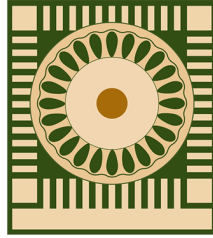


# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, April 16, 2024**

**7:00 PM**

**Council Chambers**

**City Council**

**CITY COUNCIL MEETING**  
**City Hall, Council Chambers**

NOTICE: The City Council will hold a hybrid meeting in the Council Chambers and virtually via Zoom.

*PUBLIC PARTICIPATION*

*How to observe the Meeting:*

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

*How to submit written Public Comment:*

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

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

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

Participate in the Council Chambers or click link below to join the meeting:

[https://hayward.zoom.us/j/89091144053?](https://hayward.zoom.us/j/89091144053?pwd=EeXxg8doLUT2-UK4_5CBWt-SOaiodGUflcw.N9CCTQ4NYkCx3EcO)  
[pwd=EeXxg8doLUT2-UK4\\_5CBWt-SOaiodGUflcw.N9CCTQ4NYkCx3EcO](https://hayward.zoom.us/j/89091144053?pwd=EeXxg8doLUT2-UK4_5CBWt-SOaiodGUflcw.N9CCTQ4NYkCx3EcO)

Meeting ID: 890 9114 4053

Password: CC4/16@7pm

or

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

Meeting ID: 890 9114 4053

Password: 3602260586

**CITY COUNCIL MEETING**  
**777 B Street, Hayward, CA 94541**  
**City Hall, Council Chambers**

Pursuant to Government Code section 54953, the meeting will include a teleconference location at Crowne Plaza Times Square Manhattan, 1605 Broadway, New York, New York 10019. Council Member Bonilla Jr. will participate via teleconference. The agenda will be posted at the teleconference location and the public will have an opportunity to address the City Council.

**CALL TO ORDER: Mayor Salinas**

**Pledge of Allegiance: Council Member Roche**

**AB 2449 TELECONFERENCE NOTIFICATIONS AND CONSIDERATION**

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATIONS**

2024 Earth Day Poster & Writing Contest Awards  
Arab American Heritage Month  
National Crime Victims' Rights Week

**PUBLIC COMMENTS**

*The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda or Informational Staff Presentation items. The Council welcomes 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, items will be taken under consideration and may be referred to staff. The City Council welcomes comments, including criticism, about the policies, procedures, programs, or services of the City, or of the acts or omissions of the City Council. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a City Council. The City is committed to maintaining a workplace free of unlawful harassment and is mindful that City staff regularly attend Council meetings. Discriminatory statements or conduct that is hostile, intimidating, oppressive, or abusive – are per se disruptive to a meeting and will not be tolerated. ration and may be referred to staff.*

**CITY MANAGER'S COMMENTS**

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

**ACTION ITEMS**

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

**CONSENT**

1.     [MIN 24-047](#)     Approve the Minutes of the City Council Meeting on March 26, 2024  
  
      **Attachments:**   [Attachment I Draft Minutes 3/26/2024](#)
  
2.     [CONS 24-178](#)   Adopt a Resolution Authorizing the City Manager to Accept and Appropriate up to \$100,000 in Donations for Hayward Police Department Programs Annually Through the End of Fiscal Year 2026  
  
      **Attachments:**   [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)
  
3.     [CONS 24-179](#)   Adopt Resolutions Authorizing the City Manager to Apply for a United States Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements - Phase II Project in an Amount up to \$260 Million, and Authorize Payment of WIFIA Loan Application Fee in the Amount of \$100,000  
  
      **Attachments:**   [Attachment I Staff Report](#)  
                              [Attachment II Resolution WRRF Improvements](#)  
                              [Attachment III Resolution WIFIA Loan](#)
  
4.     [CONS 24-181](#)   Adopt a Resolution Authorizing the City Manager to Execute a Funding Agreement, Accept \$600,000 in Environmental Protection Agency San Francisco Water Quality Improvement Fund Grant Funds, and Appropriate \$600,000 to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund  
  
      **Attachments:**   [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)

5.      [CONS 24-185](#)      Adopt a Resolution Authorizing the Transfer and Appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) and the Procurement of an Aerial-Lift Forestry Bucket Truck from Altec Inc.

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

## 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.*

6.      [WS 24-006](#)      Council Appointed Officials: Review of Roles of Commissions and Task Forces (Report from Assistant City Manager Youngblood)

**Attachments:**      [Attachment I Staff Report](#)  
                                 [Attachment II City of Hayward Commission Mission Statements](#)  
                                 [Attachment III KHCG Bylaws](#)  
                                 [Attachment IV CSC Bylaws](#)  
                                 [Attachment V Library Commission Best Practices](#)

7.      [WS 24-010](#)      Stack Center Project: Update on Phasing and Funding Gap (Report from City Manager McAdoo)

**Attachments:**      [Attachment I Staff Report](#)

## LEGISLATIVE BUSINESS

8.      [LB 24-011](#)      Municipal Elections: Adopt a Resolution of Intention to Transition from At-Large Election of the Mayor and City Council to District-Based Elections Beginning with the 2026 Election Cycle (Report from Senior Assistant City Attorney Michael Vigilia)

**Attachments:**      [Attachment I Staff Report](#)  
                                 [Attachment II Resolution](#)  
                                 [Attachment III Correspondence from Scott Rafferty](#)

**COUNCIL REPORTS AND ANNOUNCEMENTS**

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

**COUNCIL REFFERAL**

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

**ADJOURNMENT**

**NEXT MEETING, April 23, 2024, 7:00 PM**

**PUBLIC COMMENT RULES**

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

**PLEASE TAKE NOTICE**

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

**PLEASE TAKE FURTHER NOTICE**

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

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

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

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



# CITY OF HAYWARD

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**File #:** MIN 24-047

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Approve the Minutes of the City Council Meeting on March 26, 2024

**RECOMMENDATION**

That the Council approves the City Council meeting minutes of March 26, 2024.

**SUMMARY**

The City Council held a meeting on March 26, 2024.

**ATTACHMENTS**

Attachment I Draft Minutes of 3/26/2024





**CITY COUNCIL MEETING**  
**777 B Street, Hayward, CA 94541**  
**Council Chambers**  
<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>  
**Tuesday, March 26, 2024, 7:00 p.m.**

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The City Council meeting was called to order by Mayor Salinas at 7:04 p.m. The City Council held a meeting in the Council Chambers and virtually via the Zoom platform.

**Pledge of Allegiance:** Council Member Goldstein

Present: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño  
MAYOR Salinas  
Absent: COUNCIL MEMBER Bonilla Jr.

**CLOSED SESSION ANNOUNCEMENT**

The City Council convened in closed session on March 26, 2024, at 5:30 p.m., with Council Member Bonilla Jr. absent, six members of the Council present and no public speakers, regarding three items: 1) conference with labor negotiators pursuant to Government Code section 54957.6 regarding negotiations with all labor groups; 2) conference with legal counsel pursuant to Government Code section 54956.9(d)(1) regarding pending litigation, Cristina Ramirez Fonua, et al., v. Cit of Hayward, et al., US District Court, Northern District of California, Case No. 3:21-cv-03644-RS; and 3) conference with legal counsel pursuant to Government Code section 54956.9(d)(2) regarding one anticipated litigation matter. City Attorney Lawson reported that Council discussed Item 1 and gave direction to Council: regarding Item 2, the Council unanimously approved, with Council Member Goldstein, seconded by Council Member Zermeño, settlement of the lawsuit in the amount of \$875,000; and regarding Item 3, the Council discussed the item but otherwise took no reportable action. The closed session adjourned at 6:55 p.m.

**PUBLIC COMMENTS**

Scott Rafferty noted the Asian American community asked for transforming the at-large election system to district-based elections two years ago; cited historical corruption and discrimination associated with at-large systems; and highlighted the urgency for electoral reform to ensure fair representation.

Peggy Guernsey, Hayward resident, spoke regarding the Hayward Animal Shelter's budget reductions during the pandemic, and requested to reinstate the animal shelter's budget, emphasizing the need for enhanced services and facilities to improve animal welfare and adoption rates.

**CITY MANAGER'S COMMENTS**

City Manager McAdoo made three announcements: 1) the City of Hayward is seeking interested Hayward youth aged 13-20 to serve on the Hayward Youth Commission, with an

application deadline of May 30, 2024. 2) the Hayward Library is holding a community conversation about Artificial Intelligence (AI) on March 29, 2024, at the library; and 3) the Public Works Sustainability Division is organizing its annual Earth Day celebration on April 20, 2024, at Weekes Park.

## CONSENT

1. Approve the Minutes of the City Council Meeting on March 12, 2024 **MIN 24-039**

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried unanimously with Council Member Bonilla Jr., absent, by the following roll call vote, to adopt the City Council meeting minutes of March 12, 2024.

2. Adopt a Resolution Authorizing the City Manager to Execute the Project Initiation Document for the SR-92/Whitesell Interchange Project, Project No. 05334 **CONS 24-134**

Staff report submitted by Public Works Director Ameri, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES:	COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	None
ABSENT:	COUNCIL MEMBER Bonilla Jr.
ABSTAIN:	None

Resolution 24-051, "Resolution Authorizing the City Manager to Execute the Project Initiation Document for the SR 92/Whitesell Interchange Project, Project No. 05334"

3. Adopt a Resolution Authorizing the City Manager to Amend the Agreement with Bay Area Community Services (BACS) for Fiscal Year 2023-2024 Hayward Navigation Center Operations for an Amount Not-to-Exceed \$2,500,894 **CONS 24-139**

Staff report submitted by Assistant City Manager Youngblood, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES:	COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	None
ABSENT:	COUNCIL MEMBER Bonilla Jr.
ABSTAIN:	None



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<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>  
**Tuesday, March 26, 2024, 7:00 p.m.**

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Resolution 24-052, "Resolution Authorizing the City Manager to Amend the Agreement with Bay Area Community Services (BACS) for Fiscal Year 2023-2024 Hayward Navigation Center (HNC) Operations for an Amount Not-To-Exceed \$2,500,894"

4. Adopt a Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Carollo Engineers for Construction Management for the Water Resource Recovery Facility (WRRF) Improvements - Phase II Project, Project Nos. 07749, 07760 and 07786, in an Amount Not-to-Exceed \$949,625 **CONS 24-142**

Staff report submitted by Public Works Director Ameri, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeno  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-053, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Carollo Engineers, in an Amount Not-To-Exceed Nine Hundred Forty-Nine Thousand Six Hundred and Twenty-Five Dollars (\$949,625) for Construction Management Services for the Water Resource Recovery Facility (WRRF) Improvements Phase II Project, Project Nos. 07749, 07760 and 07786"

5. Adopt a Resolution Approving Plans and Specifications and Call for Bids for the Alves Street and Leighton Street Drainage Improvements, Project No. 07794 **CONS 24-149**

Staff report submitted by Public Works Director Ameri, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeno  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-054, "Resolution Approving Plans and Specifications and  
Call for Bids for Alves Street and Leighton Street Drainage Improvements,  
Project No. 07794"

6. Adopt a Resolution Approving Plans and Specifications for the Purchase of Continuous  
Deflective Separator (CDS) Units, and Calling for Bids for a Trash Capture Device  
Installation on Arf Avenue, Project No. 07746 **CONS 24-151**

Staff report submitted by Public Works Director Ameri, dated  
March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried  
by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeno  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-055, "Resolution Approving Plans and Specifications,  
Purchasing Continuous Deflective Separator Unit, and Calling for Bids for  
a Trash Capture Device Installation on Arf Ave, Project No. 07746"

7. Adopt a Resolution Approving an Amendment to the City of Hayward Salary Plan for  
Fiscal Year 2024 **CONS 24-154**

Staff report submitted by Human Resources Director Frye, dated  
March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried  
by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeno  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None



**CITY COUNCIL MEETING**  
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**Council Chambers**  
<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>  
**Tuesday, March 26, 2024, 7:00 p.m.**

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Resolution 24-056, "Resolution Approving the Amended Fiscal Year 2024 Salary Plan Designating Positions of Employment in the City of Hayward and Salary Range; and Superseding Resolution No. 24-012 and All Amendments Thereto"

8. Adopt a Resolution Authorizing the City Manager to Execute a Professional Services Agreement between the City of Hayward and Maze & Associates for Audit and Financial Services Not-to-Exceed \$389,807 **CONS 24-159**

Staff report submitted by Finance Director Gonzalez, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-057, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement Between the City of Hayward and Maze and Associates for Audit and Financial Services for the City of Hayward for an Amount Not-To-Exceed \$389,807"

9. Adopt a Resolution Accepting and Filing the Annual Comprehensive Financial Report for the Year Ended June 30, 2023; and of the Memorandum on Internal Control and Required Communications **CONS 24-162**

Staff report submitted by Finance Director Gonzalez, dated March 26, 2024, was filed.

It was moved by Council Member Roche, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-058, "Resolution Accepting the Comprehensive Annual Financial Report for the Year Ended June 30, 2023; and the Memorandum on Internal Control and Required Communications"

**WORK SESSION**

10. Russell City Reparative Justice Project: Work Session to Receive the Recommendations from the Russell City Reparative Justice Project Steering Committee **WS 24-005**

Staff report submitted by Assistant City Manager Youngblood, dated March 26, 2024, was filed.

City Manager McAdoo and Assistant City Manager Youngblood provided a synopsis of the staff report.

Russell City Reparative Justice Project (RCRJP) Steering Committee Co-Chairs Aisha Nowles and Liz Moran Sanchez provided a PowerPoint presentation on behalf of former residents and descendants of the Russell City community, emphasizing the collective efforts and historical significance of their work. It was noted that the process resulted in the creation of 26 draft recommendations (Attachment II – List of 26 recommendations) aimed at repairing the harm, restoring the land, and repaying the debt incurred by the Russell City community due to past injustices.

Mayor Salinas opened the public comment section at 7:46 p.m.

Michael V. Johnson emphasized the challenges faced by the RCRJP Steering Committee, noting that the process of formulating recommendations was influenced by external guidelines and that the research support team ceased their collaboration prematurely; and clarified that the draft recommendations presented were not directly created by the committee but were instead prioritized by them.

Marian Johnson, a descendant of Russell City residents, corrected the narrative from relocation to forced removal and emphasized the need for genuine reparative justice; highlighted discrepancies and omissions in the historical record, specifically mentioning the overlooked Santucci Farm map; and called for transparency and thoroughness.

Carolyn Johnson, daughter of Jessie and Clarence Johnson, shared the impact of forced relocation from Russell City on her family, highlighting the loss of property ownership and the enduring financial struggles resulting from redlining and displacement; emphasized the invalidity of contracts signed under duress; and pointed out discrepancies in compensation for land.

Sabrina Aranda, a descendant of Russell City, expressed appreciation for Hayward's acknowledgment of past wrongs through an official apology to Russell City descendants; urged the Council to support and implement the reparative justice recommendations and allocate necessary resources; and emphasized the importance of focusing in revitalizing the community and implementing measures to prevent similar injustices in the future.



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<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>  
**Tuesday, March 26, 2024, 7:00 p.m.**

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James Knowles, Hayward resident and Alameda County Reparations Commission member, shared his personal journey from a challenging childhood in Russell City through a successful career, attributing his resilience to the Russell City community; and supported the steering committee's recommendations for reparative justice.

Stephanie Spencer highlighted the historical injustice faced by Russell City residents; urged the Council to use its authority to make decisions that can help restore the Russell City community through reparations; and asked the Council to accept the recommendations.

Velda Goe, descendant of Russell City, shared a personal account of discovering her family's significant ties to Russell City through her ancestors; expressed gratitude towards Hayward for acknowledging its history; and urged swift action to provide comfort and restitution to those affected.

Gloria Bratton Moore, Russell City descendant and RCRJP Steering Committee member, expressed support for the 26 reparative justice recommendations; and thanked the City for its apology, forming the steering committee, efforts to address the ramifications of systemic and structural discrimination and rectify the harm endured by the Russell City community.

Tony Wynn shared his family's connection to Russell City, highlighting a missed opportunity to own land and loss due to the forced relocation in 1963; and advocated for the Council to honor the reparative justice recommendations, recognizing the lasting impact of land and wealth loss on her family.

Artavia Berry, former Community Services Commission member and current Alameda County Reparations Commission member; praised the progress made thus far by the RCRJP Steering Committee; offered support for the 26 recommendations; and committed to bringing the outcome of the Council's meeting to the Alameda County Reparations Commission to seek further support and continuation of reparative actions.

Rafeeq Muhammad, formerly known as Buddy Pryor III and descendant of Russell City, shared the history and contributions of his ancestors to Russell City, emphasizing their community leadership efforts to improve community services since 1945; and urged the Council to adopt the RCRJP Steering Committee recommendations and allocate resources for their successful implementation.

Daniel Moreno shared a personal account of his family's experiences in Russell City, detailing the racism they faced and the loss of their land; highlighted his grandfather's contributions to the community and the ongoing issues of racism in Hayward, including his own recent encounter with the police; and emphasized the importance of reparations.

Arthur Long Jr. spoke about his cherished memories of Russell City and the forced relocation of his family in 1964; expressed he had initial skepticism about the reparative justice efforts but became hopeful for meaningful action beyond symbolic gestures; and urged the Council to

accept the RCRJP Steering Committee recommendations, highlighting the need for substantial reparations.

Ro Aguilar expressed support for reparations across all five categories, particularly the preventing recurrence of discriminatory practices category; highlighted that current housing policies continue to perpetuate discrimination against lower-income residents; and advocated for changing housing policies and requiring to build inclusionary housing in every development to ensure equitable access to resources for all income levels to truly honor Russell City residents and descendants.

Pastor Arlene Nehring, senior minister and executive director of Eden United Church of Christ, highlighted the connection of church members to Russell City, including her participation in the committee; commended the City's willingness to address past injustices; and emphasized the importance of confession and amendment for meaningful apologies and healing.

Cindy Torres, RCRJP Steering Committee member and a descendant of Russell City, shared the history of her family in the Russell City community; highlighted the negative perceptions and institutional racism that contributed to Russell City's displacement; and thanked the City for its apology and efforts towards reparative justice, urging the acceptance of the 26 recommendations and continued work to rectify the injustices.

Deborah Tolfree Harris, RCRJP Steering Committee member and Russell City resident; shared her experiences growing up in Russell City; supported the 26 recommendations for reparative justice; stressed that while the City's apology is appreciated, it does not compensate for the financial damages, lack of basic amenities, and generational wealth loss suffered by the community due to systemic injustices; and highlighted the urgent need for monetary reparations.

Robin Randolph, a descendant and former resident of Russell City, shared a personal narrative focusing on the positive memories of her family; highlighted the disruption and loss her family faced due to forced relocation; and urged the Council to do the best they can to repair the harm, to restore the land, and repay the debt.

Michael D Johnson, RCRJP Steering Committee member, shared his familial connection to Russell City through his grandmother, Lily Batchy, who owned a cafe that served as a cultural hub for the African American community; and illustrated the tangible loss experienced by his family by using the Russell City Map viewer to locate his grandmother's property.

Sam Nava shared his memories living in Russell City from 1942 to 1960, highlighting the community's close-knit nature, presence of churches and stores; spoke about his work in plastering business and the many schools in the Hayward area; and expressed hope for collaboration between the community and the Council in addressing the past and moving forward.

Cathy Rodriguez, Hayward resident and RCRJP Steering Committee alternate member, expressed gratitude towards the Council for their historic apology to the Russell City community; praised the extensive efforts, detailed research, and recommendations; and





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**Tuesday, March 26, 2024, 7:00 p.m.**

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stressed the importance of considering the 26 detailed recommendations, emphasizing their potential to deliver justice and rectify historical injustices.

Jessie Patterson Johnson submitted a card but did not speak.

Mayor Salinas closed the public comment section at 9:05 p.m.

Mayor Salinas acknowledged the stories and lived experiences shared about Russell City, emphasizing a commitment to empathy, and listening throughout the reparative process; highlighted the difference in the government's approach now versus the past; and reassured all that the Council is attentive to the community's voices, understanding the need for action on the recommendations presented.

Council Member Zermeño thanked participants and emphasized the importance of continued exploration and ensuring sufficient staff support for the process; recommended reaching out to state and federal offices for support and funding opportunities; suggested the potential for consolidating recommendations; and emphasized the importance of preventing injustices such as the displacement from recurring.

Council Member Syrop expressed gratitude to the Russell City community for their partnership with the City and work in bringing forth reparative justice recommendations; thanked the Community Services Commission for helping the City take a historical step towards making amends for past injustices and setting a national example in the process; outlined specific actions he believes would significantly impact the descendants and residents of Russell City, including the creation of a legal entity for descendants, a Russell City Cultural Commission, a potential Russell City Land Trust, a menu of policy recommendations designed to prevent displacement of vulnerable residents, reparations as part of the state lobbying efforts, and opportunities to modify City programs and policies to provide restitution; and highlighted the need for a comprehensive engagement and collaboration with county and state offices to ensure the success of these initiatives.

Council Member Andrews thanked the RCRJP Steering Committee in preserving the Russell City community's history and spirit; recognized the Community Services Commission's recommendations; highlighted the contributions of various groups and individuals to maintaining the community's legacy; recognized the efforts of consultants and City staff in navigating the reparative justice process; directed staff to engage with state, county, and federal governments to address the broader impacts of urban renewal programs and how they can assist with Community Land Trust and other recommendations; explore how to create public-private partnerships to implement the committee's recommendations; and disclosed her proactive engagement with the Alameda County Board of Supervisors, urging them to participate more actively in reparative efforts for the Russell City community and its descendants.

Council Member Roche thanked the RCRJP Steering Committee, Russell City community members and City staff for their efforts in advancing the reparative justice process for Russell City; emphasized the significance of the City's formal apology and resource allocation towards this cause; showed support for tangible reparative actions rather than symbolic gestures; mentioned interest in specific recommendations such as down payment assistance, educational scholarships, environmental justice and health initiatives; supported policy analysis to prevent recurrence in the future; wondered if Hayward Unified School District would be willing to partner on educational and awareness programs; acknowledged the potential role of other entities, such as the county and state, in this process; and expressed hope for continued collaboration to uncover historical documents and rectify financial discrepancies.

Council Member Goldstein highlighted the historic efforts of the RCRJP Steering Committee members and especially its co-chairs; praised the depth, inspiration, and heartbreaking stories shared by the Russell City community members; asserted that no recommendation is impossible to implement; encouraged City staff, whom he commended for their exceptional work, to explore all avenues to fulfill the reparative actions; and called for patience from the community, reassuring them of the Council's commitment to rectifying past injustices.

Mayor Salinas expressed support for the recommendations, highlighting the importance of distinguishing between short-term achievable goals and long-term, more complex initiatives that require extensive research and resources; praised Council Member Syrop for his detailed analysis and recommendations; reaffirmed his commitment to working with academic partners, emphasized the City's academic connections, including the importance of integrating Russell City's history into the curriculum at all educational levels and looking for revenue streams; suggested leveraging existing academic and foundation resources to support scholarships and guarantee admissions for descendants of Russell City; proposed several innovative ideas, such as the establishment of a Russell City business and cultural corridor, secondary street names to honor Russell City families, and the integration of public art and objects to memorialize the community in perpetuity; and thanked RCRJP Steering Committee members and City staff.

City Manager McAdoo noted there was consensus from the Council to accept all recommendations acknowledging the need for further work; added that staff would create an implementation matrix including workload and financial implications; acknowledged the need to leverage other partners at the county and state levels and continue the conversation with the Russell City community.

The City Council took a recess at 9:55 p.m., and Mayor Salinas reconvened the meeting at 10:02 p.m.



CITY COUNCIL MEETING  
777 B Street, Hayward, CA 94541

Council Chambers

<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>

Tuesday, March 26, 2024, 7:00 p.m.

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## PUBLIC HEARING

11. Streamlined Affordable Housing Overlay District: Introduction of an Ordinance and Adoption of a Resolution for City-Initiated Zoning Text and Map Amendments to Chapter 1, Article 10 (Planning, Zoning and Subdivisions) of the Hayward Municipal Code to Establish an Affordable Housing Overlay District to Allow Ministerial Design Review of New Residential Development Subject to Minimum Affordability Criteria and to Rezone Three Properties Subject to the Overlay District as Required by the 6th Cycle Housing Element **PH 24-014**

Staff report submitted by Development Services Director Buizer,  
dated March 26, 2024, was filed.

Development Services Director Buizer announced the item and introduced Principal Planner Schmidt who provided a synopsis of the staff report.

Council Member Roche inquired if the Streamlined Affordable Housing Overlay District is limited to the three identified sites and whether it represents a new approach for future developments. Principal Planner Schmidt responded that due to time constraints from state certification of the Housing Element, the focus was on the three sites to meet immediate requirements; however, the initiative is viewed as a first step towards broader considerations for projects that could benefit from streamlined ministerial site plan review in the future.

Mayor Salinas opened the public hearing at 10:11 p.m.

Peggy Guernsey requested clarity on what the term "ministerial" meant in the context of the zoning text and map amendment presentation, to better understand the presentation and engage in the discussion more effectively.

Mayor Salinas closed the public hearing at 10:14 p.m.

Principal Planner Schmidt clarified the term "ministerial", explaining that it refers to a streamlined planning process that requires less time for staff review and does not involve subjective judgment. Ms. Schmidt added that in a ministerial review, a project is evaluated against a checklist of objective criteria and subject to standard conditions of approval.

It was moved by Council Member Syrop, seconded by Council Member Roche, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Roche, Syrop, Zermeño  
MAYOR Salinas  
NOES: None  
ABSENT: COUNCIL MEMBER Bonilla Jr.  
ABSTAIN: None

Resolution 24-059, “Resolution to Adopt Zoning Map and Zoning Text Amendments to Chapter 10, Article 1 (Zoning Ordinance) to Establish an Affordable Housing Overlay District to Allow Ministerial Design Review of New Residential Development Subject to Minimum Affordability Criteria and to Rezone Three Properties Subject to the Overlay District”

Introduction of Ordinance 24-\_, “An Ordinance Amending the Zoning Map and Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code to Establish an Affordable Housing Overlay District to Allow Ministerial Design Review of New Residential Development Subject to Minimum Affordability Criteria and to Rezone Three Properties Subject to the Overlay District”

## **COUNCIL REPORTS AND ANNOUNCEMENTS**

Council Member Roche highlighted the Library's one-on-one tech tutoring sessions offered support for those who have checked out devices from the Library's Tech Lending Library Tech or need basic tech support.

Council Member Zermeño announced a celebration for Cesar Estrada Chavez on March 30, 2024, with activities and performances planned at City Hall Plaza.

Council Member Andrews praised the Hayward Animal Shelter's adoption event; and informed the community about the City's Spring Compost Giveaway on May 4 and May 18, 2024, in the parking lot of the former Skywest Golf Course.

Mayor Salinas thanked various City departments for their participation and partnership in a successful College Night event on March 20, 2024, at City Hall, which provided high school students with information about higher education opportunities.

## **COUNCIL REFERRALS**

There were none.

## **ADJOURNMENT**

Mayor Salinas adjourned the City Council meeting at 10:18 p.m.



**CITY COUNCIL MEETING**  
**777 B Street, Hayward, CA 94541**  
**Council Chambers**  
<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>  
**Tuesday, March 26, 2024, 7:00 p.m.**

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**APPROVED**

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Mark Salinas  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 24-178

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Chief of Police

**SUBJECT:** Adopt a Resolution Authorizing the City Manager to Accept and Appropriate up to \$100,000 in Donations for Hayward Police Department Programs Annually Through the End of Fiscal Year 2026

## RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept and appropriate up to \$100,000 in donations for various Hayward Police Department programs annually through the end of FY 2026.

## SUMMARY

Community members, businesses, and organizations routinely provide monetary donations to the Hayward Police Department to support various programs such as the Cops for Kids Toy Drive and Youth and Family Services programs, among others. These donations are meant to support the services and programs provided by the Hayward Police Department. Each of these donations, regardless of the amount, requires separate Council approval to be appropriated and used to support these programs. For smaller donations, the approval process can cost more in staff time than the funds received.

Staff requests Council approve and appropriate up to \$100,000 in donations for Police Department programs in fiscal year 2024, and annually for the next two fiscal years (through the end of fiscal year 2026). Staff do not anticipate receiving more than \$100,000 in donations per fiscal year. However, if donation funding received does exceed \$100,000 in a single fiscal year, staff will return to Council to increase the appropriation request.

## ATTACHMENTS

Attachment I Staff Report  
Attachment II Resolution



**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Chief of Police

**SUBJECT:** Adopt a Resolution Authorizing the City Manager to Accept and Appropriate up to \$100,000 in Donations for Hayward Police Department Programs Annually Through the End of Fiscal Year 2026

### **RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept and appropriate up to \$100,000 in donations for various Hayward Police Department programs annually through the end of FY 2026.

### **SUMMARY**

Community members, businesses, and organizations routinely provide monetary donations to the Hayward Police Department to support various programs such as the Cops for Kids Toy Drive and Youth and Family Services programs, among others. These donations are meant to support the services and programs provided by the Hayward Police Department. Each of these donations, regardless of the amount, requires separate Council approval to be appropriated and used to support these programs. For smaller donations, the approval process can cost more in staff time than the funds received.

Staff requests Council approve and appropriate up to \$100,000 in donations for Police Department programs in fiscal year 2024, and annually for the next two fiscal years (through the end of fiscal year 2026). Staff do not anticipate receiving more than \$100,000 in donations per fiscal year. However, if donation funding received does exceed \$100,000 in a single fiscal year, staff will return to Council to increase the appropriation request.

### **BACKGROUND AND DISCUSSION**

The Hayward Police Department routinely receives donations to support programs such as the Cops for Kids Toy Drive and Youth and Family Services programs. Other donation accounts that exist within the Police Department that may not receive donations regularly but may on occasion include the K-9 Program, Reserve Officer Program, Range Program, Halloween Costume Giveaway, and Honor Guard Program. There are rarely specific conditions for the funding being donated and the Police Department has separate project accounts for each program to ensure the donations stay with the intended recipient program.

Each of the donations received, regardless of the amount, currently requires separate Council approval to be appropriated and used to support these programs. For smaller donations, the approval process can cost more in staff time than the funds received. Through this overall approval, the donation acceptance process will be streamlined which helps ensure checks are deposited before they become stale-dated and allows staff to seize time-sensitive purchase opportunities to support these programs.

Donations received for the Cops for Kids Toy Drive are used to purchase toys and food for families in need as well as refreshments, decorations, and supplies for the annual toy drive event. Donations received for Youth and Family Services are used to support the Summer Program and Explorers Program.

### **STRATEGIC ROADMAP**

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

### **FISCAL IMPACT**

Donations supplement programs and efforts that would be otherwise funded by the City's General Fund and support Police Department programs such as the Youth and Family Services Summer Program, Explorer Program, and Cops for Kids Toy Drive. There is no negative impact on the General Fund by accepting these donations which would, in turn, reduce staff costs related to requesting Council approval for each donation.

### **NEXT STEPS**

If the Council authorizes this action, staff will appropriate donation funding into the Police Department's donation fund (Fund 250) as they are received through the end of fiscal year 2026, in an amount not-to-exceed \$100,000 per fiscal year.

*Prepared by:* Laura Gomez, Senior Management Analyst

*Recommended by:* Bryan Matthews, Chief of Police

*Approved by:*



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Kelly McAdoo, City Manager



HAYWARD CITY COUNCIL

RESOLUTION NO. 24-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND APPROPRIATE  
UP TO \$100,000 IN DONATIONS FOR HAYWARD POLICE DEPARTMENT PROGRAMS  
ANNUALLY THROUGH THE END OF FISCAL YEAR 2026

WHEREAS, the Hayward Police Department routinely receives monetary donations from community members, businesses, and organizations.

WHEREAS, donation funds received by the Hayward Police Department support various programs including the Cops for Kids Toy Drive, Youth and Family Services programs, and others.

WHEREAS, donations received, regardless of the amount, require separate Council approval to be appropriated and used to support these programs.

WHEREAS, for smaller donations, the approval process could cost more in staff time than the funds received.

WHEREAS, a streamlined donation acceptance process would ensure checks are deposited before they are stale-dated and allows staff to seize time-sensitive purchase opportunities to support these programs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to accept and appropriate up to \$100,000 in donation funding (Fund 250) for Police Department programs annually through the end of fiscal year 2026.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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



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**File #:** CONS 24-179

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Adopt Resolutions Authorizing the City Manager to Apply for a United States Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements - Phase II Project in an Amount up to \$260 Million, and Authorize Payment of WIFIA Loan Application Fee in the Amount of \$100,000

**RECOMMENDATION**

That Council adopts resolutions (Attachments II and III) authorizing the City Manager to:

- 1) Apply for a United States Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements - Phase II Project in an amount up to \$260 Million.
- 2) Authorize payment of WIFIA Loan Application Fee in the Amount of \$100,000.

**SUMMARY**

The City of Hayward's Department of Public Works & Utilities is pursuing the WRRF (formerly WPCF) Improvements Phase II Project in anticipation of the upcoming San Francisco Bay Regional Water Quality Control Board (Water Board) regulatory requirements limiting discharge of nutrients to the Bay. Council previously authorized the City Manager to apply for the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for 49% of eligible project costs, up to the amount of \$200 million, to finance the project. As the project design has been further refined, and other WIFIA eligible costs have been included, the upper range of the estimated total project cost has increased to \$530 million, which increases the total 49% eligible costs for WIFIA funding to \$260 million. Staff requests that the Council revise the authorized resolution to increase the loan amount from \$200 million to \$260 million.

In addition, a \$100,000 application fee is due at submittal with the WIFIA Application. The fee covers EPA time and resources necessary to close the loan. The application fee is an eligible cost that can be included in the WIFIA loan amount. Staff requests that the Council authorize the payment of the WIFIA loan application fee in the amount of \$100,000.

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**File #:** CONS 24-179

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**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resolution



**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt Resolutions Authorizing the City Manager to Apply for a United States Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements – Phase II Project in an Amount up to \$260 Million, and Authorize Payment of WIFIA Loan Application Fee in the Amount of \$100,000

## **RECOMMENDATION**

That Council adopts resolutions (Attachments II and III) authorizing the City Manager to:

- 1) Apply for a United States Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements – Phase II Project in an amount up to \$260 Million.
- 2) Authorize payment of WIFIA Loan Application Fee in the Amount of \$100,000.

## **SUMMARY**

The City of Hayward's Department of Public Works & Utilities is pursuing the WRRF (formerly WPCF) Improvements Phase II Project in anticipation of the upcoming San Francisco Bay Regional Water Quality Control Board (Water Board) regulatory requirements limiting discharge of nutrients to the Bay. Council previously authorized the City Manager to apply for the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for 49% of eligible project costs, up to the amount of \$200 million, to finance the project. As the project design has been further refined, and other WIFIA eligible costs have been included, the upper range of the estimated total project cost has increased to \$530 million, which increases the total 49% eligible costs for WIFIA funding to \$260 million. Staff requests that the Council revise the authorized resolution to increase the loan amount from \$200 million to \$260 million.

In addition, a \$100,000 application fee is due at submittal with the WIFIA Application. The fee covers EPA time and resources necessary to close the loan. The application fee is an

eligible cost that can be included in the WIFIA loan amount. Staff requests that the Council authorize the payment of the WIFIA loan application fee in the amount of \$100,000.

## **BACKGROUND**

The Water Resource Recovery Facility (WRRF), formerly known as Water Pollution Control Facility (WPCF), core infrastructure was originally constructed in 1952 to treat wastewater flows from the City's residents and businesses prior to discharge into the San Francisco Bay. Over the years, the WRRF has undergone several major upgrades to meet more stringent discharge requirements, as well as increasing capacity as the City's population and industry have grown. The WRRF now treats an average flow of approximately eleven million gallons per day (MGD) and meets current regulatory requirements for discharge of treated effluent to the deep waters of the San Francisco Bay (Bay).

In May 2019, the San Francisco Bay Regional Water Quality Control Board (Water Board) announced upcoming regulatory requirements limiting discharge of nutrients (nitrogen) to the Bay. In June 2020, the City completed a comprehensive Master Plan update, the WPCF Phase II Facilities Plan (Facilities Plan), to identify improvements required for the WRRF to upgrade its treatment process to incorporate required nutrient reduction in the treated effluent discharges to meet the upcoming requirements. In July 2022, Council authorized design and engineering services with Brown & Caldwell for the WRRF Improvements – Phase II Project (Phase II Project).

Staff are exploring funding opportunities for the Phase II Project, including the State of California Clean Water State Revolving Fund Loan (CWSRF) program, USEPA WIFIA loan program, and municipal bonds. The WIFIA program offers funding for water infrastructure projects for up to 49% of eligible project costs. The WIFIA application consists of a two-step application process – 1) submission of a Letter of Interest (LOI), and, if invited by the EPA, 2) submission of an application.

On December 12, 2023<sup>1</sup>, Council authorized the City Manager to sign the WIFIA Letter of Interest and subsequent application, and for the City Manager to be the authorized representative for the City in carrying out the City's responsibilities under the Letter of Interest and Financial Assistance Application including compliance with applicable state and federal laws. The total project cost eligible for funding, at the time, was estimated to be \$410 million. Of the total project cost, 49% of the total cost is eligible for WIFIA funding, which was approximately \$200 million and stated in the authorized resolution. Staff submitted the WIFIA LOI to the EPA in January 2024, with the Council authorized resolution.

## **DISCUSSION**

In March 2024, the EPA formally invited the City to submit a WIFIA Application. As the project design is further refined, and other WIFIA financing eligible costs have been estimated, the

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<sup>1</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=6448360&GUID=CB5A4ECF-8AF0-49B8-B838-81002AFE119D>

upper range of the estimated project cost has increased from \$410 million to approximately \$530 million, which increases the total 49% of eligible costs for WIFIA funding from \$200 million to approximately \$260 million. The increase is not solely due to an increase in estimated construction cost (\$10M), but also due to the inclusion of other WIFIA financing eligible costs, such as construction contingency (\$39M), construction management, building permit fees, and City staff time (\$28M), reserve fund for both WIFIA and municipal bonds debt services (\$40M), EPA application fees and issuance costs (\$2M). Thus, staff is requesting Council to revise the authorized resolution to increase the loan amount from \$200 million to \$260 million.

An application fee in the amount of \$100,000 is due at the time of the application for the loan. The fee covers USEPA time and resources necessary to complete the technical, environmental, and financial reviews necessary to close the loan. Although this fee is nonrefundable, it is credited towards the credit processing fee. The credit processing fee varies with project complexity and risk, and typically ranges between \$150,000 to \$300,000 inclusive of the \$100,000 application fee. The application fee is an eligible cost and can be included in the loan amount.

### **Environmental Review**

Staff are seeking funding assistance from the USEPA WIFIA program and potentially the State of California CWSRF loan program in the future. As part of that effort, an environmental review of the Project will be performed including CEQA+ documentation as required by the CWSRF and National Environmental Policy Act (NEPA) documentation as required by the WIFIA funding applications.

### **ECONOMIC AND FISCAL IMPACT**

The costs have been further refined as part of the final design effort that is currently underway. The current estimated construction cost for the project is now estimated to be between \$254 and \$360 million. It is anticipated that these improvements will affect sewer service rates and sewer connection fees; however, the extent to which rates will need to be adjusted cannot be determined with certainty at this point. Staff does anticipate that customers could see a significant impact over the current rates.

Funding assistance for the project is included in the consultants' scope of work. Funding efforts will pursue financing under both the CWSRF loan program and the WIFIA program. WIFIA funding is typically at a slightly higher interest rate than SRF; however, the payback period can be deferred by up to 5 years after substantial completion of the project and provides for a 35-year loan term. SRF loans payback period begins one year after substantial completion and typically provide for a 30-year (or useful life of the project whichever is lower) loan term. Up to 49% of the project cost is eligible under WIFIA funding, therefore staff plan to pursue both avenues of funding as part of this project.

Staff is in the process of applying for a WIFIA loan, and planning to apply for potential funding from CWSRF in the future, as well as selling bonds. WIFIA funding can be applied to fund

multiple projects, as well as retroactively reimburse for engineering design services, however WIFIA funds can only cover 49% of the eligible project costs. The building will not be eligible to apply for CWSRF. Only the Phase II Project is likely to score high enough to be eligible for CWSRF funding; however, loans are currently limited to \$50 million in the FY 23-24 funding cycle, and competition is very high with many projects already included on the eligible funding list ahead of the City's project. Furthermore, CWSRF has announced a funding hiatus that will be in effect for several years starting in FY 25; therefore, staff are pursuing financing through bonds as part of the funding strategy. Staff will also continue to seek grants throughout the life of the project.

## **STRATEGIC ROADMAP**

This agenda item supports the various goals of Council's Strategic Roadmap. The WRRF Improvements Phase II Project will address infrastructure needs, and improvements to increase the reliability of the City's treatment plant, and construct process improvements to meet more stringent nutrient limits in accordance with upcoming regulatory requirements, while supporting Council's goals. Specifically, this item relates to the implementation of the following projects:

*Confront Climate Crises & Champion Environmental Justice.*

*Mitigate Climate Crisis Impacts through Resilient Design and Community Engagement*  
Project C14b: Implement Shoreline Master Plan, including mitigating sea level rise in the industrial corridor through building requirements and outreach

*Invest in Infrastructure.*

*Invest in Water Supplies, Sanitation Infrastructure & Storm Sewers*  
Project N19: Update Water Pollution Control Facility Phase II Plan

## **SUSTAINABILITY FEATURES**

The WRRF Improvement Project Phase II will help maintain and improve the biology and health of the Bay which is vital for the region and the State. The Phase II Project will also satisfy the early actor requirements specified in the Water Board's 2nd Watershed Permit to reduce nitrogen loads to the Bay.

The effects and risks of rising sea water levels will be reviewed and incorporated into the design of the new facilities.

The Administration and Laboratory Building will be reviewed by the Building Division for conformance with State and local requirements related to sustainability (i.e., California Building Code, California Energy Code, etc.) which require a minimal level of energy efficiency, resource conservation, material recycling, etc. In addition, the building will be designed and constructed to meet Leadership in Energy and Environmental Design (LEED) standards for a Silver Certification, or better.



## **PUBLIC CONTACT**

As part of the funding process, an environmental study (CEQA and/or Initial Study and Mitigated Negative Declaration) will be posted for public review and comment.

The webpage for this Project is currently posted on the City's website. Staff will continue to post periodic updates throughout the multi-year duration of the project.

## **NEXT STEPS**

If Council approves, staff will submit the revised authorized resolution and the application fee to the USEPA with the WIFIA application.

*Prepared by:* Elli Lo, Senior Management Analyst

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) LOAN FOR THE WATER RESOURCE RECOVERY FACILITY (WRRF) IMPROVEMENTS – PHASE II PROJECT, THE WRRF ADMINISTRATION AND LAB PROJECT AND THE PRIMARY EFFLUENT EQUALIZATION FACILITY PROJECT

WHEREAS, the City of Hayward (City) owns and operates a wastewater collection, treatment and disposal system, including the Water Resource Recovery Facility (WRRF), which treats an average flow of approximately eleven million gallons per day; and

WHEREAS, increasing nutrient (nitrogen) loadings in the Bay is a growing concern for the Bay Area water quality community, which has been discussed in both the first Nutrients Watershed Permit (issued 2014) and the Second Nutrients Watershed Permit (issued 2019); and

WHEREAS, in June 2020, the City completed a comprehensive Master Plan update, the WRRF Phase II Facilities Plan, to identify improvements required for the WRRF to upgrade its treatment process to incorporate nutrient reduction in the treated effluent to meet the upcoming regulatory requirements (Phase II Project); and

WHEREAS, on February 15, 2024, the Water Board issued a draft of the 3<sup>rd</sup> Nutrients Watershed Permit, which will be finalized and implemented by August 1, 2024, which would require the City to reduce nutrient loading to the Bay by 50% by May 1, 2034; and

WHEREAS, the main goal of the Phase II Project is to construct improvements necessary for nutrient removal in compliance with the Water Board's anticipated requirements in the 3<sup>rd</sup> Nutrients Permit; and

WHEREAS, in accordance with the Master Plan update, the City will also construct (i) a 21,800 square foot building housing a centralized administration building, main control room for WRRF operations, expanded laboratory facilities, SCADA and staff facilities (WRRF Administration and Lab Project) and (ii) a 3 MG primary effluent equalization facility and pump station (Primary Effluent Equalization Facility Project) at a new location in the WRRF, to improve the WRRF's hydraulic capacity and operability, and to clear space for the Phase II Project; and

WHEREAS, on July 19, 2022, the City entered into an agreement with Brown and Caldwell to design the Phase II Project, the WRRF Administration and Lab Project and the Primary Effluent Equalization Facility Project (Projects);; and

WHEREAS, the City will pursue financing for the Projects under the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) program and may pursue financing under the California Clean Water State Revolving Fund (CWSRF) loan program, and also expects to issue revenue bonds, among other available financing vehicles; and

WHEREAS, as required by the USEPA WIFIA loan application, the Authorized Representative, or designee, must sign and file, for an on behalf of the City, a Financial Assistance Application, for a financing agreement from the USEPA for the planning, design, and construction of the Projects; and

WHEREAS, the Authorized Representative, or designee, is designated to provide assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the USEPA and any amendments or changes thereto; and

WHEREAS, the Authorized Representative, or designee, is designated to represent the City in carrying out the City's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws; and

WHEREAS, on December 12, 2023, Council authorized the City Manager to apply for the USEPA WIFIA Loan, in the amount up to \$200 million, for the Projects; and

WHEREAS, the total estimated costs of the Projects have been further refined and increased from \$410 million to \$530 million, which increases the total 49% eligible cost for WIFIA funding from \$200 million to \$260 million.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager, as the Authorized Representative, is hereby authorized to apply for the USEPA WIFIA Loan, in the amount up to \$260 million, for the Projects.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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. 24-\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE PAYMENT OF UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) LOAN APPLICATION FEE IN THE AMOUNT OF \$100,000 FOR THE WATER RESOURCE RECOVERY FACILITY (WRRF) IMPROVEMENTS – PHASE II PROJECT, THE WRRF ADMINISTRATION AND LAB PROJECT AND THE PRIMARY EFFLUENT EQUALIZATION FACILITY PROJECT

WHEREAS, the City of Hayward (City) owns and operates a wastewater collection, treatment and disposal system, including the Water Resource Recovery Facility (WRRF), which treats an average flow of approximately eleven million gallons per day (MGD); and

WHEREAS, increasing nutrient (nitrogen) loadings in the Bay is a growing concern for the Bay Area water quality community, which has been discussed in both the first Nutrients Watershed Permit (issued 2014) and the Second Nutrients Watershed Permit (issued 2019); and

WHEREAS, in June 2020, the City completed a comprehensive Master Plan update, the WPCF Phase II Facilities Plan, to identify improvements required for the WRRF to upgrade its treatment process to incorporate nutrient reduction in the treated effluent to meet the upcoming regulatory requirements (Phase II Project); and

WHEREAS, on February 15, 2024, the Water Board issued a draft of the 3<sup>rd</sup> Nutrients Watershed Permit, which will be finalized and implemented by August 1, 2024, which would require the City to reduce nutrient loading to the bay by 50% by May 1, 2034; and

WHEREAS, the main goal of the Phase II Project is to construct improvements necessary for nutrient removal in compliance with the Water Board's anticipated requirements in the 3<sup>rd</sup> Nutrients Permit; and

WHEREAS, in accordance with the Master Plan update, the City will also construct (i) a 21,800 square foot building housing a centralized administration building, main control room for WRRF operations, expanded laboratory facilities, SCADA and staff facilities (WRRF Administration and Lab Project) and (ii) a 3 MG primary effluent equalization facility and pump station (Primary Effluent Equalization Facility Project) at a new location in the WRRF, to improve the WRRF's hydraulic capacity and operability, and to clear space for the Phase II Project; and

WHEREAS, on December 12, 2023, Council authorized the City Manager to apply for the United State Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan, in the amount up to \$200 million, for the Phase II Project, the WRRF Administration and Lab Project and the Primary Effluent Equalization Facility Project (Projects) and

WHEREAS, the total estimated costs of the Projects have been further refined and increased from \$410 million to \$530 million, which increases the total 49% eligible cost for WIFIA funding from \$200 million to \$260 million.

WHEREAS, the WIFIA Letter of Interest (LOI) was submitted to the USEPA in January 2024, and the EPA formally invited the City to submit a WIFIA Application in March 2024; and

WHEREAS, a \$100,000 application fee is due at submittal with the application, which covers EPA time and resources necessary to close the loan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized to pay the WIFIA Loan Application Fee in the Amount of \$100,000, for the Projects.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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

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[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 24-181

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Adopt a Resolution Authorizing the City Manager to Execute a Funding Agreement, Accept \$600,000 in Environmental Protection Agency San Francisco Water Quality Improvement Fund Grant Funds, and Appropriate \$600,000 to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund

**RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the City Manager to 1) execute a funding agreement with the Association of Bay Area Governments (ABAG) to accept \$600,000 in grant funding from United States Environmental Protection Agency (USEPA) for the study of nature based solutions at the Water Resource Recovery Facility (WRRF); and 2) appropriate \$600,000 to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund.

**SUMMARY**

The City, in partnership with ABAG, applied for and received a grant to further study and begin preliminary design of a horizontal levee and constructed wetland at the western end of the WRRF, in the amount of \$600,000. Staff requests that the City Manager be authorized to accept this funding, authorize execution of a funding agreement, and appropriate the funds to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution





**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Authorizing the City Manager to Execute a Funding Agreement, Accept \$600,000 in Environmental Protection Agency San Francisco Water Quality Improvement Fund Grant Funds, and Appropriate \$600,000 to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund

## **RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the City Manager to 1) execute a funding agreement with the Association of Bay Area Governments (ABAG) to accept \$600,000 in grant funding from United States Environmental Protection Agency (USEPA) for the study of nature based solutions at the Water Resource Recovery Facility (WRRF); and 2) appropriate \$600,000 to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund.

## **SUMMARY**

The City, in partnership with ABAG, applied for and received a grant to further study and begin preliminary design of a horizontal levee and constructed wetland at the western end of the WRRF, in the amount of \$600,000. Staff requests that the City Manager be authorized to accept this funding, authorize execution of a funding agreement, and appropriate the funds to the Nature-Based Solution Feasibility Study Project No. 07809 in Fund 612 Sewer Improvement Fund.

## **BACKGROUND**

The City owns and operates the WRRF (formerly Water Pollution Control Facility, WPCF), which treats an average flow of approximately eleven million gallons per day (MGD) of wastewater from the City. For much of the WRRF's history, a portion of the treatment consisted of oxidation ponds at the west end of the City's WRRF property. While these ponds are no longer an active part of the treatment process, they are occasionally used to hold excess flows, primarily during wet weather events.

The City is a member of the Hayward Area Shoreline Planning Agency (HASPA), a joint powers

agency consisting of representatives from the City of Hayward, East Bay Regional Park District (EBRPD), and Hayward Area Recreation and Park District (HARD). In February 2021, HASPA completed the Hayward Regional Shoreline Adaptation Master Plan (HRSAMP), which developed multi-benefit strategies for the shoreline, its existing infrastructure, and the surrounding natural habitat in order to adapt to sea level rise. The HRSAMP identified the site of the former oxidation ponds at the WRRF as a potential location for a freshwater treatment wetland, and its western perimeter as an ideal location for a horizontal levee to protect the WRRF and other local infrastructure from sea level rise. Treatment wetlands and horizontal levees are both examples of Nature Based Solutions (NBS). NBS, in general, refers to restoring natural or modified ecosystems to address societal challenges such as adapting to climate change while also enhancing biodiversity.

In 2020, the East Bay Dischargers Authority (EBDA) entered into a contract with Environmental Science Associates (ESA) to design a horizontal levee at Oro Loma Marsh, and, as part of that effort, commissioned a study to further investigate the feasibility of implementing NBS at the WRRF site. In addition, as part of the WRRF Improvements - Phase II Project, a technical memorandum was prepared by Brown and Caldwell to further evaluate and confirm the feasibility of constructing a horizontal levee, constructed wetland, or both, at the WRRF former oxidation pond site. The studies also recommended potential next steps to making NBS a reality.

## **DISCUSSION**

In 2022, ABAG applied for a grant from the USEPA's San Francisco Water Quality Improvement Funds for implementing and monitoring NBS at several bay area locations, including the WRRF's former oxidation ponds. ABAG was awarded this grant in 2023, which includes \$600,000 for the City to prepare an Operations & Maintenance (O&M) study, permitting study, alternatives analysis, and preliminary design services. This work would be performed by consultants and overseen by City staff, with costs reimbursed by USEPA.

NBS potentially provide numerous benefits to the community and the environment. A horizontal levee could protect nearby facilities from future sea level rise, provide an opportunity to expand and protect the bay trail, provide for wildlife refugia, and provide polishing treatment to a portion of the City's wastewater flow prior to discharge to the Bay. Constructed wetlands would provide additional ecological enhancements while also providing polishing treatment for a more significant portion of wastewater flow. This additional treatment could further reduce nutrient loadings to the bay beyond what is already projected to be achieved by the Phase II Improvements project, which may become necessary if the Regional Water Quality Control Board further tightens regulations.

## **FISCAL IMPACT**

Staff was awarded a total of \$600,000 in USEPA grant funds. Staff is requesting an appropriation of \$600,000 to the Sewer Improvement Fund (Fund 612) for the Nature-Based Solution Feasibility Study Project No. 07809. Upon proof of expenditure, all costs up to \$600,000 will be reimbursed through the grant.

This grant requires a City match of \$600,000, and this requirement has been completed by the expenses already incurred from the City's WRRF Phase II Improvements Project No. 07760 in Fund 612 Sewer Improvement Fund. There is no net long-term impact to the City or to the General Fund.

## **ECONOMIC IMPACT AND SUSTANABILITY FEATURES**

This item does not provide a direct economic impact to the City, but a horizontal levee, if ultimately implemented in concert with other projects recommended by HASPA, could protect various facilities in Hayward from sea level rise. Facilities likely protected by a horizontal levee at this project site would include the WRRF, and various nearby industrial businesses in the area.

The project overall would be a study of implementing sustainable, nature-based infrastructure.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Roadmap Priorities to Confront Climate Crisis & Champion Environmental Justice and Invest in Infrastructure.

### *Confront Climate Crisis & Champion Environmental Justice*

Mitigate climate crisis impacts through resilient design and community engagement.

### *Invest in Infrastructure*

Invest in Water Supplies, Sanitation Infrastructure & Storm Sewers – This project would be an investment in enhancing the City's wastewater treatment process.

## **PUBLIC CONTACT**

The project includes a web page that is hosted on the City's website that contains periodic updates. Additionally, a key component of this work will be engaging local stakeholders such as Hayward Area Recreation District, East Bay Regional Parks, Alameda County Mosquito Abatement District, and other local community groups.

## **NEXT STEPS**

If Council approves accepting the grant funding, staff will enter into a funding agreement with ABAG and prepare a request for proposals to hire a consulting firm with expertise in nature-based solutions to perform the work. The work is expected to take approximately two years. The grant expires in December 2026.

*Prepared by:* Kyle Carbert, Senior Utilities Engineer

*Reviewed by:* Suzan England, Utilities Engineering Manager

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A FUNDING AGREEMENT, ACCEPT \$600,000 IN ENVIRONMENTAL PROTECTION AGENCY (EPA) GRANT FUNDS, AND APPROPRIATE \$600,000 FROM FUND 612 TO THE NATURE BASED SOLUTIONS FEASIBILITY STUDY PROJECT NO. 07809 AT THE WATER RESOURCE RECOVERY FACILITY

WHEREAS, the City of Hayward (City) owns and operates the Water Resource Recovery Facility (WRRF); and

WHEREAS, the Hayward Area Shoreline Planning Agency recommended Nature Based Solutions (NBS) such as a horizontal levee and constructed wetlands at the WRRF in the Hayward Regional Shoreline Adaptation Master Plan; and

WHEREAS, the United States Environmental Protection Agency (EPA) administers the San Francisco Bay Water Quality Improvement Fund (SFBWQIF), which is a competitive grant program to fund projects that protect San Francisco Bay; and

WHEREAS, the City, as a subrecipient to the Association of Bay Area Governments (ABAG), was awarded \$600,000 in grant funding through the 2022 SFBWQIF cycle to study and begin preliminary design of NBS at the WRRF.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines that the City Manager is authorized to execute a funding agreement with ABAG, in a form approved by the City Attorney, to accept \$600,000 in EPA SFBWQIF funds and appropriate \$600,000 to the Nature Based Solution Feasibility Study Project No. 07809 in Sewer Improvement Fund (Fund 612) for the Study and Preliminary Design of NBS at the WRRF.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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

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**File #:** CONS 24-185

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Maintenance Services

**SUBJECT**

Adopt a Resolution Authorizing the Transfer and Appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) and the Procurement of an Aerial-Lift Forestry Bucket Truck from Altec Inc.

**RECOMMENDATION**

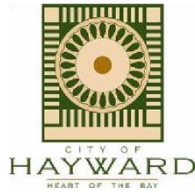
That Council adopts a resolution (Attachment II) authorizing the transfer and appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736) and authorizing the City Manager to execute the procurement of an aerial-lift forestry bucket truck from Altec Inc (Altec).

**SUMMARY**

Maintenance Services' Landscape Division maintains over 30,000 street trees and performs municipal landscaping, vegetation management, weed and brush abatement throughout the City. In FY 2024, Council approved an additional (2) FTE tree crew to further support the Division's efforts in maintaining and growing the City's urban forest. Considering the current industry-wide delay in vehicle production, staff is recommending the transfer and appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) to procure a readily available aerial-lift forestry bucket truck.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution



**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Director of Maintenance Services

**SUBJECT:** Adopt A Resolution Authorizing the Transfer and Appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) and the Procurement of an Aerial-Lift Forestry Bucket Truck from Altec Inc.

## **RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the transfer and appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736) and authorizing the City Manager to execute the procurement of an aerial-lift forestry bucket truck from Altec Inc (Altec).

## **SUMMARY**

Maintenance Services' Landscape Division maintains over 30,000 street trees and performs municipal landscaping, vegetation management, weed and brush abatement throughout the City. In FY 2024, Council approved an additional (2) FTE tree crew to further support the Division's efforts in maintaining and growing the City's urban forest. Considering the current industry-wide delay in vehicle production, staff is recommending the transfer and appropriation of \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) to procure a readily available aerial-lift forestry bucket truck.

## **BACKGROUND AND DISCUSSION**

Recently, the City has experienced limited production, timely delivery, and escalating acquisition costs for new fleet vehicles which continues in the marketplace nationwide. While there are lengthy delays for all types of vehicle production, larger and more complex vehicles have been the most severely impacted. Current lead times for a forestry truck and similar machinery are over 3-years from the purchase date. An aerial-lift forestry bucket truck is a piece of heavy equipment with a hydraulic pole ("boom") that has a person-carrying bucket at its end. This equipment allows staff to manicure and maintain trees of all heights safely.

Through the City's network of suitable vendors, staff was able to locate a forestry truck that meets the needs of the Department and is readily available for purchase. Staff recommends



purchasing the vehicle from Altec, a leading provider of products and services to electric utility and tree care. Fleet staff is knowledgeable and experienced maintaining Altec heavy equipment, especially due to its history of superior performance and easily available maintenance parts at the warehouse in Sacramento. The procurement of the forestry truck will be done through the cooperative agreement with Sourcewell, a third-party administrator that completed the competitive bidding process.

Staff recommends transferring funds from Measure C Capital Fund (Fund 406) to the Fleet Replacement Fund (Fund 736) for this procurement. In June 2014, voters approved Measure C, a half-cent (1/2) sales tax to help fund general services in several priority areas, including illegal dumping, litter control, and beautification projects, among others. In a 2023 resident survey, residents valued removing blight and vegetation, responding to climate change, and street maintenance. The additional tree crew directly supports these values and also implements Measure C projects, such as the median beautification projects along arterials. To support the additional tree crew, an aerial-lift forestry bucket truck is required.

### **ECONOMIC IMPACT**

Purchase of the forestry truck will support tree trimming and maintenance activities, which directly contribute to a safer City by mitigating risk, reducing fire hazards, and removing environmental blight.

### **FISCAL IMPACT**

The FY 2024 Adopted CIP has sufficient fund balance for the transfer and appropriation of \$275,000 from the Measure C Capital Fund (Fund 406) to the Fleet Replacement Fund (Fund 736) for the procurement of an aerial-lift forestry bucket truck. There will be no impact to the General Fund.

### **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not directly relate to the Strategic Roadmap projects. However, the purchase and use of the equipment will support the Quality of Life Priority.

### **SUSTAINABILITY FEATURES**

Purchase of the forestry truck will enable the City to improve service delivery in areas with overgrown tree canopies, dense vegetation, and reduce fire hazards.

### **PUBLIC CONTACT**

This agenda item requires no public contact.

### **NEXT STEPS**

If Council approves staff's recommendation, the City Manager will transfer and appropriate \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) and execute the procurement of the forestry truck from Altec Inc.

*Prepared by:* Manny Grewal, Management Analyst

*Recommended by:* Todd Rullman, Director of Maintenance Services

*Approved by:*

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

---

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE TRANSFER AND APPROPRIATION OF \$275,000 FROM MEASURE C CAPITAL FUND (FUND 406) TO FLEET REPLACEMENT FUND (FUND 736, PROJECT 07302) AND THE PROCUREMENT OF AN AERIAL-LIFT FORESTRY BUCKET TRUCK FROM ALTEC INC.

WHEREAS, the Landscape Maintenance Division maintains over 30,000 street trees and performs municipal landscaping, vegetation management, weed and brush abatement throughout the City; and

WHEREAS, in FY24, Council approved an additional two (2) FTE tree crew to further support the Division's efforts in maintain and growing the City's urban forest; and,

WHEREAS, whereas the current industry-wide delay in vehicle production is impacting timely delivery, production schedules, and acquisition costs; and,

WHEREAS, staff has located a readily available aerial-lift forestry bucket truck to procure for the new tree crew.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to transfer and appropriate \$275,000 from Measure C Capital Fund (Fund 406) to Fleet Replacement Fund (Fund 736, Project 07302) and proceed with the procurement of an aerial-lift forestry bucket truck from Altec Inc.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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

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**File #:** WS 24-006

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

**SUBJECT**

Council Appointed Officials: Review of Roles of Commissions and Task Forces

**RECOMMENDATION**

That Council receives a presentation and overview of the roles of Hayward Commissions and Task Forces and provides feedback.

**SUMMARY**

The City Council appoints members to Council Appointed Bodies, which include five Commissions and the Keep Hayward Clean and Green Task Force (KHCGTF). The City of Hayward runs an annual recruitment process for Commissions and Task Forces, whose members are appointed by the City Council. In 2023, the recruitment process began in May and concluded in August. The Council has expressed a desire to review the roles and responsibilities of each Commission before the 2024 recruitment period to ensure that they are aligned with Council's priorities for the coming fiscal year. This report provides general information about the Commissions and Task Forces. At the April 16, 2024 work session, staff is seeking feedback from Council on their vision for the role of these bodies and if Council would like to see any amendments to the 2024 recruitment process or any other policies or procedures related to Commissions and Task Forces. Staff also recommends that the Council form an ad hoc committee to further discuss the issues raised in this report and to make recommendations back to the full Council.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	City of Hayward Commission Mission Statements
Attachment III	KHCG Task Force Bylaws
Attachment IV	Community Services Commission Bylaws
Attachment V	Library Commission Best Practices

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**File #:** WS 24-006

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

**SUBJECT:** Review of Roles of Commissions and Task Forces

## **RECOMMENDATION**

That Council receives a presentation and overview of the roles of Hayward Commissions and Task Force and provides feedback.

## **SUMMARY**

The City Council appoints members to Council Appointed Bodies, which include five Commissions and the Keep Hayward Clean and Green Task Force (KHCGTF). The City of Hayward runs an annual recruitment process for Commissions and Task Forces, whose members are appointed by the City Council. In 2023, the recruitment process began in May and concluded in August. The Council has expressed a desire to review the roles and responsibilities of each Commission before the 2024 recruitment period to ensure that they are aligned with Council's priorities for the coming fiscal year. This report provides general information about the Commissions and Task Forces. At the April 16, 2024 work session, staff is seeking feedback from Council on their vision for the role of these bodies and if Council would like to see any amendments to the 2024 recruitment process or any other policies or procedures related to Commissions and Task Forces. Staff also recommends that the Council form an ad hoc committee to further discuss the issues raised in this report and to make recommendations back to the full Council.

## **BACKGROUND**

There are currently five active Commissions and one active Task Force. The below description of each of these bodies is what is currently listed on the City's website:

- **Community Services** – The Community Services Commission (CSC) advises the City Council on the most effective means of allocating available resources for community services (serving as the HUD-required community participation body for the CDBG funds Community Agency Funding Process); reviews and studies the problems and needs of the community programs and develops effective support needed to secure

additional resources either through private channels or through the City or other instruments of the government; and works together with other governmental agencies in keeping abreast of new and current developments in the field of social services to maximize the beneficial impact of social programs on the City. This commission has seventeen (17) members.

- **Keep Hayward Clean and Green Task Force** - The Keep Hayward Clean and Green Task Force (KHCGTF) was formed by the City Council to help address issues impacting community appearance. Its mission is to preserve the environment and enhance the visual appearance of the City of Hayward through the joint efforts of individuals, volunteer groups, businesses, and municipal resources. This task force has twenty (20) members.
- **Library Commission** - The Library Commission advises the Hayward City Council on library policies including hours of service, fines and fees, library programs, capital improvements, Federal and State legislation affecting libraries, parking for library users, special services to persons with disabilities, cooperation with neighboring libraries, improvements in service, publicity and promotion, location of service outlets, equipment needs, policies governing the use of the meeting room, bilingual library programs, cooperation with other community agencies, and more. This commission has nine (9) members.
- **Planning Commission** - The Planning Commission conducts public hearings and makes decisions on use permits, variances, site plan and architectural reviews, and related planning and zoning actions for residential, commercial, and industrial development, and subdivisions of land. The Commission also makes recommendations related to planning regulations, design review policies, development of parks and open space, and the General Plan. This commission has seven (7) members.
- **Personnel Commission** - The Personnel Commission is responsible for the adoption and modification of new and existing job descriptions for the Hayward city government. The Commission also reviews the City's employment lists and the City's Affirmative Action Plan. The Commission may hold hearings for employee grievances or complaints and for appeals to disciplinary action. The Commission issues an advisory decision to the City Manager in such matters. This commission has seven (7) members.
- **Youth Commission (this is a partnership between the City, HARD, and HUSD)** - The Hayward Youth Commission (HYC) advises the Mayor and City Council, and the elected boards of the Hayward Area Recreation and Park District (HARD) and Hayward Unified School District (HUSD) about issues that affect young people in the Hayward community; members may also work on a number of projects and activities throughout the year, e.g., identifying youth needs, organizing youth speak-outs and conferences, etc. The Youth Commission has thirty-two (32) members.



## Official Powers and Duties

- The City Charter specifically calls out roles for the Planning Commission and Personnel “Board” found at the link below. It does not mention any other Boards or Commissions. [https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH\\_ARTIXAPBOCO](https://library.municode.com/ca/hayward/codes/charter?nodeId=CIHACH_ARTIXAPBOCO)
- The Municipal Code calls out roles for the Planning Commission, Personnel Commission, Library Commission, and Community Services Commission, found at the link below. It does not mention the KHCGTF or Youth Commission. [https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH2GOAD\\_ART3BOCO](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH2GOAD_ART3BOCO)
- The Keep Hayward Clean and Green Taskforce was created in 2007 by former Mayor Michael Sweeney. The Youth Commission has been operating for several decades and is a partnership governed by an agreement between the City, the Hayward Unified School District, and the Hayward Area Recreation and Park District.

## Mission Statements and Bylaws

The City does not have a standard template for commission bylaws. Several of the appointed bodies have created their own mission statements (Attachment II) and two, the KHCGTF and Community Services Commission, have created bylaws (Attachments III and Attachment IV, respectively).

The Library Commission doesn’t have bylaws, but they have created a Hayward Library Commission Best Practices document (Attachment V) to outline commissioner expectations, duties, and roles.

## Recruitment and Appointments

### Youth Commission

The City Clerk’s Office oversees the Hayward Youth Commission recruitment. The recruitment period for the Youth Commission began March 22, 2024 and closes on May 30, 2024. Applicants must be between 13 and 20 years old and live within City limits or within boundaries of the Hayward Unified School District. Applications are screened by the City Clerk’s Office and interviewed by a panel of elected officials from the City, HUSD, and HARD. Youth Commissioners are scheduled to be appointed on June 18, 2024. Appointment terms are generally two years unless we have unexpired terms to fill.

### Other Appointed Bodies

The City Clerk’s Office oversees the annual recruitment process for open Commission and KHCGTF seats. Appointment terms are generally for four years unless there are unexpired

terms to fill. Because of this, not every Commission has open seats every year. Applicants must live within incorporated Hayward and not be serving as a member of any other board or commission or hold any paid office or employment in the City of Hayward organization.

The opportunity to apply for openings is advertised in the spring, along with a list a vacancies. In order to inform community members of this opportunity, the office of the City Clerk already coordinated sending information via inserts in water bills as well as excise tax bills. The published list of appointees whose terms end in 2024 [can be found here](#) but does not include changes after January 1, 2024. After the City Clerk's Office screens the applications for minimum qualifications, the City Council identifies applicants to move to the interview process. If an applicant receives at least three preliminary points through Council scoring, they are invited to interview. Applicants for the Commissions interview directly with Council and applicants who select the KHCGTF as their first choice of service, interview with a subcommittee of Task Force members. The KHCGTF subcommittee recommends the list for the Council's consideration. Interviews with the Council are currently scheduled for August 27, 2024 and appointments scheduled for September 17, 2024.

## **DISCUSSION**

Based on Council discussions over the past two years as well as staff and Commission experiences, there are a number of issues that have been identified that could help clarify the roles of the City's boards and commissions and to help ensure that the boards and commissions are operating in alignment with Council priorities. These issues are generally outlined in the discussion below. Staff would recommend that the Council form an ad hoc committee to further discuss each of these items and to bring recommendations back to the full Council at a future meeting. The ad hoc committee could also propose edits and revisions to the Council's Appointed Officials handbook. A specific discussion of each item by Council this evening would not be necessary if the ad hoc committee is formed. Council members could provide more general feedback that would advise the work of the ad hoc committee.

The one item that is more time sensitive is the discussion on membership size of boards and commissions. The Council does not need to make a formal decision on reducing any board/commission sizes this evening. However, if there is a general desire to move in this direction, staff would recommend that Council provide guidance for the City Clerk to pause the recruitment process for members of the CSC and KHCGTF while the ad hoc committee forms recommendations about this issue.

## **Bylaws**

In October of 2023, the City Council's Appointed Officials Handbook was updated to require Council review and approval of all appointed body bylaws and bylaw amendments. Additionally, language was added to the handbook to avoid having appointed bodies duplicate efforts. The referenced handbook section now reads as follows:

“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 and bylaw amendments must be reviewed by the Council via a Consent item. Council-appointed members should not oversee subject matter already overseen by other commissions, task forces, or committees. Bylaws must be filed with the City Clerk.”

There are two Commissions with bylaws – the CSC and the KHCGETF. These are included as Attachment III and IV. Staff is seeking feedback from Council on these existing bylaws. Based on Council’s feedback, staff will either:

1. Return to Council with a consent item to approve the existing language, or
2. Work with the appointed body to make edits based on Council’s feedback.

## **Role and Activities**

In addition to reviewing the formal bylaws, Council requested this work session to better understand how each of the appointed bodies supports Council priorities, both through official tasks as well as through less formal practices and procedures that have evolved over time. In particular, Council expressed interest in the activities of the CSC and KHCGETF.

### All Appointed Bodies

Currently, staff is not always clear on Council’s priorities for their assigned appointed body. Staff is seeking feedback from Council on the following two recommendations for FY25, which could be used for all appointed bodies.

- Encourage all appointed bodies to undertake a strategic planning process to refine their mission and activities with Council feedback, similar to the process that the Personnel Commission began in 2023. This would require one-time budget requests for consultant assistance, since there is not existing staff capacity to design and lead these processes.
- Create a more formal annual process for Council to communicate their priorities for the coming year to appointed bodies. This could be part of the annual Strategic Roadmap process, or part of the annual recruitment and appointment process.

### Community Services Commission

The primary function of the CSC is to make funding recommendations to Council for the City's Community Agency Funding Process. Since 2020, the CSC has increasingly discussed and prepared policy recommendations to Council regarding racial equity and public safety in the City of Hayward. These activities are summarized in Attachment VI. Over the past several months, Council has expressed a desire to refine the role and activities of the CSC to be more closely assigned with its primary function.

Staff is presenting the following options for Council’s consideration to focus the CSC’s role:

- Amend the bylaws of the CSC to limit their activities to solely cover the Community Agency Funding Process.

- Formally align the CSC's funding priorities with Council's strategic goals for that year. In other words, if Council is working to make progress on a specific issue, request that the CSC tailor their funding recommendations to that goal.
- Remove arts and music funding from the funding process to allow the CSC to focus their efforts on CDBG eligible programs and social services. In this case, arts and music funding would be realigned based on Council's feedback at the November Work Session on a public art fee.

#### Keep Hayward Clean & Green Taskforce

The KHCGTF was established in 2007 to foster community engagement around neighborhood cleanliness, public blight, and upkeep. The Task Force was initially conceived as a thirty-member task force with a temporary scope, primarily to organize monthly cleanups around the community. The number of members was reduced to twenty in recent years in an attempt to streamline discussions.

KHCG's focus has evolved over the years. The monthly meetings have been moving away from a mission focused solely on organizing community cleanup events to a desire to encompass other efforts like addressing sustainability issues. Staff is presenting the following options for Council's consideration to focus the KHCGTF's role:

- Amend the bylaws of the KHCGTF to limit their activities to solely organizing community cleanups.
- Wind down KHCGTF activities and eventually retire the task force, in line with its original temporary designation.
- If KHCGTF is to continue and not be limited to community cleanups, provide direct reaffirmation of its existence and clear and concise directives for its future mission.

#### **Frequency and Purpose of Meetings**

As Council provides feedback on the role and activities of Council-Appointed Bodies, staff is also suggesting that Council review the frequency of meetings and number of members on each body. The meeting frequency is shown in the table below.

Council Appointed Body	Meeting Frequency
Community Services Commission	Monthly
KHCG Task Force	Monthly
Library Commission	Monthly
Personnel Commission	Quarterly
Planning Commission	Twice a month
Youth Commission	Monthly from Sept - May

If Council directs staff to explore more focused roles for the CSC or KHCGTF, staff recommends also considering limiting the meeting frequency of those bodies to match their role. For example, if the role of the CSC is focused on the annual funding process, it may not make sense for that body to meet after the funding recommendations are complete. Similarly, if the role of the KHCGTF is focused on quarterly cleanup events, they may not need to meet monthly.

## Number of Members

The table below shows the number of members and terms for each appointed body. Staff is specifically seeking feedback on the number of members on the CSC and KHCGTF, which are more than double the size of other bodies.

Studies on group decision making suggest five to seven is an optimal number for governance, but bodies can be effective with up to 12 members. Groups with more than 12 people can be useful for generating diverse ideas and perspectives, but tend to be less effective at making decisions and execution.

Staff appreciates that group effectiveness should be balanced with diverse community representation; however, coordinating 17-20 members has created challenges for staff over the past decade. Staff feels that the goals of the CSC and KHCGTF can be accomplished with fewer members and is seeking Council feedback on the option of capping the number of members on each body to 12. In this case, staff recommends pausing or slowing recruitment for the CSC and KHCGTF to get to that number over several years.

Council Appointed Body	Members	Term	Term Limit
Community Services Commission	17	4 years	2
KHCG Task Force	20	4 years	None
Library Commission	9	4 years	2
Personnel Commission	7	4 years	2
Planning Commission	7	4 years	2
Youth Commission	21 voting, 11 alternates	2 years	As long as eligible

## Seeking Council Feedback

As mentioned above, staff would recommend that the Council form an ad hoc committee to further discuss each of these items and to bring recommendations back to the full Council at a future meeting. The ad hoc committee could also propose edits and revisions to the Council's Appointed Officials handbook. A specific discussion of each item by Council this evening would not be necessary if the ad hoc committee is formed. Council members could provide more general feedback that would advise the work of the ad hoc committee.

The one item that is more time sensitive is the discussion on membership size of boards and commissions. The Council does not need to make a formal decision on reducing any board/commission sizes this evening. However, if there is a general desire to move in this direction, staff would recommend that Council provide guidance for the City Clerk to pause the recruitment process for members of the CSC and KHCGTF while the ad hoc committee forms recommendations about this issue.

- Bylaws
  - Option to 1) agree with existing bylaws for CSC and KHCGTF or, 2) to provide feedback on desired revisions. Staff will work with the appointed body to make edits based on Council's feedback.
- Role and Activities
  - Option to encourage all appointed bodies to undertake a strategic planning process in FY25.
  - Option to create a more formal annual process for Council to communicate their priorities for the coming year to appointed bodies.
  - Options specific to the Community Services Commission:
    - i. Limit activities to solely cover the Community Agency Funding Process.
    - ii. Formally align the CSC's funding priorities with Council's strategic goals for that year.
    - iii. Remove arts and music funding from the funding process to allow the CSC to focus their efforts on CDBG eligible programs and social services.
  - Options specific to the Keep Hayward Clean & Green Task Force:
    - i. Limit their activities to solely organizing community cleanups.
    - ii. Wind down KHCGTF activities and eventually retire the task force.
    - iii. Provide direct reaffirmation of its existence and clear and concise directives for its future mission.
- Frequency and Purpose of Meetings
  - Option to reduce meeting frequency to align with the role of the appointed body. If Council directs staff to explore this option, staff will work with their assigned appointed body to come up with a recommended frequency.
- Number of Members
  - Option to cap members on each body to 12 (or another number) and slow the recruitment for CSC and KHCGTF to get to that number.

## **FISCAL IMPACT**

There are no fiscal impacts associated with this report or work session.

## **NEXT STEPS**

Based on Council direction from this work session, staff will work to form an ad hoc committee to discuss further changes needed. If Council's feedback impacts the upcoming recruitment process for appointed bodies, staff will make immediate adjustments.

*Prepared by:* Mary Thomas, Assistant to the City Manager  
 Kristoffer Bondoc, Executive Assistant  
 Amy Cole-Bloom, Community Services Manager  
 Todd Rullman, Maintenance Services Director

*Recommended by:* Regina Youngblood, Assistant City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'McAdoo', with a long horizontal stroke extending to the right.

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Kelly McAdoo, City Manager

## Mission Statements for Commissions

This document is a summary of existing mission statements for the City's six Commissions. These mission statements are not formally included in the City's charter or handbooks. Instead, they are working statements that are often included in staff's orientations for new Commissioners. For reference, the Handbook for Boards and Commissions [can be found here](#).

The goal of this document is to be a reference for City Council as they complete the pre-survey in preparation for the February 10, 2024 Strategic Roadmap Retreat.

### Community Services Commission

The CSC is an advisory body to Council. Its mission is to:

- Provide advice and consultation to Council regarding social, economic, and humanitarian aspects of community development
- Encourage the development of a planned and orderly approach to the development of community services
- Identify the needs for community services, for the coordinated delivery of such services to residents and to avoid duplication and conflict of effort
- Support City Council priorities to help solve community problems
- Serve as the community participation mechanism of federally funded, financed or aided projects
- Create and sustain an environment which will encourage and bring about mutual understanding and respect and to discourage and prevent any and all recognized discriminations based upon race, sex, religion, national origin, age, handicap, sexual orientation, and all other protected categories of persons, if any, under federal and state law, and particularly those discriminations in the areas of housing, employment, and education

### Keep Hayward Clean and Green Taskforce

Our mission is to preserve the environment and enhance the visual appearance of the City of Hayward through the joint efforts of individuals, volunteer groups, businesses, and municipal resources.

- Community/Clean up Events: Goal -Preserve the environment and enhance the visual appearance of the City
- Education & Outreach: Goal – Utilize education and outreach to ensure individuals, volunteer groups, businesses, and municipal resources are involved and participate in keeping our city clean and green





- Clean and Green Policy: Goal – Suggest, influence, and promote City Ordinances and processes that support a clean and green environment

### **Library Commission**

The Library Commission advises the Hayward City Council on library policies including hours of service, fines and fees, library programs, capital improvements, Federal and State legislation affecting libraries, parking for library users, special services to persons with disabilities, cooperation with neighboring libraries, improvements in service, publicity and promotion, location of service outlets, equipment needs, policies governing the use of the meeting room, bilingual library programs, cooperation with other community agencies, and more.

### **Planning Commission**

The Planning Commission does not have a mission statement partially because its role is standard to Planning Commissions throughout the state. The League of California Cities periodically runs a Planning Commissioners' Academy, which covers the role of the Planning Commission in California. [Slides for one of these academies can be found here.](#)

### **Personnel Commission**

*\*The Personnel Commission recently went through a Strategic Planning Retreat and is in the process of updating its mission statement. Below is the current (not updated) mission.*

- The Personnel Commission is responsible for the adoption and modification of new and existing job descriptions for Hayward city government.
- The Commission also reviews the City's employment lists and the City's Affirmative Action Plan.
- The Commission may hold hearings for employee grievances or complaints and for appeals to disciplinary action. The Commission issues an advisory decision to the City Manager in such matters.

### **Youth Commission**

The mission of the HYC is to: provide youth in the City of Hayward with a means of communicating their concerns, needs, and opinions to the agencies that affect their community, namely the Hayward City Council, the Hayward Unified School District Board of Trustees and the Hayward Area Recreation and Park Board of Directors.



**CITY OF HAYWARD**  
**KEEP HAYWARD CLEAN AND GREEN TASK FORCE**  
**BYLAWS**

**ARTICLE I**  
**PURPOSE**

SECTION 100. The purpose of the Keep Hayward Clean and Green Task Force is to assist City Staff in their efforts to address issues that impact community appearance by:

- A. Providing advice and assistance to the Hayward City Council Suggesting, influencing, and promoting City Ordinances and processes that support a clean and green environment;
- B. Supporting community improvement goals, and to help solve community appearance;
- C. Utilize education and outreach to ensure individuals, volunteer groups, businesses, and municipal resources are involved and participate in keeping our City clean and green;
- D. Creating and sustaining programs which will preserve the environment and enhance the visual appearance of the City of Hayward through the joint efforts of individuals, volunteer groups, businesses, and municipal resources;
- E. Improve the quality of life in the many diverse neighborhoods in the City through various clean-up activities and efforts.

**ARTICLE II**  
**DUTIES, ROLES, AND RESPONSIBILITIES OF THE TASK FORCE**

SECTION 200. The duty of the Task Force is to implement throughout the City of Hayward the public policy stated herein. To this end the Task Force shall, among other things:

1. Review and study problems and applicable needs of the community.
2. Conduct 10 community clean-up events a year to support residents on how to keep clean and green by:
  - a. Accessing City run programs for rebates, assistance, and incentives.
  - b. Utilization of Access Hayward and other blight and graffiti reporting techniques.
3. Collect data from monthly clean-ups using measurements (i.e. cubic yards) which is consistent with City Standards and turn data into City Staff for processing no later than the Friday following the monthly clean-up.

**ARTICLE III**  
**MEMBERSHIP**

SECTION 300. The membership of the Task Force shall consist of thirty (30) members as appointed by the City Council.

SECTION 301. As in accordance with City Charter Section 900, in order to be eligible for appointment to the Task Force a person shall be a qualified elector of the incorporated area of the City of Hayward.

SECTION 302. Task Force members shall serve in accordance with Article III, but not in the event of any vacancy by reason of resignation, the Chairperson shall immediately notify the appointing authority to make a reappointment in accordance with the aforementioned policy to fill vacancy.

SECTION 303. As in accordance with City Charter Section 905, members shall 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 Task Force and the overarching budget for such, annually approved by Council.

SECTION 304. 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.

#### ARTICLE IV TERM

SECTION 400. 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.

SECTION 401. Members shall be required to attend no less than seventy-five percent of all regular activities, including meetings and clean-ups, held by the Task Force. If a member cannot attend a clean-up activity, they must submit a request for an excused absence to the Task Force Chair and the Staff Liaison. If the absence has been deemed excusable as outlined in section 402, item 4, then that member will be able to make up the absence by attending another Hayward public agency (City of Hayward, H.A.R.D. or H.U.S.D) sponsored clean-up activity or an Adopt-a-Block clean-up. The Task Force will provide a list of acceptable make-up clean-up activities every calendar year.

SECTION 402. The mention of “regular activities” in City Resolution 87-323 C. S. shall include “Monthly Clean-Up Events and regular meetings” for KHCG Task Force members.

1. Members of boards or commissions shall be required to attend not less than 75% of all regular meetings held;
2. Attendance records will be reviewed by the City Council in June of each year based on the previous 12-month period (June 1 through May 31), except for appointments effective July 1st or thereafter;
3. The City Council will remove or not reappoint any Task Force member who has failed to attend at least 75% of all regular meetings held during the 12-month period noted in paragraph (4) above, unless, upon the appeal of a Task Force member that is filed within seven (7) days of notification that such attendance requirement has not been met, the City Council determines that a lesser attendance record is the result of unusual and excusable circumstances.

Examples of unusual and excusable circumstances that may, but need not, result in retention of a board or commission member include a comparatively infrequent meeting schedule of the board or commission upon which the member serves over the 12-month period; absences that result from the member’s attendance at other City-sponsored or City-endorsed functions that conflict with a board or commission meeting time; and the illness or injury of a family member that required the absence of the board or commission member from the City. In all cases in which the City Council considers the appeal of a board or commission member under this paragraph, the Council shall take into account the attendance of the board and commission member for the entire period that the member has served on City boards and

commissions and the likelihood that the member's current year attendance will meet the 75% attendance standard in the future.

## ARTICLE V ATTENDANCE

### SECTION 500. KHCG Attendance Policy Process:

1. Attendance records will be maintained by KHCG Task Force City Staff.
2. Members requesting to be excused from Task Force Meetings or monthly clean-up events must notify the Task Force Chair AND Task Force City Staff prior to the meeting or event.
3. Attendance standards imply members will be on time for all activities including but not limited to: meetings (currently 7PM) and clean-up events (currently 8AM).
4. The Task Force Staff will excuse members based on the "unusual and excusable circumstances" noted in City Resolution 87-323 C. S.
5. Task Force attendance will be reviewed every four months of the fiscal year; October 30th, February 29th (28th), June 30th.
6. Members below 75% attendance (regular meetings and monthly clean-up events combined) or members that have missed two or three consecutive meetings will be sent a letter from the City Clerk's Office reaffirming the attendance policy.
7. Failure to maintain attendance standards by the next review will result the member's position being declared vacant by the City Council.

## ARTICLE VI OFFICERS – ELECTIONS & TERMS

SECTION 600. The officers of the Keep Hayward Clean and Green Task Force shall be a Chairperson and Two (2) Vice-Chairpersons.

SECTION 601. All elected officers shall serve a term of two (2) years beginning January 1 and continuing until their successors have been elected. Officers are eligible to succeed themselves only for one additional term of office, totaling four years.

SECTION 602. Officers shall be nominated by a nominating ad-hoc committee selected by the Chairperson. Additional nominations will be permitted from the floor after the nominating ad-hoc committee has reported.

HAYWARD CITY COUNCIL

RESOLUTION NO. 87-323 C.S.

Introduced by Councilmember WARD

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RESOLUTION ESTABLISHING POLICY WITH REGARD  
TO BOARD AND COMMISSION ATTENDANCE AND  
RESCINDING RESOLUTION NO. 87-011 C.S.

WHEREAS, the City Council of the City of Hayward feels that the role of boards and commissions as advisory agencies to the City Council is invaluable; and

WHEREAS, the importance of the function they serve cannot be overemphasized; and

WHEREAS, Section 905 of the City Charter in part provides that if members of a board or commission absent themselves from three consecutive regular meetings of the board or commission without permission, their offices shall become vacant and shall be so declared by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the following policies concerning the attendance of board and commission members at meetings of the board or commission upon which they serve shall be adopted:

- (1) Members of boards or commissions shall be required to attend not less than 75% of all regular meetings held;
- (2) In compliance with the City Charter, failure by a member to attend three consecutive regular meetings of a board or commission will be cause for Council declaring the member's position vacant;
- (3) Boards and commissions shall not excuse or otherwise grant permission to their members to be absent from any future regular meeting of the board or commission;
- (4) Attendance records will be reviewed by the City Council in June of each year based on the previous 12-month period (June 1 through May 31), except for appointments effective July 1st or thereafter.
- (5) The City Council will remove or not reappoint any board or commission member who has failed to

attend at least 75% of all regular meetings held during the 12-month period noted in paragraph (4) above, unless, upon the appeal of a board or commission member that is filed within seven (7) days of notification that such attendance requirement has not been met, the City Council determines that a lesser attendance record is the result of unusual and excusable circumstances. Examples of unusual and excusable circumstances that may, but need not, result in retention of a board or commission member include a comparatively infrequent meeting schedule of the board or commission upon which the member serves over the 12-month period; absences that result from the member's attendance at other City-sponsored or City-endorsed functions that conflict with a board or commission meeting time; and the illness or injury of a family member that required the absence of the board or commission member from the City. In all cases in which the City Council considers the appeal of a board or commission member under this paragraph, the Council shall take into account the attendance of the board and commission member for the entire period that the member has served on City boards and commissions and the likelihood that the member's current year attendance will meet the 75% attendance standard in the future.

BE IT FURTHER RESOLVED that Resolution No. 87-011 C.S. is hereby rescinded.

IN COUNCIL, HAYWARD, CALIF. November 10, 1987

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: JIMENEZ, BRADLEY, CAMPBELL, BRAS, SWEENEY, WARD  
MAYOR: GIULIANI

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

ATTEST: Angelina M. Reyes  
Acting City Clerk of the City of Hayward

# **CITY OF HAYWARD**

## **COMMUNITY SERVICES COMMISSION**

**APPROVED 11/16/22**

### **ARTICLE I PREAMBLE**

#### **SECTION 101. CONFLICTS.**

In the event of any conflict between these bylaws and the Hayward City Charter, Hayward Municipal Code, and City Council Resolutions, then the Hayward City Charter, Hayward Municipal Code, and City Council Resolutions shall prevail.

#### **SECTION 102. MISSION.**

The Community Services Commission ("CSC" or "Commission") serves as an advisory body to the City Council of the City of Hayward ("COH"). The mission of the CSC is to:

1. Provide advice and consultation to the Hayward City Council regarding the social, economic, and humanitarian aspects of community development issues within the City;
2. Encourage the development of a planned and orderly approach to the development of community services in the City;
3. Identify the needs for community services, for the coordinated delivery of such services to residents and to avoid duplication and conflict of effort;
4. Support City Council priorities to help solve community problems;
5. Serve as the citizen participation mechanism of federally funded, financed or aided projects; and
6. Create and sustain an environment which will encourage and bring about mutual understanding and respect and to discourage and prevent any and all recognized discriminations based upon race, sex, religion, national origin, age, handicap, sexual orientation, and all other protected categories of persons, if any, under federal and state law, and particularly those discriminations in the areas of housing, employment, and education.

### **ARTICLE II DUTIES AND RESPONSIBILITIES**

#### **SECTION 201. GENERAL DUTIES AND RESPONSIBILITIES.**

The Community Services Commission ("CSC") and its members shall have the duties and responsibilities to:

1. Regularly attend meetings and vote on items before the Commission.
2. Adopt rules and regulations for the conduct of its business and for the time and place of its meetings.
3. Assist in developing objectives and goals of the Commission.
4. Perform other related duties as directed by City Council.

## SECTION 202. FUNDING RECOMMENDATION DUTIES AND RESPONSIBILITIES.

The Community Services Commission ("CSC") and its members shall have the duties and responsibilities to:

1. Accept and review proposals for City-administered funding as directed by City Council, including but not limited to Community Development Block Grant ("CDBG") and Social Services Program funding.
2. Develop criteria for Announcement of the availability of funds.
3. Develop application guidelines.
4. Review criteria used to make funding recommendations.
5. Prepare and submit priority recommendations to City Council.

## ARTICLE III MEMBERS

### SECTION 301. MEMBERS

The Community Services Commission shall consist of no fewer than seventeen (17) members, who are appointed by City Council.

### SECTION 302. QUALIFICATIONS.

In order to be eligible for appointment to the Commission a person shall be a resident of the City of Hayward. The members of the Commission shall be appointed by the City Council.

### SECTION 303. TERM LIMITS.

By City Resolution 73-235 C.S. the City Council established a policy of a limitation of not more than two and one-half (2 ½) consecutive full terms of four years apiece on any one board or commission for service thereon by members thereof.

### SECTION 304. VACANCIES, ABSENCES, AND ATTENDANCE.

In City Resolution 87-323 C.S. the City Council repeated and implemented Section 905 of the City Charter:

1. **DECLARING VACANCIES.** If a member of a board or commission absents themselves from three consecutive regular meetings of such board or commission, or ceases to be a Hayward resident, their office shall become vacant and shall be so declared by the Council.
2. **EXCUSED ABSENCE.** Boards and commissions shall not excuse or otherwise grant permission to their members to be absent from any regular meeting of the board or commission.
3. **ATTENDANCE** The City Council shall review the attendance records of all board and commission members in May of each year. Unless extraordinary conditions exist, the City Council shall remove all board or commission members who have not attended at least 75 percent of the meetings of the board or commission upon which they serve, which are subject to the Brown Act.

If a Commissioner misses two consecutive meetings, the Community Services Division will notify the City Clerk of said absences. The City Clerk will notify the Commissioner in writing (per Council direction) reminding them of the two consecutive meetings missed



and that one more meeting missed will result in automatic removal from the board or commission.

After three consecutive absences or in the event attendance at 75 percent of meetings is not maintained the Office of the City Clerk will notify the Mayor either of the automatic vacancy or recommending the Commissioner office be declared vacant because of attending less than 75 percent of meetings and requesting that an appointment be made to fill the vacant office.

#### SECTION 305. ROLL CALL.

To be counted as present, a Commissioner shall be in attendance during all action items listed on the agenda.

### ARTICLE IV OFFICERS

#### SECTION 401. OFFICERS.

The Commission shall elect from the CSC members the Chairperson, Vice-Chairperson, and Parliamentarian at the September regular meeting and install them at the October meeting of every year to serve a term of one year or until their successors have been elected. Elected Officers may succeed themselves one or more times, but generally not more than twice.

### ARTICLE V DUTIES OF OFFICERS

#### SECTION 501. CHAIRPERSON.

The Chairperson shall preside at the regular and special called meetings of the Commission. They shall perform all duties incident to their office and such other duties as may be required by the Hayward City Charter, Hayward Municipal Code, City Council Resolutions and these Bylaws. The Chairperson shall appoint all committees and shall be an ex officio member of all committees.

#### SECTION 502. VICE-CHAIRPERSON.

The Vice-Chairperson shall act in the absence of the Chairperson or in the event of the Chairperson's inability or refusal to act. The Vice-Chairperson shall also serve as the Chairperson of the Public Services Application Review Committee.

#### SECTION 503. PARLIAMENTARIAN.

The Parliamentarian shall act in the absence of the Chairperson and Vice-Chairperson, or in the event of the Chairperson or Vice-Chairperson refusal to act. The Parliamentarian shall provide expert guidance related to the bylaws and keep order within the CSC meetings.

### ARTICLE VI STAFF

#### SECTION 601. STAFF.

The Community Services Manager or designated staff members shall provide staff support to the CSC and shall plan, organize and direct the activities of the staff in support of the mission of the CSC. As needed, the Community Services Manager shall work in coordination with the CSC Chairperson to prepare the agendas for CSC meetings.

### ARTICLE VII MEETINGS

#### SECTION 701. REGULAR MEETINGS.

The regular meetings of this Commission shall be held on the third (3rd) Wednesday of every month unless the Commission is notified at least seventy-two (72) hours in advance of no meeting. All agendas for the CSC shall be posted at least seventy-two (72) hours before each regular meeting in the manner set forth in the Rules and Regulations of the CSC and in accordance with the Brown Act.

#### SECTION 702. SPECIAL MEETINGS.

Special meetings may be called at any time by the presiding officer or a majority of the Commission by delivering personally or by mail, a written notice. All members shall be notified at least forty-eight (48) hours prior to the special meeting. The call and notice shall specify the time and place of the special meeting and provide a copy of the agenda. All agendas for special meetings shall be posted at the place designated by City Council.

#### SECTION 703. QUORUM.

The quorum for a regular or special meeting shall be a majority of the currently seated membership of this Commission.

#### SECTION 704. VOTING.

Each member of the Commission shall be entitled to one vote and shall have the right to move or second on any agendaized matters brought to a vote during a regular or special meeting at which the member is present. The affirmative or negative vote of a simple majority of the seated members shall be necessary for it to take any action.

#### SECTION 705. PUBLIC COMMENT.

In accordance with the Bagley-Keene Act and the Brown Act, the presiding officer shall make explicit mention of the public's ability to comment on individual agenda items. Public comment shall be limited to 3 minutes.

### ARTICLE VIII AMENDMENTS

#### SECTION 801. AMENDMENTS.

Proposed amendments to these Bylaws may be submitted in writing by any Commission member at a regular or special meeting. A copy of the proposed amendments shall be furnished to each Commission member at least 28 days prior to adoption or rejection. Approval by a two-thirds (2/3) affirmative vote shall constitute adoption of the amendment.

## ARTICLE IX COMMITTEES

### SECTION 901. AD HOC COMMITTEES.

The CSC Chairperson may create standing or ad hoc committees from time to time as circumstances warrant. Only CSC members may serve on committees, and the CSC Chairperson shall appoint the members who serve on the committees.

### SECTION 902. INFRASTRUCTURE APPLICATION REVIEW COMMITTEE.

The Infrastructure Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Infrastructure ARC are: to review all Economic Development and Facilities applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 903. PUBLIC SERVICES APPLICATION REVIEW COMMITTEE.

The Public Services Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Public Services ARC are: to review the Social Services and CDBG Public Services applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 904. ARTS, MUSIC, AND CULTURAL EVENTS APPLICATION REVIEW COMMITTEE.

The Arts, Music, and Special/Cultural Events Application Review Committee (ARC) shall consist of no less than five (5) Commissioners appointed by the Commission Chairperson. The duties of the Arts, Music, and Special/Cultural Events ARC shall be: to review all related applications for funding, to interview applicants and to develop recommendations of funding for the CSC.

### SECTION 905. APPOINTMENT LIMITATIONS.

Commissioners may be assigned to more than one Application Review Committee, however no one Commissioner shall be named to all three (3) Application Review Committees within a funding cycle.

## ARTICLE X EFFECTIVE DATE

The foregoing bylaws of the CSC are adopted by the CSC on November 18, 2022 and made effective as of this date.

Drafted 11/16/2011

Updated 12/21/2011

Adopted 3/22/2012

New Draft: 3/18/2015

Revised Draft: 5/20/2015

Adopted: 7/15/2015

Revised Draft: 9/21/22

Adopted: 11/16/22

## Hayward Library Commission Best Practices

### Role and Meeting Structure

- The primary role of the Library Commission is to help the City Council make key decisions about the Hayward Library (see Appendix A).
- The Library Commission will strive to vote on meaningful recommendations, as often as is appropriate, that will be brought to City Council or staff in support of the Hayward Library.
  - Agenda item *e. Recommendations* will be added to the “Reports” section each month.

### Commissioners

- Expectations
  - Read all meeting materials in advance when available.
  - Once each year the Library Commissioners should tour the Main Library and the Weekes Library.
  - In addition to the mandatory attendance requirements set forth by City Council (Commissioners can miss no more than 3 meetings per year), and mandatory Harassment and Ethics trainings, commissioners will be expected to volunteer 3 times per year for special projects, subcommittees, or other opportunities in support of the Library
  - Share Library announcements, projects, and events with their network
  - The Library Commission may create Subcommittees as needed, for example:
    - Welcome Committee
    - Special Projects/Initiatives
    - Liaison to other Library Programs (i.e. Friends of the Hayward Library, Literacy Council; etc.)
- New Commissioner Orientation
  - A Welcome subcommittee of one or two commissioners will be formed to onboard new commissioners.
    - The Welcome Committee updates the welcome packet that includes Commissioner bios, Library Commission Letterhead, as well as meets with new commissioners and provides an orientation within the first two months of their term.
  - Welcome packet
    - Provide a document outlining the staff roles within the Library and bios of each Library Commissioner with contact information, and information about prior Library Commission projects that they worked on.
    - Provide basic information about the organizational structure and helpful links within the Library and City Council.
    - Provide basic information (pamphlet, literature; etc.) about our primary partner organizations, such as the Friends of the Hayward Library
    - View video about California’s open meeting law - The Brown Act: <https://www.youtube.com/watch?v=6BWG08wK-n0&t=65s>

## **Officers**

- Election of Officers
  - There are two officers:
    - Chair
    - Vice Chair
  - The term of office will be two years
  - Nominations for vacant or expiring offices will open at the September meeting
    - Nominations will be submitted to the Library Director between the September and October meeting
    - Nominations must state: The Name of the Nominee, The Office, and a brief statement of why they were selected
  - Elections will take place at the October meeting
    - Commissioners must be present to vote
    - Voting will occur as long as there is a quorum
    - If a nominee is not present at the October meeting, they will have the option to submit a statement at least 3 days prior to the meeting that will be read on their behalf, or someone else can speak on their behalf. However, the vote will commence at the October meeting even if a candidate is not present.
- Duties of Officers
  - **Chair:** Chairs the meetings, is familiar with Roberts Rule of Order, and City Council meeting requirements, meets with Library Director to plan meetings
  - **Vice Chair:** Chairs the meetings when the Chair is absent, chair for special projects as needed
  - Help build and manage the meeting agendas monthly and throughout the year.
  - Make sure that Action Items from the previous meeting are addressed at the following meeting (or at a subsequent meeting) by creating a *Standing Action Items* log.

## **Hybrid Meeting Protocols**

- To be determined in the event that hybrid meetings are approved and implemented.

These Best Practices were approved at a meeting of the Hayward Library Commission on November 21, 2022.

## The Role of the Library Commission

"I want to remind folks of what I think the Council sees as the main value of this group, which is to help us make big decisions about the Library. As a councilmember, I don't have a lot of bandwidth to spend on reviewing decisions about the Library because I'm deciding about 47 other departments and you know whether to defund the police right now and things like that and so that eats up all the oxygen. So we really look to the Library Commission to make recommendations on how we should vote on certain things. You know last month was a great example of what I think was the primary value of the commission - you made a recommendation on the Fine Free Library change. Without the Library Commission recommendation that probably would have been a long discussion at the Council, but because you had a recommendation, you really fleshed it out, you asked great questions, it got filtered into the report, it just went through on consent at the council level. We trust you to make that decision on our behalf. There's real power in that and I hope that you will exercise that and exercise that influence. And have a decision and a vote every meeting on something.

Just a few things...the reopening date - when should that happen? Under what conditions might we actually reopen the library? I'm sure Jayanti and the staff have some opinions on that. It's ultimately going to have to be made by policymakers in the end I suspect. Grab the reins, make that decision, make yourself that Policymaking body by creating a recommendation.

The Children's Story area, we're having all kinds of problems with the carpenter getting the darn thing finished. At some point somebody is going to have to come in and make a decision and say "enough is enough" it's good enough, it doesn't have to be perfect. Just call it done and open it, right. That's a decision that you guys could make and help Jayanti make because I know that's a challenging one.

When we do reopen what does that look like? Do we open all three floors or just one floor? Is there a limit on the number of people? Is it about distance? Do we allow the meeting rooms to open? All those kinds of decisions you can help make those. Of course, Jayanti and her staff are fully capable of making a lot of those decisions, but there are some that are tough, tough calls and they're going to need help, they're going to need a second opinion, they're going to need the community through all of you to weigh in.

And I would really encourage you to make sure that there's a little bit of that every month - those kinds of decisions. We're trying to cede some power and not just hoard it all for ourselves at the council. Trying to give some to you. So take it, take it, exercise it, please."

-Councilmember Al Mendall  
Hayward Library Commission Meeting  
11/16/2020  
(52:00 minutes)



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** WS 24-010

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT**

Stack Center Project: Update on Phasing and Funding Gap

**RECOMMENDATION**

That Council receives this report on the phasing and budget gap for the Stack Center project and provides feedback.

**SUMMARY**

Community members and elected officials have long held the dream of building a new South Hayward Youth and Family Center at the corner of Tennyson and Ruus Roads, referred to as the Stack Center. For the past ten years, the City and its partners have worked to raise funds and define the vision for this Center. The purpose of this work session is to give newer Council Members background on this project and outline decisions that will be coming to Council over the next 10 months. In particular, staff is seeking feedback from Council on the funding gap for Phase II construction, which must commence by early 2025 to meet a state grant deadline. The City must either identify sources to close the funding gap by fall of 2024 or scale back the designs with existing funds to meet the grant requirements.

**ATTACHMENTS**

Attachment I Staff Report



**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Stack Center Project: Update on Phasing and Funding Gap

## **RECOMMENDATION**

That Council receives this report on the phasing and budget gap for the Stack Center project and provides feedback.

## **SUMMARY**

Community members and elected officials have long held the dream of building a new South Hayward Youth and Family Center at the corner of Tennyson and Ruus Roads, referred to as the Stack Center. For the past ten years, the City and its partners have worked to raise funds and define the vision for this Center. The purpose of this work session is to give newer Council Members background on this project and outline decisions that will be coming to Council over the next 10 months. In particular, staff is seeking feedback from Council on the funding gap for Phase II construction, which must commence by early 2025 to meet a state grant deadline. The City must either identify sources to close the funding gap by fall of 2024 or scale back the designs with existing funds to meet the grant requirements.

## **BACKGROUND**

### **Existing Site**

The future Stack Center Campus will encompass four-acres of City-owned property that will result in a combined 50,000 ft<sup>2</sup> of multi-use service space. The existing site is comprised of the current Eden Youth and Family Center (EYFC) and Matt Jimenez Community Center. In 1979, EYFC took over the former Tennyson Elementary School to address the area's disproportionate lack of health care, education, and other social services. Tennyson Elementary was built in the 1950s. There have not been any substantial capital improvements to the buildings since that time.

In the 1990s, the City purchased the EYFC building to keep struggling non-profit service providers afloat. Since that time, EYFC has leased the facility from the City. Services have



remained open, but the non-profit operators have not had additional funding to invest in capital improvements. As a result, the quality of the site has fallen into greater disrepair. In addition, partners and funders have been hesitant to make upgrades to buildings that are long past their useful life.

Matt Jimenez Community Center was built in the 1990s as a Boys & Girls Club on City land. The building was subsequently leased to the Hayward Area Recreation and Parks District (HARD) to operate. In 2020, HARD vacated the front half of the MJCC and plans to only operate the gymnasium portion moving forward.

### **Efforts to Raise Capital Funds**

In 2007, the City and Alameda County began planning for major improvements at this site, which included several community meetings where community partners and residents shared their goal of building a fully new center. However, due to the nationwide economic downturn and the dismantling of local redevelopment agencies, the project was stalled.

In 2012, under the leadership of the late Alameda County Supervisor Richard Valle, the effort was renewed. His office helped hold additional community meetings and secured significant seed funding for the project. In July 2014, the County Board of Supervisors allocated \$9.6 million from District 2's share of one-time residual property tax funds for the Stack Center. In June 2015, the County Board of Supervisors approved the acceptance of a \$5 million grant from the Kaiser Regional Foundation. This total funding amount was reduced by approximately \$600,000 to help fund Mia's Dream Park, which is located on parcels abutting the Stack Center project site.

Over the past three years, City staff has leveraged the County's seed funding to secure an additional \$16,205,902 in state and federal grant funding and \$3,600,000 in other funds. These sources are shown below, along with the construction phases to which they are allocated.

### **Funding Sources**

State and Federal Grants	Grant Amount	Phase
Clean California - Caltrans	\$2,647,000	Phase I
State of CA Natural Resources Agency	\$1,000,000	Phase I
Federal Dept of Housing & Urban Development	\$1,500,000	Phase I
State Library Building Forward Infrastructure	\$8,558,902	Phase II
State's Housing and Community Development	\$2,500,000	Phase II
<b>Total State and Federal Grants</b>	<b>\$16,205,902</b>	
Other Funding Sources		
Alameda County (including \$5 M from Kaiser)	\$14,000,000	Phase I & II
City ARPA Funds	\$2,000,000	Phase I
City General Funds	\$100,000	Phase I
La Vista Developer Contribution	\$1,500,000	Phase I & II

<b>Total Funding including Grants</b>	<b>\$33,805,902</b>
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In addition, the City hired a fundraising consultant in 2022 to assess the viability of securing private donations. The consultant found that there may be up to \$10 million in possible donations for a project of this type in Hayward, but no more than that. One barrier to private fundraising is the relatively low per capita income in Hayward and the need to prioritize keeping critical nonprofit services running, over capital improvements.

The consultant also found that there is insufficient fundraising capacity within existing project partners to conduct the type of relationship building required for large donations of \$100,000 and above. They recommended forming an independent “Friends of the Stack Center” non-profit solely dedicated to raising funds for this project and future operations. Unfortunately, staff has not had capacity to take this on, due to competing priorities.

### **Governance and Project Partners**

In 2015, the City, Alameda County, and HARD formed the Stack Center Governance Group to guide the project and obtain the necessary resources. From the start, the existing nonprofit onsite providers have been project partners, which are EYFC, Tiburcio Vasquez Health Center (TVHC), Kidango, and Alameda County Office of Education (ACOE).

In September 2016, the Stack Center Governance Group issued a Request for Qualifications for Facility Operator and Administrator Services. In March of 2018, Council authorized the City Manager to execute a facility operator agreement with a partnership between La Familia and Eden Youth and Family Center. Since that time, La Familia has been a project partner. In the past few years, the City of Hayward Library Department and the Hayward Arts Council have also joined the partnership to be future service providers.

### **Selection of an Architect and Construction Management Firm**

In June 2018, the City issued a Request for Proposals (RFP) for the creation of a building program and preliminary design. The City received eight proposals. The Stack Center Governance Group evaluated each proposal and ranked RossDrulisCusenbery (RDC) as the highest. In 2019, Council authorized the City Manager to execute a professional services agreement with RDC, which was expanded in 2020 for architecture and engineering services.

### **Youth Participatory Design Process**

One unique component of the design contract with RDC was the inclusion of a participatory design process with a Youth Advisory Group. The process was initially halted do the commencement of the Covid pandemic. In summer of 2020, staff reengaged the nineteen young people selected for the process. All agreed to participate in a digital version and staff redesigned the curriculum to work for digital tools. The process ran from August through December, 2020. Youth were assigned individual work to complete on their own time and the group met for combined discussions twice a month. Youth were given a \$500 stipend to compensate them for their time and were assisted with digital devises and hot spots to ensure they could join online.

A few of the learnings from the participatory design process:

- The pandemic was incredibly socially isolating, and young people are craving active public spaces where they can connect and celebrate. There was a particular focus on creating a place with bright colors and “millions of lights” that reflect the diverse holidays celebrated throughout the neighborhood, such as Diwali and Dia de los Muertos.
- Conversely, many young people in South Hayward live in crowded conditions and are sharing rooms with family members. Currently, there are few, if any, attractive spaces they can walk to get away from the chaos at home. This has been compounded by the pandemic. They have a strong desire for beautify natural spaces that can serve as sanctuaries.
- They have a strong desire for a diverse range of increased recreational opportunities, with a focus on performance arts, crafting and sports like boxing, soccer, and basketball.
- They see a strong connection to food as a way to share diverse cultural heritages and focus on wellbeing.
- They want to prioritize the message of the strength, survival, and resiliency of South Hayward families, many of whom have struggled greatly to immigrate to the United States and who continue to struggle to survive economically, but also contribute greatly as front-line workers and dedicated parents.

### **Delineation of Construction Phases**

In Spring 2022, the City and its partners discussed splitting the Stack Center project into several phases to use grant funds in the near term, rather than prolong construction while the City secured funding for the full project. On May 3, 2022, Council approved the phased approach and directed staff to prepare documents for Phase I construction. The four phases are:

- *Phase I - Childcare Center & South Campus Outdoor Elements:* This phase includes the renovation of the MJCC to become an affordable childcare center, which will be operated by Kidango. It also includes outdoor improvements like the Community Event Plaza, two tot yards for the childcare center, and the reconfiguration of the parking lots. Once Phase I is complete, Kidango’s childcare programming will move in, which will allow the City to demolish the existing Kidango buildings as part of Phase II construction.
- *Phase II - Core and Shell & First Floor Spaces:* Phase II is the largest phase. It includes demolition of the existing Eden Youth and Family Center, construction of the full core and shell of the new north building, and the build out of the first-floor spaces. The first-floor spaces include:
  - A Technology Lab with a sound-proof recording studio, operated by EYFC
  - A Leaning Lab with Adult Literacy and ESL services with private study areas for tutors and learners, operated by the Hayward Library

- Classroom space, operated by ACOE
  - A corner café, which was one of the top requests of community members
  - A makerspace similar to the Downtown Library
  - A large multipurpose space that will be wired to host hybrid City Council meetings, that can also be split into two learning spaces for after-school homework support, events, and popup stores
  - A public lounge with self-service checkouts for library materials, tech-lending library devices, and a rotating art gallery curated by the Hayward Arts Council
  - Three public meeting rooms that can be used by community groups of for legal clinics, particularly for tenant assistance
  - Administrative offices, family restrooms, and a staff lounge
- *Phase III - Second Floor Health Clinic Spaces:* This phase will build out the second-floor spaces, which are:
    - The Pediatric Health and Dental Clinic, operated by TVHC
    - The Behavioral Health Clinic, operated by La Familia
    - A combined family waiting room
    - Additional restrooms
  - *Phase IV - North Campus Outdoor Elements:* The final phase will demolish the remaining building (the existing TVHC Silva Clinic) and create the two plazas:
    - The Gateway Plaza facing Tennyson Road, which will house public art and have outdoor seating for the café, multipurpose room, and Technology Lab
    - The Program Plaza, which includes a raised amphitheater for outdoor movies, separate raised seating with a stage, outdoor seating for the Lounge, and natural spaces with native landscaping.

### **Finalizing Phase I and Breaking Ground**

In July of 2022, Council authorized the City Manager to execute a professional services agreement with Kitchell for construction management services. In June of 2023, Council adopted a resolution approving the plans and specifications and call for bids for The Stack Center Phase I. On December 12, 2023, Council adopted a resolution awarding a construction contract to Rodan Builders, Inc. On February 8, 2024, the City held a groundbreaking and mural unveiling ceremony to celebrate the start of the first phase of construction.

Phase I construction will be complete by July for the outdoor elements and by October for the indoor elements. Staff anticipates the Childcare Center will be ready to occupy and open by the new year. Staff is planning at least two events with project partners to celebrate the openings, one in late summer and the other around the new year.

## **DISCUSSION**

### **Estimated Cost and Funding Gap**

The estimated cost and funding gap for the full project is shown below.

Construction Phase	Estimate Cost	Funding Gap
Design and Permits	\$5,500,000	\$0
Phase I – Childcare Center & South Campus Outdoor Elements	\$8,403,000	\$0
Phase II – Core and Shell & First Floor Spaces	\$34,232,000	\$14,329,098
Phase III – Second Floor Health Clinic Spaces	\$5,306,000	\$5,306,000
Phase IV – North Campus Outdoor Elements	\$5,255,000	\$5,255,000
<b>Total Estimate Cost and Funding Gap</b>	<b>\$58,696,000</b>	<b>\$24,890,098</b>

The cell highlighted in yellow indicates the funding gap for Phase II, which is the most pressing due to a construction deadline attached to grant funding for Phase II. Construction must commence in early 2025 on Phase II to meet that deadline. The design and development permits are complete, so the only limitation at this point is the funding gap.

There are no grant deadlines associated with Phases III and IV. Staff's intention for that remaining funding gap, totaling approximately \$10.5 Million, is to continue seeking grant funds and pursuing outside fundraising opportunities.

### **Seeking Council Feedback: Funding Options for Phase II**

Staff will continue to seek grants and plans to renew private fundraising efforts this spring. However, staff does not realistically anticipate raising \$14 million by this fall. If the City is unable to raise the gap funding from outside sources, staff is seeking Council's preliminary feedback on the following two options for Phase II:

1. Leveraging Measure C funds to finance the gap and then replenish the majority of those funds with future proceeds from the sale of City owned properties (e.g. City Center or 238 properties). Staff projects receipt of approximately \$9 million from the sale of City Center to a developer. If the renewal of Measure C is placed on the November 2024 ballot and is approved by the voters, there would not be a need to replenish these funds and the property sales proceeds could be programmed for other priority uses.
2. Redesigning Phase II to scale down the amenities to only include those items covered by the grant. This redesign could include removing the second story of the building and placing the clinics elsewhere, removing the café, or other value engineering.

Staff will return in November with an update on Phase II funds and options.

### **Seeking Council Feedback: Business Plan and Center Operations**

As summarized above, the City executed a facility operator agreement with La Familia and Eden Youth and Family Center in 2018. That agreement expired in 2021. In the eight years since the agreement was drafted, the project scope, context, and fiscal environment have changed, partially due to the pandemic. Staff has been meeting with La Familia and EYFC since 2021 to create a sustainable business plan that meets the City's goals maximizing

services and affordable programming. Staff now feels that the partnership would benefit from bringing in an outside expert to review the business plan with an eye on maximizing creative revenue streams and bringing in new service partners. The goal is to create a robust operational model that will ensure the Center's future sustainability.

Staff is seeking Council's feedback on setting aside City funds to hire outside assistance for business plan support, which would not exceed \$70,000. If Council is supportive of this approach, staff will discuss it with the Governance Group and return to Council in the next few months with a proposal, if needed.

## **FISCAL IMPACT**

There is no fiscal impact from receiving this report. Based on direction from Council at this work session on the items above, staff will return to Council with further fiscal analysis before taking any action.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Roadmap Priorities of "Invest in Infrastructure" and "Enhance Community Safety and Quality of Life". Specifically, this item relates to the implementation of the following project(s):

- N9: Break ground on the Stack Center and continue fundraising for project needs.
- Q21: Work with partners to design programming for the future Stack Center Community Event Plaza

*Prepared by:* Mary Thomas, Assistant to the City Manager

*Approved by:*



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Kelly McAdoo, City Manager



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** LB 24-011

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**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Municipal Elections: Adopt a Resolution of Intention to Transition from At-Large Election of the Mayor and City Council to District-Based Elections Beginning with the 2026 Election Cycle

**RECOMMENDATION**

That the Council adopts a resolution (Attachment II) declaring its intention to transition from at-large elections to district-based elections for the 2026 election cycle, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action.

**SUMMARY**

The City of Hayward currently has an at-large election system, which means that the electors from the entire City choose each of the seven (7) members of the City Council, including the Mayor. A district-based election system is one in which the city is geographically divided into separate districts, each with one Councilmember who resides in the district and is chosen by the electors residing in that particular district. Adoption of this resolution would not affect the upcoming November 2024 municipal elections, which would still be conducted pursuant to the at-large system.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Correspondence from Scott Rafferty



**DATE:** April 16, 2024

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT:** Municipal Elections: Adopt a Resolution of Intention to Transition from At-Large Election of the Mayor and City Council to District-Based Elections Beginning with the 2026 Election

## **RECOMMENDATION**

That the Council adopts a resolution (Attachment II) declaring its intention to transition from at-large elections to district-based elections for the 2026 election cycle, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action.

## **SUMMARY**

The City of Hayward currently has an at-large election system, which means that the electors from the entire City choose each of the seven (7) members of the City Council, including the Mayor. A district-based election system is one in which the city is geographically divided into separate districts, each with one Councilmember who resides in the district and is chosen by the electors residing in that particular district. Adoption of this resolution would not affect the upcoming November 2024 municipal elections, which would still be conducted pursuant to the at-large system.

## **BACKGROUND**

On May 28, 2021, the City received a letter from attorney Scott Rafferty of Walnut Creek, California alleging that the City's system of at-large elections violates the California Voting Rights Act ("CVRA"). On March 10, March 21 and March 22, 2024, Mr. Rafferty sent additional letters to the City Council on this topic (see Attachment III). The letters generally claim that Asian American voters in Hayward have different voting preferences than the rest of the Hayward electorate, a phenomenon known as "racially polarized voting," and that their electoral influence has been unlawfully diluted by the current at-large voting system. Mr. Rafferty alleges that the existence of racially polarized voting and vote dilution in Hayward violates the CVRA and demands that the City convert to district elections in advance of the November 2024 election.

On April 9, 2024, Mr. Rafferty served a complaint he had filed against the City of Hayward in Alameda Superior Court alleging that the City is in violation of the CVRA. The complaint



names as plaintiffs Jack Wu and an organization called Neighborhood Elections Now and asks the court to order the City to adopt district elections for the November 2024 general election. The complaint also alleges that the City Council violated the Brown Act in the way it provided notice for a closed session in which it discussed Mr. Rafferty's demand letter on March 19, 2024.

## **DISCUSSION**

### **The California Voting Rights Act (CVRA)**

The CVRA was signed into law in 2002. The CVRA prohibits an at-large method of election that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. The law's purpose is to expand protections against vote dilution over those provided by the Federal Voting Rights Act of 1965 (FVRA). The law was also motivated, in part, by the lack of success by plaintiffs in California in lawsuits challenging at-large electoral systems brought under the FVRA. The passage of the CVRA made it much easier for plaintiffs to prevail in lawsuits against public entities that elected their members to its governing body through "at-large" elections. A plaintiff need only prove the existence of "racially polarized voting" and vote dilution to establish liability under the CVRA. A plaintiff need not prove any discriminatory intent by the voters or elected officials, nor must a plaintiff establish that the protected class can comprise a majority-minority district; it is sufficient for a plaintiff to simply show that under a different electoral system, the protected class would have greater electoral influence.

As a result, cities throughout the State have faced legal challenges to their "at-large" systems of electing City Council members. Almost all have settled claims out of court by agreeing to transition to district-based elections. To date, no city has successfully defended a CVRA challenge in the courts.

The CVRA grants a prevailing plaintiff the right to recover reasonable attorneys' fees and expert witness fees. This has resulted in payment of substantial amounts of plaintiff's attorneys' fees by cities that have chosen to litigate the CVRA challenge. Awards to plaintiffs' attorneys and expert witnesses routinely total several millions of dollars. For example, in February 2015, the City of Santa Barbara reportedly paid \$900,000 in attorneys' fees and expert costs to settle its ongoing CVRA lawsuit. Another example is the City of Palmdale, which was ordered to pay plaintiffs' attorney's fees in excess of \$4.6 million after losing a CVRA case at trial.

Even if the City defeated a CVRA claim in court (which has never before happened), it could not recover its own attorneys' fees or costs. Also, the City would remain vulnerable to subsequent CVRA litigation brought by different plaintiffs.

To date, multiple cities throughout the state have received CVRA demand letters and have adopted Resolutions of Intention to transition to district elections or have completed the transition process. Examples of Bay Area jurisdictions that have recently transitioned to district elections include Union City, Redwood City, and San Ramon.

### **AB 350 Safe Harbor**

On September 28, 2016, the Governor signed AB 350 into law, codified as Elections Code Section 10010 (effective on January 1, 2017). The legislation attempts to provide local jurisdictions a “safe harbor” from CVRA litigation if they choose to transition to a district election system voluntarily. If a city receives a demand letter, such as in Hayward’s case, the city is given 45 days of protection from litigation to assess its situation. If within that 45 days, a city adopts a resolution declaring the Council’s intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing a CVRA action for an additional 90-day period. Thus, the legislation provides time (a safe harbor) for the City to assess and implement a transition to a district-based election system before a lawsuit may be filed.

The legislation sets forth a number of steps a city must take in the effort to transition to a district-based election system, including holding at least four (4) public hearings to determine district boundaries prior to adopting an ordinance establishing the districts. Under AB 350, a city’s liability is capped at \$30,000<sup>1</sup> if it follows this process after receiving a CVRA notice letter and the plaintiff shows financial documentation substantiating the demand for reimbursement of costs of the work product generated to support the demand for conversion to district-based elections.

Mr. Rafferty’s complaint alleges that the City is not protected by the safe harbor provision because it did not adopt a resolution of intent within 45 days of the date that he sent his first demand letter in 2021. Mr. Rafferty’s May 28, 2021 demand letter said that he would provide details shortly of the evidence he had uncovered of “a possible violation” of the CVRA, but he never did nor did he contact the City again until sending his March 21, 2024 letter. Because Mr. Rafferty failed to follow up by providing evidence in support of his original demand and then delayed nearly three years, the City is entitled to the protection of the safe harbor provision if the City passes a resolution of intent on or before April 24, 2024.

### **Process and Timing**

Under the law, the City Council has 45 days to decide whether to adopt district-based elections. If the Council votes affirmatively to move to district elections, the City then has 90 days in which to adopt an ordinance establishing the new districts. During that time, the City must hold two public hearings for input on district composition before maps are drawn, release draft maps at least 7 days before the next public hearing, hold two more public hearings on the draft maps, and then adopt an enacting ordinance. If the City Council adopts the resolution as recommended, the earliest that the ordinance establishing district elections and the district map could be adopted would be July 15, 2024.

Based on the timeline described above, it will therefore not be possible for the City to implement district-based elections in time for the orderly conduct of the November 2024

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<sup>1</sup> This amount is subject to CPI escalation. Present value is approximately \$38,000.

election since it conflicts with election related deadlines and does not provide potential candidates sufficient time to make a decision about running in the election. Accordingly, the next election at which districts could be implemented is the November 2026 election. The districts the Council adopts will be in place until 2031.

To ensure those districts best serve Hayward's residents, all interested members of the public must be afforded an opportunity to participate in public hearings regarding district lines. The process of soliciting public input, including receiving testimony regarding communities of interest, hiring a demographer, publishing draft maps, and facilitating productive dialogue on how the districts should be drawn requires organized, deliberate planning and a well-coordinated public communications plan. Staff will perform public outreach, which will consist of press releases, social media outreach, and information on the City's website. In addition, the City will provide outreach specific to underrepresented communities in Hayward to facilitate their participation in the district elections process.

### **FISCAL IMPACT**

Significant staff resources will be devoted to carrying out the process described in this report, including public outreach strategies. The City will also incur costs related to the engagement of outside legal counsel, a demographer and other consultants that may be necessary. The City will also incur costs related to reimbursement of Mr. Rafferty pursuant to the Elections Code.

### **NEXT STEPS**

If Council adopts the attached resolution, staff will work with outside legal counsel, a demographer and the City Attorney's Office in preparation for the public hearings. Staff will begin the process of public outreach and engage stakeholders to ensure a robust public education/information effort.

*Prepared by:* Miriam Lens, City Clerk

*Recommended by:* Regina Youngblood, Assistant City Manager

*Approved by:*



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Kelly McAadoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD  
DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE TO  
BY-DISTRICT COUNCIL MEMBER ELECTIONS UNDER ELECTIONS  
CODE § 10010

WHEREAS, members of the Hayward City Council, including the Mayor, are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886 in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an "at-large" system to a "district-based" system in which council members are elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received letters from Scott Rafferty, Attorney at Law, asserting that the City's at-large council member electoral system violates the California Voting Rights Act ("CVRA") and demanding that the City change to a district-based election system for electing council members for the November 2024 election; the letters are dated May 28, 2021, March 10, 2024, March 21, 2024 and March 22, 2024. The May 28, 2021 letter was sent via certified mail to the City Clerk. The remaining letter were addressed to the Mayor and City Council; and

WHEREAS, under Elections Code Section 14028(a), a CVRA violation is established if it is shown that racially polarized voting and vote dilution occurs in elections. "Racially polarized voting" means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (Elections Code Section 14026(e)); and

WHEREAS, the California Legislature in amendments to Elections Code Section 10010, has provided a method whereby a jurisdiction can change to a by-district election system and cap its attorney's fees liability at \$30,000 subject to adjustment annually pursuant to the Consumer Price Index ("CPI"); and

WHEREAS, the City Council intends to direct staff to initiate the process to establish by-district elections to avoid costs associated with defending a lawsuit based on the CVRA, even if that lawsuit settles; and

WHEREAS, Scott Rafferty and his clients may not commence an action under the CVRA against the City until July 15, 2024, provided the City follows the deadlines set forth in Elections Code section 10010(e);

WHEREAS, the City denies that its at-large council member electoral system violates the CVRA or any other provision of law; and

WHEREAS, despite the foregoing, the City Council has determined that the public interest would be served by transitioning to a district-based electoral system because of: 1) the extraordinary cost to defend against a CVRA lawsuit, 2) the risk of losing such a lawsuit which would require the City to pay the prevailing plaintiffs' attorneys' fees, and 3) the reimbursable costs and attorneys' fees would be capped at a maximum of \$30,000 by following the procedures set forth in Elections Code Section 10010 as amended by AB 350; and

WHEREAS, California Elections Code Sections 10010 and 21130 require that a City that is changing from at-large to district-based elections shall do all of the following before a public hearing at which the City Council votes to approve or defeat an ordinance establishing district-based elections:

1. Before drawing a draft map or maps of the proposed boundaries of the districts, the political subdivision shall hold at least two public hearings over a period of no more than thirty days, at which the public is invited to provide input regarding the composition of the districts. Before these hearings, the political subdivision may conduct outreach to the public, including to non-English-speaking communities, to explain the districting process and to encourage public participation.
2. After all draft maps are drawn, the political subdivision shall publish and make available for release at least one draft map and, if members of the governing body of the political subdivision will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections. The political subdivision shall also hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted; and
3. The final map must comply with the criteria provided in Elections Code section 21130.

WHEREAS, the City has retained special legal counsel to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based electoral system will not affect the terms of any sitting Council Member, each of whom must be allowed to serve out their current term by law.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. The City Council of the City of Hayward hereby resolves to consider adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Councilmembers with a proposed implementation date of November 2026.

Section 2. The City Council directs staff to work with the City's special legal counsel, a demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts, in a manner consistent with the intent and purpose of the state and federal Constitutions, the California Voting Rights Act, the California FAIR Maps Act and the Federal Voting Rights Act.

Section 3. The City Council hereby directs staff to perform public outreach to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

Section 4. The City Council directs staff to post information regarding the proposed transition to a district-based election system, including maps, notices, agendas and other information and to establish a means of outreach to receive public input and to answer questions from the public.

Section 5. The City Council directs staff to schedule the public hearings required by the Elections Code to ensure adoption of a district map and an ordinance establishing district elections by July 15, 2024, subject to potential extension by agreement as allowed by law.

Section 6. This resolution shall become effective immediately upon its passage and adoption.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2024

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





**SCOTT J. RAFFERTY**

**ATTORNEY AT LAW**

1913 WHITECLIFF COURT  
WALNUT CREEK CA 94596

(202)-380-5525  
RAFFERTY@GMAIL.COM

May 28, 2021

Ms. Miriam Lens

Clerk, City of Hayward

777 B Street, 4th Floor

Hayward, CA 94541

VIA CERTIFIED MAIL 7018 0680 0000 3664 0889 rec'd 6/2/21 8:12AM

Re: Possible Violation of California Voting Rights Act

Dear Ms. Lens:

Last year, a group of Asian residents contacted me regarding the need for neighborhood elections in Hayward. At the time, it was too late to require compliance in the 2020 elections, so I suggested that we refrain from starting the process of seeking voluntary compliance, which is subject to deadlines set forth in Elections Code, Section 10010.

I have reached the point where research conducted under my direction confirms that there is a possible violation of the California Voting Rights Act, Elections Code, Section 14026, et seq., based in part on the fact that the voting behavior of Asian citizens differs from that of the rest of the electorate. It is my practice to provide details of this evidence and of the benefits that neighborhood elections will provide in the specific case of Hayward. These will be forthcoming shortly. Given the delay in census data, my client is willing to negotiate extensions to maximize sustained public engagement in the process.

I would be grateful if you advise me if any other party has previously filed an active notice of possible violation. My clients look forward to working with your office and the city council in the collaborative fashion made possible by A.B. 350.

Sincerely,

A handwritten signature in dark ink, reading "Scott Rafferty". The signature is written in a cursive, flowing style with a large, prominent "S" and a stylized "R".

Scott J. Rafferty

## Miriam Lens

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**From:** Miriam Lens  
**Sent:** Wednesday, June 2, 2021 12:10 PM  
**To:** rafferty@gmail.com  
**Subject:** Re: California Voting Rights Act  
**Attachments:** 210528 Rafferty to Lens (Hayward CVRA).pdf

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Mr. Scott Rafferty,

This serves to acknowledge your communication. My office has received no other communications on this topic.

Regards,

Miriam Lens  
City Clerk

City of Hayward | 777 B Street | Hayward, CA 94541

☎ Phone: 510.583.4401 | Fax: 510-583-3636 | \* Email: [miriam.lens@hayward-ca.gov](mailto:miriam.lens@hayward-ca.gov)

Website: <https://www.hayward-ca.gov/>



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**From:** Scott Rafferty <[rafferty@gmail.com](mailto:rafferty@gmail.com)>  
**Sent:** Friday, May 28, 2021 2:06 PM  
**To:** Miriam Lens <[Miriam.Lens@hayward-ca.gov](mailto:Miriam.Lens@hayward-ca.gov)>  
**Subject:** California Voting Rights Act

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

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Please see the enclosed letter, sent by certified mail today.  
I look forward to working with you.

Scott Rafferty  
1913 Whitecliff Ct  
Walnut Creek CA 94596  
mobile 202-380-5525

# SCOTT J. RAFFERTY

## ATTORNEY AT LAW

1913 WHITECLIFF COURT  
WALNUT CREEK CA 94596

(202)-380-5525  
RAFFERTY@GMAIL.COM

May 28, 2021

Ms. Miriam Lens  
Clerk, City of Hayward  
777 B Street, 4th Floor  
Hayward, CA 94541  
VIA CERTIFIED MAIL 7018 0680 0000 3664 0889

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Dear Ms. Lens:

Last year, a group of Asian residents contacted me regarding the need for neighborhood elections in Hayward. At the time, it was too late to require compliance in the 2020 elections, so I suggested that we refrain from starting the process of seeking voluntary compliance, which is subject to deadlines set forth in Elections Code, Section 10010.

I have reached the point where research conducted under my direction confirms that there is a possible violation of the California Voting Rights Act, Elections Code, Section 14026, et seq., based in part on the fact that the voting behavior of Asian citizens differs from that of the rest of the electorate. It is my practice to provide details of this evidence and of the benefits that neighborhood elections will provide in the specific case of Hayward. These will be forthcoming shortly. Given the delay in census data, my client is willing to negotiate extensions to maximize sustained public engagement in the process.

I would be grateful if you advise me if any other party has previously filed an active notice of possible violation. My clients look forward to working with your office and the city council in the collaborative fashion made possible by A.B. 350.

Sincerely,

A handwritten signature in black ink that reads "Scott Rafferty". The signature is written in a cursive, flowing style.

Scott J. Rafferty

**SCOTT J. RAFFERTY**  
**ATTORNEY AT LAW**  
1913 WHITECLIFF COURT (202)-380-5525  
WALNUT CREEK CA 94596 RAFFERTY@GMAIL.COM

March 10, 2024

Mayor Mark Salinas  
City of Hayward  
777 B Street, 4th Floor  
Hayward, CA 94541  
cc: Council Members

Re: Follow-Up Regarding Possible Violation of California Voting Rights Act

Dear Mayor Salinas and Council Members:

Almost three years ago, Neighborhood Elections Now (NEN) notified Hayward of its possible violation of the California Voting Rights Act (CVRA) and petitioned the council to create districts that empower minority neighborhoods and promote the participation and influence of Asian-American voters. I asked that the City disclose any prior notice, which would bar my clients from recovering the partial reimbursement of work product provided by Elections Code, §10010(f). I have received no response to either request. My clients were not committed to forcing this issue before the 2022 election, because the transition works best when started in the presidential election year, when the potential Asian-American and Latino vote shares are at their highest. They now propose compliance before the 2024 election.

The CVRA is a no-fault statute that prohibits at-large elections whenever they dilute the influence of a protected group, such as Asian-Americans. We are not required to prove discriminatory intent, which explains why no California jurisdiction has successfully defended against a CVRA action. I write to determine whether the council seeks an alternative to litigation, since a civil action is now timely.

Since we wrote to your city clerk in 2021, NEN has worked with the city governments of other large cities. America's largest city without districts, Santa Clarita (population 229,000), and Ontario (178,000) will convert to neighborhood-based elections this November. Glendale (197,000) and Lancaster (174,000) are also in transition. As result, Hayward has become the largest city in California (and quite possibly in the United States) to elect its council entirely at large.

Since the 1980s, the Asian-American communities of Hayward have grown steadily and now constitute 30% of the population. When we sent our notice, 30% of

eligible voters were Asian-American. This share has increased to 33%, making Asian-Americans the city's largest minority. It is possible to create at least one district that is majority Asian, which likely triggers liability under the federal Voting Rights Act. Citywide elections submerge the voting power that Asian-American voters would have if the city created majority and plurality districts.

An essential purpose of electoral districts is to incorporate minority communities into local political life. Campaigns neglect many of these communities because their historically low turnout renders them irrelevant in most at-large elections, creating a spiral of political disengagement. Citywide elections also make it difficult for grass-roots candidates to win by organizing campaigns within these neighborhoods. These factors combine to suppress the minority vote. Although Asian-Americans are 30% of eligible voters, they were only 20% of those who actually voted in the most recent election. Recent academic research proved how effective the CVRA has been. In 18 cities in California that converted from at-large to neighborhood elections, the voter turnout gap between Asian-Americans and the rest of the electorate fell by 25%.<sup>1</sup>

No Asian-American has been elected to the city council. Only three Asian-Americans have even sought election, and only one (in 2008) enjoyed significant support. Although Supervisorial District 2 is 40% Asian-American and Hayward is its largest city, there was only one Asian-American candidate for appointment to the vacancy that occurred last year (and she did not live from Hayward). Last year, the council also filled two vacancies, but neither appointee was Asian-American.

Still, no Asian-American has been elected to the city council. Only three Asian-Americans have even sought election, and only one (in 2008) enjoyed significant support. Although Supervisorial District 2 is 40% Asian-American and Hayward is its largest city, there was only one Asian-American candidate for appointment to the vacancy that occurred last year (and she did not live in Hayward). Last year, the council also filled two vacancies, but neither appointee was Asian-American.

Many Asian-American neighborhoods have no residents on the council, three of whose members live in Fairway Park. A number of voters in the Asian-American community have supported member Zermeño, who lives closer to several Asian-American neighborhoods than the other incumbents. When he retires, Asian-Americans will not have an equal opportunity to aggregate their votes to elect even a

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<sup>1</sup> Zachary L. Hertz, "Does a Switch to By-District Elections Reduce Racial Turnout Disparities in Local Elections? The Impact of the California Voting Rights Act," 22 ELECTION L. J. 213 (2023).

single council member – even though they constitute more than a third of the electorate.<sup>2</sup>

Each of the groups protected by the CVRA (Asian-Americans, Blacks, Latino, and Indigenous Peoples) has values, needs, and life experiences that differ from the rest of the electorate. It is not surprising that racially polarized voting, the primary element of minority vote dilution, is a nearly universal phenomenon. No jurisdiction in California has ever refuted polarized voting or dilution. Ballot questions and county elections clearly demonstrate that Asian-American voters in Hayward do indeed vote differently than the rest of the electorate. If the council requires, we can calculate and disclose which non-Asian-American incumbents have been supported or opposed by Asian-American voters, although this may not be necessary.

Single-member constituencies have been the dominant form of local government since Colonial times. Neighborhood elections have many benefits for voters of all races and for the quality of local governance. Districts eliminate winner-take-all slating and promote a council that is more informed as to the needs and values of every part of the city. They increase accountability, since each member can be reelected or retired by their own neighbors. It limits the control of special interests, since candidates are less dependent on raising funds to campaign across the entire city. Districting is also fiscally responsible, because the recurring costs by the city of conducting regular council elections are permanently cut in half. The costs of reimbursing NEN, which will support the city and its voters in this reform, will likely be recovered by a reduction in the costs of the November 2024 election. These economies will continue in every subsequent election.

It is important to recognize the historical context that led our state to champion the at-large movement in the early years of the 20<sup>th</sup> century. The CALIFORNIA PROGRESSIVE CAMPAIGN BOOK for 1914 (at 24) called New York's assimilation of immigrants "a fearful social blunder California is determined to avoid." It denounced the "delinquency and criminality of the second-generation alien," even though census data showed these birthright citizens to be as literate as "native stock," and predicted that Panama Canal would cause "an alien flood" from Europe. At-large election was the keystone of

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<sup>2</sup> Dean Heather Gerken's seminal article, "Understanding the Right to an Undiluted Vote," 114 HARV. L. REV. 1663, 1680 (2001), explains dilution as impairing the right of minorities "to aggregate their votes effectively." "Single-member districts were historically chosen over at-large precisely to afford electoral minorities a chance to affect the political process." *id.*

“reforms” that also lengthened (from two years) and staggered terms, and allowed incumbents to appoint to vacancies, often after strategically timed retirements. Generations of these appointed successors survived decades of demographic and political change. A 1960 study calculated that 60% of city council members were still Republican, the reverse of voter registration, with an even greater bias (83% Republican) in the councils of large cities. The same study showed that a “substantial majority” were still white, male, Protestant Masons who had lived in “a better part of town” for ten years or more.<sup>3</sup> The civil rights movement focused attention on the racially discriminatory impacts of at-large elections, which is why they were abandoned in most cities and school districts outside California and the South.

The restoration of district elections has usually benefited Latino and Black communities. But no ethnic minorities have suffered more egregious discrimination in California than Chinese, Japanese, and South Asian immigrants and their children. Hayward should honor their history and adopt districts that will incorporate Asian candidates and voters into the political life of the City.

## CONCLUSION

Neighborhood-based districts will improve city governance to the benefit of all voters. Given the urgency of completing the process by May, in time for the November elections. This may still be possible without litigation, but the council would need to commit to comply as soon as possible. We are committed to supporting the city and the Asian-American community throughout a hearing process, so that the transition can be as economical and well-informed as possible.

Sincerely,

A handwritten signature in dark ink, reading "Scott Rafferty". The signature is written in a cursive, flowing style with a large, prominent "S" and "R".

Scott J. Rafferty

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<sup>3</sup> Lee, POLITICS OF NONPARTISANSHIP at 56-57 (1960).

**SCOTT J. RAFFERTY**  
**ATTORNEY AT LAW**  
1913 WHITECLIFF COURT (202)-380-5525  
WALNUT CREEK CA 94596 RAFFERTY@GMAIL.COM

March 21, 2024

Mayor Mark Salinas  
City of Hayward  
777 B Street, 4th Floor  
Hayward, CA 94541  
cc: Council Members

Re: The Council's Violations of the Brown Act and Voting Rights

Dear Mayor Salinas and Council Members:

Hayward is one of the largest cities in America without districts, which is why Asian-Americans, who constitute 34% of its eligible voters, have never been able to sponsor and elect a candidate of choice. I was disappointed to learn today that the City Council does not intend to comply voluntarily with the California Voting Rights Act (CVRA) in advance of the 2024 election. It is shocking that Hayward's incumbents do not recognize their constitutional duty to conduct a lawful election in this critical year, when democracy is under attack across our country. Districts in this presidential cycle are essential to promote Asian-American turnout and to provide the Asian-American community a reasonable opportunity to elect their first authentic candidate of choice.

In a further effort to perpetuate your incumbencies, it seems that the Council unlawfully tried to conceal this entire dispute from the public. When I reviewed the agenda for the closed session that you convened last night, I realized that it included neither "a record of the threat" (if you interpreted our letters as an explicit threat of litigation) or the more detailed disclosure of "facts and circumstances" needed to justify a closed session based on the possibility of litigation. Gov. Code, §54956.9(c); Fowler v. City of Lafayette (2020) 46 Cal.App.5th 360. This secret meeting intended to deprive the public of information to which you knew or should have known the public was entitled.

There is plenty of time to conduct the four required hearings. Your attorneys' claim that the registrar would reject maps submitted in early May 2024 as untimely assumed that I was easily deceived. I have spoken to County Counsel and am confident that Mr. Depuis will implement maps provided to his office before statutory deadline of July 3, 2024 (or later with the benefit of a court order).



The 90-hearing deadline is designed to promote and sustain public input. In a further attempt to evade and exhaust public attention, your attorneys proposed not only to delay public hearings until after the critical 2004 election but then to protract them over an extended period of time. Both aspects are unacceptable.

Your attorneys also threatened to fight my recovery of attorneys' fees. They erroneously believe that you can invoke a \$38,000 cap no matter how long you protract the process. You forfeited that right when you exited the "safe harbor" after the pandemic. While I have been generous in compromising fee claims during settlement, today's discussion makes similar accommodations unlikely. I take great risks and never abandon clients. Your lawyers' threat to deny legitimate fees has multiplied those risks, making litigation more necessary and ultimately more costly for the city.

Your attorneys acknowledge that districting is inevitable but made clear that they will spend extensive public funds to conduct one more unlawful at-large election. Experience shows that even when dilatory tactics prevail in court, the voters hold incumbents accountable when they use public funds to perpetuate unlawful election practices. Many voters of all races who care about democracy and the rule of law will not support officials who use public funds to protect their incumbencies at the expense of the rights of Asian-American citizens.

It was illegal and morally wrong to take these anti-democratic decisions in secret last night. They will prove to be politically and fiscally imprudent as well.

Sincerely,

  
Scott J. Rafferty

**SCOTT J. RAFFERTY**  
**ATTORNEY AT LAW**  
1913 WHITECLIFF COURT (202)-380-5525  
WALNUT CREEK CA 94596 RAFFERTY@GMAIL.COM

March 22, 2024

Mayor Mark Salinas  
City of Hayward  
777 B Street, 4th Floor  
Hayward, CA 94541  
cc: Council Members

Dear Mayor Salinas and Council Members:

My clients have been collaborative partners who have helped numerous jurisdictions achieve very favorable resolutions to CVRA violations. It is unfortunate that the Hayward City Council and the City Attorney, after concealing our request from its constituents for more than two years, have attempted to intimidate them. Your attack on the voting rights of Asian-Americans in your city is an attack on democracy at the most critical time. It will not stand.

After writing the Council last night, I received the following unsolicited proposal from your attorneys. This proposal did not seek, and will not receive, any confidential treatment. It is fundamentally corrupt and makes any settlement more difficult. It demonstrates why the misdemeanor provisions of the Brown Act required the council to disclose the subject of its closed-door deliberations Tuesday night.

The City Attorney suggests that the City pay less than the partial reimbursement capped by §10010, which it acknowledges would relate to work already done. In the event that I was not available to serve the Asian-American community in future years (or unwilling to serve for free), it would provide no compensation for their representation at hearings. It proposes that I agree to a tolling agreement that would allow an illegal election in 2024 and contains no enforceable provisions to ensure that the City would ever comply with the CVRA.

- The Hayward City Council will adopt a resolution of intention to convert to district elections for the 2026 election cycle. The resolution will be adopted at either the April 16, 2024 or April 23, 2024 City Council meeting.
  - The resolution will specifically reference the letters you sent to the City in May 2021 and March 2024 as a way to mitigate risk of another attorney commencing a CVRA action against Hayward.
  - The resolution will specify that the process will begin on or about February/March 2025
- You will be paid \$38,000 to reimburse your costs to date.

- In consideration of the above, you agree not to sue to require districts for the 2024 election cycle and to execute an agreement to toll filing of a CVRA lawsuit against Hayward for a specified time period to allow the City to complete the transition process for the 2026 election cycle.

For your information, here are some data regarding cases that I have prosecuted. They belie your attorneys' defense that court actions must be filed as soon as the "safe harbor" period expires. Our patience in Ontario and Santa Clarita focused on achieving implementation in 2024, which is why Hayward's compliance is also timely.

City	§10010 Letter	Suit Filed	Fee Award
Ontario	1/8/20	12/3/20	\$300,000
W Sacramento	10/10/18	10/31/21	\$190,000
Santa Clarita	2/4/20	12/29/22	\$370,000

I have also litigated several school district matters, achieving similar outcomes. CVRA cases normally involve a fee multiplier of 2 to 2.5, which I waived in these cases. The risks associated with taking on these cases have substantially increased, so a substantial multiplier is likely now that Hayward has opted against voluntary compliance.

The courts' judgments specifically allowed Ontario and West Sacramento to continue to elect a mayor at-large. The racially discriminatory structure of city government is a matter of statewide concern, so in Hayward's case, the need to create effective Asian-American districts will likely preempt the City Charter on this issue.

It is corrupt to suggest that a minimal payment to me can shield the city from other attorneys challenging the unlawful 2024 election or from filing subsequent CVRA lawsuits. The proposed tolling agreement recognizes that the city can only "mitigate" the risk that the Shenkman/Parris/Rubin organization will refrain from prosecuting a CVRA action while the "tolling agreement" proposes to disable my clients. In 2014, Santa Clarita negotiated a "settlement" that paid Shenkman \$600,000 and allowed it to remain at large (until my clients' challenge). Rancho Cucamonga paid Shenkman \$400,000 for a settlement that allowed it to remain at-large for the 2016 presidential election, despite poorly researched allegations.<sup>1</sup> I am sure the bounties he negotiates to delay implementation have substantially increased.

Sincerely,



Scott J. Rafferty

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<sup>1</sup> The complaint described Rancho Cucamonga as a city of 77,793 that was 53.8% Latino by population; in 2016, the city had a population of 176,707 that was 37% Latino.