommendation for the Downtown Hayward Business Improvement Area (DBIA) for Fiscal Year 2020"

3. Adoption of a Resolution to Dissolve the Downtown Business Improvement Area Advisory Board **CONS 19-388**

Staff report submitted by Deputy City Manager Ott, dated May 28, 2019, was filed.

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

Resolution 19-109, "Resolution Dissolving the Downtown Business Improvement Area Advisory Board"



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4. Adoption of a Resolution Authorizing the City Manager to Execute Professional Services Agreements with Koff & Associates to Provide Human Resources and Compensation Review Services in an Amount Not to Exceed One Hundred Thousand Dollars (\$100,000) **CONS 19-390**

Staff report submitted by Human Resources Director Collins, dated May 28, 2019, was filed.

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

Resolution 19-110, "Resolution Authorizing the City Manager or Her Designee to Execute Professional Services Agreements with Koff & Associates to Provide Human Resources and Recruitment Services in a Total Amount Not to Exceed One Hundred Thousand Dollars (\$100,000)"

5. Adoption of a Resolution Authorizing the City Manager to Execute a Lease Agreement with the Federal Aviation Administration for Operational and Administrative Space at Hayward Executive Airport **CONS 19-391**

Staff report submitted by Public Works Director Ameri, dated May 28, 2019, was filed.

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

Resolution 19-111, "Resolution Authorizing the City Manager to Execute a Lease Agreement with the Federal Aviation Administration for the Lease of Airport Property"

6. Professional Services Agreement with St. Francis Electric, Inc.: Approval of Amendment No. 2 to Increase the Agreement by \$200,000 for a Total Not-to-Exceed Amount of \$475,000 **CONS 19-389**

Staff report submitted by Public Works Director Ameri, dated May 28, 2019, was filed.

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

Resolution 19-112, "Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Professional Services Agreement with St. Francis Electric, Inc. for On-Call Streetlight and Traffic Signal Maintenance Services"

Resolution 19-113, "Resolution Authorizing the Appropriation of \$200,000 from Various Capital Improvement Projects in Fund 210-Gas Tax to Support On-Call Streetlight and Traffic Signal Maintenance Services"

7. Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with Black & Veatch Corporation to Increase the Contract Amount by \$98,600 for Additional Engineering Services **CONS 19-399**

Staff report submitted by Public Works Director Ameri, dated May 28, 2019, was filed.

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

Resolution 19-114, "Resolution Authorizing the City Manager to Amend the Agreement with Black & Veatch Corporation to Increase the Contract Amount for Additional Engineering Services for the Water Pollution Control Facility (WPCF) Phase II Facilities Plan Project No. 07708 by \$98,600, to a Not to Exceed Amount of \$948,600"

8. Adoption of a Resolution Authorizing the City Manager to Execute a New First Responder Advanced Life Support (FRALS) Agreement with Alameda County **CONS 19-384**

Staff report submitted by Fire Chief Contreras, dated May 28, 2019, was filed.

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

Resolution 19-115, "Resolution Authorizing the City Manager to Negotiate and Execute a New First Responder Advanced Life Support Provider Agreement with the County of Alameda, Effective Through June 30, 2019"

Related to Consent No. 3, Council Member Lamnin commended the service of the members of the Downtown Business Improvement Area Advisory Board.



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PUBLIC HEARING

9. Application to Amend Chapter 10, Article 1 (Zoning Ordinance) and Article 2 (Off-Street Parking Regulations) related to the creation of new Industrial District Regulations within the Hayward Municipal Code and the Adoption of Industrial District Design Guidelines (Report from Development Services Director Simpson) **PH 19-054**

Staff report submitted by Development Services Director Simpson, dated May 28, 2019, was filed.

Development Services Director Simpson announced the report and introduced Senior Planner Schmidt who noted the item was a continued public hearing from May 14, 2019, and provided a synopsis of the staff report which included information subsequent to May 14, 2019.

Mayor Halliday reopened the public hearing at 7:16 p.m.

Mr. George Clever, owner at the former Gillig's company, requested the height limit be removed from the new regulations to retain flexibility.

Mayor Halliday closed the public hearing at 7:18 p.m.

