



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF THE CITY OF
HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 18, 2017, 7:00 p.m.**

Mayor Halliday announced that Council Member Salinas was unable to participate via teleconference from Mexico City and Council Member Zermeño was on vacation.

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 Márquez.

ROLL CALL

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

PRESENTATION

Mayor Halliday read a proclamation declaring July 18, 2017 as Nelson Mandela Day in honor of Nelson Mandela and his contributions to peace, conflict resolution, promotion of human rights, international democracy, reconciliation and addressing of racial issues. Elder Bowa Tucker and members of the New Bridges Presbyterian Church accepted the proclamation.

Mayor Halliday presented a certificate of recognition to Mr. Michael Emerson in recognition of his public service to Hayward, the AMVET Post, and the 9/11 Hayward Fallen Heroes Memorial.

PUBLIC COMMENTS

Mr. Eduardo Padilla, Hayward resident, referred to an email related to Accessory Dwelling Unit regulations and fees that make it unbearable to build a unit for his ill father.

Mr. Jerry Turney, Hayward airport hangar renter, submitted a written statement related to concerns with the hangar rent increase.

Ms. Kate Turney submitted a written statement urging the Council to engage with people who express concerns.

Ms. Wynn Grcich, Hayward resident, submitted newspaper articles regarding utility poles that would turn into cell towers under Senate Bill 649.

Ms. Laurel Pascual, former Hayward business owner, spoke in opposition to the City's Sanctuary City designation.

Mr. Sonny Alvarado, Hayward resident, asked that the Residential Rent Stabilization Ordinance be amended to include a section requiring the landlord to provide a copy of the Ordinance and contact information for eviction attorneys upon issuance of eviction notices.

Mr. Javier Delgadillo, Hayward resident, urged for stronger regulations and no-fault eviction protection with relocation assistance.

Mr. Jim Drake, Hayward resident, spoke about the trees that need to be replaced on Santa Clara and Jackson streets.

Mr. Evan Coons, Hayward resident, requested that the Lot 2 Steelwave construction off Industrial Boulevard be put on hold to address height issues.

Ms. Julia Lang, Downtown Streets Team program manager, thanked the City for considering the Downtown Streets Team for the unspent Community Development Block Grant Program funds.

Council Member Mendall clarified a comment noting that the City uses recycled water for industrial uses and landscaping.

Council Member Márquez, also Alameda County Mosquito Abatement District Board Trustee, reported that the District released information about a dead bird infected with West Nile virus.

Mayor Halliday congratulated Police Chief Mark Koller on his recent appointment and City Manager McAdoo spoke about the selection process.

CONSENT

1. Report and Special Assessment for Residential Rental Inspection Program Fees Past Due **CONS 17-366**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-109, "Resolution Confirming the Report and Special Assessment List and Authorizing Transmittal of Assessments to the County Auditor for Collection Associated with Overdue Residential Rental Inspection and Program Fees for Calendar Year 2016 and Through May 2, 2017"



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2. Report and Special Assessment for Community Preservation Fees Past Due **CONS 17-367**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-110, "Resolution Confirming the Report and Special Assessment List Associated with Overdue Community Preservation Charges for the Period from January 1, 2016 through May 2, 2017"

3. Filing Nuisance Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations **CONS 17-368**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-111, "Resolution Confirming the Report and Non-Abatable Code Violations and Penalties Liens List Associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs"

4. Approval of Final Map Tract 8240 (Harvest Park), associated with the previously approved Vesting Tentative Tract Map and proposed development of 50 townhome-style condominium homes on a 2.6-acre site located at 31 W Jackson Street, (APN 443-0050-006-00); Harvest Park Hayward, LLC (Applicant/Owner) **CONS 17-411**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-112, "Resolution Approving Final Map for Tract 8240 and Authorizing the City Manager to Execute a Subdivision Agreement"

5. Median Landscape Improvement Project (Industrial Parkway West - Hesperian Boulevard to I-880) - Award of Contract **CONS 17-418**

Staff report submitted by Director of Public Works Fakhrai, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-113, "Resolution Approving Award of Contract for the Median Landscape Improvement Project (Industrial Parkway West – Hesperian Boulevard to I-880) FY 2017, Project No. 05263 to Elite Landscape Construction, Inc."

Resolution 17-114, "Resolution Amending Resolution 17-063, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2018, Relating to an Appropriation of Funds from the Street System Improvements Fund (Fund 450) to the Median Landscape Improvement Project, Project No. 05263"

6. Report and Special Assessment for Delinquent Sewer Bills and Water Bills Incurred by Property Owners **CONS 17-420**

Staff report submitted by Director of Utilities and Environmental Services Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-115, "Resolution Confirming the Report and Special Assessment List Associated with Delinquent Water and Sewer Bills and Authorizing the Delinquent Charges to Become a Special Assessment Against the Properties If Not Paid by August 1, 2017"

7. Sustainable Groundwater Management: Authorization for the City Manager to execute a Memorandum of Understanding with the East Bay Municipal Utility District (EBMUD) Regarding Joint Preparation of a Groundwater Sustainability Plan for the East Bay Plain Subbasin and Support for EBMUD's Grant Application **CONS 17-422**



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Staff report submitted by Director of Utilities and Environmental Services Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-116, “Resolution Authorizing the City Manager to Execute a Memorandum of Understanding with the East Bay Municipal Utility District to Work Cooperatively to Develop a Single Groundwater Sustainability Plan that Covers the Entire East Bay Plain Subbasin, and Supporting EBMUD’s Grant Application for Funding Assistance to Prepare a Groundwater Sustainability Plan”

8. Approval of Final Map Tract 8289 (Maybeck Place), associated with the previously approved Tentative Tract Map and proposed development of 16 residential condominium units on a 0.8-acre site located at 24755 O’Neil Avenue, (APN 444-0036-013-02); Cypress Group (Applicant/Owner) **CONS 17-423**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-117, “Resolution Approving Final Map for Tract 8289 and Authorizing the City Manager to Execute a Subdivision Agreement”

9. Water Service Area: Consent to East Bay Municipal Utility District’s Filing of a Change of Organization Application with the Alameda County Local Agency Formation Commission to Update EBMUD’s Service Area Boundaries **CONS 17-424**

Staff report submitted by Director of Utilities and Environmental Services Director Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-118, “Resolution Consenting to the Filing of a Change of Organization Application with the Alameda County Local Agency Formation Commission by the East Bay Municipal Utility District”

10. Resolution Authorizing the City Manager to Negotiate, Execute, and Amend the Agreement with CEL Consulting Inc. **CONS 17-427**

Staff report submitted by Director of Utilities and Environmental Services Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-119, “Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with CEL Consulting, Inc., for On-Site Plan Check Services for an Amount Not to Exceed \$93,000”

11. Report and Assessment for Delinquent Garbage Bills Incurred by Property Owners of Single-Family Households **CONS 17-428**

Staff report submitted by Director of Utilities and Environmental Services Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-120, “Resolution Confirming the Report and Special Assessment List Associated with Delinquent Garbage Bills Incurred by Residential Property Owners with Cart Service”

12. Cast Iron Water Pipeline Replacement Project: Approval of Additional Funds to Pay Contract’s Retention and Close the Project **CONS 17-432**

Staff report submitted by Director of Utilities and Environmental Services Ameri, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:



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Resolution 17-121, "Resolution Amending the Contract for the Cast Iron Water Pipeline Replacement Project, Project No. 07005, with California Trenchless, Inc."

13. Authorization to Negotiate and Execute an Agreement with Chabot-Las Positas Community College District for PEG Broadcasting Services **CONS 17-438**

Staff report submitted by Director of Information Technology/CIO Kostrzak, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-122, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute an Agreement Between the City of Hayward and Chabot-Las Positas Community College District for PEG Broadcasting Services"

14. Adoption of Ordinance Mandated by California Government Code Section 65850.7 (Assembly Bill 1236), Amending Sections 9-1.01 and 9-1.02 of the Hayward Municipal Code to Add Section 105.3.1.2 "Expedited Electric Vehicle Charging Station Permitting" **CONS 17-443**

Staff report submitted by City Clerk Lens, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Ordinance 17-11, "An Ordinance Mandated by California Government Code Section 65850.7 (Assembly Bill 1236), Amending Section 9-1.01 and 9-1.02 of the Hayward Municipal Code to Add Section 105.3.1.2 "Expedited Electric Vehicle Charging Station Permitting"

15. Authorization to Negotiate and Execute an Agreement with Lisa Wise Consulting for Preparation of the Downtown Specific Plan Development Code **CONS 17-445**

Staff report submitted by Interim Director of Development Services Bristow, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-123, “Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute an Agreement Between the City of Hayward and Lisa Wise Consulting for Preparation of the Downtown Specific Plan Development Code”

16. Approval of FY 2018 Measure B/BB Annual Paratransit Program Plan **CONS 17-446**

Staff report submitted by Director of Library and Community Services Reinhart, dated July 18, 2017, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Márquez, and carried unanimously with Council Members Zermeño and Salinas absent, to adopt the following:

Resolution 17-124, “Resolution Authorizing the City Manager to Implement an Annual Paratransit Plan and Negotiate and Execute All Documents Related to and In Support of Paratransit Activities Including the Administration of the Hayward Operated Paratransit (The HOP) Program”

WORK SESSION

17. Policy Direction Regarding Community Facilities Districts (Report from Finance Director Claussen) **WS 17-037**

Staff report submitted by Director of Finance Claussen, dated July 18, 2017, was filed.

Finance Director Claussen and City Attorney Lawson provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public comments section at 8:07 p.m.

Discussion ensued among Mayor and Council Members regarding establishing a citywide Community Facilities District (CFD) with a low unit count threshold; CFDs for existing households and new developments; and San Ramon’s Mello-Roos Community Facilities District.



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Some Council members were in support of continuing forming CFDs for new development projects, establishing a lower threshold of perhaps 50 to 100 units; others were amenable to exploring other options such as placing a moratorium on the formation of new CFDs; and one member suggested exploring a citywide CFD.

LEGISLATIVE BUSINESS

18. Commercial Cannabis Businesses in Hayward: Discussion of Proposed Regulatory and Land Use Framework; Authorizing the City Manager to Begin Accepting Permit Applications; Resolution Establishing Application Processing Fee for Commercial Cannabis Permits (Report from City Attorney Lawson and Interim Development Services Director Bristow) –Report will be available no later than Monday, July 17, 2017
LB 17-036

Staff report submitted by Senior Assistant City Attorney Vigilia and Principal Planner Lochirco, dated July 18, 2017, was filed.

City Attorney Lawson announced the report and introduced Senior Assistant City Attorney Vigilia and Principal Planner Lochirco who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff related to the proposed regulatory and land use framework for cannabis businesses; business proposals and community benefits; the three-business permit limitation and business types; lottery system; conditional use permit (CUP) process; enforcement of business practice; and State and local regulations.

Mayor Halliday opened the public hearing at 9:20 p.m.

Ms. JoAnn Irons, Eden Youth and Family Center Program Coordinator, asked to consider the distance between cannabis businesses and schools, parks, and youth gatherings; distance between cannabis businesses and the impact on neighborhoods and parks; and procedures for monitoring sales to adults.

Mr. Richard Fierro, Hayward resident and Teamsters Local 70 representative, recommended conditions for the proposed regulations such as delivery, receiving, and bona fide workers compensation.

Mr. Dan Georgatos, local business representative and counsel for Cannabis Collective, recommended consideration for cannabis businesses in commercial zones and development of local regulations before enactment of the State's regulatory scheme.

Mr. Julio Romero, Hayward resident and business owner, expressed concern about the proposed lottery system and supported allowing cannabis businesses in Downtown.

Ms. Denise Martellacci expressed concern about the lottery system and outdoor cultivation, and suggested consideration for local hire and expanding beyond existing dispensaries.

Mr. Chad Hagle, retail developer, suggested focusing on separation of uses in the appropriate designation areas and putting forward a clear distinction for growth plan.

Mr. Michael Resendez, veteran, opposed prohibiting outdoor cultivation for personal use.

Mr. Tony Bowles, medical cannabis activist, opposed the three-business limit, lottery system, and prohibition of outdoor cultivation.

Mr. Dan Szigeti, with a testing laboratory business in Hayward, recommended allowing three permits per business type and local hire.

Mr. Hector Villasenor, prospective business owner, offered a document for the record with recommended changes for the proposed ordinance.

Mr. Brent Alfieri, Hayward property owner, did not favor the proposed three permit limit for cannabis business.

Ms. Mei Wong, Hayward property owner, did not favor the proposed three permit limit for cannabis business.

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

Senior Assistant City Attorney Vigilia indicated that the proposed resolution amending the Master Fee Schedule regarding the commercial cannabis permit application processing fee needed to be amended to reflect the fee as \$2,000 to be in line with the staff report.

Council Member Mendall noted that a three permit limit for business type could make sense with a lottery system, preferred a merit system for the potential community benefits, was agreeable to the \$2,000 processing fee with a recovery plan over three to five years through annual fees; was amenable to considering good businesses in areas that matter to Hayward; and suggested establishing a partnership with a local bank in area(s) of need.

Council Member Lamnin recommended having a robust RFQ process and weigh in community benefits; having three permits per business type; having requirements for delivery and receiving; allowing limited number of businesses in commercial corridors; evaluating if flowers needed to be included in types of product; and having consistency with tobacco regulations.

Council Member Lamnin offered a motion approving the resolution amending the Master Fee Schedule establishing an application processing fee of \$2,000; having a robust RFQ process that allows to weigh in community benefits; and authorizing the City Manager to begin accepting applications.



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Council Member Mendall seconded the motion.

Council Member Peixoto supported the motion and suggested having in place an expeditious and smooth process.

Council Member Márquez supported the motion and suggested being more flexible to business opportunities; being mindful of where businesses are allowed; revisiting prohibiting outdoor cultivation for personal use; managing the competitive process; and raising the \$2,000 processing fee to recover costs.

Council Member Mendall offered a friendly amendment to increase the permit application processing fee to \$5,000, noting the difference could be refundable should staff costs be less than that amount.

Council Member Lamnin was amenable to the motion.

Mayor Halliday supported the motion noting that an evaluation system on merits would be more effective in selecting participants; and recommended being careful where retail establishments are placed, consider establishing a partnership with local banks, and reevaluate prohibiting outdoor cultivation for personal use.

Discussion ensued about location of cannabis businesses. Council Members were in general agreement of retail operations in commercial areas and being restrictive in terms of locations. City Manager McAdoo was directed to ask input from Council Members Salinas and Zermeño on the proposal.

Council Member Lamnin restated her motion authorizing the City Manager to begin accepting applications for cannabis permits; adopting a resolution amending the Master Fee Schedule to establish a processing fee of \$5,000 that is refundable; having a robust RFQ selection process that allows to weigh in community benefits as opposed to a lottery system; and including retail uses in certain commercial corridors.

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

AYES: Council Members Márquez, Mendall, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: Council Members Zermeño, Salinas
ABSTAINED: None

Resolution 17-125, "Resolution Amending the Master Fee Schedule to Add a Commercial Cannabis Permit Application Processing Fee"

19. Adoption of Final Fiber-Optic Master Plan (Report from City Manager McAdoo) **LB 17-018**

Staff report submitted by Economic Development Manager Hinkle, dated July 18, 2017, was filed.

City Manager McAdoo announced the report and introduced Management Analyst Stefanski who provided a synopsis of the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:35 p.m.

It was noted that the Council Technology Application Committee fully vetted the item.

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

AYES: Council Members Márquez, Mendall, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: Council Members Zermeño, Salinas
ABSTAINED: None

Resolution 17-126, "Resolution of the City Council Approving the Adoption of the Hayward Fiber-Optic Network Master Plan"

PUBLIC HEARING

20. Biennial Review of the Community Development Block Grant Program and Authorization of Reallocations of One-Time Available Fund Balance in FY 2018 and FY 2019 (Report from Library and Community Services Director Reinhart) **PH 17-071**

Staff report submitted by Director of Library and Community Services Reinhart, dated July 18, 2017, was filed.

Library and Community Services Director Reinhart announced the report and introduced Community Services Manager Bailey who provided a synopsis of the report.

In response to Council Member Márquez's recommendation to have a work session during off years in preparation for next available funding, staff agreed to incorporate a work session in



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the next upcoming plan.

Discussion ensued about the existing Housing Manager position and Measure A1 project match funding; and emergency care and shelter facility rehabilitation.

Mayor Halliday opened the public hearing at 10:44 p.m.

Mr. Zachariah Oquenda, Hayward resident, pointed out there was a typographical error in the proposed resolution noting the amount \$1,289 was missing the word "million."

Mayor Halliday closed the public hearing at 10:46 p.m.

Council Member Mendall offered a motion to approve the Tier 1 recommended list of projects with the addition of an alternate project, the demolition of the library, that would receive funds in the event funds are not allocated toward Tier 1 projects.

The motion died for lack of a second.

Discussion ensued about alternate projects such as the demolition of the existing library and/or the South Hayward Youth and Family Center, and staff noted that during the work session in one year staff could provide an update on the progress of Tier 1 projects and have further discussion.

Council Member Lamnin offered a motion per staff recommendation with the addition of the word "million" to the \$1,289 amount in the resolution; and development of a community list through an inclusive process.

Council Member Márquez seconded the motion.

Mayor Halliday supported the motion and commented on the need for shelters for single people.

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

AYES: Council Members Márquez, Mendall, Peixoto,
Lamnín
MAYOR Halliday
NOES: None
ABSENT: Council Members Zermeño, Salinas
ABSTAINED: None

Resolution 17-127, "Resolution Authorizing the City Manager to Amend the Action Plan to Allocate \$1.289 Million in Unexpended Community Development Block Grant (CDBG) Funds Accumulated in the City's Line of Credit"

CITY MANAGER'S COMMENTS

City Manager McAdoo made four announcements from the Hayward Police Department about upcoming events: the Hayward Neighborhood Alert's Car-A-Van on July 24, 2017; the Annual Night of Honor to honor first responders at Redwood Chapel in Castro Valley on July 24, 2017; the San Francisco Giant's Law Enforcement Appreciation Night at AT&T Park on July 25, 2017; and the National Night Out on August 1, 2017.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez announced the Keep Hayward Clean and Green Community clean-up and park beautification event at Birchfield Park on July 22, 2017.

Council Member Lamnin noted July 22, 2017 was the anniversary of the loss of Sergeant Scott Lunger. Ms. Lamnin reminded the audience that stopwaste.org has information about recycling and sites for drop off.

Mayor Halliday announced that the Council will convene a special meeting on July 25, 2017 to interview applicants for the Council's appointed bodies. The Mayor also announced that the Council will be in recess for the month of August and will reconvene on September 19, 2017.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:58 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward