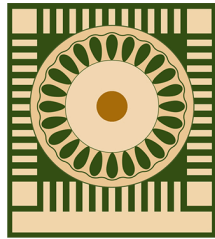


CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, January 3, 2023

5:30 PM

Virtual: Zoom Platform

City Council

SPECIAL CITY COUNCIL MEETING

NOTICE: The City Council will hold a virtual meeting via the Zoom platform.

How to observe the Meeting:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

1. Use eComment on the City's Meeting & Agenda Center webpage at: <https://hayward.legistar.com/Calendar.aspx>. eComments are directly sent to the iLegislate application used by City Council and City staff. Comments received before 3:00 p.m. the day of the meeting will be exported into a report, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda.

2. Send an email to List-Mayor-Council@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Documents received after 3:00 p.m. through the adjournment of the meeting will be included as part of the meeting record and published the following day.

How to provide live Public Comment during the City Council Meeting:

Click link below to join the meeting:

<https://hayward.zoom.us/j/81713507763?pwd=NzVGZ0JGaGVjNWNieXVnN0MwV2gzZz09>

Meeting ID: 817 1350 7763

Password: C1/3@530pm

or

Dial: +1 669 900 6833 or +1 646 931 3860

Meeting ID: 817 1350 7763

Password: 7700601210

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

CALL TO ORDER: Mayor Salinas**Pledge of Allegiance: Council Member Andrews****ROLL CALL****PUBLIC COMMENTS**

Limited to Items on the Agenda.

CITY MANAGER'S COMMENTS

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

ACTION ITEMS

The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.

CONSENT

1. [CONS 23-003](#) Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Exhibit A to Resolution](#)

LEGISLATIVE BUSINESS

2. [LB 23-001](#) City Council Vacancy: Update on Appointment Process to Fill Two-Year City Council Vacancy (Report from City Clerk Lens)

Attachments: [Attachment I Staff Report](#)
[Attachment II News Release](#)
[Attachment III Proof of Publication](#)
[Attachment IV Application](#)

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events to comply with AB 1234 requirements (reimbursable expenses for official activities).

COUNCIL REFERRALS

Council Members may bring forward a Council Referral Memorandum (Memo) on any topic to be considered by the entire Council. The intent of this Council Referrals section of the agenda is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff.

ADJOURNMENT**NEXT SPECIAL MEETING, January 9, 2023****PUBLIC COMMENT RULES**

Any member of the public desiring to address the Council shall limit their address to three (3) minutes unless less or further time has been granted by the Presiding Officer or in accordance with the section under Public Hearings. The Presiding Officer has the discretion to shorten or lengthen the maximum time members may speak. Speakers will be asked for their name before speaking and are expected to honor the allotted time.

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council adopted Resolution No. 87-181 C.S., which imposes the 90-day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the City website, Cable Channel 15 - KHRT, and YouTube.****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or cityclerk@hayward-ca.gov.

Assistance will be provided to those requiring language assistance. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400.



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: CONS 23-003

DATE: January 3, 2023

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

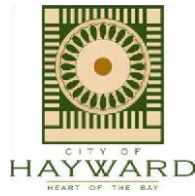
SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Exhibit A

File #: CONS 23-003



DATE: January 3, 2023

TO: Mayor and City Council

FROM: City Manager
City Clerk

SUBJECT: Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

BACKGROUND

In general, the Brown Act allows legislative bodies to use teleconferencing during a public meeting as long as certain requirements are met, such as:

- Identification of any remote location from which a member of the legislative body is participating via teleconference;
- Posting of agendas at all remote locations from which members of the legislative body are participating;
- Public accessibility to the remote location and the technological means for allowing the public to participate in the meeting from the location; and
- A quorum of the members must be participating from a location within the jurisdiction of the legislative body.

In response to the COVID 19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements.

With the expiration of Executive Order N-29-20, AB 361 amends the Brown Act to allow virtual public meetings during a state of emergency proclaimed by the Governor. A local agency may hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body.

AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency. However, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist:

- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

DISCUSSION

On February 25, 2022, the Governor issued Executive Order N-04-22 repealing many of his prior Executive Orders imposing various mandates intended to address the impact of COVID 19. However, the Governor did not lift the State of Emergency related to COVID 19 that he initially proclaimed on March 4, 2020. As of the date of this report, the State of Emergency proclaimed by the Governor remains in effect.

Current guidance and orders of the Alameda County Health Official satisfy both conditions necessary for the AB 361 findings described above:

- Order No. 20-06t, originally issued April 3, 2020 and most recently amended on August 24, 2022, imposes a mandate that all individuals diagnosed with COVID 19 must isolate themselves and follow requirements further specified in the Order. The Order further aligns with current California Department of Public Health Guidance on Isolation and Quarantine of the General Public, specifically that individuals who are exposed/close contacts of infected individuals need not isolate if they are asymptomatic and are recommended to test and wear masks as specified in the Order and Department of Public Health guidance.
- On June 24, 2022, the Alameda County Health Officer issued Order No. 22-03 rescinding the general mask mandate imposed by Order No. 22-02. Current Alameda County Health Officer guidelines require all individuals in Alameda County, regardless of vaccination status or prior history of COVID illness, to wear face coverings in the following situations:
 - Indoors when required by business, government offices, youth-serving facilities, and workplace settings.
 - When required by trains, buses, ferries, taxis, and rideshare operators.
 - Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
 - Healthcare settings.
 - Long-term care settings and adult and senior care facilities.
 - Persons exposed to someone with COVID-19 should wear a mask for 10 days.
 - Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.
 - Correctional facilities and detention centers located within Alameda County.
 - Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
- With the exception of the situations described above, effective September 23, 2022, the California Department of Public Health and Alameda County Public Health Department guidance on use of face masks for the general population shifts from strong recommendation in all indoor settings at all times to use of Centers for Disease Control Community Levels to help inform masking recommendations.
- Current CDC COVID 19 Community Level for Alameda County is Medium. Consequently, the general public may mask based on personal preference, informed by their own personal level of risk. Vulnerable people are encouraged to wear a mask in crowded indoor public places. Vulnerable people include the unvaccinated, people who are immunocompromised, people with certain disabilities or underlying health conditions, or those at risk of severe illness or death if infected with COVID-19. When COVID levels are Medium or High, non-healthcare high-risk

indoor settings such as homeless shelters, emergency shelters, and heating/cooling centers must reinstate universal masking requirements for all staff and residents, regardless of if there are no outbreaks within the facility.

- Workplaces must comply with Cal/OSHA safety standards.

The following current guidance from the California Department of Public Health satisfies the AB 361 findings:

- Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
- Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
- Workplaces must comply with Cal/OSHA safety standards.
- Local jurisdictions may implement additional requirements that go beyond statewide guidance.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged.

Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

Currently, the Council is holding hybrid Council meetings that allow for virtual participation via the Zoom platform as well as in-person participation. This format also allows for real-time public comments, in compliance with AB 361. All City commissions, task forces, and Council committees continue meeting entirely virtually over the Zoom platform.

Based on the above, staff recommends that the Council adopts the attached resolution making the necessary findings to allow the Council and the appointed boards and commissions identified in Exhibit A to the resolution to continue holding teleconferenced meetings pursuant to AB 361.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council’s Strategic Roadmap.

NEXT STEPS

Adoption of the resolution will allow the Council and specified appointed committees and commissions to hold a subsequent teleconferenced meeting pursuant to the provisions of AB 361. Additional resolutions must be adopted every thirty days during the existence of the state of emergency in order to continue holding teleconferenced meetings.

Prepared and Recommended by:

Miriam Lens, City Clerk
Michael Vigilia, Sr. Assistant City Attorney

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-

Introduced by Council Member _____

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO AB 361 TO
CONTINUE TO HOLD TELECONFERENCED PUBLIC MEETINGS DURING THE
COVID 19 STATE OF EMERGENCY

WHEREAS, the Brown Act (Government Code section 54950 et seq.) allows for public meetings of a legislative body to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction; and

WHEREAS, in response to the COVID-19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements; and

WHEREAS, the Governor signed AB 361 prior to the expiration of Order N-29-20; and

WHEREAS, AB 361 amends the Brown Act to the legislative body of a local agency to hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body; and

WHEREAS, AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency, however, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings specified in the statute justifying the continued use of teleconferenced public meetings; and

WHEREAS, it shall be the policy of the City that the appointed boards and commissions of the City will hold teleconferenced public meetings in compliance with the provisions of AB 361 during the COVID-19 state of emergency; and

WHEREAS, the COVID-19 state of emergency declared by the Governor remains active; and

WHEREAS, public meetings involve many people in shared indoors spaces for hours, when the number of people present does not always allow for a minimum six-foot distance between persons, and close contacts raise the risk of the spread of COVID-19; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-06t (originally issued April 3, 2020 and most recently amended on August 24, 2022) imposing a mandate that all individuals diagnosed with COVID-19 must isolate themselves and follow requirements further specified in the Order; and

WHEREAS, Order No. 20-06t also aligns with California Department of Public Health Guidance on Isolation and Quarantine of the General Public, specifically that individuals having close contacts/exposure to infected persons are not required to quarantine as long as they remain asymptomatic but are recommended to test and wear a mask as specified by the Order and California Department of Public Health guidance; and

WHEREAS, the Alameda County Health Officer has issued Order No. 22-03 (effective on June 25, 2022), rescinding the general mask mandate imposed by Order No. 22-02; and

WHEREAS, the Alameda County Public Health Department currently requires face coverings in the following situations:

- Indoors when required by businesses, government offices, youth-serving facilities, and workplace settings.
- When required by trains, buses, ferries, taxis and rideshare operators.
- Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
- Healthcare settings.
- Long-term care settings and adult and senior care facilities.
- Correctional facilities and detention centers.
- Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
- Persons exposed to someone with COVID-19 should wear a mask for 10 days.
- Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.

WHEREAS, with the exception of the situations described above, effective September 23, 2022, the California Department of Public Health and Alameda County Public Health Department guidance on use of face masks for the general population shifts from strong recommendation in all indoor settings at all times to use of Centers for Disease Control Community Levels to help inform masking recommendations; and

WHEREAS, current CDC COVID 19 Community Level for Alameda County is Medium. Consequently, the general public may mask based on personal preference, informed by their own personal level of risk. Vulnerable people are encouraged to wear a mask in crowded indoor public places. Vulnerable people include the unvaccinated, people who are immunocompromised, people with certain disabilities or underlying health conditions, or those at risk of severe illness or death if infected with COVID-19. When COVID levels are Medium or High, non-healthcare high risk indoor settings such as homeless shelters, emergency shelters, and heating/cooling centers must reinstate universal masking requirements for all staff and residents, regardless of if there are no outbreaks within the facility.; and

WHEREAS, workplaces must comply with Cal/OSHA safety standards; and

WHEREAS, the California Department of Public Health has issued the following current guidance:

- Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
- Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged; and

WHEREAS, Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward makes the following findings pursuant to AB 361 to continue holding teleconferenced public meetings during the COVID-19 state of emergency:

- The City Council has reconsidered the circumstances of the state of emergency.
- The COVID 19 state of emergency declared by the Governor remains active and continues to directly impact the ability of Councilmembers to meet safely in-person.
- State and local officials continue to recommend or impose measures to promote social distancing.
- The Alameda County Health Officer has issued orders imposing measures to promote social distancing via isolation and quarantine of individuals infected or likely infected with COVID-19 and individuals with close contact to persons infected with COVID-19.
- The Alameda County Health Officer requires face coverings to be worn in the following settings:
 - Indoors when required by businesses, government offices, youth-serving facilities, and workplace settings.
 - When required by trains, buses, ferries, taxis and rideshare operators.
 - Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
 - Healthcare settings.
 - Long-term care settings and adult and senior care facilities.
 - Local correctional facilities and detention centers.
 - Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters, and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
 - Persons exposed to someone with COVID-19 should wear a mask for 10 days.
 - Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.
- The California Department of Public Health has issued the following guidance:
 - Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
 - Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
 - Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
 - Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.

- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged.
- Workplaces must comply with Cal/OSHA safety standards.

BE IT FURTHER RESOLVED that in the interest of public health and safety, based on the findings contained herein, the City Council of the City of Hayward and the appointed boards and commissions identified in Exhibit A of this Resolution shall continue to hold teleconferenced public meetings pursuant to AB 361.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A

- Community Services Commission
- Keep Hayward Clean and Green Task Force
- Library Commission
- Personnel Commission
- Planning Commission
- Council Airport Committee
- Council Budget and Finance Committee
- Council Economic Development Committee
- Council Infrastructure Committee
- Council Homelessness-Housing Task Force
- Council Sustainability Committee
- Hayward Youth Commission
- Hayward Police Department Community Advisory Panel



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: LB 23-001

DATE: January 3, 2023

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

City Council Vacancy: Update on Appointment Process to Fill Two-Year City Council Vacancy

RECOMMENDATION

That the City Council receives and reviews applications received from qualified individuals interested in appointment to the two-year vacant City Council seat; and reviews and approves the interview process for January 9, 2023.

SUMMARY

At the December 13, 2022 City Council meeting, the Council approved a process for filling a two-year City Council vacancy created when then Council Member Mark Salinas was elected Mayor and sworn into office on December 13, 2022.

Applications for the City Council vacancy were made available beginning December 14, 2022 at City Hall and on the City's website at <https://www.hayward-ca.gov/your-government/city-council>. A news release (Attachment II) announced the vacancy and information on the application was issued on December 15, 2022, and a Public Notice (Attachment III) was published in the Daily Review c/o Bay Area News Group-East Bay on Friday, December 16, 2022.

The application period is scheduled to close at 9:00 a.m. on January 3, 2023, and a list of qualified candidates will be published on the City's website under the "Documents Received After Published Agenda" column of the Meeting and Agenda Center. Qualified applications will be sent to the City Council via email by noon on January 3, 2023, and the information will be available to the public upon request.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	News Release
Attachment III	Public Notice

File #: LB 23-001

Attachment IV Application



DATE: January 3, 2023

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: City Council Vacancy: Update on Appointment Process to Fill Two-Year City Council Vacancy

RECOMMENDATION

That the City Council receives and reviews applications received from qualified individuals interested in appointment to the two-year vacant City Council seat; and reviews and approves the interview process for January 9, 2023.

SUMMARY

At the December 13, 2022 City Council meeting¹, the Council approved a process for filling a two-year City Council vacancy created when then Council Member Mark Salinas was elected Mayor and sworn into office on December 13, 2022.

Applications for the City Council vacancy were made available beginning December 14, 2022, at City Hall and on the City's website at <https://www.hayward-ca.gov/your-government/city-council>. A news release (Attachment II) announced the vacancy and information on the application was issued on December 15, 2022, and a Public Notice (Attachment III) was published in the Daily Review c/o Bay Area News Group-East Bay on Friday, December 16, 2022.

The application period is scheduled to close at 9:00 a.m. on January 3, 2023, and a list of qualified candidates will be published on the City's website under the "Documents Received After Published Agenda" column of the Meeting and Agenda Center². Qualified applications will be sent to the City Council via email by noon on January 3, 2023, and the information will be available to the public upon request.

¹ December 13, 2022 City Council Meeting – Council Vacancy Process
<https://hayward.legistar.com/MeetingDetail.aspx?ID=1056027&GUID=1DF843FF-0BFA-4499-8C61-07F20A0BC219&Options=info|&Search=>

² Meeting and Agenda Center
<https://hayward.legistar.com/Calendar.aspx>

DISCUSSION

City staff recommends that, following review of the applications, each member of the City Council select up to five applicants and individually notify their selection to the City Clerk by noon on Thursday, January 5, 2023. The City Clerk would tally choices and would invite applicants who received three or more points to interview with the City Council on Monday, January 9, 2023. If there are less than five applications, the Council could decide this evening whether to interview all candidates or fewer depending on the preliminary review of applications.

The following interview process is being recommended for Council's use on January 9, 2023, in considering the applicants for appointment to the vacant two-year term.

- 1) Interviews will be conducted in the Council Chambers at a special City Council meeting on Monday, January 9, 2023, starting at 5:30 p.m.
- 2) The order of interviews will be determined by a random draw of all the selected applicants' names. The random draw will take place at the beginning of the meeting.
- 3) Applicants will have a total of thirty (30) minutes for each interview. The timer will be managed by the City Clerk.
 - a. Each applicant will have three (3) minutes to present their qualifications and discuss their candidacy with the City Council.
 - b. Twenty-five (25) minutes will be allocated for Council to ask questions after the applicant's opening remarks and for candidates to respond.
 - c. Each applicant will have two (2) minutes to make closing remarks.
- 4) Applicants will be present in the Council Chambers during Public Comment and as Council publicly explains the interview process and format. Applicants will be escorted to Conference Room 2B until they make their presentation before Council for the individual interview. Applicants will not be allowed to use any cell phones or other smart technology while waiting their turn to interview. A staff member of the City Clerk's office will be in the room with the applicants, and another will escort applicants into the Council Chambers at their scheduled times. Applicants will be allowed to remain in the Council Chambers after they complete their interview.
- 5) The entire process in the Council Chambers will be live streamed via KHRT, Zoom, and the City's website as done with regular Council meetings.
- 6) Members of the City Council will have copies of the applicant's completed applications at the dais for their reference.
- 7) There will be no set pre-established questions. The Mayor will allow each member of the City Council to ask one question of each applicant. Follow-up questions by members of the City Council will be allowed according to the timing format and at the discretion of the Mayor.
- 8) The Mayor will manage the starting order of questions with each candidate, rotating among Council members and ensuring the same questions are asked of each applicant.
- 9) Upon completion of the interviews, the Mayor will call for nominations. A nomination does not require a second. After all nominations have been made, the Mayor will call for a motion and a second to close nominations.

10) After nominations have been closed, the Mayor will call for a vote on each nominee (in the order in which they are made). The first nominee to receive four or more votes will be the new member.

The recommended process would be used for Council to interview applicants and then make a selection for the two-year unexpired Council Member seat. If the appointment process is unsuccessful, the Council would direct the City Clerk to proceed with the special election.

FISCAL IMPACT

There is no fiscal impact associated with the appointment process.

STRATEGIC ROADMAP

The agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

PUBLIC CONTACT

The Notice of Vacancy on the City Council was published in the Daily Review c/o Bay Area News Group-East Bay on Friday, December 16, 2022, posted on the City's website, published, and disseminated via social media and posted at public places.

Prepared and Recommended by: Miriam Lens, City Clerk
Kelly McAdoo, City Manager
Michael Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager



FOR IMMEDIATE RELEASE

Media Contact:

Chuck Finnie

(510) 583-4434

chuck.finnie@hayward-ca.gov

Hayward accepting applications for appointment to City Council and Planning Commission

HAYWARD, Calif., Dec. 15, 2022—The City of Hayward is accepting applications from City residents for appointment to vacant seats on the Hayward City Council and Planning Commission.

Under the City Charter, service on the City Council is limited to Hayward residents who are registered to vote while service on the Planning Commission is open to all Hayward residents regardless of whether they are registered to vote or eligible to be registered to vote.

Appointment to the City Council would be to complete the remaining two years of the term of the Council seat vacated by Mayor Mark Salinas with his swearing-in as Mayor on Tuesday. Appointment to a Council seat is by majority vote of the Council. The deadline to apply for appointment to the Council seat vacated by Mayor Salinas is 9 a.m. Jan. 3, 2023.

Under a process approved by the City Council on Tuesday, Councilmembers will formally receive the applications for appointment to the vacated Council seat during a special Council meeting on Jan. 3 and select, by noon on Jan. 5, up to five applicants to be invited to be interviewed and considered for appointment during a special Council meeting on Jan. 9. If no appointment is made, the Council will direct the City Clerk to call a special municipal election to fill the vacant Council seat.

Appointment to the Planning Commission would be to complete the term of the Commission seat vacated by new Councilmember Julie Roche and an alternate vacancy resulting from the departure of former Commissioner Zachariah Oquenda, who resigned on Nov. 14.

Appointment to the Planning Commission is by majority vote of the City Council. The term of the Commission seat vacated by Councilmember Roche ends Sept. 30, 2023. The deadline to

apply for appointment to the vacated Commission seat or alternate vacancy is 5 p.m. Jan. 12, 2023.

To fill the vacant Planning Commission seats, applications received by the 5 p.m. Jan. 12 deadline will be reviewed by members of the City Council. Applicants selected through the Council screening process will be invited for an interview before the City Council at a special meeting on Jan. 17.

Online applications for appointment to the City Council are available [here](#). Online applications for appointment to the Planning Commission are available [here](#). For paper copies of both applications, visit the Office of the City Clerk at Hayward City Hall, 777 B Street, 4th Floor, Hayward, or call (510) 583-4400. Please note City Hall will be closed to the public during a holiday business closure from Dec. 23 to Jan. 2.

Daily Review

c/o Bay Area News Group-East Bay
800-595-9595

2050945

CITY OF HAYWARD/CITY CLERK
MIRIAM LENS
777 B ST.
HAYWARD, CA 94541

PROOF OF PUBLICATION**FILE NO. Vacancy Notice / Election Notice****Daily Review**

The Daily Review

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Daily Review, a newspaper published in the English language in the City of Hayward, County of Alameda, State of California.

I declare that the Daily Review is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's decree, dated March 2, 1950, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Daily Review as a Newspaper of General Circulation, case number 221938. Said decree states that "'The Daily Review' has been established, printed, and published daily in the City of Hayward, County of Alameda, State of California, for one year or more next preceding the date of the filing of said petition; that it is a newspaper published for the dissemination of local and telegraphic news and intelligence of a general character and has a bona fide subscription list of paying subscribers; ... [] [and] THEREFORE, ... 'The Daily Review' is hereby determined and declared to be a newspaper of general circulation [within the meaning of Government Code §§ 6000 et seq.]" Said decree has not been revoked, vacated or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

12/16/2022

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Rio Vista, California.
On this 16th day of December, 2022.



Public Notice Advertising Clerk

Legal No. **0006719978**

**NOTICE OF INTENTION TO FILL A VACANCY
FOR A MEMBER OF THE HAYWARD CITY COUNCIL
BY APPOINTMENT**

NOTICE IS HEREBY GIVEN that the City of Hayward will accept applications from qualified registered voters to fill the remaining two years of former Council Member Mark Salinas' term. The vacancy was created when Salinas was elected Mayor on November 8, 2022, and sworn into office on Tuesday, December 13, 2022.

Applicants must be residents of incorporated Hayward and qualified registered voters of the City of Hayward. The term of this Council seat will begin on the appointment date and will expire subsequent to the certification of canvass of the General Municipal Election in 2024, and assumption of the office of Council Member by the duly elected candidate.

All interested applicants must complete an application which is available from the Office of the City Clerk, 777 B Street, Hayward or online at www.hayward-ca.gov. All completed applications must be submitted online or via email to cityclerk@hayward-ca.gov by 9:00 a.m., Tuesday, January 3, 2023. No application will be accepted without a completed questionnaire or after the deadline.

Applications received will be screened by members of the City Council. Those candidates selected from the screening process will be invited for an interview before the City Council at a Special City Council meeting on Monday, January 9, 2023. The City Council will interview candidates separately and each applicant will have the opportunity to present their qualifications and discuss their candidacy with the City Council. The City Council may appoint the new Council Member at the end of this meeting.

For further information, please call the City Clerk at (510) 583-4400 or email cityclerk@hayward-ca.gov

Application Period:

Wednesday, December 14, 2022, through Tuesday, January 3, 2023

Applications available from:

City Clerk's Office - 777 B Street, Hayward, CA 94541
December 14 to December 22, 2022, 8:00 a.m. to 5:00 p.m.
City Hall is observing a holiday business closure from December 23, 2022, to January 2, 2023.

and on City's website at www.hayward-ca.gov

Application Deadline: Tuesday, January 3, 2023, 9:00 a.m.

Dated: December 16, 2022
Miriam Lens, City Clerk
City of Hayward

**CITY OF HAYWARD
CALL AND NOTICE OF
SPECIAL MAIL BALLOT MUNICIPAL ELECTION**

NOTICE IS HEREBY GIVEN that a Special Mail Ballot Municipal Election will be held in the City of Hayward on Tuesday, May 2, 2023, to fill the following vacancy created by the election of Mayor Salinas:

Member of the City Council (two-year term)

The nomination period for this office begins on January 9, 2023, and closes on February 3, 2023, at 5:00 p.m. City Hall is open Monday through Friday except during holidays.

Nomination information can be obtained in the Office of the City Clerk, 777 B Street, Hayward, California, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or by calling (510) 583-4400.

If the City Council successfully fills the two-year term vacancy by appointment, there will not be a special election to fill such vacancy. For more information, please call (510) 583-4400 or email cityclerk@hayward-ca.gov.

DATED: December 16, 2022
Miriam Lens, City Clerk
City of Hayward

DR 6719978; Dec. 16, 2022

Hayward City Council Vacancy

Application to fill a two-year term vacancy on the Hayward City Council. This application will be forwarded to the City Council for consideration to fill the vacancy for the term ending December 2024.

Submit a physical copy by 9 a.m. on Tuesday, Jan. 3, 2023 to:

Miriam Lens, City Clerk
City of Hayward
777 B St. 4th Floor
Hayward, CA 94541
(510)583-4401

No application (print or digital) will be accepted after the deadline.

*** Required**

1. First Name *

2. Last Name *

3. Gender *

Mark only one

Mark only one oval.

Female

Male

Nonbinary or third gender

Prefer to self-describe

Prefer not to say

Other: _____

4. Home Address (Street Address, City, State, Zip Code) *

ex: 777 B St. Hayward, CA, 94541

5. Phone Number *

ex: 510-583-4400

6. Are you a resident of incorporated Hayward? *

Mark only one oval.

Yes

No

7. Are you a registered voter? *

Mark only one oval.

Yes

No

8. Please list any languages you speak, read, and/or write besides English and your proficiency in each language.

City Council History

9. Have you ever served on the Hayward City Council? *

Mark only one oval.

Yes

No

10. If yes, when?

Example: January 7, 2019

Current Employment Information

11. Current Employer *

12. Current Employer Address *

13. Position *

14. Dates of Employment *

15. Responsibilities *

Questionnaire

16. Describe your education, training, and/or any special certifications relevant to serving on the City Council: *

One (1) separate sheet may be attached

17. Explain why you want to be appointed to the City Council and what your goals for the two years will be if you are selected: *

One (1) separate sheet may be attached

18. List any previous City of Hayward Commission, Committee, or Task Force on which you have served; and any other relevant Hayward community service in which you have been involved or are currently involved: *

One (1) separate sheet may be attached

19. Briefly, please provide information on any additional relevant experience you believe supports your qualifications for this appointment: *

One (1) separate sheet may be attached

Signature

*

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed. I am also aware that this application is a public document. If appointed, I will file the necessary disclosure documents required under the Political Reform Act.

Signature:

I certify under penalty of perjury that the foregoing is true and correct *

Signature:

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