Discussion ensued among Council Members and City staff regarding height restrictions and flexibility through a Variance process, Planned Development PD process, or Major Site Plan Review process.

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

Council Member Lamnin offered a friendly amendment to allow for a height increase in the IP (Industrial Park) and IG (General Industrial) Districts through a Major Site Plan Review process which would require Planning Commission and City Council approval.

Council Member Mendall and Council Member Salinas were amenable to the friendly amendment.

It was moved by Council Member Salinas, seconded by Council Member Mendall, and carried with the following vote to approve the resolution and introduce the ordinance with a friendly amendment to allow for a height increase in the IP (Industrial Park) and IG (General Industrial) Districts through a Major Site Plan Review process which would require Planning Commission and City Council approval:

AYES: COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
NOES: NONE
ABSENT: COUNCIL MEMBER Márquez
ABSTAIN: NONE

Resolution 19-107, “Resolution to Adopt Amendments to the Zoning Map and Text Amendments to Chapter 10, Article 1 (Zoning Ordinance) and Article 2 (Parking Regulations) of the Hayward Municipal Code and Adoption of Industrial District Design Guidelines Related to a Comprehensive Update of the Industrial District Regulations”

Introduction of Ordinance 19-_, “An Ordinance Amending the Zoning Map and Chapter 10, Article 1 (Zoning Ordinance and Article 2 (Parking Regulations) of the Hayward Municipal Code Related to a Comprehensive Update of the Industrial District Regulations”

PUBLIC COMMENTS

Council Member Wahab commented she had asked for an independent investigation of use of deadly force which would be added to the following City Council agenda.

Ms. Wynn Grich, Hayward resident, spoke about schools without alarms, the proposed fireworks and parade request that was turned down, and a bill to permit composting human bodies.

Mr. Charlie Peters, Hayward resident, spoke about the Eden I&R 2-1-1 Program and his experience with a long wait time.

Mr. Jim Drake, Hayward resident, spoke about Conditions of Approval for Taqueria El Mezcal and the time modification for deliveries and trees that were replaced.

The following speakers spoke about discrepancies in District Attorney O’Malley’s investigation report which found insufficient evidence to prosecute Hayward police officers Phillip Woolley and Michael Clark for the death of Agustin Gonzalez; and requested an independent investigation, transparency and accountability.

Ms. Cynthia Nunes, cousin of Agustin Gonzalez

Mayor Halliday called for a recess at 7:47 p.m. and reconvened the meeting at 7:49 p.m.

Mr. Gerald Smith

Ms. Karla Gonzalez, mother of Agustin Gonzalez

Mr. Augie Gonzalez, father of Agustin Gonzalez

Mr. Gilbert Espinoza, Hayward resident



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Ms. Samantha Watts, cousin of Agustin Gonzalez
Mr. Steve Jacobson
Ms. Maria Nunes, aunt of Agustin Gonzalez
Ms. Tracy Rosenberg, Media Alliance and Oakland Privacy Public Safety Committee Alliance
Ms. Lindsay Williams
Ms. Jessica Hernandez

Mr. Thomas Birt, Hayward resident, spoke about the current request for proposal for Caltrans Parcel Group 5 and recommended that caution be exercised when developing the area.

Ms. Bernadette Chan, Hayward resident, requested that a nighttime security company be engaged to patrol the area of Bunker Hill Boulevard, Bunker Hill Court and Maitland Drive to address security concerns.

Mayor Halliday called for a recess at 8:28 p.m. and reconvened the meeting at approximately 8:35 p.m.

PUBLIC HEARING (Continued)

10. Proposal to Subdivide an Existing 8.88 Acre Parcel into 22 Parcels to Allow the Construction of 19 Single-Family Residences with Common Open Space Areas and Related Site Improvements at 29080 Fairview Avenue (APN 085A-6428-002-00) by Erik Hayden of Hayden Land Company, LLC (Applicant) on Behalf of Carrie Aitken (Owner) Requiring a Tentative Tract Map, Planned Development (PD) Rezone, and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP) Application No. 201603891 (Report from Development Services Director Simpson) **PH 19-050**

Staff report submitted by Development Services Director Simpson, dated May 28, 2019, was filed.

Development Services Director Simpson announced the report and introduced Senior Planner Golubics who provided a synopsis of the staff report. Senior Planner Golubics added that staff was proposing to amend Condition of Approval No. 14 by adding the language, "currently in effect" after the beginning of the condition, "Affordable housing in-lieu fees..."

Discussion ensued among Council Members and City staff regarding: the trees that were scheduled to be removed; making electric homes with no natural gas; affordable housing funds from in-lieu fees; requirement for parking cars in garages; additional traffic generated from the proposed project; and overall parking for the project.

Mayor Halliday opened the public hearing at 8:52 p.m.

Ms. Carrie Aitken, property owner and developer, spoke about the proposed development.

Mr. Erik Hayden, consultant and project partner, and Mr. Brian Glick, landscape architect, answered questions posed by members of the City Council.

The following speakers expressed support for the proposed project noting it would be an appropriate addition to the area and complementary to Stonebrae and Bailey Ranch developments.

Mr. Paris and Ms. Maria Greenwood, Hayward residents
Mr. Julio Romero, Hayward resident, Hayward business owner, Downtown Hayward Improvement Association member and Hayward Business Association vice president
Mr. James Cochrane, Hayward resident

Mayor Halliday closed the public hearing at 9:06 p.m.

Council Member Zermeño offered a motion per staff's recommendation with a friendly amendment to increase the number of trees planned to be removed from 73 to 78.

Council Member Salinas seconded the motion.

Council Member Lamnin offered three friendly amendments: evaluate adding five additional trees, evaluate making homes all electric, and evaluate adding affordable units onsite.

Council Member Zermeño and Council Member Salinas were amenable to the friendly amendments to evaluate adding five additional trees and evaluate making homes all electric homes and preferred to retain affordable housing in-lieu fees.

Council Member Mendall was supportive of the two friendly amendments and encouraged the applicant to look into making the homes all electric and for staff to communicate with applicants early in the process.

Council Member Lamnin noted there were typographical errors in Conditions of Approval 50(H), 60 and 61 that staff was agreeable to correcting. Council Member Lamnin offered a further amendment to add a condition of approval requiring garages to be used for parking cars. Council Member Zermeño and Council Member Salinas were amenable to the additional condition.

It was moved by Council Member Zermeño, seconded by Council Member Salinas, and carried with the following vote to approve the resolution and introduce the ordinance with three friendly amendments: evaluate adding five additional trees scheduled for removal, evaluate the possibility of making each new residence an all-electric home, and add a Condition of Approval requiring garages to be used for parking cars.

AYES:	COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab, Salinas MAYOR Halliday
NOES:	NONE
ABSENT:	COUNCIL MEMBER Márquez
ABSTAIN:	NONE



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Resolution 19-116, "Resolution to Adopting the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and Approving the Planned Development Rezone with a Vesting Tentative Tract Map Pertaining to Construction of 19 New Single-Family Residences at a Site Located at 29080 Fairview Avenue"

Introduction of Ordinance 19-_, "An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201603891 to Accommodate 19 Single-Family Homes at 29080 Fairview Avenue"

11. 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), Requiring Approval of Conditional Use Permit - Application No. 201806005 (Report from Development Services Director Simpson) **PH 19-051**

Staff report submitted by Development Services Director Simpson, dated May 28, 2019, was filed.

Development Services Director Simpson announced the report and introduced Senior Planner Schmidt who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: standardizing the Community Benefit condition to apply to all businesses equally; Condition of Approval No. 14 regarding transfer of ownership; and adding language to Condition of Approval No. 23 to indicate that cannabis taxes should be remitted to the City of Hayward on a quarterly or semi-annually basis.

Mayor Halliday opened the public hearing at 9:46 p.m.

Mr. Robert Lopez, Hayward resident, expressed concern that the proposed site for the cannabis retail dispensary is a thoroughfare for students and an area already impacted by traffic.

Mayor Halliday closed the public hearing at 9:50 p.m.

Council Member Mendall offered a motion per staff's recommendation with two modifications: 1) modify Condition of Approval No. 9 by standardizing it at one percent (1%) of revenue to be

remitted to the Hayward Community Foundation on a quarterly basis; and 2) add language to Condition of Approval No. 23 to indicate that all cannabis taxes would be remitted to the City of Hayward on a quarterly basis. Council Member Mendall spoke about the location of the proposed establishment.

Council Member Zermeño seconded the motion echoing Council Member Mendall's comments.

Council Member Salinas expressed opposition to the proposal noting the City of Hayward did not need the type of industry. Council Member Salinas noted the statement at the beginning of page seven of Attachment IV (Community Outreach Overview) was not accurate and he had expressed that the proposed retailer was the wrong one for the building in Downtown, and added there were current spaces in Downton serving kids.

Mayor Halliday reopened the public hearing at 10:07 p.m.

Mr. Siavash Afshar, Hayward Station Applicant, sought clarification about the amendments to the two conditions of approval and responded to questions posed by members of the City Council.

Mayor Halliday closed the public hearing at 10:19 p.m.

Council Member Lamnin asked that staff review the Social Host Accountability Ordinance to ensure compliance with marijuana use.

Mayor Halliday noted she could not support the use permit because it could not meet the findings for approval, the Community Benefit component was vague, the entrance to the proposed establishment was on a main street, the proposal was in proximity to sensitive receptors in the area and to the library, and was not in harmony with applicable City policies under the current ordinance.

Discussion ensued about the expectations for cannabis dispensaries and buffer zones in the zoning districts.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and failed with the following vote, to approve staff's recommendation with two friendly amendments: 1) modify Condition of Approval No. 9 by standardizing it at one percent (1%) of revenue to be remitted to the Hayward Community Foundation on a quarterly basis; and 2) add language to Condition of Approval No. 23 to indicate that all cannabis taxes should be remitted to the City on a quarterly basis.

AYES:	COUNCIL MEMBERS Mendall, Lamnin
NOES:	COUNCIL MEMBERS Zermeño, Wahab, Salinas MAYOR Halliday
ABSENT:	COUNCIL MEMBER Márquez
ABSTAIN:	NONE



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It was moved by Mayor Halliday, seconded by Council Member Salinas, and approved with the following vote, to direct staff to return on June 18, 2019, with findings for denial.

AYES: COUNCIL MEMBERS Zermeño, Wahab, Salinas
MAYOR Halliday
NOES: COUNCIL MEMBERS Mendall, Lamnin
ABSENT: COUNCIL MEMBER Márquez
ABSTAIN: NONE

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS AND ANNOUNCEMENTS

There were none.

COUNCIL REFERRALS

12. Request to Fly the Rainbow Pride Flag on One of the Flagpoles in City Hall Plaza from June 1 to June 30, 2019 **RPT 19-299**

Memorandum submitted by Council Member Lamnin, Council Member Márquez, and Mayor Halliday, dated May 28, 2019, was filed.

Mayor Halliday spoke about the referral and City Manager McAdoo responded to questions posed by members of the City Council.

City Manager Zermeño requested that the flag fly on the City of Hayward pole.

Council Member Lamnin offered two clarifications: the intent of the request was for every year in June, and the City had accepted the Commitment to an Inclusive, Equitable, and Compassionate Community.

Mayor Halliday opened the public comments section at 10:39 p.m.

Ms. Rochelle Collins, Project Eden Program Director, thanked the City for the consideration of flying the flag.

Mr. Robert Lopez expressed support for the referral.

Mayor Halliday closed the public comments section at 10:41 p.m.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and approved by the following vote, to accept the request with clarifications: 1) fly the flag on the City of Hayward flag pole, 2) consider the request for June of every year, and 3) the City accepted the Commitment to an Inclusive, Equitable, and Compassionate Community:

AYES: COUNCIL MEMBERS Zermeño, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
NOES: NONE
ABSENT: COUNCIL MEMBER Márquez
ABSAINT: NONE

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:49 p.m., in memory of David “Dave” Tuck in recognition for his seventeen years of service to the City Hayward. Dave Tuck joined the City of Hayward on February 25, 2002 as a temporary laborer in the Water Distribution Division, was hired as a full-time employee on August 12, 2002, was promoted to a Utility Worker on June 16, 2003, and had the primary responsibility for all of the Water Distribution’s Underground Service Alert (USA) water main markings. Mayor Halliday asked City staff to work with the family and plant a tree in memory of David Tuck.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward