

**SPECIAL CITY COUNCIL MEETING
TUESDAY, MAY 26, 2020**

**DOCUMENTS RECEIVED
AFTER PUBLISHED AGENDA**

AGENDA QUESTIONS & ANSWERS

Items 2, 4, & 7

AGENDA QUESTIONS & ANSWERS

MEETING DATE: May 26, 2020

Item #2: [CONS 20-226](#) Adopt a Resolution Approving the Project List for FY21 Road Repair and Accountability Act (RRAA) Funding for the FY21 Pavement Improvement Project

Regarding the Road Repair and Accountability Act item on tonight's agenda (item 2 on the regular Council Agenda), the repairs seem to follow the path of the Highspeed Hayward fiber optic loop. Will installation of that infrastructure be part of this project?

This report is intended to approve the project list, and apply to the California Transportation Commission, for FY21 RRAA (SB1) state funding. The decision whether or not to include fiber optic or other non-pavement features, and identifying appropriate funding for them, can be made during the approval of the specific projects under FY21 pavement work next fiscal year.

This is what was included in the staff report last week for the award of contract for the FY20 Pavement Improvement Project:

“Paving on Huntwood Avenue will consist of 2.2 miles of preventive maintenance & 0.6 miles of rehabilitation. On January 22, 2020, during the CIC meeting, the Committee inquired about installing fiber optic on 2.8 miles of Huntwood Avenue. Based on staff’s engineering cost estimate, installing fiber optic on Huntwood Avenue would add over \$1,000,000 to the project. The funding sources for the paving project (Gas Tax, Measure B, Measure BB, Vehicle Registration Fees, and RRAA) are not eligible to be used for fiber optic installation. For these reasons, installation of a fiber optic line in this section of Huntwood Avenue was not included in the project.”

Typically, the funding sources for the installation of fiber optic are either grants or non-restricted City funds, such as General Fund.

Item #4: [CONS 20-247](#) Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$11,500 from the Chabot-Las Positas Community College District for Hayward Library Education Services Homework Support Center

These funds are stated to be for FY 2020; end date in the resolution is 8/30/20. What is the current and expected future status of the program?

The funds from Chabot are used to pay one time stipends to Chabot students who are tutors in the after-school Homework Support Centers. These funds cover the August 2019 to July 2020 period, and payment is for services already rendered during the 2019-2020 academic year. Because live homework help at the schools and library branches ceased

abruptly with the shelter in place orders, and the Library transitioned to providing virtual services, the full \$11,500 will not be used up in paying the tutors. Once the funds are appropriated and invoiced, the goal is to use to pay the tutors who will be returning in the next academic year. Discussions for various transitions and adjustments of programs have been ongoing with Chabot College, as well as CSUEB.

Item #: Item 7#: [LB 20-023](#) Salary and Benefits: Adopt a Resolution Amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager's Office, Human Resources, and City Attorney Employees (Report from Assistant City Manager/Interim Director of Human Resources Hurtado)

If employees take furlough, their vacation caps are lifted until the end of calendar year 2021. What happens then if the caps are exceeded?

Once the caps are reestablished, if the caps are exceeded, excess leave hours are forfeited and employees do not accrue additional leave until they bring their leave balance below the cap. Hours in excess of the cap are not cashed out.

The employees have the option to cash out up to (120) hours of accrued vacation and/or management leave each fiscal year in no more than two (2) payments, contingent on the employee using a minimum of eighty (80) hours paid vacation and/or management leave in the 12 months preceding the request and having at least 40 hours of vacation and/or management leave remaining after the cash out.

ITEM 3 – CONS 20-242

**ADOPT A RESOLUTION APPROVING A
FINANCING MODEL THAT SUPPORTS THE
DEVELOPMENT OF MIDDLE-INCOME
AFFORDABLE HOUSING AND AUTHORIZE THE
CITY MANAGER TO EXECUTE PURCHASE
OPTION AGREEMENTS WITH CALCHA**

PUBLIC COMMENTS

E-CLT

Eden Community Land Trust
a public 501(c)(3) corporation
22222 Redwood Road
Castro Valley, CA 94546

Néstor Castillo

Edencommunitylandtrust@gmail.com

May 26, 2020

VIA EMAIL

Hayward City Council
777 B Street
Hayward, CA 94541

Re: 5/26/2020 City Council Agenda Consent Item 3, CONS20-242

Dear Council Members:

As the Eden Community Land Trust, we came together to provide opportunities for low- and moderate-income people in the Eden Area to secure quality housing that is permanently affordable and will be controlled by residents on a long-term basis. We appreciate the city's attempt to address the "missing middle" in the current housing crises. However, this current proposal creates unnecessary obstacles to the goal of achieving deeper affordability and equitable access to housing for all.

We highlight four major concerns in our comments below: **1. Lack of transparency and local accountability; 2. Immediate affordability now, not 15 years from now; 3. Allowing tenants the first right of refusal; 4. Prioritize the need for housing that meets extremely low to very low income categories.**

In regard to transparency, we ask that the city keep us and the public informed regarding land transfers, Exclusive Negotiation Agreements, and entitlements. Furthermore, we would like to see the city develop a list of affordable housing partners and that Eden Community Land Trust be included in that list. The Community Land Trust model, used as a tool of preservation, creates permanent affordability for low and moderate-income residents through a 99-year lease. The proposed agreement gives the city the option of purchasing 15 years after the acquisition of a property and/or to transfer the property to an affordable housing provider as long as the owner approves it. We believe that the same goal can be accomplished through policies such as the Tenant/Community Opportunity to Purchase Act (TOPA/COPA) with a guarantee of permanent affordability. Through TOPA/COPA tenants will: have first rights of refusal, receive offer of sale notices, and receive notices of the transfer and the conversion of property to cooperatives or condominiums. Lastly, we believe the city has over emphasized the need for housing for 80% AMI and above and should work to meet the needs of residents who are most vulnerable to be displaced in the extremely low to very low-income categories, 30 - 60% of AMI.

We encourage the city council to withhold any action that does not deepen the affordability of housing in Hayward and prevent displacement especially during this critical moment in which the precariousness of housing has been fully highlighted.

Sincerely,

A handwritten signature in black ink, appearing to read 'NE' with a stylized flourish extending from the end.

Nestor Castillo
E-CLT Organizer



May 24, 2020

RE: Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA

Dear Mayor Halliday and City Council Members,

We encourage you to reconsider this item. In reviewing the February staff report and council meeting, and the latest staff report; a few things stood out to us.

First, we appreciate Councilmembers who flagged the relationship between Catalyst Housing Group and FPI Management, and that the latest staff report expressly excludes FPI from managing properties related to this program.

Regarding the merits of the proposed program

- While CalCHA is borne out of Kings County, **none of the projects advertised by their sole development partner - Catalyst Housing Group - are in Kings County.** This raises red flags. Why haven't they developed within the county of their founding? Why have their projects been exclusively outside of the county of their founding?
- One thing that arose from the Leisure Terrace situation, is that tenants should be notified of the TEFRA hearing and given the opportunity to understand the implications of the financing model before approval at the hearing. We understand the use of the Essential Housing Revenue Bonds is different, and that displacement is not necessarily inherent in this model, however:
 - Tenants should still be notified as a best practice
 - **Where would the public forum be for tenants to offer input on the conversion of their property before the bonds are awarded?**
- Upon entering the purchase period, the City of Hayward can assign its option to a non-profit housing provider. **Has the City of Hayward engaged with local non-profit housing providers to see how this potentially aligns with their own long-term housing plans?** It seems they are a stakeholder in this process, and yet none of the staff reports allude to them being engaged at all.
- It is our position that 30 years of guaranteed affordable housing is insufficient; especially when tax-exempt funds are being used. **The city should only enter into this program if it can guarantee the properties benefitting from this program will be acquired by City of Hayward (CoH) or one of the non-profit entities assigned CoH's option and remain affordable in perpetuity.**

Regarding Catalyst Housing Group and CalCHA

- CalCHA's website states they have retained GPM Municipal Advisors, LLC ("GPM") as an independent registered municipal advisor. Please note the following regarding GPM:



- GPM serves as the registered municipal advisor for the California Public Finance Authority (CalPFA) and the Wisconsin-based Public Finance Authority (PFA)
- CalPFA is also governed by the Kings County Board of Supervisors
- From September 22, 2019 The Press Democrat: ***While Kings County supervisors are nominally in charge, they usually take less than 15 minutes to run through whatever agenda is before them when they meet, according to a review of more than four years of meeting minutes.***¹
- GPM is a subsidiary of HB Capital. Please note the following regarding HB Capital:
 - From May 22, 2008 Orange County Register: *The [State] Treasurer's office also contends that California Communities intentionally schedules its meetings to avoid public scrutiny and generally operates more like a private business than a government agency.*²
 - From May 25, 2011 Los Angeles Times article: *HB Capital first sought to go national from California, pushing state legislation that would have allowed it to issue bonds anywhere in the country. That effort died after a report by Senate staffers indicating that the CSCDA's fees were higher than those of state issuers and that the agency was not subject to the same oversight.*³
 - "California Communities" and "CSCDA" are both California Statewide Communities Development Authority
 - We understand the City of Hayward to be a current member of CSCDA.

We are not claiming legally nefarious activity on the part of the GPM, its parent company, or Catalyst Housing Group; however the history of fees higher than those of state issuers is a concern, as well as the claim of lack of oversight. Further, the history of any combination of these entities continuing to establish "Public" authorities for the purpose of extracting wealth from financing models intended to serve a public benefit is of great concern. The fact that no meeting minutes are posted to their website points to a lack of transparency on the behalf of the agency, which is additionally worrisome.

Catalyst's online portfolio presently displays three properties:

- Annadel, Santa Rosa - acquired April 2019
- Verdant at Green Valley, Fairfield - acquired August 2019
- Serenity at Larkspur, Larkspur - acquired February 2020

For a council that consistently emphasizes the importance of data, there is a distinct lack of data regarding the merits of the CalCHA/Catalyst Housing proposal. **The staff report neither includes nor cites supporting documentation regarding the public benefits being realized in their other properties utilizing this model.**

- How much of a surplus has been actualized since the respective acquisitions?

¹ <https://www.pressdemocrat.com/news/9858870-181/central-valley-government-agency-jumps>

² <https://www.oregister.com/2008/05/22/public-agency-private-benefit/>

³ <https://www.latimes.com/business/la-xpm-2011-may-25-la-fi-hb-capital-20110525-story.html>



- What is the forecast for the coming year?
- Upon acquisition, what was the breakdown of tenants earning over 120% of AMI, up to 120% of AMI, up to 80% of AMI, and up to 50% of AMI?
- Presently, what is the breakdown of tenants based on the above mentioned AMI categories?
- What was the average rent upon acquisition?
- What is the average rent presently?
- What is the average rent increase over the past year?

From our perspective the City of Hayward is assigning its powers (including to enforce regulation), and the public’s right to participate in these decisions to an authority located 200 miles away.

We have been very critical of the City of Hayward’s inability to meet its assigned RHNA goals, and gracious in acknowledging cities rarely meet those goals. We have always stated that the City of Hayward can and needs to do better. “Better” needs to be accomplished through decisions and programs where the profit-motive has been mitigated; not compounded by equity firms and for-profit entities using legal means to extract wealth via tax-breaks meant to benefit the public.

Lastly, this proposal was not vetted by the Homelessness-Housing Task Force. Why? Why was this proposal chosen to “skip the line” and not adhere to established city procedures regarding policies surrounding homelessness and housing concerns? The fact that this housing model, which hinges upon acquisition of properties, was prioritized over Tenants’ First Right of Refusal/Tenants’ Opportunity to Purchase policies advances the concerns that **City of Hayward does not perceive the agency of the tenant community - a community that is disproportionately Black, Indigenous, and People of Color - as a priority.**

We encourage you to vote “No” on this proposal, or to table the conversation and demand greater research and data on what the actual long-term benefits are of this model, its players, and potential future stakeholders.

Sincerely,
Alicia G. Lawrence
Housing Justice Advocate
The Hayward Collective

ITEM 6 – WS 20-022

**RACIAL EQUITY ACTION PLAN:
REPORT ON THE CITY OF HAYWARD'S
DIVERSITY, EQUITY, AND INCLUSION WORK
AND RACIAL EQUITY ACTION PLAN**

PUBLIC COMMENTS

From: Alicia Lawrence
Sent: Tuesday, May 26, 2020 11:47 AM
To: List-Mayor-Council
Subject: RE: Racial Equity Action Plan

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor and City Council Members,

First, I want to express my appreciation to the cohort of City of Hayward staff presently engaged in this work. It is clear that a lot of consideration has been put into this action plan. As someone who has been very critical of the ways in which the City of Hayward - and its leaders - have failed to properly account for and speak to issues of race in this community, the thoughtfulness of this plan is significant.

There are a few things that stood out, that raise some concerns. It is possible these concerns are actively being addressed in the execution of the plan, but I wanted to be sure to bring them to attention in case they are not.

I appreciate the intention of the Guiding Vision, but it raises the question of whether or not there is an appropriate distinction between equity and equality in this action plan. It's hard to tell if the differences between the two are being made as part of the ongoing education within the action plan. People often conflate the two. We cannot achieve equity through equality, and the differences need to be spelled out.

We all speak of the "diversity" of Hayward, and we all need to break down what that means. What are we actually talking about when we say "diverse, equitable, and inclusive community?" Who are we striving to be inclusive of? If we - as a community - can't properly define what diversity we are celebrating, who we are inclusive of, and how we are equitable; then we fail to see who is being left out. I acknowledge this is a Racial Equity Action Plan, and the plan does speak to gender equity and equity for LGBTQ+ community members, but a distillation of what we mean when we say these words (diverse, equitable, and inclusive) is necessary in order to establish precisely who the intended work is for, who is not being accounted for, and how we account for them in later iterations or extensions of this work.

In the Organizational Change part of the plan, Section 1(a) says "All City staff and officials are required to participate in annual implicit bias training." Does this include City Council members? No matter the race or ethnicity of any of our council members, current or future, they should be expected to participate in this work. City Council sets policy, and simply receiving the information via a staff report is insufficient if Council members have not also received training on what it means to apply a racial equity lens.

It is exciting to see the creation of the Chief Equity Officer position, but the question is who will this person report to and what kind of access will they be provided? These roles are often set up to fail from the beginning because of an organization's pre-existing hierarchies, and the unconscious refusal of CEO-level leaders to give adequate authority to ensure the work of the Chief Equity Officer permeates all levels and aspects of the organization.* If there is any possibility for this role to report directly to Council, that would set a significantly better tone than having this position report to the City Manager.

The Service Provision section raises concerns regarding the distinction between race and ethnicity, and begs the question if the City is appropriately disaggregating data. In the execution of this action plan, is the distinction between race and ethnicity being made? For example, the Latinx community is not racially or culturally homogenous. Further, in Hayward the Latinx community is often treated as a homogenous group with a significant emphasis on Mexican culture. However, Latinidad includes over 25 countries with varying histories of migration to the United States, and - presently -

different language needs. This is not a monolithic group, and Hayward needs to do better about analyzing who makes up this group of Latinxs and how needs vary amongst the groups within Latinidad. A person who is a Mam-speaking new arrival has vastly different needs than a U.S.-born small business owner of Mexican descent. Those distinctions need to be properly accounted for within Hayward's analysis of Latinidad, as well as the growing Asian-American/Pacific Islander community.**

Again, I can see the hard work put into this plan. To the entire cohort; I thank you for your contributions. This input is offered with respect for the work being done, and a desire to see the fruits of that work succeed.

Sincerely,
Alicia

*<https://catapult.co/stories/women-of-color-chief-diversity-officers-cannot-fix-racist-company-culture-nadia-owusu>

**Please see PolicyLink's 2018 report for more details on the importance of disaggregating data:
https://www.policylink.org/sites/default/files/Counting_a_Diverse_Nation_08_15_18.pdf

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Alicia G. Lawrence
she/her/hers
Housing Justice Advocate