

# **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**

**Wednesday, July 6, 2016**

**4:30 PM**

**City Hall, Conference Room 4A**

## **Council Budget and Finance Committee**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENTS:**

*(The Public Comment section provides an opportunity to address the City Council Committee on items not listed on the agenda as well as items on the agenda. The Committee welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Committee is prohibited by State law from discussing items not listed on the agenda, any comments on items not on the agenda will be taken under consideration without Committee discussion and may be referred to staff.)*

**REPORTS/ACTION ITEMS**

1. [MIN 16-062](#) Approval of Meeting Minutes of May 4, 2016

2. [RPT 16-080](#) Consider Possible Cannabis Taxes

**Attachments:** [Attachment I Sample Ballot Questions](#)

3. FY 2017 Budget Process Debrief (oral presentation)

4. [RPT 16-077](#) Measure C (District Sales Tax) Annual Report FY 2016

5. [RPT 16-079](#) Refinancing of Outstanding 2007 Certificates of Participation  
(Civic Center and Capital Projects)

6. User Fee Study update (oral presentation)

7. [RPT 16-061](#) FY 2017 Meeting Schedule & Work Plan

**Attachments:** [FY 2017 Meeting Schedule and Work Plan](#)

**FUTURE AGENDA ITEMS**

8. Other items as may be identified by members

**COMMITTEE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS**

**NEXT REGULAR MEETING - 4:30PM., WEDNESDAY, SEPTEMBER 7, 2016**



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## Staff Report

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**File #:** MIN 16-062

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### CITY COUNCIL BUDGET & FINANCE COMMITTEE MEETING

#### Meeting Minutes of May 4, 2016

**Call to Order:** 5:02 pm

**Members Present:** Councilmember Lamnin, Councilmember Jones

**Members Absent:** Mayor Halliday

**Staff:** Kelly McAdoo, Tracy Vesely, Dustin Claussen, Morad Fakhrai, Karyn Neklason

**Guests:** None

**Public Comments:** None

1. Committee reviewed the meeting minutes for the April 6, 2016 City Council Budget & Finance Committee meeting. *Action: unanimous approval.*
2. The Committee received a verbal presentation by Director of Finance Tracy Vesely regarding the FY 2017 Operating Budget. *No formal action was taken.*
3. The Committee received a presentation by Director of Public Works Morad Fakhrai regarding the FY 2017 Capital Improvement Program. Discussion included, but was not limited to the following topics:
  - The City's Street Pavement Condition Index
  - Livable Neighborhoods
  - Project Titling

*No formal action was taken.*

4. The Committee reviewed the FY 2016 Meeting Schedule. *No formal action was taken.*

**Committee Members/Staff Announcements and Referrals:** None.

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**File #:** MIN 16-062

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**Adjournment:** The meeting was adjourned at 5:38 pm.



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## Staff Report

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**File #:** RPT 16-080

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**DATE:** July 6, 2016

**TO:** Council Budget and Finance Committee

**FROM:** City Manager and City Attorney

**SUBJECT**

Consider Possible Cannabis Taxes

**BACKGROUND**

During its June 14, 2016 work session, the City Council discussed possible policy and revenue considerations related to the statewide recreational cannabis measure proposed for the November 2016 ballot: [Proposition 64 <http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29%201.pdf?>](http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29%201.pdf?>). The Council referred the matter to the Budget and Finance Committee for additional discussion of potential City tax measures that might be added to the November 8, 2016 ballot (See Related File: [WS 16-040 <https://hayward.legistar.com/LegislationDetail.aspx?ID=2748728&GUID=C5FCD958-A5AF-4056-AA05-737C39D8171E>](https://hayward.legistar.com/LegislationDetail.aspx?ID=2748728&GUID=C5FCD958-A5AF-4056-AA05-737C39D8171E>)). Of the four options presented in the previous staff report, the Council was inclined to place a revenue measure on the November 2016 ballot in an attempt to preserve local taxation options. The Council deferred any discussion or decision on land use regulations and/or restrictions on marijuana pending the outcome of the November election.

Not surprisingly, the recreational cannabis initiative measure has qualified for the November 8, 2016 statewide election, so local policy and tax questions are now even more time-sensitive. The time sensitivity for Hayward is driven by three factors. First, while the Proposition is explicit about State taxation (See [Section 7, page 43 <http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29%201.pdf?>](http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29%201.pdf?>) of the Proposition), it is less clear about options for local taxation, particularly those of cities, after passage of the Measure, so local policy and tax questions may now be time-sensitive: those local taxes in place prior to the passage of the Statewide initiative may be in a stronger position. Second, the Alameda County Registrar of Voters (ROV) must receive all required election materials from the City no later than August 5, in order to qualify for the November 8 ballot. And finally, the Council typically recesses after the last regular meeting in July (July 19) until mid-September.

**DISCUSSION**

As mentioned in the Background section, the preparation of a tax measure for the November 2016 ballot is the most immediate time sensitive action that the City must take related to the legal cultivation, manufacturing, distribution, and retailing of cannabis authorized under Proposition 64. Assuming the Council ultimately desires to allow supply chain activities of recreational and/or medical cannabis if the

November ballot measure passes, staff would likely recommend an approach that would restrict the number of cultivation operations, manufacturers, distributors, and retailers similar to the Council's policy regarding alcohol and tobacco retailers. As with alcohol establishments, it would not be prudent to allow an unlimited number of retailers and production facilities to locate in Hayward. It would also be prudent to restrict the number of non-retail commercial production facilities in Hayward. In the case of both medical cannabis retailers and recreational use retailers, the City would have to develop land use policies that would permit such retail operations. The City would also be required to develop land use policies for commercial production facilities.

Following the November vote, staff will bring back recommendations and options related to land use restrictions, permitting and enforcement fees for both recreational and medicinal marijuana. These recommendations would be developed based on the results of the initiative vote amongst Hayward voters and could be further informed by local polling if the Council wishes to pursue this option as discussed during the June 14 work session. Land use restrictions and permitting and enforcement fees would not require a vote of Hayward residents and can be developed and adopted after the November election.

The revenue measure to be considered by the Budget & Finance Committee and ultimately the City Council could impose a tax on all parts of the supply chain for both recreational and medical cannabis as a source of General Fund revenue (some cities/counties tax medical cannabis sales; some do not). Only Hayward voters can approve general taxes or special purpose taxes, though the City could charge permitting fees without voter approval. A Hayward tax would be conditioned upon voter approval of the initiative measure; if the initiative measure fails, the Hayward tax would not go into effect. For reference on how Proposition 64 approaches State taxation of the supply chain, please refer to [Proposition 64 <http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29\\_1.pdf?>](http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf?>), Section 34011 and 34012, pages 41-43.)

There are two important timing considerations affecting a possible Hayward tax measure:

1. While the Proposition is explicit about State taxation (See [Section 7, page 43 <http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29\\_1.pdf?>](http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf?>) of the Proposition), it is less clear about options for local taxation, particularly those of cities, after passage of the Measure, so local policy and tax questions may now be time-sensitive: those local taxes in place prior to the passage of the Statewide initiative may be in a stronger position. It is possible that if Hayward voters do not enact or authorize the enactment of local taxes on November 8, the opportunity to do so in the near future may be extremely limited.
2. The restrictive language in Proposition 218 -- a General Tax measure must typically appear on the ballot at the same time as the election for Mayor and Council. A General Tax measure could appear on the November 8 ballot, which is not an election at which the positions of Mayor and Council are on the ballot, if the Council unanimously agrees by resolution to submit the tax to Hayward voters.

Attached are sample ballot questions Hayward voters might consider in the format permitted by the state Elections Code (Attachment I). The key decisions for the Committee include review of the draft ballot questions and discussion of a proposed tax rate to be included in the question.

These sample ballot questions only address taxes, as required by Proposition 218. These ballot questions need not address the City's regulatory authority to impose fees to process or inspect facilities (per Proposition 26) or to impose land use/zoning requirements or restrictions.

Staff will continue to work on or tweak potential ballot questions for distribution before or at the committee meeting. If the Committee recommends Council action, probably at the July 19, 2016 regular meeting, staff will also prepare the resolution calling the special election, requesting consolidation with the general statewide election, along with services from the Registrar of Voters.

Staff will also continue to review revenue projections based on a limited number of supply chain facilities formally approved throughout the State, as discussed in the fiscal impact section of this report. Most, if not all, currently existing local/municipal taxes apply only to retail sales.

## **FISCAL AND ECONOMIC IMPACT**

There is very little reliable data to determine how much revenue would be generated by a local general tax on recreational cannabis. Extrapolations from the states of Colorado, Washington, Oregon, and Alaska cannot be validly made because it is too early to determine how these models are working. This observation is particularly true where the states have decided to restrict the number of retailers, based on lotteries, proximity to schools, alcohol retailers, or land use restrictions (e.g., distance separations between retailers).

For example, the City of Davis projected \$200,000 annually based on a ten percent gross receipts general tax, which passed on June 7, 2016, but it is not clear if the measure restricts the number of retailers or non-retail commercial businesses. The population of Davis is 67,000. The Davis ordinance also does not apply throughout the supply chain as Proposition 64 does; and as staff recommends any Hayward Ordinances or taxes do.

The election materials for Sacramento's proposed ten percent special tax on the June 7 ballot do not indicate projected revenues. Nor does the Sacramento measure indicate if the number of retailers or non-retail commercial businesses would have been restricted. This measure ultimately did not pass. The population of Sacramento is 480,000.

The election materials for Alturas's proposed general tax, which passed on June 7, do not indicate projected revenues, based on a ten percent gross receipts tax, nor is it clear if the number of retailers or non-retail commercial businesses would be limited. The population of Alturas is 2,700.

As to medical cannabis retailers, some cities/counties have decided to impose local taxes, while other cities/counties have declined to impose taxes. Consequently, there is little reliable data from which to draw conclusions about the revenue benefits of medical cannabis retailers to the City.

Regardless of the amount of money generated from a potential tax on marijuana within Hayward, there will likely be public safety impacts to the community if marijuana is legalized and if supply chain and retail sales facilities are allowed. If a ten percent gross receipts tax was adopted by Hayward voters and

it generated \$200,000 (similar to what was predicted by the City of Davis), this revenue would help to offset any general community impacts resulting from the legalization of marijuana.


Pending the results of the election, the Council may choose to impose land use regulations and permitting requirements on cultivation, manufacturing, distribution, and sales facilities. The Council could also impose fees for these permits to cover costs related to the permitting and inspection process. If local taxes on cannabis supply chain activities are adopted by Hayward voters, payment of the taxes would be above and beyond any fees paid by growers, manufacturers, distributors, or retailers to establish sales or distribution facilities in the community.

#### *Special Election Costs*

After consulting with the ROV, the City Clerk advises that the cost of a special election consolidated with the November 8 statewide election is approximately \$258,000. This is a rough estimate. The City Clerk will have more precise costs after receiving the ROV's invoice for the June 7, 2016 general municipal election.

*Prepared and Recommended by:* Fran David, City Manager  
Michael Lawson, City Attorney

Approved by:



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Fran David, City Manager

Attachments:

Attachment I:      Sample Ballot Questions



**SAMPLE BALLOT QUESTIONS**

<b>YES</b>	
<b>NO</b>	

Shall the City Council of the City of Hayward be authorized to enact an ordinance imposing a general purpose transaction tax not exceeding 15% of gross revenue collected by recreational cannabis and medical cannabis retailers, with the same rate imposed on non-retail commercial production gross revenue, in the event Proposition \_\_, is approved by voters on November 8, 2016, over and above any similar taxes imposed by the State of California?

68 count  
75 maximum

<b>YES</b>	
<b>NO</b>	

Shall the City Council of the City of Hayward be authorized to enact ordinances imposing general purpose transaction taxes, not exceeding 15% of gross revenues collected by recreational and medical cannabis retailers and non-retail gross revenues of commercial production operators, over and above local sales and use taxes already authorized by law, if Proposition \_\_ is enacted by voters on November 8, 2016, in addition to any other taxes imposed by the State of California?

73 count  
75 maximum



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## Staff Report

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**File #:** RPT 16-077

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**DATE:** July 6, 2016

**TO:** Council Budget and Finance Committee

**FROM:** Acting Director of Finance

**SUBJECT**

Measure C (District Sales Tax) Annual Report FY 2016

**RECOMMENDATION**

That the Committee reviews and provides feedback on the City's Measure C (District Sales Tax) FY 2016 annual report.

**BACKGROUND**

On June 3, 2014, the voters of the City of Hayward passed Measure C to create a District Sales Tax and increase the City's Sales and Use Tax by half a percent for twenty years. This "half-cent" increase ultimately brought the City's Sales and Use Tax rate to 10.0%. Based on actual revenues received to date, staff estimates that the District Sales Tax will initially generate approximately \$13 million annually in locally controlled revenue that can be allocated by the City Council and will remain in place until October 1, 2034.

This District Sales Tax is a general tax and is considered discretionary in nature; however these funds are intended for use in capital projects including construction of the City's new 21<sup>st</sup> Century Library and Community Learning Center, completion of fire station retrofits and improvements, rehabilitation and expansion of the existing fire training center, as well as extensive street improvements. The City intends to allocate revenues not used for capital projects to fund additional police and maintenance services within the City.

On September 30, 2015, the City issued Certificates of Participation (COPs) for \$67.5 million to fund the above mentioned capital projects. Debt Service for the COPs is secured by and will be paid using District Sales Tax revenue. Annual debt service payments for the COPs range from \$2.9 to \$5.4 million annually for twenty years.

**DISCUSSION**

The table below shows revenue and expenditure activity related to the District Sales Tax for FY 2015 and FY 2016.

	<b>FY 2015 Actual</b>	<b>FY 2016 Projected</b>
<b>Revenues</b>		
Measure C District Sales Tax	8,090,470	13,000,000
Other Revenues (Interest)	-	33,708
<b>Total Revenues</b>	<b>8,090,470</b>	<b>13,033,708</b>
<b>Expenditures</b>		
<b>Capital</b>		
Library/Learning Center	-	6,772,791
Other Capital Projects	-	1,054,769
<b>Operating</b>		
Personnel	205,969	873,869
Other Operating	-	410,863
<b>Total Expenditures</b>	<b>205,969</b>	<b>9,112,292</b>
<b>Annual Surplus/Shortfall</b>	<b>7,884,501</b>	<b>3,921,416</b>
Proceeds from Issuance of COPs*	-	65,789,797
<b>Ending Fund Balance</b>	<b>7,884,501</b>	<b>77,595,714</b>

*\*The difference between the \$67.5 million in COPs issued and the \$65.8 million shown relate to the costs of issuance for the COPs*

FY 2016 District Tax related capital expenditures totaled \$7.8 million, including design and construction of the City's 21<sup>st</sup> Century Library and Community Learning Center (\$6.8 million), design of improvements for Fire Station Nos. 1 - 6 (\$674, 227) and city-wide street infrastructure improvement projects (\$380,542). The significant ending fund balance in FY 2016 will be mostly expended over the next two fiscal years as the library and fire station improvements are completed.

Projected FY 2016 Measure C personnel expenditures of \$873,869 were for the Maintenance Services Department (\$515,603) and Police Department (\$358,266). All five Measure C Maintenance positions have been filled. The Police Department continues to work to fill the vacant positions authorized by Measure C. Other operating expenditures include utilities, supplies and services, internal staff charges, equipping dispatch stations for new call taker positions and two Maintenance Services Department vehicles.

## **NEXT STEPS**

Finance Department staff will continue to work with the other relevant departmental staff to monitor the progress of designated capital projects and operating expenses and provide periodic reporting on activities to the Committee and City Council.

*Prepared and Recommended by:* Dustin Claussen, Acting Director of Finance

Approved by:

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**File #:** RPT 16-077

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A handwritten signature in black ink, appearing to read 'Fran David', is positioned above the printed name.

Fran David, City Manager



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## Staff Report

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**File #:** RPT 16-079

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**DATE:** July 6, 2016

**TO:** Council Budget and Finance Committee

**FROM:** Acting Director of Finance

**SUBJECT**

Refinancing of Outstanding 2007 Certificates of Participation (Civic Center and Capital Projects)

**DISCUSSION**

*Refinancing of Outstanding 2007 Certificates of Participation (Civic Center and Capital Projects)*

On June 29, 2016, the City refinanced the entire balance of \$19,425,000 of its 2007 Refunding Certificates of Participation (Civic Center and Capital Projects) by issuing the 2016 Refunding Certificates of Participation (2016 COPS). The 2016 COPS were issued as a private placement with CoBiz Public Finance. The City chose to use a private placement for the 2016 COPS to achieve significant cost savings by avoiding the need to take the bonds out for a "public offering," while still receiving an interest rate well below the projected market rate of such an offering. The remaining years of the refinanced 2007 COPS carried an interest rate of 4-4.25%, while the 2016 COPS have an interest rate of just more than 2.6%. The refinancing has created a cost savings over the remaining life of the debt of more than \$1.5 million.

*Recent Credit Affirmation*

The City recently underwent a routine re-rating by Fitch Ratings. The City's Issuer Default Rating of AA+ was affirmed with a Rating Outlook of Stable. The re-rating also covered two specific debt issuances of the City, the 2007 COPS mentioned above and the 2015 Measure C COPS; both were affirmed as AA. These affirmations demonstrate the sound budget and financial practices and tremendous leadership provided by Council.

*Prepared and Recommended by:* Dustin Claussen, Acting Director of Finance

Approved by:

Fran David, City Manager



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## Staff Report

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**File #:** RPT 16-061

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**DATE:** July 6, 2016

**TO:** Council Budget and Finance Committee

**FROM:** Acting Director of Finance

**SUBJECT:** FY 2017 Meeting Schedule & Work Plan

### RECOMMENDATION

That the Committee receives and comments on the FY 2017 Council Budget & Finance Committee Meeting Schedule and Work Plan.

### BACKGROUND AND DISCUSSION

Each year, the Council Budget & Finance Committee establishes a meeting schedule and work plan. As workloads shift and priorities emerge, this schedule/plan is periodically updated. An updated plan is included with each meeting agenda for Committee review.

*Prepared and Recommended by:* Dustin Claussen, Acting Director of Finance

Approved by:

Fran David, City Manager

Attachments:

Attachment I FY 2017 Schedule & Work Plan

**DRAFT**

**COUNCIL BUDGET AND FINANCE COMMITTEE  
FY 2017 Meeting Schedule & Workplan  
July 2016**

Meeting Location: 777 B STREET - CITY HALL - 4<sup>TH</sup> FLOOR CONFERENCE ROOM 4A  
HAYWARD, CALIFORNIA

Meeting Time: 4:30 P. M.

Meeting Dates: The Council Budget and Finance Committee generally meet monthly on the first Wednesday of the month, except for August, due to City Council Break. Special meetings will be scheduled as determined necessary by the Committee or the City Manager.

<b>DATE</b>	<b>SUGGESTED TOPICS (subject to change)</b>
September 7, 2016	FY 2016 annual audit process (external auditor) Master Fee Study Update
October 5, 2016	Investment portfolio update (external investment manager) FY 2017 Statement of Investment Policy review FY 2018 Budget Process Plan and Development Calendar
November 2, 2016	FY 2016 General Fund Preliminary year-end
December 7, 2016	FY 2018 Budget Development Process
January 4, 2017	FY 2016 CAFR review (external auditor) General Fund Ten-Year Plan review
February 1, 2017	Preliminary FY 2017 mid-year overview Annual benefit liabilities review (funding & risk mgmt.) FY 2018 Proposed Budget discussion
March 1, 2017	City debt portfolio review FY 2018 budget process update
April 5, 2017	FY 2018 budget process update
May 3, 2017	Preview of FY 2018 CIP & Ten-Year CIP FY 2018 Proposed Budget discussion
June 7, 2017	TBD
July 5, 2017	FY 2018 budget process debrief Measure C Annual Report

**Non-scheduled future agenda topics:**

- Performance Measurement
- Affordable Care Act – Health Care Exchange