



**MINUTES OF THE CITY COUNCIL MEETING OF THE
CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 15, 2015, 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 Mayor Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR Halliday
Absent: None

There was a moment of silence in memory of Sergeant Scott Paul Lunger.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

City Clerk Lens noted the LiveManager System had been tested in the morning and it was ready for the City Council meeting.

City Attorney advised the City Council of a media inquiry regarding a lawsuit filed by the ACLU against the City regarding a Public Records Act request.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session regarding four items: 1) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding two anticipated cases; 3) conference with legal counsel pursuant to Government Code 54956.9 regarding pending litigations: a) Huynh v. City of Hayward, et al., Alameda County Superior Court No. RG10510409; b) City of Hayward, et. al. v. Board of Trustees of California State University, et. al., Alameda County Superior Court case numbers RG09480852 and RG09481095; 4) conference with property negotiators pursuant to Government Code 54956 regarding 22280 City Center Dr, Hayward, CA 94541, APN 415-0250-015-07 and 22320 City Center Dr, Hayward, CA 94541, APN 415-0250-018-11. City Attorney Lawson noted there was no reportable action.

PRESENTATION

Mayor Halliday read a Certificate of Commendation presented to Mr. Rich LaPlante in honor of his dedication and commitment to the Keep Hayward Clean and Green Task Force.

PUBLIC COMMENTS

Mr. Joe Dolley, Hayward resident, suggested that the Twin Bridges Park be renamed in honor of Sergeant Lunger.

Mr. Frank Goulart, Hayward resident, announced the Summer History Walks: Railroad of Hayward and a historic Open House and Ribbon Cutting hosted by the Hayward Odd Fellows on September 26, 2015.

Ms. Wynn Grcich, Hayward resident, spoke about water recycling and Assembly Bill 277-school mandated vaccination.

Ms. Gail Lundholm, Hayward resident, announced a forum on the proposed changes to Proposition 13 hosted by League of Women Voters of the Eden Area on September 25, 2015.

Mr. Charlie Peters, with Clean Air Performance Professionals in Hayward, provided documents related to ethanol in gasoline and global warming.

Ms. Renee Rettig, invited all to the Open House and Ribbon Cutting hosted by the Hayward Odd Fellows on September 26, 2015.

Council Member Mendall noted that due to a back surgery he had in the past, he needed to stand during the meetings.

Mr. SJ Samiul, aka Citizen Sam, Hayward resident, suggested converting the Centennial Tower into condominium units, and also recommended naming the new library in memory of Sergeant Lunger.

Ms. Patra Rae Nesseth-Steffes, Hayward resident, announced an art show at the Sun Gallery on September 26, 2015.

Mr. Jim Drake, Hayward resident, expressed concern about a taqueria, located between Harder and Franklin Avenue, and its liquor license.

BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCE

1. Appointments and Reappointments to Council's Appointed Bodies

Staff report submitted by City Clerk Lens, dated September 15, 2015, was filed.

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



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Resolution 15-164, "Resolution Confirming the Appointment and Reappointment of Members of Various Boards, Commissions, Committees and Task Forces"

City Clerk Lens administered the oath of office to the newly appointed and reappointed members of the Council's appointed bodies.

CONSENT

Consent Item No. 11 was removed to allow for discussion and for separate vote.

Council Member Márquez disclosed she would be participating on Consent Items No. 11 and No. 13 because she did not have a conflict of interest.

2. Approval of Minutes of the Special Joint City Council/Hayward Public Financing Authority/Hayward Housing Authority Meeting on July 21, 2015

It was moved by Council/HPFA/HHA Member Peixoto, seconded by Council/HPFA/HHA Member Mendall, and carried unanimously, to approve the minutes of the Special Joint City Council/Hayward Public Financing Authority/Hayward Housing Authority Meeting on July 21, 2015.

3. Approval of Minutes of the Special City Council Meeting on July 28, 2015

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the Special City Council Meeting on July 28, 2015.

4. Request for Water Service for a Property at 3996 Star Ridge Road in Unincorporated Alameda County, requiring Adoption of a Resolution Authorizing the City Manager to File an application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements; Utility Service Agreement Application No. USA 15-01; Majdi El-Khatib (Owner)

Staff report submitted by Development Review Engineer Rei, dated September 15, 2015, was filed.

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

Resolution 15-165, "Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval to Allow the City to Provide Water Service to the Property Fronting Star Ridge Road, Bearing

Assessor's Parcel Number 425-0050-013-03, and Further Authorizing the City Manager to Execute Utility Service (USA 15-01) and Public Street Improvements Agreements"

5. Request for Water Service for a Property at 26526 Fairview Avenue in Unincorporated Alameda County, requiring Adoption of a Resolution Authorizing the City Manager to File an Application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements; Utility Service Agreement Application No. USA 15-02; Charanjit Kahlon (Owner)

Staff report submitted by Development Review Engineer Rei, dated September 15, 2015, was filed.

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

Resolution 15-166, "Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval to Allow the City to Provide Water Service to the Property Fronting Fairview Avenue, Bearing Assessor's Parcel Number 085A-6100-012, and Further Authorizing the City Manager to Execute Utility Service (USA 15-02) and Public Street Improvements Agreements"

6. Sanitary Sewer System Repair at Various Locations: Approval of Addendum and Award of Contract

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

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

Resolution 15-167, "Resolution Awarding Contract to JMB Construction, Inc., for the 2015 Sanitary Sewer System Repair at Various Locations Project, Project Nos. 07551, 07562 & 07667"

Resolution 15-168, "Resolution Amending Resolution 15-116, As Amended, the Budget Resolution for Capital Improvements Projects for Fiscal Year 2016, Relating to Appropriation of Funds from the Sewer Replacement Fund (611) to the Sanitary Sewer System Repair at Various Locations Project, Project No. 07667"

7. Hayward Executive Airport - Southside New Access Road: Award of Construction Contract



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Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

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

Resolution 15-169, "Resolution Increasing the Administrative Change Order Amount for the Hayward Executive Airport – Southside New Access Road Project, Project No. 06822, and Awarding the Construction Contract to Teichert Construction"

8. Adoption of a Resolution to Accept a Housing Related Parks Program Funding Allocation

Staff report submitted by Housing Development Specialist Cortez, dated September 15, 2015, was filed.

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

Resolution 15-170, "Resolution Authorizing Acceptance of a Housing-Related Parks Program Funding Allocation and the Execution of Related Documentation"

9. BART Hayward Maintenance Complex (HMC) Water Main Looping Project: Award of Contract

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

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

Resolution 15-171, "Resolution Awarding Contract to Proven Management, Inc., for Installing a Water Main Loop to Supply BART Hayward Maintenance Complex, City Project No. 07180"

10. New Garin Reservoir and Pump Station Improvements: Authorization for the City Manager to Execute a Professional Services Agreement

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

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

Resolution 15-172, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Kleinfelder, Inc. for the Design of New Garin Reservoir and Pump Station Improvements, Project No. 07183"

11. 21st Century Library and Community Learning Center and Heritage Plaza Arboretum - Approval of Addenda and Award of Construction Contract

Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

The following speakers spoke in favor of the approval of award of construction contract for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum as proposed by City staff. It was noted that there was a robust outreach and discussion prior to the passage of Measure C, the current library building was deteriorating, and any interruption would compromise the project.

Mr. Bill Quirk, Twentieth District Assembly Member
Ms. Lisa Brunner, Hayward resident and former Library Commissioner
Mr. Kim Huggett, President of the Hayward Chamber of Commerce
Ms. Kelly Greene, Hayward resident and former Library Commissioner
Ms. Judith Harrison, Hayward resident, submitted a petition for the record
Ms. Kary McAllister, Library Commissioner
Ms. Helen Carr, Hayward resident and Treasurer for the Friends of the Hayward Library
Mr. Rick Imsdahl, Hayward resident
Ms. Linda Bennett, Hayward resident and former Library Commissioner
Ms. Freya Robinson
Mr. John Berggren, Hayward resident
Mr. O Bray Van Buren, representing the Building & Construction Trades Council
Ms. Shelby Bergeron, Library Commissioner
Ms. Tedi Valdez, Hayward resident and teacher
Ms. Mimi Bauer, Hayward resident

The following speakers spoke in opposition to the demolition of the existing main library for the following reasons: further study and consideration was needed for other uses such as a meeting place, art facility, art studio, or community center; the bathroom issue for the plaza had not been resolved; and the library was a historic building. Speakers urged the Council to separate the demolition of the existing main library from the construction of the new library.



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Ms. Gail Steel, Hayward resident and former Alameda County Supervisor
Mr. Frank Goulart, Hayward business owner
Mr. Michael Wallace, President of the Hayward Arts Council
Ms. Gail Lundholm, Hayward resident and Alameda County Arts Commissioner
Ms. Dorsi Diaz, Executive Director of the Sun Gallery and Alameda County Arts Commissioner
Ms. Winda Shimizu, President of ART Inc., and Office Manager of the Hayward Arts Council
Mr. Didacus Ramos, Hayward resident
Ms. Lucero Wallace, Director of University of Scheduling at CSU East Bay and member of the Hayward Arts Council
Mr. Bruce Roberts, Hayward resident
Ms. Marci Timbermen, Hayward resident
Mr. Carl Gorringer, Hayward resident
Mr. Ray Baker, Hayward business owner
Ms. Heather Reyes, Hayward resident
Ms. Patra Rae Nesseth-Steffes, Hayward resident

Mr. SJ Samiul aka citizen Sam, Hayward resident, suggested naming the new library Sergeant Lunger Memorial Library.

Discussion ensued among Council Members and City staff regarding separating the construction of the new library and the demolition of the existing library; the ongoing facility maintenance, repair, and utilities cost of the existing library; the California Environmental Quality Act (CEQA) study; rainwater for re-use; and an alternative venue for arts and cultural center. Staff strongly discouraged separating the demolition of the existing building because such action would add to the cost of the overall project and would delay the construction of the new library.

Council Member Mendall offered a motion per staff recommendation noting the proposed project had included a robust public process and delaying the project would cost money and time.

Council Member Peixoto seconded the motion noting the electorate had voted for the proposed project and delaying the construction of the new library would be fiscally imprudent.

Council Member Lamnin offered a friendly amendment to move forward with the proposed project with the understanding that there would be a discussion with the contract awardee, T. B. Penick & Sons, Inc., about reducing the project cost to the amount that was approved by the Measure C ballot language.

Discussion ensued regarding the proposed friendly amendment, the construction contingency, and solar panels.

Council Member Mendall did not accept the friendly amendment.

Council Member Zermeño expressed he had initially favored separating the contract for the demolition of the existing library, but after learning that the separation would constitute delaying the construction, he was no longer in support of separating the contract. Mr. Zermeño added that the project still did not include a bathroom for the plaza.

Council Member Jones supported the motion and noted the plaza was fundamental to the downtown and favored returning it back to its historical resource. Mr. Jones encouraged the public to continue to be engaged on items of interest to the community.

Council Member Márquez supported the motion with excitement because of the new opportunities that the new library would create for the community, and added that there would be opportunity for discussion regarding the bathrooms for the plaza.

Mayor Halliday noted that while she was an early proponent of retaining the existing library, she did not support delaying the project because it would not be cost effective. Ms. Halliday was excited about the new library and returning the plaza to its historical purpose and noted that discussion about bathrooms for the plaza was going to continue.

Council Members generally appreciated the public participation and concurred there was a robust public outreach throughout the discussion of the project; recognized the community needed a performing arts facility and all needed to work in partnership.

It was moved by Council Member Mendall, seconded by Council Member Peixoto, and carried with Council Member Lamnin voting no, to adopt the following:

Resolution 15-175, “Resolution Approving Addenda No. 1-5 for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum Project, Project No. 06992, Rejecting the Bid Protest of Alten Construction, Inc, and Awarding the Contract to T.B. Penick & Sons, Inc.”

Resolution 15-176, “Resolution Amending Resolution 15-116, As Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2016, Relating to an Appropriation of Funds from the Measure C Capital Fund (Fund 406) to the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum Project, Project No. 06988”

12. Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 - Districts 1 and 8: Approval of Plans and Specifications and Call for Bids



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Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

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

Resolution 15-173, "Resolution Approving Plans and Specifications for Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 – Districts 1 and 8, Project, Project Nos. 05267 and 05121, and Call for Bids"

13. Municipal Parking Lot Nos. 3 and 4 Improvement Project - Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

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

Resolution 15-174, "Resolution Approving Plans and Specifications for the Municipal Parking Lots Nos. 3 and 4 Improvement Project, Project No. 05273, and Call for Bids"

WORK SESSION

14. Amendments to Hayward's Livestock Regulations Related to Keeping of Chickens and Other Fowl

Staff report submitted by Assistant Planner Christensen, dated September 15, 2015, was filed.

Development Services Director Rizk announced the report and introduced Assistant Planner Christensen who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff about: the two permitting options related to the keeping of chicken and other fowl; Zoning Conformance Permit fee and cost recovery; self-certification form; education requirement for animal keepers prior to issuance of a permit; beekeeping and possible allergies; and pigeons.

Council Members Zermeño and Jones favored alternative two which would not require a permit to allow chickens. Council Member Jones added he would favor adding regulatory measures if the keeping of chickens became a nuisance.

Council Members Márquez, Lamnin, Mendall and Mayor Halliday favored alternative one which would allow chickens and other fowl subject to the approval of a Zoning Conformance Permit. They also recommended that the fee be minimal and require minimum staff time. Council Member Mendall supported making the permit revocable.

Council Member Peixoto did not have a preference, but was concerned about how staff would respond to complaints.

PUBLIC HEARING

15. Proposed Subdivision and Construction of Four Office/Light Industrial Buildings on a 14.41-acre site at 28803 Marina Drive, requiring Adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Business Park to Planned Development, Tentative Parcel Map 10363, and an Addendum to the previously certified Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Elizabeth Cobb, Shea Properties (Applicant), Eden Shores Associates I, LLC (Owner)

Staff report submitted by Senior Planner Ajello and Economic Development Specialist Nguyen, dated September 15, 2015, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Ajello who provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding the following: left turn access out of the proposed site; Building 4 at the corner of Marina Drive and Industrial Boulevard; "Class A" industrial space; revenue generation and cost for services; day care in close proximity to Costco; sound walls; Business Park v. Planned Development uses; easier access to I-880/SR 92 interchange; and pedestrian travel path around the complex.

Mayor Halliday opened the public hearing at 11:05 p.m.

Ms. Elizabeth Cobb, Vice-President of Development for Shea Properties, delivered a presentation about Shea Properties and its proposal for Eden Shores and addressed questions raised regarding Building 4, pedestrian access around the site, and access to bay trail.

Mr. Mark Spencer, Principal of Traffic Engineer with W-Trans, spoke about access and traffic circulation for the site and noted that left turn access out of the site was not safe nor an effective circulation plan.



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Mayor Halliday closed the public hearing at 11:27 p.m.

Council Member Zermeño offered a motion per staff recommendation.

Council Member Márquez seconded the motion.

Council Member Lamnin supported the motion and offered the following recommendations: consider day care and lunch places and park space; consider gray water infrastructure and green roofs; and recommend that tenants be encouraged to engage with various educational institutions to keep jobs in Hayward.

Council Member Mendall supported the motion and noted he was pleased by the tenant restrictions put in place and was hopeful that Building 4 would be built and become a "Class A" office space.

Mayor Halliday noted support for the motion and noted appreciation for the consideration of a day care facility.

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

Resolution 15-177, "Resolution Adopting an Addendum to the Previously Certified Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Approving Tentative Parcel Map and Zone Change Application 201501690 Pertaining to the Subdivision and Construction of Four Industrial Business Park Buildings at 28803 Marina Drive"

Introduction of an Ordinance 15-_, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501690 Relating to the Construction of Four Industrial Business Park Buildings at 28803 Marina Drive"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez acknowledged organizers of the successful Vintage Alley Car Show held on September 12, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 11:37 p.m., in memory of former Hayward Police Chief Lloyd Lowe and Mr. Gilbert Zaballos. Chief Police Lowe joined the Police Department as a reserve in 1981 and took over the reigns as Chief in 2005 until his retirement in 2008. Mr. Gilbert "Gil" Zaballos was a partner in R. Zaballos & Sons and an active member of the Hayward Chamber of Commerce, Hayward Rotary Club, and numerous Hayward business and philanthropic organizations. It was noted that staff would work with both families to plant trees in their memories.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward