

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, March 19, 2019

7:00 PM

Council Chambers

City Council

**CONCURRENT MEETING OF THE SPECIAL JOINT HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT BOARD OF DIRECTORS AND
CITY COUNCIL**

**HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)
BOARD OF DIRECTORS MEETING**

CALL TO ORDER Pledge of Allegiance: Council/GHAD Member Wahab

ROLL CALL

CONSENT

1. [CONS 19-171](#) Minutes of the Hayward Geologic Hazard Abatement District Board Meeting on February 5, 2019

Attachments: [Attachment I Draft GHAD Minutes of 2/5/2019](#)

2. [CONS 19-170](#) Minutes of the Hayward Geologic Hazard Abatement District Board Meeting on February 26, 2019

Attachments: [Attachment I Draft GHAD Minutes of 2/26/2019](#)

PUBLIC HEARING

3. [PH 19-021](#) Adopt a Resolution to Declare the GHAD's Intent to Order an Assessment for the Ersted Property and Set a Public Hearing 45 days after Notice is Provided to Consider the Proposed Assessment and any Protests thereto

Attachments: [Attachment I Staff Report](#)
[Attachment II GHAD Resolution 19-04](#)

The Hayward Geologic Hazard Abatement District Board of Directors Adjourns and Reconvenes into the Meeting of the City Council

CITY COUNCIL MEETING**CLOSED SESSION ANNOUNCEMENT****PRESENTATION**

American Red Cross Month

LEGISLATIVE BUSINESS (Unfinished Business from March 5, 2019)

1. [LB 19-011](#) Introduction of the Hayward Community Foundation Concept, Formation Process, and Authorization for the City Manager to Establish an Affiliate Fund with the East Bay Community Foundation to Create the Hayward Community Foundation (Report from City Manager McAdoo)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

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

2. [MIN 19-027](#) Minutes of the City Council Meeting on February 19, 2019

Attachments: [Attachment I Draft Minutes of 2/19/2019](#)

3. [MIN 19-033](#) Minutes of the City Council Meeting on February 26, 2019

Attachments: [Attachment I Draft Minutes of 2/26/2019](#)

4. [CONS 19-163](#) Authorize the City Manager to Accept and Appropriate up to \$150,000 from the California State Library for Hayward Library's Education Services Programs
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
5. [CONS 19-158](#) Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program Permit Application Review Services, for Round 1, Tier 2 Applications, and Increasing the Compensation Amount Not to Exceed \$250,838
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Scope of Services](#)
6. [CONS 19-161](#) Resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, Effective Immediately
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resignation Letter](#)
7. [CONS 19-162](#) Resolution to Initiate the Formation and Annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Vicinity Map](#)

PUBLIC HEARING

8. [PH 19-020](#) Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 Related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring the Introduction of an Ordinance and the Adoption of a Resolution Approving Zoning Text Amendment Application No. 201900727 (Report from Development Services Director Simpson)

Attachments: [Attachment I Staff Report](#)
[Attachment II Ordinance](#)
[Attachment III Resolution](#)
[Attachment IV Cannabis Land Use Maps](#)
[Attachment V PC Draft Minutes 2/28/19](#)

LEGISLATIVE BUSINESS

9. [LB 19-017](#) Adoption of Proposed Revisions to the Council Member Handbook Section on “Order of Business related to Council Reports, Referrals and Future Agenda Items” (Report from City Manager McAdoo)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Exhibit A Council Member Handbook - Council Referral Section](#)
[Attachment III Council Member Handbook 2017](#)
[Attachment IV Sample Council Referral Memo](#)

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.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

ADJOURNMENT**NEXT MEETING, March 26, 2019, 7:00 PM****PUBLIC COMMENT RULES**

Any member of the public desiring to address the Council shall limit her/his 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. Speaker Cards are available from the City Clerk at the meeting.

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 website and on Cable Channel 15, KHRT. ****

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 TDD (510) 247-3340.

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 19-171

DATE: March 19, 2019

TO: Geologic Hazard Abatement District Board

FROM: GHAD City Manager

SUBJECT

Minutes of Hayward Geologic Hazard Abatement District Board Meeting on February 5, 2019

RECOMMENDATION

Approve the Minutes of Hayward Geologic Hazard Abatement District Board Meeting on February 5, 2019

SUMMARY

Minutes of Hayward Geologic Hazard Abatement District Board Meeting on February 5, 2019

ATTACHMENTS

Attachment I Minutes of 2/5/19

**MINUTES OF HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT
BOARD MEETING
OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 5, 2019**

The Hayward Geologic Hazard Abatement District Board meeting was called to order by Board Chair Halliday at 7:02 p.m., followed by the Pledge of Allegiance led by Board Chair Halliday.

ROLL CALL

Present: BOARD MEMBERS Zérmemo, Márquez, Mendall, Lamnin, Salinas, Wahab and Halliday

Absent: None

MINUTES

1. None.

PUBLIC HEARING

1. Accept Petition for Annexation of the Ersted Property (Tract 8439) into the Existing Hayward GHAD; Accept Draft Ersted Property Plan of Control (December 24, 2018); Adopt Hayward GHAD Resolution No. 19-01 to Direct a Public Hearing be Held after Providing no less than 20 days' Notice to the Landowners in the Annexation Area to Consider the Proposed Annexation of Territory into the Existing Hayward GHAD, and Accept any Written Objection thereto; and Direct the Hayward GHAD Manager, or its Designee, to Mail, by First Class Mail, a Written Notice of the Hearing to Consider the Proposed Annexation and the Proposed Plan of Control to Each Owner of Real Property as Required by GHAD Law (PH 19-008).

Staff report submitted by GHAD Manager and GHAD Attorney dated February 5, 2019, was filed.

Following a public hearing to consider acceptance of the Petition for Annexation at which no public testimony was offered, the hearing was thereafter closed. Board Member Lamnin requested the draft Plan of Control include an appeal provision to allow for an appeal of certain GHAD Manager determinations. It was moved by Board Member Lamnin, seconded by Board Member Mendall, and carried unanimously to adopt the following:

HGHAD 19-008 "Resolution Accepting Petition for Annexation of the Ersted Property and Directing a Public Hearing be Held on the Request for Annexation"

ADJOURNMENT

GHAD Board Chair Halliday adjourned the meeting at 7:15 pm.

APPROVED:

Barbara Halliday, Board Chair
Hayward Geologic Hazard Abatement District

ATTEST:

Patricia E. Curtin, Clerk
Hayward Geologic Hazard Abatement District



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
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File #: CONS 19-170

DATE: March 19, 2019

TO: Geologic Hazard Abatement District Board

FROM: GHAD Manager

SUBJECT

Minutes of Hayward Geologic Hazard Abatement District Board Meeting on February 26, 2019

RECOMMENDATION

Approve the Minutes of Hayward Geologic Hazard Abatement District Board Meeting on February 26, 2019

SUMMARY

Minutes of the Hayward Geologic Hazard Abatement District Board Meeting on February 26, 2019

ATTACHMENTS

Attachment I Minutes of 2/26/19

**MINUTES OF HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT
BOARD MEETING
OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 26, 2019**

The Hayward Geologic Hazard Abatement District Board meeting was called to order by Board Vice-Chair Zérmemo at 7:01 p.m., followed by the Pledge of Allegiance led by Board Vice-Chair Zérmemo.

ROLL CALL

Present: BOARD MEMBERS Zérmemo, Márquez, Lamnin, Salinas, Wahab

Absent: BOARD MEMBERS Halliday and Mendall

MINUTES

1. None.

PUBLIC HEARING

1. Hearing to Adopt Resolution No. 19-02 Approving the Annexation of the Ersted Property into the Hayward Geologic Hazard Abatement District and to adopt Resolution No. 19-03 Approving the Ersted Property Plan of Control (PH 19-016)

Staff report submitted by GHAD Manager and GHAD Attorney dated February 26, 2019, was filed with the modification of the property owner's name from "Grupe Investment Company, LLC" to "Hayward Tennyson Land, LLC"

Following a public hearing to proposed annexation and approval of the Plan of Control at which no public testimony was offered, the hearing was closed. Board Member Lamnin requested the draft Plan of Control appeal provision found at Section 5.8 be modified to require appeals be submitted to the GHAD Clerk rather than to the GHAD Manager. It was moved by Board Member Lamnin, seconded by Board Member Márquez, and carried unanimously by the Board members present to adopt the following:

HGHAD 19-02 "Resolution Approving the Annexation of the Ersted Property into the Hayward Geologic Hazard Abatement District."

HGHAD 19-03 "Resolution Approving the Ersted Property Plan of Control."

ADJOURNMENT

GHAD Board Vice-Chair Zérmemo adjourned the meeting at 7:15 pm.

APPROVED:

Francisco Zérmemo, Board Vice-Chair
Hayward Geologic Hazard Abatement District

ATTEST:

Patricia E. Curtin, Attorney
Hayward Geologic Hazard Abatement District



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
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File #: PH 19-021

DATE: March 19, 2019

TO: Geologic Hazard Abatement District Board

FROM: GHAD Manager

SUBJECT

Adopt a Resolution to Declare the GHAD's Intent to Order an Assessment for the Ersted Property and Set a Public Hearing 45 days after Notice is Provided to Consider the Proposed Assessment and any Protests thereto

RECOMMENDATION

That the GHAD Board adopts the attached Resolution No. 19-04 to do the following: (a) accept the Ersted Property Engineer's Report; (b) declare the GHAD's intent to order an assessment for the Ersted Property; and (c) set a public hearing date 45 days after notice is provided to consider the proposed assessment and any protests thereto.

SUMMARY

In approving the 59-unit townhome project referred to as the Ersted Property (Tract 8439) ("Ersted Project"), the City imposed Condition of Approval No. 46 requiring the Ersted Project to be annexed into the existing Hayward Geologic Hazard Abatement District ("GHAD"). With the approval of Resolution No. 19-02 and 19-03, the GHAD Board of Directors ("GHAD Board") approved annexation of the Ersted Project into the Hayward GHAD and approved the Plan of Control. To secure a funding source for the Ersted Project, an Engineer's Report has been prepared the fund the GHAD maintained improvements identified in the Plan of Control. The draft Engineer's Report recommends an assessment limit of \$932.00 per single family residential unit (fiscal year 2018/19 dollars).

ATTACHMENTS

Attachment I Staff Report
Attachment II GHAD Resolution

**HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT**

TO: Hayward GHAD Board of Directors

**FROM: GHAD Manager
GHAD Attorney**

BOARD MEETING DATE: March 19, 2019

SUBJECT: Resolution to Declare the GHAD's Intent to Order an Assessment for the Ersted Property and Set a Public Hearing 45 days after Notice is Provided to Consider the Proposed Assessment and any Protests thereto.

RECOMMENDATION(S):

1. ADOPT the attached Resolution No. 19-04 to do the following:
 - (a) ACCEPT Ersted Property Engineer's Report.
 - (b) DECLARE the GHAD's intent to order an assessment for the Ersted Property
 - (c) SET a public hearing date 45 days after notice is provided to consider the proposed assessment and any protests thereto.

SUMMARY:

In approving the 59 unit townhome project referred to as Ersted Property (Tract 8439) ("Ersted Project"), the City imposed Condition of Approval No. 46 requiring the Ersted Project to be annexed into the existing Hayward Geologic Hazard Abatement District ("GHAD"). With the approval of Resolution No. 19-02 and 19-03, the GHAD Board of Directors ("GHAD Board") approved annexation of the Ersted Project into the Hayward GHAD and approved the Plan of Control. To secure a funding source for the Ersted Project, an Engineer's Report has been prepared the fund the GHAD maintained improvements identified in the Plan of Control. The draft Engineer's Report recommends an assessment limit of \$932.00 per single family residential unit (fiscal year 2018/19 dollars).

BACKGROUND AND DISCUSSION:

On March 1, 2016, the Hayward City Council adopted Resolution No. 16-030 approving the formation of the Hayward GHAD and appointed itself to serve as the GHAD Board of Directors. On February 26, 2019, the GHAD Board of Directors held a public hearing on the proposed annexation of the Ersted Property to the Hayward GHAD, and adopted Resolution 19-02 approving the annexation of the Ersted Property into the Hayward GHAD and Resolution 19-03 accepting the Ersted Property Plan of Control.

A funding source has been secured for the The Reserve (La Vista) development within the Hayward GHAD and it is now appropriate to secure a funding source for the Ersted Project annexation. Like The Reserve development, the funding source is through a real property

assessment. This assessment for the 59 single family Ersted Project residences is proposed to be imposed as building permits are issued for the homes. The assessment is proposed to maintain the improvements in the Ersted Property Plan of Control approved by the GHAD Board previously on February 26, 2019 (Resolution No. 19-03).

The proposed assessment is supported by the attached draft Engineer's Report prepared by a registered professional engineer certified by the State of California, in accordance with Proposition 218 (attached as Attachment B to Resolution No.19-04). The draft Engineer's Report recommends an assessment limit of \$932.00 per single family residential unit (fiscal year 2018/19 dollars). The annual assessment limit would be adjusted annually based on the San Francisco-Oakland-San Jose Consumer Price Index (CPI). The proposed assessment does not impact or change the existing assessments for The Reserve (La Vista) landowners in the GHAD.

To allow the GHAD Board to consider approval of the proposed assessment, the property owner of the Ersted Project will be provided with a copy of the Engineer's Report, a Notice of Intent to Order an Assessment, and a ballot (Resolution 19-04).

FISCAL IMPACT:

The developer is responsible for funding all activities undertaken by the GHAD up and until the GHAD Improvements, as defined in the Plan of Control, are accepted by the GHAD. Thereafter, the GHAD is funded 100% through assessments levied on properties within the Hayward GHAD. Therefore, there is no impact on the City's General Fund.

NEXT STEPS:

1. On May 7, 2019, the GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, The GHAD Board shall not impose the assessment if there is a majority protest. If there is no majority protest, the GHAD Board shall authorize the assessment.

Prepared by: The GHAD Manager and GHAD Attorney

Recommended by: GHAD Manager

ATTACHMENTS:

- A. Resolution No. 19-04

**THE BOARD OF DIRECTORS OF HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT**

RESOLUTION NO. 19-04

**RESOLUTION DECLARING THE HAYWARD GEOLOGIC HAZARD ABATEMENT
DISTRICT'S INTENT TO ORDER THE ASSESSMENT SET FORTH IN THE ENGINEER'S
REPORT DATED MARCH 19, 2019 AND SET A PUBLIC HEARING FOR MAY 7, 2019 TO
CONSIDER THE PROPOSED ASSESSMENT AND ANY OBJECTIONS THERETO**

WHEREAS, on March 1, 2016, the Hayward City Council approved Resolution No. 16-030 ordering the formation of the Hayward Geologic Hazard Abatement District and appointed itself to serve as the Hayward Geologic Hazard Abatement District Board of Directors; and

WHEREAS, on February 5, 2019, the GHAD Board accepted a petition from Grupe Investment Company, LLC requesting annexation of Ersted Property development into the GHAD; and

WHEREAS, on February 26, 2019, the GHAD Board held a public hearing on the proposed annexation and Ersted Property Plan of Control ("Plan of Control") and thereafter adopted Resolution 19-02 approving the annexation and adopted Resolution 19-03 approving the Plan of Control; and

WHEREAS, in order to pay for costs and expenses of maintaining and operating the GHAD improvements as set forth in the Plan of Control, a funding source must be established; and

WHEREAS, an Engineer's Report has been prepared to support a real property assessment against the 59 homes at a FY 2018/19 level of \$932.00 per single-residential unit for GHAD services and is attached as Attachment 1;

WHEREAS, Public Resources Code sections 26650 *et seq.* authorize, after a noticed public hearing, the levy and collection of an assessment upon specially benefited property within the GHAD to pay for the maintenance and operation of GHAD improvements. Article XIII(D) of the California Constitution imposes additional requirements for the levy and collection of said assessment;

WHEREAS, the Engineer's Report was prepared by the GHAD Manager to reflect the Plan of Control adopted by the GHAD Board on February 26, 2019, the GHAD Manager is a registered professional engineer, certified in the State of California, in compliance with Public Resources Code section 26651(a) and section 4(b) of Article XIII (D) of the California Constitution; the Engineer's Report attached hereto as Attachment 1 sets forth the purpose of the Ersted Property portion of the GHAD, the estimated budget, the total assessment that will be chargeable to the Ersted Property portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Ersted Property portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

WHEREAS, the property within the Ersted Property portion of the GHAD is identified on the map attached as Attachment 2 and each parcel is proposed to be assessed.

The Board of Directors of the GHAD HEREBY RESOLVES THAT:

1. The GHAD Board declares its intention, consistent with the requirements of Article XIII (D) of the California Constitution, Public Resources Code sections 26650 et seq., Government Code section 53750, and Elections Code section 4000, to order that the cost and expenses of maintaining and operating any GHAD improvements in the Ersted Property development acquired or constructed pursuant to Public Resources Code sections 26500 et seq. shall be assessed against the property within the Ersted Property portion of the GHAD, which is benefited by the these properties in this portion of the GHAD.
2. The GHAD Board shall not order this assessment if a majority protest exists within the Ersted Property portion of the GHAD as defined in Section 4(e) of Article XIII(D) of the California Constitution.
3. Each of the parcels identified in Attachment 2 will receive a particular and distinct special benefit in the form of GHAD facilities and services that are over and above the general benefits received by the general public. Specifically, the GHAD's maintenance responsibilities include prevention and abatement of geologic hazards such as landslides and slope erosion within the Ersted Property portion of the GHAD. The GHAD will have responsibilities that include (a) maintenance of slopes, retaining walls, drainage ditches, and storm drain systems, (b) vegetation control for fire suppression, and (c) establishment of a reserve to fund, prevent, mitigate, abate or control geologic hazards within this area. These special benefits are described in detail in the Plan of Control.
4. Whenever a residential building permit is issued on the 59 parcels identified in Attachment 2, that lot will be assessed on an equal basis with each single family in the development. The annual assessment amount for each residential unit was calculated by dividing the annual Ersted Property portion of the GHAD budget by the number of residential units then existing within the that portion of the GHAD boundaries.
5. The GHAD Board has reviewed and considered the attached Engineer's Report. The special benefit derived from the GHAD by each parcel is proportionate to the entire costs of the Ersted Property portion of the GHAD, and the amount of the assessment is proportional to, and no greater than, the benefits conferred on each parcel. The assessment does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
6. The GHAD Board directs the GHAD Manager to mail or cause to be mailed, no later than three (3) days after adoption of this Resolution, the "Notice of Adoption of Resolution and Notice of Assessment" of the Public Hearing, in substantially the same form as in Attachment 3 ("Notice") to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Attachment 4, and the GHAD Engineer's Report, shall be attached to the Notice.
7. The GHAD Board will conduct a public hearing on May 7, 2019 at the chambers of the Hayward City Council at 777 B Street, Hayward, CA 94541 at 7 p.m. or thereafter. The Manager of the GHAD shall deliver all sealed ballots received from record owners of parcels within the Ersted Property portion of the GHAD to the GHAD hearing. The ballots shall remain sealed until they are tabulated. The GHAD Board shall permit a change, withdrawal, or submittal of a ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. The GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, the Clerk of the GHAD, or some other impartial person not having a vested interest in the outcome of the proposed

assessment, shall tabulate the ballots, and shall weight the ballots according to the proportional financial obligation of the affected property. The GHAD Board shall not impose the assessment if there is a majority protest as that term is defined by Section 4(e) of Article XIII (D) of the California Constitution. If there is no majority protest, the GHAD Board shall authorize the assessment. Following the public hearing, the GHAD Board shall consider the adoption of the canvas of votes for the GHAD.

8. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on the 59 parcels the first fiscal year following issuance of a residential building permit for each of those parcels.

This Resolution shall become effective immediately upon its passage and adoption.

HAYWARD, CALIFORNIA, March 19, 2019

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

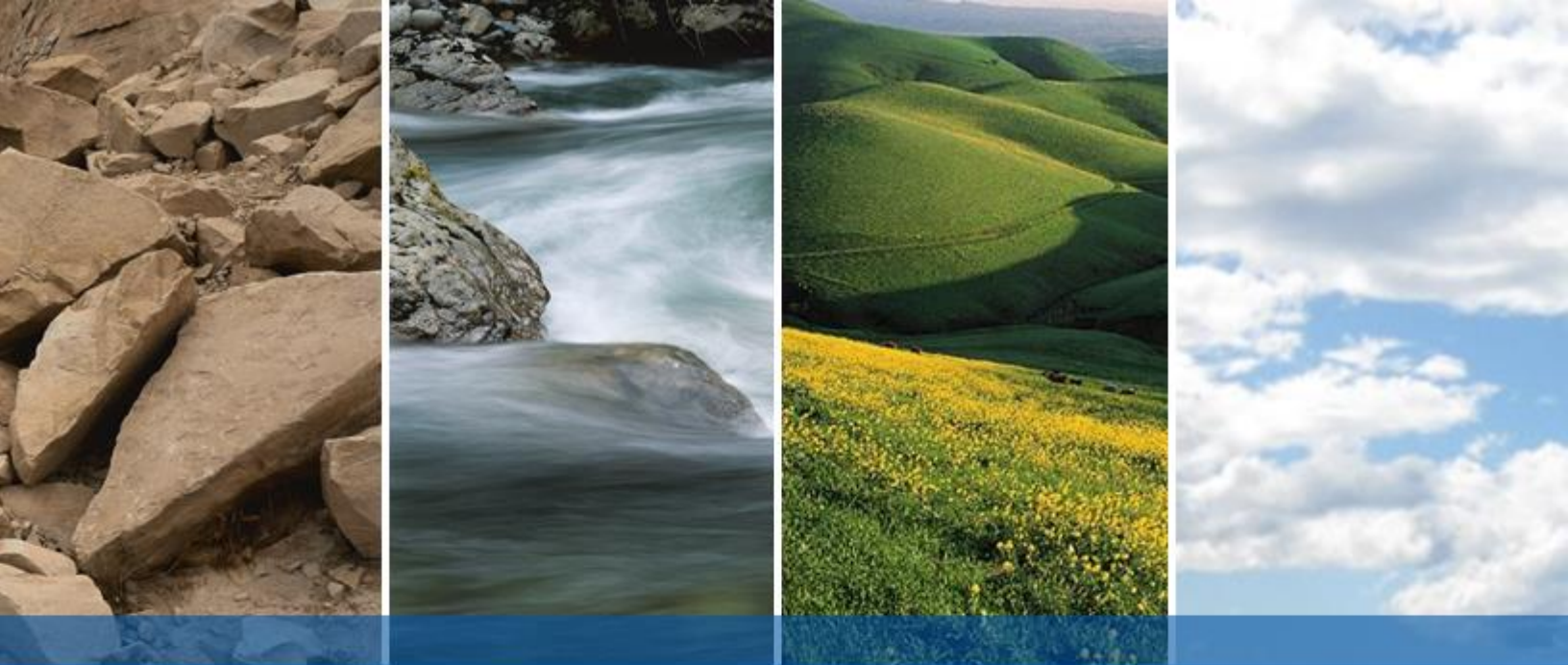
ABSENT:

Attachment 1 – Engineer’s Report

Attachment 2 – Legal Description and Plat

Attachment 3 – Notice of Adoption of Resolution and Notice of Assessment

Attachment 4 – Ballot



**ERSTED DEVELOPMENT ANNEXATION
HAYWARD, ALAMEDA COUNTY, CALIFORNIA**

**ENGINEER'S REPORT
FOR ERSTED PROPERTY, TRACT 8439**

SUBMITTED TO
Hayward Geologic Hazard Abatement District
777 B Street
Hayward, CA 94541

PREPARED BY
ENGEO Incorporated, GHAD Manager

March 19, 2019

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DRAFT

ENGINEER'S REPORT

HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT ERSTED DEVELOPMENT ANNEXATION (Pursuant to the Public Resources Code of the State of California, Section 26500 et seq.)

CERTIFICATION OF FILING

The Geologic Hazard Abatement District ("GHAD") provides monitoring and maintenance of improvements related to geologic hazard management and other responsibilities as a landowner, within the Ersted Residential Development portion of the Hayward GHAD. The GHAD also levies and collects assessments in order to perform its activities.

The GHAD responsibilities, which are the subject of this report, are defined as any activity that is necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard, construction, maintenance, repair, or operation of improvement; or the issuance and servicing of bonds issued to finance any of the foregoing (Section 26505).

This report consists of seven parts, as follows:

- I. INTRODUCTION
- II. BACKGROUND
- III. GEOLOGIC HAZARD ABATEMENT DISTRICT DIAGRAM
- IV. SERVICE LEVELS
- V. DESCRIPTION OF GHAD MAINTAINED IMPROVEMENTS
- VI. ASSESSMENT METHOD
- VII. ASSESSMENT LIMIT - BUDGET PROJECTION

The undersigned respectfully submits the enclosed Engineer's Report.

Date: March 19, 2019

By: ENGEO Incorporated

_____, GE
Paul C. Guerin

I HEREBY CERTIFY that the enclosed Engineer's Report was filed on the 19th day of March 2019.

Patricia Curtin
Attorney and Acting Clerk of the Board
Hayward Geologic Hazard Abatement District
Alameda County, California

I HEREBY CERTIFY that the enclosed Engineer's Report was approved and confirmed by the GHAD Board on the 19th day of March 2019.

Eric Harrell
GHAD Manager
Hayward Geologic Hazard Abatement District
Alameda County, California

ENGINEER'S REPORT

for

HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT ERSTED DEVELOPMENT ANNEXATION HAYWARD, ALAMEDA COUNTY, CALIFORNIA for the ESTABLISHMENT OF AN ASSESSMENT LIMIT

I. INTRODUCTION

The Hayward City Council formed the Hayward Geologic Hazard Abatement District ("GHAD" or "District") on March 1, 2016 (Resolution No. 16-030), under the authority of the California Public Resources Code, Division 17, Section 26500 et seq. The GHAD Board of Directors approved the annexation of the Ersted Property into the GHAD on February 26, 2019, with the approval of Resolution No. 19-02 ("GHAD Annexation Area"). The members of the Hayward City Council act as the Board of Directors of the GHAD.

II. BACKGROUND

The Hayward Board of Directors approved the Plan of Control for the Ersted Development Annexation ("Plan of Control") with the approval of Resolution No. 19-03 on February 26, 2019. The Plan of Control describes the GHAD's responsibilities to permanently monitor and maintain GHAD improvements within the GHAD Annexation Area. This Engineer's Report describes the establishment of an assessment level to fund GHAD activities necessary or incidental to geologic hazard mitigation, abatement, and control.

III. GEOLOGIC HAZARD ABATEMENT DISTRICT BOUNDARIES

The boundaries for the GHAD Annexation Area are shown in the legal description and plat attached hereto as Exhibit A.

IV. SERVICE LEVELS

The GHAD's activities are those that are necessary or incidental to the prevention, mitigation, abatement, or control of geologic hazards including construction, maintenance, repair, or operation of any improvement; and the issuance and servicing of bonds issued to finance any of the foregoing.

The GHAD provides for the administration and review of facilities within the budgeted limits, including the following services:

1. Oversight of GHAD operations, including reporting to the GHAD Board of Directors.
2. In conjunction with the Alameda County Assessor's Office, setting the annual levying of assessments on the property tax rolls.

3. Engagement of technical professionals to perform the monitoring duties as described in the Plan of Control.
4. Performance of GHAD maintenance activities in accordance with the Plan of Control. These maintenance activities include:
 - General maintenance of the surface drainage improvements within the GHAD Boundary with the exception of the water quality/flow control basin. The GHAD is responsible for general monitoring, maintenance, and repair of the concrete-lined drainage ditches, storm drain inlets and outlets in open space, subdrain outlets, and risers.
 - Monitoring and maintenance of measurement devices, such as piezometers, inclinometers, and tiltmeters, if any.
 - Maintenance of existing property line/boundary fencing on Parcels M and N.
 - Maintenance of debris benches and/or catchment structures.
 - Maintenance of storm drain inlets, outfalls and pipelines within Parcels M and N.
 - Maintenance of trails within Parcels M and N.
 - Maintenance of slopes.
 - Vegetation control for fire suppression on Parcels M and N.
5. Preparation of annual GHAD budgets for approval by the GHAD Board of Directors.

V. DESCRIPTION OF THE IMPROVEMENTS MAINTAINED BY THE GHAD

The GHAD-maintained improvements are described in the Plan of Control. In general, these improvements include drainage systems, including concrete-lined ditches in developed areas and open space; open-space storm drain inlets and outlets; subdrains and outlets; and selected retaining walls.

VI. ASSESSMENT METHOD

The improvements and GHAD responsibilities described in Section V are distributed within the GHAD Annexation Area. The improvements described in this document will confer the following special benefits to the assessed parcels:

1. Protection from slope instability.
2. Protection from erosion due to uncontrolled surface water.
3. Protection of water quality.
4. Protection from wild land fires due to unmanaged vegetation.

The GHAD assessment is distributed among all residential property owners within the GHAD Annexation Area. The improvements and responsibilities listed in Section V provide specific

benefits to the properties within the GHAD Annexation Area and the improvements are constructed for the benefit of those assessed and not the general public.

The GHAD Annexation Area consists of 59 duplex and triplex townhome residences. Single-family residential lots are assessed as one unit and are assessed equally. The total number of residential units within the GHAD Annexation Area was considered in light of the annual GHAD Annexation Area budget in developing the annual assessment amount.

The Engineer hereby finds that the residential properties within the GHAD Annexation Area receive approximately equal special benefit from the work and improvements within the GHAD. As a result, the GHAD assessment for the GHAD Annexation Area is distributed among all owners of parcels.

A financial analysis was performed to provide a framework for an operating budget for the on-going abatement, mitigation, prevention and control of geologic hazards within the GHAD Annexation Area. In preparation of the budget, several factors were considered including:

1. Site geology
2. Remedial grading
3. Proximity of geologic hazards to proposed residences
4. Improvements and structures
5. Site access considerations
6. Elements requiring routine maintenance, including:
 - Surface drainage facilities
 - Graded slopes
 - Retaining walls
 - Trails and fire breaks

VII. ASSESSMENT - BUDGET

The purpose of this Engineer's Report is to establish the assessment level and the apportionment of the assessment within the GHAD Annexation Area as required under Proposition 218. The annual budget in each subsequent fiscal year will apprise the GHAD Board of Directors of the estimated budget for the upcoming year.

Based on the estimated expenses for on-going operations, and allowing for larger (approximately \$150,000) geologic events at 10-year intervals, a budget was prepared for the purpose of estimating initial assessment levels (Exhibit B).

The Engineer recommends an annual assessment limit for the GHAD Annexation Area of \$932.00 per single-residential unit (Fiscal Year 2018/19 dollars). The proposed initial assessment level will be automatically adjusted annually on June 30 to reflect the percentage change in the San Francisco-Oakland-San Jose Consumers Price Index for All Urban Consumers.

While the assumptions and estimated expenses listed in Exhibit B were used to determine the assessment levels for the GHAD Annexation Area, they do not represent the actual budget for any one year of the GHAD's operation, since assessment of the individual parcels will be based on the issuance of building permits, which will occur over a number of years. In addition, the

Engineer anticipates that the projected expense amounts will be reached over time and that these amounts will be inflation-adjusted in the year that the expenses occur.

Pursuant to the schedule set forth in Section 6.4 of the Plan of Control for the Ersted development, the GHAD reserve at the time of transfer must have a minimum of \$91,000. In addition, all 59 residential units shall be subject to the levy of the GHAD assessment. The minimum reserve amount represents the estimated total assessments that will be collected from within the Ersted development during the period the Owner is responsible for all GHAD activities. The reserve amount requirement may be satisfied by including remaining cash and receivables from the Alameda County Tax Collector during the period that the Owner of the Ersted development is responsible for performing the GHAD activities. Additional funds may be required of the developer in order to satisfy the above-stated minimum reserve requirement and shall be provided to the Hayward GHAD prior to its acceptance of the monitoring and maintenance responsibilities within the Ersted development.

VIII. OWNER RESPONSIBILITIES

Hayward Tennyson Land, LLC ("Owner") is responsible for managing and maintaining the GHAD Annexation Area until the GHAD accepts responsibility for the GHAD Improvements as set forth in the Plan of Control. In addition, the Owner is responsible for funding any necessary GHAD functions or business undertaken for the GHAD Annexation Area that the GHAD Officers or Board of Directors determine are necessary before the GHAD accepts the GHAD Improvements. If the Owner fails to fund all or a portion of these costs, the costs shall be covered by the funds generated by and for the GHAD Annexation Area (i.e., through the assessment) and the Owner shall be required to reimburse the GHAD for such costs before the GHAD can accept monitoring and maintenance responsibilities for the GHAD Improvements.

The GHAD may utilize funds generated by or for the GHAD Annexation Area to conduct any necessary GHAD functions or business for the GHAD Annexation Area required before the GHAD accepts the GHAD improvements. Such functions and business can include periodic reporting to the GHAD Board of Directors and work performed by GHAD Officers to verify the GHAD is implemented in accordance with the Plan of Control and GHAD Law.



DRAFT

EXHIBIT A

LEGAL DESCRIPTION AND PLATS

EXHIBIT "A"
LEGAL DESCRIPTION
GEOLOGIC HAZARD ABATEMENT DISTRICT
ERSTED PROPERTY - TRACT 8439

REAL PROPERTY IN THE CITY OF HAYWARD, ALAMEDA COUNTY, AND STATE OF CALIFORNIA
DESCRIBED AS FOLLOWS:

BEING ALL OF LOTS 1-59 INCLUSIVE AND PARCELS "A" THRU "Q" INCLUSIVE AS SHOWN ON THAT
CERTAIN MAP, TRACT MAP 8439, FILED FOR RECORD ON _____, IN BOOK ___ OF PAGES _____,
ALAMEDA COUNTY RECORDS.

CONTAINING AN AREA OF 17.21 ACRES MORE OR LESS.

THIS DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH
THE PROFESSIONAL LAND SURVEYORS ACT.

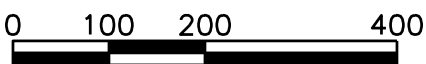
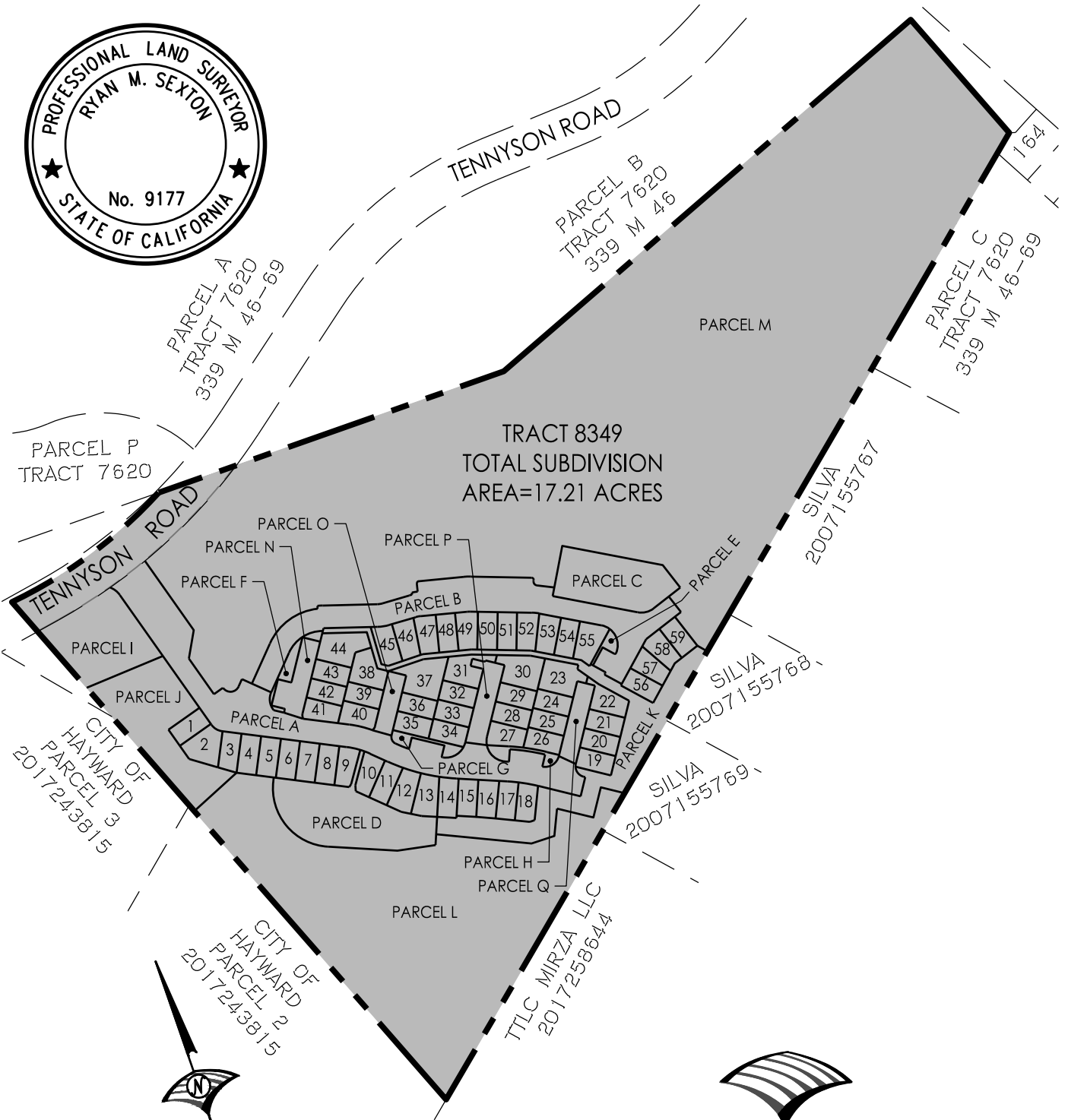
RYAN M. SEXTON / PLS 9177
DECEMBER 13, 2018



EXHIBIT 'B'

PLAT TO ACCOMPANY
DESCRIPTION

GEOLOGIC HAZARD ABATEMENT DISTRICT
ERSTED PROPERTY - TRACT 8439
CITY OF HAYWARD
COUNTY OF ALAMEDA STATE OF CALIFORNIA



SCALE: 1" = 200'

WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME
4670 WILLOW ROAD, STE. 125 TEL 925.847.1556
PLEASANTON, CA 94588 FAX 925.847.1557

J:\Jobs\3121_015_Tennyson - Hayward\3121_015_Tennyson - Hayward-0A\Geomatics\docs\Plats_Descriptions\GHAD-PLAT.dwg 12/13/2018 9:48 AM Ryan Sexton



DRAFT

EXHIBIT B

BUDGET – MARCH 19, 2019

Hayward Geologic Hazard Abatement District – Ersted Property Annexation

Budget – March 19, 2019

ASSUMPTIONS

Total No. of Single Family Residential Units	59
Annual Assessment per Unit (FY 2018/2019)	\$932
Annual Adjustment in Assessment (estimated)	3.0%
Inflation (estimated)	3.0%
Investment Earnings (estimated)	4.5%
Frequency of Large-Scale Repair (years)	10
Cost of Large-Scale Repair (current \$)	\$150,000

ESTIMATED ANNUAL EXPENSES IN 2018/2019 DOLLARS

Administration (Manager, Treasurer, Clerk, and Legal Counsel)	\$ 8,425
Outside Administration Services, Membership, and Insurance	\$ 160
Monitoring Activities	\$ 3,375
Maintenance and Operation	\$ 15,000
Capital Improvements	\$1,921
Major Repair (Annualized)	\$ 15,000
Miscellaneous & Contingency (10%)	\$ 2,888
Reserve	<u>\$ 8,219</u>
TOTAL	<u>\$54,988</u>



DRAFT

**NOTICE OF (1) ADOPTION OF RESOLUTION NO. 19-04 BY THE BOARD OF DIRECTORS
OF THE HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT,
(2) PROPOSED ASSESSMENT, AND
(3) PUBLIC HEARING FOR MAY 7, 2019**

On March 1, 2016, the Hayward City Council adopted Resolution No. 16-030, ordering the formation of the Hayward Geologic Hazard Abatement District ("GHAD") and itself to serve as the Board of Directors of the GHAD ("GHAD Board").

NOTICE IS HEREBY GIVEN that:

On February 26, 2019, the GHAD Board adopted Resolution No. 19-04 declaring its intention to impose an assessment on the property included in the GHAD and directing that a public hearing be scheduled to consider adoption of this assessment to finance the Hayward GHAD. The total yearly estimated budget for the Santiago GHAD as set forth in the current Engineer's Report is \$54,988. If the assessment is adopted, each single-family residence will be assessed a maximum of \$932.00 per year (Fiscal Year 2018/2019 dollars), plus an annual adjustment to reflect the percentage change in the San Francisco-Oakland-Hayward Consumers Price Index (CIP) for All Urban Consumers. The assessment will be levied beginning in first fiscal year after issuance of a building permit and the assessment will continue to be levied in perpetuity.

The attached Engineer's Report (March 19, 2019) for the Hayward GHAD was prepared by a registered engineer, certified in the State of California, and describes in detail the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated. The draft Engineer's Report specifically sets forth the yearly estimated budget, the total assessment, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessment. A copy of GHAD Board Resolution No. 19-04 is available for inspection at ENGEIO Incorporated, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583.

The GHAD Board will conduct the public hearing on May 7, 2019, at 7:00 p.m. at Hayward City Hall, 777 B Street, Hayward, CA 94541, on the proposed assessment.

The following paragraph provides the procedure for returning and tabulating the ballots. Copies of this Notice, a sealable ballot, and the Engineer's Report have been sent to each of the property owners within the Hayward GHAD.

The ballot may be completed and mailed or hand delivered to Hayward Geologic Hazard Abatement District, % ENGEIO Incorporated, GHAD Manager, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583 or may be submitted at the public hearing. Each ballot may be submitted, withdrawn, or changed at any time prior to the conclusion of the testimony on the proposed assessment at the public hearing. At the hearing, the GHAD Clerk shall tabulate the ballots and the GHAD Board shall consider any objections or protests to the assessment and certify the tabulation of the ballots.

The GHAD Board shall not impose the assessment if there is a majority protest. A majority protest exists if, upon conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

Inquiries regarding the proposed assessment may be made by mail to: Hayward GHAD % ENGEO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583, by phone at (925) 866-9000, or by e-mail at eharrell@engeo.com.

Enclosures: Engineer's Report (dated March 19, 2019)
Sealable Ballot

BALLOT

Hayward Geologic Hazard Abatement District

Identification of Parcel: Assessor's Parcel Number(s) _____

Record Owner: _____

_____ **YES**, I approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

_____ **NO**, I do not approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

Signature of Record Owner or Authorized Representative of the
above identified parcel(s)

Dated: _____

Mail or deliver sealed Ballot to:
Hayward Geologic Hazard Abatement District
% ENGEO Incorporated, GHAD Manager
Attention: Eric Harrell
2010 Crow Canyon Place, Suite 250
San Ramon, CA 94583



CITY OF HAYWARD

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

File #: LB 19-011

DATE: March 5, 2019

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Introduction of the Hayward Community Foundation Concept, Formation Process, and Authorization for the City Manager to Establish an Affiliate Fund with the East Bay Community Foundation to Create the Hayward Community Foundation

RECOMMENDATION

That the City Council reviews, comments on, and adopts the attached resolution (Attachment II) authorizing the City Manager to establish an Affiliate Fund with the East Bay Community Foundation to create the Hayward Community Foundation and to take all other administrative actions necessary.

SUMMARY

The concept of a Hayward Community Foundation (HCF) came as a result of the first round of the Commercial Cannabis Permit Program. Under this program, the City Council required each would-be commercial cannabis operator to describe the proposed community benefits. By creating a HCF, these entities can provide a community benefit through donations or support to the HCF. The HCF, in exchange, will handle the distribution of the community benefit contributions.

Staff recommends the creation of an Affiliate Fund with the East Bay Community Foundation to begin the process of establishing the HCF. The Council Budget and Finance Committee received a report on this item at their December 5, 2018 meeting and supported bringing this recommendation forward to the entire Council.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: March 5, 2019

TO: Mayor and City Council

FROM: City Manager

SUBJECT Introduction of the Hayward Community Foundation Concept, Formation Process, and Authorization for the City Manager to Establish an Affiliate Fund with the East Bay Community Foundation to Create the Hayward Community Foundation

RECOMMENDATION

That the City Council reviews, comments on, and adopts the attached resolution (Attachment II) authorizing the City Manager to establish an Affiliate Fund with the East Bay Community Foundation to create the Hayward Community Foundation and to take all other administrative actions necessary.

SUMMARY

The concept of a Hayward Community Foundation (HCF) came as a result of the first round of the Commercial Cannabis Permit Program. Under this program, the City Council required each would-be commercial cannabis operator to describe the proposed community benefits. By creating a HCF, these entities can provide a community benefit through donations or support to the HCF. The HCF, in exchange, will handle the distribution of the community benefit contributions.

Staff recommends the creation of an Affiliate Fund with the East Bay Community Foundation to begin the process of establishing the HCF. The Council Budget and Finance Committee received a report on this item at their December 5, 2018 meeting and supported bringing this recommendation forward to the entire Council.

BACKGROUND

Community Foundations are non-profit organizations that utilize philanthropic contributions and grants to fund or provide support to local communities and their local non-profit organizations. Funding for these foundations can come in many forms, whether through individual contributions, bequests, or through corporate or foundation-based grants. Community Foundations provide value to local communities through grant making or by facilitating the collective pooling of resources to reduce the overhead costs of running a non-profit organization.

The concept of a HCF came as a result of the first round of the Commercial Cannabis Permit Program. Under this program, the City Council required each would-be commercial cannabis operators to describe their proposed community benefits. Cash payments to local area non-profits was one of the most commonly articulated community benefits. However, leaving this distribution of donations up to the discretion of cannabis operators may not be in the best interest of the community, as they may direct funds to non-profit organizations that do not address the most pressing needs of the community. By creating a HCF, these entities can provide a community benefit through donations or support to the HCF. The HCF, in exchange, will handle the distribution of the community benefit contributions.

Additionally, a future HCF could assist local area non-profits by reducing their operating and administrative overhead costs through the creation of individual funds to support each specific non-profit.

The Council Budget and Finance Committee received a report on this item at their December 5, 2018 meeting and supported bringing this recommendation forward to the entire Council..

DISCUSSION

Establishing a community foundation is a labor-intensive endeavor, one that requires specialized knowledge in fundraising, grant making, and non-profit (501c3) financial regulations and reporting requirements. These activities will require dedicated community members to help develop and scale a sustainable community foundation.

To assist in the formation of the Hayward Community Foundation, staff recommends pursuing a conservative approach to ensure that the Foundation will successfully launch. This approach consists of developing a community affiliate fund with an existing local community foundation. An affiliate fund provides access to staff, knowledge, and expertise along with the organizational structure to manage assets and meet regulatory requirements. Furthermore, this approach can be done at a cost less than hiring full-time staff, resulting in more assets being leveraged to further growth in the fund and local grant making.

Staff researched several community foundations, including the Silicon Valley Community Foundation, Greater Horizons—Greater Kansas City Community Foundation, and the East Bay Community Foundation, to identify a place to incubate the HCF. Staff recommends pursuing an Affiliate Fund with the East Bay Community Foundation (EBCF), as they have local knowledge of the area and have provided similar, “incubation” services for newer community foundations like the Richmond Community Foundation, the Berkeley Community Fund, and the Rodeo-Crockett Community Foundation.

Proposed Community Affiliate Agreement

The proposed Community Affiliate Agreement (Agreement) provides the HCF with the ability to create one or more funds to finance charitable activities within the City with the purpose of pursuing the broader East Bay Community Foundation mission of leveraging

community assets to advance a “Just East Bay – where all communities have supports in place not only to survive, but to thrive.”

Under the agreement, all fund assets would be property of the EBCF in its corporate capacity. The HCF would appoint a “distribution committee” to consult, advise, and make recommendations for distributions from the Foundation’s various funds. The composition of the distribution committee can be determined by the Council at a future date. Ultimately, when the distribution committee is confident the HCF can sustain itself on its own, they may elect to transfer their assets out of the EBCF and into an independently established HCF.

The EBCF will assist the new foundation with a variety of program services that provide a framework to evaluate community needs, grant making policies and procedures, process payments, and track or assist in the tracking of grants made by the Hayward Community Foundation. The EBCF will also hold, manage, invest, and reinvest the assets in the fund for a designated fee.

The agreement provides for additional services such as assistance with the review and evaluation of grant proposals, participation in development meetings with prospective donors, and assistance with marketing activities.

Local non-profits would be able to open an Agency fund under the Hayward Community Foundation. In this arrangement, the East Bay Community Foundation would handle the investing of the assets and would provide quarterly statements and financial results to the non-profits.

Jeri Boomgaarden, Managing Director of Donor Services & Senior Development Officer from the EBCF, will be present at this meeting to answer any questions.

ECONOMIC IMPACT

Community Foundations provide an avenue to capture and direct charitable giving activities to a given City. By directing these streams of funding toward non-profit organizations or other social programs, the foundation can help catalyze community prosperity through grants to various individuals, community groups, and organizations. Furthermore, non-profit Community Foundations provide corporations and individuals access to tax advantages like the federal charitable giving tax deductions.

FISCAL IMPACT

Under the proposed agreement, the EBCF would charge the initial funds for investment expenses, administrative fees, and any custom service fees. The EBCF estimates the following ranges for investment expenses on an investment pool basis:

Table 1: EBCF Investment Pool Annual Expense Rates

Cash Pool	0.15% to 0.25%
Short-Term Pool	0.40% to 0.60%
Intermediate-Term Pool	0.60% to 0.90%
Environmental, Social Governance Pool	0.60%
Long-Term Pool	0.70% to 1.10%

Administrative fees for a fund under \$5 million will be 1% or \$500, whichever is greater.

There is no fiscal impact for the City currently. The initial HCF assets shall come from those approved commercial cannabis operators who indicated they would donate portions of their proceeds for community benefit purposes. However, the Council at its discretion, may wish to provide additional General Fund funding to assist in the initial activities of the HCF.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities strategic initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. Specifically, this item supports the following goal:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

NEXT STEPS

Following this item, staff will take the next steps to finalize the affiliate agreement with EBCF and work to establish the Hayward Community Foundation. Staff will return for future Council approval of the appropriation of cannabis community benefit dollars.

Prepared & Recommended by: John Stefanski, Management Analyst II

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ESTABLISH AN AFFILIATE FUND WITH THE EAST BAY COMMUNITY FOUNDATION TO CREATE THE HAYWARD COMMUNITY FOUNDATION

WHEREAS, Community Foundations are non-profit organizations that utilize philanthropic contributions and grants to fund or provide support to local communities and their local non-profit organizations; and,

WHEREAS, Community Foundations provide value to local communities by through grant making or facilitating the collective pooling of resources to reduce the overhead costs of running a non-profit organization; and,

WHEREAS, the concept of a Hayward Community Foundation came as a result of the first round of the Commercial Cannabis Permit Program and its Community Benefit component; and,

WHEREAS, establishing a community foundation is a labor-intensive endeavor, one that requires specialized knowledge in fundraising, grant making, and non-profit (501c3) financial regulations and reporting requirements; and,

WHEREAS, the City wishes to successfully launch a Hayward Community Foundation through the creation of an Affiliate Fund with the East Bay Community Foundation; and,

WHEREAS, an affiliate fund provides access to staff, knowledge, and expertise along with the organizational structure to manage assets and meet regulatory requirements in a financially feasible way; and,

WHEREAS, the East Bay Community Foundation has local knowledge of the area and has provided similar, services for newer community foundations like the Richmond Community Foundation, the Berkeley Community Fund, and the Rodeo-Crockett Community Foundation.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager to establish an affiliate fund with the East Bay Community Foundation, creating the Hayward Community Foundation, to take all other necessary administrative actions and to execute the documents and instruments as are appropriate, in consultation with the City Attorney to effectuate and implement the creation of the Hayward Community Foundation.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

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



CITY OF HAYWARD

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

File #: MIN 19-027

DATE: March 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on February 19, 2019

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on February 19, 2019.

SUMMARY

The City Council held a meeting on February 19, 2019.

ATTACHMENTS

Attachment I Draft Minutes of 2/19/2019



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 19, 2019, 7:00 p.m.

The meeting of the City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Mendall.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday
Absent: None

Mayor Halliday announced that Public Hearing Items 15 and 16 were continued to February 26, 2019.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported the City Council reconvened in closed session after the regular meeting on February 5, 2019 to continue discussion of conference with property negotiators pursuant to Government Code 54956.8, regarding 175 Fairway Street, APN 78G-2704-2-1, and noted there was no reportable action.

City Attorney Lawson reported the City Council convened in closed session at 5:00 p.m., concerning three items: 1) public employment pursuant to Government Code 54957 regarding the City Clerk's annual performance evaluation; 2) conference with property negotiators pursuant to Government Code 54956.8 regarding former California Air National Guard site; and 3) public employment pursuant to Government Code 54957 regarding the City Manager's performance evaluation; and noted there was no reportable action related to Item 2. Mayor Halliday noted there was no reportable action related to items 1 and 3.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, asked for the intent behind removing the Eucalyptus trees at Harder Road.

Mr. William Roderick, Hayward resident, shared there was an opportunity at a school to house homeless individuals, and reported there was mold at the Terrace Tower Apartments.

Ms. Elena LePe, via an English/Spanish interpreter, spoke about the energy switch to East Bay Community Energy and lack of communication.

Ms. Gabriela del Hoyo, Hayward tenant, via English/Spanish interpreter, shared there were issues at the Gading Apartments related to asbestos and the visitor parking.

The following individuals spoke about the tragic shooting of Agustin “Augie” Gonzalez and asked for an independent, unbiased third-party investigation; suspension of the Hayward police officers involved in the shooting pending investigation, accountability for all parties involved; increased/improved mental health and de-escalation training for police officers; removal of police officers from serving pending an independent investigation into the incident; legislation for an independent investigation similar to the City of Richmond; justice for Agustin Gonzalez and the lives taken by law enforcement; report on mental health and de-escalation training completed by Hayward police officers during past years; connection with the grieving community; and stop blaming the victim.

Ms. Alicia Lawrence, Hayward Collective member

Ms. Lindsay Williams, Agustin Gonzalez

Mr. Frank Running Horse with the Oscar Grant Committee Against Police Brutality and State Repression

Ms. Beatrice Johnson, aunt of Oscar Grant

Ms. Megan Canto, cousin of Agustin Gonzalez

Ms. Jessica Aguallo-Hurtado, Brown National Organization Officer for Communications representative

Ms. Maria Nunes, aunt of Agustin Gonzalez

Mr. Frank Canto, uncle of Agustin Gonzalez

Ms. Cynthia Nunes, cousin of Agustin Gonzalez

Ms. Cynthia Canto Moreno, aunt of Agustin Gonzalez

Ms. Lourdes Garcia, aunt of Agustin Gonzalez

Mr. Luis Baquero, cousin of Agustin Gonzalez

Mr. Cephus Johnson, uncle of Oscar Grant

Ms. Rebecca Ruiz

Ms. Tami Rossell, stand with the Gonzalez family

Ms. Karla Gonzalez, mother of Agustin Gonzalez

Ms. Denise Friday

Mr. Jason Moreno, Hayward resident and founder of cop watch Hayward

Ms. Alicia Orozco, Hayward resident

Ms. Amanda Groziak

Ms. Sharon Raffetty

Ms. Annie Koruga

Mr. Steven Jacobson, Oscar Grant Committee representative

Ms. Sheila Burks, Hayward resident

Ms. Araceli Orozco, Hayward resident

Mr. Victor Picazo, Black and Brown United SF for Justice Peace and Equality representative

Ms. Jessica Hernandez, family member of Agustin Gonzalez

Ms. Lacei Amodei, the Hayward Collective member and Hayward tenant.

Mr. Mark Oakman, Director of Public Affairs for the Church of Jesus Christ of Latter-Day Saints, invited the City to an open house of the temple in Oakland the first week in May.

Mr. Nick Harvey, Hayward resident, urged the City to have in mind soft story buildings when considering earthquake preparedness.



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 19, 2019, 7:00 p.m.

Mr. Myles Watkins, California State University East Bay Student Body President, spoke about the challenges faced by students such as lack of affordable housing and urged the City to become a partner.

Ms. Tami Rossell, expressed Hayward does not have citywide celebrations for African American holidays such as Black History Month.

Ms. Amanda Groziak, Hayward resident, spoke about Hayward's housing cost being higher than the national average and the need for increased affordable housing.

Ms. Peggy Guernsey, Hayward resident, spoke about the high cost of housing in Hayward and the desire to celebrate Black History Month in Hayward.

Ms. Amanda Guernsey, Hayward resident, expressed the housing being built is not affordable for low income earners.

Mayor Halliday offered the City's deepest sympathy to Mr. Gonzalez' family, noted there was an ongoing investigation and the City will follow the legal process and will make information public as appropriate.

Mayor Halliday called for a recess and reconvened the meeting at 9:01 p.m.

CONSENT

1. Minutes of the City Council Meeting on January 22, 2019 **MIN 19-018**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council meeting on January 22, 2019 with a minor change.
2. Minutes of the Special City Council Meeting on January 29, 2019 **MIN 19-019**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council meeting on January 29, 2019.
3. Minutes of the Special City Council Meeting (City Council Retreat) on February 3, 2019 **MIN 19-020**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council Meeting (City Council Retreat) on February 3, 2019.

4. Minutes of the City Council Meeting on February 5, 2019 **MIN 19-021**
It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council meeting on February 5, 2019.
5. Transmittal of the Comprehensive Annual Financial Report for the Year Ended June 30, 2018; and of the Memorandum on Internal Control and Required Communications **CONS 19-052**

Staff report submitted by Finance Director Claussen, dated February 19, 2019, was filed.

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

Resolution 19-028, "Resolution Accepting the Comprehensive Annual Financial Report for the Year Ended June 30, 2018; and the Memorandum on Internal Control and Required Communications"

6. Adoption of a Resolution to File a Chapter 8 Request for the Purchase of the Property Located at 1032 Central Boulevard (APN 445-270-7-1) for a Total Cost of \$37,027 Plus Closing and Recording Costs **CONS 19-076**

Staff report submitted by Deputy City Manager Ott, dated February 19, 2019, was filed.

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

Resolution 19-029, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Object to Public Sale and Enter into an Agreement to Purchase Fee Interest in Tax-Delinquent Real Property Located at 1032 Central Boulevard (APN 445-270-7-1) from the Alameda County Tax Collector's Office"

7. Adoption of a Resolution Authorizing the City Manager to Execute a Master Professional Service Agreement with Moves the Needle for Various Lean Innovation Trainings **CONS 19-086**

Staff report submitted by Management Analyst II Stefanski and Management Analyst II James, dated February 19, 2019, was filed.



MINUTES OF THE CITY COUNCIL MEETING
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 19, 2019, 7:00 p.m.

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

Resolution 19-030, "Resolution Authorizing the City Manager to Negotiate and Execute a Master Professional Services Agreement with Moves the Needle for Lean Innovation Training for City Executives and Staff"

8. First Amendment to Lease and Assignment/Assumption of Lease with Briggs Resources, Inc. for Property at 21015 Skywest Drive **CONS 19-079**

Staff report submitted by Interim Public Works Director Ameri, dated February 19, 2019, was filed.

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

Resolution 19-031, "Resolution Authorizing the City Manager to Negotiate and Execute an Assignment/Assumption of Lease and a First Amendment to the Ground Lease with Briggs Resources, Inc."

9. Approval of Final Map Tract 8319 (Gading I), Associated with the Previously Approved Vesting Tentative Tract Map and Development of 20 Single Family Homes on a 1.75-Acre Site Located at 25906 Gading Road; Blue Mountain Communities (Applicant/Owner) **CONS 19-064**

Staff report submitted by Development Services Director Simpson, dated February 19, 2019, was filed.

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

Resolution 19-032, "Resolution Approving Final Map for Tract 8319 and Authorizing the City Manager to Execute a Subdivision Agreement"

10. New Sidewalks FY19 Project - Approval of Plans and Specifications and Call for Bids **CONS 19-080**

Staff report submitted by Interim Public Works Director Ameri, dated February 19, 2019, was filed.

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

Resolution 19-033, “Resolution Approving Plans and Specifications for the New Sidewalks FY19 Project, Project Nos. 05258, 05259, 05272, 05246, 05284, 05247 and Call for Bids”

11. New Garin Reservoir and Pump Station Improvements: Authorization for the City Manager to Amend Professional Services Agreement for Additional Engineering Services During Construction **CONS 19-081**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated February 19, 2019, was filed.

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

Resolution 19-034, “Resolution Authorizing the City Manager to Execute an Amendment to an Agreement to Increase Funds by \$56,294 to Not to Exceed amount of \$356,294, for Additional Engineering Services with Kleinfelder, Inc., for the New Garin Reservoir and Pump Station Improvements, Project No. 07183”

WORK SESSION

12. Update on Efforts Related to the City’s Residential Rent Stabilization Ordinance and Provide Direction on Potential Amendments to the Residential Rent Stabilization Ordinance (Report from City Manager McAdoo) **WS 19-012**

Staff report submitted by Deputy City Manager Ott, dated February 19, 2019, was filed.

City Manager McAdoo announced the report and introduced Deputy City Manager Ott who provided a synopsis of the staff report.

Mayor Halliday opened the public comments section at 9:47 p.m.

Mr. Brian Arrasmith, Hayward landlord, urged the Council to consider exemptions for properties whose rents are capped and substantially below market, noted that older buildings require significant ongoing investment/expenses, and overregulating landlords will reduce the quality of most affordable housing units.

Mr. Jerry Reynolds, Hayward landlord, noted that removing rental homes from the market will impact renters.



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Ms. Patricia Tecua, Hayward renter, via an English/Spanish interpreter, asked the City to investigate a property owner about discrepancies with a rental agreement and asked for rent control.

Ms. Elisha Crader, Hayward resident and Centro Legal de la Raza housing advocate, spoke in support of extending rent control protection to as many units as legally possible and a rent threshold tied to the Consumer Price Index.

Ms. Paola Hernandez, Centro Legal de la Raza housing advocate, spoke in support of rent control.

Mr. Xavier Johnson asked the Council to use the power to regulate and mitigate impacts to communities of color.

Ms. Sarah McCracken, Centro Legal de la Raza staff attorney, favored expanding the existing rent control protection to as many units as legally possible, expanding just cause for eviction to all rental units in Hayward, and removing vacancy decontrol process.

Ms. Veronica Solorio, Hayward Collective member, favored expanding rent control and just cause for all rental units, removing the decontrol process, and recontrolling all units that are legally possible under the Costa-Hawkins Act including no exemption for owner occupied units (duplex, triplex, quadraplex).

Mr. Doug Smith, rental property owner, spoke against binding arbitration and rent control, and had concerns with staff's report.

Ms. Roberta Thomas, Hayward real estate broker, noted the rent increases are reasonable and proposed regulations might force rental property owners to explore selling or going with a 1031 exchange (tax deferred exchange).

Mr. Bill Mulgrew, Rental Housing Association of Southern Alameda County, Vice President, favored mandatory, non-binding mediation for increases over a threshold of 5% plus CPI, and noted the rent review data used in the staff report for the City of Fremont is six months old and does not reflect current statistics.

Ms. Caryl Mahar, Rental Housing Association of Southern Alameda County representative and Hayward renter, noted the proposal will force "Mom and Pop" property owners out of the industry, asked to look closely at Section 19 Eviction for Cause (a) Cause for Eviction subsections 11, 13, and 15; and the cost of soft story retrofits will be passed on to "Mom and Pop" property owners.

Mr. Ed Kellar, rental properties owner, urged the City to consider communities that are landlord/tenant friendly and increase housing inventory, and added that rentals that get 5% rent increases are \$500/\$600 below market rent.

Mr. Mike Chaney, Hayward landlord, did not support non-binding arbitration.

Mr. Mark Oakman, property manager, cautioned the City about following staff's recommendation and noted that the growth in the cost of rentals was not keeping proportional pace with the cost of services, utilities and taxes.

Mr. Jason Moreno, Hayward resident, submitted a document for the record with eleven (11) issues that he wanted considered when modifying the Ordinance, and noted that in the Ordinance there is no enforcement mechanism of the requirement that landlords be cognizant of the ordinance or their responsibilities.

Mr. Zachariah Oquenda, Hayward resident, supported the Hayward Collective's letter and provided a record with two additional policies: the online rental registry database and a tenant protection ordinance.

Ms. Brenda Hernandez, rental property owner, noted the City needed to create more affordable housing.

Mr. Les Fohl, real estate broker, noted there was a necessary correlation between the value of rental property and the rent that needs to be charged, and added that rental properties were getting sold and become owner occupied.

Ms. Paola La Verde, Hayward renter, urged the Council to provide rental protection with cause eviction and rent control to all Hayward renters.

Ms. Lacei Amodei, Hayward Collective member and Hayward tenant, urged the Council to consider models that have already been vetted, asked for a moratorium on further rent increases, and requested to stop asking average people to resolve the housing crisis.

Ms. Araceli Orozco, Hayward resident, spoke in support of rent control.

Mr. Eduardo Orozco, Hayward resident, spoke in support of rent control.

Ms. Pamela Glassoff, Eden I&R, 2-1-1 Program housing coordinator, shared that the health of service callers has been affected by the inability to afford housing, and urged the Council to protect tenants as much as possible.

Ms. Tina Acree, Hayward tenant, spoke in favor of rent control and a rent threshold equal to CPI, and expressed the need for more affordable housing.

Ms. Roehelle Brown, property manager and renter, noted that rent increases were necessary to keep up with building maintenance and permit cost.



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Mr. James Chang, Berkeley Rent Stabilization Board member, spoke in favor of rent control noting that Section 8 housing is not affected by local regulations, new development is not affected under the Costa-Hawkins Act, and rising rents are pushing people into homelessness.

Ms. Martha Kreeger, spoke in support of rent control and just cause eviction noting that tenants must miss work in order to go through mediation.

Mr. Christopher Oventon, property owner, spoke against rent control.

Ms. Tina Hand, realtor, asked the Council to consider every situation when creating policy and reach out to small landlords.

Mr. Bill Espinola, Hayward landlord, noted that "Mom and Pop" property owners provide affordable housing, and asked the Council to keep in mind that small property owners are not large corporations.

Ms. Barbara Clemons, realtor, noted that small property owners use the investment of a rental property to supplement income.

Mr. Mike Godfrey, property owners' representative, asked the Council to protect the interest of small property owners, and eliminate unruly landlords and tenants.

Ms. Alicia Lawrence, Hayward Collective member, spoke in support of rent control, and asked the Council to consider a tenant's first right of refusal so tenants can buy the home or building they occupy should the landlord decide to divest.

The following individuals submitted speaker cards but, due to the lateness of the meeting, left the Council Chambers before they could express their views.

Ms. Rahima Aziz
Ms. Etienne Bowie
Mr. Monzella Curtis
Mr. Nick Harvey
Ms. Corina Vasaure
Ms. Elena Lepe
Mr. Geraldo Gonzales
Ms. Maria Osegura
Ms. Catalina Garcia
Ms. Amanda Groziak
Ms. Matilde Lara
Ms. Angie Watson-Hajjem

Mr. Will Shattuc
Ms. Jeannette Johnigan
Mr. Kim Huggett
Mr. Otto Catrina

Mayor Halliday closed the public comments section at 11:26 p.m.

Members of the City Council were asked to respond to questions posed by staff related to potential amendments to the Residential Rent Stabilization Ordinance (RRSO).

In response to the approach to amend the RRSO, Council Member Márquez expressed support for a rent control program with a rent threshold tied to the Consumer Price Index and make a process applicable to all rental units except all complexes of four units or less, including single-family homes. In terms of a vacancy decontrol process, she preferred to eliminate the process for decontrolling units maintaining the 1,000-1,600 units, currently covered by rent increase limitations. Regarding the eviction for cause process, she preferred to expand eviction for cause to all units, including single-family homes. Regarding other tenant protections, she mentioned that the options could be explored through the Homelessness-Housing Task Force and for the Task Force to have a firm timeline of three to six months with action items coming back to the City Council.

In response to the approach to amend the RRSO, Council Member Zermeño expressed support for a mediation process with binding arbitration and cover as many units as legally possible. In terms of a vacancy decontrol process, he favored eliminating the process of decontrolling units. He favored expanding eviction for cause to all units. He favored the four tenant protection options and suggested adding a tenant code of conduct. He also favored requiring that rent increase and eviction notices be filed with the City. Additionally, he urged action to stop displacing any more renters, address unclear provisions, and reward landlords in compliance.

In response to the approach to amend the RRSO, Council Member Wahab expressed support for rent control and a rent increase threshold that is fair to all rental units (single-family, duplex, triplex, quadraplex, multi-home, including mobile home units); suggested that tenants be informed in writing understanding Hayward is a community of immigrants; wanted stronger infrastructure improvements and support for the landlords in financing that; craft a Tenant Protection Ordinance; mimic the City of Berkeley's database and consider a control mechanism once bad actors have been identified; review allowing to decontrol all previously decontrolled units; and added that tenant protection and just cause eviction constituted the code of conduct for landlords.

In response to the approach to amend the RRSO, Council Member Lamnin expressed support for a mediation process with binding arbitration for all units with a rent increase threshold in the 5 or 6% range that includes rent and other charges; recommended to be sensitive to residents' working arrangement when scheduling meetings; consider the fees that would cover the cost of administering and enforcing the amended ordinance; consider incentives or unit improvements for good landlords. In terms of the vacancy decontrol process, she



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preferred to suspend the vacancy decontrol process for a period. Regarding the eviction for cause process, she preferred expanding the eviction for cause to all units. In terms of other tenant protections, she supported all options except the promotion of a landlord code of conduct. Additionally, she recommended a database that advocacy groups, tenants and landlords can contribute to and streamline the process for getting a business license.

In response to the approach to amend the RRSO, Council Member Mendall expressed support for mandatory mediation with a rent threshold in the 5-8% range and a process applicable to all market rate rental units built prior to July 1, 1979, except: single-family homes and owner-occupied units (single-family homes, duplex, triplex, quadruplex). He added that a rent increase associated with the sale of a property needed to be corrected. In terms of a vacancy decontrol process, he preferred to suspend the vacancy decontrol process for a period to gather data before making a recommendation. Regarding eviction for cause, he preferred expanding eviction for cause to all units. In terms of other tenant protections, he concurred with the four options but preferred to do the promotion of a landlord code of conduct last. Lastly, he preferred requiring filing of eviction notices with the City.

In response to the approach to amend the RRSO, Council Member Salinas expressed support for a mediation process with binding arbitration using the Consumer Price Index across the board and making the process applicable to all market rate rental units except for single-family homes. In terms of the vacancy decontrol process, he preferred removing the process for decontrolling units. Regarding the eviction for cause, he supported expanding eviction for cause to all units. In terms of tenant protection options, he preferred that the prohibition against discrimination of Section 8 voucher holders come back to Council faster, and that there be a code of conduct for both landlords and tenants and collect qualitative and quantitative data on both tenant and landlord experiences. Lastly, he supported requiring that rent increase and eviction notices be filed with the City.

In response to the approach to amend the RRSO, Mayor Halliday expressed support for a mediation process with binding arbitration that ensures fairness for both sides using a 5% rent threshold or CPI inclusive of rent and other extra charges such as parking, and making the process applicable to all market rate rental units except single-family units, and considering legal assistance for everyone, and instituting flexible hours. Regarding the vacancy decontrol process, she preferred suspending the vacancy decontrol process for a period. In terms of the eviction for cause, she preferred expanding eviction for cause to more rental units except for owner-occupied single-family units. Regarding other tenant protections, she supported the four options. Lastly, she favored a database and a requirement that rent increase and eviction notices be filed with the City.

PUBLIC HEARING

13. Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of a Resolution Approving the Issuance by California Public Finance Authority of Multifamily Housing Revenue Bonds to Finance the Acquisition, Rehabilitation of Leisure Terrace Apartments (Report from Deputy City Manager Ott) **PH 19-010**

Staff report submitted by Deputy City Manager Ott, dated February 19, 2019, was filed.

City Manager McAdoo announced the report and introduced Housing Manager Morales who provided a synopsis of the staff report.

Mayor Halliday opened the public hearing at 12:47 a.m.

Mr. Zacharia Oquenda, Hayward resident, asked the City to consider relocation assistance for the families that were going to be displaced because they did not meet the income eligibility requirement.

Mayor Halliday closed the public hearing at 12:49 a.m.

City staff noted that consideration of relocation assistance could be suggested to the developer.

Council Member Mendall offered a motion per staff's recommendation.

Council Member Zermeño seconded the motion.

Council Member Lamnin suggested to consider the first right of refusal and the role of the Housing Authority in finding a mechanism for tenants or agencies to have an opportunity to retain the units. Ms. Lamnin recommended, to the extent possible, to have longer noticing for people in need of relocation assistance and to retain renters at the current rental price for some period to help offset other costs.

Council Member Márquez noted the Council wants to see more improvements.

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

Resolution 19-035, "Resolution of the City Council of the City of Hayward Approving the Issuance by the California Public Finance Authority of Multifamily Housing Revenue Bonds in an Aggregate Principal amount Not to Exceed \$23,000,000 for the Purpose of Financing or Refinancing the Acquisition and Rehabilitation of Leisure Terrace Apartments and Certain Other Matters Relating Thereto"



MINUTES OF THE CITY COUNCIL MEETING
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14. Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (CalPERS) for Miscellaneous Members in SEIU Local 1021 (Report from Human Resources Director Collins) **PH 19-009**

Staff report submitted by Human Resources Director Collins, dated February 19, 2019, was filed.

Human Resources Analyst II Adams provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 12:54 a.m.

Council Member Mendall offered a motion per staff's recommendation.

Council Member Zermeño seconded the motion.

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

Ordinance 19-03, "An Ordinance Authorizing the Amendment of the Contract Between the City of Hayward and the Board of Administration of the California Public Employees' Retirement System"

15. Vacation of 3138 Baumberg Avenue: Public Hearing and Resolution Approving Excess Right-of-Way Vacation and Authorizing Quit Claim Deed (Report from Interim Public Works Director Ameri) **PH 19-011**

The item was continued to February 26, 2019.

16. Vacation of 26010 Production Avenue: Public Hearing and Resolution Approving Excess Right-of-way Vacation and Authorizing Quit Claim Deed (Report from Interim Public Works Director Ameri) **PH 19-012**

The item was continued to February 26, 2019.

CITY MANAGER'S COMMENTS

There were no comments.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez noted that cultural events were sponsored by different groups and urged community members to become partners with the City to celebrate diversity.

In response to Council Member Wahab's request regarding mental health and de-escalation training for safety personnel, City Manager McAdoo noted the item could be referred to the Hayward Police Chief's Community Advisory Panel.

ADJOURNMENT

Mayor Halliday adjourned the regular meeting at 1:02 a.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: MIN 19-033

DATE: March 19, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on February 26, 2019

RECOMMENDATION

That the City Council approves the minutes of the City Council on February 26, 2019.

SUMMARY

The City Council held a meeting on February 26, 2019.

ATTACHMENTS

Attachment I Draft Minutes of 2/26/2019



MINUTES OF THE CITY COUNCIL MEETING
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The meeting of the City Council was called to order by Mayor Pro Tempore Zermeño at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Pro Tempore Zermeño.

ROLL CALL

Present: COUNCIL MEMBERS Márquez, Lamnin, Wahab, Salinas
MAYOR PRO TEMPORE Zermeño
Absent: COUNCIL MEMBER Mendall
MAYOR Halliday

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported the Closed Session was canceled given there were two members of the Council absent; therefore, there was no reportable action.

PRESENTATION

Mayor Pro Tempore Zermeño read a Certificate of Commendation presented to Mr. Joseph Franco for creating an app, F-Connect, dedicated to connecting foster youth to a peer network and tools to apply to college and for scholarships. Council Member Lamnin read a Certificate of Commendation presented to Ms. Nancy Wright for her dedication to science education and to the students of Hayward, and for representing Hayward in Washington D.C. where she was awarded the Presidential Award for Excellence in Mathematics and Science Teaching. Hayward Unified School District Superintendent Dr. Wayne commended Mr. Joseph Franco and Ms. Nancy Wright for their contributions to Hayward.

PUBLIC COMMENTS

There were none.

CONSENT

Consent Item 3 was removed from the Consent Calendar for separate vote.

1. FY 2019 Pavement Rehabilitation & Preventive Maintenance Project: Award of Construction Contract **CONS 19-084**

Staff report submitted by Interim Public Works Director Ameri, dated February 26, 2019, was filed.

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

Resolution 19-036, “Resolution Approving Award of Contract for the FY 2019 Pavement Rehabilitation and Preventative Maintenance Project, Project Nos. 05216, 05219, 05220, 05280, and 05231 to O’Grady Paving Inc.”

2. Recycled Water Treatment Facility Project - Phase I: Approval of Addendum No. 1 and Award of Construction Contract **CONS 19-102**

Staff report submitted by Interim Public Works Director Ameri, dated February 26, 2019, was filed.

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

Resolution 19-037, “Resolution Approving Addendum No. 1 and Awarding a Contract to TNT Industrial Contractors, Inc., for the Recycled Water Treatment Facility Project - Phase I, Project No. 07710, in an amount Not to Exceed \$1,887,341”

3. Approval of Microsoft Enterprise License Agreement (ELA) for Microsoft Enterprise Renewal Licenses for a Three-Year Contract, in an Amount Not to Exceed \$725,075 **CONS 19-111**

Staff report submitted by Information Technology Director Kostrzak, dated February 26, 2019, was filed.

Information Technology Director Kostrzak responded to questions raised by Council Member Wahab regarding the Microsoft Enterprise License Agreement renewal. A portion of the video was muted to protect a security vulnerability. Council Member Wahab recommended that future staff reports regarding renewal of high-ticket contracts be presented to the City Council with lead time before they expire and include the winning bidder and the terms of the contract. City Manager McAdoo noted the suggestion could be evaluated during the Council Member Handbook review as part of agenda protocols.

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

Resolution 19-039, “Resolution Authorizing the City Manager to Negotiate and Execute a Purchase Order and a Three-Year Contract for a Microsoft Enterprise License Agreement (ELA) for Microsoft Enterprise Software Licenses including Office 365 Suite”



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4. Approval of Final Map Tract 8432 (Gading II), Associated with the Previously Approved Vesting Tentative Tract Map and Development of 18 Single Family Homes on a 1.7-Acre Site Located at 25941 Gading Road; Blue Mountain Communities (Applicant/Owner) **CONS 19-112**

Staff report submitted by Interim Public Works Director Ameri, dated February 26, 2019, was filed.

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

Resolution 19-038, "Resolution Approving Final Map for Tract 8432 and Authorizing the City Manager to Execute a Subdivision Agreement"

PUBLIC HEARING

5. Vacation of 3138 Baumberg Avenue: Public Hearing and Resolution Approving Excess Right-of-Way Vacation and Authorizing Quit Claim Deed (Report from Interim Public Works Director Ameri) (Continued from February 19, 2019) **PH 19-011**

Staff report submitted by Interim Public Works Director Ameri, dated February 26, 2019, was filed.

Interim Public Works Director Ameri provided a synopsis of the staff report.

There being no public comments, Mayor Pro Tempore Zermeño opened and closed the public hearing at 7:43 p.m.

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

Resolution 19-040, "Resolution Vacating a Portion of Right-of-Way at 3138 Baumberg Avenue"

6. Vacation of 26010 Production Avenue: Public Hearing and Resolution Approving Excess Right-of-way Vacation and Authorizing Quit Claim Deed (Report from Interim Public Works Director Ameri) (Continued from February 19, 2019) **PH 19-012**

Staff report submitted by Interim Public Works Director Ameri, dated February 26, 2019, was filed.

Interim Public Works Director Ameri provided a synopsis of the staff report and responded to questions from the staff report.

There being no public comments, Mayor Pro Tempore Zermeño opened and closed the public hearing at 7:47 p.m.

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

Resolution 19-041, “Resolution Vacating a Portion of Right-of-Way at 26010 Production Avenue”

LEGISLATIVE BUSINESS

7. FY 2019 Mid-Year Budget Review & General Fund Long Range Financial Model Update (Report from Director of Finance Claussen) **LB 19-012**

Staff report submitted by Finance Director Claussen, dated February 26, 2019, was filed.

Finance Director Claussen provided a synopsis of the staff report. City Manager McAdoo noted that Council Member Mendall had asked her to read his comments into the record during Council’s recommendations.

Discussion ensued among Council members and City staff regarding: the upcoming Council’s priority setting discussion; the new library and potential staffing increases; sales tax revenue; Utility Users Tax (UUT) revenue and staff’s strategy for addressing the recession; budget increase for contract services; Housing Division staff; Real Property Transfer Tax (RPTT); staffing changes in the Youth and Family Services Bureau (YFSB); and the change in projected reserves/surplus in 2020-21.

Mayor Pro Tempore Zermeño opened the public hearing at 8:10 p.m.

Ms. Theresa Rezentes, Hayward resident, asked for the causes in reserve projection decreases and Finance Director Claussen noted this was due to the City’s operating expenses.

Mayor Pro Tempore Zermeño closed the public hearing at 8:12 p.m.

There was Council consensus in acknowledging the commitment and partnership of City employees, labor groups and Hayward voters. Council members were optimistic about the current financial status, but urged everyone to be cautious about the projected economic downturn.



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Council members offered the following recommendations: consider items that could add capacity without adding significant ongoing cost; consider adding programming through the library for students during the summer; consider expanding Police programming to serve more kids and extend service hours; consider a cost analysis per position in the Maintenance Services Department and evaluate alternative options for partnerships through workforce development, adult schools and apprenticeship programs; identify funding for emergency preparedness for the public; consider discussion related to expanding library hours, perhaps at mid-year; consider Measure C revenue for one position in the Maintenance Services Department and for Fire Station 6; evaluate having contracts vetted by the Council Budget Finance Committee to ensure fiscal responsibility; consider small loans for businesses in lieu of grants; focus on improving the quality of life for Hayward residents when funding projects; ensure consistency in maintaining 20% General Fund reserves in operating expenses; consider a policy, as a result of the passage of Measure T, to set aside \$1 million per year toward increase in spending; consider using the remainder of Measure T revenue to balance the budget and build reserves; prioritize allocating future Measure T revenue for extending library hours and hiring additional staff in the Maintenance Services Department to perform increased litter removal; consider Sunday hours for the new library; plan to address the projected downturn in the economy in 2021; fill empty storefronts and market Hayward to generate revenue.

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

Resolution 19-042, "Resolution Amending Resolution 18-089, as Amended, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2019, Relating to an Appropriation of Funds"

Resolution 19-043, "Resolution Amending Resolution 18-090, as Amended, the Budget Resolution for the City of Hayward Capital Improvement Projects for Fiscal Year 2019, Relating to an Appropriation of Funds"

CITY MANAGER'S COMMENTS

City Manager McAdoo made four announcements: 1) Read Across America Day on March 2, 2019 at City Hall and Dr. Seuss's Storytime event at Weekes Branch Library; 2) community meeting to discuss Caltrans parcel groups 8 and 9 on March 14, 2019 at the Douglas Morrison Theatre; 3) Coffee with a Cop event on February 27, 2019 at the Cannery Café; and 4) Hayward Youth Commission recruitment.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez requested that an emergency ordinance on no cause evictions for all Hayward tenants from six to 12 months be drafted and brought for Council's discussion/action at the next Council meeting. There were four Council nods in support of having staff work on the request and place the item on the March 5, 2019 agenda.

Council Member Wahab clarified her prior referral regarding mental health and de-escalation training and expressed concerns with the referral and four-nod policy and asked for its review. City Manager McAdoo noted the policy could be reviewed during the revisions of the Council Member Handbook.

Council Member Wahab made a referral for a moratorium on rent increases for 13 months or for the remaining term of the moratorium on the decontrol of rental units. The referral did not receive support and was instead referred to the Homelessness-Housing Task Force for discussion on March 21, 2019.

Council Member Lamnin made two announcements: 1) Women on the Rise: Pioneers Transforming Politics event on March 2, 2019 at City Hall; and 2) International Women's Day celebration on March 8, 2019 at City Hall.

Council Member Wahab made two announcements: 1) Annual Women of the Year event hosted by Assembly Member Bill Quirk at Chabot College on March 2, 2019; and 2) Read Across America Day on March 2, 2019 at City Hall.

Mayor Pro Tempore Zermeño made two announcements: 1) International Trade Lunch with Consul General of Canada Rana Sarkar at the Golden Peacock on February 27, 2019; and 2) Hayward Police's donation of an incident command vehicle to representatives of Arandas, Jalisco, México, on February 27, 2019.

ADJOURNMENT

Mayor Pro Tempore Zermeño adjourned the meeting at 9:03 p.m.

APPROVED

Francisco Zermeño
Mayor Pro Tempore, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: CONS 19-163

DATE: March 19, 2019

TO: Mayor and City Council

FROM: Director of Library Services

SUBJECT

Authorize the City Manager to Accept and Appropriate up to \$150,000 from the California State Library for Hayward Library's Education Services Programs

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept and appropriate up to \$150,000 in grant funding from the California State Library for the operations of the City's Library Education Services Programs for FY 2019. This resolution increases the limit on grant funding from the California State Library set in Resolution No. 18-227, dated October 16, 2018.

SUMMARY

The City provides literacy services to Hayward residents through its Library Services Department. Over the past several years, the City has received grant funds from the California State Library to supplement the City's General Fund costs for these programs. Grants come in various amounts and have grant-specific requirements detailing which programs the funds are to be used for.

Additional funds have been made available from the California State Library for FY 2019, which exceed the current limit on grant funding. Staff requests Council increase the \$80,000 limit on grant funding set forth in Resolution No. 18-227 to allow for the acceptance and appropriation of up to \$150,000 in grant funds from the California State Library for FY 2019 and annually for the next five years (through the end of FY 2024).

With Council approval, staff will increase the funding limit in the Library Department's Education Services budget, appropriate the additional funds made available, and provide services per the requirements of the California Library Literacy Services program of the California State Library.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution

File #: CONS 19-163



DATE: March 19, 2019

TO: Mayor and City Council

FROM: Director of Library Services

SUBJECT: Authorize the City Manager to Accept and Appropriate up to \$150,000 from the California State Library for Hayward Library's Education Services Programs

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept and appropriate up to \$150,000 in grant funding from the California State Library for the operations of the City's Library Education Services Programs for FY 2019. This resolution increases the limit on grant funding from the California State Library set in Resolution No. 18-227, dated October 16, 2018.

SUMMARY

The City provides literacy services to Hayward residents through its Library Services Department. Over the past several years, the City has received grant funds from the California State Library to supplement the City's General Fund costs for these programs. Grants come in various amounts and have grant-specific requirements detailing which programs the funds are to be used for.

Additional funds have been made available from the California State Library for FY 2019, which exceed the current limit on grant funding. Staff requests Council increase the \$80,000 limit on grant funding set forth in Resolution No. 18-227 to allow for the acceptance and appropriation of up to \$150,000 in grant funds from the California State Library for FY 2019 and annually for the next five years (through the end of FY 2024).

With Council approval, staff will increase the funding limit in the Library Department's Education Services budget, appropriate the additional funds made available, and provide services per the requirements of the California Library Literacy Services program of the California State Library.

BACKGROUND AND DISCUSSION

Literacy Plus, a program of Hayward Library's Education Services, offers free one-on-one tutoring for adults who want to improve their basic reading and writing skills. Trained volunteers provide tutoring at library sites and other public sites in Hayward. Literacy Plus also supports family learning through the Families for Literacy and Early Learning for Families programs.

Currently, the City gets an automatic \$18,000 from California State Library for participating in the statewide literacy program. The State provides the City with additional funds of varying amounts based on fund availability. In FY 2018, the City received \$56,318 from this source. This fiscal year, the City was awarded \$56,600 in funding from the California State Library for Literacy Services programs, and \$45,000 in additional state funds for Families for Literacy programs. Hayward Library plans to continue participation in the statewide literacy program, and the State Library is expected to continue to provide funding to Hayward Library over the next five years.

Staff is requesting Council's authorization to increase the limit on grant funding from the California State Library, allowing Library Services to accept up to \$150,000 in FY 2019 and annually for the next five fiscal years (through the end of FY 2024). With Council approval, staff will appropriate the additional \$45,000 for the current fiscal year into the Library Department's Education Services budget and provide services per the requirements of the State Library.

STRATEGIC INITIATIVES

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

FISCAL IMPACT

Grant funds supplement the City's General Fund, which allows the Library Education Services division to provide adult and family literacy programs. There is no negative impact to the General Fund from accepting these supplemental funds as the City is already providing these programs.

Prepared by: Brad Olson, Management Analyst II

Recommended by: Jayanti Addleman, Director of Library Services

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND APPROPRIATE UP TO \$150,000 FROM THE CALIFORNIA STATE LIBRARY FOR EDUCATION SERVICES, AND SUPERSEDE RESOLUTION NO. 18-227

WHEREAS, The Library provides Literacy and Family Learning programming at both libraries in partnership with the California State Library Literacy Services program; and

WHEREAS, The California State Library (CSL) has provided funding in past years to help cover the costs of the Literacy programming.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the City Manager to accept and appropriate up to \$150,000 from CSL in FY2019 and in each of the following five fiscal years for education services programs, through FY 2024: and superseding Resolution No. 18-227 as it related to grant funding from The California State Library for FY 2019 and through FY 2024.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

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



CITY OF HAYWARD

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

File #: CONS 19-158

DATE: March 19, 2019

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT

Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program Permit Application Review Services, for Round 1, Tier 2 Applications, and Increasing the Compensation Amount Not to Exceed \$250,838.

RECOMMENDATION

That the City Council approves the attached resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program permit application review services to include Round 1, Tier 2 applications, and increasing the contract to an amount not to exceed \$250,838.

SUMMARY

On April 20, 2018, the City executed an agreement with ICF Incorporated for services related to developing the process to review, rate & rank the applications for the City's Commercial Cannabis Program, and to conduct Round 1, Tier 1 review of applications. This agreement expires on March 31, 2019.

On January 15, 2019, Council directed staff to begin working with the applicants in the pool not previously selected in the City's initial process, create a second tier of applicants to review for consideration, and potentially award additional Commercial Cannabis Permits. Council also authorized and appropriated \$70,000 in funding from the General Fund to cover the costs associated with the process.

Staff is requesting authorization to amend the agreement with ICF Incorporated to conduct additional interviews and complete the selection process, in an amount not to exceed \$250,838, and extend the term of the agreement to March 31, 2020.

ATTACHMENTS

Attachment I Staff Report

File #: CONS 19-158

Attachment II	Resolution
Attachment III	Scope of Services



DATE: March 19, 2019

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT: Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program Permit Application Review Services, for Round 1, Tier 2 Applications, and Increasing the Compensation Amount Not to Exceed \$250,838

RECOMMENDATION

That the City Council approves the attached resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with ICF Incorporated for Commercial Cannabis Program permit application review services to include Round 1, Tier 2 applications, and increasing the contract to an amount not to exceed \$250,838.

SUMMARY

On April 20, 2018, the City executed an agreement with ICF Incorporated for services related to developing the process to review, rate, and rank the applications for the City's Commercial Cannabis Program, and to conduct Round 1, Tier 1 review of applications. This agreement expires on March 31, 2019.

On January 15, 2019, Council directed staff to begin working with the applicants in the pool not previously selected in the City's initial process, to create a second tier of applicants to review for consideration, and potentially award additional Commercial Cannabis Permits. Council also authorized and appropriated \$70,000 in funding from the General Fund to cover the costs associated with the process.

Staff is requesting authorization to amend the agreement with ICF Incorporated to conduct additional interviews and complete the selection process, in an amount not to exceed \$250,838, and extend the term of the agreement to March 31, 2020.

BACKGROUND

On March 27, 2018, the City Council adopted Resolution 18-049 authorizing the City Manager to negotiate and execute an agreement with ICF Incorporated related to services for the creation of the City's Commercial Cannabis Program in an amount not to exceed \$180,838.

The first application period began on December 8, 2017 and concluded on January 12, 2018. The City received 77 proposals for the seven different permit types.

On January 15, 2019, the City Council adopted Resolution #19-009 appropriating \$70,000 from the General Fund to cover the cost of a consultant to review applications and conduct interviews for the other applications being considered as part of the Tier 2 review, and directed staff to expand the interview thresholds from the first round, creating a second tier of applicants to review, and to potentially award additional Commercial Cannabis Permits. However, the Council did not authorize the amendment to the agreement with ICF for the increased funding at that time. This action is an administrative clean up action to authorize amending the agreement with ICF to allow for the additional scope of services and compensation associated with the Tier 2 review of Commercial Cannabis permits.

DISCUSSION

ICF Incorporated provides local, state, and federal governments with comprehensive regulatory support services across many diverse programs, including cannabis regulation, agriculture, food and drugs, health and human services, environment, labor safety, and law enforcement. ICF Incorporated offers highly experienced personnel skilled in refined processes to engage stakeholders, facilitate successful meetings, and draft clear and concise regulatory and application documents.

ICF possesses unique experience in application development and adjudication, assisting state and local government agencies to develop, implement, manage, and evaluate cannabis programs.

Attachment III, Scope of Services, details the tasks associated with the “Round 1, Tier 2” interview process.

FISCAL IMPACT

On January 15, 2019, Council adopted Resolution #19-009 authorizing the appropriation of an additional \$70,000 in the General Fund to cover the costs for this work increasing the total appropriation for this work to \$250,838.

STRATEGIC INITIATIVES

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

NEXT STEPS

Following Council adoption, staff will prepare the amendment to the agreement with ICF Incorporated for execution and will continue to work with ICF Incorporated to facilitate the evaluation of Commercial Cannabis permit applications.

Prepared by: Jade Kim, Management Analyst II

Recommended by: Laura Simpson, Director of Development Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH ICF INCORPORATED FOR COMMERCIAL CANNABIS PROGRAM PERMIT APPLICATION REVIEW SERVICES, FOR ROUND 1, TIER 2 APPLICATIONS, AND INCREASING THE COMPENSATION AMOUNT NOT TO EXCEED \$250,838

WHEREAS, on April 20, 2018, the City executed an agreement with ICF Incorporated for services related to developing a process for the City's Cannabis Program, and to conduct Round 1, Tier 1 review of applications; and

WHEREAS, on January 15, 2019, Council directed staff to expand the interview thresholds from the first round, creating a second tier of applicants to review, and potentially award additional Commercial Cannabis Permits; and

WHEREAS, Council also adopted Resolution #19-009, authorizing an appropriation of \$70,000 from the General Fund to cover the cost of consultant services to conduct the interview and selection process; and

WHEREAS, the current agreement with ICF Incorporated expires on March 31, 2019; and

WHEREAS, ICF Incorporated possesses unique experience in application development and adjudication, assisting state and local government agencies develop, implement, manage, and evaluate cannabis programs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, hereby authorizes the City Manager to negotiate and execute an amendment to the City's Agreement with ICF Incorporated to conduct Commercial Cannabis Program permit application review services to include Round 1, Tier 2 applications, increasing the compensation an additional \$70,000 for a total compensation not to exceed \$250,838, and extending the term through March 31, 2020, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

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



January 8, 2019

John Stefanski
City of Hayward
777 B Street
Hayward, CA 94541

Re: Commercial Cannabis Permit Program: Application Interview Support

Dear Mr. Stefanski,

ICF Jones & Stokes, Inc. (ICF) is delighted to be able to support the City of Hayward (City) as it embarks on the Round 1, Tier 2 interview selection process. As you know, ICF brings unique knowledge of Hayward's commercial cannabis permit program, having worked closely with the City to develop the application and scoring criteria and adjudicate the review process. This recent experience will enable ICF to hit the ground running and complete the interview process efficiently and with no ramp-up period. ICF offers the City a unique combination of direct insight into Hayward's application development process coupled with broad cannabis program development and adjudication expertise.

Scope of Services

The tasks discussed below include all activities associated with supporting the Round 1, Tier 2 interview process and reporting results to the City. ICF will employ an unbiased and thorough interview protocol that mirrors the Round 1, Tier 1 review processes utilized.

Task 1: Review and Update Interview Protocol

ICF will begin by reviewing the City's existing Interview Scorecard and discussing the previous process with City staff who participated to identify any areas for improvement in the process or updates to the questions. The City intends to keep the scorecard as consistent as possible and it is expected that only minor changes will be necessary. The City will authorize any changes to the scorecard.

Task 2: Prepare for Interviews

ICF interviewers will review each of the applications that have met the Tier 2 threshold to familiarize ourselves with the applicant team and proposed operation. The City will provide the list of applications that meet the Tier 2 threshold to ICF. Following review of each application, ICF will prepare a 1-page summary for City staff who will participate in the interview process outlining the applicant's key strengths, areas of concern and highlighting specific areas for questioning. ICF will also call out any updates to the project team, provided by the applicant. For each applicant team, ICF will prepare an Interview Protocol for City of Hayward approval that will consist of standard

This proposal includes proprietary data that shall not be disclosed outside the City of Hayward and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. This restriction does not limit the City of Hayward's right to use information contained in these data if it is obtained from another source without restriction. The data subject to this restriction are contained in this volume and its appendices and attachments.



questions to be asked during each interview, as well as applicant-specific follow-up questions, as needed.

Task 3: Conduct Interviews

In coordination with participating City staff, ICF will facilitate 1-hour interviews with each applicant team. ICF has provided a price quote for both a single interviewer as well as two-person interview team. The ICF interviewer(s) will be responsible for posing the questions, guiding the conversation and taking notes. The ICF interviewer(s) will coordinate with City staff who are participating to ensure that their questions are addressed. After each interview, ICF will complete the Interview Scorecard, incorporating the feedback from participating City staff.

Task 4: Reporting Results

Based on the numeric and qualitative feedback captured on the Interview Scorecard, ICF will prepare a list of the most qualified applicants to receive permits. Finally, ICF will support City staff by participating in the Council Meeting where selected applicants will be announced. As requested by the City, ICF will support the drafting of the Staff Report, prepare a slide deck of recommendations, or participate in the meeting to respond to questions as they arise.

Optional Tasks – Ad Hoc Support for Round 2

As the City prepares to roll out Round 2 of the Commercial Cannabis Permit Program, ICF is prepared to support the City with updating the program, as needed, including updates to the application RFP and support throughout the selection process. These optional services are not accounted for in the budget estimate below.

Schedule and Budget

ICF is prepared to begin work on this project as soon as directed. The timeline shown below presents a general schedule for the project, assuming that the City executes the consultant contract by mid-January 2019.

Since the City hopes to select qualified applicants as soon as possible, ICF anticipates that the majority of the project work will occur over the 3-month time period between mid-January and mid-April 2019. We suggest that the consulting contract extend over a 6-month period (e.g., through June 2019) to enable ongoing support as needed. Thus, our proposed high-level schedule would be as follows:

Month	Activities
Mid-January 2019	Kickoff meeting and project launch
Early February	Request any updates from Applicant teams, confirm interviews, review and update Interview Protocol
Mid-Late February	Prepare for interviews
March	Conduct Interviews



Early April	Prepare Results
Mid-April	Participate in Council Meeting

ICF’s Time & Materials (T&M) cost estimate is based on the expectation that this task would be issued under ICF Jones & Stokes’ existing master contract with the City of Hayward per direction by the City of Hayward. Based on discussions with the City, ICF has proposed both a single ICF interviewer as well as 2-ICF interviewer approach. The estimated hours, travel costs and total budget for each task of the project are described below. The task-specific assumptions that informed the budget estimate are discussed further below.

Task	1-ICF Interviewer		2- ICF Interviewers	
	Hours	Cost	Hours	Cost
Task 1 Review and Update Interview Protocol	24	\$4,820	24	\$4,820
Task 2. Prepare for Interviews	146	\$28,995	134	\$26,755
Task 3. Conduct Interviews	65	\$9,425	130	\$25,675
Task 4: Reporting Results	40	\$7,980	49	\$10,185
Travel		\$678		\$2,371
Total	275	\$51,898	337	\$69,806

The cost estimate presented above assumes that ICF will conduct no more than 26 applicant interviews. If the City requires review of more than 26 applications, ICF will invoice the City for the additional reviews at the T&M labor rates described further below.

ICF’s distribution of hours by task and labor category reflects the staffing mix that ICF believes will be most cost-effective in completing this work. ICF reserves the right to reallocate hours between tasks and labor categories as it deems necessary to complete the scope of work in a cost effective manner within the overall budget ceiling.

ICF proposes the following hourly compensation structure as outlined in our master contract with the City.

Labor Category	Rate (\$/hour)
Senior Project Director	\$270.00
Project Director	\$250.00
Technical Director	\$215.00
Senior Technical Analyst	\$190.00
Managing Consultant	\$185.00
Senior Consultant III	\$170.00
Senior Consultant II	\$145.00



Senior Consultant I	\$135.00
Associate Consultant III	\$125.00
Associate Consultant II	\$120.00
Associate Consultant I	\$110.00
Assistant Consultant	\$105.00
Administrative Technician	\$75.00
Technician	\$75.00
Intern	\$65.00

The billing rates presented above are based on the expectation of a Time and Materials contract and are effective upon contract award. If the period-of-performance is extended through a contract modification, ICF reserves the right to reevaluate and modify these rates, in accordance with our master contract with the City.

Below are the task-specific assumptions that informed ICF’s budget estimate.

Task 1 Assumptions – Review and Update Interview Protocol

- ICF assumes that we will conduct up to four (4) conference calls with relevant City staff to discuss past interview process and recommendations for protocol update.

Task 2 Assumptions – Prepare For Interviews

- ICF assumes that City staff will be responsible for requesting updated team member information from applicants and provide it to ICF at least two (2) weeks prior to the scheduled interview.
- ICF will be provided with the scoring narrative summaries and applications for all applicant teams selected for the Tier 2 interview at least two (2) weeks prior to the scheduled interview.

Task 3 Assumptions – Conduct Interviews

- ICF assumes that City staff will be responsible for coordinating the scheduling and logistics for the interviews.
- ICF assumes that all interview will be conducted at Hayward City Hall.
- ICF will be responsible for taking notes during the interview and completing the Interview Scoresheet with input from interview participants from the City.

Task 4 Assumptions – Reporting Results

- ICF will provide the City a final Interview Scorecard for each interview as well as a list of the most qualified applicants.
- At least one (1) ICF staff member will attend one (1) City Council meeting in-person to support the recommendations.



General Assumptions

- Any potential award, agreement and/or contract involving ICF shall include the following Limitation of Liability language:

LIMITATION OF LIABILITY. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY HEREIN (WITH THE EXCEPTION OF THE CLIENT’S OBLIGATION TO AWARD WORK TO PAY CONSULTANT IN ACCORDANCE WITH THIS AGREEMENT), IN NO EVENT SHALL EITHER PARTY, NOR ANY OF ITS REPRESENTATIVES, BE LIABLE TO THE OTHER PARTY, FOR ANY INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER SUFFERED BY THE OTHER PARTY AS A RESULT OF PERFORMANCE OR NONPERFORMANCE HEREUNDER, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES WAS DISCLOSED OR COULD HAVE BEEN REASONABLY FORESEEN. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, CONSULTANT LIABILITY SHALL BE STRICTLY LIMITED TO DIRECT DAMAGES AND SHALL IN NO EVENT EXCEED THE AMOUNT PAID TO CONSULTANT HEREUNDER. THIS LIMITATION OF LIABILITY APPLIES REGARDLESS OF WHETHER LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, OR OTHERWISE.

Proposed Invoicing/Payment Schedule

ICF will invoice on a monthly basis for the hours worked and the travel costs incurred during the contract period. Travel costs shall be invoiced at cost plus applicable G&A. Payment terms are net 45 days in accordance with California law.

ICF’s electronic funds transfer (EFT) account information:

Bank Name and Address	PNC Bank 800 17th Street NW Washington, DC 20006
ABA Number	031207607
SWIFT	PNCCUS33
Account Name	ICF Consulting Group, Inc.
Account Number	80-2637-4453

ICF’s lockbox addresses for check remittance:

Standard Lockbox Address	ICF Consulting Group, Inc. P.O. Box 775367 Chicago, IL 60677-5367
Overnight Lockbox Address	PNC Bank c/o ICF Consulting Group, Inc. Lockbox 775367 350 East Devon Avenue Itasca, IL 60143



This offer is valid for a period of sixty (60) days, after which time ICF may extend, modify, or withdraw it.

We would be honored to support the City of Hayward's continued success. For questions, please contact either Elizabeth Johnston, Senior Manager (617-250-4287 or Elizabeth.Johnston@icf.com) or Nasser Abdelilah, Contracts Administrator (571-373-5406 or Nasser.Abdelilah@icf.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony Chau", with a stylized flourish extending to the right.

Anthony Chau
Assoc. Manager, Contracts



CITY OF HAYWARD

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

File #: CONS 19-161

DATE: March 19, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, Effective Immediately

RECOMMENDATION

That the City Council adopts a resolution accepting the resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, effective immediately.

SUMMARY

Ms. Frederica Brewer was appointed to the Keep Hayward Clean and Green Task Force on September 18, 2018. Ms. Brewer's resignation becomes effective immediately per her resignation letter (Attachment III). Ms. Brewer's vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and the Keep Hayward Clean and Green Task Force.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resignation Letter



DATE: March 19, 2019
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, Effective Immediately

RECOMMENDATION

That the City Council adopts a resolution accepting the resignation of Ms. Frederica Brewer from the Keep Hayward Clean and Green Task Force, effective immediately.

SUMMARY AND DISCUSSION

Ms. Frederica Brewer was appointed to the Keep Hayward Clean and Green Task Force on September 18, 2018. Ms. Brewer's resignation becomes effective immediately per her resignation letter (Attachment III). Ms. Brewer's vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and the Keep Hayward Clean and Green Task Force.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC INITIATIVES

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

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 19-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE RESIGNATION OF FREDERICA BREWER FROM THE KEEP HAYWARD CLEAN AND GREEN TASK FORCE

WHEREAS, Ms. Frederica Brewer was appointed to the Keep Hayward Clean and Green Task Force on September 18, 2018;

WHEREAS, Ms. Frederica Brewer submitted a resignation letter on March 6, 2019.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Frederica Brewer from the Keep Hayward Clean and Green Task Force; and commends her for her civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019.

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

ATTACHMENT III

From: flbrewer
Sent: Wednesday, March 6, 2019 8:39 PM
To: Kimberly De Land <Kimberly.DeLand@hayward-ca.gov>
Subject: Re: KHCG March Agenda

Hi Kimberly,

This is Frederica Brewer. I am resigning from my commission position. I have relocated to Colorado to be closer to my 90 yr old mother. Thank you for the opportunity to serve on the commission.

Frederica Brewer.



CITY OF HAYWARD

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

File #: CONS 19-162

DATE: March 19, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT

Resolution to Initiate the Formation and Annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1

RECOMMENDATION

That the City Council adopts a Resolution (Attachment II) to initiate the formation and annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1.

SUMMARY

If adopted, this Resolution will initiate the proceedings for the formation and annexation of the Parkside Heights Property to Benefit Zone No. 17 of Consolidated Landscaping and Lighting District 96-1 and designates SCI Consulting Group as the Engineer of Work.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Vicinity Map



DATE: March 19, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Resolution to Initiate the Formation and Annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1

RECOMMENDATION

That the City Council adopts a Resolution (Attachment II) to initiate the formation and annexation of the Parkside Heights Property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District 96-1.

SUMMARY

If adopted, this Resolution will initiate the proceedings for the formation and annexation of the Parkside Heights Property to Benefit Zone No. 17 of Consolidated Landscaping and Lighting District 96-1 and designates SCI Consulting Group as the Engineer of Work.

BACKGROUND AND DISCUSSION

The Landscaping and Lighting Act of 1972 (Streets and Highways §22500) is a flexible tool used by local government agencies to form Landscaping and Lighting Districts for the purpose of financing the costs and expenses of operating, maintaining and servicing landscaping (including parks) and lighting improvements in public areas.

In 1996, six separate Landscaping and Lighting Districts, Benefit Zones 1-6, were consolidated into one district, Consolidated Landscaping and Lighting District No. 96-1 (the District), by the adoption of Resolution No. 96-63. In subsequent years, Benefit Zones 7-16 were individually created and annexed into the District.

SCI Consulting Group was hired to assist the City of Hayward with the formation and annexation of a new benefit zone to the existing Consolidated Landscaping and Lighting District 96-1. The Parkside Heights development is located on a 10.68-acre site at the Southern Corner of 2nd Street and Walpert Street (see Attachment III- Vicinity Map) and consists of 97 single family residences and a public trail. The formation and annexation of Parkside Heights property into Benefit Zone No. 17 of the District is proposed to provide funding for operations maintenance and servicing of landscaping and lighting improvements to the public trail and undeveloped public open space along Ward Creek.

FISCAL AND ECONOMIC IMPACT

There is no economic or fiscal impact to the City's General Fund from this recommendation because expenditures are to be paid for by the developer of Parkside Heights.

STRATEGIC INITIATIVES

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

NEXT STEPS

Assuming the City Council adopts the attached Resolutions of Intention, staff will initiate the proceedings for the formation and annexation of the Parkside Heights property to Benefit Zone No. 17 of the Consolidated Landscaping and Lighting District No 96-1.

SCI Consulting Group will prepare an Engineer's Report in accordance with Article 4 of Chapter 1 of the Act and Article XIIIID of the California Constitution. The Engineer's Report will describe the methodology used to develop the proposed assessment, as well as the financial details related to the proposed assessment and services to be funded by the proposed assessment. On April 9, 2019, the Preliminary Engineer's Report and Resolution will be presented to City Council for approval. That Resolution will preliminarily accept the Engineer's Report, order ballots to be mailed for the proposed assessment to property owners within the territory proposed to be annexed, and set May 7, 2019 as a Public Hearing date.

Prepared by: Allen Baquilar, PE, Senior Civil Engineer

Recommended by: Laura Simpson, Development Services Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-_____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD INITIATING PROCEEDINGS FOR THE FORMATION OF BENEFIT ZONE NO. 17 OF THE CITY OF HAYWARD LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 96-1 FOR THE PARKSIDE HEIGHTS PROPERTY

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

1. The City Council hereby proposes the formation of a landscaping and lighting district pursuant to the Landscaping and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code (commencing with Section 22500 thereof) (“the Act”).
2. The purpose of the landscaping and lighting district shall be to install, maintain and service those improvements described in Section 4 below.
3. The formation of new Benefit Zone No. 17 of the existing City of Hayward Landscaping and Lighting Assessment District 96-1 in this Resolution is hereby given the distinctive designation of "Parkside Heights" Property (the “Assessment Area”), which proposed landscaping and lighting district is primarily described as all the lands within the current boundaries of the Assessment Area.
4. It is proposed the Assessment Area undertake the following improvements: servicing, operations and maintenance of the landscaping and lighting improvements to the public trail and undeveloped public open space along Ward Creek, as applicable, for property owned or maintained by the City of Hayward. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of said improvements, including repair, removal, or replacement of all or part of any improvement; providing for the life, growth, health and beauty of landscaping; and cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti. Servicing means the furnishing of electric current or energy for the operation or lighting of any improvements, and water for irrigation of any landscaping or the maintenance of any other improvements.

5. SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and is hereby ordered to prepare an Engineer's Report in accordance with Article 4 of Chapter 1 of the Act and Article XIII D of the California Constitution. Upon completion, the Engineer shall file the Engineer's Report with the City Clerk for submission to the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

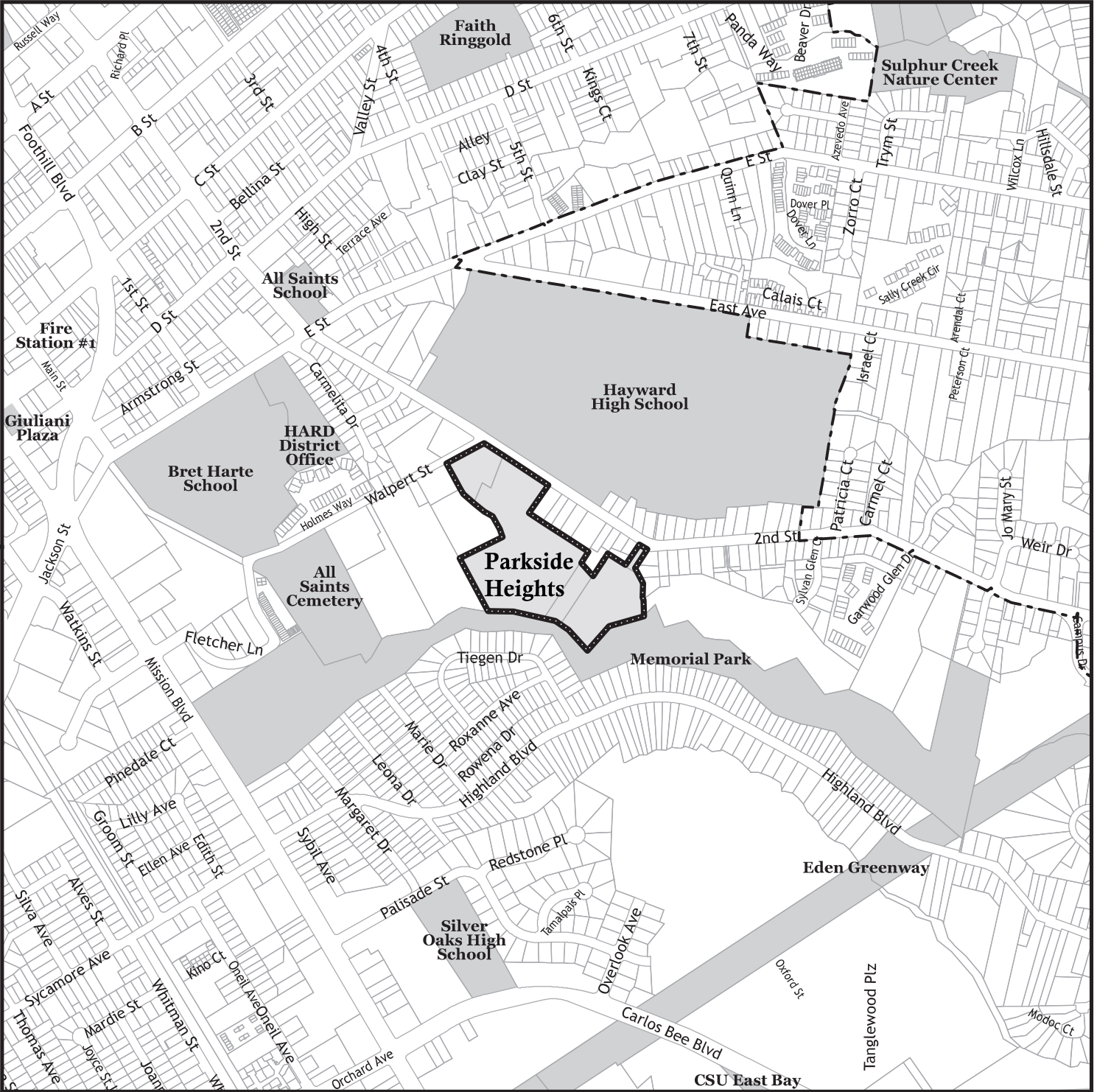
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Vicinity Map



Benefit Zone Formation and Annexation for Parkside Heights





CITY OF HAYWARD

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

File #: PH 19-020

DATE: March 19, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT

Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 Related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring the Introduction of an Ordinance and the Adoption of a Resolution Approving Zoning Text Amendment Application No. 201900727

RECOMMENDATION

That the City Council approves the proposed Zoning Text Amendments to Chapter 10, Article 1, Section 10-1.3600, Cannabis, of the Hayward Municipal Code related to the setback requirements for commercial cannabis businesses and the over-concentration buffer for retail dispensaries in the City of Hayward by introducing an Ordinance (Attachment II) and adopting the Resolution (Attachment III) with the required findings and environmental review.

SUMMARY

Pursuant to HMC Section 10-1.3600, the City requires a 1,000-foot separation between commercial cannabis retail dispensaries and a 600-foot separation between all commercial cannabis businesses and sensitive land uses, including schools, day care centers and youth centers. The proposed text amendments would reduce the over-concentration buffer between retail dispensaries from 1,000 feet to 500 feet and additionally provide the Planning Commission the ability to reduce the 600-foot buffer for commercial cannabis uses from sensitive land uses, if two additional findings are made.

ATTACHMENTS

- | | |
|----------------|------------------------|
| Attachment I | Staff Report |
| Attachment II | Ordinance |
| Attachment III | Resolution |
| Attachment IV | Cannabis Land Use Maps |

File #: PH 19-020

Attachment V Planning Commission Draft Minutes 2/28/19



DATE: March 19, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from Certain Sensitive Land Uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 Related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring the Introduction of an Ordinance and the Adoption of a Resolution Approving Zoning Text Amendment Application No. 201900727

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That the City Council approves the proposed Zoning Text Amendments to Chapter 10, Article 1, Section 10-1.3600, Cannabis, of the Hayward Municipal Code related to the setback requirements for commercial cannabis businesses and the over-concentration buffer for retail dispensaries in the City of Hayward by introducing an Ordinance (Attachment II) and adopting the Resolution (Attachment III) with the required findings and environmental review.

SUMMARY

Pursuant to HMC Section 10-1.3600¹, the City requires a 1,000-foot separation between commercial cannabis retail dispensaries and a 600-foot separation between all commercial cannabis businesses and sensitive land uses, including schools, day care centers and youth centers. The proposed text amendments would reduce the over-concentration buffer between retail dispensaries from 1,000 feet to 500 feet and additionally provide the Planning Commission the ability to reduce the 600-foot buffer for commercial cannabis uses from sensitive land uses, if two additional findings are made.

¹ Cannabis Land Use Ordinance: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z0OR_S10-1.3600CA

BACKGROUND

On November 8, 2016, the voters of the state adopted Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult cannabis use, possession and cultivation for non-medicinal purposes and created a regulatory framework for non-medicinal cannabis businesses. The intent of MCRSA and AUMA was to establish a comprehensive regulatory system for cultivation, production, and sale of cannabis and cannabis products, thereby weakening the illicit market for cannabis.

On June 15, 2017, the State enacted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated provisions of MCRSA into the regulatory framework of the AUMA, thereby creating a unified regulatory scheme for medicinal and adult use cannabis. MAUCRSA specifically authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed pursuant to MAUCRSA.

On October 30, 2017² and November 28, 2017³, respectively, the City Council adopted Ordinances 17-14 and 17-15, which enacted the regulatory and land use ordinances and framework authorizing cannabis businesses in the City, subject to compliance with the local and state regulations. Since 2017, several municipalities have adopted similar land use and regulatory ordinances but have modified or eliminated the State's buffering recommendations in an effort to focus more on the quality of cannabis operators within a mixed-use environment, where the strict observation of land use buffers would limit the areas available to establish these businesses. While the existing Ordinance requires a minimum separation from sensitive land uses and other retail dispensaries, the City has adopted a Request for Proposals (RFP) process that already provides for an independent and comprehensive evaluation of the cannabis operators prior to filing any land use applications.

On January 15, 2019⁴, City Council directed staff to process a text amendment to reduce the over-concentration buffer from 1,000-feet to 500-feet. While this reduction could result in several dispensaries locating in closer proximity to one another, it would expand the number of sites in the downtown area that are available to accommodate retail dispensaries.

Planning Commission Review. On February 28, 2019, the Planning Commission reviewed the proposed text amendments and voted 4-1 (two Commissioners absent) to recommend approval to City Council. The Commission expressed concern with the possibility that additional retail dispensaries would locate in the downtown area but supported the flexibility being proposed and suggested that, given the reduced proximity to one another, a quality building design and heightened security were essential.

² October 30, 2017 Council Minutes <https://hayward.legistar.com/MeetingDetail.aspx?ID=570110&GUID=1F62F795-56FA-4667-9BD1-E5FDA22CB8C5&Options=info&Search=>

³ November 28, 2017 Council Minutes <https://hayward.legistar.com/MeetingDetail.aspx?ID=573134&GUID=C82D348A-0412-4741-854C-23697F2AE444&Options=info&Search=>

⁴ January 15, 2019 Council Minutes <https://hayward.legistar.com/View.aspx?M=E3&ID=655077&GUID=C658C300-8AAA-4581-94DC-28AC5D713F7D>

DISCUSSION

Over-Concentration Buffer for Retail Dispensaries. The purpose of the over-concentration buffer is to limit the proximity of retail cannabis dispensaries from one another to mitigate potential cumulative land use impacts associated with traffic, noise, and public safety for those adult-only uses. The proposed text amendment would reduce the over-concentration buffer for retail cannabis dispensaries from 1,000 feet to 500 feet. When the City Council adopted the cannabis land use ordinance in November 2017, there was a requirement that approved retail dispensaries recognize a 1,000-foot buffer between dispensaries to minimize potential for over-concentration of these uses within the downtown area. At the time the land use ordinances were adopted, it was not known where specific dispensaries would be located but it was discussed that, even with the 1,000-foot buffer, a significant number of parcels could accommodate a retail dispensary within the downtown area.

Following the issuance of the Request for Proposals (RFP) in December 2017, the City selected three applicants to operate retail dispensaries in the City. When the Council reviewed the business proposals in July 2018, two applicants, Jiva Life and Hayward Station, identified possible locations downtown and one applicant, Auntie Honey's, did not. Since the Council's initial review and selection of these proposals, all three applicants have submitted planning applications to operate retail dispensaries. While all three applications are incomplete and pending resubmittal, all three applications are within 1,000-feet of one another and within the buffer adopted last year. The proposed text amendment would reduce the distance separation required between each retail dispensary, but the applicants would still be subject to the sensitive land use requirements discussed below and would be required to obtain a Conditional Use Permit, which would assess any environmental, physical, or safety impacts related to the use.

Buffer from Sensitive Uses. Another proposed text amendment would provide a consistent application of the required buffer from commercial cannabis businesses and would additionally provide the Planning Commission with flexibility to reduce the 600-foot buffer from all sensitive land uses, if additional findings of necessity are made. Currently, cannabis operators can apply for a Conditional Use Permit if they desire to locate within 600 feet of parks, libraries, and open space areas that contain children's playgrounds only if the Planning Commission can make findings of necessity to demonstrate that the proposed location is suitable and demonstrate that appropriate measures have been taken to mitigate any safety impacts. The proposed amendments would uniformly extend that provision to include the other sensitive land uses that primarily serve children and provide a consistent land use standard throughout the City.

The existing 600-foot buffer requirement between commercial cannabis businesses and sensitive land uses is based on a State recommendation to minimize possible exposure of cannabis uses from areas that primarily serve children and minors. The setback requirement is from the sensitive land uses described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, unless the local jurisdiction establishes an alternative setback requirement. These uses include kindergarten, any schools

(grades 1 through 12), day care centers, and youth centers, which includes both public and private facilities, businesses and clubs that primarily serve youth. Additionally, the City requires a 600-foot buffer from other public areas where children congregate, including public parks, libraries, and designated open space areas. Public parks and open space areas that do not contain children's playground or similar amenities are exempt from this requirement.

Per Section 10-1.3603.B⁵, the Planning Commission has the ability to reduce the buffer around parks and open space areas upon making two findings of necessity. In order to approve a reduction from the 600-foot buffer, the Planning Commission must issue a Conditional Use Permit and find that: 1) the public convenience and necessity will be served by an alternate distance requirement; and 2) alternative measures have been taken by the applicant to assure public health and safety are in place with respect to a commercial cannabis business. Staff is recommending this flexibility be broadened and uniformly applied to all other sensitive land uses that primarily involve children, including schools, day care centers, and youth centers in order to provide consistency throughout the development review process. As part of the regulatory toolkit established by the State of California and the land use ordinances adopted by the City in 2017, staff believes that the current regulatory framework is sufficient to ensure that any impacts related to sensitive land uses are evaluated and minimized as part of a Conditional Use Permit process. Additionally, as part of the current RFP process, all commercial cannabis businesses are required to submit a business plan, which is reviewed and scored by an independent, outside consultant who determines whether or not the commercial cannabis operator has met the city's objectives related to best practices for the cannabis industry.

Permitted Zoning Districts. The zoning districts that administratively or conditionally permit the commercial cannabis uses would remain unchanged. For most commercial cannabis activities, including distribution, manufacturing and cultivation, the City's Industrial District is the only district where those uses are administratively or conditionally permitted. For retail operators, cannabis dispensaries are conditionally permitted in downtown and isolated areas around the City zoned General Commercial (CG), Central Business (CB), Central City Commercial (CC-C), Central City Residential (CC-R), and Center City Plaza (CC-P). As currently proposed, any commercial cannabis activity located within 600 feet of a sensitive land use would be required to obtain a use permit from the Planning Commission upon making additional findings of necessity, regardless of zoning district or land use activity. The proposed amendments would provide applicants additional options when selecting their business location in the City, but it would add a higher level of discretionary review by the Planning Commission on Use Permit applications near sensitive use areas that otherwise could have been processed administratively at staff level. Copies of the Cannabis Land Use Maps that reflect the 600-foot land use buffers from sensitive land uses is included as Attachment IV.

⁵ Commercial Cannabis Setback Requirement: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.3600CA_S10-1.3603COCABU

Hayward 2040 General Plan. The proposed zoning amendments contained herein are consistent with the goals and policies of all elements of the Hayward 2040 General Plan, including the following goals and policies:

LU-5.2 Flexible Land Use Regulations: The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

ED-1.6 Advances and Specialized Manufacturing: The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail: The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

ED-3.2 Fast Growing Industries: The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

ED-6.2 Land Use Certainty: The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.

Commercial Cannabis Permits. As part of the Commercial Cannabis Business⁶ regulatory framework approved by the City, cannabis operators are required to obtain multiple approvals through a two-step process at the local level in addition to State licensing. First, an applicant is required to obtain approval of a Commercial Cannabis Business Permit by the City to assure that all regulatory requirements are met. Second, the applicant is required to obtain the necessary land use entitlements that consider the location, size, and types of proposed uses allowed, consistent with the Zoning Ordinance standards. Any cannabis business operating in the City pursuant to City-issued permits must also obtain a cannabis license from the State. Failure to obtain the State license would be grounds for revoking the City's permit.

Commercial Cannabis Permits issued by the City are good for one year and must be renewed annually following the completion of a mandatory safety inspection and demonstrated compliance with all local and State regulations, including any conditions of approval adopted as part of a Use Permit process.

Environmental Review: The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance would reduce the over-concentration buffer between retail dispensaries to

⁶ Commercial Cannabis Businesses: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU

500 feet and require additional findings for commercial cannabis uses locating within 600 feet of sensitive land uses. Commercial cannabis operators would still be subject to the RFP review and selection process and subject to the land use entitlement process, which would evaluate applications on a case-by-case basis for environmental impacts pursuant to CEQA.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structured services and amenities to provide inclusive and equitable access for all with the goal of becoming a thriving and promising place to live, work and play. This item supports the following goal and objective:

Goal 3: Develop a Regulatory Toolkit for Policy Makers.

Objective 3: Update, streamline, and modernize zoning codes.

The purpose of a text amendments is to update the regulatory guidelines governing the use(s) and to update them accordingly to be more aligned with the goals and objectives of the City Council related to the establishment of new commercial cannabis businesses in Hayward.

ECONOMIC IMPACT

There is no direct economic impact as a result of the proposed text amendments, but the amendments would provide approved applicants with additional flexibility to locate in the City. Each of the first-round applicants who were approved articulated the desire to hire local Hayward residents and to pay them a livable wage. From the information provided in each application, these firms plan to create an estimated 130 new jobs. These jobs will impact the City as these employees pursue their lives in the Hayward community and therefore contribute to the local economy while also remitting City sales, property, utility user, and other City levied taxes and fees. The second tier of applicants, which are currently being evaluated, will also create new jobs for the Hayward community. Those impacts will be articulated in future Council Commercial Cannabis Permit approval proceedings.

FISCAL IMPACT

In 2018, the City Council adopted Ordinance 18-027, setting the Cannabis Business Tax rate at 6% of gross receipts. The cannabis related services provided by the businesses included in this report will be subject to this tax, and once operating will provide revenue to the City from the voter approved Measure EE.

Based on the three-year pro forma estimates provided by the first-round applicants, staff estimated that the City would receive approximately \$2.8 million in the first full year of operation and up to to \$4.8 million in year three in Cannabis Business Tax related revenue. These figures are estimates only and should be considered with the understanding that the cannabis market data has proven to be unreliable as initial data was not established and/or validated.

For FY 2019, the City budgeted what at the time felt to be a conservative amount of \$750,000 in Cannabis Tax related revenue generation; however, to date the City does not have any businesses licensed and operating legally that are subject to the tax.

It is reasonable to expect that the City will not realize revenue from the 6% cannabis gross receipts tax until FY 2020, given the length of time it has taken for the initial applicants to compete their land use approvals. The City will maintain conservative revenue projections for this tax until the City begins to realize revenue and has enough data to form a reliable projection.

PUBLIC OUTREACH

On March 8, 2019, a Notice of Public hearing for the City Council meeting was sent to interested stakeholders and published in The Daily Review newspaper. To date, no comments have been received either for or against the proposed text amendments.

NEXT STEPS

If the Council approves the proposed amendments, the decision will be effective and final. A second reading and adoption of the Ordinance will occur at the next scheduled City Council meeting.

Prepared by: Jeremy Lochirco, Principal Planner

Recommended by: Laura Simpson, Director of Development Services

Approved by:



Kelly McAdoo, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HAYWARD AMENDING THE HAYWARD MUNICIPAL CODE, CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE); SECTION 10-1.3603(B) RELATED TO A PROPOSED MODIFICATION OF THE REQUIRED SETBACKS FOR COMMERCIAL CANNABIS BUSINESSES FROM CERTAIN SENSITIVE LAND USES; AND AMENDMENT OF CHAPTER 10, ARTICLE 1, SECTION 10-1.3607(C).1 RELATED TO REDUCTION OF OVERCONCENTRATION BUFFER FOR COMMERCIAL CANNABIS RETAIL DISPENSARIES

WHEREAS, on March 19, 2019, the City Council held a public hearing and adopted findings in support of the requested zoning text amendment as set forth in the companion Resolution (No. 19-__);

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 19-__ approving the text changes to the Hayward Municipal Code requested in Zoning Text Amendment Application No. 201900727.

Section 2. Chapter 10, Planning, Zoning, and Subdivisions of the Hayward Municipal Code, which establishes minimum performance and design standards for all zoning districts within City boundaries, is hereby amended to add certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough) in the attached "Exhibit A" related to Commercial Cannabis Businesses in the City, introduced herewith and as specifically shown in this Ordinance.

Section 3. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective immediately upon adoption.

THE CITY COUNCIL OF HAYWARD DOES ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that:

A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.

B. The City has previously enacted the regulatory and land use ordinances authorizing cannabis businesses in the City, subject to compliance with the local and state regulations.

C. The City currently requires that commercial cannabis businesses observe a 600-foot setback from certain sensitive land uses within the City, with the exception that parks, libraries and open space areas where children congregate can be reduced upon making two additional findings. The 600-foot setback requirement is from the sensitive land uses as defined in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, unless the local jurisdiction establishes an alternative setback requirement.

D. The City currently requires commercial cannabis retail dispensaries observe an over-concentration buffer of 1,000 feet from other retail dispensaries in the City.

E. The City wishes to amend Section 10-1.3600 to reduce the over-concentration buffer from 1,000 feet to 500 feet and establish uniform regulatory framework for all commercial cannabis uses in the City, in accordance with state law, when located in proximity to sensitive land uses.

Section 2. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance to as shown in the attached “Exhibit A”.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 19th day of March 2019, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ___ day of _____ 2019, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

“EXHIBIT A”
CHAPTER 10 – PLANNING, ZONING, AND SUBDIVISIONS
ARTICLE 1 – ZONING ORDINANCE

10-1.3603 Commercial Cannabis Businesses.

Commercial Cannabis Businesses shall be administratively and conditionally permitted only in compliance with the provisions of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and shall be subject to the following standards and limitations.

A. Land Use. All Commercial Medical and Non-Medical Cannabis Businesses shall be located in compliance with the requirements of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and as designated in the Zoning Code. For purposes of this Chapter, Commercial Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 10, Section 10.1-3500 (Definitions):

1. Commercial Cannabis Cultivation, up to 5,000 sf
2. Commercial Cannabis Cultivation, 5,001 sf or greater
3. Commercial Cannabis Dispensaries (Retail)
4. Commercial Medical and Non-Medical Cannabis Distribution
5. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 1
6. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 2
7. Commercial Medical and Non-Medical Cannabis Testing Laboratory

B. Required Setbacks. All Commercial Cannabis businesses operating within the City of Hayward shall be subject to a 600-foot minimum setback from sensitive land uses as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar area dedicated towards children activities, including but not limited to sports fields and swimming pools. The required 600-foot setback ~~for public parks and open spaces~~ may be reduced as part of the issuance of a Conditional Use Permit from the Planning Commission if it is found that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business. The distance shall be measured from the closest boundary line of the property on which the Commercial Cannabis Business is located to the closest boundary line of the property on which the school or sensitive land use is located.

10-1.3607 Commercial Cannabis Retail Dispensaries and Delivery.

In addition to the General Operating Requirements set forth in Section 10-1.3604, this section provides location and operating requirements for Commercial Cannabis Retail Dispensaries and Delivery Businesses:

A. Conditional Use Permit or Administrative Use Permit Required. A Conditional Use Permit shall be required for Commercial Cannabis Retail dispensaries, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. An Administrative Use Permit shall be required for Commercial Cannabis Delivery businesses, pursuant to the land use regulations contained within Chapter 10, Article 1 (Zoning Ordinance).

B. Drive-Through Dispensaries. Drive-through, Drive-up or walk-up window services in conjunction with Commercial Cannabis Retail Dispensaries is prohibited.

C. Setbacks and Buffers. In addition to the zoning requirements and development regulations contained in Chapter 10 (Zoning Ordinance), all Commercial Cannabis Retail dispensaries shall be subject to the following:

1. Overconcentration. To avoid overconcentration, a Commercial Cannabis Retail Dispensary shall not be located within ~~1,000~~ 500 feet of any other Commercial Cannabis Retail Dispensary within the City of Hayward.

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Council Member _____

RESOLUTION TO ADOPT A ZONING TEXT AMENDMENT TO CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE); SECTION 10-1.3603(B) RELATED TO A PROPOSED MODIFICATION OF THE REQUIRED SETBACKS FOR COMMERCIAL CANNABIS BUSINESSES FROM CERTAIN SENSITIVE LAND USES; AND AMENDMENT OF CHAPTER 10, ARTICLE 1, SECTION 10-1.3607(C).1 RELATED TO REDUCTION OF OVERCONCENTRATION BUFFER FOR COMMERCIAL CANNABIS RETAIL DISPENSARIES

WHEREAS, in January 2019, the City of Hayward initiated a Zoning Text Amendment to amend Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to allow additional flexibility for the establishment of commercial cannabis activities near sensitive land uses and a reduction in the over-concentration buffer for commercial cannabis retail dispensaries;

WHEREAS, commercial cannabis retail dispensaries are required to maintain a 1,000 foot over-concentration buffer from other cannabis retail dispensaries and all commercial cannabis land uses are required to maintain a 600-foot buffer from sensitive land uses, including schools, day care centers, and youth centers, with the exception that commercial cannabis land uses can locate within 600-feet of parks, libraries and open space areas containing children's areas if additional findings of necessity can be made;

WHEREAS, the proposed text amendments would allow additional flexibility for the establishment of commercial cannabis businesses from sensitive land uses, as defined in the Hayward Municipal Code, if additional findings of necessity can be made and in addition to the required findings for a Conditional Use Permit and special findings for all Cannabis activities; and allows commercial cannabis retail dispensaries the ability to locate within 500 feet from another retail dispensary;

WHEREAS, on February 28, 2019, the Planning Commission considered Zoning Text Amendment Application No. 201900727 at a public hearing, and voted (4-1-0), that the City Council approve the Zoning Text Amendments; and

WHEREAS, a Notice of Public Hearing was published in the manner required by law and the hearing was duly held by the City Council on March 19, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance would reduce the over-concentration buffer between retail dispensaries to 500 feet and require additional findings for commercial cannabis uses locating within 600 feet of sensitive land uses. Commercial cannabis operators would still be subject to the RFP review and selection process and subject to the land use entitlement process, which would evaluate applications on a case-by-case basis for environmental impacts pursuant to CEQA.

FINDINGS FOR A ZONING TEXT AMENDMENT TO THE HAYWARD MUNICIPAL CODE

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed text amendments will ensure public health, safety, convenience, and general welfare of the residents of Hayward through the review and evaluation of cannabis operations as part of the RFP process, the State's regulatory framework, and the Use Permit process, which ensures any impacts resulting from commercial cannabis operations be minimized. Additionally, the proposed text amendments will promote additional employment and business opportunities with the allowance of commercial cannabis businesses in Hayward.

The amendments will result in land uses in the commercially and industrially zoned areas that are compatible with existing and future uses. Specifically, the proposed amendments will ensure that any cannabis business will operate in such a manner to minimize public safety and public nuisance impacts while incorporating appropriate measures to mitigate possible environmental impacts associated with business activities. The State, through the passage of the MAUCRSA, has found substantial evidence that cannabis has medicinal value for many health conditions that otherwise would result in a compromised quality of life for residents.

2. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed text amendments contained herein are consistent with the goals and policies of all elements of the Hayward 2040 General Plan, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed text amendments are internally consistent with other applicable provisions of Chapter 10 of the Municipal Code in that the entirety of the Code will apply to cannabis uses located within proximity to other sensitive land uses, as

defined by the City and State. The proposed amendments are consistent with the following policies and actions of the Hayward 2040 General Plan:

LU-5.2 Flexible Land Use Regulations: The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

ED-1.6 Advances and Specialized Manufacturing: The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail: The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

ED-3.2 Fast Growing Industries: The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

ED-6.2 Land Use Certainty: The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.

3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

As conditioned, the streets and public facilities that currently serve the City are not expected to be impacted with the proposed text amendments or the additional cannabis uses. Much of the land use activities associated with cannabis are consistent and compatible with the other land uses that are currently permitted or conditionally permitted in the zoning districts. No properties are proposed to be reclassified or rezoned with the proposed text amendment. As such, the streets and public facilities, both existing and proposed, would be adequate to serve the potential development of new cannabis and cannabis-related businesses in the City.

4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed text amendment pertaining to cannabis. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for cannabis businesses with greater flexibility to locate within the City upon demonstrating that: 1) the public convenience and necessity will be served by an alternate distance requirement; and 2) alternative measures have been taken by the applicant to assure public health and safety are in place with respect to a commercial cannabis business.

The adopted State regulations, along with the additional local regulations with special findings and operational requirements, will ensure that any proposed cannabis business will operate in a manner which is compatible with present and potential future land uses.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Zoning Text Amendment Application No. 201900727, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 19-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

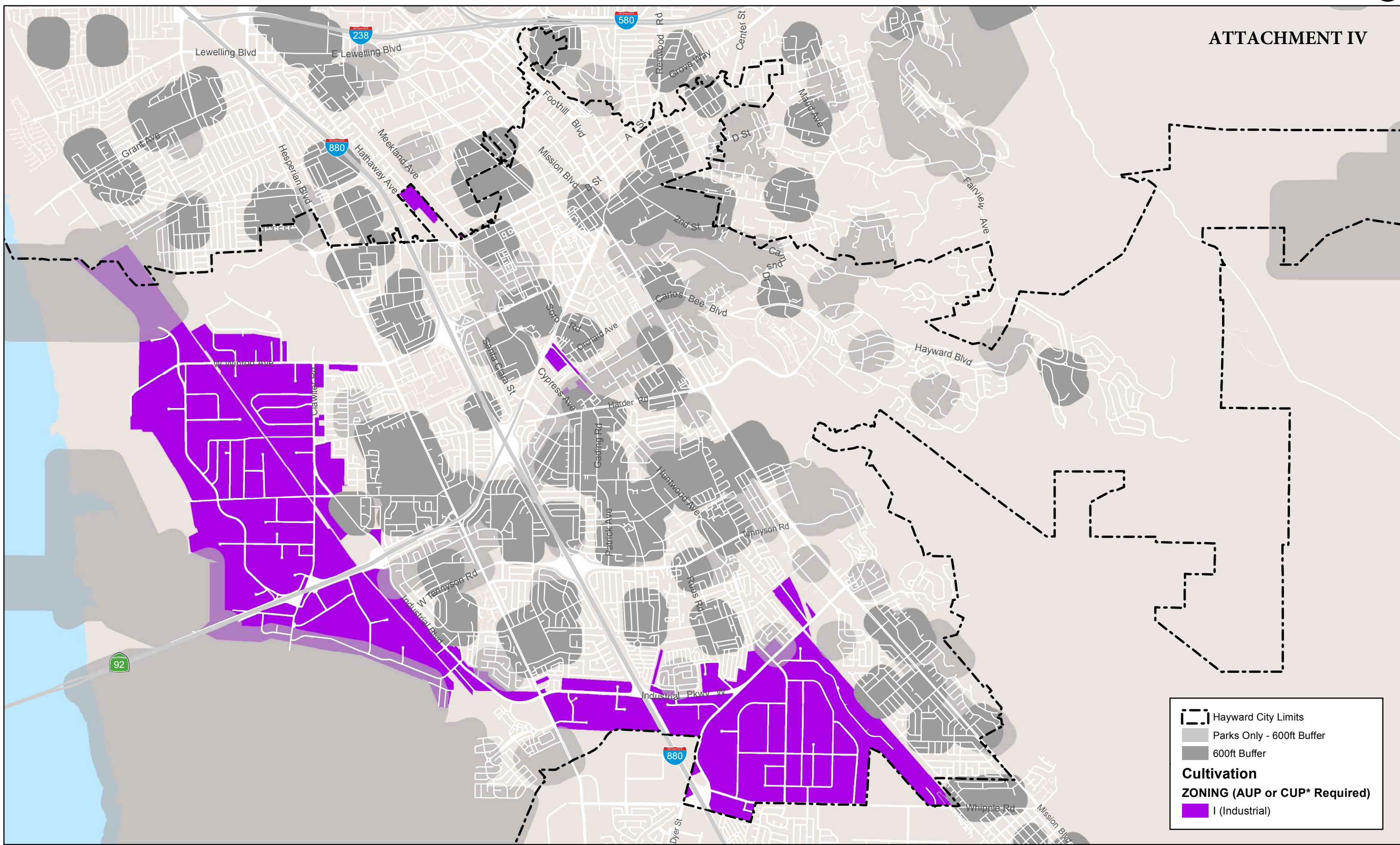
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

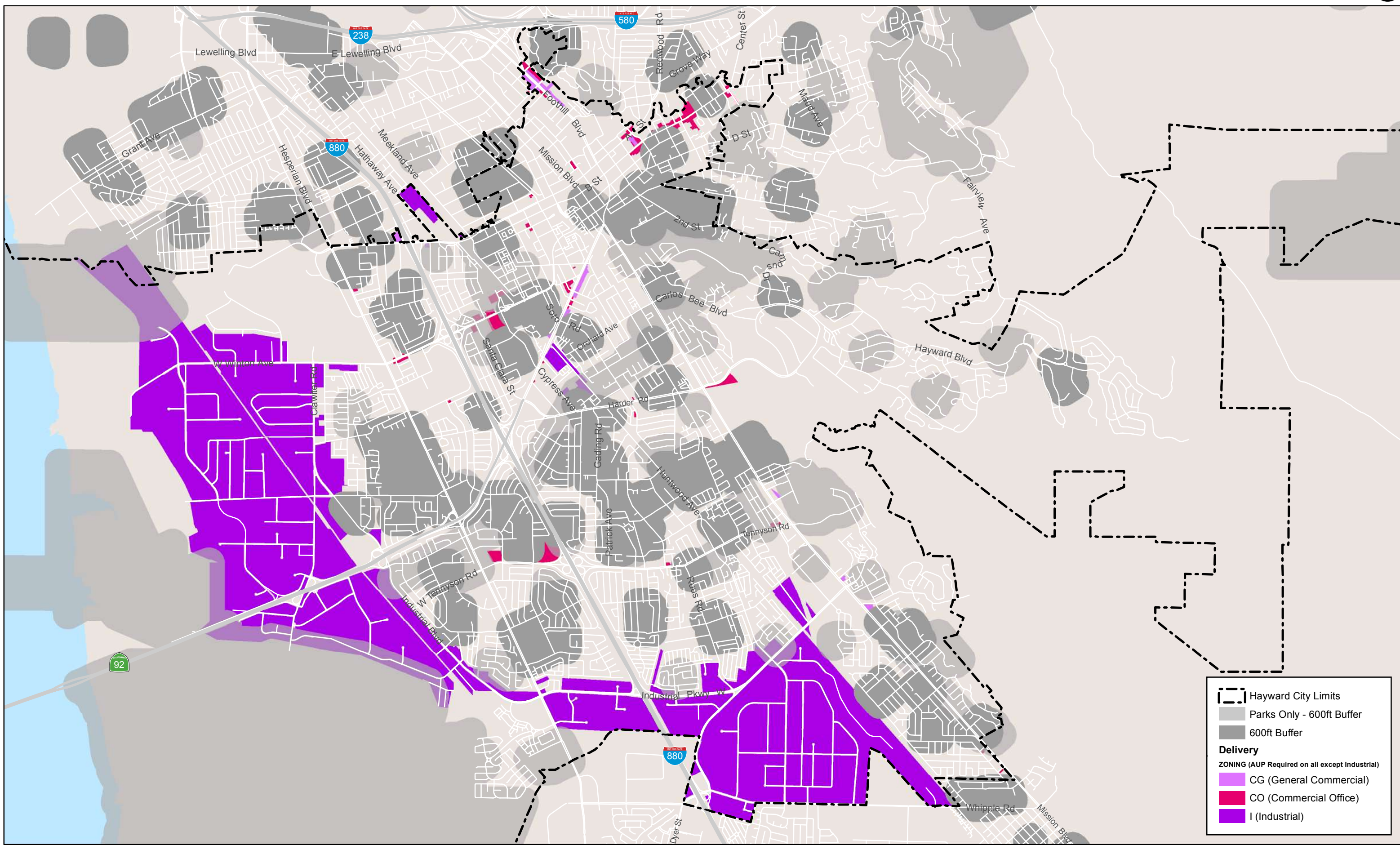
City Attorney of the City of Hayward



Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

*Entitlement process depends on the size of the cultivation operation.

HAYWARD Commercial Cannabis Delivery – Zoning Districts

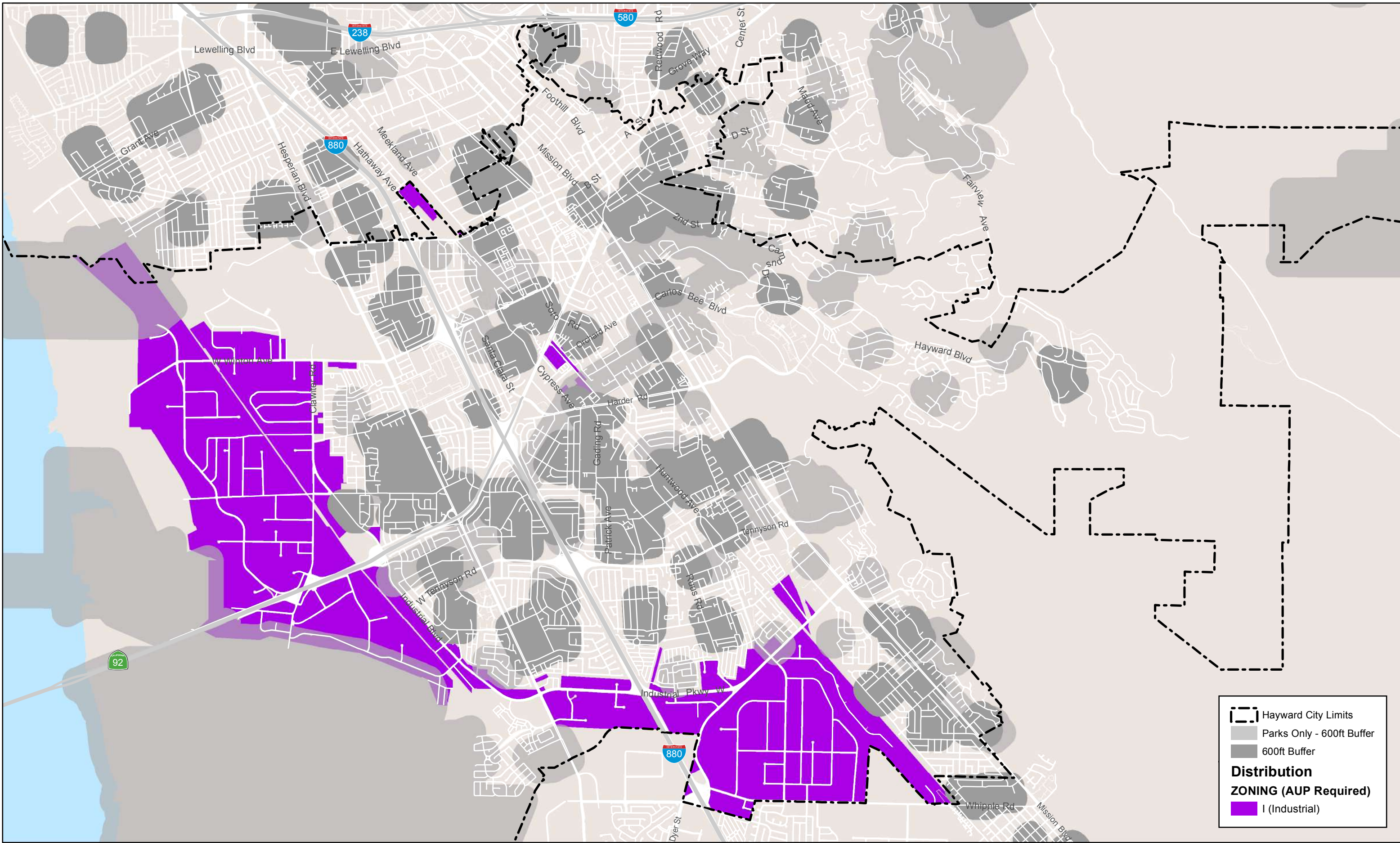


Legend

- Hayward City Limits
- Parks Only - 600ft Buffer
- 600ft Buffer
- Delivery**
- ZONING (AUP Required on all except Industrial)**
- CG (General Commercial)
- CO (Commercial Office)
- I (Industrial)

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers. For the purposes of land use classification, this land use is similar in nature to other Administrative and Professional Offices/Services November 2017

HAYWARD Commercial Cannabis Distribution – Zoning Districts

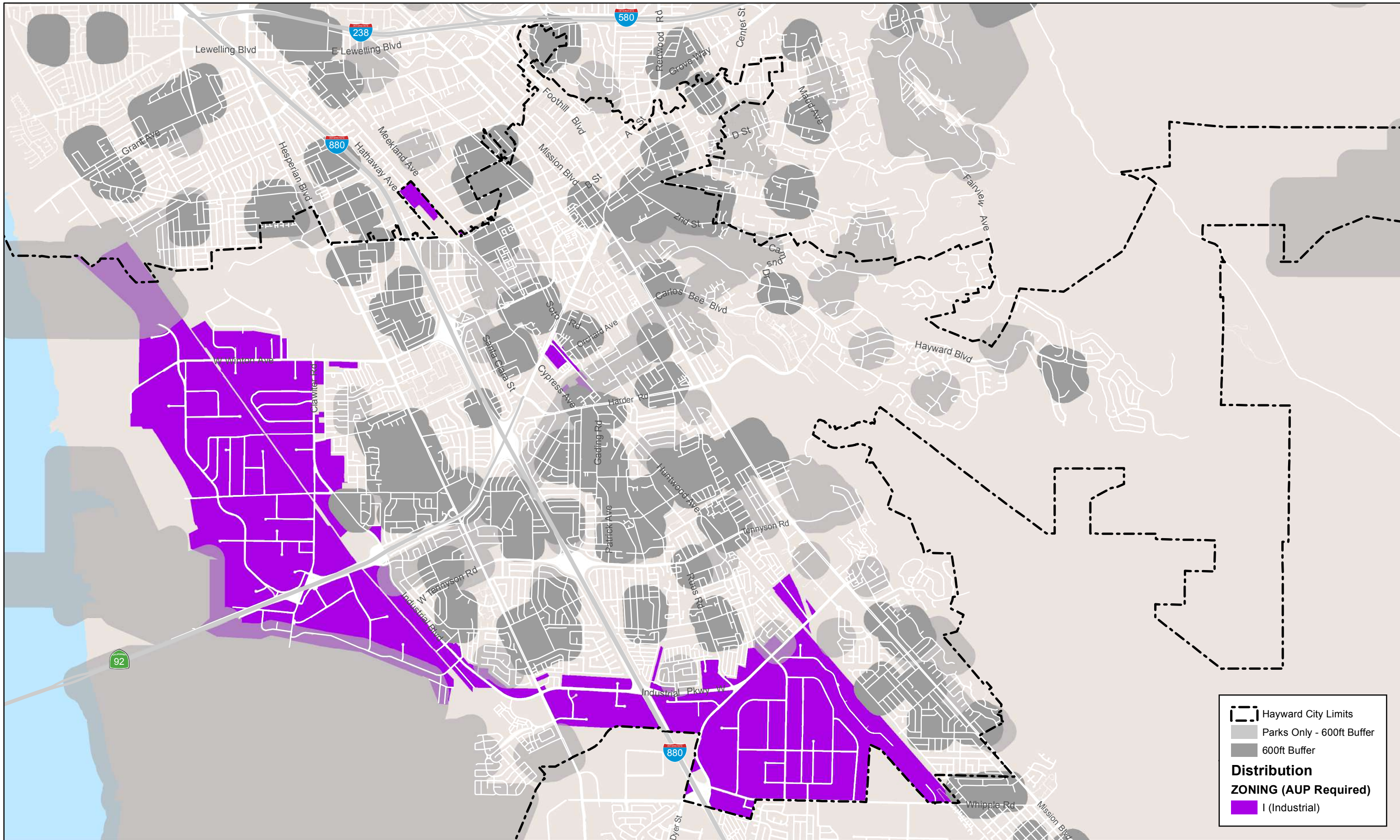


Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.



Commercial Cannabis Manufacturing (Level 1*) – Zoning Districts

0 0.25 0.5 1 Miles



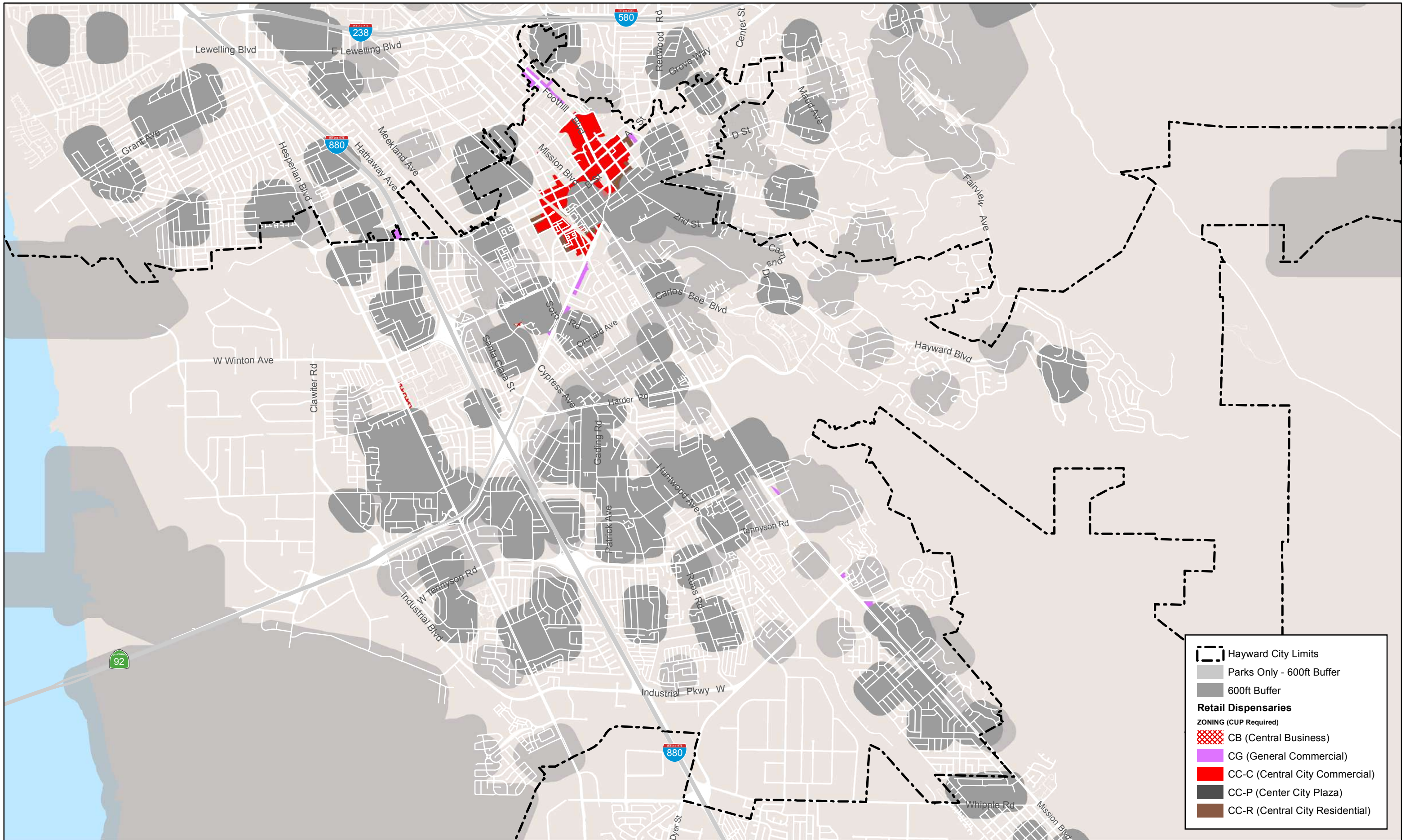
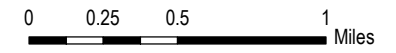
Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

*Level 2 manufacturing (using volatile substances) is prohibited

November 2017



Commercial Cannabis Retail Dispensaries – Zoning Districts



Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

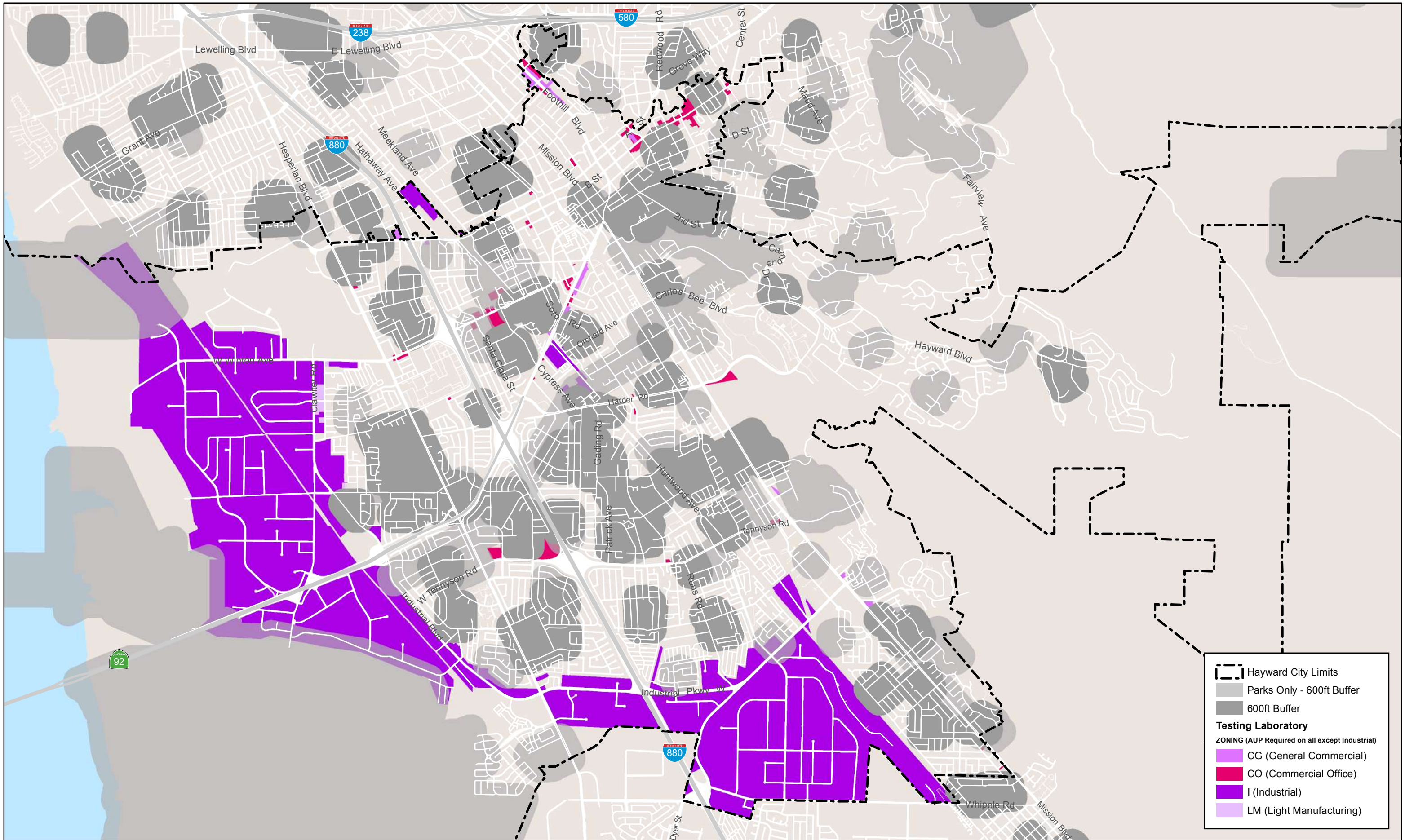
Small retail component allowed in Industrial zones, subject to provisions of Section 10-1.3606(H).
See Cultivation or Distribution maps for Industrial zones.

November 2017



Commercial Cannabis Testing Laboratory – Zoning Districts

0 0.25 0.5 1 Miles



Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

For the purposes of land use classification, this land use is similar to other Medical/Dental Laboratories November 2017



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 28, 2019, 7:00 p.m.
777 B Street, Hayward, CA 94541**

PUBLIC HEARING:

1. Application to Amend Chapter 10, Article 1 (Zone Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from certain sensitive land uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward municipal Code in the City of Hayward, Requiring Approval of a Zoning Text Amendment, Application No. 201900727

Principal Planner Lochirco provided a synopsis of the staff report and a PowerPoint presentation.

Commissioner Patton asked about what has transpired in the past and where the City is headed, to which Principal Planner Lochirco responded to that the City needed to be cautious when regulations were established regarding the new Cannabis industry. Mr. Lochirco said since then, other cities have relaxed their standards and boundaries. The City's proposed changes are only regarding the setback allowances to make businesses more conducive for their patrons, and noted the City has land use regulations in place which addresses that there is still no public consumption allowed. Mr. Lochirco said that staff feels comfortable that there is enough regulatory framework surrounding the Cannabis industry and pointed out that, unique to Hayward, is that Cannabis operators are required to renew their licenses on a yearly basis. Mr. Lochirco said staff is seeking ways to streamline the process without negatively impacting the community. Mr. Lochirco said currently only two applicants are preparing to open and noted revenue projections have yet to be realized.

Commissioner Andrews asked about the design requirements for having dispensaries closer together, to which Principal Planner Lochirco said the land use regulations require operators to ensure the site is safe with the following components: lighting elements, security in place, correct displays, each dispensary goes through a police safety review, and each dispensary is subject to a conditional use permit, as not every location is suitable for this use.

Commissioner Bonilla spoke about visiting Portland where the Cannabis dispensaries were very inviting and were designed to fit into the landscape and noted the operators should be able to accomplish the same here in Hayward. Mr. Bonilla favors reducing regulations and asked what cities have 500-foot setbacks, to which Principal Planner Lochirco said the City has modeled its regulations after Santa Rosa, and that San Francisco and Emeryville have reduced their regulations and developed criteria for areas of mixed uses that will still ensure a safe environment.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 28, 2019, 7:00 p.m.
777 B Street, Hayward, CA 94541**

Commissioner McDermott does not favor reducing the setbacks and would like to have more family-oriented businesses. Ms. McDermott expressed concerns that the City needs to be careful with the number of dispensaries in the downtown area. Principal Planner Lochirco said Council has limited the number of dispensaries to three and even if the text amendment is changed, the number of dispensaries remains the same.

Principal Planner Lochirco confirmed for Commissioner Bonilla that by direction of the City Council additional dispensaries cannot come to Hayward.

Chair Faria said with the knowledge that the dispensaries will still be 500 feet apart, she can support the motion. Principal Planner Lochirco explained the Cannabis application process and that Council has set the cap at three dispensaries.

Principal Planner Lochirco confirmed for Commissioner Andrews that the Planning Commission will be the referring body to Council for the Cannabis dispensaries' design review. Ms. Andrews encouraged staff to be strict about what is brought before the Planning Commission and that the dispensaries' design needs to be upscale.

Chair Faria opened and closed the public hearing at 8:37 p.m. Commissioner Patton made a motion, seconded by Commission Bonilla, to approve the staff recommendation. The motion passed with the following votes:

AYES:	Commissioners Andrews, Bonilla, Patton Chair Faria
NOES:	McDermott
ABSENT:	Goldstein and Willis
ABSTAIN:	None



CITY OF HAYWARD

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

File #: LB 19-017

DATE: March 19, 2019

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Adoption of Proposed Revisions to the Council Member Handbook Section on “Order of Business related to Council Reports, Referrals and Future Agenda Items”

RECOMMENDATION

That the Council discusses the current procedure for Council Referrals, the proposed revisions to the Council Handbook section on “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” and adopts the resolution (Attachment II) accepting the recommended changes for inclusion in the Council Member Handbook.

SUMMARY

The Council Member Handbook was adopted in July 1983 and provides procedural rules for how the Council will operate. The Council has expressed a desire to review the current procedure and consider modifications to the “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” section of the Council Member Handbook to provide further clarification. This report presents proposed modifications for Council discussion and adoption.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Exhibit A	Council Member Handbook “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” Section - Redlined
Attachment III	Council Member Handbook
Attachment IV	Sample Council Referral Memorandum Template



DATE: March 19, 2019

TO: Mayor and Council

FROM: City Manager

SUBJECT: Adoption of Proposed Revisions to the Council Member Handbook Section on “Order of Business related to Council Reports, Referrals and Future Agenda Items”

RECOMMENDATION

That the Council discusses the current procedure for Council Referrals, the proposed revisions to the Council Handbook section on “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” and adopts the resolution (Attachment II) accepting the recommended changes for inclusion in the Council Member Handbook.

SUMMARY

The Council Member Handbook¹ was adopted in July 1983 and provides procedural rules for how the Council will operate. The Council has expressed a desire to review the current procedure and consider modifications to the “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” section of the Council Member Handbook to provide further clarification. This report presents proposed modifications for Council discussion and adoption.

BACKGROUND

The Council Member Handbook (Handbook) provides procedural rules for how the City Council will operate as a body. The Handbook was adopted in July 1983 and since then, has gone through various revisions over the years as needed. The last revision was completed in 2017 (Attachment III).

At the February 3, 2019 Council Governance Retreat, the Council reviewed the Table of Contents of the Handbook and discussed various sections they would like to review for possible modifications. It was determined at that Council retreat, that a Council ad hoc committee would be established by the Mayor to review, modify, and/or update the various sections of the Handbook discussed. On February 28, 2019, the Mayor created the Council Ad

¹ Council Member Handbook: <https://www.hayward-ca.gov/sites/default/files/FINALCouncil%20Member%20Handbook2017.pdf>

Hoc Committee on the Council Handbook comprised of Council Members Mendall, Márquez, and Mayor Halliday.

Council also asked staff to review the Handbook for items that needed to be updated to reflect current practices and to make the document gender neutral by referring to positions vs. use of s/he/they pronouns. Over the last several weeks, some Council Members expressed an interest in reviewing the Council Referral process as soon as possible given perceived concerns about the Brown Act and also to clarify this process. The adoption of the proposed modifications to the Council Referrals section of the Handbook is before the Council and is the focus of this staff report instead of review and discussion by the Ad Hoc Committee given these recent concerns.

A total of eighteen (18) municipalities in California were surveyed regarding their current process for Council Members to refer items to the Council for consideration and ultimately to staff for further research and work. Clarification of this process is crucial to ensure an appropriate balance of staff workloads and existing Council priorities and to ensure compliance with the City Charter Section 705, which describes the roles of the City Council and City Manager as they relate to the administrative service of the City:

...Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The City Manager shall take his orders and instructions from the City Council only when it is sitting in a lawfully held meeting².

Of the eighteen (18) municipalities surveyed:

- Eight (8) have a process similar to Hayward that allows members of the Council to consider items not on the agenda during a section of the Council agenda. Items raised by individual Council Members require the consensus of the majority of the Council before directing staff to provide information, perform studies, or add items to an upcoming Council or Committee agenda;
- One (1) municipality allows individual Council Members to refer items to staff, provided there is a consensus of the majority of the Council. If the item is referred to staff, the item is placed on a future Council meeting;
- Six (6) municipalities have a process by which Council Members wishing to bring forward a topic for Council consideration are required to write a brief memo/ report that is added to the agenda. The Council does not take action on the night that a Council memo/ report is introduced unless the title and recommendation satisfy the Brown Act and there are no resource or staff implications;
- One (1) municipality has a process by which agenda items and requests are submitted to the Rules and Legislative Committee, consisting of four Council Members, City Attorney, City Administrator, and City Clerk's designee, for review and referral to staff, City Council, or subject-matter committee;

² City Charter: https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH_S705NTEADSE

- One (1) municipality has a process by which agenda items, including those submitted by any Council Member, are subject to review by an Agenda Committee consisting of the Mayor and two members of the Council, where the Agenda Committee has the authority to place items on the agenda according to a process in place; and
- One (1) municipality has a process by which individual Council Members contact the City Manager’s office directly with any requests.

The review of the eighteen (18) municipalities’ sections on agenda titles varied and include titles such as: “Items Referred by Council”; “Council Member Comments”; “Council Referrals”; “Matters Initiated by Council Members”; “Future Agenda Item Requests from Council Members”; “Council Requests to Schedule Agenda Items”; “Procedures for Bringing Matters Before City Council”; “Agenda Items Originated by Councilmembers”; “Matters Initiated by Council”; “Items Referred by Council”; “Council Referrals”; “Council Matters”; “Matters of Council Interest/Clarification”; and “Council and Mayor Statements.”

DISCUSSION

At the retreat and on other occasions since the retreat, including at the February 26, 2019 Council meeting, some Council Members expressed an interest in discussing, reviewing, and modifying the Council Referrals procedure outlined under the “Council Reports, Referrals, and Future Agenda Items” section of the Handbook to further clarify:

- How Council Members can add items to future agendas;
- How the “majority” of Council accepts a Council referral at the time of the request; and
- Once Council agrees to place an item on the agenda, clarity about when the Council can expect the referral to be placed on a future Council agenda.

The focus of this staff report is to present proposed revisions to the Handbook section on “Order of Business related to Council Reports, Referrals, and Future Agenda Items,” related to Council Referrals for Council discussion and adoption.

The current language in the Handbook related to Council referrals can be found on page 23 of the Handbook in Attachment III and is listed below for reference.

Current Procedure:

Council Reports, Referrals and Future Agenda Items:

During the Council Reports, Referrals, and Future Agenda Items section of the agenda, a Council Member may request an item be considered on a future agenda, and upon agreement of a majority of Council, staff will prepare a report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit it in writing.

Proposed Procedure:

Staff proposes to separate the current section, “Council Reports, Referrals and Future Agenda Items” into two separate sections: 1) Council Reports and 2) Council Referrals.

Council Reports

The “Council Reports” section would allow Council Members to report on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events and to comply with AB 1234 requirements (reimbursable expenses for official activities). This proposed section would be placed after the “Public Comments” section of the agenda.

The proposed “Council Reports” section would read as follows:

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

Council Referrals

The “Council Referrals” section would allow Council Members to request Council consideration of items to be added to future agendas or other referrals.

The proposed “Council Referrals” section would read as follows:

“Any Council Member 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 Council Handbook 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 City Manager and City staff.

The process to make a Council Referral has two parts. The first part is to enable the Council Member to place a matter before the Council. The second part is to enable the Council to determine whether staff time should be spent on the issue.

Part 1: Council Members wishing to refer a matter to the City Council for discussion will:

- A. Prior to preparing a Council Referral Memo, Council Members can consult with the City Manager to determine whether the issue can be addressed as part of the City Manager’s operational authority, does not require policy direction from the Council, and is within current budgeted resources.
- B. In advance of a Council meeting, the referring Council Member will submit a Council Referral Memo (not to exceed two pages) describing the Referral (Attachment IV – Sample Council Referral Memo). The Council Referral Memo can outline the policy issue, overall outcome or desired objective, desired timeline, identification of key stakeholder groups that might need to be

consulted, and/or other pertinent information that will clarify for Council the policy issue desired for Council discussion.

- C. The Referring Council Member will notify the City Manager, or the City Manager's designee, via telephone, email, or in person and convey that the Council Member has a Council Referral Memo to place on the agenda and the desired Council meeting date, at least two weeks prior to the desired Council meeting. This will give the City Clerk time to finalize the agenda and post it within the required timeframe. Requests received after this two-week deadline will be placed on the agenda for the following regularly-scheduled Council meeting.

Staff will not devote time preparing reports or analysis on the requested item. The limited staff assistance provided, at this initial stage of the Council referral, would be to help the Council Member clarify and/or frame the issue, if needed, so that the Council and public clearly understand the request.

- D. In consideration of staff capacity, the need to balance other City business, and with the potential of up to 35 referrals a year (7 Council Members X up to 5 Referrals a Year = 35), each Council Member can make (3-5 referrals a year – this limit can be discussed by Council but staff recommends no more than 5 referrals per member per year). In the event any Council Member desires to make more than five referrals per year, Council Members can discuss these at the annual Council Prioritization Retreat or can ask one of their colleagues to bring forward a referral (in compliance with the Brown Act).

Part 2: Council Consideration of the Council Referral Memo:

- A. When the item is called at the Council meeting, the Referring Council Member who made the request will describe the policy issue the Council Member wishes to place on a future agenda.
- B. The Council discussion will be limited to determining whether staff time and City resources should be devoted to researching the particular agenda item and whether to direct staff to conduct further analysis on the item. Council will not take action on the agenda item itself. Concurrence that staff time and City resources will be devoted to the item does not signify approval of the item. It only indicates that the Council wishes to have the item studied further. Additionally, the Council may, at any time, decide to drop the matter, even after the matter has been analyzed by staff.
- C. Upon the concurrence of a majority of the Council that the item should be researched and placed on a future Council agenda, the City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations. The City Manager

will maintain a log of such referrals, the date of the referrals, and the projected dates the referred matter will be agendized for further consideration.”

The proposed modifications to the, “Council Reports, Referrals and Future Agenda Items” section of the Handbook outlined above considers Council’s desire for flexibility and further clarity on how Council Members can add items to future agendas, as well as considerations for the amount of staff resources that may be needed on researching and analyzing the item(s). (Exhibit A to Attachment II represents the redlined version of the proposed changes to the Handbook).

ECONOMIC IMPACT

There is no anticipated economic impact with the discussion of this report.

FISCAL IMPACT

There is no fiscal impact with the discussion of this report.

STRATEGIC INITIATIVES

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

NEXT STEPS

Upon Council adoption, these modifications will be incorporated into the “Council Reports, Referrals and Future Agenda Items” section of the Handbook and will be put into practice effective immediately.

Prepared by: Maria A. Hurtado, Assistant City Manager
Miriam Lens, City Clerk
Michael Lawson, City Attorney

Recommended by: Kelly McAdoo, City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 19-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE REVISION TO THE COUNCIL REPORTS,
REFERRALS AND FUTURE AGENDA ITEMS SECTION OF THE COUNCIL
MEMBER HANDBOOK

WHEREAS, the City Council at its City Council Retreat on February 3, 2019, identified and discussed sections of the Council Member Handbook that needed to be updated to reflect current practices; and

WHEREAS, subsequent to the City Council Retreat, inquiries on the Council Referral process were made by members of the Council and there was a desire to amend the Council Member Handbook Section on Order of Business related to Council Reports, Referrals and Future Agenda Items; and

WHEREAS, Section 611 of the City Charter, Rules of Proceeding, permits the Council to determine its own rules of procedure.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that it is desired that the Council Reports, Referrals and Future Agenda Items section of the Council Member Handbook be amended as indicated and attached hereto as Exhibit A.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019.

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

CITY COUNCIL HANDBOOK
COUNCIL REPORTS, REFERRALS AND FUTURE AGENDA ITEMS SECTION
REDLINE VERSION
(With Proposed Modifications)

COUNCIL REPORTS, ~~REFERRALS AND FUTURE AGENDA ITEMS~~

During the Council Reports, ~~Referrals, and Future Agenda Items~~ section of the agenda, Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events and to comply with AB 1234 requirements (reimbursable expenses for official activities).

~~a Council Member may request an item be considered on a future agenda as described below, and upon agreement of a majority of Council, staff will prepare a report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit it in writing.~~

COUNCIL REFERRALS

Any Council Member 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 Council Handbook 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 City Manager and City staff.

The process to make a Council Referral has two parts. The first part is to enable the Council Member to place a matter before the Council. The second part is to enable the Council to determine whether staff time should be spent on the issue.

Part 1: Council Members wishing to refer a matter to the City Council for discussion will:

- A. Prior to preparing a Council Referral Memo, Council Members can consult with the City Manager to determine whether the issue can be addressed as part of the City Manager's operational authority, does not require policy direction from the Council, and is within current budgeted resources.
- B. In advance of a Council meeting, the referring Council Member will submit a Council Referral Memo (not to exceed two pages) describing the Referral (Attachment IV – Sample Council Referral Memo). The Council Referral Memo can outline the policy issue, overall outcome or desired objective, desired timeline, identification of key stakeholder groups that might need to be consulted, and/or other pertinent information that will clarify for Council the policy issue desired for Council discussion.
- C. The Referring Council Member will notify the City Manager, or the City Manager's designee, via telephone, email, or in person and convey that the

Council Member has a Council Referral Memo to place on the agenda and the desired Council meeting date, at least two weeks prior to the desired Council meeting. This will give the City Clerk time to finalize the agenda and post it within the required timeframe. Requests received after this two-week deadline will be placed on the agenda for the following regularly-scheduled Council meeting.

Staff will not devote time preparing reports or analysis on the requested item. The limited staff assistance provided, at this initial stage of the Council referral, would be to help the Council Member clarify and/or frame the issue, if needed, so that the Council and public clearly understand the request.

- D. In consideration of staff capacity and the need to balance other City business, each Council Member can make X referrals a year. In the event any Council Member desires to make more than five referrals per year, Council Members can discuss these at the annual Council Prioritization Retreat or can ask one of their colleagues to bring forward a referral (in compliance with the Brown Act).

Part 2: Council Consideration of the Council Referral Memo:

- A. When the item is called at the Council meeting, the Referring Council Member who made the request will describe the policy issue the Council Member wishes to place on a future agenda.
- B. The Council discussion will be limited to determining whether staff time and City resources should be devoted to researching the particular agenda item and whether to direct staff to conduct further analysis on the item. Council will not take action on the agenda item itself. Concurrence that staff time and City resources will be devoted to the item does not signify approval of the item. It only indicates that the Council wishes to have the item studied further. Additionally, the Council may, at any time, decide to drop the matter, even after the matter has been analyzed by staff.
- C. Upon the concurrence of a majority of the Council that the item should be researched and placed on a future Council agenda, the City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations. The City Manager will maintain a log of such referrals, the date of the referrals, and the projected dates the referred matter will be agendized for further consideration.



City of Hayward

Council Member Handbook



February 2017

Council Member Handbook

Adopted July 1983

Revised March 1987

Revised January 1993

Revised July 1996

Revised June 1998

Revised April 2000

Revised May 2002

Revised April 2004

Revised June 2008

Revised February 2011

Revised October 2012

Revised April 2015

Revised February 2017



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CITY COUNCIL THE COUNCIL

The elective officers of the City of Hayward shall consist of a Council of seven members, to be composed of six Council Members and a Mayor, all to be elected by the qualified voters of the City at large. ([Sec. 500, City Charter](#))

VACANCY

An elective office becomes vacant when the incumbent dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of her/his official duties, or ceases to be a resident of the City, or neglects to qualify within ten days following election or appointment, or shall have been absent from the State without leave for more than sixty consecutive days, or fails to attend the meetings of the body of which she/he is a member for a like period without being excused by said body.

A vacancy in an elective office shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next General Municipal Election and until their successor is elected and qualified. At the next General Municipal Election following any such appointment, the person so elected shall serve for the remainder of any unexpired term.

No appointment to fill a vacancy in an elective office shall be made during such time prior to a General Municipal Election that nomination papers may be filed for candidates seeking office at said election.

In the event that Council shall fail to fill a vacancy by appointment within thirty days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy. ([Sec. 501, City Charter](#))

ELECTIVE OFFICERS

Except as otherwise provided in Section 501 of the Charter, Elective Officers shall hold office for a term of four years from and after the first Tuesday following their election, and shall continue in office until their respective successors qualify.

When the general municipal election for the election of officers is consolidated with a California State General Election held earlier in the calendar year than the last election for the seat occupied by an incumbent, the incumbent's term of office shall be shortened to the first Tuesday following the consolidated election or until his or her successor qualifies. When the general municipal election for the election of officers is consolidated with a California State General Election held later in the calendar year than the last election for the seat occupied by an incumbent, the incumbent's term in office shall be lengthened to the first Tuesday following the consolidated election or until his or her successor qualifies.

([Sec. 2-1.15, Hayward Municipal Code](#))

Ties among candidates for any office shall be settled by the drawing of lots. ([Sec. 600, City Charter](#))

ELIGIBILITY

No person shall be eligible to be nominated for or hold office as a member of the Council unless she/he is a resident and qualified elector of the City or of territory annexed thereto. ([Sec. 601, City Charter](#))

COUNCIL MEMBER TO HOLD NO OTHER OFFICE

No member of the Council shall hold any other city office or city employment, the compensation of which is paid out of municipal funds, nor be elected or appointed to any office created or the compensation of which is increased by the Council, while she/he is a member thereof, until one year after the expiration of the term for which he/she was elected. ([Sec. 602, City Charter](#))

TRAINING REQUIREMENTS

AB 1234, now [California Government Code Section 53234](#), was signed into law on October 7, 2005. This law requires, among other things, that all local agencies that provide compensation, salary, or a stipend to, or reimburses the expenses, of members of a legislative body must provide Ethics Training to local agency officials by January 1, 2007, and every two years thereafter.

AB 1825, now [California Government Code Section 12950.1](#), requires immediate and continual Sexual Harassment Training for supervisors. This law increases the training obligations of all employers, that have employees within the State of California, and extends their obligations beyond the training requirements discussed by the U.S. Supreme Court, the Equal Employment Opportunity Commission ("EEOC"), and other federal and state courts and legislative bodies. While AB 1825 does not specifically define "supervisor," the definition contained in the California Fair Employment and Housing Act ("FEHA") will presumably apply. Under the FEHA, a supervisor is any individual having the authority "to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action...if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Training is mandatory for all employees who become supervisors after January 1, 2006 within six months of assumption of a supervisory position and a once every two years thereafter.

Members of boards, commissions, task forces and committees established by Council are also required to obtain the above described training.

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City's Harassment Policy by extending the policy against harassment and retaliation to City Council and all appointees.

Assembly Bill 1661, now [California Government Code Section 53237](#), was signed into law on September 29, 2016. This law requires local agency officials to receive sexual harassment prevention training and education if the local agency provides any type of compensation to those officials. The

law also requires an entity that develops curricula to satisfy this requirement to consult with the city attorney regarding its sufficiency and accuracy.

Council Members are encouraged to complete at least five (5) hours per year of ongoing professional development. The League of California Cities and other resources provide training programs, conferences, and other resources to help elected officials stay engaged and informed on matters affecting cities.

Effective 2018, City staff will provide an official orientation to members of the City Council upon taking office related to the structure and the operation of City government and legal and ethical duties and responsibilities.

COMPENSATION FOR MEMBERS OF THE CITY COUNCIL

Any compensation to be paid members of the Council shall be established by ordinance, and shall apply to all incumbent members of the Council. The Council may likewise change such compensation; however, such change shall not be effective until one or more members of Council becomes eligible for such change in compensation by virtue of beginning a new term of office. ([Sec. 603, City Charter Ordinance 01-12](#))

Hayward Municipal Code, Section 2-1.10 – Compensation for Members of the City Council- reads as follows:

- (a) Each Council Member shall receive compensation for services rendered in an official capacity, an annual salary in the sum of Twenty-Five Thousand Dollars (\$25,000).
- (b) The Council of the City of Hayward does ordain as follows: The Mayor shall receive as compensation for services rendered in an official capacity, an annual salary in the sum of Forty Thousand Dollars (\$40,000).
- (c) From and after the fiscal year beginning July 1, 2003 and for each fiscal year thereafter, the compensation for the Mayor and each Council Member shall be increased by an amount equivalent to the percent increase in the “Consumer Price Index San Francisco-Oakland Metropolitan Area – All Items,” published by the Bureau of Labor Statistics, United States Department of Labor, for the twelve-month period ending June of each fiscal year. However, in no event shall any such increase be greater than 5%.
- (d) In addition, the Mayor and members of Council shall receive reimbursement for Council authorized travel and expenses while on official City duty.
- (e) Each Council Member and the Mayor shall also receive deferred compensation benefits under the City of Hayward’s Deferred Compensation Plan for employees. The rate of compensation received under this plan by the Mayor and each Council Member shall be the same as that received by Unrepresented Management employees, as amended from time to time.

([Section 2-1.10, Hayward Municipal Code](#))

BENEFITS

In accordance with the Public Employees' Medical and Hospital Care Act, medical coverage and a dental plan are provided to members of the City Council. ([Resolution 86-310](#) and [97-107](#))

The benefits offered to the City Council are: Medical, Dental, Vision, Life Insurance, and retirement through the California Public Employees Retirement System (PERS). These benefits are optional (with the exception of PERS and life insurance) and are chosen at the discretion of each Council Member. Cost sharing with the City for these benefits occurs in accordance with [Resolutions 94-045, 11-089, and 14-104.](#)

HARASSMENT AND RETALIATION POLICY

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City's Harassment Policy, by extending the policy against harassment and retaliation to City Council and all Appointees.

POLICY IN SUPPORT OF A HARASSMENT-FREE, DISCRIMINATION-FREE, AND RETALIATION-FREE WORKPLACE

The Hayward City Council is committed to prohibiting all forms of harassment and discrimination in the workplace that are based upon protected classifications as defined in this policy. In addition, the City Council prohibits retaliation against those who complain of harassment or discrimination. This policy applies to all City Council Members as well as to all Appointees.

Any City Council Member found to be in violation of this policy may be subject to censure by the City Council. Any Appointee found to be in violation of this policy may be subject to dismissal from his/her appointment.

I. Definitions.

- A. Appointee. This refers to any individual appointed as a member of one or more of the City's various boards, commissions, committees and task forces or any City official directly appointed by the City Council (i.e., the City Manager, the City Attorney, or the City Clerk).
- B. Protected Classifications. This policy prohibits harassment or discrimination because of an individual's actual or perceived protected classification. "Protected classification" includes sex (including gender, gender identity, gender expression, pregnancy, childbirth, and breastfeeding), race, religious creed, color, national origin, ancestry physical or mental disability, medical condition, marital status, age, military and veteran status, genetic information, or sexual orientation (including heterosexuality, homosexuality, and bisexuality).

- C. **Policy Coverage.** This policy prohibits City Council Members and Appointees from harassing or discriminating against applicants, officers, officials, employees, volunteers, persons providing services to the City pursuant to a contract, or clients because of: (1) an individual's protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.
- D. **Discrimination.** This policy prohibits treating an individual differently because of the individual's protected classification.
- E. **Harassment.** Depending upon the circumstances, a single act of harassment, as defined below, can violate this policy.
 - 1. **Verbal Harassment:** Includes, but is not limited to, epithets, jokes, comments, or slurs that identify a person on the basis of his or her protected classification, intimate or other nicknames, and comments on appearance or stories that tend to disparage those with a protected classification.
 - 2. **Visual Forms of Harassment:** Includes, but is not limited to, gestures, posters, notices, bulletins, cartoons, emails, photography, or drawings that tend to disparage those with a protected classification.
 - 3. **Physical Harassment:** Includes, but is not limited to, the following conduct taken because of an individual's protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking or taunting.
 - 4. **Sexual Harassment:** Is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature which occurs under any one of four circumstances:
 - a. Submission is made either explicitly or implicitly a term or condition of employment, or of a contractual business relationship with the City.
 - b. Submission or rejection by an individual is used as a basis for employment decisions affecting that individual.
 - c. Such conduct has the potential to affect an employee's work performance negatively and/or to create an intimidating, hostile, or otherwise offensive working environment.

- d. Submission or rejection by a client or vendor is used as a basis for making a business decision by the employee or creates an intimidating, hostile, or otherwise offensive working environment.

F. Guidelines for Identifying Harassment.

1. Harassment includes any conduct which would be “unwelcome” to an individual of the recipient’s same protected classification and which is taken because of the recipient’s protected classification.
2. It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
4. Even visual, verbal, and/or physical conduct between two Council Members or two Appointees who appear to welcome it can constitute harassment of a third applicant, officer, official, employee, contractor or appointee who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
5. Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this policy if the conduct is directed at or implicates a protected classification, and if an individual of the recipient’s same protected classification would find it offensive (e.g., gifts, over-attention, endearing nicknames).
6. The conduct of an individual other than a City Council Member or an Appointee, with respect to harassment of employees, applicants or persons providing services pursuant to a contract in the workplace, may violate this policy if the City, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action.
7. A single act can violate this policy and provide grounds for appropriate sanctions. Therefore, if in doubt as to whether any particular conduct may violate this policy, do not engage in the conduct and seek guidance from the City Manager’s Office or the City’s Human Resources Department.

- G. Retaliation. Any adverse conduct taken against an individual by a City Council member or Appointee because the individual has reported harassment or discrimination, or has participated in the Complaint Procedure described below, is prohibited. “Adverse conduct” includes taking sides because an individual has reported harassment or discrimination, spreading rumors about a complainant, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. Any individual who makes a good faith report about harassment or discrimination, who associates with an individual who is involved in reporting harassment or discrimination, or who participates in the complaint and investigation procedure is protected from retaliation.
- II. Complaint Procedure. An individual who believes he or she has been harassed, discriminated against, or retaliated against by a City Council Member or Appointee in violation of this policy should report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly. The City Council encourages prompt reporting of harassment, discrimination, or retaliation so that an investigation can be commenced and if necessary immediate and effective remedial action taken to stop such conduct.
- A. Reporting to the Mayor. An individual who believes he or she has been harassed, discriminated against, or retaliated against by a City Council Member or Appointee, should immediately report the conduct orally or in writing to the Mayor; in the event of a complaint against the Mayor, such conduct should be reported to the Mayor Pro Tempore.
- B. Confidentiality. The City Council recognizes that confidentiality is important to all parties involved in a harassment, discrimination, and/or retaliation investigation. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible.
- C. Duty to Maintain Confidentiality of Interview. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except for discussing it with his/her representative. Any individual who discusses the content of an investigative interview in breach of this duty will be subject to appropriate remedial action, including censure and/or removal from appointment.
- III. Response to Complaint.
- A. Interim Relief. Upon receipt of a harassment, discrimination, or retaliation complaint, the Mayor (or if the complaint is against the Mayor then the Mayor Pro Tempore), with the assistance of the City Manager, may take immediate and appropriate remedial action to stop the conduct at issue and/or to diffuse any volatile circumstances associated with the conduct.

B. Investigation.

1. Complaint Against a City Council Member or the Mayor: Under this policy, the City Council designates the Mayor to be the investigator of a harassment, discrimination, and/or retaliation complaint against a City Council Member; in the event of a complaint against the Mayor, the Mayor Pro Tempore is the person so designated. The Mayor, at his/her discretion and with the assistance of the City Manager, may retain an experienced private attorney, consultant, investigator, or other specialist who is not an official or employee of the City to conduct the investigation. The investigation shall be commenced as soon as practicable, and the specialist shall be responsible for completing a report on his/her investigation, to include findings. The investigation will normally include interviews of the reporting individual, the accused and any other individuals who are believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of their interviews and admonish them that retaliation against those who report alleged harassment or discrimination or who participate in the complaint procedure is prohibited. The investigation shall also include, but not be limited to, the retrieval and review of documents or evidence such as work schedules, letters, computer records, telephone messages, personnel files, gifts, or cards.
2. Complaint Against an Appointee: Upon receipt of a complaint against an Appointee, the Mayor shall refer the complaint to the City Manager for investigation. The City Manager shall have the discretion to use city staff or an outside investigator to conduct the investigation. Such investigation shall be conducted consistent with the guidelines set forth in Section III(B)(1) above.

C. Investigation of Unreported Potential Violations. The City Council takes a proactive approach to the problem of harassment, discrimination, and retaliation, and the Mayor (or the Mayor Pro Tempore) will initiate an investigation consistent with this policy if he/she becomes aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or a third party reports a potential violation.

D. Action.

1. City Council Member or Mayor: If the specialist's report concludes that harassment, discrimination, or retaliation in violation of the City Council policy prohibiting harassment, discrimination, and retaliation has occurred, the Mayor (or Mayor Pro Tempore) shall present the report to the City Council for further action, if any, consistent with its legal obligations. Such action for a City Council Member may include, but not be limited to, censure.

2. Appointee: Upon completion of his/her report, the City Manager shall forward it and a recommendation to the Mayor and the City Council. Possible action for an Appointee includes, but is not limited to, dismissal from his/her appointment.
- E. Option to Report to Outside Administrative Agencies. Individuals also have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest DFEH and EEOC offices are listed in the government section of the telephone book.
 - F. This policy is not to be construed nor is it intended to prohibit mutually welcome, social relationships freely entered into between people and which have no impact on the workplace.
- IV. Individual Responsibilities.
- A. Individual City Council Member or Appointee. A City Council Member or an Appointee is required to:
 1. Conduct him or herself consistently with the anti-harassment, anti-discrimination, and anti-retaliation policy as set forth herein; and
 2. Report any act which he or she believes in good faith constitutes harassment, discrimination, or retaliation, as defined herein, to the Mayor (or the Mayor Pro Tempore); and
 3. Maintain the confidentiality of any investigation conducted pursuant to this policy by not disclosing the substance of any investigatory interview, except for discussing it with his or her representative; and
 4. Cooperate fully with such investigation into alleged violations of this policy by responding fully and truthfully to all questions posed during the investigation; and
 5. Be familiar with this policy and modeling behavior that is consistent with it; and
 6. Report any potential violations of this policy of which he or she becomes aware.

COUNCIL OFFICE BUDGET AND EXPENDITURE GUIDELINES

The City Council adopts an annual City budget for all services. The Council holds budget work sessions in May and June, which are open to the public. The draft budget is also scheduled for a public hearing in June at a City Council meeting, and adopted at the following City Council meeting.

As part of the annual budget adoption, the City Council may appropriate budgets for each Councilmember and the Mayor to utilize in the execution of the duties of their respective offices. The use of these funds must always be in compliance with the City's purchasing policies, the Employee Expense Reimbursement Policy, and other applicable City policies and procedures. In addition, the Council has established the following additional policies to govern the use of these funds:

1) Councilmembers and the Mayor can be reimbursed for actual and necessary expenses incurred in the performance of official duties, subject to budget, applicable laws, ethical standards, and procedures established by Council. An expense will not be reimbursable if it is paid for or reimbursed by another entity or person.

2) Expenses may be incurred for the following activities:

- a) Attending educational seminars or seminars designed to improve elected officials' skill and/or information level;
- b) Purchase of books or educational materials that will be returned to the City at the end of the term of office;
- c) Participating in regional, state, and national organizations whose activities affect the City's interests or where the Councilmember serves as the appointed voting delegate (or alternate) or where the Councilmember serves on a Committee or is asked to share the City's expertise;
- d) Attending City-sponsored events or functions where payment shall be made for the Councilmember only to participate;
- e) Communicating with representatives of regional, state and national government on City-adopted policy positions when such trips have been preapproved and authorized by the whole Council; and
- f) Other expenses approved by the City Council in advance of their incurrence.

3) Reimbursable expenses may include (and in compliance with the City's Employee Expense Reimbursement Policy): registration fees; transportation; lodging; meals (excluding alcohol); and long distance phone calls/internet connectivity (used for City business).

Link to the Administrative Rule 2.51 – Employee Expense Reimbursement Policy

http://www.hayward-ca.gov/blogdocs/cityclerk/2015/2.51_Employee_Expense_Reimbursement_Policy.pdf

MAYOR

POWERS AND DUTIES

The Mayor shall be the Mayor at all meetings of the Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of the Mayor and the Mayor Pro Tempore, the Council shall elect a temporary presiding officer to serve until the arrival of the Mayor or Mayor Pro Tempore or until adjournment.

The elected Mayor shall be recognized as the official head of the City for all ceremonial purposes, and by the Courts for the purpose of serving civil processes. The Mayor shall be the presiding officer of the Council, and shall preside at the meetings of the Council for the purpose of determining the presence of a quorum. He/she shall be entitled to a vote on all matters coming before the Council, but shall possess no veto power. He/she may use the title of Mayor in all cases, but the same shall not be construed as conferring upon him/her administrative or judicial functions or other powers or functions of a Mayor under the general laws of the State. ([Sec. 604, City Charter](#))

SIGNING OF DOCUMENTS

The Mayor, or Mayor Pro Tempore in the absence of the Mayor, shall sign ordinances adopted by the City Council.

MAYOR PRO TEMPORE

In even number years, the Council shall elect the Mayor Pro Tempore following the installation of those newly elected Council Members. In odd years, the Council shall elect the Mayor Pro Tempore at the end of June.

The Mayor Pro Tempore shall serve at the pleasure of the Council for the term of one year, and shall be elected and removed by the affirmative votes of at least five (5) members of Council.

The Council shall elect a Council Member with the most seniority as a Council Member and who has not previously served as Mayor Pro Tempore. In the event two Council Members begin service in the same year, the Council Member with the highest number of votes will serve as Mayor Pro Tempore. (See [City Council Minutes, 4/28/92](#))

Prior to being elected as Mayor Pro Tempore, a Council Member shall have served at least two years on the Council. The term of the Mayor Pro Tempore shall be based on the fiscal year of July 1 to June 30. ([Resolution 98-120](#) and [Council Minutes, 6/26/2001](#))

The Mayor Pro Tempore shall perform the duties of the Mayor during her/his absence or disability. ([Sec. 605, City Charter](#))

PARTICIPATION OF PRESIDING OFFICER

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Council Members, and he/she shall not be deprived of any of the rights and privileges of a Council Member by reason of his/her acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If he/she desires to personally engage in extended debate on questions before the Council, he/she should consider turning the Chair over to another member.

QUESTION TO BE STATED

The Presiding Officer shall orally restate each question immediately prior to calling for the vote. Following the vote, the Mayor or City Clerk shall announce whether the question carried or was defeated for the benefit of the cable television audience.

MAINTENANCE OF ORDER

The Mayor or Presiding Officer is responsible for the maintenance of order and decorum at all times. No Council person, staff or member of the audience is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

POWERS OF COUNCIL

All powers of the City shall be vested in the Council, subject to the provisions of this Charter and to the Constitution of the State of California. The Council may establish the method by which any of such powers may be exercised. ([Sec. 606, City Charter](#))

MEETINGS OF COUNCIL

The Council shall, by ordinance or resolution, provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All meetings of the Council, whether regular or special, shall be open to the public. ([Sec. 607, City Charter](#))

PARTICIPATION BY MEMBERS OF THE PUBLIC

No public member shall be denied the right personally, or through counsel, to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council, nor to speak on the subject of any special meetings. ([Sec. 609, City Charter](#))

ADMINISTERING OATHS - SUBPOENAS

Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested

by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State. ([Sec. 610, City Charter](#))

RULES OF PROCEEDING

The Council shall determine its own rules of procedure, and may punish its members for disorderly conduct and compel their attendance at Council meetings. ([Sec. 611, City Charter](#))

NON-INTERFERENCE WITH ADMINISTRATIVE SERVICE

Neither the Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in the administrative service of the City, of any person to any office or employment, or his/her removal there from. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The City Manager shall take his/her orders and instructions from the City Council only when it is sitting in a lawfully held meeting. ([Sec. 705, City Charter](#))

Inquiry is defined as a request for information readily available, without need for extensive research or study by subordinates of the City Manager.

All other requests are to go directly to or through the City Manager.

POLICY REGARDING CITY COUNCIL EXPRESSION ON STATE, FEDERAL AND INTERNATIONAL ISSUES

Whereas, from time to time the City Council is requested to make an official statement with regard to State, Federal and International issues, some of which have no effect upon the administration of local affairs of the City of Hayward, or which the City Council, as a legislative body, cannot exercise jurisdiction over same; and

Whereas, it would appear that statements to be made with regard to such State, Federal and International issues should be made only as an expression of individual opinion and not as an official statement of this City Council.

Now, Therefore, Be it Resolved by the City Council of the City of Hayward that said Council does hereby adopt as a policy that official City Council expression should not be given on State, Federal, and International issues which have no direct effect upon the administration of the local affairs of the City of Hayward or which the City of Hayward, as a municipal corporation, cannot exercise any jurisdiction over such matters.

Be it further resolved that the aforesaid statement of policy is not intended to foreclose the rights of any person to make a public presentation to the City Council on such issues nor to impinge upon the

right of any individual Council Member to give his/her personal views on such matters.
[\(Res. 77-209, May 24, 1977\)](#)

At a Council meeting on [September 20, 2016](#), the City Council received a draft Hayward Legislative Program which outlines the legislative priorities of the City of Hayward. Adoption of the final version is anticipated to be presented to the City Council in the Spring. After adoption of the program, the Handbook will be updated adding by reference the final Hayward Legislative Program.

MEETINGS

MEETINGS - OFFICIAL ACTIONS

Except as hereinafter provided, all meetings of the Council shall be held in the Council Chamber, City Hall, 777 B Street, Hayward, California. In the event any meeting is held elsewhere, a notice setting forth the time and place thereof shall be conspicuously posted on the entrance door to the Council Chamber during the time such meeting is in progress. ([Sec. 2-1.00, Municipal Code](#))

TIME OF REGULAR MEETINGS

The time of regular meetings of the Council shall be as specified from time to time by resolution of the City Council. ([Sec. 2-1.00, Municipal Code](#))

On December 15, 2009, the City Council adopted [Resolution 09-189](#), which changed the hour of Council meetings to seven (7) o'clock p.m. Council also incorporated Work Session meetings within the regular meetings. Normally, meetings of the City Council are held the first, third, and fourth Tuesdays of each month at the hour of seven (7) o'clock p.m. Meetings may be cancelled on these days or added on the second and fifth Tuesdays by the Mayor or City Manager as determined by workload.

It shall be the policy of the Council that, if at all possible, agenda items shall not be considered past the hour of midnight.

SPECIAL MEETINGS/ CALLING/ NOTICE

A special meeting may be called at any time by the Presiding Officer of the Council, or by a majority of the members, by delivering written notice to each member of the Council at his/her residence or place of business and mailing written notice to the press, at least twenty four hours prior to said meeting, in accordance with the Ralph M. Brown Act ([G.C. Section 54956](#)).

As the Council, as a whole, also serves as the Redevelopment Successor Agency, the Hayward Public Finance Authority, and the Housing Authority for the City of Hayward. Special joint meetings may be conducted in order to conduct business relative to each agency.

The Hayward Redevelopment Agency was dissolved on February 1, 2012. The City of Hayward chose to become the Successor Agency to the Redevelopment Agency.

The City Council also serves as the Geologic Hazard Abatement District Board, which was formed on March 1, 2016.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at said meeting.

RULES OF ORDER

The proceedings of the Council shall be governed under "[Robert's Rules of Order](#)" on all matters pertaining to parliamentary law; however, no action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow said rules. ([Sec. 2-1.03, Municipal Code](#))

QUORUM

A majority of the City Council (4) shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of pending business. ([Sec. 608, City Charter](#))

No ordinance of resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

CALL TO ORDER

The meeting of the Council shall be called to order by the Mayor or in her/his absence by the Mayor Pro Tempore. In the absence of both the Mayor and the Mayor Pro Tempore, the meeting shall be called to order by the City Clerk, whereupon the City Clerk shall immediately call for the selection of a temporary Presiding Officer.

AGENDA

When scheduling items for City Council meetings, staff should consider the number of items being placed on each agenda and the estimated time that each item requires. Staff should strive to provide well-balanced agendas for all City Council meetings throughout the year. Although there might be rare occasions where a long meeting is necessary, a series of long meetings should be avoided by balancing the content of each agenda.

ORDER OF BUSINESS

The following shall constitute the order of business to be followed in conducting regular meetings of the Council:

- Call to Order
- Salute to Flag
- Roll Call
- Closed Session Announcement
- Presentation/Proclamation
- Public Comments * (for matters not otherwise listed on the agenda or informational staff presentation items)
- Consent
- Work Session/Informational Presentation
- Hearing
- Legislative Business
- Information Items
- City Manager's Comments
- Council Reports, Referrals, and Future Agenda Items
- Adjournment

**The printed agenda for each regular meeting shall include the following statement:*

Public Comments for Council Meeting Agendas shall read:

The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

[\(Res. 02-058, May 7, 2002\)](#)

(Agenda Revisions: [City Manager's Weekly Report - November 25, 2009](#))

AMENDED AGENDA

The Brown Act generally prohibits the City Council from discussing or taking action on an item not appearing on its posted agenda. The Act provides certain exceptions to this rule. For instance, the City Council may, on a two-thirds vote, determine that the need to take action on an item arose after the agenda was posted. If fewer than five members of the Council are present, the vote must be unanimous. If the Council makes this determination it may proceed to consider the underlying issue presented. Other exceptions are provided for emergencies, as defined, and certain continued hearings. Upon amending a work session agenda, no action would be taken on the underlying issue.

POSTING OF AGENDA

The City Clerk is directed to post a copy of the agenda in the lobby of City Hall, the bulletin board outside City Hall and at the Main Library not less than 72 hours prior to each regular meeting, and not less than 24 hours prior to each special meeting to be held by the City Council. The City Clerk is further directed to maintain a log of the date and time each agenda is posted.

DELIVERY OF AGENDA

If practicable, the agenda and agenda item report packet will be available electronically via the iLegislate application for iPads for Council Members each Thursday afternoon, or Friday if the preceding Monday was a holiday. Council Members are asked to advise the City Clerk's Office where they desire agenda packets to be delivered.

The agenda shall also be available to the general public, via posting to the City's website and electronic mail, at the time it is delivered to the City Council.

SUSPENDING ORDER OF BUSINESS

The regular order of business may be suspended by a majority vote of the members present for the accommodation of persons present, or for any other purpose. ([Sec. 2-1.06, Municipal Code](#))

CLOSED SESSIONS

Council meets from time to time in closed sessions which are duly held meetings or a portion thereof, at which certain actions may be taken and are not open to the public and news media. Matters discussed in closed sessions are considered **confidential**. If an action is taken, a public announcement will be made. These are:

(1) Labor Relations

Closed sessions held at such times where the Council meets with its designated representatives prior to and during consultation and discussions with representatives of employee organizations.

As a matter of policy, Council acknowledges that the City and its taxpayers are best

served if positions authorized during such sessions are represented as those of the Council as a whole. Members of the City Council agree that positions and agreements shall not be divulged.

(2) Security or Emergencies

Arrangements made to address threats to the City or its property must be kept confidential;

(3) Personnel Sessions

Matters discussed and reviewed in personnel sessions shall remain confidential in order to protect employees' rights to privacy.

(4) Litigation

Closed sessions to consider potential or pending litigation in which the city or an officer or employee is or could be a party;

Discussion of probable or pending litigation could waive attorney-client privilege to the detriment of the City's position;

(5) Real Property Negotiations

Closed sessions to meet with negotiators over specific real state sites;

Prior to the closed session, the negotiator, the site, and the properties' representatives must be identified.

Confidential Communications in Closed Session

To address a long-standing problem associated with confidential communications in closed session and how to maintain the confidentiality of such discussions, in 2003, the Legislature passed Assembly Bill 1945 (“AB 1945”), which states that no person may disclose confidential information that has been acquired by being present in a closed session, unless authorized by the body holding the closed session. Disclosure of closed session discussions need only occur when required by law or when there is a majority vote of the City Council, or upon advice of the legal counsel or negotiator handling the matter. In the event someone violates this provision, the statute gives the legislative body three options to address the violation: (1) The body may ask a court to issue an injunction preventing the further disclosure of confidential information; (2) If the person disclosing the information is an employee, the public entity may take disciplinary action against that employee; or (3) If the person disclosing the information is a member of the legislative body, the public entity may refer that person to the grand jury.

CLOSED SESSION ANNOUNCEMENT

Following a closed session, the Mayor, or the City Attorney or the City Manager at the request of the Mayor, will announce whether there is or is not reportable action. If there is reportable action, the Mayor, or the City Attorney or the City Manager at the request of the Mayor, will announce such action, including a report of how each member of the Council voted on the item.

PRESENTATION

Special presentations shall be scheduled as necessary in recognition of persons or groups, or for the promotion of an event or service. Requests for special presentations must be submitted to the City Clerk in writing in advance of the agenda deadline. The City Clerk shall coordinate the scheduling of presentations with the Mayor.

WORK SESSION

When a work session is required, Council Members will meet at City Hall unless otherwise noticed according to State law. Members of the public are encouraged to attend work sessions. Comments on an item appearing in the work session section of the agenda follows staff's presentation.

Except for the procedural motions required by the Brown Act which may be made at a work session (and which are discussed more fully in the section "Amended Agenda") no formal action shall be taken, no motions shall be offered, no arguments entered into; the sole purpose of said meetings being to provide background information to members of the Council and to allow Council Members to ask questions and to express personal opinions.

A Work Session presentation and discussion shall be limited to one hour.

CONSENT CALENDAR

Items of a routine nature, and non-controversial, including Approval of Minutes, shall be placed under the Consent agenda at the City Manager's discretion. All items may be approved by one blanket motion upon unanimous consent. Any Council Member or any member of the public may request that any item be withdrawn from the consent agenda for separate consideration. (Council Action, March 18, 1997)

PUBLIC HEARINGS AND LEGISLATIVE BUSINESS

Public Hearings:

A public hearing is a legally mandated process that occurs during the public meeting of a local decision making body, such as a city council meeting. Public hearings serve two functions: First, to obtain public testimony or comment on specific legislative decisions or policy matters such as a proposed annual budget or ordinance. The second function is to provide due process to an

individual or party making an appeal to or request of the legislative body, such as a hearing regarding the denial of a permit or license. A public hearing is required only when a specific federal, state, or local law requires one to be held on a particular issue.

Notice for Public Hearings:

A law that requires a public hearing to be held will also generally include the requirements for providing notice of the public hearing.

Legislative Business:

Legislative business is any policy-related item that is not legally required to have a public hearing, but which is deserving of or benefits from public discussion. In many respects, a legislative business item looks the same as a public hearing - the only difference is the type of legal notice given prior to the meeting. In fact, some legislative business items may warrant the type of noticing typically associated with public hearings, but doing so is discretionary and should only be done on a case-by-case basis. Applying the public hearing approach to legislative business is appropriate when there is a high degree of public interest in a topic, when the Council has not had sufficient exposure to the facts, circumstances or opinions informing the decision they are being asked to make, when there is a controversial topic that divides the community or the Council, or when the actions being considered have the potential to impact a large number of residents.

Notice for Legislative Business:

Publication of the agenda prior to the scheduled legislative item is generally sufficient notice for legislative business items. However, in the interest of inclusion and transparency, staff may choose to send notices to interested parties, deliver flyers to the affected neighborhood, or otherwise alert those known or thought to be likely interested in the matter. Similarly, staff may provide advance notice to parties identifying the likely date something may come before Council. Administrative Rule 1.25

Generally, public hearing as well as legislative business items, other than those of a quasi-judicial nature (quasi-judicial matters are those matters where the City Council is interpreting and applying regulations, such as consideration on use permits or zoning issues), shall be conducted in the following order:

- staff reviews the recommendation
- questions of staff by Council
- hearing opened by Mayor
- hearing closed by Mayor
- discussion and questions by Council
- action by Council

Questions and comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual.

Applicants and/or appellants desiring to address the City Council shall limit their presentation to ten (10) minutes. The Mayor or Presiding Officer will call forward individuals who wish to address the City Council. At the discretion of the Mayor, two or more speakers may be called at a time to help facilitate the public testimony.

Council Members should not speak to an issue until the public hearing has been closed. If a Council Member has met with a proponent/developer or opponent of subject hearing, she/he should acknowledge such meeting prior to opening of the hearing at the Council meeting.

Once a hearing is closed, it is inappropriate for the public to speak except to answer an inquiry of Council Members addressed through the Chair.

QUASI-JUDICIAL HEARINGS

The procedures for quasi-judicial hearings shall be determined on a case-by-case basis and the City Attorney shall advise the City Council in this regard.

INFORMATION ITEMS

The Information Items section was added on September 23, 2014, to present information to Council and the public in the form of a transparent, written report, which does not ask for any Council action. The public can comment on “Information Items” during the Public Comments section. If the Council wishes to discuss or take action on any “Information Items”, the Council will direct staff to bring the item forward on a future Council agenda as an action item.

CITY MANAGER’S COMMENTS

The City Manager’s Comments section was added on September 23, 2014, to provide an opportunity for the City Manager to verbally report on upcoming activities, events, or other items of interest or concern to the Council and the public.

COUNCIL REPORTS, REFERRALS AND FUTURE AGENDA ITEMS

During the Council Reports, Referrals, and Future Agenda Items section of the agenda, a Council Member may request an item be considered on a future agenda, and upon agreement of a majority of Council, staff will prepare a report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit it in writing.

ADJOURNMENT

When any member requests that a meeting be adjourned and a tree planted in memory of an individual recently deceased, the Mayor shall so adjourn the meeting and staff shall arrange for a tree to be planted.

RULES, DECORUM, AND ORDER

POINTS OF ORDER

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall sustain or reverse the Presiding Officer's determination.

DECORUM AND ORDER – COUNCIL MEMBERS

(a) Any Council Member desiring to speak shall address the Chair and, upon recognition by the Mayor, shall confine himself/herself to the question under debate.

(b) A Council Member desiring to question a staff member shall address his/her question to the City Manager, City Attorney, or the City Clerk in appropriate cases, who shall be entitled to answer the inquiry himself/herself or to designate some member of the staff for that purpose.

(c) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor; unless a Point of Order is raised by another Council Member; or unless the speaker chooses to yield to questions from another Council Member.

(d) Any Council Member challenged while speaking, shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules of the Council.

(e) Council Members shall accord the utmost courtesy to each other, to City employees and to the public appearing before the Council, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(f) Any Council Member may move to require the Mayor to enforce the rules and the affirmative vote of a majority of the Council shall require him/her to so act.

(g) [Section 611 of the City Charter](#) provides that the City Council may determine its own rules of procedure, may punish its members for disorderly conduct, and compel their attendance at Council meetings. In addition to the sanctions identified herein, the failure of the Mayor or a Council Member to observe these rules of decorum may warrant his or her removal from the Council Chambers in accordance with the procedures described in the section entitled "Enforcement of Decorum."

Sanctions and Procedures for Violations of Rules of Decorum and Order

(h) Council Members who fail to observe these rules of Decorum and Order, or violate any state or federal law, the City Charter, or any City ordinance or policy, may be reprimanded or formally censured, lose seniority or committee assignments (both within the City of Hayward or with inter-government agencies), have official travel restricted or be ordered to attend Council meetings, if the Council Member is absent without justification. Serious infractions of these rules of Decorum and Order could lead to other sanctions as deemed appropriate by the Council, including, but not limited to, referral to the Alameda District Attorney and/or Civil Grand Jury if the conduct is egregious or allegedly criminal in nature. Council Members should point out to the offending Council Member any perceived infraction of these rules of Decorum and Order as it occurs. No Council Member shall be reprimanded, sanctioned or censured for the exercise of his or her First Amendment rights. However, nothing herein shall be construed to prohibit the City Council from individually or collectively condemning or expressing disapproval of behavior in violation of these rules.

(i) It is the responsibility of the Mayor to initiate formal action if a Council Member's behavior may warrant reprimand, sanction, or censure. If no action is taken by the Mayor, action on the alleged violation may be placed on a future agenda for consideration by a majority of the full Council.

(j) Reprimand is the least severe form of action for a violation of these rules and may be issued by majority vote of the City Council without findings of fact or investigation. Reprimand is not considered a sanction or censure.

(k) Formal censure, loss of seniority or committee assignments and travel restrictions may be requested by any Council Member in writing submitted to the Mayor. The written request must set forth specific allegations of violations of state or federal law, the City Charter, or City ordinances or policies, including these rules of Decorum and Order, upon which the proposed sanction is based. If the Mayor determines that the request for censure or sanction warrants Council consideration, the request shall be scheduled for consideration by the Council at the next regularly scheduled Council meeting. If a majority of the Council wishes to take action on the request for sanction or censure, the request shall be scheduled for public hearing far enough in advance to give the affected Council Member adequate time to prepare a response to the request. The Council Member shall be given the opportunity to make opening and closing statements; to present or question witnesses; and is entitled to be represented by an advisor or counsel of his or her choosing. The Mayor, or the Mayor Pro Tempore if the Mayor is the subject of the sanction request, shall preside over the proceedings. The rules of evidence shall not apply. The City Attorney or his or her designee shall provide legal advice to the Council, as needed. A decision to censure or impose other sanction requires the adoption of a resolution containing findings with respect to the specific charges, based on substantial evidence, by a two-thirds vote of the Council.

DECORUM AND ORDER - EMPLOYEES

Members of the Administrative Staff and employees of the City shall observe the same rules of procedure and decorum applicable to members of the Council. The City Manager shall insure that all City employees observe such decorum. Any staff member, including the City Manager, City Attorney, and City Clerk, desiring to address the Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member or member of the public.

DECORUM AND ORDER - PUBLIC

Members of the Public attending Council meetings shall observe the same rules of order and decorum applicable to the Council

Each person who addresses the Council from the podium shall do so in an orderly manner and shall not make personal, slanderous, or profane remarks to any member of the Council, staff, or general public. Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting, whether from the podium or in the audience, may, at the discretion of the Mayor after observance of the procedure for enforcement of decorum described below, be escorted from Council Chambers and barred from further audience before the Council during that meeting. These rules shall be enforced as set forth in the section entitled "Enforcement of Decorum."

ENFORCEMENT OF DECORUM

The Chief of Police or his/her representative shall be ex-officio Sergeant-at-Arms of the Council. He/she shall carry out all orders and instructions given him/her by the Mayor for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Mayor, it shall be the duty of the Chief of Police or his/her representative to eject any person from the Council Chambers or place him/her under arrest or both.

As set forth in the Brown Act ([Government Code Section 54957.9](#)), in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in the section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Decorum and order shall be enforced in the following manner:

(a) Warnings. The Mayor shall ask that any person violating the rules of decorum be orderly and silent. The warning shall be in substantially the form described below. If, after receiving a clear warning from the Mayor, the person persists in disturbing the meeting, the Mayor may order a brief recess of the Council to regain order. If the person persists in disturbing the meeting, despite having been previously warned, the Mayor may order him or her to leave the Council meeting. If the person does not depart the Council chambers of his or her own volition, the Mayor may order any law enforcement officer who is on duty at the meeting as Sergeant-at-Arms of the Council to escort that person from the Council chambers.

(b) Text for Warning. The Mayor shall deliver the requisite warning in substantially the following form:

You are hereby advised that your conduct is in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403, and you are directed to be orderly and silent. Penal Code Section 403 states that any person who, without authority of law, willfully disturbs or breaks up a lawfully convened meeting of the City Council is guilty of a misdemeanor. Continued disruption of this City Council meeting will result in your removal from the meeting by the Sergeant-at-Arms and you will not be permitted to return to Council Chambers for the duration of the meeting. In addition, any continued disruption of this meeting is grounds for your being arrested and charged with a misdemeanor. Do you understand this admonition?

(c) Removal. Any law enforcement officer who is serving as Sergeant-at-Arms of the Council shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the Mayor, it shall be the duty of the Sergeant-at-Arms to remove from the Council meeting any person who is disturbing the proceedings of the Council. Removal of a disruptive member of the public from Council Chambers shall be accomplished by the Sergeant-at-Arms or other sworn law enforcement officers only.

(d) Misdemeanor. Any person who willfully disturbs or breaks up a Council meeting may be arrested and charged with a misdemeanor, pursuant to [California Penal Code Section 403](#).

(e) Motion to Enforce. If the Mayor fails to enforce the rules set forth above, any member of the Council may move to require the Mayor to do so and, by an affirmative vote of a majority of the Council, shall require the Mayor to do so. If the Mayor of the Council fails to carry out the will of a majority of the Council, the majority may designate the Mayor Pro Tempore to act as Presiding Officer for the limited purpose of enforcing these rules of decorum.

Attendance at Council Meetings does not provide individuals or groups immunity of protection when their conduct is in violation of any other laws (California Penal Code, City of Hayward Municipal Code, etc.). The Sergeant-at-Arms should and will be called upon by the Mayor to enforce these laws at Council Meetings.

POLICY REGARDING CABLE TELEVISION BROADCAST OF CITY MEETINGS

It shall be the policy of the City Council of the City of Hayward to broadcast public meetings held in the Council Chamber over cable television from the beginning of that meeting through adjournment without interruption. Meetings may be videotaped or audio recorded as long as the activity does not constitute a disruption of the meeting. ([Res. 94-049, March 8, 1994](#))

PERSONAL PRIVILEGE

The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are assailed, questioned or impugned.

COUNCIL MEMBER'S PREROGATIVE

Regardless of the number of Council Members present, or request of a member of the public, any Council Member may exercise a personal privilege to have an item continued once unless State law or local regulations require that action be taken at that time.

CONFLICT OF INTEREST (Disqualifications)

All Council Members are subject to the provisions of California Law, such as [Chapter 7, Title 9, of the California Government Code](#), relative to conflicts of interest, and to the conflict of interest code adopted by resolution of the Hayward City Council.

If a Council Member, after receiving the agenda packet, believes or is aware that he/she has a potential conflict, he/she should confer with the City Attorney prior to the meeting.

Any Council Member who has a conflict of interest shall absent him/herself from the Council Chamber during the debate and voting on the issue. The Council is prohibited by law to enter into contracts with its members. ([Government Code 1090 et seq](#))

LIMITATION OF DEBATE AND COUNCIL MEMBER DELIBERATIONS

No Council Member should speak more than once on any one subject until every other member choosing to speak thereon has spoken. Council Members are encouraged to keep their comments concise and succinct; and to limit their general comments on any item to five minutes once any specific questions on the item have been asked and answered. (Also, see Section VII under "Time Limitations")

DISSENT AND PROTESTS

Any member shall have the right to express dissent from or protest to any action of the Council and have the reason entered in the minutes. If such dissent or protest is desired to be entered in the minutes, this should be made clear by language such as “I would like the minutes to show that I am opposed to this action for the following reasons...”

PROCEDURES IN ABSENCE OF RULES

Except as modified by the provisions of this handbook, the proceedings of the City Council shall be governed by Robert’s Rules of Order Newly Revised.

RULINGS OF CHAIR FINAL UNLESS OVERRULED

In presiding over Council meetings, the Mayor, Mayor Pro Tempore or temporary Presiding Officer shall decide all questions of interpretations of these rules, points of order or other questions of procedure, requiring rulings.

Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Council Member present and voting.

ADDRESSING THE COUNCIL

MANNER OF ADDRESSING THE COUNCIL

Any public member may arise and address the Council on any business especially concerning him/her, or affecting his/her interests; however, preference will be given to those who have first presented matters in the form of a written communication, or who have notified the Presiding Officer of their desire to speak. ([Sec. 2-1.04, Municipal Code](#); [Sec. 609, City Charter](#))

Any member of the public desiring to address the Council shall complete a "speaker card" and hand it to the City Clerk. The City Clerk will advise the Mayor. The Mayor will announce the names from the speaker cards. Once the public member's name is called, the public member should proceed to the podium and wait to be recognized by the Presiding Officer. After being recognized, he/she shall speak directly into the microphone and for the record, shall state his/her name and address and business address in Hayward if applicable.

Comments from the public which are not the subject of an agenda item shall be heard at the beginning of the posted agenda under the heading "Public Comments." Otherwise the public may speak when their agenda item is being considered.

Under the provisions of the Brown Act, the City Council is prohibited from discussing or taking action on an item not appearing on its posted agenda. Therefore, any issue raised under the "Public Comments" section of the agenda will be referred to staff for a decision about placing it on a future agenda for discussion, action, or report.

TIME LIMITATION

Individual Speakers

Any member of the public desiring to address the Council shall limit her/his 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.

[Government Code Section 54954.3](#) states that if the City Council limits time for public comment, the City Council shall provide at least twice the allotted time to a member of the public who utilizes an interpreter to ensure that non-English speakers receive the same opportunity to directly address the Council. This shall not apply if the City Council utilizes simultaneous translation equipment.

Applicants and/or Appellants

Any applicant and/or appellant desiring to address the City Council shall limit their address to ten (10) minutes. This time limit will not be applied to speakers to whom constitutional due process applies. The City Attorney shall advise the City Council on this regard.

ADDRESSING THE COUNCIL AFTER MOTION IS MADE

After a motion has been made, or after a public hearing has been closed, no person shall address the Council except to answer an inquiry of Council Members addressed through the Chair.

LIMITATIONS REGARDING PUBLIC COMMENTS AND REPORTS

The making of oral communications to the Council by any member of the public shall be subject to the following limitations:

- (1) No speaker shall be permitted to address the Council on a topic which is currently before or about to be submitted for consideration by a city commission, board, or other agency before which the speaker should make his/her presentation, until that latter body has completed its deliberations and taken its final action.
- (2) In case the speaker should have followed an otherwise available appeal procedure, the Presiding Officer shall not allow oral communication to the Council outside that procedure.

The Presiding Officer may limit the number of speakers heard on non-agenda topics at any single meeting. (See Section VII for "Time Limitations for Individual Speakers").

If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer may reasonably limit the number speaking as to each side of an issue and request that they not be redundant. In this regard, preference may be given to speakers who represent groups of persons who have designated a spokesperson.

No statement shall be allowed to include charges or complaints against any employee of the City, regardless of whether such employee is identified in the presentation by name or by any other reference which tends to identify him/her. All charges or complaints against employees shall be referred without comment to the City Manager for appropriate action, and may also be submitted to members of the Council for information by written communication only.

WRITTEN CORRESPONDENCE

The City Clerk is authorized to receive and open all mail addressed to the Council as a whole and refer to the City Manager, for immediate attention, those communications related to administrative business, not necessarily requiring Council action, so that they may be disposed of between Council Meetings. A copy of such communication and response shall be sent to each Council Member marked "For Purposes of Information." Copies of all other communications sent to Council as a whole will be transmitted to them.

Any communication relating to a matter pending, or to be brought, before the City Council, shall be included in the agenda packet for the meeting at which such item is to be considered. Letters of appeal from administrative or Commission decisions shall be processed under applicable provisions

of the Municipal Code or other ordinances. Communications specifically addressed to individual council members will be transmitted to them unopened.

Any non-confidential writings or documents related to an agenda item submitted to a majority of the Council less than 72 hours prior to a public meeting will be made available for public inspection in the Office of the City Clerk. Any documents related to an item on the agenda provided by City staff to the Mayor and City Council at the meeting must be available to the public at that meeting. ([SB 343, Brown Act amendment, July 1, 2008](#))

PERSONS AUTHORIZED TO BE WITHIN PLATFORM

No person except City officials shall be permitted within the platform area in front of the Council dais without the invitation or consent of the Presiding Officer.

MOTIONS

PROCESSING OF MOTIONS

When a motion is made and seconded, it shall be stated by the Mayor before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

While the current Granicus - VoteCast system allows elected officials a more effective way to participate using touch-screen displays and makes every part of the meeting process automated, there are limitations with the motion and second buttons. The Presiding Officer of the meeting is not able to see who offered a motion or a second. Until the limitation is resolved, members of the City Council wishing to make a motion and offer a second should use the “request to speak” button via their iPads to be acknowledged by the Presiding Officer. This process will be in place until the Presiding Officer can see in his/her iPad who made the motion and the second.

BUSINESS ITEMS OUT OF ORDER

The Mayor may at any time, by majority consent of the Council, permit a member to introduce an ordinance, resolution, or motion out of the regular agenda order.

DIVISION OF QUESTION

If the question contains two or more divisible propositions, the Mayor may, upon request of a member, (unless appealed) divide same.

MOTION TO FIX HOUR OF ADJOURNMENT

Any regular meeting can be adjourned to a stated date, time, and place.

MOTION TO TABLE

A motion to table shall be used to temporarily bypass the subject. A motion to table is not debatable and shall preclude all amendments or debate of the subject under consideration.

MOTION TO LIMIT OR TERMINATE DISCUSSION

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

MOTION TO AMEND

A friendly amendment shall be in order if it is consented to by both the maker of the motion and the second. A motion to amend shall be debatable only as to amendment. A motion to amend an

amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. Substitute motions are not allowed. Amendments shall be voted upon first. The main motion shall then be voted on either as amended or as originally stated, if the amendment failed to pass.

CONTINUANCE OF MATTERS

- (1) The City Council ordinarily will grant one continuance of a matter in the event it creates an inconvenience or hardship to a member of the public. Request for such a continuance should, if at all possible, be made at least five (5) days before the scheduled agenda date, and the continuance shall be to a date mutually agreeable to all parties.
- (2) When five (5) or fewer members of the Council are present at the scheduled meeting, a request for a continuance may be made once in order that the matter may be scheduled for a time when more than five (5) members are expected to be present.

Requests for continuance when there are five (5) or fewer members present shall be granted unless State law or local regulations require that action be taken at that time.

- (3) If a matter is continued, the Mayor will ask if those present who wish to speak to the matter can return at a later date. Those individuals who cannot, will be given the opportunity to speak on the matter and said comments shall be made part of the record to be considered at the continued date. Such persons shall not repeat statements so made at the continued date; however, further comment shall be allowed where new material is presented.

COUNCIL MEMBER OBLIGATION WHEN ABSENT

When a member of Council is absent from an earlier meeting at which a matter is discussed, it shall be the duty of such member to become acquainted with the issues discussed by reading the minutes, the documents presented, and, if possible, the electronic recording of such discussion.

VOTING PROCEDURE

The Council shall pass ordinances and resolutions only by taking the ayes and noes by an open vote, which shall be entered in the minutes of the meeting. The ayes and noes shall be taken and recorded on all motions. Abstentions shall also be recorded. ([Sec. 613, City Charter](#))

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

RECONSIDERATION

When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, and held not less than one week after the meeting at which such motion is made. ([Sec. 618, City Charter](#))

TIE VOTES

Tie votes shall be lost motions. When all Council Members are present, a tie vote whether to grant an appeal from official action shall be considered a denial of such appeal, unless the Council takes another action to further consider the matter. If a tie vote results at a time when fewer than all members of the Council are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Council, unless otherwise ordered by Council. Official actions are those quasi judicial actions such as made by Planning Commission wherein fewer than four votes sustain their action.

RESOLUTIONS

DEFINITIONS

As a rule, it can be said that legislative acts of the City Council (usually a rule of public conduct for long-term application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution" in its general sense will denote any action taken affirmatively via a vote of the Council, other than one taken by ordinance, which is memorialized in a separate document. In this City, however, two methods of action are in general use to accomplish such non-ordinance actions: "resolution" and "motion" (the latter recorded by minute entry). The two are equally as legally effective and binding; they vary in the formality of respective memorialization. The more formal is referred to as a "resolution." This, in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence, and preserved in a separate set of books. Such "resolutions" are used in this City for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

The "motion" (assuming it was one which passed) is a Council action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it. In this City, procedural actions (such as a motion to continue a hearing) are always done by motion, and, in addition, many administrative matters (such as directing the City Manager to furnish a report) are done by motion.

METHOD OF ACTION

Legislative action shall be taken by the Council only by means of an ordinance or resolution. ([Sec. 612, City Charter](#))

An ordinance or resolution may be adopted by a motion, duly seconded, and passed by four (4) votes of the City Council.

AYES AND NOES

The Council shall pass ordinances and resolutions only by taking the ayes and noes by an open vote, which shall be entered in the Minutes of the meeting. The ayes and noes shall be taken and recorded on all motions. ([Sec. 613, City Charter](#))

MAJORITY VOTE OF COUNCIL

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

SUBJECT OF TITLE

Every ordinance or resolution shall be preceded by a brief title which shall indicate the subject and purport thereof. ([Sec. 615, City Charter](#))

RESOLUTIONS PREPARED IN ADVANCE

Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed earlier and result declared. It shall not be necessary to read a resolution in full or by title except to identify it. Any member may require that the resolution be read in full.

ORDINANCES

REQUIREMENTS OF ORDINANCES

Except as hereafter provided, no ordinance shall be adopted by the Council on the day of its introduction, nor within one week thereafter, nor at any time other than at a duly assembled meeting. If an ordinance is altered after its introduction (except for the correction of typographical or clerical errors), it shall be adopted at a meeting held at least one week after the date of such alteration.

At the time of introduction or adoption of an ordinance the title need only be read, unless reading of the ordinance in full is requested by any member of Council.

EMERGENCY ORDINANCES

Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at the same meeting if passed by at least five affirmative votes.

PUBLICATION REQUIREMENTS

Before final adoption of an ordinance, a notice indicating its title, a subject matter index, the date of its introduction, and the date, time, and place it will be considered for final adoption, and that copies of the full text thereof are available for examination by the public in the office of the City Clerk, shall be published once in a newspaper of general circulation within the City at least three days before the final adoption meeting date.

A similar notice indicating the adoption of an emergency ordinance and the vote thereon shall be published once within one week after its adoption. ([Sec. 617, City Charter](#))

The enacting clause of all ordinances adopted by the Council shall be substantially as follows: "The Council of the City of Hayward does ordain as follows." ([Sec. 616, City Charter](#))

When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, held not less than one week after the meeting at which such motion was made. ([Sec. 618, City Charter](#))

All ordinances shall be signed by the Mayor and attested by the City Clerk. ([Sec. 619, City Charter](#))

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under State law or a procedural ordinance.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in the Charter.
- (e) An ordinance annexing areas to the City.
- (f) An ordinance relating to the zoning or rezoning of the City or portions thereof. ([Sec. 620, City Charter](#))

A true and correct copy of all ordinances shall be kept and certified by the City Clerk, such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way. ([Sec. 621, City Charter](#))

Any or all ordinances of the city which have been enacted in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to the code shall be enacted in the same manner as herein required for the amendment of ordinances generally. ([Sec. 622, City Charter](#))

ORDINANCE VIOLATION - PENALTY

A violation of any ordinance of the City shall constitute a misdemeanor unless by the terms of such ordinance its violation shall constitute an infraction. A violation of any ordinance of the City may be prosecuted in the name of the People of the State of California or may be redressed by civil action. ([Sec. 623, City Charter](#))

COUNCIL COMMITTEES

The Council may organize among its members such standing committees as it may determine, each of which shall act as a fact-finding committee for the purpose of considering all available information on proposed legislation or matters of policy referred to such committee by Council and making recommendations thereon to the Council as a whole. ([Sec. 600a, City Charter](#))

Each Council Member shall be assigned by the Mayor to various standing committees. Participation and attendance at those committee meetings is important. Continued absences from meetings without good cause may result in removal from a committee at the discretion of the Mayor, taking into consideration advice from other committee members.

From time to time Ad Hoc committees may be organized by the Mayor to address special concerns which may be of short duration. Additionally, each Council Member shall be assigned by the Mayor as Liaison to various boards, committees and commissions, and other public agencies or quasi-public agencies.

It shall be the prerogative of the Mayor, taking into consideration relative length of Council service, individual Council Member preference and equivalency, to assign individual Council Members to these various committees. Normally appointments are for a two-year period, but may be renewed at the Mayor's discretion where Council Members have particular experience or expertise with respect to the business of a particular committee.

STANDING COMMITTEES

The list of standing and Ad Hoc committees and liaison assignments shall be revised from time to time as necessary.

COUNCIL COMMITTEE MEETINGS

- (1) All Council Committees must comply with the Brown Act.
- (2) A Council Member other than Council Committee Members may attend a regular committee meeting. However, he/she shall not participate in the decision-making process of the Committee.
- (3) It is the policy not to hold joint Council-Committee meetings. An item that might be considered for such meeting should be scheduled for a work session of the whole Council.

On March 13, 2015, the City Attorney provided a memorandum to clarify the application of the Brown Act to the Council's standing and ad hoc committees. A copy of the memorandum is available at the following link:

http://www.hayward-ca.gov/blogdocs/cityclerk/2015/SKMBT_C65215032308330.pdf

COUNCIL LIAISON

The Mayor shall designate a member of Council to be a liaison to each city board and commission. The method and length of appointment shall be as provided above in the section on Council Committees.

RESPONSIBILITY OF COUNCIL LIAISON

It shall be the responsibility of a Council liaison to attend as many board or commission meetings as possible in order to be currently aware of issues being dealt with, to listen and observe, and to bring back to the Council any needs, requests, or information from a board or commission. A Council Liaison shall not take part in the deliberations of the commission.

LIAISON AND COMMISSION MEMBER DECORUM

Council liaison and members of boards and commissions have a mutual obligation to accord the utmost courtesy to one another and shall refrain from rude and derogatory remarks, abusive comments, or other chastising, particularly in public.

If a Council liaison has a specific concern about the behavior and/or statements of an individual board or commission member, he/she should bring it first to the attention of the board or commission Chairperson in private. If no resolution is affected, then the matter should be brought to the attention of the Mayor for his/her action.

Conversely, board and commission members should discuss a concern about a Council liaison with their respective Chairperson and not go directly to the Mayor or to other Council Members.

Decorum among board and commission members shall be the same as applicable to the Council.

BOARDS, COMMISSIONS, COMMITTEES, AND TASK FORCES

(Council's Appointed Officials Handbook)

<http://www.hayward-ca.gov/your-government/boards-commissions>



SAMPLE TEMPLATE
COUNCIL REFERRAL MEMORANDUM
(LIMIT TO 1-2 PAGES)

DATE: (ENTER COUNCIL MEETING DATE REFERRAL IS BEING CONSIDERED)

TO: Mayor and Council

FROM: (ENTER REFERRING COUNCIL MEMBER NAME)

SUBJECT: Consider an Item for Discussion on a Future City Council Agenda Regarding...
(ENTER POLICY ISSUE BEING REQUESTED FOR COUNCIL CONSIDERATION)

RECOMMENDATION:

It is recommended that the City Council discuss and determine whether an item regarding (ENTER POLICY ISSUE BEING REQUESTED FOR COUNCIL CONSIDERATION) should be placed on a future City Council agenda for discussion.

POLICY ISSUE:

(DESCRIBE THE POLICY ISSUE BEING REFERRED AND THE REASONS FOR THE REFERRAL)

DESIRED OUTCOME:

(DESCRIBE THE OVERALL OUTCOME OR OBJECTIVE DESIRED BY PLACING THIS ITEM ON THE AGENDA FOR COUNCIL CONSIDERATION)

TIMELINE:

(IF THE ITEM IS REQUESTED FOR A SPECIFIC COUNCIL MEETING DATE, LIST HERE. DESCRIBE ANY TIME SENSITIVE CONSIDERATIONS. IF THE MATTER IS NOT URGENT AND FLEXIBILITY EXISTS, STATE HERE)

DESIRED COUNCIL ACTION:

(IF THE REFERRING COUNCIL MEMBER SEEKS ANY DESIRED COUNCIL ACTION WHEN THE ITEM RETURNS TO COUNCIL, STATE THE ACTION HERE (I.E. DISCUSSION, APPROVAL OF, ETC.)

KEY STAKEHOLDER GROUPS:

(IF APPLICABLE, LIST ANY STAKEHOLDER GROUPS THAT MAY NEED TO BE CONTACTED BY STAFF IN PREPARATION FOR PLACING THIS ITEM ON THE AGENDA)

DISCUSSION

The purpose of this agenda item is to provide an opportunity for Council to discuss whether staff time and City resources should be devoted to researching the issue described above, and to determine whether the item should be placed on a future agenda. An item placed on a future agenda would enable the Council to discuss in detail whether or not the Council chooses to endorse the **(ENTER POLICY ISSUE BEING REQUESTED FOR COUNCIL CONSIDERATION)**.

STRATEGIC INITIATIVES

(REFERENCE WHETHER THIS PROPOSED ITEM RELATES TO ANY OF THE 3 COUNCIL STRATEGIC INITIATIVES).

Submitted by:

Referring Council Member's Signature