



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 5, 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 Mendall.

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 5:00 p.m., regarding four items: 1) conference with labor negotiators pursuant to Government Code 54957.6 regarding Hayward Police Management Unit; 2) conference with real property negotiators pursuant to Government Code 54956.8 regarding Browman Development Company, 1094 Sueirro Street, Hayward, CA 94541; 3) conference with real property negotiators pursuant to Government Code 54956.8 regarding Caltrans Parcel Group 6: Carlos Bee Boulevard and Overlook Avenue; APN: 455-0180-001-00; and 4) conference with legal counsel pursuant to Government Code 54956.9 regarding AGG, et al. v. City of Hayward, et al., U.S. District Court, ND CA, No. #4: 4:19-civ-00697-DMR. City Attorney Lawson announced there was no reportable action related to the items discussed.

Mayor Halliday noted the Humane Society designated the first week in November as National Animal Shelter Appreciation Week and shared she had presented a proclamation to the Hayward Animal Shelter declaring that on behalf of the City.

PUBLIC COMMENTS

Mr. Jim Drake submitted a speaker card but did not speak.

Ms. Wynn Grich, Hayward resident, spoke about compressed air vehicles as a mode of transportation and AB 957 related to water cremation legislation and provided related materials.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about individuals who were getting traffic citations in San Leandro and shared information about the Department of Consumer Affairs.

Mr. Michael Chapman expressed disappointment that Police Officer Clark was attending the Council meeting.

Mr. Frank Running Horse, with the Oscar Grant Committee Against Police Brutality and State Repression, urged for an independent investigation proposal, similar to the Richmond model, and noted that handing cases over to the District Attorney or State Attorney General would not work because of a financial conflict of interest.

Mr. Gerald Smith urged for an investigation by an independent auditor who could conduct investigations on a contracted basis and the City would not need to hire a new position.

Consent Item No. 4 was removed from the Consent Calendar for a separate vote.

CONSENT

1. Adoption of 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. 201806740 to Accommodate Five Single-Family Homes at 24763 Mohr Drive **CONS 19-725**

Staff report submitted by City Clerk Lens, dated November 5, 2019, was filed.

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

Ordinance 19-17, “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. 201806740 to Accommodate 5 Single-Family Homes at 24763 Mohr Drive”

2. Adoption of 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, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12-Single Family Dwellings and Five Accessory Dwelling Units at 25941 and 29591 Harvey Avenue **CONS 19-726**

Staff report submitted by City Clerk Lens, dated November 5, 2019, was filed.

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



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Ordinance 19-18, "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, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12-Single Family Dwellings and Five Accessory Dwelling Units at 25941 & 29591 Harvey Avenue"

3. Adoption of 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. 201806355 for The True Life Companies Mixed Use Development **CONS 19-727**

Staff report submitted by City Clerk Lens, dated November 5, 2019, was filed.

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

Ordinance 19-19, "An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806355 for the True Life Companies Mixed Use Development"

4. Authorization for the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency (HCSA) for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau (YFSB) of the Hayward Police Department **CONS 19-712**

Staff report submitted by Police Chief Chaplin, dated November 5, 2019, was filed.

In response to Council Member Wahab's inquiry about data for the Our Kids Our Families Program, City Manager McAdoo noted the information could be provided, at a later time, because the program staff was not at the meeting.

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

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

Resolution 19-207, “Resolution Authorizing the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau of the Hayward Police Department”

LEGISLATIVE BUSINESS

5. Response to City Council Referral: Hayward Police Department Use of Deadly Force - Independent Investigations (Report from Police Chief Chaplin) **LB 19-047**

Staff report submitted by Police Chief Chaplin, dated November 5, 2019, was filed.

Police Chief Chaplin started providing a synopsis of the staff report but could not continue due to disruptive behavior in the Council Chambers. Mayor Halliday advised members in the audience that the disruption was in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403 and noted that continued disruption would result in removal of individuals from the meeting by the Sergeant-at-Arms and further disruption would cause the Council to adjourn to a different room.

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

Ms. Karla Gonzalez, mother of Agustin Gonzalez, expressed disappointment at the number of police officers in the Council Chambers and noted the presence of Police Officer Clark at City Hall was a continued lack of respect for the Gonzalez family.

Ms. Alicia Lawrence, The Hayward Collective representative, urged for a Police Review Committee comprised of community members and tasked with addressing police related matters; and she supported the Gonzalez’ family position for a transparent independent investigation.

Ms. Cynthia Nunes, Agustin Gonzalez’ cousin, noted the City did not need to fund a new full-time position but could contract the service out and the third-party investigator should not be a part of any police union or be involved with political endorsements.



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Mr. Cephus Johnson aka Uncle Bobby, uncle of Oscar Grant, was distraught at the presence of police officers, particularly the officer involved with the tragic incident, at City Hall and expressed support for an oversight committee with an independent auditor to investigate police shootings.

Ms. Karla Gonzalez, mother of Agustin Gonzalez, expressed support for a policy such that the State of California Department of Justice/Attorney General could not decline a request to conduct an independent investigation. Ms. Gonzalez added the City could hire a third-party investigator to conduct investigations as needed.

Ms. Rebecca Ruiz submitted a speaker card but did not speak.

Pursuant to California Government Code 54957.9, Mayor Halliday called for a recess at approximate 7:50 p.m. due to disruptive behavior in the Council Chambers and reconvened the meeting at 8:21 p.m. in Conference Room 2A with all members of the City Council present. The meeting in Conference Room 2A was accessible via the City's online live streaming and cable TV channel KHRT 15. Public access to Room 2A was restricted to City staff and one member of the news media.

Police Chief Chaplin resumed providing a synopsis of the staff report.

Discussion ensued among Council members and City staff related to staff's proposed policy change (Option 3: a policy where the City Manager submits a request to the State of California Department of Justice (DOJ) office of the Attorney General (AG) to conduct an independent investigation, if a death results from the use of force during an HPD officer involved shooting incident); the investigation by plaintiff's attorney during civil lawsuit process (Option 2); in custody death; Commission on Accreditation for Law Enforcement Agencies (CALEA) standards, Peace Officers Standards and Training (POST) standards, and Hayward Police Department policies/procedures regarding officer involved shootings; concurrent investigations by different agencies and consistent/inconsistent conclusions and recourses; internal investigations conducted on all uses of force; disclosure of police records and information pursuant to SB 1421 and a year-end report for the City Council; Community Advisory Panel to the Chief of Police and any involvement with Council's referrals; DA's disqualification to conduct an investigation based on concerns with conflicts of interest; investigation by a civilian review board or police commission (Option 5); the meet and confer process between the City and the Hayward Police Officers Association prior to implementing any policy change; and HPD's CALEA accreditation compared to other agencies nationwide and professional trainings received by HPD officers compared to other agencies.

Disappointment was expressed at what transpired in the Council Chambers. The Hayward Police Department was acknowledged for its commitment to serving the community and it was noted that the proposed policy change would serve to continue to build trust. There was

also acknowledgment for the tragic incident that took the life of Mr. Agustin Gonzalez and caused the Gonzalez family pain.

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

Council member Zermeño withdrew his motion to give Council Member Wahab the opportunity to make the motion since she had submitted the referral. Council Member Mendall also withdrew his second to the motion.

Council Member Wahab made a motion to adopt a policy where the City Manager requests an independent investigation from the California Department of Justice, Office of the Attorney General, if a death results from any use of force involving Hayward Police Department officers; and that the first case investigated be that of Mr. Agustin Gonzalez.

Council Member Salinas seconded the motion.

Council Member Mendall expressed support for the motion.

Council Member Lamnin expressed support for the motion and offered a friendly amendment to the motion requesting that in custody deaths be included as a part of the proposed policy.

Council Member Wahab accepted the friendly amendment.

Council Member Salinas did not accept the amendment and asked the City Council to stay focused on staff's recommendation and not include items that have not been vetted.

Mayor Halliday concurred to stay focused and noted that a conversation could be had at later time on the additional item.

Council Member Zermeño supported the motion.

Council Member Márquez expressed support for the motion.

Mayor Halliday supported the motion.

It was moved by Council Member Wahab, seconded by Council Member Salinas, and carried unanimously, to adopt a policy where the City Manager requests an independent investigation from the California Department of Justice, Office of the Attorney General, if a death results from any use of force involving Hayward Police Department officers; and that the first case investigated be that of Mr. Agustin Gonzalez.



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PUBLIC HEARING

6. Adopt a Resolution of Intention to Introduce an Ordinance Approving an Amendment to the Contract between the City of Hayward and the California Public Employees Retirement System (“CalPERS”) for Local Safety - Police Employees and Authorizing the City Manager to Execute the Contract (Report from Assistant City Manager Hurtado) **PH 19-089**

Staff report submitted by Assistant City Manager Hurtado, dated November 5, 2019, was filed.

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

In response to Council Member Wahab’s inquiry about the contract between the City and the California Public Employees Retirement System for Local Safety-Police Employees, City Manager McAdoo noted it included standard provisions.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:42 p.m.

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

Resolution 19-208, “Resolution Authorizing Intention to Approve an Amendment to Contract between the Board of Administration, California Public Employees Retirement System, and the City of Hayward”

7. Route 238 Corridor Land Development - Parcel Group 6 Carlos Bee Quarry: Approval of a Resolution Certifying an Addendum to the 2014 General Plan Environmental Impact Report, Approval of Master Development Plan, and Authorization for the City Manager to Issue a Request for Proposals for the Disposition and Development (Report from City Manager McAdoo) (Item continued to November 19, 2019) **PH 19-091**

The item was continued to November 19, 2019.

CITY MANAGER'S COMMENTS

City Manager McAdoo had two announcements: 1) City Hall and non-emergency services will be closed during the Thanksgiving holiday from November 25 to 29, 2019, and City Hall will be closed on November 11, 2019 in observance of Veterans Day; and 2) the grand opening of the Navigation Center for individuals who are homeless was scheduled for November 18, 2019.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Márquez provided the non-emergency number for the Police Department, (510) 293-7000.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:47 p.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward