

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, January 17, 2017

7:00 PM

Council Chambers

City Council

Mayor Barbara Halliday
Mayor Pro Tempore Sara Lamnin
Council Member Francisco Zermeño
Council Member Marvin Peixoto
Council Member Al Mendall
Council Member Elisa Márquez
Council Member Mark Salinas

CITY COUNCIL MEETING**CALL TO ORDER Pledge of Allegiance: Council Member Salinas****ROLL CALL****CLOSED SESSION ANNOUNCEMENT****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.

BOARDS AND COMMISSIONS

1. [APPT 17-001](#) Appoint Four Members to the Personnel Commission (Report from City Clerk Lens)

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

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 17-005](#) Minutes of the Special City Council Meeting/City Council Retreat on November 5, 2016

Attachments: [Attachment I Draft Minutes](#)

3. [MIN 17-006](#) Minutes of the City Council Meeting on December 6, 2016

Attachments: [Attachment I Draft Minutes](#)

4. [MIN 17-007](#) Minutes of the Special Joint City Council/Hayward Housing Authority/Hayward Redevelopment Successor Agency/Hayward Public Financing Authority/Hayward Area Recreation and Park District Meeting on December 13, 2016
- Attachments:** [Attachment I Draft Minutes](#)
5. [CONS 17-006](#) Authorization for the City Manager to Negotiate and Execute a Memorandum of Understanding with the Alameda County Health Care Services Agency for Medi-cal Administrative Activities Provided by the Youth and Family Services Bureau of the Hayward Police Department
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution Authorizing Agreement](#)
6. [CONS 17-017](#) FY16 Sidewalk Rehabilitation and Wheelchair Ramps Repair Project: Approval of Plans and Specifications and Call for Bids
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Sidewalk District Map](#)
[Attachment IV Location Maps](#)

WORK SESSION

Work Session items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.

7. [WS 17-001](#) Revisions to the Council Member Handbook (Report from City Clerk Lens and City Manager McAdoo)
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Council Member Handbook 2015](#)
[Attachment III Council's Appointed Bodies Handbook](#)

PUBLIC HEARING

8. [PH 17-001](#) Public Hearing to Consider the Formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence Development in the South Hayward BART Area, and to Order the Levy of Assessments for Fiscal Year 2018 (Report from Development Services Director Rizk)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Final Engineer's Report](#)

9. [PH 17-004](#) Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) for PEPRSA Safety Employees (Report from Human Resources Director Collins)

Attachments: [Attachment I Staff Report](#)
[Attachment II Ordinance Amendment to the Contract](#)
[Attachment III Exhibit to the Ordinance](#)
[Attachment IV Summary of Ordinance Published on 01/13/2017](#)

LEGISLATIVE BUSINESS

10. [LB 17-003](#) Resolution to Appoint a Community Task Force to Update the Hayward Anti-Discrimination Action Plan (Report from City Manager McAdoo)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution Anti-Discrimination Action Plan](#)
[Attachment III Resolution 89-248](#)
[Attachment IV Resolution 92-310](#)
[Attachment V City of Fremont Charter of Compassion](#)
[Attachment VI PolicyLink Publication](#)

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, January 24, 2017, 7:00 PM****PUBLIC COMMENT RULES**

The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. 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
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File #: APPT 17-001

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Appoint Four Members to the Personnel Commission

RECOMMENDATION

That the City Council adopts the resolution (Attachment II) confirming four appointments to the Personnel Commission.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Appointment of Four Members to the Personnel Commission

RECOMMENDATION

That the City Council adopts the resolution (Attachment II) confirming four appointments to the Personnel Commission.

SUMMARY AND BACKGROUND

At its regular [City Council meeting on October 25, 2016](#), the City Council directed staff to conduct a special recruitment to fill four vacancies on the Personnel Commission. The special recruitment was conducted from November 1, 2016 to December 8, 2016. A total of 23 applications were received by the deadline and 22 applicants qualified to be considered for appointment.

At its regular [City Council Meeting on December 13, 2016](#), the Council confirmed the process for applicant selection as outlined in the staff report. By the December 16, 2016 deadline, Council Members individually communicated their selections to the City Clerk. Twelve individuals received three or more votes from each Council Member and they were invited to interview with the City Council on January 10, 2017. Nine individuals interviewed with the City Council during its [Special City Council Meeting on January 10, 2017](#), two could not attend, and one rescinded her application. At the conclusion of the interviews, the Council selected the following four individuals for appointment to the Personnel Commission:

- Jose Guadamuz
- Rachel Lucas
- Giancarlo Scalise
- Allen Zargar

Mr. Allen Zargar is also a member of the Keep Hayward Clean and Green Task Force and is choosing to resign from the Task Force. Mr. Zargar's resignation creates a vacancy on the Keep Hayward Clean and Green Task Force which will be filled during the annual recruitment of the City's Boards, Commissions, Committees, and Task Forces.

During the Special City Council meeting, the Council discussed considering appointing an alternate member to the Personnel Commission, and directed staff to include discussion about this item during the review of the Council Member Handbook. Discussion of the Council Member Handbook is also scheduled for this evening's meeting.

PUBLIC CONTACT

Information about the Personnel Commission recruitment was disseminated via the following channels: press release; Daily Review newspaper advertisement; news item on the City's homepage; City's Facebook; City's Twitter; Nextdoor.com; GovDelivery emails; electronic billboards at Southland Mall and Clear Channel; Channel 15; and personal outreach at the Light Up the Season event.

NEXT STEPS

Should the City Council approve adding an alternate member to the Personnel Commission, staff will bring back a resolution to that effect.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

RESOLUTION NO. 17-

Introduced by Council Member _____

RESOLUTION CONFIRMING THE APPOINTMENTS OF FOUR MEMBERS TO THE PERSONNEL COMMISSION

BE IT RESOLVED that the City Council of the City of Hayward does hereby confirm the appointments of the following as members of the Personnel Commission:

MEMBERS	SUCCEEDS	TERM EXPIRES
Jose Guadamuz	Justin King	09/30/2018
Rachel Lucas	Satyendra Kaith	09/30/2018
Giancarlo Scalise	Chris Lee	09/30/2018
Allen Zargar	Chrystal Porter	09/30/2020

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2017.

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
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File #: MIN 17-005

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the Special City Council Meeting/City Council Retreat on November 5, 2016

RECOMMENDATION

That the City Council approves the minutes of the Special City Council Meeting/City Council Retreat on November 5, 2016.

ATTACHMENTS

Attachment I Draft Minutes of November 5, 2016



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING/CITY COUNCIL RETREAT
OF THE CITY OF HAYWARD
Council Chambers
Conference Room 2A, Hayward, CA 94541
Saturday, November 5, 2016, 9:00 a.m.**

The Special City Council Meeting/City Council Retreat was called to order by Mayor Halliday at approximately 9:00 a.m., followed by the Pledge of Allegiance led by Council Member Márquez.

ROLL CALL

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

PUBLIC COMMENTS

Council Member Lamnin reported on her attendance at an event for the Community Multimedia Academy at Tennyson High School where students had the opportunity to express concerns and the teacher expressed interest for a summer youth employment program.

Council Member Zermeño gauged Council's interest for discussion related to an ordinance for banning the use of drones similar to the ordinance enacted in San Diego. There was no Council consensus.

Council Márquez reported that some cars were damaged between Mission Boulevard and Main Street on Thursday night.

COUNCIL RETREAT

1. Facilitated Council Discussion to Strengthen Council Joint Governance and Improve Operational Processes and Procedures

Ms. Julia Novak of the Novak Consulting Group facilitated the Council retreat. City Manager McAdoo, City Attorney Lawson, City Clerk Lens, Library and Community Services Director Reinhart, Utilities and Environmental Services Director Ameri, Human Resources Director Collins, Acting Finance Director Claussen and Acting Police Chief Koller attended the special meeting.

Retreat Purpose:

Council members and executive staff in attendance introduced themselves and expressed their expectations for the retreat. Council members took turns sharing their perspectives on what they believe to be true about the future of Hayward. As a group, Council members and executive staff reflected on what they heard said about the future of the City which included the following: importance of community; importance of kids, youth and seniors; affordability of housing; safety and freedom; land development and creating safe

communities; Hayward pride and sense of belonging; service – people want to be part of the solution and want to work with others who share beliefs; value in diversity and importance of education; collaboration leverage; inclusiveness; today's decision will shape the future; new ways to communicate; importance of sustainability; history in Hayward shapes the future; and importance of continued outreach and listening.

Individual Agendas and Priorities:

City Manager McAdoo began the discussion of the Council priorities (Safe, Clean, Green and Thrive) using the analogy of an iceberg where only 10% of the iceberg can be seen above the water line and this represents the Council projects and initiatives; and the other 90% which is below the water makes up the day-to-day work of the organization.

Council members shared their top three priorities for the coming year. Certain Council members restated the importance of items on the City Manager's Work Plan (a copy of which was included in the Memo that was distributed to the City Council and was entitled City Manager's Performance Objectives), and others identified new initiatives for the group to consider embracing as shared priorities. The areas that Council members expanded upon during the discussion of priorities involved: strengthening community relationships and community policing; development processes; lean innovation; inclusiveness of community in processes; diversity (include workforce development and increasing candidate pools); identifying strategies for closing budget deficit in FY2017 and working to present balanced budget for FY2018; economic development; and General Plan (implementation plan progress/status; Climate Action Plan.) New initiatives were aligned with the guiding principles of Safe, Clean, Green and Thrive. The following are the collective priorities of the City Council: 1) Safe: complete streets, traffic safety, getting people out of cars and slowing drivers down; 2) Thrive: develop policies to achieve greater leverage for the City to encourage "Complete Communities"-make land use decisions that make the City of Hayward a fun place to live, work, and play by requesting amenities, parks, retail and recreation opportunities; 3) Thrive: preserve and create more affordable housing; and 4) Thrive: Vista Park-establish a policy goal that would encourage concentrated entertainment opportunities for youth and families (Tennyson Corridor). After further discussion, the Council agreed to incorporate #3 Preserve and create more affordable housing into #2 Encourage "complete communities."

It was noted that the three new initiatives that the Council agreed to add to the 2016-2017 Work Plan will be further fleshed out by staff and a workplan will be brought back to the Council for its consideration.

Review of Council Handbook:

The Council offered the following suggestions for the *City Council* section of the Handbook: adapt language to meet the new election schedule on page 2; identify what is required to set an expectation for ongoing professional development for Council; enforce the five-minute time limit on Council speaking; add benefits that are currently not included on page



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING/CITY COUNCIL RETREAT
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4; amend the compensation for Council on page 4; consider having the City pay for events where the City Council is expected to participate, e.g., Volunteer Dinner.

The Council offered the following suggestions for the *Policy Regarding City Council Expression* section of the Handbook: there needs to be commitment to follow the section of the Handbook; and add the legislative policy that is being drafted as it relates to State and Federal issues.

The Council offered the following suggestions for the *Meetings* section of the Handbook: add public comments at work sessions after staff presentation is made; note where meeting agenda is posted; remove the five-minute limit for groups and keep it at three-minute limit and give the Chair discretion for reducing it.

The Council offered the following suggestions for *Addressing the Council* section of the Handbook: time limitations might need to be adjusted on Page 31.

The Council offered the following suggestions for the *Motion* section of the Handbook: remove the sentence that indicates that “substitute motion” is acceptable; and work out issues with technology or enforce workaround.

The Council offered the following comment for the *Council Committees* section of the Handbook: reference on page 40 regarding two-year term is related to elections and Council changes and not trying to limit members to two-year terms.

The Council offered the following suggestions for the *Boards and Commissions* section of the Handbook: update language for the Personnel Commission; discuss the role of the Community Services Commission; consider an Art Committee; reflect other changes that were made recently to Boards and Commissions.

Council Members and members of the executive staff offered closing remarks of appreciation.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 1:35 p.m., to a closed session.

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
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File #: MIN 17-006

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on December 6, 2016

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on December 6, 2016.

ATTACHMENTS

Attachment I Draft Minutes of December 6, 2016



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 6, 2016, 7:00 p.m.

The City Council meeting was called to order by Mayor Halliday at 7:04 p.m., followed by the Pledge of Allegiance led by Council Member Peixoto.

ROLL CALL

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

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were none.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced the Council convened in closed session concerning two items: 1) conference with legal counsel pursuant to Government Code 54956.9 regarding pending litigation: City of Hayward vs. California State University Trustees, etc., Alameda County Superior Court, No. RG09481095; 2) one anticipated litigation; and noted there was no reportable action.

PRESENTATIONS

Mr. Ryan Clausnitzer, Mosquito Abatement District Manager, spoke about the history of the District. He made a presentation on the mosquitos and the diseases they spread and how the District is monitoring mosquito abundance.

Mr. David Korth, Assistant to the City Manager, made a presentation on the Funabashi trip on October 20-28, 2016. The delegation was composed of approximately 50 Hayward representatives who traveled to Funabashi, Japan to celebrate the 30th Anniversary of the Hayward-Funabashi Sister City relationship.

Mr. Ray Tsurumoto, one of the founding members of the Hayward-Funabashi Sister City Committee, thanked the people who participated in the trip and spoke in favor of continuing the Sister City relationship.

PUBLIC COMMENTS

Mr. Chris Lam, President of Pucci Foods, spoke favorably about the Funabashi trip.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, spoke about the Funabashi trip as an opportunity to showcase Hayward products that the Japanese participants were able to enjoy.

Ms. Wynn Grcich, Hayward resident, spoke about electromagnetic pollution and presented a document for the record.

Mr. Elie Goldstein, owner of Kraski's Nutrition, spoke about the situation with homeless individuals in downtown Hayward and offered to work with the City to help improve the situation.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about his application with the Department of Consumer Affairs for the position of Deputy Chief, Field Operations and Enforcement Division of the Bureau of Automotive Repair and provided documents for the record.

CONSENT

1. Minutes of the Special City Council Meeting on November 5, 2016 **MIN 16-107**
The item was continued to a future meeting.

2. Minutes of the Special Joint City Council/Planning Commission Meeting on November 15, 2016 **MIN 16-108**

It was moved by Council Member Salinas, seconded by Council Member Peixoto, and carried unanimously, to approve the minutes of the Special Joint City Council/Planning Commission Meeting on November 15, 2016.

3. Adoption of Ordinance Authorizing Participation in Alameda County's Community Choice Aggregation Program **CONS 16-729**

Staff report submitted by City Clerk Lens, dated December 6, 2016, was filed.

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

Ordinance 16-21, "An Uncodified Ordinance of the City Council of the City of Hayward Authorizing Participation in Alameda County's Community Choice Aggregation Program"

4. Approval of the Preliminary Engineer's Report, Setting the Date for the Public Hearing, and Ordering the Mailing of Ballots and Associated Waiver for the Formation of Benefit Zone No. 15 of the Consolidated Landscaping and Lighting District 96-1 for the Cadence Development in the South Hayward BART Area **CONS 16-730**



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 6, 2016, 7:00 p.m.

Staff report submitted by Development Services Director Rizk, dated December 6, 2016, was filed.

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

Resolution 16-214, "Resolution Initiating Proceedings, Providing Intention to Levy Assessments, Preliminarily Approving Engineer's Report, and Providing for Notice of Hearing for the Formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence Property Confirming the Report and Non-Abatable Code Violations and Penalties Liens List Associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs"

5. Resignation of Isyanelly Gonzalez from the Hayward Youth Commission and Appointment of Kobe Shelby to fulfill Ms. Gonzalez's unexpired term **CONS 16-739**

Staff report submitted by City Clerk Lens, dated December 6, 2016, was filed.

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

Resolution 16-215, "Resolution Accepting the Resignation of Isyanelly Gonzalez from the Hayward Youth Commission and Appointing Kobe Shelby to Fulfill Isyanelly Gonzalez's Term"

6. Resolution Acknowledging Receipt of Canvass of the Special Municipal Election Held November 8, 2016, and Declaring the Results Thereof **CONS 16-743**

Staff report submitted by City Clerk Lens, dated December 6, 2016, was filed.

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

Resolution 16-216, "Resolution Acknowledging Receipt of Canvass by the City Clerk of the Special Municipal Election Held November 8, 2016, and Declaring the Results Thereof"

WORK SESSION

Council Member Salinas disclosed his employment with CSUEB's Hayward Promise Neighborhood created a conflict of interest with Work Session No. 7 and he left the Council Chambers at 8:00 p.m.

7. Review of the Hayward Promise Neighborhood Initiative (Report from Library and Community Services Director Reinhart) **WS 16-071**

Staff report submitted by Library and Community Services Director Reinhart, dated December 6, 2016, was filed.

Library and Community Services Director Reinhart announced the report and provided a synopsis of the staff report.

Ms. Carolyn Nelson, Principal Investigator for Hayward Promise Neighborhood (HPN) and CSUEB Dean of College of Education in Allied Studies, and Ms. Melinda Hall, Executive Director of HPN, made a presentation on the Hayward Promise Neighborhood Initiative, provided overview and accomplishments of the initiative and plans to sustain it.

Discussion ensued among Council Members, City staff, and HPN representatives regarding funding to support the infrastructure of the HPN programs in order to be competitive for the next round of grant application anticipated in July 2017, and the plan to continue delivery of HPN related services in the post grant period.

In response to Council Member Márquez' request for testimony related to HPN, Ms. Silvia Sandoval, Promotora de Salud for the HPN, provided testimony, through a Spanish Interpreter. Ms. Sandoval stated that she participated in the Home Visitation Program in the Hayward's Jackson Triangle neighborhood.

The Council was in general support of funding HPN programs and directed staff to come back to Council with: more information on the HPN's transitional year budget; prioritization and break down of HPN programs and key services that are most effective; and data and outcome of the programs.

Council Member Salinas returned to the Council Chambers at 9:06 p.m.

LEGISLATIVE BUSINESS

8. Adoption of the California Code of Regulations 2016 edition of Title 24, including the 2016 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes; and Related Amendments, Including to the Hayward Municipal Code (Report from Development Services Director Rizk and Fire Chief Contreras) **LB 16-109**



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
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Tuesday, December 6, 2016, 7:00 p.m.

Staff report submitted by Development Services Director Rizk and Fire Chief Contreras, dated December 6, 2016, was filed.

Development Services Director Rizk announced the report and introduced Acting Building Official Osborne who provided a synopsis of the staff report related to the Building Code.

Fire Chief Contreras provided a synopsis on the staff report related to the Fire Code.

Discussion ensued among Council Members and City staff related to: the proposed Building and Fire Codes; the recent warehouse fire in Oakland and the preventative measures the City has in place; the requirements in the Building and Fire Codes for fire alarms to have lights in addition to audible alarm for new constructions; and development of a list of incentives to provide flexibility to potential developers when they ask for variances related to their development.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:20 p.m.

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

Resolution 16-217, "Resolution Finding and Determining the Need for Changes or Modifications to the 2016 California Building Code"

Introduction of Ordinance 16-_, "An Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Ordinances No. 13-21, 13-22, 13-23, 15-08, 15-16, 16-01; Chapter 10, Article 23; Chapter 9, Article 2, and All Amendments Thereto"

Resolution 16-218, "Resolution Finding and Determining the Need for Changes or Modification to the California Fire Code, 2016 Edition"

Introduction of Ordinance 16-_, "An Ordinance Establishing a Fire Prevention Code for the City of Hayward; Adopting the California Fire Code, 2016 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion; Providing for the Issuance of Permits and

Collection of Fees; Providing for Penalties for Violation, and Repealing Ordinance No. 13-20, as Amended, and All Other Ordinances and Parts of Ordinances in Conflict Therewith”

9. Zero Net Energy Goal for Municipal Facilities (Report from Director of Utilities & Environmental Services Ameri) **LB 16-108**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated December 6, 2016, was filed.

Utilities and Environmental Services Director Ameri announced the report and introduced Environmental Services Manager Pearson who provided a presentation on the staff report.

Discussion ensued among Council Members and City staff related to: funding for additional municipal facilities; tariffs to encourage renewable energy; and the City’s investment in renewable energy and the long term cost savings.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:50 p.m.

Council Member Mendall directed staff to develop a list of programs that are available and beneficial to the City and provide it to the East Bay Community Energy Authority Board.

Council Member Mendall offered a motion per the staff recommendation and Council Member Zermeño seconded the motion.

Council Member Lamnin supported the motion with suggestions: continue to be proactive in leading efforts to make Hayward a greener city, and prioritize projects in places where there is need for energy efficiency.

Council Member Márquez supported the motion and hoped the money saved on the renewable energy projects would be invested in more educational programs and would bring back the rebate programs, especially for renters.

Mayor Halliday supported the motion and thanked the Council Sustainability Committee for its work in achieving cumulative Zero Net Energy for municipal facilities.

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

Resolution 16-219, “Resolution Establishing Zero Net Energy Goal”



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
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Tuesday, December 6, 2016, 7:00 p.m.

CITY MANAGER'S COMMENTS

City Manager McAdoo made four announcements related to: 1) the City Hall business/holiday closure from December 23, 2016 to January 2, 2017; 2) the Hayward Executive Airport annual holiday celebration and the Hayward Neighborhood Alert annual holiday party, on December 7, 2016; 3) The December 15, 2016 Planning Commission meeting on the Maple and Main development; and 4) the Grid Alternatives' (nonprofit organization) first canvassing event in Hayward on December 3, 2016.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Salinas thanked everyone involved in kicking-off the holiday season on December 3, 2016.

Mayor Halliday thanked staff for all the work that was put into the Light up the Season event. She also reported on her attendance, along with Council Members Lamnin and Zermeño, at the Chabot College annual production of the Ballet Petit's Nut Cracker on December 4, 2016.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:06 p.m., in memory of all those who lost their lives in the Oakland warehouse fire, and in particular, in memory of Brandon Chase, a Hayward resident. Mayor Halliday asked staff to work with his family and plant a tree in his memory and in memory of those who lost their lives.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Yolanda Cruz
Deputy City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: MIN 17-007

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the Special Joint City Council/Hayward Housing Authority/Hayward Redevelopment Successor Agency/Hayward Public Financing Authority/Hayward Area Recreation and Park District Meeting on December 13, 2016

RECOMMENDATION

That the City Council approves the minutes of the Special Joint City Council/Hayward Housing Authority/Hayward Redevelopment Successor Agency/Hayward Public Financing Authority/Hayward Area Recreation and Park District Meeting on December 13, 2016.

ATTACHMENTS

Attachment I Draft Minutes of December 13, 2016



**MINUTES OF THE SPECIAL JOINT CITY COUNCIL/HAYWARD HOUSING
AUTHORITY/HAYWARD REDEVELOPMENT SUCCESSOR AGENCY/HAYWARD
PUBLIC FINANCING AUTHORITY/HAYWARD AREA RECREATION AND PARK
DISTRICT MEETING OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 13, 2016, 7:00 p.m.**

The Special Joint City Council/Hayward Housing Authority/Hayward Redevelopment Successor Agency/Hayward Public Financing Authority/Hayward Area Recreation and Park District meeting was called to order by Mayor/Chair Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council/HHA/HRSA/HPFA Member Lamnin.

ROLL CALL

Present: COUNCIL/HHA/HRSA/HPFA MEMBERS Zermeño, Márquez, Mendall, Peixoto,
Lamnín, Salinas
MAYOR/CHAIR Halliday
Absent: None

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were none.

BOARDS AND COMMISSIONS

The City Council confirmed the process in the staff report, RPT 16-166, for selecting four members for the Personnel Commission.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced the Council convened in closed session concerning three items: 1) conference with property negotiators pursuant to Government Code 54956.8 regarding property at 1525 W. Winton Avenue, APN 432-0124-002-00; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding Mid-Year Comprehensive Litigation Report; and 3) conference with legal counsel pursuant to Government Code 54956.9 regarding one anticipated case. There was no reportable action.

PUBLIC COMMENTS

Mr. Francisco Abrantes, Hayward resident, expressed concerns about his December water bill which far exceeded his regular invoices.

Mr. Scott Figgins, Hayward teacher, urged the Council to take a firm stand of support for the immigrants in Hayward and initiate a Task Force to draft a sanctuary city resolution for Hayward, and provided documents for the record.

Mr. Kim Huggett, Hayward Chamber of Commerce president, invited all to the 73rd Annual Awards Gala at California State University East Bay on February 4, 2017.

Mr. Jim Drake, Hayward resident, spoke about the ongoing Police Chief investigation.

Council Member Márquez asked the City Manager to bring the item related to sanctuary cities before the Council during a regular meeting at the beginning of January.

CONSENT

Consent Item No. 2 was removed to allow for a public comment.

1. Minutes of the Special City Council Meeting on November 29, 2016 **MIN 16-112**
It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the Special City Council Meeting on November 29, 2016.

2. Fire Stations 1-5 Improvements: Approval of Plans and Specifications and Call for Bids
CONS 16-744

Staff report submitted by Director of Public Works Fakhrai, dated December 13, 2016, was filed.

Mr. Jim Drake, Hayward resident, asked if the project was advertised and if it was competitively bid. City staff responded in the affirmative.

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

Resolution 16-225, "Resolution Approving Plans and Specifications for the Fire Stations 1-5 Improvements Project, Project Nos. 07476, 07477, 07478, 07479 and 07480 and Call for Bids"

3. Amendment to the Professional Services Agreements with Valbridge Property Advisors and with The Schmidt-Prescott Group, Inc. for the Appraisal of Excess Property in the Route 238 Bypass Corridor **CONS 16-753**

Staff report submitted by Director of Public Works Fakhrai, dated December 13, 2016, was filed.

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

Resolution 16-220, "Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with the Schmidt-Prescott Group, Inc. for Additional Services Associated with the Route 238 Bypass Property Appraisals"



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Resolution 16-221, "Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with Valbridge Property Advisors for Additional Services Associated with the Route 238 Bypass Property Appraisals"

4. Adoption of an Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Ordinances No. 13-21, 13-22, 13-23, 15-08, 15-16, 16-01; Chapter 10, Article 23; Chapter 9, Article 2, and all Amendments Thereto **CONS 16-754**

Staff report submitted by City Clerk Lens, dated December 13, 2016, was filed.

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

Ordinance 16-22, "An Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Ordinances No. 13-21, 13-22, 13-23, 15-08, 15-16, 16-01; Chapter 10, Article 23; Chapter 9, Article 2, and All Amendments Thereto"

5. Adoption of an Ordinance Establishing a Fire Prevention Code for the City of Hayward; Adopting the California Fire Code, 2016 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion; Providing for the Issuance of Permits and Collection of Fees; Providing for Penalties for Violation, and Repealing Ordinance No. 13-20, as Amended, and All Other Ordinances and Parts of Ordinances in Conflict Therewith **CONS 16-755**

Staff report submitted by City Clerk Lens, dated December 13, 2016, was filed.

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

Ordinance 16-23, "An Ordinance Establishing a Fire Prevention Code for the City of Hayward; Adopting the California Fire Code, 2016 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion; Providing for the Issuance of Permits and Collection of Fees; Providing for

Penalties for Violation, and Repealing Ordinance No. 13-20, as Amended, and All Other Ordinances and Parts of Ordinances in Conflict Therewith”

6. Adoption of Fiscal Year 2017 Statement of Investment Policy and Delegation of Investment Authority **CONS 16-756**

Staff report submitted by Acting Finance Director Claussen, dated December 13, 2016, was filed.

It was moved by Council/HHA/HRSA/HPFA Member Mendall, seconded by Council/HHA/HRSA/HPFA Member Márquez, and carried unanimously, to adopt the following:

Resolution 16-222, “Resolution Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance”

Housing Resolution 16-02, “Resolution Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance”

RSA Resolution 16-05, “Resolution of the City Council of the City of Hayward, Acting as the Governing Board for the Redevelopment Successor Agency for the City of Hayward Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance”

HPFA Resolution 16-03, “Resolution Reaffirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance”

7. Designation of a City Representative and an Alternate for the East Bay Community Energy Authority Board of Directors **CONS 16-764**

Staff report submitted by City Manager McAdoo, dated December 13, 2016, was filed.

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

Resolution 16-223, “Resolution Appointing Council Member Mendall as the City of Hayward Representative to the Board of Directors for the East Bay Community Energy Authority”



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8. New Garin Reservoir and Pump Station Improvements: Approval of Plans and Specifications, and Call for Bids **CONS 16-769**

Staff report submitted by Utilities and Environmental Services
Director Ameri, dated December 13, 2016, was filed.

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

Resolution 16-224, “ Resolution Approving Plans and
Specifications for the New Garin and Pump Station
Improvements, Project No. 07183, and Call for Bids”

Mayor Halliday invited the Hayward Area Recreation and Park District Board of Directors to join the City Council at the dais.

WORK SESSION

Council Member Salinas disclosed having served, without compensation, on the YMCA Advisory Board and he had resigned from the Board to avoid the appearance of a conflict of interest as the YMCA might be selected to provide services at the Eden Youth and Family Center.

9. Joint Work Session with Hayward City Council and Hayward Area Recreation and Park District Board of Directors: South Hayward Family Center Project Update and Discussion (Report from Director of Library and Community Services Reinhart) **WS 16-073**

Staff report submitted by Library and Community Services
Director Reinhart and HARD General Manager McCreary, dated
December 13, 2016, was filed.

Hayward Area Recreation and Park District Board of Directors in attendance were: President Louis Andrade; Director Minane Jameson; Director Carol Pereira; Director Paul Hodges Jr; and Director Rick Hatcher.

Library and Community Services Director Reinhart acknowledged community stakeholders in attendance at the meeting. Director Reinhart noted there were two outdated facts in the staff report on page No. 2 and offered clarification: 1) the youth probation reporting center was no longer a program operated by the Eden Youth and Family Center (EYFC) facility; and the tattoo removal referral program was no longer operated by California Offender

Program Services. Library and Community Services Director Reinhart provided a synopsis of the staff report.

Mayor Halliday opened the public comments section of the meeting at 7:50 p.m.

Mr. Antonio Isais, Chair of the Citizen Advisory Task Force, spoke on behalf of the Task Force and recommended that there be consistency with the meetings and have clear vision; and that the proposed building be built off its current site.

Mayor Halliday closed the public comments section of the meeting at 7:53 p.m.

Hayward Area Recreation and Park District (HARD) Board of Directors generally agreed that the proposal would enhance the recreational value and would be an asset to the community and offered the following comments: some of the programs considered to remain or come back as anchor tenants do not complement the uses at the proposed facility so consider maintaining compatible tenants and move the other programs to other sites; more information was needed about the proposal to contribute to the discussion; flesh out the requirements for anchor tenants and their responsibilities in the long term; consider the community facility to be senior, youth and family oriented; while the recommendation for the second facility location seemed appropriate, more information was sought; and there was interest for seeking synergy in terms of access, parking and visibility.

City Council Members generally agreed that South Hayward needs to be activated.

City Council Members offered the following comments related to the City/HARD land ownership: there was some interest for pursuing an equitable land swap; more information about the shared vision for the land swap was sought; there was support for equitable land swap to align land ownership with land use; and was noted that the land swap did not address the main issue that diverse ownership might not serve well the future operation of what gets created at the proposed facility.

City Council Members offered the following comments for the recommended facility location: some agreed with the Governance Group's recommended option two; there was support for retail facing Tennyson Road if the community center is built on the second level; there was a recommendation to consider commercial use on the bottom and community center above like other catalyst sites; and one favored option site three.

It was also recommended to consider removing unattractive chain link fences and provide connectivity between the retail center and the green space; consider bringing bank services to the neighborhood; consider including bicycle parking; consider keeping the basketball court; consider striking a balance between meeting the social service and the recreational needs of the community; improve lighting and aesthetics in the proposed area; bring the Police Department substation to the proposed site; consider an adult size soccer field; consider CDBG funding to help the project and its operating expenses; and tap into the San Francisco Foundation.



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City Council Members offered the following comments for the Governance Group recommendation related to the Facility Operator RFP (Request for Proposal): there was some support to proceed with the issuance of a Facility Operator RFP as soon as possible to enable a site planning and service mix evaluation; there was a recommendation to conduct one market feasibility study and to engage real community visioning; consider skill development and job placement services and ensure participation of the Day Labor Center; have community visioning that allows for public/private partnership; and assess current services provided in the neighborhood and conduct door to door outreach and engage the promotoras group.

City Council Members offered the following comments for the Governance Group recommendations to grant “anchor tenant” status in the new facility to the Alameda County Office of Education (ACOE) Community School and Tiburcio Vasquez Health Center: anchor tenants seemed to be limited in options; ensure that tenants are compatible; there was a recommendation for the ACOE Community School to consider the other alternative sites as viable; grant “anchor tenant” status to those contributing a commensurate amount towards the overall construction cost; and there was some support to grant “anchor tenant” status to the two proposed tenants in order to affect the lives of youth in need of the services.

City Council Members offered the following comments for the timeline: the proposed project timeline seemed fine; and there was support for considering community input into the proposed timeline.

Alameda County Supervisor Richard Valle noted that community input had begun in 2012 and South Hayward continued to need a community center; and added that he was fully committed to improving the lives of people in the neighborhood. Supervisor Valle shared that Kaiser had released the second grant which amounted to \$5 million and \$9.6 million from the County.

The City Council took a recess at 9:17 p.m. and reconvened the meeting at 9:24 p.m.

**10. General Fund Ten-Year Plan Review (Report from Acting Finance Director Claussen)
WS 16-074**

Staff report submitted by Acting Finance Director Claussen, dated December 13, 2016, was filed.

Acting Finance Director Claussen provided a synopsis of the report.

There were no public speakers on the item.

Discussion ensued among Council Members and City staff regarding: the negotiated employee salary and benefit cost sharing; the CalPERS discount rate; the budget gap; and the General Fund Reserves.

City Council Members appreciated the additional materials provided by staff in explaining revenue, expenditures, and change in reserve and offered the following recommendations: start a conversation to address the budget gap sooner than later; have revenue/expenditure historical data reflective of how the City performed during the last ten-year period; start a financial strategic plan to address the loss of reserves prior to FY 2020; and implement the Economic Strategic Plan and start bringing more jobs and quality businesses to Hayward and help close the budget gap and increase revenue stream.

LEGISLATIVE BUSINESS

11. Transmittal of the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016; and Memorandum on Internal Control and Required Communications (Report from Acting Finance Director Claussen) **LB 16-110**

Staff report submitted by Acting Finance Director Claussen, dated December 13, 2016, was filed.

Acting Finance Director Claussen announced the report and introduced Ms. Katherine Yhen, Partner, and Ms. Grace Zhang, Engagement Audit Manager with Maze & Associates who provided an overview of the audit.

Acting Finance Director Claussen recognized Financial Analyst, Nan Barton, for her 32 plus years of service to the City upon her retirement in February 2017.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:07 p.m.

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

Resolution 16-226, "Resolution Accepting the Comprehensive Annual Financial Report for the Year Ended June 30, 2016; and the Memorandum on Internal Control and Required Communications"

PUBLIC HEARING

12. Adoption of a Resolution of Intention to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) and Introduction of An Ordinance to Approve the Contract Amendment and Authorize Staff to Execute the Contract (Report from Director of Human Resources Collins) **PH 16-113**



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Staff report submitted by Human Resources Director Collins, dated December 13, 2016, was filed.

Human Resources Director Collins provided a synopsis of the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:12 p.m.

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

Resolution 16-227, "Resolution Authorizing Intention to Approve an Amendment to Contract Between the Board of Administration, California Public Employees Retirement System and the City of Hayward"

Introduction Ordinance 16-, "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"

CITY MANAGER'S COMMENTS

City Manager McAdoo made two announcements: 1) City Hall business/holiday closure from December 23, 2016 through January 2, 2017; and 2) the Utilities and Environmental Services Department's \$200,000 car sharing grant from Caltrans to achieve sustainability goals.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced the Latino Business Roundtable meeting on December 16, 2016, at St. Rose Hospital.

ADJOURNMENT

Mayor/Chair Halliday adjourned the City Council meeting at 10:16 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward
Chair, Hayward Housing Authority
Chair, Hayward Redevelopment Successor Agency
Chair, Hayward Public Financing Authority

ATTEST:

Miriam Lens
City Clerk, City of Hayward
Secretary, Hayward Housing Authority
Secretary, Hayward Redevelopment Successor Agency
Secretary, Hayward Public Financing Authority



CITY OF HAYWARD

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

File #: CONS 17-006

DATE: January 17, 2017

TO: Mayor and City Council

FROM: Interim Chief of Police

SUBJECT

Authorization for the City Manager to Negotiate and Execute a Memorandum of Understanding with the Alameda County Health Care Services Agency for Medi-cal Administrative Activities Provided by the Youth and Family Services Bureau of the Hayward Police Department

RECOMMENDATION

That the Council authorizes the City Manager to: (1) execute the FY16-17 Medi-cal Administrative Activities Memorandum of Understanding with the Alameda County Health Care Services Agency and (2) accept between \$300,000 and \$400,000 in reimbursement for services provided under this agreement.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution Authorizing Agreement



DATE: January 17, 2017

TO: Mayor and City Council

FROM: Interim Chief of Police

SUBJECT: Authorization for the City Manager to Negotiate and Execute a Memorandum of Understanding with the Alameda County Health Care Services Agency for Medi-Cal Administrative Activities Provided by the Youth and Family Services Bureau of the Hayward Police Department

RECOMMENDATION

That the Council authorizes the City Manager to: (1) execute the FY16-17 Medi-Cal Administrative Activities Memorandum of Understanding with the Alameda County Health Care Services Agency and (2) accept between \$300,000 and \$400,000 in reimbursement for services provided under this agreement.

BACKGROUND

Since 2006, the Youth and Family Services Bureau (YFSB) of the Hayward Police Department has had an annual Memorandum of Understanding with the Alameda County Health Care Services Agency to provide Medi-cal Administrative Activities (MAA).

In order to ensure the proper and efficient administration of the Medi-Cal Program, the State of California has entered into contract with the County of Alameda Health Care Services Agency. The Health Care Services Agency recognizes the unique relationship that certain other departments and entities in the County, including the City of Hayward Youth and Family Services Bureau, have with Medi-Cal Eligible Individuals. It further recognizes their expertise in identifying and assessing the health care needs of the Medi-Cal Eligible Individuals they serve.

To take advantage of the Youth and Family Services Bureau's expertise and relationship with Medi-Cal Eligible Individuals, the County Health Care Services Agency provides reimbursement for the MAA performed by the Youth and Family Services Bureau.

The amount of this reimbursement varies year to year, but it is expected to be between \$300,000 and \$400,000 for FY16-17.

DISCUSSION

The Youth and Family Services Bureau staff play a critical role in connecting community members to Medi-Cal covered services. In recognition of this function, the County provides an annual reimbursement for the cost of staff time spent providing this service. This reimbursement funding is re-invested to support YFSB programming which contributes to the overall strength and success of the YFSB model. Providing alternatives to youth involvement in the juvenile justice system is a critical issue locally and nationally. The literature clearly shows that more restrictive juvenile justice interventions such as youth incarceration contribute to poorer outcomes and increased rates of recidivism. Conversely, offering alternatives such as family counseling, case management and diversion, not only reduces recidivism but also leads to better outcomes for youth and families overall. The execution of this agreement and the acceptance of the associated funding will allow the Youth and Family Services Bureau of the Hayward Police Department to continue to play a crucial role in keeping youth out of the juvenile justice system and contributing to the overall safety and wellbeing of Hayward families.

ECONOMIC IMPACT

As stated above, improving community safety and keeping youth out of the juvenile justice system by supporting them to lead productive and healthy lives will strengthen our local economy.

FISCAL IMPACT

This agreement will result in no fiscal change. The City will receive reimbursement from MAA activities performed during the term of this MOU and staff projects the reimbursements will be between \$300,000 and \$400,000.

NEXT STEPS

If the Council authorizes this action, staff will work to execute the agreement with the Health Care Services Agency to provide MAA for FY16-17.

Prepared by: Emily Young, Youth and Family Services Bureau Administrator

Recommended by: Mark Koller, Interim Chief of Police

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY FOR MEDI-CAL ADMINISTRATIVE ACTIVITIES PROVIDED BY THE YOUTH AND FAMILY SERVICES BUREAU OF THE HAYWARD POLICE DEPARTMENT.

WHEREAS, the Hayward Police Department’s Youth and Family Services Bureau plays a critical role in connecting the Hayward community to Medi-Cal covered services; and

WHEREAS, executing an agreement with the Alameda County Health Care Services Agency is necessary to continue to provide these services and generate the associated reimbursement revenue;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute contracts, and any supporting documents, with the Alameda County Health Care Services Agency for services provided by the Hayward Police Department’s Youth and Family Services Bureau. This authorization is for the acceptance of revenue in the amount of \$400,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2017

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 17-017

DATE: January 17, 2017

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

FY16 Sidewalk Rehabilitation and Wheelchair Ramps Repair Project: Approval of Plans and Specifications and Call for Bids

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) approving the plans and specifications for the FY 2016 Sidewalk Rehabilitation and Wheelchair Ramps Project and calls for bids to be received on February 14, 2017.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Sidewalk District Map
Attachment IV	Project Location Maps - Districts 2 & 3



DATE: January 17, 2017

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT FY16 Sidewalk Rehabilitation and Wheelchair Ramps Repair Project: Approval of Plans and Specifications and Call for Bids

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) approving the plans and specifications for the FY 2016 Sidewalk Rehabilitation and Wheelchair Ramps Project and calls for bids to be received on February 14, 2017.

BACKGROUND

The Sidewalk Rehabilitation Program for the repair of damaged concrete sidewalks consists of two components. The first one is the removal of tripping hazards from sidewalk displacements or offsets up to 1-3/4 inches. These hazards are removed by saw cutting or grinding the uplifted sidewalk panel across the width of the sidewalk to produce a smooth and uniform surface that meets ADA slope requirements. This trip hazard removal is performed under a separate contract. Under that contract, the contractor submits a report to the City which identifies the locations of sidewalk offsets that are greater than 1-3/4 inches and cannot be repaired by saw cutting or grinding.

The second component of the Sidewalk Rehabilitation Program, which is the subject of this report, removes and replaces, with new concrete, all sidewalk displacements exceeding 1-3/4 inches. This work is included in this call for bids.

To facilitate the selection of sidewalk areas for repairs each year, the city is divided into ten districts (see Attachment V). Each year, work is performed in two districts.

DISCUSSION

This year's program will repair damaged sidewalks in the Orchard Hayward Hill Area (District 2) and Huntwood Tyrrell Area (District 8). Please refer to Attachments III and IV for project location maps. The project also includes installation and upgrading of handicap access ramps, repair of offset or raised concrete curbs and gutters, tree trimming, root pruning of existing trees, and planting of new trees. As part of the project, the contractor will retain an arborist to examine the condition of existing trees and inspect all root-pruning work. Based on the preliminary inspection, staff anticipates removing eleven trees and planting forty new trees in

various locations. New trees will be planted where street trees are absent or where an existing tree must be removed because of disease or is in danger of falling.

Approximately 130 separate locations of damaged sidewalks or a total of approximately 8,000 square feet, will be repaired with this project. One hundred forty-six new wheelchair ramps will also be installed or upgraded to bring wheelchair ramps into compliance with current ADA standards. Pursuant to Section 5610 of the California Street and Highway Code, property owners are responsible for repairing damaged sidewalks in front of their properties. However, with the City's program, property owners with damaged sidewalk in front of their property are given the choice of completing the work themselves or having the repairs undertaken by the City's contractor for a minimal fee.

This project is categorically exempt under the California Environmental Quality Act, Section 15301(c) that covers the operation, repair, maintenance or minor alteration of existing streets, sidewalks, and gutters.

On November 15, 2016, Council passed a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applied to city projects with construction costs of \$1,000,000 or more. This agreement requires contractors to use local union hiring halls, encourages contractors to employ Hayward residents or Hayward Unified School District graduates, and requires hired workers to pay union dues and other benefit trust fund contributions, etc. Because the construction cost estimate for the Sidewalk and Wheelchair Ramp Repair Project is less than \$1,000,000, the CWA agreement does not apply to this project.

Complete Streets

The project provides the following improvements in the public right-of-way in compliance with City Council's Complete Streets Policy:

1. Improves damaged sidewalks and accessible ramps by bringing them into compliance with ADA standards.
2. 146 existing accessible ramps will be updated to comply with current ADA standards; and
3. Landscape improvements will be implemented to the sidewalk planters by adding forty new trees.

FISCAL IMPACT

The estimated project costs are as follows:

Contract Construction	\$ 762,000
Trip Hazard Removal (under different contract)	150,000
Design and Administration	85,000
Construction Survey, Inspection, and Testing	85,000
TOTAL	\$ 1,082,000

The Adopted FY 2017 Capital Improvement Program (CIP) includes \$950,000 for the Sidewalk Rehabilitation Project in the Street System Improvements Fund. The Recommended FY 2017 CIP also includes \$132,000 in the Gas Tax Fund for the wheelchair ramps construction. The total appropriation for the two funds that will be used is \$1,082,000. Reimbursement from property owners for the sidewalk rehabilitation is estimated to be approximately \$72,000. Transportation Development Act funds will reimburse the full amount of \$132,000 of the wheelchair ramps installation work.

SUSTAINABILITY FEATURES

This project requires that all material generated during construction and demolition be sent to designated facilities for recycling. Recycled Portland Cement Concrete will be required for use as aggregate base for the concrete curb, gutter and sidewalk. The improvements made to the sidewalks will encourage the public to walk more as opposed to driving their vehicles. This reduces both carbon emissions and carbon footprints, which is beneficial for the environment.

PUBLIC CONTACT

Owners of the affected properties will receive certified letters regarding the program along with a response form to return to the City indicating their choice to complete the repairs themselves or pay the \$550 fee to have the City complete the work. Property owners have the option of paying the \$550 fee in one lump sum or in twelve monthly payments. The response form also includes a list of trees that an owner can use to select a preferred replacement tree. Before construction commences, a second notice will be sent to all property owners who did not respond to the first notice to make sure they are aware of the program.

SCHEDULE

The estimated schedule for this project is as follows:

Receive Bids	February 14, 2017
Award Contract	March 14, 2017
Begin Construction	April 10, 2017
Complete Construction	July 5, 2017

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:

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

Kelly McAadoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR FY16 SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS REPAIR PROJECT, PROJECT NOS. 05256 AND 05211, AND CALL FOR BIDS

BE IT RESOLVED by the City Council of the City of Hayward as follows:

WHEREAS, those certain plans and specifications for the FY16 Sidewalk Rehabilitation and Wheelchair Ramps Repair Project, Project Nos. 05256 and 05211, on file in the office of the City Clerk are hereby adopted as the plans and specifications for the project;

WHEREAS, the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law;

WHEREAS, sealed bids therefore will be received by the City Clerk's office at City Hall, 777 B Street, 4th Floor, Hayward, CA 94541, up to the hour of 2:00 p.m. on Tuesday, February 14, 2017, and immediately thereafter publicly opened and declared by the City Clerk in the Public Works Conference Room, 4D, located on the 4th Floor of City Hall, Hayward, California;

NOW, THEREFORE, BE IT RESOLVED, that the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the project is categorically exempt under section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

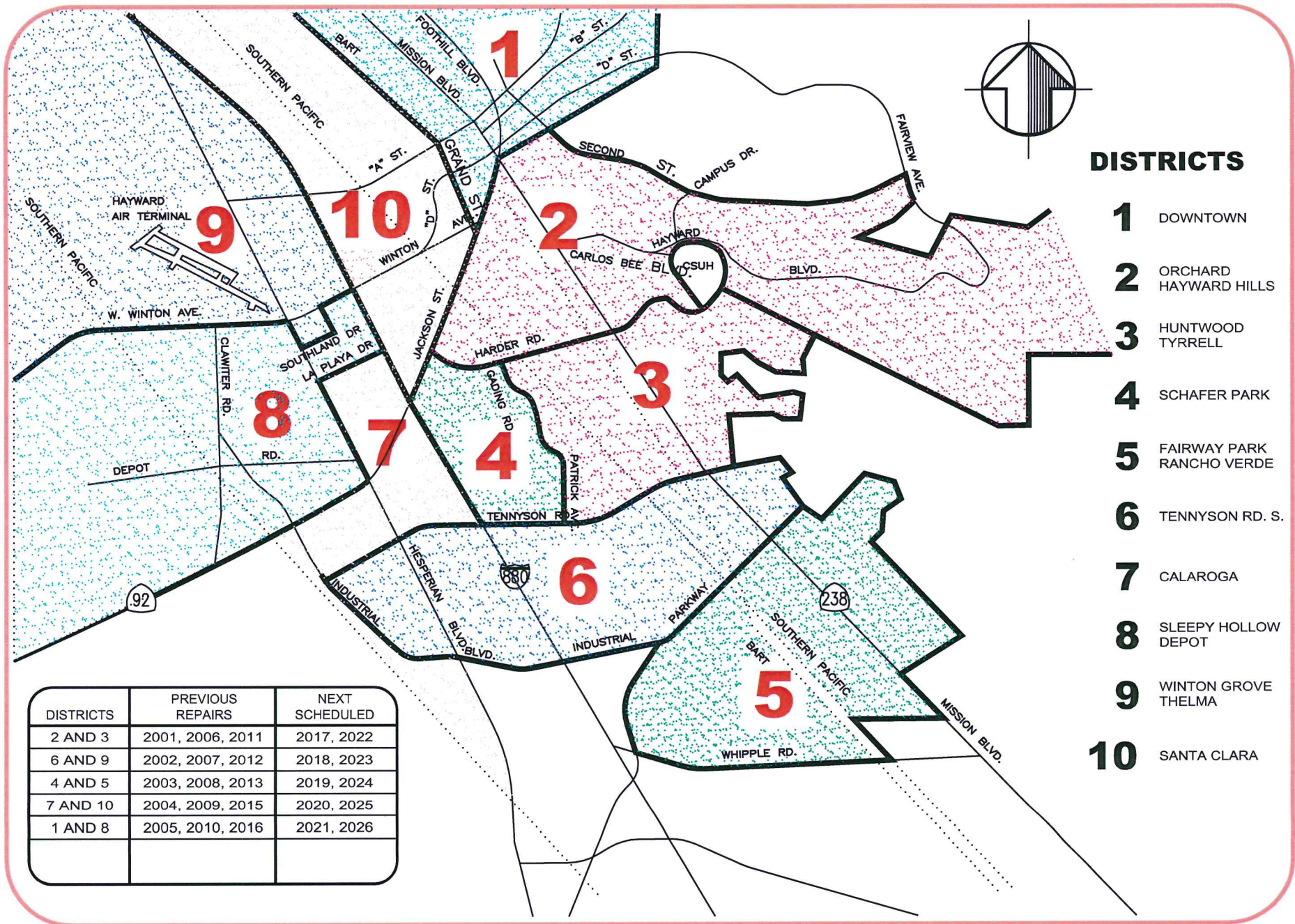
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

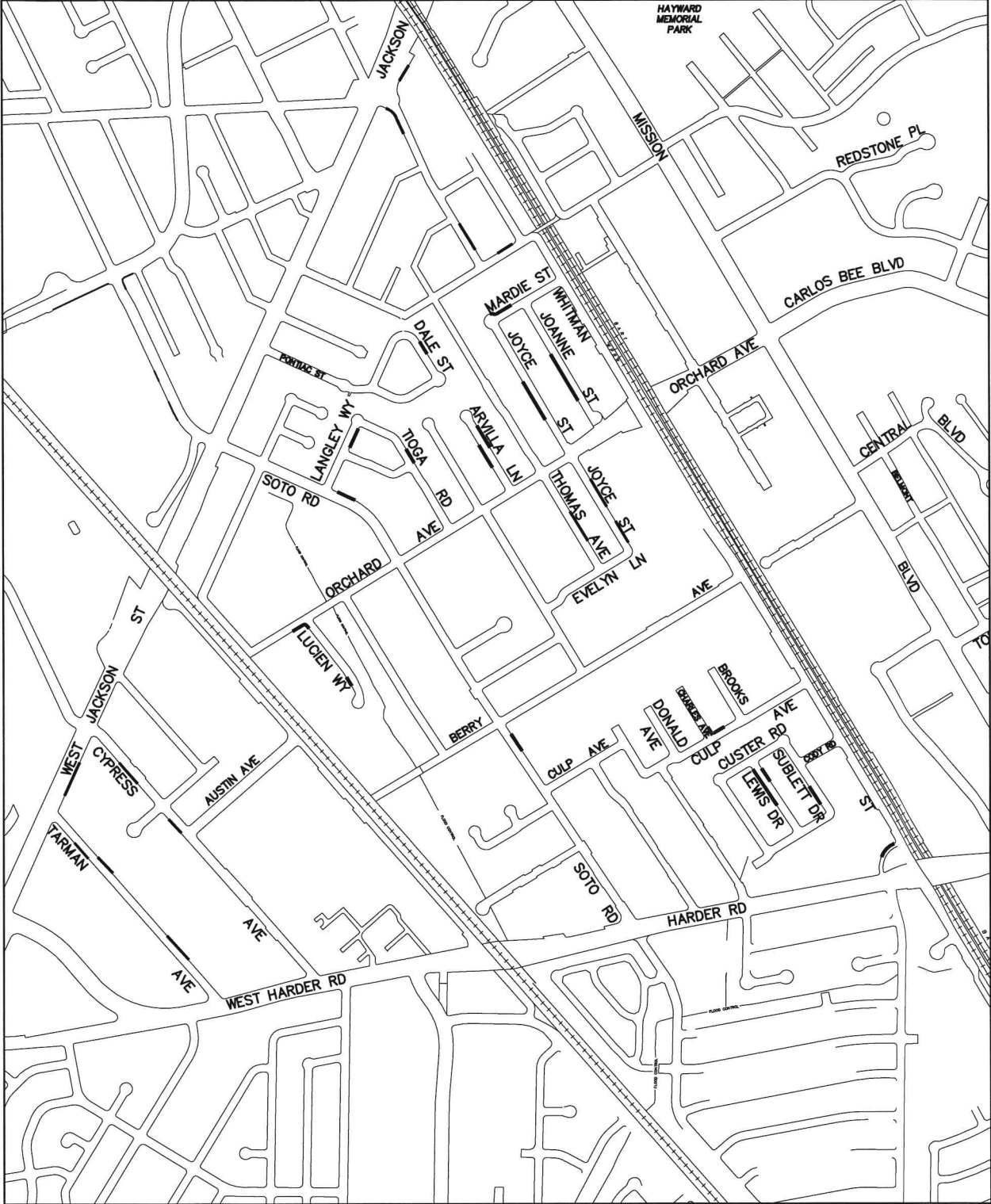
APPROVED AS TO FORM:

City Attorney of the City of Hayward



DISTRICTS

- 1** DOWNTOWN
- 2** ORCHARD HAYWARD HILLS
- 3** HUNTWOOD TYRRELL
- 4** SCHAFER PARK
- 5** FAIRWAY PARK RANCHO VERDE
- 6** TENNYSON RD. S.
- 7** CALAROGA
- 8** SLEEPY HOLLOW DEPOT
- 9** WINTON GROVE THELMA
- 10** SANTA CLARA



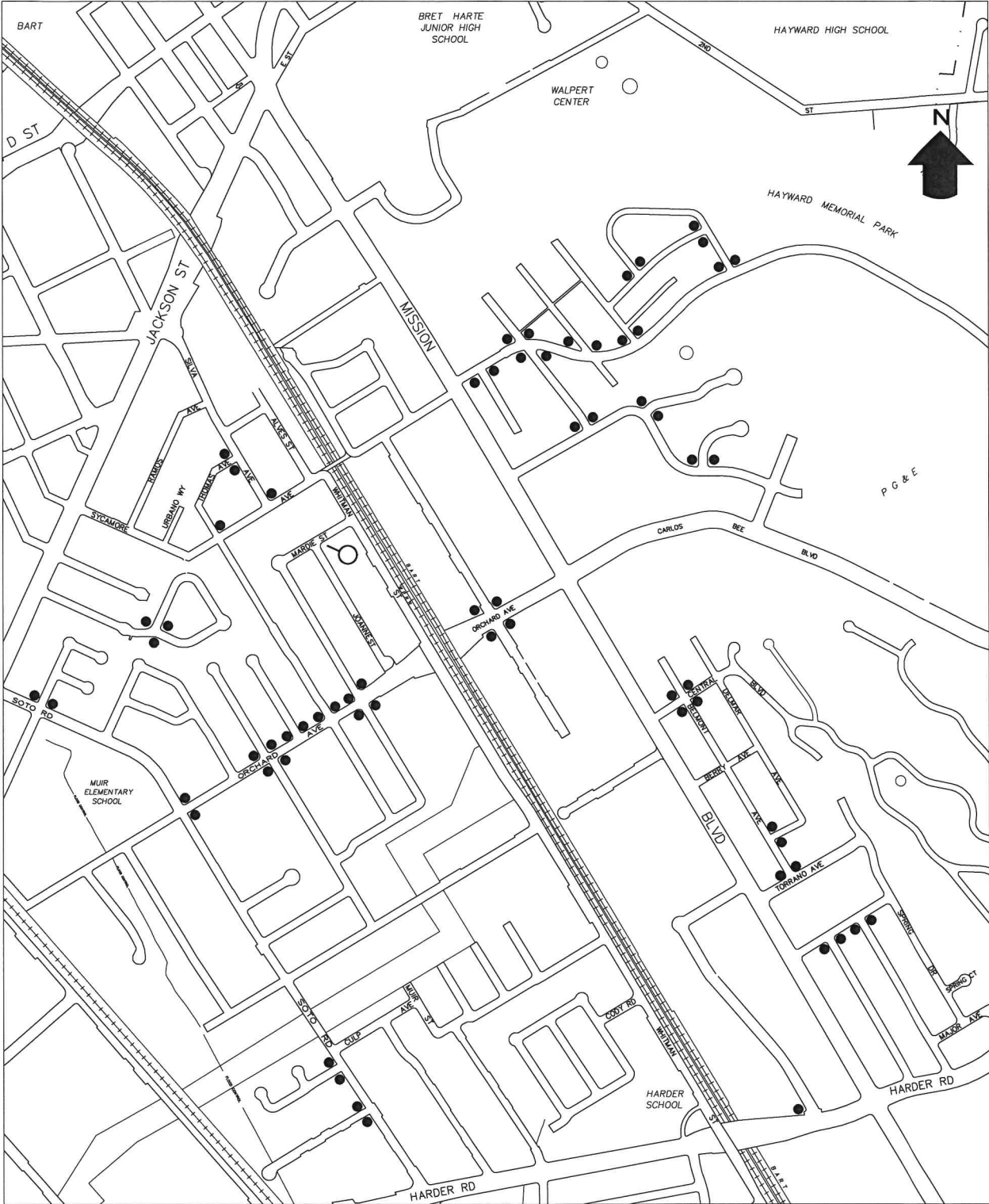
**LOCATION MAP
SIDEWALK REHABILITATION FY16
DISTRICT 2 - PROJECT NO. 05256**



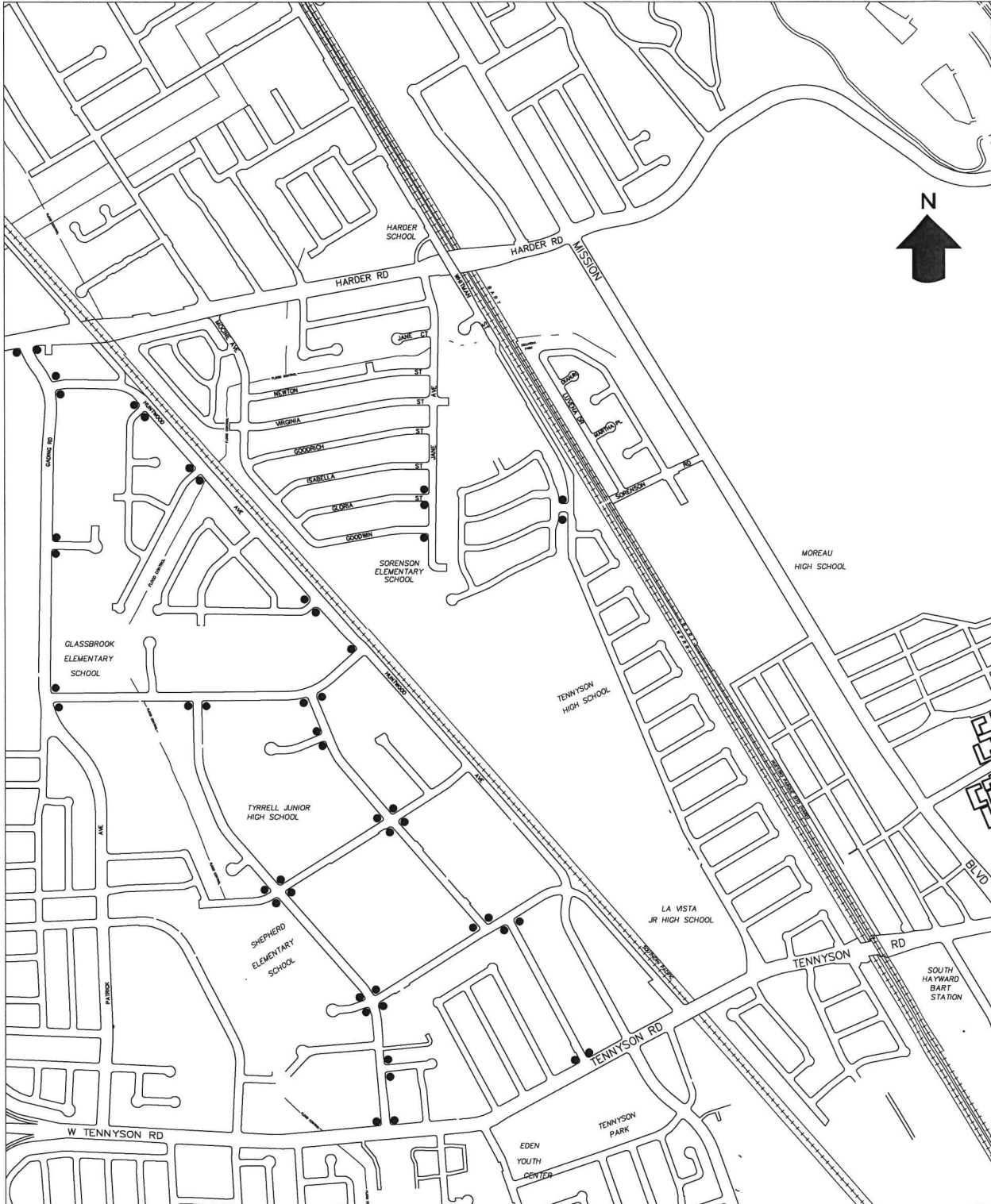
**LOCATION MAP
SIDEWALK HABILITATION FY16
DISTRICT 2 - PROJECT NO. 05256**



**LOCATION MAP
SIDEWALK REHABILITATION FY16
DISTRICT 3 - PROJECT NO. 05256**



**LOCATION MAP
WHEELCHAIR RAMPS FY16
DISTRICT 2 - PROJECT NO. 05211**



**LOCATION MAP
WHEELCHAIR RAMPS FY16
DISTRICT 3 - PROJECT NO. 05211**



CITY OF HAYWARD

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

File #: WS 17-001

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Revisions to the Council Member Handbook

RECOMMENDATION

That the City Council reviews the proposed changes to the Council Member Handbook and provides further direction.

ATTACHMENTS

Attachment I Staff Report

Attachment II 2015 Council Member Handbook

Attachment III 2015 Boards, Commissions, Committees and Task Forces Handbook



DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Revisions to the Council Member Handbook

RECOMMENDATION

That the City Council reviews the proposed changes to the Council Member Handbook and provides further direction.

BACKGROUND AND DISCUSSION

Section 611 of the City Charter provides for the City Council to determine its own rules and procedures. The City Council Member Handbook, completed in July 1983, was approved by Council on September 13, 1983, to provide general information and City Council procedures for the facilitation of its proceedings. The Handbook is also used as a reference guide for the City's boards, commissions, committees, and task forces.

There have been several amendments to the City Council Member Handbook since it was first adopted with the last amendment completed on April 7, 2015. The City Council, at its special City Council Meeting/Retreat on November 5, 2016, identified eight sections in the Handbook that the Council expressed interest for amending and directed staff to bring back a staff report. The proposed amendments include revisions to the following sections of the Council Member Handbook.

1. City Council: Elective Officers; Training Requirements; Orientation; Compensation for Members of the City Council; Benefits; Council Office Budget and Expenditure Guidelines
2. Policy Regarding City Council Expression on State, Federal and International Issues
3. Meetings: Special Meetings/Calling/Notice; Work Session; Public Hearings and Legislative Business
4. Agenda: Order of Business, Posting of Agenda, Work Session (Open to the Public)
5. Addressing the Council: Time Limitation
6. Motions: Motion to Amend; Processing of Motions
7. Council Committees
8. Boards, Commissions, Committees, and Task Forces: General Information

What follows is a discussion of the proposed changes to each section mentioned above along with identified areas for further discussion/direction by Council.

1. City Council

Elective Officers Section

The Elective Officers Section on page two of the Council Member Handbook is proposed to be amended to reflect the General Municipal Election change approved by the people of the City of Hayward during the General Municipal Election on June 7, 2016. The general municipal elections changed from June of even-numbered years to November of even-numbered years, to be effective in 2018.

The Section is proposed to read as noted in the City Charter and Section 2-1.15 of the Hayward Municipal Code.

“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.”

Training Requirements Section

Page three of the Council Member Handbook is proposed to be amended by incorporating text from Assembly Bill No. 1661. Existing law requires any civil or political subdivision of the state and all cities to provide at least two hours of training and education regarding sexual harassment to all supervisory employees.

The Section is proposed to read as follows:

Assembly Bill 1661, now Chapter 816 approved by the Governor on September 29, 2016, additionally 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.

Discussion Item: Council Members have expressed interest for ongoing professional development for Council. Staff requests further direction from Council on this area before incorporating changes to the Handbook.

Added Section: Staff proposes to add a new paragraph under the Training Requirements section as follows:

“City staff provides an unofficial 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 Section

Information related to the compensation for each Council Member and the Mayor is found in Section 2-1.10 of the Hayward Municipal Code. The annual salary for each Council Member is \$24,975 and for the Mayor is \$39,960. These figures will be updated in the revised Handbook.

Benefits Section

The language in this Section will be updated to read as follows:

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.

Council Office Budget and Expenditure Guidelines Section

Page eleven of the Council Member Handbook provides a policy governing the use of funds by Council Members. Expenses incurred for attending City-sponsored events or functions (such as the Volunteer Dinner) can be reimbursed as outlined in Subsection 2 (d).

Discussion Item: The Council expressed interest in proposing changes to this Section and this needs to be discussed further with direction provided to staff.

2. Policy Regarding City Council Expression on State, Federal and International Issues

According to [Resolution 77-209](#), the City Council adopted a policy stating that “official City Council expression should not be given on state, federal or 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.”

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 final adoption of the program, staff can update the Handbook and bring back appropriate changes to this Section.

3. Meetings

Special Meetings/Calling/Notice Section

A sentence will be added to this Section as follows:

The City Council also serves as the Geologic Hazard Abatement District Board.

Work Session Section

There was consensus by the City Council to modify the language under this Section to indicate that public comments on an item appearing in the work session section of the agenda would follow staff's presentation. This change would allow speakers to make comments after they had an opportunity to hear staff's presentation. Staff recommends updating any other sections in the Handbook related to public comments and work sessions.

Public Hearings and Legislative Business Section

Discussion Item: There was a desire by members of the City Council to remove the five-minute limit for a group and keep the testimony to three minutes. It was also the desire to give the Mayor/Chair the discretion to allow for the testimony time to be shorter. Staff seeks further direction related to this Section.

4. Agenda

Order of Business Section

This Section is proposed to be amended by moving the Consent section before the Work Session section to align with the current order of business when conducting meetings of the Council.

Posting of Agenda Section

This Section is proposed to be amended by adding the bulletin board outside City Hall as an additional place for posting the agenda.

5. Addressing the Council

Time Limitation Section

Discussion Item: There was interest by some members of the City Council to include guidance in the Handbook regarding the length of Council comments during items on the agenda. If the Council directs, staff could include the following language at the end of page 30 of the Handbook:

City Council

In order to effectively manage the business and time of meetings, Council Members are encouraged to limit their general comments on any item to five (5) minutes once any specific questions on the item have been asked and answered.

6. Motions

Motion to Amend Section

As substitute motions are not used in Hayward, staff proposes to amend the Motion to Amend Section in the Handbook by removing the reference to substitute motion on page 33 of the Handbook.

Processing of Motions Section

While the 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 Chair of the meeting is not able to see who offered a motion or a second; this added feature has been submitted to Granicus engineers. In the interim, 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 Chair before stating that they want to offer a motion or a second. This process will be in place until the Chair can see in her iPad who made the motion and the second.

7. Council Committees

There was general agreement to continue with the prerogative of the Mayor to make two-year appointments.

8. Boards, Commissions, Committees, and Task Forces:

Application Procedure and Membership Section

Council Economic Development Committee:

At a Council meeting on May 17, 2016, the Council approved [Resolution 16-181](#), which amended the membership of the Council Economic Development Committee

(CEDC) by eliminating public members through attrition; and directed staff to include outside expertise presentations as part of each CEDC agenda. The Application Procedure and Membership Section will be amended by removing the CEDC as it does not have public members.

Personnel Commission:

The City Council on October 20, 2016, accepted a staff report recommending that after four vacancies on the Personnel Commission are filled, staff would engage members of the Personnel Commission in revising its scope of duties and updating the Mission statement. The Handbook does not need to be updated to reflect this information.

Discussion Item: During the Special Council Meeting/Personnel Commission interviews on January 10, 2017, Council members expressed interest in discussing the appointment of alternate members to the Personnel Commission. Currently, the Hayward Youth Commission (HYC) is the only body with alternate members. The purpose of having four alternative members is to have qualified individuals fill unexpected vacancies and avoid having to conduct special recruitments. HYC alternates are non-voting members appointed to one-year terms. The alternates' attendance and participation are evaluated by HYC advisors when unexpected vacancies occur, before alternates are recommended to be promoted to regular commissioners. Given that alternates attend regular meetings, they would be able to transition into the role of regular commissioners without any disruption in the flow of proceedings.

The City Attorney advises that if Council is interested in considering alternate members for advisory bodies such as the Personnel Commission, it is recommended that additional thought be given to such roles, responsibilities, and expectations. At a minimum, alternates should be able to step into the roles of regular commissioners without any disruption in the flow of proceedings or in any way jeopardizing the due process rights of any party or applicant with an interest in the outcome of a commission's proceedings. Either an alternate should attend all meetings as would a regular commissioner, or an alternate should be required to review minutes, staff reports or view all relevant prior proceedings on the matter, before taking on the role of a regular commissioner. These are fundamental fairness requirements of an advisory body, especially where there is an application pending or an individual or group has a right or public interest in the proceeding (e.g., a grievance or appeal pending at the Personnel Commission).

It is requested that Council give staff further direction on whether alternates should be selected for advisory bodies other than the HYC. If such direction is given, staff would like to return with an analysis of the opportunities and constraints the selection of alternates would present. Such report would be submitted for consideration prior to the 2017 recruitment cycle (April-September).

Arts and Culture Committee and Council Infrastructure Committee:

Discussion Item: There has been interest by certain members of the Council for staff to consider an Arts and Culture Committee as well as a Council Infrastructure Committee. Given current staff workloads and the initiatives/projects currently underway, staff recommends the formation of a Council Infrastructure Committee in the near future but recommends that the Council delay its consideration of an Arts and Culture Committee for at least one year. Staff would return to Council in February for further discussion of the purpose and scope of the Council Infrastructure Committee.

Community Services Commission:

Discussion Item: During the City Council meeting on October 18, 2016, the City Council discussed the opportunity for the City Council to work with the Community Services Commission related to the Community Agency Funding. While this information does not affect the Handbook, Council Members asked for the opportunity to address this item.

Recruitment/Interviews/Appointment of Council's Appointed Bodies:

Due to the change of municipal elections from June to November of even years, staff is recommending to change the annual recruitment for the Council's appointed bodies, except for the Hayward Youth Commission. Currently the annual recruitment for Council's appointed bodies is conducted from April to July with interviews in July and appointments in September. Effective 2018, the nomination period, the time during which Council candidates can obtain official nomination papers, will open 113 days before Election Day (mid-July) and end 88 days before the Election Day (mid-August). For 2017, during which there is no general municipal election cycle, it is suggested that Council retain the April-September schedule of recruiting, interviewing and appointing members to the City's appointed bodies. Staff anticipates vacancies as of September 30, 2017. For 2018, when the general municipal election cycle is later in the year, it is suggested that Council move the recruitment of Council's appointed bodies to August through November, with interviews the second week in December and appointments in January 2019. Doing so means that terms expiring September 30, 2018 will have to be adjusted to expire December 31, 2018. By moving the interviews to the second week in December, newly elected and seated Council Members will be able to participate in the interview/appointment process for the City's appointed bodies. Should Council concur, the Boards and Commissions section of the Handbook will be updated accordingly.

FISCAL IMPACT

There is no fiscal impact associated with the items presented in this report.

NEXT STEPS

If the Council finds it appropriate to revise the Council Member Handbook by incorporating proposed changes and discussion by Council, staff will bring the updated Handbook at the next Council meeting for approval.

Prepared by: Miriam Lens, City Clerk

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

Approved by:



Kelly McAdoo, City Manager



City of Hayward

Council Member Handbook



April 2015

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



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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 Primary 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 Primary 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 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.

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](#))

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).
- B. 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.
- C. Discrimination. This policy prohibits treating an individual differently because of the individual's protected classification.
- D. 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.

E. **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.
- F. 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](#))

CITIZEN PARTICIPATION

No citizen 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.

[\(Res. 77-209, May 24, 1977\)](#)

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 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 work session or informational staff presentation items)
- Work Session/Informational Presentation
- Consent
- 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 Work Session 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, 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 iAnnotate application for iPads for Council Members each Thursday afternoon, or Friday if the preceding Monday was a holiday, preceding Tuesday meeting to which it pertains. 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 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

OPEN TO THE PUBLIC

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 must be made during the public comment period.

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

and five (5) minutes per an individual representing a group of citizens or organization. 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. No member shall speak for more than five minutes each time he/she has the floor, without the approval of a majority vote to the Council. (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 citizen 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 citizen's name is called, the citizen 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 further time has been granted by the Presiding Officer in the individual case or in accordance with the section under Public Hearings. Individuals representing a group or agency shall limit their address to five (5) minutes.

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.

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. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. 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 2015

<http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/index.shtm>



**COUNCIL'S APPOINTED OFFICIALS
HANDBOOK**

April 7, 2015

WELCOME

On behalf of the City Council, we want to express our appreciation for your interest in serving our City. We have developed this Handbook to help you understand the requirements for service on the City's Boards/Commissions/Committees/Task Forces. In addition to the Handbook, the City's website www.hayward-ca.gov provides useful information.

Welcome to the City! We look forward to working with you.

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INTRODUCTION TO CITY GOVERNMENT

The City of Hayward operates within a Council-Manager form of government. ([City Charter Section 300](#))

The City of Hayward Council is composed of six Council Members and a Mayor who are elected by the qualified voters of the City at large. The Mayor is the official head of the City for all ceremonial purposes, presides at the meetings of the Council, and signs official documents of the Council. The powers of the Council are subject to the provisions of the City Charter and the Constitution of the State of California. The City Manager is the head of the administrative branch of the City government.

City boards and commissions are established by the City Charter, the Municipal Code, and the City Council. The Planning Commission and Personnel Board are established by the City Charter. All other boards and commissions are established by ordinances. The City Council may also establish committees and task forces by resolution.

Special purpose Advisory Committees are formed at the discretion of the City Council to provide greater citizen participation in the development of plans and recommendations in relation to a committee's specific assignment. ([City Charter 900](#))

CITY OF HAYWARD ORGANIZATION

The City of Hayward operates within the Council-Manager form of government.

The Mayor and City Council adopt and implement legislation and policy, as well as appoint the City Manager, City Clerk, City Attorney, and the various boards and commissions.

The City Manager is the city's chief executive officer and appoints all other city staff including department heads. The City Manager is responsible for the daily administration of the City government and provides direction and leadership to the departments in implementing the policies of City Council.

Follow the link below for the City of Hayward's Organizational Chart.

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

CITY OF HAYWARD CHARTER

The City of Hayward Charter was adopted on March 7, 1956. The Charter defines the form of government and its functions and regulations.

Follow the link below for the City of Hayward Charter.

<http://www.hayward-ca.gov/CITY-GOVERNMENT/documents/CHARTER.pdf>

HAYWARD CITY COUNCIL PRIORITIES FISCAL YEAR 2015

In approving the annual budget for the City, the Council established priorities. City staff is responsible for managing these priorities and adjusting them as directed by the City Council. The priorities for Fiscal Year 2015 are Safe, Clean, and Green.

Follow the link below for details of City Council priorities.

<http://www.hayward-ca.gov/CITY-GOVERNMENT/documents/CouncilPriorities.pdf>

CITY OF HAYWARD BUDGET

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.

For comprehensive information regarding the City budget, follow the link below.

<http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/>

GENERAL INFORMATION

Application Procedure and Membership:

Volunteer service provides a way for residents who have special experience or interest to participate in the City's decision making process by advising the City Council and staff on numerous topics.

Applications for service on any Board, Commission, Committee or Task Force (Council's Appointed Officials) are valid for one year from the date of receipt and are public record. Applicants for service on the Community Services Commission, Council Economic Development Committee, and Downtown Business Improvement Area Advisory Board are required to complete supplemental forms, which are also public documents.

State and local law require that selected members abstain from participation in decisions that may affect financial interests, including sources of income, interests in real property or investments. If appointed, certain members may be required to fill out a disclosure statement which identifies certain financial interests beginning with the immediate twelve-month period prior to the appointment.

The Community Services Commission and Council Economic Development Committee supplemental forms will require applicants to identify any organizations, associations, or entities by which they are employed or associated that might be affected by decisions of these bodies.

Planning Commission, Community Services Commission, and Council Economic Development Committee applicants will be required to file the Fair Political Practices Commission Statement of Economic Interests (Form 700), which is a public record.

Applicants for the Planning Commission must show applicable experience on other elected/appointed legislative bodies.

Application forms and information that describe duties and time commitments are available from the Office of the City Clerk. Information about the number of vacancies is available from the Office of the City Clerk or on the [City's website](#)

The City will conduct recruitment for the Council's appointed bodies, with the exception of the Hayward Youth Commission, during July and August annually, with interviews and appointment each September. Recruitment for the Hayward Youth Commission will be conducted each April and May, with interviews and appointments annually in June.

The City Council will interview applicants who are qualified electors (registered voters) of the incorporated area of the City of Hayward at a special Council meeting and will confirm the selections made at a regular Council meeting which will be followed by the administration of Oath of Office by the City Clerk.

In order to be eligible for appointment to any Board, Commission, Commission, Committee or Task Force (Council's Appointed Officials) a person shall be a qualified elector (registered voter) of the incorporated area of the City of Hayward. ([City Charter Section 900](#))

In the case of the Downtown Hayward Business Improvement Area (BIA) Advisory Board, the Council shall strive to appoint at least one representative from each business classification of the Assessment Area: professional business, service business, financial businesses, miscellaneous businesses, and retail businesses.

In the case of the Council Economic Development Committee, members must be residents of Hayward or own/operate a business in Hayward, be senior management at a corporate business in Hayward, or be formally affiliated with and represent another entity or agency concerned with economic development in the City of Hayward.

No member of any board of commission shall be a member of any other board or commission or hold any paid office or employment in the City government ([City Charter Section 900](#))

The Council's appointed officials serve without compensation, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the Council. ([City Charter Section 905](#))

Before members can participate as voting members of their respective bodies, they must take the Oath of Office as required by law. The City Clerk or her designee administers the Oath of Office to appointed members.

Term of Office:

All members are appointed by the Council and they could be subject to removal by a motion of at least four affirmative votes of the Council. The Council's appointed officials shall serve for no more than two and one-half consecutive full terms of four years on any one board or commission. ([Resolution 73-235](#))

Section 902 of the Charter of the City of Hayward does not apply to the term of office for members of the Keep Hayward Clean and Green Task Force because the Task Force is not a board, commission, or committee as contemplated by the Charter. Its purpose is focused on improving the quality of life in the many diverse neighborhoods in the City through Saturday and

other clean-up activities. The Task Force is not delegated with legal or jurisdictional responsibilities as are other boards, commissions, or committees created by the Council.

The term of office for the City's appointed officials should terminate when successors are appointed.

Members who have successfully completed one term on one of the Council's appointed bodies may be eligible to be re-appointed to a second term. The Council would only interview candidates seeking re-appointment who have failed to meet the required performance criteria. The performance criteria consist of: attending no less than seventy-five percent of all regular meetings held; complying with training and statutory requirements; being an active and focused participant; being prepared for meetings, e.g., reading the packet; and overall effectiveness as a member. The Council /Staff Liaison, in concert with the Chair, will provide performance data to the City Clerk, who in turn will forward it to the Council as part of the re-appointment process at the same time applications for new candidates are received. Current members, identified as necessitating an interview, would be invited to interview with the City Council at a special meeting preceding the interviews for prospective members.

Current board or commission members who have served a minimum of two consecutive years on the same body will be eligible to request consideration of appointment to a different body. Their request will be considered by City Council during the annual interviews.

Attendance and Vacancies:

If a member of a board of commission absents himself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector (registered voter) of the City, his office shall become vacant and shall be so declared by the Council. ([City Charter Section 905](#))

Members shall be required to attend no less than seventy-five percent of all regular meetings held. If a member misses two consecutive meetings, the staff liaison designated to the Council's appointed body will notify the City Clerk of said absences. The City Clerk will notify the member in writing that failure by a member to attend three consecutive regular meetings of a board or commission will be cause for Council to declare the member's position vacant. After three consecutive absences or in the event attendance at seventy-five percent of meetings is not maintained, the City Clerk will notify the Council. Attendance records will be reviewed by the City Clerk and will issue notices to members with attendance issues. The City Clerk will present an attendance record to the Council during the annual interview process for the Council's appointed bodies.

The Keep Hayward Clean and Green Task Force considers its “Monthly Clean-Up Events” as an invaluable function and therefore equally important of its attendance policy; therefore, the attendance policy in [City Resolution 87-323 C.S.](#) related to regular meetings will be extended to the monthly clean-up events.

A member wishing to resign shall submit a letter of resignation to the City Clerk. Once the letter is submitted, the City Clerk will prepare a recommendation for Council to accept the resignation.

Any vacancies in any board or commission shall be filled by appointment by the Council during the annual appointment process for the City’s Appointed Officials

Government [Code Section 54974](#) provides that whenever an unscheduled vacancy occurs, a special vacancy notice shall be posted in the office of the City Clerk, and as may be directed by the City Council, the City Clerk will conduct a special recruitment for the purpose of filling the unexpected vacancy.

It shall normally be the policy to take applications on a regular ongoing basis; applications shall be considered current for one year from the date received.

The City Clerk shall, pursuant to Government [Code Section 54972](#), prepare an appointments list of all regular and ongoing boards and commissions which are appointed by the City Council, which shall contain the information required in said section. All efforts will be made to provide public information relative to vacancies prior to such appointments.

Election of Officers:

The Council’s appointed officials shall organize by electing one of its members to serve as the presiding officer at the pleasure of such board or commission. Each board of commission shall hold such regular and special meetings as such board or commission may require. All proceedings shall be open to the public. ([City Charter Section 904](#))

Staff Liaison Role:

Staff support is available to boards and commissions via staff members assigned as liaisons to each appointed body. The staff liaison is responsible for creating meeting schedules, preparing meeting agendas and reports, and notifying the City Clerk of attendance problems, resignations, and members’ change of contact information. The staff liaison is responsible for ensuring that appointed members are oriented about policies and procedures as they relate to the body. The staff liaison is also responsible for updating bylaws by working with members and City Attorney and sending the original to the City Clerk after formal adoption by the board or commission.

All communications addressed to a specific appointed body are received by the staff liaison or his/her designee and relayed to the appointed body. The roster of appointed officials is a public document available in the office of the City Clerk. The roster includes the name, residence or mailing address, and either a home or business telephone number for each member. Commissioners may interact with the public; however, if they are contacted by the public outside a meeting, commissioners should encourage citizens to send their comments to the staff liaison or his/her designee for distribution to all commissioners or come to a meeting and speak during public comment.

Council Liaison Role:

Every year, the Mayor will appoint Council Members to serve as liaisons to the Council's appointed bodies. 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.

Budget:

Budget allocations are not established for boards and commissions; however, funds necessary for the routine business of boards and commissions are included in the departmental budget for each City department which provides staff support to a board or commission.

The use of the City logo is restricted to communications generated from a City department. The City of Hayward does not provide business cards for members of appointed boards and commissions.

Bylaws:

The Council's appointed officials may adopt bylaws which are not inconsistent with the City Charter, or other policies that may be established by the Council. Bylaws must be filed with the City Clerk.

Orientation:

City staff provides yearly trainings with regard to the structure and the operation of City government and the legal and ethical duties and responsibilities of members of the Council's appointed bodies. All members of City boards and commissions are required to attend the training either in person or by viewing a training video of the live training session. This requirement must be fulfilled within six months of the appointment of any member. Record and compliance with this requirement will be maintained in the Office of the City Clerk. Staff

liaisons provide new members with pertinent materials which will assist new members in becoming fully functioning members of the body. Chairpersons are required to become familiar with parliamentary procedure of conducting and presiding over meetings.

Ethics Training:

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.

Assembly Bill 1234 requires local officials who are compensated for their service or reimbursed for their expenses to complete ethics training on a biennial basis.

On September 16, 2008, the City Council adopted [Resolution 08-130](#) which amended the Hayward Council Member Handbook by expanding the Ethics Training requirement to members of boards, commissions, task forces, and committees established by Council.

Harassment Prevention Training:

In 2005, AB 1825, now California Government [Code Section 12950.1](#), was signed into law. It mandates immediate and continual Sexual Harassment Training for supervisors. This law increases the training obligations of all employers, who 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 the City Council and its appointees.

MEETING RESPONSIBILITIES

Public Meetings:

The Brown Act or “Open Meeting Law” is officially known as the Ralph M. Brown Act and is found in the California Government Code § 54950 et seq. The Brown Act was enacted in 1953 to guarantee the public’s right to attend and participate in meetings of local legislative bodies. A legislative body is defined as “A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.” ([Government Code § 54950 \(b\)](#))

All meetings must be properly noticed under the Brown Act. Meetings include retreats, workshops, and similar types of events. A meeting can be in person, via telephone, or email.

According to the Brown Act, the agenda for a regular meeting must be posted in “a location that is freely accessible to members of the public” at least 72 hours before the meeting. Any meeting not on the regular meeting schedule is a special meeting. Notice of a special meeting must be posted at least 24 hours prior to a meeting. Agendas are posted on the bulletin board in front of City Hall, on the bulletin board in the Office of the City Clerk, and on the City’s website.

Meetings that are not noticed are considered serial meetings, which are illegal. “A majority of the members of a legislative body shall not, outside a meeting authorized by the Act, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” ([Government Code § 54952.2 \(b\)](#))

A type of unintentional serial meeting could result from improper use of email. To avoid this, members of legislative bodies should never use the “reply to all” function to an email that may be addressed to a quorum of the legislative body.

Attendance at a public conference is permissible as long as a quorum of the body do not discuss among themselves specific business that is within the subject matter of the jurisdiction. Purely social events are not considered meetings as long as the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local agency ([Government Code § 54952.2 \(c\) \(5\)](#))

[Government Code 54954](#) requires that each legislative body of a local agency, except for advisory committees or standing committees, provide the time and place for holding regular meetings.

[Government Code 54953](#) allows meetings to be conducted by teleconferencing under procedures including the requirement that each location be identified in the agenda and made accessible to

the public, that all votes must be by roll call, and public comment may be made at any of the noticed locations.

[Government Code 54954.3](#) requires that public comment for regular meetings be allowed on any item of interest to the public that is within the subject matter jurisdiction of the city. At special meetings the public comments can be restricted to the subject matter to be considered at the special meeting.

[Government Code 54954.2](#) allows members of the legislative body or its staff to make brief responses to comments made at public comment, but cannot be used to start a discussion between commissioners or to take action in response to comments.

When a meeting is canceled a notice of cancellation shall be posted at all the locations where the notice and the agenda are regularly posted. Interested members of the public shall be noticed as soon as possible.

It is recommended that the Council's appointed officials follow the procedures for the conduct of meetings as established in the Parliamentary Procedure and Robert's Rules of Order. In instances where Robert's Rules of Order are inconsistent with the provisions of the City Charter, the Charter shall take precedence.

While the appointed body is in session, the members should not interrupt the proceedings, any commissioners, or any member of the public who has the floor. Persons attending the meeting should observe the rules and procedures of the legislative body. Members who do not follow the rules for decorum may be asked to leave the meeting.

Council liaison and members of the Council's appointed bodies 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.

Copies of rules, bylaws, and meeting minutes of each one of the Council's appointed bodies shall be kept on file in the Office of the City Clerk where they shall be available for public inspection.

CONFLICT OF INTEREST GUIDELINES

Conflict of Interest:

According to [Government Code 81000](#), also known as the “Political Reform Act,” public officials should perform their duties in an impartial manner, free from bias, caused by their own financial interest. The regulation prohibits a commissioner from making, participating in making, or influencing a governmental decision, if the commissioner knows that the decision will have a material financial effect on interests of the Appointed official.

[The State Fair Political Practices Commission \(FPPC\)](#) enforces these prohibitions. Members are encouraged to consult with the City Attorney or the FPPC before participating in a matter that would create a possible conflict of interest. Public officials specified in [Government Code 87200](#), such as planning commissioners, must publicly identify the economic interest that creates the conflict, step down from the dais, and must then leave the room. The identification of the conflict of interest must be made orally and as part of the official record.

The State of California requires that designated individuals who make or participate in making governmental decisions that could affect their personal economic interests file Statements of Economic Interests, Form 700s [The Hayward Conflict of Interest Code, Administrative Rule 9.1](#) specifies the Council’s appointed bodies that are subject to the disclosure requirement. Designated members have 30 days after the date of appointment to file an Assuming Office Statement of Economic Interests with the City Clerk. If a member resigns or is terminated, a Leaving Office Statement of Economic Interests must be filed within 30 days of termination. All designated members are required to file annual statements and will be routinely advised of the deadlines by the City Clerk.

Incompatible Public Offices:

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices which are incompatible in terms of their duties.

RESOURCES

Application

<http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/index.shtm>

List of Current Council's Appointed Officials

[Local Appointments List April 2015](#)

Council's Appointed Bodies

[Community Services Commission](#)

[Downtown Business Improvement Area Advisory Board](#)

[Hayward Youth Commission](#)

[Keep Hayward Clean & Green Task Force](#)

[Library Commission](#)

[Personnel Commission](#)

[Planning Commission](#)

[Council Economic Development Committee](#)

California Law

<http://www.leginfo.ca.gov/>

Conflict of Interest

<http://www.fppc.ca.gov/index.php?id=37>

Statement of Economic Interests – Form 700

<http://www.fppc.ca.gov/index.php?id=500>

Attendance Policy – Resolution 87-323

http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/DOCUMENTS/RES_87-323.pdf

Robert's Rules of Order

<http://www.robertsrules.org/>



CITY OF HAYWARD

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

File #: PH 17-001

DATE: January 17, 2017

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT

Public Hearing to Consider the Formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence Development in the South Hayward BART Area, and to Order the Levy of Assessments for Fiscal Year 2018

RECOMMENDATION

That the City Council:

1. Holds a public hearing for the proposed formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence Development;
2. After conclusion of the public input portion of the public hearing, closes the balloting period and directs the City Clerk to tabulate ballots received and announce results; and
3. If a majority protest does not exist, adopts the attached Resolution (Attachment II).

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution
Attachment III Final Engineer's Report



DATE: January 17, 2017

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT Public Hearing to Consider the Formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence Development in the South Hayward BART Area, and to Order the Levy of Assessments for Fiscal Year 2018

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That the City Council:

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2. After conclusion of the public input portion of the public hearing, closes the balloting period and directs the City Clerk to tabulate ballots received and announce results; and
3. If a majority protest does not exist, adopts the attached Resolution (Attachment II).

SUMMARY

The Engineer's Report for the formation of Benefit Zone No. 15 to the City's Landscaping and Lighting District No. 96-1 ("District") for the Cadence Property ("Assessment Area") is included as Attachment III and includes the following information: (1) an estimated budget for the Assessment Area; (2) a description of the improvements to be operated, maintained, and serviced by Benefit Zone No. 15 of the District; (3) special Benefits section including the General Benefit calculation and methodology; and (4) the assessment apportionment and list of the assessments proposed to be levied upon each assessable parcel within the Assessment Area. As indicated in Attachment III, the total FY 2018 maintenance and management costs for the Cadence Development public park are anticipated to total \$49,210, equating to a \$238.88 assessment per residential unit.

BACKGROUND

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 (6) 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 7-14 were individually created and annexed into the District, including Benefit Zone No. 14 that was annexed to the District in June of this year.

The City Council approved a master plan, including a General Plan Amendment and Rezone, for the South Hayward BART station area in March of 2009, and approved a subsequent amendment, including rephrasing of the master plan, in 2011. A Precise Plan was approved for the master development by the Planning Commission in 2012. Also, an Owner Participation Agreement (OPA) and several other agreements were executed between the City of Hayward, Eden Housing, and the original project developers in 2012. Section 5.17 of that OPA requires that a Park Maintenance District, or new zone to the City's Landscape Lighting and Assessment District, be formed prior to issuance of a certificate of occupancy for the Amcal Housing (market rate) development. Staff expects a certificate of occupancy to be requested with final inspections in February of next year.

The City approved the park improvement plans on September 25, 2014. The park construction is currently underway and is anticipated to be complete by February 2017.

On October 7, 2016, SCI Consulting Group (Consultant) was hired to assist the City of Hayward with the formation and/or annexation of benefit zones to the District.

The Cadence Property, developed by Amcal Housing (Amcal) and subject to an Owner Participation Agreement (OPA), consists of a 206-unit rental complex (constructed on the property owned by Amcal) and a public park (constructed on adjacent property owned by the City). The Conditions of Approval for the South Hayward BART TOD Project (Planned Development District No. PL-2008-0547 PD) have been modified by the City in response to proposed project revisions, including but not limited to technical revisions made in response to the proposed rephrasing and minor modification of the South Hayward BART TOD Project issued on June 8, 2011, and pursuant to Resolution No. 11-140 adopted on July 26, 2011.

The current Conditions of Approval require the construction of specified park improvements on the adjacent City owned parcel and the adoption of a landscape lighting and assessment district, or park maintenance district, to pay for the maintenance of the park. The formation of Benefit Zone No. 15 of the District is proposed to provide funding for the maintenance and improvements to the public park serving the development, in compliance with the Conditions of Approval and in satisfaction of Section 5.17 of the OPA. As indicated on pages 6-7 of the attached Engineer's Report, improvements include all work associated to maintain improvements, landscaping, irrigation and lighting in the Public Park. Landscaping consists of the care for groundcover, shrubs, trees, weed abatement in planted areas, upkeep and servicing of the irrigation system, and utility costs to service the landscaping. Additionally, work includes maintenance of the play structure and exercise equipment, signs, benches, trash receptacles, and all other amenities within the Public Park. Maintenance also includes graffiti removal, renovations and replacements.

Section 8.12 of the OPA also established a procedure associated with the Developer maintaining the park. In summary, the Developer shall submit an annual Park Maintenance Plan for City review and approval which would set forth a budget, description of maintenance activities, and the schedule and process for reimbursement of maintenance costs incurred for the following fiscal year. Only upon City approval each year of the Park Maintenance Plan would the Developer be allowed to maintain the park. The OPA also states that, upon Default under the Park Maintenance Plan, the City may take over and perform the maintenance duties and obligations for the Park and to use any funds collected by the District for such purpose.

DISCUSSION

On December 6, 2016, the City Council approved the resolution preliminarily approving the Engineer's Report and levy of assessment for FY 2018, and set the public hearing for January 17, 2017. This was the first step in the formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 for the Cadence property. This is the final step, to hold the public hearing and approve the Engineer's Report, confirming the diagram of assessment that shows all the properties that are included in the Assessment Area.

The purpose of this public hearing is to give all interested parties the opportunity to hear and provide comments regarding the proposed assessments and assessment ballot proceeding. In addition, the balloting period officially closes at the conclusion of the public input portion of this public hearing.

Following the close of the public input portion of the public hearing, City Council may direct the City Clerk to commence tabulation of all valid ballots that were received prior to the close of the public input portion of the public hearing. There currently is one property owner for the Assessment Area, being Amcal.

After tabulation is complete, City Council may consider — provided a majority protest does not exist — adopting a resolution to levy the assessment for FY 2018.

The attached Engineer's Report identifies costs and methodology used to identify special and general benefits, along with the assessment per unit.

FISCAL IMPACT

There is no fiscal impact to the General Fund. Expenditures related to maintenance of the public park will be paid by the District Benefit Zone No. 15 fund account.

SUSTAINABILITY FEATURES

There are no sustainability features associated with this action, which is essentially an action to establish a funding source for maintenance of a public park.

PUBLIC CONTACT

A meeting with a representative of Amcal was held on October 12, 2016 to discuss the timing and scheduling of the formation of Benefit Zone No. 15. At the meeting, staff was available to explain the Benefit Zone's responsibilities and the Amcal representative, as the sole property owner, was given the opportunity to ask questions regarding the timing of the formation.

NEXT STEPS

Should the City Council adopt the attached resolution, it will order the levy and the confirmation of the diagram and assessments prepared by and made a part of the attached Engineer's Report to pay the costs and expenses thereof.

Upon the adoption of the attached resolution, but in no event later than the second Monday in August, the Council shall file a certified copy of the assessments and a certified copy of this resolution with the Auditor of the County of Alameda. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment roll. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to shall be paid to Benefit Zone No. 15 of the Landscaping and Lighting Assessment District 96-1 of the City of Hayward.

Prepared by: Allen Baquilar, PE, Development Review Engineer

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-__

Introduced by Council Member _____

RESOLUTION APPROVING THE ENGINEER'S REPORT,
CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING
LEVY OF ASSESSMENT FOR FISCAL YEAR 2018 FOR THE
FORMATION OF BENEFIT ZONE NO. 15 OF THE CITY OF
HAYWARD LANDSCAPING AND LIGHTING ASSESSMENT
DISTRICT NO. 96-1 FOR THE CADENCE PROPERTY

WHEREAS, the City of Hayward provides for the maintenance and improvement of street lighting, parks, and setback landscaping, through the City's Landscaping and Lighting Assessment District No. 96-1 ("District"); and

WHEREAS, these maintenance services and improvements provide direct and special benefits to properties in the District; and

WHEREAS, the formation of new Benefit Zone No. 15 of the existing City of Hayward Landscaping and Lighting Assessment District 96-1, is a condition of development approval for the project known as Cadence (the "Assessment Area"); and

WHEREAS, this proposed benefit zone formation would provide direct and special benefits to the Assessment Area by providing for the maintenance and improvement to the adjacent Public Park; including landscaping, irrigation, and lighting facilities; and

WHEREAS, the procedures for the proposed formation will provide owners of the Assessment Area with the opportunity to submit ballots for the proposed formation and assessment of levies that would fund the maintenance for services and improvements; and

WHEREAS, this Council designated SCI Consulting Group as Engineer of Work and ordered said Engineer to make and file an Engineer's Report; and

WHEREAS, the Engineer's Report ("Report") was duly made and filed with the Council and duly considered by this Council and found to be sufficient in every particular, whereupon it was determined that the Report should stand as the Engineer's Report for all subsequent proceedings; and

WHEREAS, pursuant to Article XIID and Government Code §53753, a joint notice and mail ballot was duly and regularly given, including the notice that this Council would be conducting a public hearing on January 17, 2017, on the question of the proposed benefit zone formation; and

WHEREAS, on January 17, 2017, at the hour of 7:00 PM, at the City Council Chambers of the City of Hayward, 777 B Street, Hayward, California, 94541, the public

hearing was duly and regularly held as noticed, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the benefit zone formation and levies were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered; and

WHEREAS, at the public hearing, the City Clerk, as directed by the City Council, tabulated the mail ballots and found that a majority protest as defined by Article XIIID did not exist, and this Council thereby acquired jurisdiction to order the levy and the confirmation of the diagram and assessments prepared by and made a part of the Report to pay the costs and expenses thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that:

1. The weighted assessment ballot submitted in favor of the formation of Benefit Zone No. 15 of the City of Hayward Landscaping and Lighting Assessment District 96-1 for the Cadence property exceeded those weighted ballots submitted in opposition to the formation and assessments.
2. The property benefitted by the maintenance and service of the improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by maps thereof filed in the office of the Council, which maps are made a part hereof by reference thereto.
3. The Engineer's Report as a whole and each part thereof, to include:
 - a. The Engineer's estimate of the itemized and total costs and expenses of maintaining the improvements and of the incidental expenses in connection therewith; and
 - b. The diagram showing the Assessment Area, plans and specifications for the improvements to be maintained and the boundaries and dimensions of the respective lots and parcels of land within the District; and
 - c. The assessment of the total amount of the costs and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the Assessment Area in proportion to the estimated special benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto.
4. Final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimates of the costs and expenses, the diagram and the assessments, as contained in the Report as hereinabove determined and ordered, is intended to and shall refer and apply to the Report, or any portion thereof as amended, modified, or revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

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

FORMATION OF BENEFIT ZONE 15

LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT No. 96-1 FOR THE CADENCE PROPERTY

FINAL ENGINEER'S REPORT

JANUARY 2017

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972
AND ARTICLE XIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:
SCIConsultingGroup
4745 MANGELS BLVD.
FAIRFIELD, CALIFORNIA 94534
PHONE 707.430.4300
FAX 707.426.4319
WWW.SCI-CG.COM

CITY OF HAYWARD

CITY COUNCIL

Barbara Halliday, Mayor
Sara Lamnin, Mayor Pro Tempore
Al Mendall, Council Member
Francisco Zermeño, Council Member
Marvin Peixoto, Council Member
Mark Salinas, Council Member
Elisa Márquez, Council Member

CLERK OF THE COUNCIL

Miriam Lens

CITY MANAGER

Kelly McAdoo

CITY ATTORNEY

Michael Lawson

ENGINEER OF WORK

SCI Consulting Group

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INTRODUCTION

OVERVIEW

On May 7, 1996, the City of Hayward ("City") formed the Consolidated Landscaping and Lighting Assessment District No. 96-1 ("District") by consolidating six separate Landscape and Lighting Assessment Districts into six separate zones of benefit within the new District. In subsequent years, eight additional benefit zones (Benefit Zone No. 7 – No. 14) have been created and annexed into the District, creating fourteen separate zones of benefit.

The formation of the Cadence ("Cadence" or the "Assessment Area") properties as Benefit Zone No. 15 in the District is proposed to provide funding for the maintenance and improvements to the Cadence Public Park; including landscaping, irrigation and lighting facilities ("Improvements") to specially benefit the properties in the Assessment Area. Cadence is a multi-family residential development that will consist of 206 units on a 4.5-acre site that is located east of the South Hayward Bart Station, adjacent to Dixon Street, Mission Boulevard and Buckwheat Court.

This formation, described in this Engineer's Report, results from agreements or conditions of development approval between the City of Hayward and the property owner, AMCAL. The City and property owner agreed on maintenance and Improvements of the Public Park in order to improve the utility of these properties through increased access and proximity to the amenities, improved views, extension of desirable outdoor space and other special benefits. Moreover, the City would not approve this development without a reliable funding source for the maintenance of these Improvements.

This Engineer's Report ("Report") was prepared to establish the budget for the services that would be funded by the proposed 2017-18 assessments and to determine the benefits received from the maintenance and Improvements by the Cadence property and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIID of the California Constitution (the "Article").

Following submittal of this Report to the City of Hayward City Council (the "Council") for preliminary approval, the Council may, by Resolution, call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the maintenance of Improvements.

If the Council approves such Resolution, a notice of assessment and assessment ballot will be mailed to property owners within the Assessment Area. Such notice would include a description of the proposed assessments as well as an explanation of the method of voting on the assessments. Each notice would also include a ballot on which the property owner

could mark his or her approval or disapproval of the proposed assessments, and a postage prepaid envelope in which to return the ballot.

After the ballots are mailed to property owners in the Assessment Area, a minimum 45-day time period must be provided for the return of the assessment ballots, unless a petition is signed to waive the balloting period. Following the ballot period, a public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments. This hearing is scheduled for January 17, 2017 at 7:00 p.m. At this hearing, the public will have the opportunity to speak on this issue and the returned ballots will be tabulated.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the Council may take action to form the Assessment Area, authorize the formation, and approve the levy of the assessments for fiscal year 2018. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2017 for inclusion on the property tax roll for Fiscal Year 2017-18.

AGREEMENT WITH THE PROPERTY OWNER

Pursuant to the Owners Participation Agreement (OPA) for the Cadence Development, the Developer is responsible for the maintenance of the Cadence Public Park in perpetuity or for the life of the agreement. As detailed in the OPA, the Developer is required to submit a Park Maintenance Plan annually to the City for review and approval by City Council as part of the annual review of the District. The Park Maintenance Plan will include a maintenance budget, a schedule of maintenance activities, and reimbursement process specific to the Cadence Development. The Assessment District formation ensures adequate funding is available for the maintenance of the Park should the Developer default, not meet the maintenance standards, or in the event that the property is sold and the City assumes maintenance of the park.

LEGISLATIVE ANALYSIS

PROPOSITION 218

Many of the Assessment Districts in the City of Hayward were formed prior to the passage of Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIII C and XIII D of the California Constitution. (Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.) Although these assessments are consistent with Proposition 218, the California judiciary has generally referred to pre-Proposition 218 assessments as “grandfathered assessments” and held them to a lower standard than post Proposition 218 assessments.

Other Assessment Districts that were formed after Proposition 218, including those for Benefit Zone No. 15, are consistent with the approval procedures and requirements imposed by Proposition 218.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. v SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority (“SVTA vs. SCCOSA”). This ruling is the most significant legal document in further legally clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Assessment Area

This Engineer’s Report and the assessments are consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIII C and XIII D of the California Constitution based on the following factors:

1. The assessment revenue derived from real property in the Assessment Area is extended only for specifically identified Improvements and/or maintenance and servicing of those Improvements in the Assessment Area that confer special benefits to property in that Assessment Area.
2. The use of the Assessment Area ensures that the Improvements constructed and maintained with assessment proceeds are located in close proximity to the real property subject to the assessment, and that such Improvements provide a direct advantage to the property in the Assessment Area.
3. Due to their proximity to the assessed parcels, the Improvements and maintenance thereof financed with assessment revenues in the Assessment Area benefit the properties in the Assessment Area in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements, and the benefits conferred on such property in Assessment Area are more extensive and direct than a general increase in property values.
4. The assessments paid in the Assessment Area are proportional to the special benefit that each parcel within the Assessment Area receives from such Improvements and the maintenance thereof because of the following:
 - a. The Engineer’s Report specifically identifies the permanent public Improvements that the assessments will finance;
 - b. The costs of such Improvements are estimated and calculated; and
 - c. Such improvement and maintenance costs in the Assessment Area are allocated to each property within the Assessment Area based upon the estimated special benefits received from the Improvements.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th District Court of Appeals amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. Hence Dahms is good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeals overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO

On September 22, 2011, the San Diego Court of Appeals issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City of San Diego had failed to record the basis for the assessment on its own parcels.

COMPLIANCE WITH CURRENT LAW

This Engineer’s Report is consistent with the requirements of Article XIII C and XIII D of the California Constitution and with the SVTA decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment Area; and the Improvements provide a direct advantage to property in the Assessment Area that would not be received in absence of the assessments.

This Engineer’s Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the Assessment Area and the general benefits have been explicitly calculated and quantified and excluded from the

assessments. The Engineer's Report is consistent with *Bonander* because the assessments have been apportioned based on the overall cost of the Improvements and proportional special benefit to each property.

PLANS & SPECIFICATIONS

INTRODUCTION

The work and Improvements proposed to be undertaken by the City of Hayward and the formation and annexation of the Cadence property to Benefit Zone No. 15 of Landscaping and Lighting Assessment District No. 96-1 and the costs thereof paid from the levy of the annual assessments, will provide special benefit to Assessor Parcels within the Assessment Area as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972, (the "Act") the work and Improvements are generally described as follows:

Installation, maintenance and servicing of public Improvements, may include, but are not limited to, turf and play areas, landscaping, ground cover, shrubs and trees, irrigation systems, drainage systems, lighting, fencing, signage, sidewalks, curbs and gutters, fencing, masonry walls and soil retaining components, play structure and exercise equipment, benches, trash cans and all other park facilities, graffiti removal and repainting, and labor, materials, supplies, utilities and equipment, as applicable, for the property within the Assessment Area that is owned or maintained by the City of Hayward (the "Improvements"). Any plans and specifications for these Improvements will be filed with the Landscape Maintenance Manager of the City of Hayward and are incorporated herein by reference.

As applied herein, "Installation" means the construction of park improvements, including but not limited to, land preparation (such as grading, leveling, cutting and filling), sod, landscaping, irrigation systems, sidewalks, drainage, lights, playground and exercise equipment and benches.

"Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste, and the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

"Servicing" means the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements; or water for the irrigation of any landscaping, or the maintenance of any other Improvements.

DESCRIPTION OF IMPROVEMENTS

Improvements include all work associated to maintain Improvements, landscaping, irrigation and lighting in the Public Park. Such landscaping consists of the care for groundcover, shrubs, trees, weed abatement in planted areas, upkeep and servicing of the irrigation system, and utility costs to service the landscaping. Additionally, to maintain play structure

and exercise equipment, signs, benches, trash receptacles, and all other amenities within the Public Park. Maintenance also includes graffiti removal, renovations and replacements.

SUMMARY FIGURE OF COSTS

The budget depicted in Figures 1, 2, 3 and 4, on the following pages reflects estimated costs for Fiscal Year 2018. As shown on Figure 4, total 2017-18 maintenance costs for the Cadence formation are anticipated to total **\$49,210** equating to **\$238.88** per single family equivalent.

FIGURE 1 – 2018 ANNUAL BUDGETED LANDSCAPING COSTS

Task	Quantity	Units	Annual Maintenance Rate	Annual Maintenance Costs	Annual Replacement Rate	Annual Replacement Costs	Total Costs	Replacement Years	Unit Replacement Costs
Landscaping									
Grass Area (Sod)	4,495	sqft	\$0.75	\$3,371.25	\$0.06	\$266.70	\$3,637.95	15	0.89
Landscaped Area	13,596	sqft	\$0.50	\$6,798.00	\$0.05	\$679.80	\$7,477.80	15	\$0.75
Trees	46	each	\$75.00	\$3,450.00	\$14.00	\$644.00	\$4,094.00	25	\$350.00
Chipping	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00	0	\$0.00
Soil	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00	0	\$0.00
Irrigation System	1	ls	\$2,000.00	\$2,000.00	\$2,555.95	\$2,555.95	\$4,555.95	20	\$51,119.00
Sub Totals:				\$17,619.25		\$4,146.45	\$21,765.70		
Total Annual Costs:							\$21,765.70		

FIGURE 2 – 2018 ANNUAL BUDGETED HARDSCAPE COSTS

Task	Quantity	Units	Annual Maintenance Rate	Annual Maintenance Costs	Annual Replacement Rate	Annual Replacement Costs	Total Costs	Replacement Years	Unit Replacement Costs
Paving & Lights									
Concrete Walkway	3,874	sqft	\$0.05	\$193.70	\$0.02	\$77.48	\$271.18	50	\$1.00
Paving	3,349	sqft	\$0.05	\$167.45	\$0.02	\$66.98	\$234.43	50	\$1.00
Rubberized Play Surface	1400	sqft	\$0.05	\$70.00	\$1.25	\$1,750.00	\$1,820.00	10	\$12.50
Park Lights (includes power)	28	each	\$180.00	\$5,040.00	\$0.00	\$0.00	\$5,040.00	25	\$500.00
Park Improvements									
Picnic Tables	4	each	\$50.00	\$200.00	\$65.67	\$262.67	\$462.67	15	\$985.00
On-grade Benches	6	each	\$50.00	\$300.00	\$56.67	\$340.00	\$640.00	15	\$850.00
Trash Cans	15	each	\$25.00	\$375.00	\$7.50	\$112.50	\$487.50	10	\$75.00
Park Signs	2	each	\$50.00	\$100.00	\$16.67	\$33.33	\$133.33	15	\$250.00
Play Structure	1	ls	\$100.00	\$100.00	\$1,466.67	\$1,466.67	\$1,566.67	15	\$22,000.00
Play Equipment	1	ls	\$1,000.00	\$1,000.00	\$1,013.33	\$1,013.33	\$2,013.33	15	\$15,200.00
Graffiti Removal	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00		
Subtotals				\$8,546.15		\$5,122.96	\$13,669.11		
Total Annual Costs:							\$13,669.11		

FIGURE 3 – 2018 ANNUAL BUDGETED MANAGEMENT OTHER COSTS

Task	Quantity	Units	Annual Rate	Annual Costs	Total Costs
Utilities and Administration					
Water	742	HCF	\$6.00	\$4,452.22	\$4,452.22
District Management	1	ls	\$5,000.00	\$5,000.00	\$5,000.00
Engineer's Report	1	ls	\$3,500.00	\$3,500.00	\$3,500.00
Subtotals				\$12,952.22	\$12,952.22
Total Annual Costs:					\$12,952.22

FISCAL YEAR 2018 ESTIMATE OF COST AND BUDGET

FIGURE 4 – 2018 COST ESTIMATE

City of Hayward - Cadence Landscaping and Lighting District No. 96-01, Benefit Zone No. 15 Estimate of cost Fiscal Year 2017-18				
				<i>Total Budget</i>
Total Costs				
Total Annual Landscaping Costs (From Table 1)				\$21,766
Total Annual Hardscape and Other Costs (From Table 2)				\$13,669
Total Annual Management Costs (From Table 3)				\$12,952
County Collection Fee (1.7%)				<u>\$823</u>
Total Maintenance and Servicing and Related Expenditures				\$49,210
Total Maintenance and Servicing and Related Expenditures and Incidentals				
(Net Amount to be Assessed: Annual Costs - Existing Funds)				\$49,210
Budget Allocation to Property				
	Number of	Total	Assessment	Total
	Units	SFE Units	per SFE	Assessment
	206	206	\$238.88	\$49,210

METHOD OF ASSESSMENT APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of Improvements and landscaping for the Assessment Area and the methodology used to apportion the total assessment to the properties within the Assessment Area.

The method used for apportioning the assessment is based upon the relative special benefits to be derived by the properties in the Assessment Area over and above general benefits conferred on real property or to the public at large. The assessment is apportioned to lots and parcels in proportion to the relative cost of the special benefits from the Improvements. Special benefit is calculated for each parcel in the Assessment Area using the following process:

1. Identification of all benefit factors derived from the Improvements
2. Calculation of the proportion of these benefits that are general
3. Determination of the relative special benefit per property type
4. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

The Assessment Area parcels proposed for annexation to Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1 consist of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the Assessment Area properties in Benefit Zone No. 15, over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the Improvements."

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definition of special benefits to properties from similar public improvements in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel, and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).

Proximity, improved access and views, in addition to the other special benefits listed herein further strengthen the basis of these assessments.

The following benefit categories summarize the types of special benefit to residential and other lots and parcels resulting from installation, maintenance and servicing of landscaping, irrigation, sidewalks, signs, lights and other park improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and studies which describe the types of special benefit received by property from maintenance and improvements such as those proposed by the City of Hayward for the formation and annexation of Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1. These types of special benefit are summarized as follows:

- A. Improved access to landscaped areas and other permanent public improvements such as the Public Park and perimeter landscaping.
- B. Proximity to improved landscaped areas and other permanent public improvements
- C. Improved Views.
- D. Extension of a property's outdoor areas and Landscaped Areas for properties within close proximity to the Improvements.
- E. Creation of individual lots for residential use that, in absence of the assessments, would not have been created.

The above benefit factors, when applied to property in the Assessment Area, specifically increase the utility and usefulness of the property within the Assessment Area. For example, the assessments will provide funding to improve and maintain the Public Park and the landscaping within the park. Such improved and well-maintained park amenities and landscaping enhances the overall quality, desirability, utility and safety of the properties.

GENERAL VERSUS SPECIAL BENEFIT

Article XIID, Section 4(a) of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. Property may be assessed to fund improvements to the extent of the special benefits conferred by the Improvements; but general benefits are not assessable. Accordingly, a separate estimate of the special and general benefit is given in this section.

Article XIID never defines the term “general benefit.” The definition of special benefit in Section 2(i) includes the statement that general enhancement of property value does not constitute special benefit. General benefit may be described as “an indirect, derivative advantage” resulting from the improvements. One infers from Article XIID that all benefit is either general or special.

In other words:

Total Benefit	=	General Benefit	+	Special Benefit
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There is no widely-accepted or statutory formula for quantifying the amount of any general benefit that is identified.

In this Report, the general benefit is first identified, generously estimated, and then budgeted so that it is funded, as required by Proposition 218, by sources other than the Cadence Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service, which is funded primarily by the City. The proposed Assessment will fund Improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

General Benefit	=	Benefit to Real Property Outside the Assessment District	+	Benefit to Real Property Inside the Assessment District that is Indirect and Derivative	+	Benefit to the Public at Large
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Special benefit, on the other hand, is defined in the California constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” A special benefit is conferred to a property if the property “receives a direct advantage from the improvement (e.g., proximity to setback landscaping).” In this proposed formation, as noted, properties in the Assessment Area have close and unique proximity, views of and access to the Improvements, and uniquely improved utility and desirability from the Improvements, and other properties and the public at large do not receive such benefits because they do not have proximity, access to or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special, and only minimal general benefit is conferred on property outside the Assessment Area or to the public at large.

In the 2010 *Beutz* case, the 4th Appellate Court rejected an assessment for parks in large part because the general benefits were not calculated and quantified. In its decision, the 4th Appellate Court suggests that the use of parks in an assessment district by people who live outside of the district likely is a general benefit. This Engineer’s Report includes a specific, quantified calculation of general benefits, as described below, that is based in part on such use by people outside of the Assessment Area. Moreover, the proportionality of the Assessments to the special benefits conferred on each parcel, based in large part on proximity, is established as well. Therefore, the Assessments and this Engineer’s Report are consistent with the *Beutz* decision.

CALCULATING GENERAL BENEFIT AND SPECIAL BENEFIT PAID FROM OTHER FUNDS

In this section, the general benefit not paid from the assessment, which must be paid from other funds, are conservatively estimated and described, and then budgeted so that it is funded by sources other than this Assessment.

BENEFIT TO PROPERTY OUTSIDE THE PROPOSED ASSESSMENT AREA

In summary, real property located within the boundaries of the Assessment Area distinctly and directly benefit from closer proximity, access and views of the Improvements funded by the Assessments, the creation of developable parcels, and from the extension of usable land area provided by the assessments. The Improvements are specifically designed to serve local properties in the Assessment Area, not other properties nor the public at large. The Assessment Area has been narrowly drawn to include those parcels that receive a direct advantage from the Improvements. The public at large and other properties outside the Assessment Area receive only limited benefits from the Improvements because they do not have proximity, good access or views of the Improvements. These are special benefits to property in the Assessment Area in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of specific proximate properties and make them more functional to use, safer and easier to access.

Properties within the proposed Assessment Area receive almost all of the special benefits from the Improvements, because properties in the Assessment Area enjoy unique and close proximity and access to the Improvements that are enjoyed less by other properties or the public at large. The Public Park and landscaping Improvements are specifically designed to benefit the properties in the Assessment Area.

Furthermore, there are multiple, proximate parks and other improvements outside of the Assessment Area, funded by other sources, that provide most of the park and landscaping benefits to nearby parcels that are outside of the Assessment Area.

For example:

- The large Tennyson Park on W Tennyson Rd and Huntwood Ave is 0.8 miles away from the Assessment Area and provides a wide variety of park improvements at a higher service level than the Public Park.
- The small Valle Vista Park on Valle Vista Avenue is only 0.2 miles away from the Assessment Area. While this park provides similar improvements, it also has a higher level of accessibility than the Public Park.
- Currently under construction, the new La Vista Park is just 0.3 miles east of the Assessment Area and provides a wide variety of park Improvements at a higher service level than the Public Park.

In other words, the Public Park and landscaping Improvements maintained by the proposed Assessments specially benefit the properties within the Assessment Area but other nearby improvements primarily benefit other proximate properties.

Nonetheless, there are certain properties that are outside the boundaries of the Assessment Area that may benefit from the improvements of the Public Park. This includes a 151-unit, low income and senior apartment development directly adjacent to the Assessment Area as well as 30 condo-units along Mariners Court. A total of 181 proximate units have been

identified that receive some special benefit from the proposed improvements including improved views, proximity and/or access, but most units do not receive extension of outdoor space and none receive special benefit of parcel creation. Since these adjacent units only receive 3 of the 5 major special benefits, a 60% factor is applied.

TOTAL GENERAL BENEFIT TO PROPERTIES OUTSIDE OF THE DISTRICT = 28.1%

Assumptions:

181 parcels outside and adjacent to the District

206 units in the Assessment Area

Calculation

General Benefit to Property outside the Improvement District=

$(181/(181+206)) * 60\% = 28.1\%$

Although it can reasonably be argued that Improvements inside, but near the Assessment Area Boundaries are offset by similar park and recreational improvements provided outside, we use the more generous approach of finding that 28.1% of the Improvements may be of benefit to property outside of the Assessment Area.

BENEFIT TO PROPERTY INSIDE THE DISTRICT THAT IS INDIRECT AND DERIVATIVE

The “indirect and derivative” benefit to property within the District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Improvements are clearly “over and above” and “particular and distinct” when compared with the baseline level of service and the unique proximity, access and views of the Improvements enjoyed by benefiting properties in the Districts.

Nevertheless, the SVTA decision indicates there may be general benefit “conferred on real property located in the district.” A measure of the general benefits to property within the District is the percentage of land area within the District that is publicly owned, open to the public, and used for regional purposes such as major roads, rail lines, hospitals, and other regional facilities because such properties, while physically within the District, are used for regional purposes and could provide indirect benefits to the public at large. In this case, essentially 0% of the land area is used for such regional purposes.

BENEFIT TO THE PUBLIC AT LARGE

The general benefit to the public at large can be estimated by the proportionate amount of time that the Assessment Area’s park and recreational facilities are used and enjoyed by individuals who are not residents, employees, customers or property owners in the Assessment Area. Based on surveys and research conducted by SCI, in which visitors to similar parks; at various times of the day, evening, and week; were asked to look at a District map and to identify whether they lived or worked within the park’s District, less than 5% of the use of similar parks and recreation areas is by the public at large. When people outside the Assessment Area use parks, they diminish the availability of parks for people within the

Assessment Area. Therefore, another 5% of general benefits are allocated for people within the Assessment Area. Combining these two elements of general benefit, we find that 10% of the benefits from the Improvements are general benefits to the public at large.

TOTAL GENERAL BENEFITS TO BE FINANCIALLY CONTRIBUTED FROM OTHER FUNDS IS 38.1%

Using a sum of these three measures of general benefit, we find that approximately 38.1% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the Assessments.

General Benefit Paid From Other Funds =

$$\begin{aligned} & 28.1\% \text{ (Outside the district)} \\ + & 0.0\% \text{ (Inside the district - indirect and derivative)} \\ + & 10.0\% \text{ (Public at Large)} \\ = & 38.1\% \text{ (Total General Benefit and Special Benefit paid from other funds)} \end{aligned}$$

Although this analysis finds that 38.1% of the Assessment may provide general benefits and special benefit that would need to be paid from funds other than the assessment, the Assessment Engineer establishes a requirement for a minimum contribution from sources other than the Assessments rounded up to 40.0%. This additional allocation above the measure of general benefits will serve to provide additional coverage for any other general benefits.

SOURCE OF FINANCIAL CONTRIBUTIONS FROM OTHER FUNDS TO SATISFY THE 40% REQUIREMENT

The general benefit contribution is paid in part from other “in-kind” contributions from the City in the form of infrastructure critical to the continued maintenance of the Assessment Area Improvements, as described below. Also, general benefit contributions come from the “annuity” value of the improvements that were constructed by the developer.

The City of Hayward owns, maintains, rehabilitates and replaces the curb and gutter along the border of the Assessment Area. This curb and gutter serves to support, contain, retain, manage irrigation flow and growth, and provide a boundary for the Improvements. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the curb and gutter is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local curb and gutter, the budget would increase by at least 10%.

The City of Hayward owns and maintains a storm drainage system along the border of the Assessment Area. This system serves to prevent flooding and associated damage to the Improvements, and manage urban runoff including local pollutants loading from the Improvements. The contribution from the City of Hayward toward general benefit from the

maintenance, rehabilitation, and replacement of the local storm drainage system is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local storm drainage system, the budget would increase by at least 10%.

The City of Hayward owns and maintains local public streets throughout the Assessment Area. These public streets provide access to the Improvements for its enjoyment as well as efficient maintenance. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the local public streets is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local public streets, the budget would increase by at least 10%.

The value of the initial Improvements constructed by the Developer can be quantified and monetized as an annuity to be amortized. Since the initial Improvements were performed and paid for by non-assessment funds, this “annuity” can be used to offset general benefit costs, and is conservatively estimated to contribute 20%. In others words, if the Assessment Area were required to construct all the Improvements, the annual budget would increase by at least 20%.

Source of Financial Contributions from Other Funds to Satisfy 40% Requirement

10.0% (Curb and gutter)
+ 10.0% (Storm drainage system)
+ 10.0% (Public roads)
+ 20.0% (Amortized value of initial construction)

= 50.0% (Total General Benefit paid from other funds)

In other words, the formation requires 40% contribution to offset the general benefits conferred by the Improvements, and there is a 50% contribution from City of Hayward supporting local infrastructure, along with the amortized value of initial construction. This 50% contribution more than satisfies the general benefit requirements.

ZONES OF BENEFIT

The boundaries of the Assessment Area have been carefully drawn to only include the properties in Assessment Area that are proximate to the proposed Improvements and that would materially benefit from the Improvements. Certain other properties surrounding and outside the Assessment Area were excluded from the proposed Assessment Area because these properties are generally less proximate to the Improvements and/or they do not enjoy the same access.

Within the Assessment Area, zones of benefit are not justified or needed because the Improvements are provided relatively evenly across the entire area and for the one residential parcel. The multi-family residential structure has limited access points so the proximity to the improvements is relatively uniform for all units. If the parcel is sub-divided in the future, an analysis of potential zones of benefit may be appropriate. At this time, as a single parcel development, zones of benefit are not justified.

ASSESSMENT APPORTIONMENT

The assessments are apportioned among all lots and parcels within the Assessment Area on the basis of Single Family Equivalent (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated an SFE value, which is each property's relative benefit in relation to a single family home on one parcel. The "benchmark" property is the single family detached dwelling which is equal to one Single Family Equivalent benefit factor.

The Cadence property is a multi-family residential development project consisting of 206 units. Each unit receives similar benefit from the proposed improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all residential parcels is on an equivalent dwelling unit basis.

RESIDENTIAL PROPERTIES

All improved residential properties that represent a single residential dwelling units are assigned 1.0 SFE.

VACANT RESIDENTIAL

It is the Engineer's determination that approximately 30% of the benefit from the Improvements flows to the underlying land, and approximately 70% of the benefit flows to the improvements made to each parcel. Therefore, vacant residential land is assigned 0.30 SFE per parcel, until the parcel is improved.

OTHER PROPERTIES

There are no other property uses (other than vacant and residential) planned for the Assessment Area. If properties are developed in the future with other property uses, (i.e. commercial, agriculture, etc.), the engineer will individually calculate the associated special benefit for those properties at that time.

INITIATION OF ASSESSMENT ON PARCELS

Full benefit units will be assigned to all mapped and unmapped properties in the Assessment Area after the Improvements are installed, and costs are incurred by the Assessment Area.

ASSESSMENT

WHEREAS, the City Council of the City of Hayward, County of Alameda, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”), adopted its Resolution Initiating Proceedings for the formation and annexation of Cadence property to Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment Area, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Assessment Area.

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Assessment Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment Area;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, County of Alameda, California, hereby make the following assessment to cover the portion of the estimated cost of the Improvements, and the costs and expenses incidental thereto to be paid by the Assessment Area.

The amount to be paid for Improvements and expenses incidental thereto, that are to be paid by the formation of Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1, for the Fiscal Year 2018, are detailed below.

FIGURE 5 – SUMMARY COST ESTIMATE FOR BENEFIT ZONE NO. 15 FOR FISCAL YEAR 2018

Budget Item	Cost
Total Annual Costs	\$48,387
Incidentals	\$823
Total Budget	\$49,210

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Cadence Assessment Area. The distinctive number of each parcel or lot of land in said property proposed for formation into existing Landscaping and Lighting Assessment District No. 96-1, is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Cadence Assessment Area, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Cadence Assessment Area, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for the San Francisco Bay Area as of December of each succeeding year, with the maximum annual adjustment not to exceed 3%. In the event that the annual change in the CPI exceeds 3%, any percentage change in excess of 3% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3%.

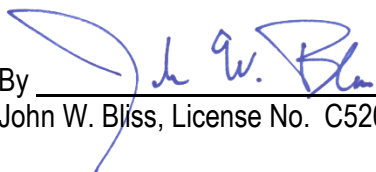
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2018. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2018 for each parcel or lot of land within said Landscaping and Lighting Assessment District No. 96-1.

Dated: December 19, 2016

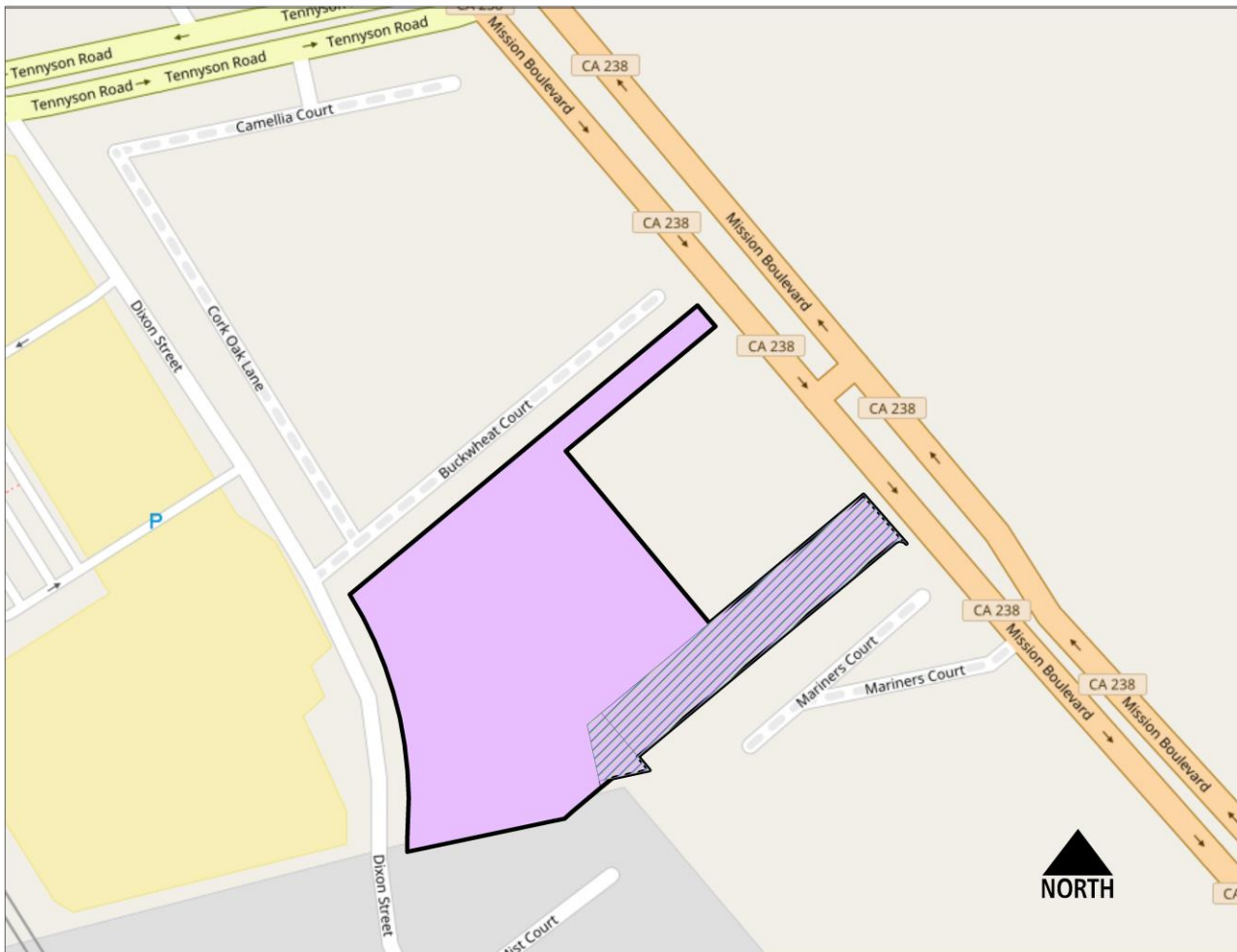


Engineer of Work

By 
John W. Bliss, License No. C52091

ASSESSMENT DIAGRAM

The boundaries of the Cadence Assessment Area proposed to be included in Benefit Zone No. 15 of Landscaping and Lighting Assessment District No. 96-1 is displayed on the following Assessment Diagram.



Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF ALAMEDA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN.

SCI Consulting Group
4745 Mangels Boulevard
Fairfield, CA 94534

FILED IN THE OFFICE OF THE CLERK OF THE COUNCIL, CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA, THIS ____ DAY OF _____, 2017.

CLERK OF THE COUNCIL, CITY OF HAYWARD

RECORDED IN THE OFFICE OF THE CLERK OF THE COUNCIL, CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA, THIS ____ DAY OF _____, 2017.

CLERK OF THE COUNCIL, CITY OF HAYWARD

AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL, CITY OF HAYWARD, COUNTY OF SOLANO, CALIFORNIA, ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE ____ DAY OF _____, 2017 FOR FISCAL YEAR 2017-18 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF ALAMEDA ON THE ____ DAY OF _____, 2017.

REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

CLERK OF THE COUNCIL, CITY OF HAYWARD

-  Benefit Zone No.15
-  Public Park

**CITY OF HAYWARD
LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT 96-1
BENEFIT ZONE NO. 15
ASSESSMENT DIAGRAM**

ASSESSMENT ROLL

An Assessment Roll (a listing of all parcels assessed within the Assessment Area and the amount of the assessment) is shown below.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.

Parcel	Owner	Developed Property Assessment
078C-0441-001-23	City of Hayward	\$0.00
078C-0441-001-32	City of Hayward	\$0.00
078C-0801-001-00	AMCAL HAYWARD LLC	\$49,209.62
	Totals	\$49,209.62

Note: The assessments listed above indicate amounts *at buildout* and are based on the developed property rate of \$238.88 per Single Family Equivalent (SFE).

This is the maximum, proposed rates that shall be levied for all proposed or actual dwelling units on improved and unimproved property in the Assessment District. Such assessments shall be levied for all proposed or actual dwelling units and unimproved property in the Assessment Districts, as increased annually by the CPI adjustment.



CITY OF HAYWARD

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

File #: PH 17-004

DATE: January 17, 2017

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT

Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) for PEPRA Safety Employees

RECOMMENDATION

That the City Council adopts an Ordinance to execute the amendment of the City of Hayward's contract with PERS to amend the cost sharing provision for PEPRA Safety (Police and Fire) Employees.

ATTACHMENTS

- Attachment I Staff Report
- Attachment II Ordinance Authorizing an Amendment to the Contract between the City and CalPERS
- Attachment III Exhibit to the Ordinance - Sample Amendment to CalPERS Contract
- Attachment IV Summary of Ordinance Published on 01/13/2017



DATE: January 17, 2017
TO: Mayor and City Council
FROM: Director of Human Resources

SUBJECT

Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) for PEPRA Safety Employees

RECOMMENDATION

That the City Council adopts an Ordinance to execute the amendment of the City of Hayward's contract with PERS to amend the cost sharing provision for PEPRA Safety (Police and Fire) Employees.

BACKGROUND

On December 13, 2016, the City Council approved a Resolution of Intent to amend the City of Hayward's CalPERS contract and introduced an Ordinance to amend the contract (PH 16-227). CalPERS regulations require the City Council to adopt an Ordinance by way of a public hearing at least twenty days after the approval of the Resolution of Intention. The twenty-day threshold was met on January 2, 2017. In accordance with Administrative Rule 1.21, the proposed Ordinance was published in the Daily Review on December 2, 2016, at least three days prior to the public hearing.

DISCUSSION

The existing CalPERS contract for safety members (sworn police and fire) requires payment of the required published employee rate plus an additional contribution to equal a total of fifteen percent (15%) of their salaries for the employees' share of retirement costs. Effective July 1, 2016, the employee rate for PEPRA Fire members decreased from 11.25% to 9.75%, which per the terms of the agreement would mean that the cost share portion would increase from 3.75% to 5.25%. The employee rate for PEPRA Police members also decreased from 12.75% to 12.00%, which per the terms of the agreement would mean that the cost share portion would increase from 2.25% to 3.00%.

Government Code Section 20516, which allows for cost sharing, provides that the language in the MOU "shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall

be contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part.”

CalPERS believes this language requires a specific numerical number in the agreement that shows the exact percentage of the cost share deduction. Although CalPERS approved the City’s current agreements at the time the contract was amended, it has since determined that any changes to the breakdown of the CalPERS contributions must be specific so that the percentage amounts are broken down into numerical values. To implement any changes to the retirement program, it is necessary to amend the City’s existing contracts with CalPERS each time there is a change to the rates. In order to provide employees with credit for their full 15% contribution, a side letter clarifying the PEPRA cost sharing language was required and the clarifying language for both Local 1909 and HPOA was adopted by Council on November 15, 2016. The City does not agree with this interpretation of the law and Human Resources is working with the City Attorney’s office to dispute this and possibly avoid the need for a formal contract amendment each time the PEPRA contribution changes.

FISCAL IMPACT

There is no fiscal impact associated with this report. Both PEPRA Fire and PEPRA Police members will continue to contribute 15% to fund their CalPERS pensions, as previously agreed to (Resolution 13-097, Resolution 14-122). However, the disagreement with CalPERS over the need to amend the City’s contract each time the percentages change results in substantial staff work from Human Resources and three separate action items before the City Council at three different meetings.

NEXT STEPS

Human Resources staff will work with CalPERS to complete the contract amendment process. If approved, the Ordinance will take effect on February 16, 2017 and the contract amendment will be effective February 20, 2017.

Prepared by: Ali Adams, Human Resources Analyst II

Recommended by: Nina S. Collins, Director of Human Resources

Approved by:



Kelly McAdoo, City Manager

ORDINANCE NO. 17-

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.

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

Section 1. Provisions.

1. That an amendment between the City Council of the City of Hayward and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.
2. The City Manager of the City of Hayward is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Hayward.

Section 2. Severance. Should any part of this ordinance be declared by a final decision of 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 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 13th day of December, 2016, by Council Member Mendall.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 17th day of January, 2017, 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**

California
Public Employees' Retirement System

**AMENDMENT TO CONTRACT**

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Hayward



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective October 1, 1950, and witnessed August 7, 1950, and as amended effective January 16, 1952, January 1, 1956, April 1, 1959, January 1, 1960, November 1, 1962, April 1, 1965, December 1, 1969, July 1, 1973, July 16, 1973, June 1, 1978, April 23, 1979, January 12, 1981, March 9, 1981, July 11, 1986, October 10, 1988, June 21, 1991, June 19, 1992, March 8, 1996, January 1, 2001, April 1, 2001, July 1, 2001, August 26, 2002, May 23, 2008, July 4, 2011, February 24, 2014, July 27, 2015 and June 27, 2016 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective June 27, 2016, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local safety members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1950 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **PERSONS EMPLOYED AFTER JANUARY 16, 1952 AS CROSSING GUARDS; AND**
 - b. **PERSONS EMPLOYED AFTER JANUARY 30, 1959 AS PART-TIME LIFEGUARDS AND PART-TIME LIBRARY AIDES.**
6. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after August 26, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after August 26, 2002 shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.

- b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
- c. Section 20042 (One-Year Final Compensation) for classic members only.
- d. Section 21635 (Post-Retirement Survivor Allowance to Continue After Remarriage) for local safety members only.
- e. Section 21024 (Military Service Credit as Public Service).
- f. Section 21027 (Military Service Credit for Retired Persons).
- g. Section 21551 (Continuation of Pre-Retirement Death Benefits After Remarriage of Survivor).
- h. Section 21022 (Public Service Credit for Periods of Lay-Off) for local miscellaneous members only.
- i. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service) for local miscellaneous members only.
- j. Section 20903 (Two Years Additional Service Credit).
- k. Section 20965 (Credit for Unused Sick Leave) for local fire members only.
- l. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
- m. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21362.2 (3% @ 50) effective January 1, 2001 and Section 20042 (One-Year Final Compensation) effective January 12, 1981 for classic local fire members. The employee cost sharing contribution is not to exceed 15.607%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2020, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.986%.

Section 21362.2 (3% @ 50) effective July 1, 2001 and Section 20042 (One-Year Final Compensation) effective April 23, 1979 for classic local police members. The employee cost sharing contribution is not to exceed 13.882%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2021, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.505%.

n. Section 20516 (Employees Sharing Additional Cost):

From and after February 24, 2014, 3.75% for new local fire members.

From and after July 27, 2015, 2.25% for new local police members.

From and after June 27, 2016, 2% for local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers Local 21, Unrepresented Group, and Council Appointed Employee Group.

From and after the effective date of this amendment to contract, 5.25% for new local fire members in the International Association of Firefighters Local 1909.

From and after the effective date of this amendment to contract, 3% for new local police members in the Hayward Police Officers' Association.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on June 1, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
14. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
 - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
 - c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF HAYWARD

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"
PLEASE DO NOT SIGN "EXHIBIT ONLY"

PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

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.

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

Section 1. Provisions.

1. That an amendment between the City Council of the City of Hayward and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.
2. The City Manager of the City of Hayward is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Hayward.

Section 2. Severance. Should any part of this ordinance be declared by a final decision of 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 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

Introduced at the special meeting of the Hayward City Council held December 13, 2016, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the meeting of the Hayward City Council, to be held on January 17, 2017, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 13, 2017
Miriam Lens, City Clerk
City of Hayward



CITY OF HAYWARD

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

File #: LB 17-003

DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Resolution to Appoint a Community Task Force to Update the Hayward Anti-Discrimination Action Plan

RECOMMENDATION

That the City Council adopts a resolution establishing a limited term Community Task Force, made up of a dedicated and invested group of community members who represent the diversity of the Hayward community, with the task of reviewing, evaluating, and updating the Hayward Anti-Discrimination Action Plan (Plan).

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution - Anti-Discrimination Action Plan
Attachment III	Resolution 89-248
Attachment IV	Resolution 92-310
Attachment V	Charter of Compassion for the City of Fremont
Attachment VI	PolicyLink Publication



DATE: January 17, 2017

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Resolution to Appoint a Community Task Force to Update the Hayward Anti-Discrimination Action Plan

RECOMMENDATION

That the City Council adopts a resolution establishing a limited term Community Task Force, made up of a dedicated and invested group of community members who represent the diversity of the Hayward community, with the task of reviewing, evaluating, and updating the Hayward Anti-Discrimination Action Plan (Plan).

BACKGROUND

There is increased tension nationwide, and within the Hayward community, among groups of people who are concerned about their human and civil rights being diminished based on their political affiliation, economic status, immigration status, religion, race, ethnicity, gender, and/or sexual orientation. In response, many people have contacted City officials seeking assurances that the City of Hayward will support all of its residents' civil and human rights, and continue to foster and celebrate the diversity of people who make-up the Hayward community. This has been the City's practice for decades.

In 1989, the Hayward City Council adopted its Resolution Stating the City of Hayward Policy with Regard to Preserving the Rights of All People (Attachment IV – Resolution No. 89-248). Subsequently, in 1992, the Council later adopted the Hayward Anti-Discrimination Action Plan (Plan) (Attachment V, Resolution 92-310). The overall goals of the Plan were to reduce the incidence of discrimination in the community and to support Hayward community members who are victims of discriminatory acts.

It was recognized that the goals of the Plan could not be accomplished by the City alone. Rather, partnerships between the City, community groups and organizations, and individual community members were required for the actions outlined in the Plan to be successful.

The original Plan specified strategies and associated actions to be taken within specified timelines which were designed to address:

- A. Illegal forms of discrimination;
- B. Accessibility Issues; and
- C. Discriminatory Values and Attitudes.

One example of a popular action that was taken was the No Room for Racism campaign. South Hayward residents started this grassroots initiative, which was later adopted by the City. It took the form of:

- A. Weekly demonstrations at the Five Flags Corner (where Jackson Street, Mission Boulevard, and Foothill Boulevard merge) took place where large numbers of community members would stand and hold up No Room for Racism banners (and similar signs) designed to raise awareness and support for these community values;
- B. The distribution of No Room for Racism bumper stickers to community members who proudly displayed them on their vehicles and/or in their windows; and
- C. The posting of No Room for Racism signs that included the City's logo at the entrances to the City. Over time, these signs disappeared or were vandalized. This gave rise to the Adopt-a-Sign initiative where community members would "adopt" one or more signs in their neighborhood by periodically checking on their status. If the sign was damaged or missing, they would report the location to a designated City official and the sign would be replaced. New No Room for Racism signs that now include the new City logo have again been posted at key visible locations around the community.

These efforts gave rise to both organized and informal discussions amongst Hayward citizens about discrimination and civil rights. This soon led community members to report incidents of illegal discrimination to the City. When appropriate, individuals were referred to providers of legal and other support services.

DISCUSSION

The City was recently approached by several members of the Hayward Muslim community seeking partnership with the City to combat increasing incidents of hate directed toward people who appear to be from the Middle East and/or practice the Muslim faith. Additionally, many individuals and community groups representing the Hayward Latino community have expressed fear of numerous actions including: aggressive deportation actions by the new federal administration; losing job and educational opportunities; and being discriminated against and/or subject to hateful and threatening actions by others because of their ethnicity.

In December of 2016, a resident asked that the City of Hayward consider establishing itself as a "Sanctuary City" in order to protect Hayward community members from these and other

related concerns. It has also been suggested that the City consider, as a way of expressing a commitment to diversity and solidarity with vulnerable groups of Hayward residents, adoption of a Charter of Compassion specific to Hayward, similar to the one recently adopted by the City of Fremont (Attachment VI). Community members also noted that there are legislative bills working their way through the California legislature and significant changes to federal legislation, regulations, and practices that could significantly impact Hayward community members. Consequently, it was suggested that the City monitor these state and federal public policies and that Council express its position on these matters on an ongoing basis and at the appropriate times.

In order to responsibly respond in a comprehensive and systematic manner to these and other community concerns and ideas that emerge over time, staff recommends that the City Council identify a dedicated and invested group of community members who represent the diversity of the Hayward community to serve on a time limited Community Task Force to update the Anti-Discrimination Action Plan to reflect the current environment and circumstances. The update to the plan would identify recommended and specific actions that the Council, community groups, and individuals can take to ensure that all members of the Hayward community feel welcome and secure in the “Heart of the Bay.” Members of the City’s various Boards, Commissions and Task Forces can also be sought to serve on the Task Force, given the roles that these community members play to inform and guide Council policy in many areas of interest and concern to Hayward residents. Community members from varied and diverse walks-of-life can be sought to provide their experience and insights regarding fostering and sustaining a community environment which encourages and brings about mutual understanding and respect, and discourages and prevents recognized forms of illegal discrimination.

Staff recommends that the Task Force:

- A. Convene and facilitate community conversations over a six (6) month period that focus on human relations issues in the Hayward community; and
- B. Based on these conversations, review, evaluate, and update the Anti-Discrimination Action Plan. The updated Plan, informed by public input, could then serve to guide specific actions that could be taken by the City or by other community groups in partnership with the City.
- C. Be comprised of two community representatives nominated by each Council Member, two representatives from the Community Services Commission (to be nominated by the Commission), one representative from the Personnel Commission (to be nominated by the Commission), and up to four additional members nominated by the City Manager.

Once adopted by City Council, the updated Plan will be implemented by the City in partnership with Hayward community members. Staff will monitor and provide periodic Progress Reports to the City Council on the implementation of the Plan.

ECONOMIC IMPACT

Positive relations amongst the diverse population of the Hayward community will enhance and sustain Hayward's reputation as being a safe and welcoming community. This, along with the cultural and linguistic diversity of Hayward residents and business and community organization representatives, will also continue to foster community development and the economic growth of the City. PolicyLink, a national research and action institution that works to advance economic and social equity, published a document entitled: "All-In Cities: Building an Equitable Economy from the Ground Up" (Attachment VII). As is stated in this publication:

Inequitable growth is not only unjust – it is socially and economically unsustainable. Research proves that inequality and racial segregation hinders growth, prosperity, and economic mobility in regions while diversity and inclusion fuel innovation and business success.¹

FISCAL IMPACT

No fiscal impact beyond already budgeted staff time and supplies is anticipated pertaining to the review and update of the Hayward Anti-Discrimination Action Plan. There may be a fiscal impact associated with specific actions identified within the plan. These will be evaluated and presented for Council's consideration when the revised Plan is presented to the City Council.

PUBLIC INPUT

As is noted in this report, the actions proposed by staff are in response to many recent contacts initiated by community members and groups about concerns pertaining to rising tensions within the Hayward community and nationally. Because of the fast-evolving nature of the human relations issues described, staff felt it important to present this report to Council as soon as possible, so no additional public outreach efforts were made prior to the initiation of this action.

By design, the proposed Hayward Human Relations Community Task Force will be, if approved by Council, made up of Council identified community members who reflect the diversity of the Hayward community.

NEXT STEPS

The goal is to identify Task Force members as soon as possible so that the first Task Force meeting can be convened no later than February of 2017. The Task Force will aim to complete its work no later than June of 2017. Council will be presented with the Task Force's recommendations pertaining to the Hayward Anti-Discrimination Action Plan no later than July of 2017, with implementation commencing immediately upon approval by the Council.

¹ See the list of studies here: "The Economic Case for Equity and Inclusion", National Equity Atlas, [http://nationalequityatlas.org/about-the-atlas/resources#The Economic Case for Equity and Inclusion](http://nationalequityatlas.org/about-the-atlas/resources#The_Economic_Case_for_Equity_and_Inclusion).

Prepared and Recommended by:

David Korth, Assistant to the City Manager

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. 17-

Introduced by Council Member _____

RESOLUTION FOR THE CREATION OF A LIMITED TERM COMMUNITY TASK FORCE, MADE UP OF COMMUNITY MEMBERS REFLECTING THE DIVERSITY OF THE HAYWARD COMMUNITY, TO REVIEW, EVALUATE, AND UPDATE THE HAYWARD ANTI-DISCRIMINATION ACTION PLAN FOR IMPLEMENTATION BY THE CITY IN PARTNERSHIP WITH HAYWARD COMMUNITY MEMBERS.

WHEREAS, Hayward community members and community groups have reported increasing tensions among groups of people based on their political affiliation, economic status, immigration status, their religion, race, ethnicity, gender, and sexual orientation; and

WHEREAS, in 1989, the Hayward City Council adopted Resolution 89-248 stating the City of Hayward Policy with Regard to Preserving the Rights of All People; and

WHEREAS, in 1992, the Hayward City Council adopted Resolution 92-210, the Hayward Anti-Discrimination Action Plan, which is designed to reduce the incidence of discrimination in the Hayward community and support Hayward community members who are victims of discriminatory acts; and

WHEREAS, Hayward community members and groups have asked the City to re-affirm its support of all Hayward community members' human and civil rights, and continue to foster and celebrate the diversity of people who make-up the Hayward community.

NOW, THEREFORE, BE IT RESOLVED that the Hayward City directs the formation of a limited-term Community Task Force as described in the accompanying staff report, made up of a dedicated and invested group of community members who represent the diversity of the Hayward community; and

BE IT FURTHER RESOLVED that the City will take on the responsibility of monitoring, and providing periodic Progress Reports to the City Council on, the implementation of the updated Anti-Discrimination Action Plan.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2017

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 89-248 C.S. ^{Dist}

Introduced by Councilmember WARD

RESOLUTION STATING THE CITY OF HAYWARD POLICY WITH REGARD TO PRESERVING THE RIGHTS OF ALL PEOPLE

WHEREAS, in keeping with the long standing tradition of preserving constitutional and human rights and the intolerance of racism, the City of Hayward has adopted this resolution; and

WHEREAS, the City of Hayward has had a tradition of embracing and welcoming diversity within its boundaries since it first incorporated over one hundred years ago; and

WHEREAS, it has been a long standing public policy of the City of Hayward to encourage and bring about mutual understanding and respect among all groups of the City, to eliminate prejudice, discrimination, disorder, and to guarantee equal rights and opportunities for all; and

WHEREAS, the City of Hayward reaffirms this policy by expressing rejection of the principles espoused by any group which have an eroding effect upon achieving equality for all men and women, regardless of race, color, national origin, religion, sex, age, marital status, familial status, or handicap; and

WHEREAS, the City of Hayward does not indicate in any way support of the philosophies and practices of any particular group which may be allowed use of the City facilities, however, the City does denounce racism and discrimination of any type; and

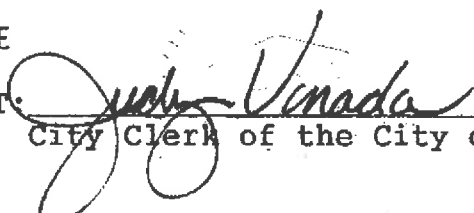
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City is committed to preserving the rights and dignity of all people and the safety and well being of all individuals in the practice of basic constitutional rights and hereby directs that a task force be formed, which will include representatives of community organizations, in order to facilitate better community relations; and

BE IT FURTHER RESOLVED that the City Council wishes for all Hayward residents, and the public at large, to know that they believe in and support the principle that all people are created equal, and that they will do their best to see that individuals in Hayward are treated in a manner which is consistent with these basic human notions.

IN COUNCIL, HAYWARD, CALIF. August 1, 1989

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: JIMENEZ, ARAGON, CAMPBELL, COOPER, SWEENEY, WARD
MAYOR: GIULIANI
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

ATTEST: 
City Clerk of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 92-310

Introduced by Councilmember JIMENEZ

RESOLUTION ADOPTING AN ANTI-DISCRIMINATION ACTION PLAN FOR THE CITY OF HAYWARD

BE IT RESOLVED that the City Council of the City of Hayward hereby adopts the attached Anti-Discrimination Action Plan 1992-93 submitted by the Human Services Commission as the Anti-Discrimination Action Plan for the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA NOVEMBER 10, 1992

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS COOPER, HILSON, JIMENEZ, RANDALL, RODRIQUEZ, WARD

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

ATTEST: Judy Venada
City Clerk of the City of Hayward

APPROVED AS TO FORM:

Alan C. Goff
City Attorney of the City of Hayward



City of Hayward Anti-Discrimination Action Plan 1992-93

Submitted by:
City of Hayward
Human Services Commission

Betty DeForest, Chair

Barbara Chabot
Kerwin Quon
Joseph Devane
Barbara King
Pam Buckholz
Paul Frumkin, III*

Jodie Gordon
Vann Major
Lucille Stanke
Jack Perry
Beatrice Pressley
Ruby Munoz*

Karen Booker*

**Immediate Past Members*

Staff: David Korth, Social Services Planning Manager
Teresa Zarate, Community Program Specialist
Community & Economic Development, City of Hayward

10-14-92

**CITY OF HAYWARD
ANTI-DISCRIMINATION ACTION PLAN
1992-93**

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SECTION I

INTRODUCTION

A. GUIDING PRINCIPLES

The following guiding principles will be utilized when planning for, and implementing, the Hayward Anti-Discrimination Action Plan (Plan):

1. The Plan shall be developed and implemented with public input and participation in order to enhance its effectiveness.
2. The Plan shall be proactive, as well as responsive.
3. The Plan shall be designed to enhance, rather than duplicate, activities which have already been implemented. Recognition will be given to activities conducted by the City which were in effect prior to the implementation of the Plan.
4. The Plan shall include sound and innovative ideas.
5. The Plan shall use a multilingual approach since many within the Hayward community communicate in languages other than English.
6. The Plan shall include actions which are designed to assist those who are victimized by discrimination, and shall contribute to the creation of an environment that expressly opposes discriminatory acts.
7. The Plan shall include actions designed to encourage the mass media to produce material which does not perpetuate discriminatory values or concepts.
8. The Plan shall avoid using labels whenever possible to describe groups of people for this can have a destructive, rather than constructive, effect.
9. The Plan shall take into account the fact that discriminatory acts can be, and often are, traumatic for the victims of those acts.
10. The Plan shall encourage people to learn as much as possible about the customs and social etiquette of the various cultures represented in Hayward in order to enhance communication between diverse groups.
11. The Plan will be evaluated for effectiveness. The purpose of the evaluation will be to improve upon, rather than discard, the actions taken and will be designed to evaluate the long-term, as well as the short-term, effects of those actions.

**Anti-discrimination Action Plan
Introduction, continued:**

B. DEFINITION OF PROBLEM:

The term "discrimination" shall, for the purposes of this document, be used to describe those actions which are directed against the welfare of another based on race, sex, religion, national origin, age, disability, or sexual orientation. It is also recognized that people can experience discrimination based on other personal characteristics. (*1)

Discrimination can take many different forms. It can be overt or covert in nature. Discriminatory activity may be conscious and deliberate or inadvertent, due to a lack of understanding or insensitivity. In order to address the various aspects of the problem, the Anti-Discrimination Action Plan must be multifaceted.

C. BACKGROUND:

In 1990 the Hayward City Council reaffirmed the role of the Human Services Commission in addressing discrimination and directed the Commission to develop an Anti-Discrimination Action Plan (Plan) for the City. A sub-committee of the Commission was formed to develop a draft Plan.

The Committee took the position that in order for the Plan to be effective, public input and participation must be sought. A Community Forum was conducted on February 1, 1992 to facilitate community input on the draft Plan. Approximately 100 people, including 30 organizations, attended this event. Valuable comments and suggestions were provided. Many additional ideas were submitted during the months following the Forum as well. Since that time, the Commission and City staff have reviewed all of this information and have attempted to incorporate as many of the ideas as possible into the Plan.

In addition to many specific recommendations, three general themes emerged from the comments that were submitted:

- (1) Simplify the Plan so that it is easy to understand;
- (2) Develop a plan which will lead to action;
- (3) Review and update the Plan as needed.

(*1) A person's low economic status and/or lack of political power can also result in their being discriminated against. The City of Hayward supports many community social service and economic development programs designed to meet the needs of its poorest citizens, however, these are not described in detail in this document. For more information about these programs, contact the Hayward Community and Economic Development Department, (510) 293-5345.

**Anti-discrimination Action Plan
Introduction, continued:**

So that the Plan can address the concerns of the many different groups of people who reside in the Hayward community, it was designed to focus on three (3) general issue areas, rather than on the concerns of any one particular group. These are:

- (A) Strategies for Addressing Illegal Forms of Discrimination;
- (B) Strategies for Addressing Accessibility Issues; and
- (C) Strategies for Addressing Discriminatory Values and Attitudes.

The Plan specifies actions to be taken and timelines for implementation. The parties responsible for assuring that the activities are carried out are also identified.

The Human Services Commission formally approved the Plan at its August 13, 1992 meeting and agreed to forward it to the City Council for adoption. The Commission proposes that it serve as the citizen's Anti-discrimination Action Plan review committee. As such, it will be the responsibility of the Commission to obtain continual feedback about the implementation of the Plan, and to make recommendations for needed changes to the City Council. (*2)

In summary, the overall goals of the Hayward Anti-Discrimination Action Plan are to reduce the incidence of discrimination in the community and to support Hayward citizens who are victims of discriminatory acts. The Commission recognized that the goals of the Plan cannot be accomplished by the City of Hayward alone. The City will need to work on a cooperative and voluntary basis with other public and private institutions, community groups and individual community members in order to make this a successful effort. It is the Commission's hope that by adopting and implementing this Plan the City will take a lead in developing a community where discrimination is unacceptable, where educational opportunities designed to increase awareness and tolerance of diversity will be available for those willing to be educated, and where persons who find themselves victimized by discriminatory acts will have a place to turn to for help.

(*2) The Human Services Commission has regular public meetings on the first Thursday of each month, at 7:30 p.m., at Centennial Hall, 22292 Foothill Blvd., Hayward, California. The public is encouraged to attend and to provide feedback on the Plan. The community can also attend City Council meetings which are regularly scheduled every Tuesday at 8:00 p.m., also at Centennial Hall in Hayward. (NOTE: To confirm a specific meeting time and location, call Hayward City Hall at (510) 293-5123.

SECTION II

ACTION PLAN

PART A. STRATEGIES FOR ADDRESSING ILLEGAL FORMS OF DISCRIMINATION:

A.1. Hate Violence and Civil Rights :

(NOTE: California law specifically forbids violence or threats of violence that are based on one's race, color, religion, sex, ancestry, national origin, age, disability, sexual orientation, or political party. California law also states that it is illegal for someone to use force or threats of force to interfere with another's rights under the United States or California constitutions - or other federal or state laws - because of one's race, sex, color, religion, national origin or sexual orientation.)(*3)

A.1.1. The City of Hayward shall develop a system to enhance coordination among, and develop protocol for, the various City departments which may receive complaints from citizens related to hate crimes.

TIMELINE: By January 31, 1993.

RESPONSIBLE PARTY: Police Department

A.1.2 The City of Hayward shall develop strategies to facilitate the reporting of hate crimes by persons who are hesitant to make reports to the Hayward Police Department.

TIMELINE: By March 31, 1993.

RESPONSIBLE PARTY: Community and Economic Development Department/Police Department.

A.1.3. The Human Services Commission will research how Hayward police officers are trained to identify and report on hate crimes in order to determine if the training is adequate and to make recommendations for improvements if needed.

TIMELINE: By December 1992.

RESPONSIBLE PARTY: Human Services Commission.

(*3) What Should I Know About Hate Crimes - Get the Legal Facts of Life, Pamphlet prepared by the State Bar of California, 555 Franklin Street, San Francisco, 94102.

Anti-Discrimination Action Plan
Part A., continued:

- A.1.4 The Human Services Commission will inquire about the City's policies and procedures with regards to receiving and responding to complaints about reported acts of discrimination by City employees towards the public in order to determine if these are adequate and to make recommendations for improvements if needed. The policies of departments with personnel who are granted powers of authority, such as police officers, fire fighters, inspectors, etc. will be reviewed in particular to determine if adequate steps are being taken to ensure that this power is not abused.

TIMELINE: By January 1993.

RESPONSIBLE PARTY: Human Services Commission

- A.1.5. A coordinated system shall be established, involving appropriate City departments and other community organizations, for assisting victims of hate crimes. City officials and community agency representatives who have lists of resources for assisting victims of hate crimes shall be contacted and all lists compiled into one master list. Finally, the information will be made available to the public.

TIMELINE: By March 31, 1993.

RESPONSIBLE PARTY: Community and Economic Development Department/City Manager's Office.

- A.1.6. The City of Hayward shall coordinate efforts with established Neighborhood Watch groups and Home Owner Associations to address hate crime issues occurring in the community.

TIMELINE: To be established

RESPONSIBLE PARTY: Police Department

- A.1.7. The City of Hayward shall coordinate efforts with local, state and federal agencies to track and reduce the incidence of hate crimes. In addition, reports will be submitted on a regular basis to the Human Services Commission recording the number of hate crimes occurring in the Hayward community.

TIMELINE: Local tracking being implemented; coordination with state and federal efforts shall begin when these systems are implemented.

RESPONSIBLE PARTY: Police Department

**Anti-Discrimination Action Plan
Part A.1, continued:**

A.1.8. The City of Hayward shall maintain contact with the California Department of Fair Employment and Housing, and the Federal Equal Employment Opportunity Commission in order to continue receiving current information about pending State anti-discrimination laws. The Mayor, City Council and other interested City officials shall be kept apprised of pertinent issues.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Community and Economic Development Department/Personnel Department.

A.1.9. The City of Hayward will continue to participate with other organizations, including the California Association of Human Rights Organizations, and the Alameda County Multi-cultural, Multi-lingual Oversight Committee, in order to keep apprised of anti-discrimination activities being conducted in other communities, and to update the Anti-discrimination Action Plan as needed.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Community and Economic Development Department.

Anti-Discrimination Action Plan
Part A.2:

A.2. Employment Discrimination:

(NOTE: Federal and California State Laws prohibit discrimination in employment based on one's race, ancestry, national origin, color, sex, religion, physical disability (including AIDS), marital status, age (over 40) and cancer-related medical conditions. Persons are also protected by law from retaliation against them for filing a complaint or for protesting possible violations of the law.) (*4)

A.2.1. Persons reporting suspected discrimination in their place of employment to the City of Hayward shall be assisted in making contact with the Federal Equal Employment Opportunity Commission or the California State Department of Fair Employment and Housing. All City departments which receive such complaints will receive the information necessary to make appropriate referrals.

TIMELINE: Presently being implemented: dissemination of information to City departments by December 1992.

RESPONSIBLE PARTY: Community and Economic Development Department/Personnel Department.

A.2.2 The City of Hayward will support efforts to prohibit discrimination in employment (and housing) based on "sexual orientation" under State law. Given that the state has historically failed to pass legislation which includes these protections, the Commission will also recommend that the City create an ordinance prohibiting discrimination in employment (and housing) on the basis of one's race, ancestry, national origin, color, sex, religion, physical handicap (including AIDS), marital status, age, cancer-related medical conditions and sexual orientation.

TIMELINE: By October 1992.

RESPONSIBLE PARTY: Human Services Commission.

A.2.3. The City of Hayward shall continue to function as an Equal Opportunity/Affirmative Action Employer, and shall continue to provide information and training to all City employees in order to create a discrimination free work environment.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: City Manager's Office/Personnel Department.

(*4) Discrimination is Against the Law, Pamphlet produced by the California Department of Fair Employment and Housing, 30 Van Ness Avenue, #3000, San Francisco, CA. 94120, (415) 557-2005. [Also, see Section B.4. of this document].

Anti-Discrimination Action Plan
Part A.2, continued:

- A.2.4. The City's Affirmative Action Committee shall continue to serve as an advisory body to the City Manager and City Council with regard to the implementation of the City's Affirmative Action Policies.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Personnel Department.

A.3. Housing Discrimination:

(NOTE: California State Law prohibits discrimination in renting, leasing, and selling housing based on race, ancestry, sex, national origin, color, religion, marital status, age (or presence of children in a household), or physical handicap (including AIDS). Individuals are also protected by law from retaliation for filing complaints.) (*5)

- A.3.1. Persons reporting suspected housing discrimination to the City of Hayward shall be assisted in making contact with the California State Department of Fair Employment and Housing and/or the Eden Council for Hope and Opportunity (ECHO Housing). All City departments which receive such complaints will receive the information necessary to make appropriate referrals.

TIMELINE: Presently being implemented; dissemination of information to City departments by December 1992.

RESPONSIBLE PARTY: Community and Economic Development Department.

- A.3.2. In accordance with the City of Hayward Child Discrimination Ordinance (No. 89-055), the City shall prohibit discrimination against families with minor children in residential rental housing.

TIMELINE: On-going; this ordinance has been in force since November 1989.

RESPONSIBLE PARTY: Community and Economic Development Department.

(*5) Discrimination is Against the Law, Pamphlet produced by the California Department of Fair Employment and Housing, 30 Van Ness Avenue, #3000, San Francisco, CA. 94120, (415) 557-2005. [Also, see Section B.4. of this document].

**Anti-Discrimination Action Plan
Part A.4:**

A.4. Discrimination in Education:

(NOTE: While there are various state and federal laws which prohibit discrimination by public education institutions, the City of Hayward has no authority over the Hayward Unified, Community College or State University school systems. The City is committed to working with these public institutions on a voluntary and cooperative basis.) *

A.4.1. Persons reporting suspected discrimination in a public education institution to the City of Hayward shall be assisted in making contact with the appropriate authority including the Hayward Unified School District, State Department of Education, the Community College or State University School Systems. In addition, community-based advocacy organizations will be identified and referred to as appropriate. All City departments which receive such complaints will receive the information necessary to make appropriate referrals.

TIMELINE: Presently being implemented: dissemination of information to City departments by December 1992.

RESPONSIBLE PARTY: Community and Economic Development Department.

* [Also, see Section B.4. of this document].

Anti-Discrimination Action Plan
Part B:

PART B. STRATEGIES FOR ADDRESSING ACCESSIBILITY ISSUES:

B.1. Services Provided by the City:

- B.1.1. The City shall update, disseminate and encourage the use of its list of City employees who have multilingual capabilities so that assistance can be provided throughout the City to persons with limited or no English language skills.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: City of Hayward Finance Administration Division.

- B.1.2. All City employees shall be encouraged to use the AT&T Language Line Service. This 24-hour service makes interpreters and linguists who speak over 140 languages available to all City employees.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: City Manager's Office/All City Departments.

- B.1.3. The City library shall make multi-lingual, multi-cultural information easily accessible. Information about how to use the library will also be made available in the languages spoken by significant numbers of Hayward residents.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Library Department.

- B.1.4. The City of Hayward shall implement its plan to conform to all applicable sections of the federal Americans with Disabilities Act (ADA) which is designed to make services accessible to persons with disabilities.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: City Manager's Office/All City Departments.

Anti-Discrimination Action Plan
Part B.1, continued:

- B.1.5. The City shall continue efforts to make available information and training opportunities on emergency preparedness to persons not fluent or literate in the English language.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Fire Department.

- B.1.6. The City of Hayward will develop a single comprehensive resource directory of community-based organizations serving the various groups represented in the Hayward community. This will be done to assist City personnel in providing useful referral information to the public in a consistent manner.

TIMELINE: By June 1993.

RESPONSIBLE PARTY: Library, Community and Economic Development Department, Personnel Department and City Manager's Office.

B.2. Services Provided for the City Through Service Contracts:

- B.2.1. The City of Hayward shall require all service contractors to agree that no person shall, on the grounds of race, color, national origin, religion, sex, sexual orientation, human immunodeficiency virus (HIV) status, age, marital status, familial status, or handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with funds made available to the contractor by the City.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Each City Department responsible for managing service contracts.

**Anti-Discrimination Action Plan
Part B.2, continued:**

B.2.2. The City of Hayward shall continue its Purchasing and Contract Compliance Program which has as a main objective to provide leadership and assistance to all City departments, contractors and vendors in successfully implementing the City's Affirmative Action Purchasing Plan and Contracting Procedures. The goals of this program are:

- * To improve communication with contracting departments while establishing a "team approach" to resolving minority/ woman-owned business (M/WBE) contract participation issues;
- * To ensure equitable M/WBE procurement opportunities and participation in City contracts for equipment supplies and services, professional services, and Public Works construction projects; and
- * To ensure Equal Employment Opportunity compliance for contractors and strengthen departmental outreach recruitment efforts for M/WBE contractors.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Finance Department.

B.3. Services Provided by the Private Sector:

B.3.1. The City shall conduct a meeting with representatives of the Hayward Chamber of Commerce and other interested community organizations to publicly recognize those businesses which demonstrate an effort to make their services accessible to persons with disabilities and/or language/cultural barriers.

TIMELINE: To be established.

RESPONSIBLE PARTY: To be established.

B.4. Public Accommodations - General:

B.4.1. In accordance with the City of Hayward Anti-Aids Discrimination Ordinance (No. 86-032), the City shall prohibit discrimination in housing, medical and dental services, business establishments, City facilities, City services, employment, and other public accommodations on the basis of the fact that the person has the medical condition Acquired Immune Deficiency Syndrome (AIDS) or any conditions related thereto.

TIMELINE: On-going

RESPONSIBLE PARTY: Community and Economic Development Department

Anti-Discrimination Action Plan
Part C:

PART C. ADDRESSING DISCRIMINATORY VALUES AND ATTITUDES:

C.1. Working with Other Public Agencies Serving the Hayward Community:

- C.1.1. The City of Hayward will continue to participate in the Public Agency Liaison Committee (*6), and will recommend coordinating efforts designed to increase the awareness of, and celebrate, the various cultures and customs of those who make up the Hayward community.

TIMELINE: The Committee meets every two months; City to make recommendations to Committee by February 1993.

RESPONSIBLE PARTY: City Manager's Office.

- C.1.2. The Hayward Police Department shall continue its Youth and Family Services program which includes the assignment of School Resource Officers (SRO's) to Hayward Unified School District high schools and intermediate schools in order to provide preventive counseling, to discuss conflict resolution techniques, and provide other assistance designed to help students get along with their peers, families and school personnel.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Police Department.

C.2. Working with Community-based Organizations and Organized Community Groups:

- C.2.1. The City of Hayward shall sponsor, co-sponsor, or support community events which are designed to discourage discrimination, increase cultural awareness, and celebrate diversity in the Hayward community.

TIMELINE: Throughout the year.

RESPONSIBLE PARTY: Various City Departments/Coordinated by City Manager's Office.

(*6) This Committee also includes representatives from the Hayward Unified School District, the California State University at Hayward, Chabot College, and the Hayward Area Recreation and Park District (HARD).

Anti-Discrimination Action Plan
Part C.2, continued:

- C.2.2. The City shall lead an effort to create a location in downtown Hayward which would feature exhibits representing the different cultures that make up the Hayward community.

TIMELINE: To be established.

RESPONSIBLE PARTY: Human Services Commission

- C.2.3. The Human Services Commission shall continue to encourage community groups to attend Commission meetings and report concerns regarding discrimination in the community, as well as to share ideas and information on activities which are designed to discourage discrimination.

TIMELINE: Presently being implemented.

RESPONSIBLE PARTY: Community and Economic Development Department.

C.3. Working with the Media:

- C.3.1. The City of Hayward will initiate contact with local media sources in an attempt to publicize positive news items related to anti-discrimination efforts.

TIMELINE: On-going.

RESPONSIBLE PARTY: City Manager's Office.

- C.3.2. The City of Hayward will attempt to work with local media sources to encourage the production of media material which does not perpetuate discriminatory values or concepts.

TIMELINE: On-going.

RESPONSIBLE PARTY: Human Services Commission.

SECTION III

EVALUATION OF THE ANTI-DISCRIMINATION ACTION PLAN

It is the intent of the Human Services Commission to evaluate the effectiveness of the Plan on an ongoing basis and do a full review one year after it is adopted. The Commission shall also monitor the implementation of the Plan and report to the City Council on its progress. Community input will be an important aspect of the evaluation process. People may provide feedback by attending Human Services Commission (*7) meetings or writing to:

**HUMAN SERVICES COMMISSION
CITY OF HAYWARD
c/o COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
25151 Clawiter Road
Hayward, CA. 94545-2731**

The purpose of the evaluation will be to improve upon, rather than discard, the efforts described in the Anti-Discrimination Action Plan. To evaluate the effectiveness of the Plan, each of the specific actions described will be reviewed. This review will be to determine not only if the specific activities were accomplished, but to also determine if additional efforts must be made to satisfactorily address the problem of discrimination in the Hayward community.

(*7) Hayward citizens who are interested in learning more about the Human Services Commission, the various issues they address, and/or how to apply to serve on a City commission are encouraged to contact the Hayward City Clerk at (510) 293-5123.

RESOLUTION NO. 2016-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT ADOPTING
A CHARTER OF COMPASSION FOR THE CITY OF FREMONT**

WHEREAS, the Charter for Compassion, initiated by Ted prize winner Karen Armstrong, was unveiled at the United Nations in 2009 and carries forth the vision of creating a global civil society adhering to the “golden rule,” to treat others as you would like to be treated; and

WHEREAS, there is now a growing worldwide network of Compassionate Communities which have signed the Charter for Compassion in 50 countries and over 70 cities globally with many more which are actively organizing to create a compassionate action plan; and

WHEREAS, there has been an active group of Fremont residents which include the Tri-City Interfaith Council, the City’s Human Relations Commission and others who have been diligently working to garner support for adoption of a Compassionate Charter by the City of Fremont; and

WHEREAS, adoption of the Fremont Compassionate City Charter is supported by hundreds of Fremont residents and is now being presented to the Fremont City Council on this day, January 12, 2016, for adoption prior to the City’s 60th anniversary this month; and

WHEREAS, the City Council encourages all citizens of Fremont to affirm the Charter for Compassion and to strive to live and act more compassionately.

NOW, THEREFORE, BE IT RESOLVED that the City of Council of the City of Fremont does hereby adopt the City of Fremont Compassionate Charter as follows:

The principle of compassion lies at the heart of all ethical and spiritual traditions, calling us always to treat all others as we wish to be treated ourselves. Compassion impels us to alleviate the suffering of our fellow creatures, to dethrone ourselves from the center of our world, and to honor the sanctity of every human being, everybody, without exception, with justice, equity and respect.

It is also necessary in both public and private life to refrain consistently and empathically from inflicting pain. To act or speak violently, to deny basic rights, and to incite hatred against others – even our enemies- are denials of our common humanity.

We therefore call upon all people to restore compassion to the center of morality-to ensure that youth are given accurate and respectful information about other traditions and cultures, to encourage a positive appreciation of cultural and ethnic diversity, to cultivate an informed empathy with the suffering of all living beings, and to cherish and respect the precious planet, which is home to all of us.

We urgently need to make compassion a clear, luminous and dynamic force in our polarized world. Rooted in a principled determination to transcend selfishness, compassion can break down political, dogmatic, ideological and religious boundaries - even between those regarded as enemies. Born of our deep interdependence, compassion is essential to human relationships, to a fulfilled humanity, and to the creation of a just and peaceful global community.

ADOPTED January 12, 2016 by the City Council of the City of Fremont by the following vote:

AYES: Mayor Harrison; Vice Mayor Mei; Councilmembers Chan, Bacon and Jones

NOES: None

ABSENT: None

ABSTAIN: None

All-In Cities: Building an Equitable Economy from the Ground Up



All-In Cities: Building an Equitable Economy from the Ground Up

by Sarah Treuhft

Acknowledgments

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Preface

The first quarter of the 21st century may well be remembered as the period in which U.S. cities regained their footing, showed their resilience, and became drivers of economic innovation. All-In Cities, a new initiative launched with this report, offers tools and strategies to accelerate this process and ensure city success is sustained by deliberately baking in pathways for all to contribute and prosper, a crucial ingredient for “comeback cities.”

All-In Cities marks a continued effort to shift the narrative on racial inequality in America. We believe that dismantling persistent racial barriers and investing in the people of color who are the emerging majority is both the right thing to do and critical to securing America’s economic future. Cities are ground zero for demonstrating this interconnectedness. Success in cities and the nation depends on the ability of people of color to be the leaders, innovators, workers, entrepreneurs, and creative problem solvers who can produce widespread prosperity for generations.

This report, along with the All-In Cities initiative, focuses on the particular role of cities in moving toward an all-in nation. Large and small, urban and suburban, cities are where most people of color live and where the next economy is taking shape. They are where movements countering inequality and police brutality are capturing the public’s imagination and propelling forward new policy solutions. And cities are where working-class communities of color are most able to be equal partners in creating innovative solutions.

All-In Cities challenges cities to step up and take on their toughest challenges. Through this initiative, PolicyLink will continue its attempt to change the dialogue about how and why equity matters to city and regional futures, while working hand-in-hand with city leaders who are ready to advance equitable growth strategies designed to achieve measurable progress on racial economic inclusion.

We are excited to seize this moment of urban revival to go “all-in” for cities.



Angela Glover Blackwell
President and CEO



Michael McAfee
Vice President for Programs

Introduction

America is having a city moment. After decades of losing residents, jobs, and investment to the suburbs, urban neighborhoods are coming back, captivating educated millennials and innovation-economy companies with their diversity and density.¹ Americans love an underdog story, and the resurgence of our cities is a tale full of hope and promise.

But that comeback story elides the critical question: *for whom are cities coming back?* Beneath the glory of rebound and buzz of startup hubs lies the harsh reality of rising inequality and persistent structural racism. For most low-income people of color—many who lived in cities through their long decline while being systematically shut out of the greatest wealth-building opportunities of the past century—the new urban economy is just as unkind as the old. They are still waiting for their recovery, struggling and striving to provide for their children on strapped budgets and flat paychecks in neighborhoods that conspire against their health, livelihoods, and—far too often—their very lives.

It doesn't need to be this way. There is an alternative to racial exclusion and unequal growth, and cities have a critical role to play. By becoming “all-in cities” that deeply embrace inclusion and thrive on the participation, creativity, and contributions of the very groups who've long been left behind, America's cities can help create a new economy that is equitable, sustainable, and prosperous.

Cities are the nation's engines of economic and policy innovation and where new, expanded forms of citizenship and democracy are born. As the command centers of the knowledge-driven economy, cities are where inclusion can be incorporated into the business models of the country's economic powerhouses. As the vanguards of the nation's emerging people-of-color majority, cities can tap the accumulated knowledge of institutions and leaders working in and for communities of color. And as the country's most trusted policy incubators, cities can establish the new rules of the game needed to build an equitable economy.

Inequitable growth is not only unjust—it is socially and economically unsustainable. Cities cannot afford to chase after mobile millennials and footloose companies while underinvesting in their own residents, entrepreneurs, and neighborhoods. Research proves that inequality and racial segregation hinders growth, prosperity, and economic mobility in regions while diversity and inclusion fuel innovation and business success.² As baby boomers retire and the pool of American workers grows more and more diverse, the costs of racial economic exclusion—and the value proposition of inclusion—will continue to rise.

There is no time to waste. During this moment of resurgence, cities must act to firmly connect their low-income people and communities of color to the new economy and its needs for fresh ideas, ingenuity, and skilled workers—and ensure they have the opportunity to stay in their neighborhoods and cities as they improve.

Thankfully, the “inclusion revolution” has already begun.³ From Seattle to Dubuque to Ferguson to New York, equity champions are implementing policies and practices to build all-in cities, dismantling barriers and equipping their residents with the opportunities and resources they need to thrive. No city is there yet, but like the residents they serve, these local leaders are strivers and doers. They believe their cities can become geographies of inclusion, justice, and human flourishing—and are working to make that vision the reality.

The All-In Cities initiative at PolicyLink aims to deepen, amplify, and multiply these efforts to build equitable, thriving cities. In the pages that follow, we present a set of cross-cutting practices for all-in cities and an eight-point policy framework that is the focal point of an ongoing campaign to create just cities and an equitable America. We hope you will join us.



What Is an All-In City?

Every journey needs a North Star, and the path to “all-in cities” is no exception. How then, do we define an all-in city?

It starts with equity, which we define as just and fair inclusion into a society in which all, including all racial and ethnic groups, can participate, prosper, and reach their full potential. Equity seeks to counteract the barriers and systemic exclusions (historic and current) that prevent people from realizing their potential. Attaining equity requires understanding those barriers and working to proactively ensure each individual’s circumstances—in their neighborhoods and streets, at school and work, in their local economy—provides them with the optimal opportunity to thrive.

All-in cities manifest equity within a specific city, nested within a specific regional economy. In an all-in city, your life chances and outcomes are not determined by your race, ethnicity, gender, nativity, religion, sexual orientation, disability status, zip code, or family income. Residents of all-in cities can access the resources and opportunities they need to fully participate in and contribute to the economic, political, and cultural life of the city. All-in cities foster inclusive growth: implementing win-win policies and strategies that grow good jobs and new businesses critical to a thriving economy while ensuring that workers and entrepreneurs play a role in generating that growth and share equitably in its benefits.

The all-in city is a work in progress. Cities are dynamic, complex, and constantly evolving and the work of building all-in cities requires a long-term commitment, intentionality, vigilance, and constant learning.

Cities become all-in as they make measurable progress on key indicators of racial inclusion and equitable growth. Each city needs to understand its unique conditions and assets, set ambitious goals to reverse the trendline on inequity, and select metrics that align with those goals. Here are a few examples of the types of indicators and metrics that might guide city governments and advocates as they seek to become equitable cities:

- The number and share of Black, Latino, Native American, Asian, and other workers of color who are jobless decreases and the city moves toward full employment—when everyone who wants a job has one—for all racial and gender groups.
- Entrepreneurs of color are able to grow their companies and create more accessible, living-wage jobs for low-income people of color.
- The number and share of youth who are disconnected from work or school decreases, with the steepest decreases among youth of color, including LGBTQ youth of color.
- The number of low-income tenants who are evicted or priced out of gentrifying neighborhoods decreases.
- Police fatalities decrease, and people of color are no longer disproportionately harmed by police violence.

Practices for Inclusive Cities

All-in cities are created through a set of equity-focused practices that cut across policy arenas.

Integrate a focus on people, place, and the economy

The builders of all-in cities understand that their cities—and the neighborhoods where low-income people of color live—are embedded in a broader metropolitan economy, and act to create more connections and linkages between their under-served residents and the regional and global economy. They recognize that place-based and people-oriented strategies, community organizing, policy changes, and new business and financing models are all valuable and necessary to create equitable cities. They are savvy about resources and innovate new ways of working with markets and investors to achieve solutions at scale.

Embrace equity as an economic imperative

Private sector businesses employ most city residents and are crucial partners for advancing equitable growth. All-in city leaders help business leaders see the long-term, bottom-line benefits of racial and economic equity and engage them in developing and implementing solutions.

Focus on the most vulnerable

By developing strategies and policies to meet the needs of the most vulnerable, all-in cities create solutions that have cascading benefits. Take the case of school integration in Evanston, Illinois, a suburb of Chicago. The Evanston school district is one of the most diverse in the country, but a few years ago, the district saw that students of color were under-represented in advanced placement (AP) courses. It began trying new strategies, including placing all youth in freshman honors' classes. Three years later, significantly more Black and Latino students were taking and performing well on AP tests. And the changes are not only benefiting students of color: White students had improved on the same measures.⁴

Embed anti-racism throughout government

Racial inequities in cities are not inevitable: they are created and perpetuated by the actions, investments, policies, and decisions of society's most powerful institutions, including local governments. All-in cities transform themselves from

within, analyzing all of their decisions and practices with a racial equity lens (asking: Who benefits? Who pays? Who decides?), and using their power and influence to remove barriers and expand opportunities. In 2005, Seattle became the first city in the nation to launch a citywide initiative to eliminate racial inequities and structural racism. Now, more than a dozen local governments have launched similar initiatives and participate in the Government Alliance on Race and Equity national network.

Strengthen the public realm: public action, public space, and public institutions

All-in cities require active governments that find ways to invest in the public infrastructure and public space that are such critical resources for low-income communities of color who have little access to privately provided goods and services. Cities need strong public institutions—school districts, health departments, police departments—that effectively serve communities of color and help their cities succeed.

Ensure meaningful community participation, leadership, and ownership

Residents of disinvested neighborhoods possess valuable information, insight, and wisdom that city governments need to design and implement solutions that work. They are also uniquely positioned to carry out innovative and creative solutions to city challenges like repurposing vacant land and stewarding parks. And community ownership and control of land and assets is critical for equitable development without displacement as neighborhoods attract new investment.

Take on the challenge of achieving equity results at scale

All-in cities aim for structural changes, acknowledging and taking on their cities' toughest and most enduring challenges of racial inequity. They use the best information available—and the proliferation of better and more detailed data—to understand current conditions and inform and continuously hone strategies to set targets and achieve results for specific excluded populations while improving outcomes for entire populations.

The Policy Agenda for All-In Cities

Countering unequal growth and making real progress on racial and economic equity will require transforming the way that cities work. To become truly “all-in,” cities need to implement focused policy and systems changes to achieve measurable results. We offer the following eight policy goals as a framework:

- 1. Grow good, accessible jobs that provide pathways to the middle class.**
- 2. Increase the economic security and mobility of vulnerable families and workers.**
- 3. Cultivate homegrown talent through a strong cradle-to-career pipeline.**
- 4. Create healthy, opportunity-rich neighborhoods for all.**
- 5. Build resilient, connected infrastructure.**
- 6. Increase access to high-quality, affordable homes and prevent displacement.**
- 7. Expand democracy and the right to the city.**
- 8. Ensure just policing and court systems.**

Our aim is to provide inspiration and guidance to cities and advocates as they craft and implement tailored policy agendas to make inclusive growth their reality. We provide a policy menu rather than a prescription, highlighting key strategies that are within the control or authority of local city governments (at least of some of them). Local governments are diverse in their powers, resources, market contexts, and capacity. While these eight broad policy goals are relevant for all cities, local leaders will need to assess which of the solutions within those policy arenas are right for their city at this time.

Local governments can and must lead on equitable growth, but they cannot do it alone. Regions are the true economic units in the global economy, and coordination across the central cities, suburban cities, counties, and smaller cities within a region is critical. Supportive state and federal policy and investment is also essential. While some states have been supportive of this agenda, others have passed laws prohibiting their cities from enacting some of the policies in this agenda. Equity advocates must work to overturn these laws and be ready to stave off new ones.

Likewise, federal policy and practices must pave the way for—and not impede—local progress toward full inclusion. Our national urban policies need to support local equity innovations and provide the infrastructure and financing to take these solutions to scale. National policies on immigration, education, transportation, housing, economic development, and more, must set the stage for local inclusive growth strategies. Additionally, the federal government must ensure that federal resources go toward equitable practices and policies and that residents’ civil rights are protected.

The private sector also plays a unique and important role. The business case for racial economic inclusion is real, and companies need to invest in inclusive growth, incorporating it into their business models as well as partnering with local governments and community institutions to put these policy solutions in place.

Community-based institutions remain crucial on-the-ground partners in developing and carrying through all of these strategies—and must continue to lead, especially with neighborhood-level efforts.



A protester looks on at a rally for fair wages Wednesday, April 15, 2015, in Seattle. (AP Photo/Elaine Thompson)

1. Grow good, accessible jobs that provide pathways to the middle class

For Sammi Babakrkhil, a shuttle driver and valet attendant who immigrated to the United States from Afghanistan 11 years ago, it meant being able to quit his second full-time job, reducing his weekly hours from 80 to 40, having more time to spend with his wife and three girls, and starting to exercise.⁵ For Ashley Young, a 27-year-old cashier, it meant affording to play on a competitive softball league. Sammi and Ashley are among more than 1,600 workers whose jobs are better and lives are fuller because of the nation's first \$15 living-wage law, passed in 2013 by the small, majority people-of-color Seattle suburb of SeaTac.⁶ Fifteen dollars an hour is a policy innovation that was born in cities, first chanted in November 2012 by striking fast-food workers in New York City who were bold enough to demand more when the nation's highest minimum wage was \$10.24/hour, in high-cost San Francisco.⁷ It has been a game changer, with 10 other cities and counties enacting \$15/hour minimums, and about a dozen other cities raising their minimum wages. And the momentum around higher local minimum wages has spread beyond progressive strongholds like Seattle and Oakland, with recent wins in St. Louis, Kansas City, and Birmingham.

“”

With the \$15 I can survive but still live pay check to pay check. I used to work two full-time jobs. This year is the only time I can enjoy a little bit of my social life as well.

Sammi Babakrkhil, Masterpark valet, SeaTac

Good jobs that are accessible to workers of color and other marginalized workers who are likely to live in poor, isolated neighborhoods form the bedrock of all-in cities. A job that pays enough to support one's family and put some away for the future, provides health care and other benefits, and safe, dignified, family-friendly working conditions is a universal foundation for well-being and prosperity. But cities struggle to provide good jobs for all of their residents. While most cities are recovering from the Great Recession—92 percent said their economies did better this year than last in a recent National League of Cities survey—the recovery has been slow, incomplete, and the jobs that have come back are generally not good jobs. Many African American, Latino, Native American, Asian, and other workers of color are still jobless, and most of the jobs cities have regained are low-wage jobs that keep their workers on the bottom rungs of the economic ladder.⁸

All-in cities use all of the tools at their disposal—economic and small business development, procurement, contracting, and wage standards—to grow more good, accessible jobs and raise the floor on low-wage jobs to turn them into good, living-wage jobs.

Key Strategies:

- Target economic development efforts to grow high-road, inclusive businesses within high-opportunity industries: ones that have potential for growth and create good, “middle-skills” jobs for people with less than a four-year degree.
- Leverage procurement and contracting to help entrepreneurs of color and triple-bottom-line businesses (social enterprises, cooperatives, B Corps, etc.)—both of which are more likely to hire workers of color—grow more good jobs.
- Transform low-wage jobs into good jobs by setting high community standards for wages and benefits (including paid sick leave), preventing wage theft, ensuring fair scheduling, and supporting worker organizing.

2.

Increase the economic security and mobility of vulnerable families and workers

“It’s renewed my life,” says LeDaya Epps of Los Angeles. “It has been a lifeline to a career I am proud of.” After struggling to make ends meet for her three children during a two-year bout of unemployment and before that, patching together a living doing home care work, LeDaya now has a new career in construction, a secure livelihood, and bright prospects. She is among the tens of thousands of Los Angeles workers who have accessed good jobs through the region’s efforts to connect residents with gainful employment building infrastructure, often with the assistance of community organizations like the Los Angeles Black Worker Center, which helped LeDaya break into the construction industry.⁹ LeDaya’s first project is the new 8.5-mile transit line connecting South Los Angeles and the historic African American Crenshaw neighborhood with the airport and the rest of the city. As a Black woman, she is also diversifying the region’s construction industry, where African Americans comprise just 3 percent of workers although they are 9 percent of the total population.¹⁰ Los Angeles has long been an innovator in ensuring development projects expand economic opportunity, and its leaders played a major role in convincing the federal transportation agency to allow cities to hire locally on federally funded transportation projects on a pilot basis.¹¹

Targeted hiring and pre-apprenticeship training can provide a pathway to economic security for workers like LeDaya Epps, pictured here. (*Los Angeles County Metropolitan Transportation Authority*)



Economic security—having enough money to cover basic needs and enough savings to weather setbacks and invest for the future—is critical to the health and well-being of families, neighborhoods, and local economies. Neighborhoods and cities thrive when their residents have sufficient incomes to buy goods and services from local businesses, and invest in their homes and neighborhoods. But such security is increasingly elusive to low-income families of color who disproportionately live in or near poverty even when they are employed, face daunting levels of debt, and are squeezed by rising costs of living. Families of color are far more likely to lack enough savings to weather an economic setback like the loss of a job or a medical emergency. In Charlotte, for example, 51 percent of Black households and 56 percent of Latino households lack enough savings to subsist at the poverty level for three months, compared with 21 percent of White households.¹² Cities can reduce this insecurity and shore up their economies by connecting residents with jobs and opportunities to save and build assets, removing discriminatory barriers to employment, and protecting them from predatory financial sector practices.

All-in cities leverage their investments, development projects, hiring, and policy tools to put their vulnerable families and workers on a path to economic security.

Key Strategies:

- Implement targeted and local hiring and invest in pre-apprenticeship training on development and infrastructure projects.
- Ensure fair hiring, equal pay, and equitable promotion opportunities within the municipal workforce.
- Dismantle barriers to employment and services, such as credit checks and criminal history questions on applications for jobs and housing in both the private and public sector.
- Increase financial security and assets through children’s and matched savings accounts, benefits assistance, access to financial services, and opportunities for first-time homeownership such as shared equity programs.
- Limit or manage the proliferation of alternative, high-cost financial service providers through licensing and zoning powers.



A Pre-K 4 SA student at the South Education Center in San Antonio. (AP Photo/Eric Gay)

3.

Cultivate homegrown talent through a strong cradle-to-career pipeline

In the fall of 2013, 700 four-year-olds from predominantly low-income, Latino families in San Antonio were tested for kindergarten readiness in six areas: cognitive, literacy, mathematics, oral language, physical ability, and social-emotional behavior. As a group, they fell significantly below the national average in all areas. But when they were tested again the following spring, they scored above-average in three areas and had caught up to the average in the other three. These children were the inaugural class of Pre-K 4 SA, the City of San Antonio's full-day pre-kindergarten program, which is provided free of charge to eligible students. Universal preschool emerged as the top policy recommendation of an education task force convened in 2011 by then-mayor Julian Castro and chaired by the CEOs of two of San Antonio's largest companies. Supported by the business community as a smart investment in the city's workforce pipeline, voters approved a 1/8-cent sales tax to pay for an eight-year program that will soon reach about 3,700 children per year. Jesse Quesada's daughter, Gabriella, completed the program in 2014 and is now excelling in her first-grade class. He attributes her success to the quality of Pre-K 4 SA. "People say 'Oh, you can't tell if pre-K programs benefit the kids,'" says Jesse, "but you can tell. It makes a big difference."

“”

This is not only an educational issue, it's about the future workforce. The whole educational chain has to work...It lifts the entire city's educational profile up and attracts companies and individuals here.

Josue (Joe) Robles, Former CEO of USAA and Co-Chair of the San Antonio Brainpower Initiative Task Force

A skilled workforce is the key to city success in the global economy, but our nation's public school systems, especially those in urban centers, are not adequately equipping youth of color with the skills to excel in the 21st century workforce. By 2020, 43 percent of jobs will require at least an associate's degree but only a quarter of Black, Latino, and Native American workers are currently prepared for them.¹³ While many cities focus on attracting college graduates from other states to meet employer needs for skilled workers, those on the path to inclusive growth must cultivate their homegrown talent through a cradle-to-career approach that starts when children are born.¹⁴ That pipeline needs to include a workforce system that connects adult workers—including those facing barriers to employment—with careers. Although school districts play the primary role in delivering quality K-12 education to its least advantaged children, city governments can lead on education by aligning key partners around strategies and investments. Similarly, cities can be critical conveners on targeted workforce strategies, as New Orleans is doing to connect its jobless Black men with careers coming online at its major anchor institutions.¹⁵

All-in cities grow their own talent pool by using their bully pulpit, convening powers, and the policy tools available to them to create a robust cradle-to-career education and workforce pipeline that equips low-income children and workers with the skills they need to succeed.

Key Strategies:

- Expand access to high-quality preschool for working-class families.
- Ensure excellent public education for low-income students through strategies including comprehensive, place-based cradle-to-career initiatives, such as the federal Promise Neighborhoods program.
- Reform harsh, zero-tolerance school discipline policies to keep youth in school and on track to graduate.
- Implement sectoral workforce development and training programs and apprenticeships that connect un- and under-employed workers with good jobs.

4. Create healthy, opportunity-rich neighborhoods for all

“I think it’s wonderful,” says Linda Jones. “I just leave out of my house and come to the center, then I get my groceries.”¹⁶ Like 150,000 other Baltimoreans—including 34 percent of the city’s Black residents, 15 percent of its Latino residents, and 8 percent of its White residents—Jones lives in a “food desert” where 30 percent of households lack access to a car and there is no grocery store within a quarter mile radius.^{17, 18} But Jones and her neighbors at Perkins Homes can now pick up fresh groceries right at their community center every Tuesday thanks to Baltimarket, an online grocery delivery service run by the city’s health department in partnership with a local grocery chain. One of the flagship efforts of the interagency Baltimore Food Policy Initiative formed in 2010 to address the city’s challenge of food access, Baltimarket offers free delivery to 300 residents living in Perkins Homes and four other community sites.¹⁹ Long pushed by residents and organizers to address the “grocery gap” in urban communities of color, cities are stepping up to bring in fresh food to underserved communities through innovative financing and non-traditional business models, incentives, zoning, transportation, and more.²⁰

“““

Our goal is to make this a program that you see not only across Baltimore but also across the United States.

Laura Flamm, Baltimore City Health Department

High-quality neighborhoods are fundamental building blocks for health and economic opportunity, and for residents born without wealth, they can make all the difference. Live in a neighborhood with good schools, safe streets, parks, transit, clean air and water, places to buy healthy food, and services, and your chances of living a long, healthy, secure life increase dramatically. Live in a neighborhood that provides few of these ingredients for success, and your chances are stymied. While cities are home to some of the most vibrant, diverse neighborhoods in the country, these neighborhoods are the exception rather than the rule: most low-income people of color, and particularly African Americans, live in disinvested, racially and economically segregated neighborhoods in central cities and inner-ring suburban cities—and often over multiple generations. One of the most telling statistics for the difference in neighborhood quality is the wide variation in life expectancy from one city neighborhood to the next. A child born in New Orleans’s Tremé neighborhood, for example, can expect to live to be 55 years old, while a child born in the Lakeshore neighborhood just a few miles away can expect to reach their 80th birthday.²¹

All-in cities work to improve services and quality of life in their poorest neighborhoods and by making strategic, coordinated, and catalytic investments that reconnect disinvested neighborhoods to their regional economies and spur equitable development that builds community wealth.

Key Strategies:

- Increase access to healthy food in underserved neighborhoods and build more equitable food systems—from cultivation through to disposal—regionally.
- Build and maintain high-quality parks, playgrounds, and green spaces in low-income neighborhoods.
- Conduct “health impact assessments” to analyze policy proposals for their impacts on health equity.
- Leverage key federal resources (like community development block grants) and neighborhood-focused programs (including Promise Neighborhoods, Choice Neighborhoods, Promise Zones, and the Healthy Food Financing Initiative) to create opportunity-rich neighborhoods.

5. Build resilient, connected infrastructure

Cleveland's Euclid Avenue was known as “millionaire's row” during the city's industrial heyday in the early 20th century, but the corridor steadily declined as the city's population dipped to less than 400,000 from over 900,000 in 1950.²² Today, a major infrastructure investment—the HealthLine bus rapid transit system (known as BRT)—is catalyzing reinvestment and economic activity along the historic corridor, delivering fast, first-class transportation service to all communities along the route and connecting the high-unemployment, predominantly African American city of East Cleveland to the region's two largest job centers in downtown Cleveland and University Circle. Since it began in 2008, the HealthLine has provided more than 29 million riders with high-frequency, 24-hour-a-day service—34 percent faster than the prior bus service—and has generated more than \$6.3 billion in economic activity along the corridor: a return on investment of \$114 for every dollar it cost to build.²³ Leadership, commitment, and support from city and state officials, major employers (including the Cleveland Clinic and Cleveland State University), and residents was essential to bringing the BRT from an idea to reality. Joe Calabrese, the CEO of the Greater Cleveland Regional Transit Authority says it “has sparked economic development that is propelling the city back into prosperity.”

Cleveland's HealthLine connects workers to a combined 140,000 jobs located in downtown Cleveland and University Circle, the region's two largest commercial districts.
(Greater Cleveland Regional Transit Authority)



Infrastructure—roads, transit, sidewalks, bridges, ports, high-speed internet, parks, schools, water lines, and more—is the skeletal support that allows cities to function and connects their residents to each other and to the regional and global economy. But much of the infrastructure in central cities and older suburban cities is crumbling or antiquated, unsuited to the demands of the knowledge-driven economy and incapable of halting the greenhouse gas emissions responsible for climate change. Low-income communities of color face the worst infrastructure deficiencies and digital divides—stemming from years of discriminatory land use planning and inequitable investment—while being disproportionately burdened by polluting facilities. Far too frequently, new infrastructure investments skip over the very communities that are the least served, and community organizers and residents must fight for years to get a transit stop or a renovated school or park. Other times, infrastructure investments are planned without adequate attention to how they will impact existing, neighborhood-serving businesses and lower-income residents at risk of displacement from the revitalization spurred from such public investments.

All-in cities leverage their infrastructure investments—and find creative ways to finance new infrastructure—to improve livability, resilience, health, access, business development, and economic vitality for people living in underserved neighborhoods.

Key Strategies:

- Develop funding sources to expand, improve, and maintain high-quality transportation, water, parks, broadband, and other infrastructure in underserved neighborhoods.
- Ensure that federal, state, regional, and citywide infrastructure resources are targeted to high-need low-income communities of color and bring tangible benefits to their residents.
- Leverage infrastructure investments to bring jobs and contracting opportunities to underserved communities in both construction and operations (described in Policies 1 and 2).
- Increase access and affordability of public transit for youth and other transit-dependent populations.

6.

Increase access to high-quality, affordable homes and prevent displacement

Norma and Luis Santiago and their three teenage children live in a three-bedroom townhome in North Philadelphia built by the Women's Community Revitalization Program (WCRP), a community organizing, housing development, and advocacy organization that has been serving the multi-ethnic Latino (mainly Puerto Rican and Dominican) and African American neighborhood for nearly three decades. Norma found WCRP in 1997, when they were living in a cramped apartment with Luis's sister's family and scraping by on his income. Within two months, the Santiagos were living in their own apartment. "Moving into our own home allowed us to raise our family how we wanted to raise them," said Norma. "We were able to stand on our own two feet." In 2012, WCRP used funds from the city's Housing Trust Fund—which they and other community organizations helped establish in 2005—to rehabilitate and preserve the 72-unit development where the Santiagos live. The Philadelphia Housing Trust Fund generates \$11 million per year to meet the city's housing needs and has helped 14,000 low- and moderate-income residents. Norma is now on the board of WCRP and has advised them on other advocacy campaigns including establishing a new citywide land bank that will recycle vacant land to meet community goals including building 2,000 affordable homes. As Norma puts it, "We help each other."

In 90 of the 100 largest American cities, the majority of renter households of color are rent burdened (spending more than 30 percent of their incomes on rent).

National Equity Atlas

Housing is the lynchpin for opportunity: the location and quality of the home you can afford not only affects your living space and household budget—it determines the quality of your schools, the safety of your streets, the length of your commute, your exposure to toxics, and more. But cities everywhere struggle to ensure their working-class families of color can live in healthy homes that connect them to opportunity amid rising housing costs and stagnant wages. Those coping with population decline face the challenge of vacant properties and a lack of reinvestment. Cities with hot housing markets risk losing their diversity and culture as their low-wealth communities of color are displaced to the outer fringes where they are stranded from jobs, transportation, and services. And in the context of today's uneven development patterns, gentrification and displacement is a neighborhood-by-neighborhood phenomenon: even cities without large-scale housing affordability challenges can be experiencing displacement in their up-and-coming neighborhoods. All cities need to be tracking the market and acting early to build in long-term affordability and community control to promote development without displacement.

All-in cities take action on multiple levels—financing, zoning, development, preservation, code enforcement, tenant protections and services, and more—to expand housing opportunity and prevent displacement of low-income communities of color.

Key Strategies:

- Create dedicated sources of funding to continually meet affordable housing needs.
- Leverage market-rate development to support long-term affordable housing through inclusionary zoning and other tools.
- Prevent displacement and secure vulnerable renters and homeowners in gentrifying neighborhoods through services, legal protections, and rent stabilization policies.
- Expand and preserve affordability in high-opportunity neighborhoods through zoning, incentives, and development.
- Leverage the new federal Affirmatively Furthering Fair Housing rule to foster racially and economically integrated neighborhoods.



Elizabeth Moran and her granddaughter in their rehabbed, more energy-efficient apartment, along with WCRP case manager Haydee Amill and Paup Aylesworth. *(Ashley Hahn)*

7. Expand democracy and the right to the city

In 2007, New Haven, Connecticut, launched the Elm City Resident Card, a municipal ID program designed to protect and address the needs of the city's estimated 10,000 to 15,000 undocumented residents. Support for the program grew after the robbery and murder of Manuel Santiago, who, like many other immigrants, was unable to open a bank account without a government-issued ID. Because they were forced to carry large amounts of cash, workers like Santiago became known as “walking ATMs.”²⁴ By September 2014, the city had issued cards to more than 10,000 residents. “It’s a good ID because it validates you, anywhere you go, from stores, to parks, hospitals,” says resident Alberto Salgado, “More than anything, it’s to identify who you are, so they’d know that you’re a good ‘citizen,’ a quiet person, that supports and participates.” In conjunction with other policies designed to foster trusting relationships between the city’s immigrants and its police and city services, the ID program has helped foster a sense of belonging for immigrant communities and facilitated their integration into public life in New Haven, where they have revitalized disinvested neighborhoods by creating small businesses and rented or purchased homes.²⁵ The program was the nation’s first, and has become a model for similar programs in other cities including New York City and Newark.

Alberto Salgado displays his Elm City resident ID card in the supermarket where he works. (NextCity/Sarah Kramer)



In addition to being spaces of economic activity and the development of human capital, cities are key sites where marginalized residents—low-income people of color, undocumented immigrants, religious minorities, the homeless, people with disabilities, street vendors and other informal economy workers, LGBTQ people, the formerly incarcerated—make new claims on political rights and expand the boundaries of democracy and citizenship. A concept from French philosopher Henri Lefebvre, the “right to the city” refers to the rights of everyday residents who lack money and power to participate in the production of urban space: to shape, define, and create their neighborhoods and the city. Arts and culture of diverse communities are essential to all-in cities, serving as potent vehicles for advancing equity through city planning, community engagement, economic development, and jobs. To strengthen democracy, cities must eliminate discrimination at all levels and ensure residents can access government and participate in the decisions that affect their neighborhoods, services, livelihoods, safety, and well-being. They must also open up new avenues for engagement and leadership, enabling residents to be the agents and owners of development and change in traditional and non-traditional ways.

All-in cities expand democracy by protecting civil and human rights, extending the franchise, holding fair municipal elections, and implementing mechanisms to ensure marginalized populations have a voice in city decisions and the ability to create city space.

Key Strategies:

- Ensure all residents have a voice in city affairs by making it easy for low-income people to register and cast their vote, and extending voting rights to youth, documented immigrants, and people with felonies on their records.
- Effectively engage diverse communities in planning and participatory budgeting processes, and integrate their arts and culture throughout government activities.
- Include immigrants in civic life by providing language access, services, support for citizenship, and municipal ID cards.
- Guarantee that LGBTQ residents have access to services and are protected from discrimination in employment, housing, and public accommodations.

8.

Ensure just policing and court systems

Carlo Hinds is among more than 2,500 young people who have passed through the courtroom of Buffalo City Court Judge James McLeod as part of its Crossroads community-based justice program since 2009. Judge McLeod and his partners at the HEART (Helping Empower at-Risk Teens) Foundation designed Crossroads to empower 16- to 24-year-olds with the tools to create positive change in their lives and avoid getting trapped in the criminal justice system. Crossroads offers community-based supervision, counseling, drug treatment, job training, and academic support (including New York’s only GED program housed in a city court building). Crossroads’ goal is to resolve these young people’s cases non-judicially—thus avoiding the criminal record that becomes a major barrier to opportunity for youth. The program seems to be working: only 13 percent of Crossroads participants have returned to court on new criminal charges, compared to an average recidivism rate of about 60 percent in New York State. For young people like Carlo, who was referred to the program after being found carrying a small amount of illicit drugs, the program helped him stay on track to complete his education. He participated in financial literacy classes and a job-training program offered by the program, and is now enrolled in community college and working part-time.²⁶

Police chief Chris Magnus of Richmond, California, stands with residents in peaceful protest. (Flickr/Daud)



The police killing of Trayvon Martin in 2012 followed by Michael Brown, Eric Garner, and many others revealed the depths to which policing practices in cities large and small act as structural barriers to racial inclusion, catalyzing the Black Lives Matter social movement and a long-awaited national dialogue about criminalization, mass incarceration, and police violence in communities of color. Activists have put forth a positive vision, with a policy platform that states: “We can live in a world where the police don’t kill people by limiting police interventions, improving community interactions, and ensuring accountability,” including a comprehensive policy agenda.²⁷ Cities are responsible for public safety and policing needs to ensure streets and parks are safe and residents are protected and respected. By holding police accountable to the communities they serve and investing in diversion and restorative justice programs that focus on preventing crime and recidivism, cities can move away from traditional punitive measures that reinforce social structures of inequity—making their communities safer and their economies stronger in the process.

All-in cities implement the policy recommendations of community activists and policy organizations to ensure just policing and court systems, end the criminalization of communities of color, and prioritize community safety, prevention, and alternatives to detention.

Key Strategies:

- End overpolicing and racial profiling that disproportionately burdens communities of color, limit police use of force, and train police to de-escalate situations, eliminate racial bias, and interact respectfully with communities.
- Implement diversion and restorative justice programs for minor offenders and invest in youth violence prevention and mental health services.
- Increase accountability through community representation and oversight, and by requiring the use of body cameras.
- Eliminate overuse of fines and fees: end police department quotas and limit fees and fines for the indigent.
- Limit participation of local law enforcement with Immigration and Customs Enforcement.



Become an All-In City

PolicyLink is working with local and national partners to develop, advance, and disseminate the next generation of equitable growth policies and practices. Through the All-In Cities initiative, we provide capacity-building and implementation support, data and policy tools, and strategic research to city governments and community organizations as they develop and implement tailored policy solutions to increase racial economic inclusion and foster equitable growth.

Policy Research and Communications

Recognizing that local leaders need specific policies and examples of strategies that can work in their particular economic and political context, in 2016 we will launch an All-In Cities policy toolkit that provides detailed policy information and examples of equitable growth strategies in cities. We will also be producing a series of policy briefs that focus on specific equitable city policy ideas and policy issues facing cities. Our semi-monthly *America's Tomorrow* newsletter will continue to feature win-win local strategies for equity and the economy.

Data Infrastructure

PolicyLink and the USC Program for Environmental and Regional Equity (PERE) maintain the National Equity Atlas, a first-of-its-kind policy and data tool to build an equitable economy. To support the All-In Cities initiative, we recently expanded the Atlas to include data for the 100 largest cities, and will continue to enhance this resource and work with cities to help them use the data for change.

Place-Based Engagements and Field Building

Through place-based engagements, we work hand in hand with city leaders inside and outside of government as they craft tailored policy agendas and launch targeted efforts to make measurable progress toward results that close racial gaps and strengthen local economies. We start with cities where they are and help them build strategies to achieve equity results at scale. We support individual cities and cohorts of cities that are seeking to advance particular pieces of this policy platform. And we are offering a cadre of supports including technical assistance and training to help cities get on the path to becoming all-in cities.

Join us. Become an all-in city. Sign up at www.allincities.org.

Appendix:

Expanded Policy Menu

Below is a more comprehensive list of the policies and strategies needed to create all-in cities. This list will grow in response to policy and practice innovations emerging in cities. We invite you to suggest additional policy solutions at www.allincities.org.

Cross-cutting policies and practices:

- Target investments and services to the most vulnerable people and places
- Conduct equity analyses (including racial equity) of all activities and decisions
- Assess equity conditions and monitor progress using disaggregated data
- Engage diverse residents in decision making
- Integrate a focus on people, place, and the economy
- Engage the private sector and leverage market forces in developing and implementing solutions
- Invest in public infrastructure, public space, and strong public-serving institutions

1. Grow good, accessible jobs that provide pathways to the middle class

- Implement equitable, accountable economic development to grow high-road, inclusive businesses and middle-skills jobs
 - Targeted subsidies and subsidy accountability (e.g., clawbacks)
 - Focused municipal procurement and contracting
 - Coordinated regional equitable economic growth strategy
 - Industrial land preservation to retain good manufacturing jobs
- Support entrepreneurs of color, immigrants, and triple-bottom-line businesses (e.g., cooperatives, social enterprises) to launch and grow
 - Targeted small business assistance
 - Focused municipal procurement and contracting
 - Access to affordable capital
- Raise the floor on low-wage work
 - Minimum and living wage
 - Paid sick days
 - Wage theft prevention and enforcement
 - Fair scheduling
 - Support for worker organizing

2. Increase the economic security and mobility of vulnerable families and workers

- Increase access to construction careers and public sector jobs
 - Targeted and local hiring
 - Pre-apprenticeship and construction careers programs
 - Community workforce agreements and project labor agreements
 - Fair hiring, pay, and promotions in the municipal workforce
- Remove barriers to employment and services
 - Removal of criminal conviction questions from job applications
 - Elimination of criminal conviction questions from applications for housing and other services
 - Ban on employer credit checks
- Increase financial security and assets
 - Matched savings accounts (children's savings accounts and individual development accounts)
 - Benefits assistance and awareness campaigns (EITC, tax preparation, etc.)
 - Access to low-cost financial services (e.g., Bank On)
 - Foreclosure prevention
 - First-time homeownership assistance (including shared equity homeownership)
 - Protection from predatory, high-cost financial service providers (via licensing and zoning)

3. Cultivate homegrown talent through a strong cradle-to-career pipeline

- Provide high-quality preschool for low-income children
- Create excellent public schools
 - Community-based cradle-to-career wraparound supports
 - High-quality facilities, teachers, and curricula in high-poverty schools
- Keep youth in school and on-track to graduate
 - School discipline policy reform
 - Anti-bullying policies
- Prepare youth for the workforce
 - Career technical education and “linked learning”
 - Youth summer job programs
- Ensure college access and success
 - College scholarship programs
 - Academic support programs
- Implement coordinated workforce development targeted to workers facing barriers to employment
 - Sectoral workforce training
 - Apprenticeship programs

4. Create healthy, opportunity-rich neighborhoods

- Ensure access to healthy food and build equitable food systems through fresh food financing initiatives, zoning and land use policies, and school district procurement
- Build and maintain high-quality parks, playgrounds, and green spaces in low-income neighborhoods
- Conduct “health impact assessments” to analyze policy proposals for their impacts on health equity and environmental justice, and mitigate negative impacts
- Ensure new development delivers jobs, services, infrastructure, and affordable housing to residents and entrepreneurs of color through community benefits policies and agreements and commercial stabilization strategies

5. Build resilient, connected infrastructure

- Develop funding sources to expand, improve, and maintain high-quality infrastructure in low-wealth communities of color
- Target infrastructure resources to expand opportunity in high-need, low-income communities
 - “Fix it first”—repair existing facilities before adding new ones
 - Transit that connects to job centers
 - Upgraded water and sewer systems
- Maximize the job and economic benefits of infrastructure investments (see numbers 1 and 2)
- Increase access and affordability of sustainable infrastructure for vulnerable populations
 - Reduced cost or free transit passes
 - Home energy efficiency retrofits

6. Increase access to high-quality, affordable homes and prevent displacement

- Expand affordable housing resources
 - Housing trust funds with permanent revenue sources
 - Local and regional bonds to finance housing development and preservation
- Preserve affordability
 - Retention of subsidized affordable units facing expiring use
 - Rent stabilization/control and removal of vacancy decontrol
 - One-for-one replacement requirement for subsidized units during redevelopment
 - Financing program and/or tenant right of first refusal policy to help tenants or community organizations purchase properties when landlords sell
- Create new affordable housing
 - Inclusionary zoning and impact fees to increase affordable development alongside market-rate development
 - Land acquisition (including of foreclosed properties) for long-term affordable housing development and other community uses
 - Prioritization of public land for affordable housing development
- Prevent displacement
 - Tenant rental assistance and legal services
 - Tenant protections (e.g., just cause eviction)
 - Limitations on condominium conversions
- Healthy housing
 - Code enforcement, rental inspection, and rental registries to discourage speculators and absentee landlords
 - Implementation of the federal Affirmatively Furthering Fair Housing rule to place affordable housing in communities of opportunity

7. Expand democracy and the right to the city

- Secure and extend the franchise
 - Facilitation of voter registration and voting (e.g., same-day registration, vote by mail)
 - Extension of voting rights to youth (ages 16-17) and documented immigrants
 - Restoration of voting rights to people with criminal records
- Ensure fair, competitive elections
 - Local campaign finance reform
- Effectively engage residents in decision making
 - Effective community outreach and engagement in governance and planning
 - Participatory budgeting
- Include immigrants
 - Culturally and linguistically appropriate services
 - Citizenship support
 - Municipal ID cards
 - Integrate the arts and culture of diverse communities throughout city planning, development, and investment activities
- LGBTQ inclusion
 - LGBTQ non-discrimination laws and fair hiring and benefits for LGBTQ municipal employees

8. Ensure just policing and court systems

- End racialized overpolicing and criminalization
 - Racial profiling ban
 - Decriminalization of harmless offenses (e.g., spitting)
 - Restrictions on police use of force
 - Prohibition of purchase or use of military weaponry
 - Police training on de-escalation, recognizing and eliminating racial bias, and respectful community interaction
 - Limited participation of local law enforcement with Immigration and Customs Enforcement
- Prevent violence and recidivism
 - Diversion and restorative justice programs for minor offenders, and reforms to minimize jail time
 - Youth violence prevention and provision of mental health services
- Increase accountability
 - Representation of diverse communities of color on police force
 - Community oversight bodies with power to investigate police misconduct, subpoena, and discipline police officers
 - Independent investigations of police killings or injuries
 - Body cameras requirement
- Eliminate overuse of fines and fees
 - Bans on police department quotas for tickets and arrests and failure-to-appear fines or warrants, and allow judges to waive fees for the indigent

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