



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 17, 2019, 7:00 p.m.

The City Council meeting 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, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
Absent: COUNCIL MEMBER Márquez

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:00 p.m., regarding three items: 1) conference with legal counsel pursuant to Government Code 54956.9 regarding one anticipated litigation case; 2) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups; and 3) conference with property negotiators pursuant to Government Code 54956.8 regarding former Route 238 Parcel Group 7, 24900 and 25000 Mission Boulevard; APNs 445-0200-009-00 and 445-0200-012-01 and 24744 – 24874 Mission Boulevard; APNs 445-0150-058-01, 445-0150-056-00, 445-0150-055-00, 445-0150-054-00, 445-0150-053-02 and 445-0150-052-01. City Attorney Lawson noted there was no reportable action related to Items 1 and 2, and the City Council provided direction to staff related to Item 3.

PUBLIC COMMENTS

Ms. Wynn Grcich, Hayward resident, expressed concern about Presidential Executive Order No. 13834 which required treatment of municipal sewer water for drinking.

Ms. Sue Kaipers, Hayward resident, thanked the City Council for its work in 2019 and wished them happy holidays.

Ms. Ciana DeAnda, Hayward resident and student, spoke about the effects of climate change on the planet and offered some practical suggestions.

Ms. Jacqueline Gonsalez-Palafox, Hayward resident and student, spoke about the high rates of marijuana arrests by people of color and offered suggestions to address the matter.

Mr. Aric Yeverino, Dirty Bird Lounge owner, noted the 60/40 ratio for dining room to kitchen space discourages restaurant industry growth and suggested a model used in Alameda where restaurants are called eateries if warm food is prepared throughout service hours.

Ms. Rachel Zargar, Hayward resident, spoke in support of the expansion to the Dirty Bird restaurant and against the 60/40 restaurant ratio.

Ms. Sabrina _ , Hayward resident, supported the growth of the Dirty Bird restaurant and asked the Council to support small successful business owners.

Mr. Michael Christopher, Hayward resident, asked for assistance with issues regarding a neighbor hazard and plan violations, dumping dirt, and trespassing on his property.

Ms. Davida Scott, Hayward Adult School teacher, thanked the City for its help with the Raising Leaders in Hayward program and provided information on the program's success and future steps to move the program forward.

The City Council took a recess at 7:25 p.m. to fix technical difficulties and reconvened the meeting at 7:30 p.m.

Consent Items 3, 6, 7, and 10 were removed from the Consent Calendar for separate vote.

CONSENT

1. Minutes of the City Council Meeting on December 3, 2019 **MIN 19-149**

It was moved by Council Member Lamnin, seconded by Council Member Mendall, and carried unanimously with Council Member Márquez absent, to approve the minutes of the City Council meeting on December 3, 2019.

2. Resignation of Ms. Christina Cabrera from the Keep Hayward Clean and Green Task Force, Effective November 22, 2019 **CONS 19-812**

Staff report submitted by City Clerk Lens, dated December 17, 2019, was filed.

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

Resolution 19-233, "Resolution Accepting the Resignation of Christina Cabrera from the Keep Hayward Clean and Green Task Force"

3. Adopt a Resolution Approving the Proposed Special Event Support and Grant Program Guidelines **CONS 19-750**

Staff report submitted by Deputy City Manager Ott, dated December 17, 2019, was filed.

Council Member Wahab recommended that cities in Alameda County be used for comparison purposes; cap the total amount of funds the City allocates for City events at a certain amount;



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have consistency with the Council recusal policy related to transparency and conflict of interest; offer immigrant communities the same opportunity to host events in City facilities; and encourage event organizers to have events throughout the City.

Mayor Halliday offered a motion per staff's recommendation with an amendment to have the list of funding and event support recommendations return to the City Council for final approval.

Council Member Zermeño seconded the motion.

Council Member Lamnin suggested that the proposed process be evaluated to gauge if proposed and/or other events meet the necessary criteria to fit in the proposed category.

Council Member Mendall did not support having the recommendations return to Council given that the amounts being considered were between \$3,000 to \$5,000.

There being no public comments, Mayor Halliday opened and closed the public comment section at 7:41 p.m.

Council Member Lamnin was in favor of reviewing the program from an equitable lens and suggested that this year and every ten years City sponsored events include census information.

Council Member Salinas will be voting no on the motion.

Council Member Wahab thought the funds spent on the events was excessive, lacked equity across groups, and there was no growth in the number of attendees at recurring events.

Council Member Salinas noted there were diverse cultural events occurring in downtown over the years, small organizations did not fundraise for small events, and there were larger events that brought thousands of people to downtown and were deserving of funds.

It was moved by Mayor Halliday, seconded by Council Member Zermeño, and carried with the following vote, to approve the resolution with an amendment to have the list of funding and event support recommendations return to the City Council for final approval:

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

Resolution 19-240, "Resolution Adopting the New Special Event Support and Grant Program Guidelines and Authorizing the Economic Development Division to Release a Notice of Funding for Grants per the New Guidelines"

4. Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$200,000 in Grant Funding from the California Office of Traffic Safety for the Hayward Police Department **CONS 19-771**

Staff report submitted by Police Chief Chaplin, dated December 17, 2019, was filed.

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

Resolution 19-234, "Resolution Authorizing the City Manager to Accept and Appropriate \$200,000 in Funding from the State of California Office of Traffic Safety for the Hayward Police Department"

5. Adopt Resolutions Authorizing the City Manager to Accept and Appropriate \$999,881 of Proposition 47 Funds and Amend Resolution 19-015 Authorizing the City Manager to Appropriate Up to \$3,192,339 for an Additional \$116,000 for the One-Year Operations of the Hayward Housing Navigation Center **CONS 19-813**

Staff report submitted by Deputy City Manager Ott, dated December 17, 2019, was filed.

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

Resolution 19-235, "Resolution Authorizing the City Manager to Appropriate \$999,881 of Proposition 47 Funds for the Hayward Housing Navigation Center"

Resolution 19-236, "Resolution Authorizing the City Manager to Appropriate up to \$3,192,339 Million for the One-Year Operation of the Hayward Housing Navigation Center"

6. Adopt a Resolution Approving Policy on Discontinuation of Residential Water Service for Nonpayment **CONS 19-792**

Staff report submitted by Finance Director Claussen and Public Works Director Ameri, dated December 17, 2019, was filed.



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In response to Council Member Wahab's inquiry about when the announcements and data will be communicated, Public Works Director Ameri shared the policy will be implemented by February 2020.

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

Resolution 19-241, "Resolution of the City Council of the City of Hayward Adopting the Policies and Guidelines for Discontinuation of Residential Water Service for Nonpayment"

7. Adopt a Resolution Authorizing the City Manager to Execute an Operations and Maintenance Agreement with Engie Services U.S., Inc., for the First Phase (Phase IIA) of the Two-Megawatt Solar Photovoltaic Energy System at the Water Pollution Control Facility (WPCF) **CONS 19-814**

Staff report submitted by Public Works Director Ameri, dated December 17, 2019, was filed.

In response to Council Member Wahab's inquiry about the workers, Public Works Director Ameri noted the workers would be union members and there may be apprentice opportunities whenever practical.

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

Resolution 19-242, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract with Engie Services U.S., Inc., for the Operations and Maintenance Agreement for the First Phase of a Two-Megawatt Solar Photovoltaic Energy System at the Water Pollution Control Facility (WPCF)"

8. Adopt a Resolution Approving Final Map Tract 8482 (Eden Village II), Associated with the Previously Approved Vesting Tentative Map for five (5) Single Family Homes on a 0.51-Acre Site Located at 24763 Mohr Drive **CONS 19-790**

Staff report submitted by Development Services Director Simpson, dated December 17, 2019, was filed.

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

Resolution 19-237, "Resolution Approving Final Map for Tract 8482 and Authorizing the City Manager to Execute a Subdivision Agreement"

9. Adopt Resolutions Authorizing the City Manager to Execute the Amended Joint Exercise of Powers Agreement for the East Bay Dischargers Authority and Approve a Fourth Amendment Extending the Current Agreement by Six Months (January 1, 2020-June 30, 2020) **CONS 19-822**

Staff report submitted by Public Works Director Ameri, dated December 17, 2019, was filed.

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

Resolution 19-238, "Resolution Authorizing the City Manager to Execute the Amended and Restated Joint Exercise of Powers Agreement of the East Bay Dischargers Authority"

Resolution 19-239, "Resolution Authorizing the City Manager to Execute the Fourth Amendment to the Joint Exercise of Powers Agreement of the East Bay Dischargers Authority"

10. Adopt a Resolution Supporting the Proposal to Transform the Pacific Gas and Electric Company into a Customer-Owned Utility **CONS 19-823**

Staff report submitted by Public Works Director Ameri, dated December 17, 2019, was filed.

Mayor Halliday highlighted the item noting the proposal was led by San Jose Mayor Liccardo and supported by other mayors.

In response to Council Member Wahab's inquiry regarding updates on the proposal, City Manager McAdoo noted there could be a standing agenda item on the Council Sustainability Committee/Council Infrastructure Committee to include updates.

Council Member Wahab offered a motion per staff's recommendation with the matter listed as a standing item with input provided via the Council Sustainability Committee or Council Infrastructure Committee.

Council Member Mendall seconded the motion.

There being no public comments, Mayor Halliday opened and closed the public comments section at 8:06 p.m.



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

Resolution 19-243, "Resolution Supporting the Proposal to Transform the Pacific Gas and Electric Company into a Customer-Owned Utility"

LEGISLATIVE BUSINESS

11. Update on Commercial Cannabis Permit Process and Program (Report from Development Services Director Simpson) **LB 19-045** (Continued from October 29, 2019)

Staff report submitted by Development Services Director Simpson, dated December 17, 2019, was filed.

Development Services Director Simpson announced the report and introduced Principal Planner Lochirco, who along with Mr. Jubran Kanaan, ICF Senior Consultant, provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding only two out of 23 approved commercial cannabis businesses being operational; and background information for ICF consultants and their work with commercial cannabis businesses.

Mayor Halliday opened the public hearing at 8:47 p.m.

Ms. Esther Lopez, Aunty Honeys business associate, supported the proposed amendment to the agreement with ICF Inc. to update the Commercial Cannabis Program.

Mayor Halliday closed the public hearing at 8:48 p.m.

Council Member Wahab noted her priority was to get the businesses operational and issue the RFP, broaden the scope and network of applicants, re-evaluate the Criminal Background Investigation stage for the selection of cannabis operators, and engage a consultant with more extensive cannabis background.

Council Member Zermeño preferred the existing businesses become operational before increasing the number of businesses in Hayward and concurred with the rest of the objectives of the program.

Council Member Mendall expressed preference for an RFP and scoring process that tries to

identify the most viable businesses; allow for concurrent applications for cannabis license and CUP; have one to two additional staff for the program implementation; ask ICF consultants to advise when a conversation about illegal cannabis activity needs to occur; have the next round of application come sooner than later; and improve/refine the process.

Council Member Lamnin favored improving the process; consider a concurrent process to the extent possible; provide feedback to the State on how regulations are impacting municipalities; and was amenable to adding staff, especially offset by fees.

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

Council Member Mendall seconded the motion.

Council Member Salinas expressed he would be voting against the motion because of his ongoing concern that dispensaries are placed in working-class neighborhoods and there is duplication of similar businesses in one given area.

Council Member Wahab expressed she would be voting against the motion because she did not agree with the proposed timeline, the proposed location for the businesses, and thought that other subject matter experts needed to be involved.

Mayor Halliday favored focusing on the 23 businesses that had approved licenses, reducing redundancies and adding an equity component; and acknowledged that there might be an overconcentration of businesses in the downtown and was amenable to looking at other commercial areas.

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

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

Resolution 19-244, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with ICF Incorporated LLC to Review and Update the Commercial Cannabis Permit Program"

12. Introduction of an Ordinance Increasing the Commercial Cannabis Tax Rate to 7% of Gross Sales (Report from City Manager McAdoo) **LB 19-046** (Continued from October 29, 2019)

Staff report submitted by Deputy City Manager Ott, dated December 17, 2019, was filed.



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City Manager McAdoo announced the report and introduced Community Services Manager Davis who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding cannabis tax rates in Alameda County cities in comparison to Hayward and the one percent allocation of Measure EE tax revenue to the Hayward Community Foundation.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:32 p.m.

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

Council Member Zermeño seconded the motion.

Council Member Mendall noted that his political promise was for the additional one percent tax to go to the Hayward Community Foundation.

Council Member Lamnin noted the proposal was intended to smooth out the process, acknowledged that education on the effects of cannabis was a priority for the funding, favored having a conversation about a funding allocation process when the funding balance reaches a certain level, and was amenable to having a conversation if zoning became an obstacle.

Council Member Wahab noted that while she appreciated the political promise, she remained concerned about the lack of policy about how the funding is utilized and prioritized for community need versus long-term planning.

Council Member Salinas noted he was in favor of taxing commercial cannabis businesses and noted that non-profit organizations applying for community benefits should be made aware that the proceeds were coming from cannabis businesses.

Mayor Halliday was amenable to applying the proposed tax increase toward community benefits, but also liked the flexibility that the revenue could be used for unforeseen priorities/emergencies.

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

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

ABSTAIN: None

Introduction of Ordinance 19-_, "Ordinance of the City of Hayward, California Amending Section 8-21.11 of Article 21 of Chapter 8 of the Hayward Municipal Code Relating to Increasing the Commercial Cannabis Tax Rate"

13. Introduction of an Ordinance Revising the City's Park Impact Fees and Chapter 10, Article 16 of the Hayward Municipal Code (Report from Development Services Director Simpson) **LB 19-055**

Staff report submitted by Development Services Director Simpson, dated December 17, 2019, was filed.

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

Discussion ensued among Council Members and City staff regarding: assessing fees on industrial development but no other types of non-residential development, except for industrial development; exemptions from park impact fees for ownership housing and first-time homebuyers; residential subdivision or developments containing more than fifty dwelling units; and park land comparison with other municipalities.

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

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

Council Member Mendall seconded the motion.

Council Member Mendall asked for an amendment to the motion that would eliminate the thirty (30) percent reduction from the maximum allowable fee for industrial type of development, so the maximum allowable fee would be \$0.78 per square feet.

Council Member Zermeño accepted the amendment to the motion.

Council Member Lamnin offered an amendment to the motion that would change language in the Exemption from Requirements section to include affordable in perpetuity to any household and not just first-time home buyers.

Council Member Zermeño and Council Member Mendall accepted the amendment.

Council Member Mendall offered an additional amendment that would direct staff to bring back to the City Council options for future park fee increases after the City considers a new transportation impact fee.

Council Member Zermeño accepted the amendment.



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Council Member Wahab offered an amendment that would assess park impact fees for commercial/office, retail, industrial, government, and education development.

Council Member Zermeño did not accept the amendment and Council Member Mendall hoped for the fees to be evaluated in the future.

Mayor Halliday noted she would be amenable to evaluate assessing fees when the City conducts an overall review in the future.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried with the following vote, to approve the resolution and introduce the ordinance with three amendments: 1) eliminate the thirty (30) percent reduction from the maximum allowable fee for industrial type of development; 2) change language in the Exemption From Requirements section to read, "... affordable in perpetuity to households..."; and 3) direct staff to bring back to the City Council options for future park fee increases after the City considers a new transportation impact fee.

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

Resolution 19-245, "Resolution Amending Chapter 10, Article 16 of the Hayward Municipal Code and Adopting Updated Park Impact Fees"

Introduction of Ordinance 19-_, "An Ordinance of the City of Hayward Amending Chapter 10, Article 16 of the Hayward Municipal Code Regarding Obligations for Parks and Recreation for Property Developers"

14. Adoption a of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2020 (Report from Assistant City Manager Hurtado) LB 19-054

Staff report submitted by Assistant City Manager Hurtado, dated December 17, 2019, was filed.

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

Discussion ensued among Council Members and City staff regarding Cost-of-Living Adjustments (COLAs), equity adjustments, and Council Appointed Officers' contracts and compensations.

Mayor Halliday opened the public hearing at 10:30 p.m.

Mr. Victor Arellano, Hayward resident, sought clarification on the difference between COLAs and equity adjustments.

Mayor Halliday closed the public hearing at 10:33 p.m.

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

Council Member Zermeño seconded the motion.

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

Resolution 19-246, "Resolution Approving the Amended Fiscal Year 2020 Salary Plan Designating Positions of Employment in the City of Hayward and Salary Range; and Superseding Resolution No. 19-184 and all Amendments thereto"

CITY MANAGER'S COMMENTS

City Manager McAdoo noted that City Hall will be closed from December 23, 2019 through January 3, 2020 in observance of the holiday season and added that emergency services will be operational.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Salinas spoke about the closure of The Ranch restaurant at the end of the year and wished the restaurant a farewell.

Council Member Wahab wished a Happy Hanukkah, Merry Christmas and Happy New Year to all.

Council Member Zermeño wished everyone a Feliz Navidad to all.

COUNCIL REFERRALS

There were none.



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ADJOURNMENT

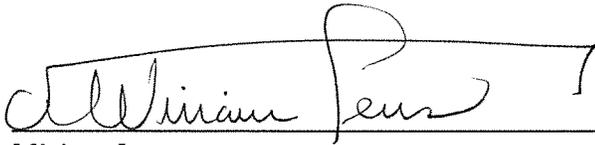
Mayor Halliday adjourned the meeting at 10:38 p.m. and wished everyone a happy holiday season.

APPROVED



Barbara Halliday
Mayor, City of Hayward

ATTEST:



Miriam Lens
City Clerk, City of Hayward