

# **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**

**Monday, July 10, 2017**

**4:30 PM**

**City Hall, Conference Room 2A**

## **Council Sustainability 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.)

**APPROVAL OF MINUTES**

1. [MIN 17-099](#) Approval of Minutes of Council Sustainability Meeting on May 8, 2017  
  
**Attachments:** [Attachment I Minutes of Council Sustainability Meeting on May 8, 2017](#)

**REPORTS/ACTION ITEMS**

2. [ACT 17-046](#) Update on Sustainable Groundwater Management Activities  
  
**Attachments:** [Attachment I Staff Report](#)
3. [RPT 17-093](#) Annual Update on City's Waste Reduction and Recycling Programs  
  
**Attachments:** [Attachment I Staff Report](#)
4. [ACT 17-051](#) Update on PAYS Implementation  
  
**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Location Map of PAYS Projects](#)
5. [ACT 17-047](#) Consideration of CMFA Open PACE  
  
**Attachments:** [Attachment I Staff Report](#)

6.      [RPT 17-092](#)      Proposed 2017 Agenda Planning Calendar

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

**FUTURE AGENDA ITEMS**

**COMMITTEE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS**

**ADJOURNMENT**

**NEXT REGULAR MEETING, 4:30 PM, MONDAY, SEPTEMBER 11, 2017**



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**File #:** MIN 17-099

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Approval of Minutes of Council Sustainability Meeting on May 8, 2017

**RECOMMENDATION**

That the Committee reviews and approves the minutes of the Council Sustainability Committee meeting on May 8, 2017.

**ATTACHMENTS**

Attachment I      Minutes of Council Sustainability Meeting on May 8, 2017

CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING  
Hayward City Hall – Conference Room 1C  
777 B Street, Hayward, CA 94541-5007

May 8, 2017  
4:30 p.m. – 6:30 p.m.

MEETING MINUTES

CALL TO ORDER: Meeting called to order at 4:30 p.m. by Chair Al Mendall.

ROLL CALL:

Members

- Al Mendall, City Council Member/CSC Chair
- Elisa Márquez, City Council Member
- Francisco Zermeño, City Council Member

Staff:

- Alex Ameri, Director of Utilities & Environmental Services
- Jan Lee, Water Resources Manager
- Erik Pearson, Environmental Services Manager
- Alicia Sargiotto, Management Analyst
- Mary Thomas, Management Analyst
- Jennifer Yee, Sustainability Technician
- Tori Johnson, Senior Secretary (Recorder)

Others:

- Jillian Buckholz, Director of Sustainability, CSUEB
- Ernest Pacheco, Hayward Resident

PUBLIC COMMENTS

None.

1. Approval of Minutes of Council Sustainability Meeting on March 13, 2017.

The Committee approved the minutes of the Council Sustainability Committee meeting of March 13, 2017.

2. Update on Water Supply Availability and Water Conservation

Director Ameri introduced the report, noting that staff seeks two recommendations from the Committee to take necessary actions to the City Council for consideration. Water Resources Manager Jan Lee, presented the report. Ms. Lee highlighted the key

provisions of the State's Long-term Conservation Framework and recommended to the Committee two water shortage actions for consideration.

Council Member Zermeno suggested adding language to encourage customers to refrain from buying bottled water and encourage the use of reusable water bottles as part of the City's water efficiency measures.

Council Member Márquez agreed, and further suggested creating a policy which would make the use of reusable water bottles at City events a requirement as a means to reduce the use of bottled water. Ms. Márquez requested that staff address the recreational use of water in the Nonessential Water Use Ordinance, as kids enjoy such play during the summer months. She emphasized that the limitations should still allow kids to have fun, but will also reduce water waste.

Director Ameri confirmed that the City does have a policy to restrict the use of bottled water at City events, but acknowledged that enforcement is difficult due to the convenience of bottled water.

Council Member Márquez suggested that, if the changes to the Ordinance are adopted, staff publicize the new provisions via bill inserts, social media, YouTube, the large electronic message board on highway 92, and other outlets to inform Hayward Residents and water customers of the changes and need to continue to conserve water.

Council Member Mendall asked staff to include the table found in the PowerPoint presentation, summarizing the recommended changes to the City Ordinance, in the staff report that is brought to City Council.

It was moved by Council Member Zermeno, seconded by Council Member Márquez, and carried unanimously, to recommend to Council adoption of a resolution to rescind the Stage I Water Shortage Declaration and to amend the Nonessential Water Use Prohibition Ordinance.

### 3. East Bay Community Energy

Environmental Services Manager, Erik Pearson presented the report. He stated that on May 2, 2017, the Contra Costa County Board of Supervisors voted 4:1 to join MCE, noting that there were already five cities within the County that were already in MCE. Mr. Pearson noted that a key reason cited was that the jurisdictions in Contra Costa County joining MCE would have a significant share of the votes compared to the share they would have in East Bay Community Energy (EBCE).

Chair Mendall commented that although Contra Costa County decided not to join, EBCE is already large enough to be viable, and noted that currently EBCE is the largest Community Choice Energy (CCE) Program in California.

Council Member Márquez suggested that the City's Economic Development team reach out to EBCE, in response to their need to secure a permanent office space.

Discussion ensued among Committee members and City staff regarding financing, the difference between a General Law City and Charter City, changes to the timeline of customer roll-out, PG&E's involvement and collaboration, and residential customers who have already have solar installed.

The Committee accepted the report.

#### 4. Update on the Recycled Water Storage and Distribution Project

Water Resources Manager Jan Lee provided a brief overview and discussed a few key elements of the project.

Committee members and City staff discussed the efforts between the City and Russel City Energy Center, LLC (RCEC) to develop a recycled water supply agreement whereby RCEC would supply tertiary-treated recycled water to the City. The Committee also discussed, an alternate option should an agreement not be reached with RCEC.

Jillian Buckholz, Director of Sustainability, CSUEB asked staff why CSUEB isn't being considered as a recycled water customer. Staff responded that the distance from the Water Pollution Control Facility is too great to consider CSUEB for phase I of the project, but noted that future plans may include the University.

Ernie Pacheco urged staff to strongly consider pursuing a City owned recycled water facility instead of working with RCEC in this regards.

No Committee action was taken.

#### 5. Proposed CSC 2017 Agenda Planning Calendar

Council Member Márquez asked if Lead Testing in Schools could occur during the summer while the schools were closed for summer break. Director Ameri responded that lead testing must take place during the school year when water usage is normal. However, staff is ready to assist with lead testing between now and the end of the school year and is waiting for the Hayward Unified School District to identify a contact for each school.

The Committee discussed the item of Bike Sharing and asked staff to provide an annual update on the item, potentially in September.

Environmental Services Manager Erik Pearson noted that an update on the PACE program would be added to July and that the Pioneers for Sustainable Communities would be postponed from July to September.

Chair Mendall questioned why the Downtown Specific Plan was on the unscheduled events, and requested that staff focus the report on sustainability aspects, should the item return to the Committee.

Council Member Márquez suggested that staff and the Committee grow the partnerships with both Chabot College and HUSD.

#### COMMITTEE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS:

Erik Pearson announced that the Annual Clean Up Event is on Saturday, May 13, 2017, at Weeks Park.

Ernie Pacheco announced that the Sierra Club is seeking to get individual school districts to implement climate literacy programs in California high schools, and to pass a resolution to ensure that all high school students to know the fundamentals of climate change. Mr. Pacheco sought the Committee's support.

The Committee suggested that staff draft a letter which the Committee could review and potentially lend its support.

ADJOURNMENT: 6:00 p.m.

Attendance	MEETINGS			
	Present 05/08/17 Meeting	Present to Date This Fiscal Year	Excused to Date This Fiscal Year	Absent to Date This Fiscal Year
Elisa Márquez	✓	5	0	0
Al Mendall*	✓	6	0	0
Francisco Zermeño	✓	6	0	0

✓ = Present    0 = absent    X = excused

\* Chair





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**File #:** ACT 17-046

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Update on Sustainable Groundwater Management Activities

**RECOMMENDATION**

That the Committee reviews this report and comments on the proposed approach for developing a Groundwater Sustainability Plan for the East Bay Plain Subbasin.

**ATTACHMENTS**

Attachment I      Staff Report



DATE: July 10, 2017

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT: Update on Sustainable Groundwater Management Activities

## RECOMMENDATION

That the Committee reviews this report and comments on the proposed approach for developing a Groundwater Sustainability Plan for the East Bay Plain Subbasin.

## SUMMARY

The Sustainable Groundwater Management Act (SGMA) was signed into law in 2014 and took effect in 2015. This historic legislation requires, for the first time, comprehensive and sustainable management of California's groundwater resources. SGMA provides a framework for sustainable management of groundwater at the local level through formation of Groundwater Sustainability Agencies (GSAs) and implementation of Groundwater Sustainability Plans (GSPs). On February 7, 2017, the City Council adopted a resolution to become the GSA for the portion of the East Bay Plain Subbasin that underlies the City and on June 6, the State formally designated Hayward as the exclusive GSA for that portion of the groundwater basin. This report briefly updates the Committee on recent and near-term groundwater sustainability activities, including the requirement to develop a GSP for the entire East Bay Plain Subbasin.

## BACKGROUND

Groundwater provides a significant portion of California's water supply. The recent drought has highlighted the importance of groundwater and the need to protect this resource against unsustainable groundwater pumping and irreversible environmental impacts such as land subsidence. These concerns were a driving force behind the development of the SGMA legislation. In general, SGMA provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for State intervention, only if necessary, to protect the resource. Local agencies with water supply and/or land use authority must assume the role of groundwater regulators through the formation of local GSAs and implementation of GSPs in order to avoid State intervention. SGMA envisions a collaborative process in which local agencies, cities, counties, and other stakeholders work cooperatively to obtain sustainability in their respective groundwater basins.

The City overlies portions of two groundwater basins designated as medium-priority by the California Department of Water Resources (DWR)—the Niles Cone Subbasin and the East Bay Plain Subbasin. Although Hayward has not relied on groundwater for day-to-day water supplies since the early 1960s, the City has a long groundwater use history, relying entirely on groundwater for water supplies for over a century until an agreement was signed with the San Francisco Public Utilities Commission (SFPUC) in 1962 to supply all City water needs. However, it became evident that SFPUC's regional water system was prone to damage from earthquakes and potentially long-term water delivery disruption. To mitigate the risks, the City embarked in the early 1980s on an evaluation of its groundwater and rehabilitation and construction of a group of water wells for use in emergencies. Following the Loma Prieta earthquake, the City accelerated construction of five wells and completed and placed them on standby by the mid 1990s. The City's emergency wells are currently permitted for emergency use and are critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply.

SGMA requires that GSAs be formed by June 30, 2017 to manage groundwater basins designated by DWR as high- or medium-priority. Alameda County Water District (ACWD) is the exclusive GSA for the Niles Cone Subbasin. For the East Bay Plain Subbasin, the City Council adopted a resolution on February 7, 2017, authorizing staff to file the necessary documents for the City to become the GSA for the portion of the East Bay Plain Subbasin that underlies the City. On March 6, staff filed an application to serve as the GSA with DWR and on June 6, following a ninety-day public review period, DWR formally designated Hayward as the exclusive GSA for the portion of the East Bay Plain Subbasin underlying the City. East Bay Municipal Utility District (EBMUD) is the exclusive GSA for the remaining portion of the East Bay Plain Subbasin that underlies EBMUD's service area outside of Hayward. Figure 1 illustrates the GSA boundaries for the East Bay Plain Subbasin.

A key responsibility of being a GSA is preparing and implementing a GSP. GSPs are intended to sustainably manage and utilize groundwater without causing "undesirable results" such as the unsustainable lowering of groundwater levels over time. A GSP will generally consist of a description of the basin and aquifer, baseline conditions and basin objectives, management actions to achieve the objectives, and a monitoring plan. It will be subject to public review and governing body approval. GSPs for medium-priority basins, such as the East Bay Plain Subbasin, must be completed and adopted by January 31, 2022. Progress reports are to be submitted to DWR annually, beginning in April 2022, and GSPs are required to be updated every five years.

## DISCUSSION

### Groundwater Sustainability Plan

Based on direction from the Committee and City Council, staff is working with EBMUD staff to develop an agreement for the two agencies to jointly prepare and implement a single GSP to cover the entire East Bay Plain Subbasin. Working cooperatively with EBMUD would significantly reduce duplication of technical work and thus the cost of preparing the GSP for both agencies. The first step will be to enter into a Memorandum of Agreement (MOU) with EBMUD

to develop a detailed cooperating agreement, under which the parties will prepare and implement the GSP. The MOU will commit the parties to working cooperatively to ensure SGMA compliance for the entire groundwater basin and establish principles for performing stakeholder outreach, applying for grant funding, and negotiating an equitable cost-sharing arrangement. Staff plans to ask the City Council to consider authorizing execution of the MOU with EBMUD at its July 18, 2017 Council meeting.

#### Grant Funding for GSP Preparation

Under Proposition 1, approved by the voters in November 2014, DWR established the Sustainable Groundwater Planning Grant Program to provide funds for GSP development and implementation. DWR has recently released the Draft Proposal Solicitation Package (PSP) for GSPs. In this PSP, \$61.3 million is available for the Category 2, Tier 2 group under which EBMUD and Hayward are eligible to apply for funding for the East Bay Plain Subbasin. Only one GSA per basin can apply and only one grant will be awarded for each basin. The maximum grant amount is \$1 million and the required local cost-share is 50% of the total cost.

EBMUD has in-house resources available and has agreed to serve as the lead agency for submitting the application and, if successful, would administer the grant. Staff will assist EBMUD with preparing the grant application and securing letters of support. EBMUD plans to submit the application in the first filing period that begins in August 2017.

#### Unmanaged Subbasin Area

SGMA requires the formation of GSAs to cover the East Bay Plain Subbasin in its entirety by June 30, 2017 to avoid State intervention. Between the City and EBMUD, all of the East Bay Plain Subbasin is covered by a GSA except for a small twenty-one-acre area located generally on the east side of Mission Blvd under the Chapel of the Chimes cemetery property. This property is within the Union City corporate limits and outside both the Hayward city limits and ACWD's service area. Staff became aware of the potential for an unmanaged area after DWR's approval in 2016 of ACWD's request to modify the location of the boundary between the Niles Cone and East Bay Plain Subbasins to align with ACWD's statutory boundary for groundwater management. As a result, the area that was previously located in the Niles Cone Subbasin, now falls within the East Bay Plain Subbasin.

As part of the proposed MOU, EBMUD and Hayward will commit to covering the unmanaged area in the GSP for the East Bay Plain Subbasin. This commitment to prepare a GSP for the entire basin will ensure that the State will not designate the basin as probationary, which would affect eligibility for grant funding. However, this action alone does not completely eliminate State intervention because the area is not within the management area of a GSA. Unless the area is included within the boundaries of a GSA, the landowner would still be required to pay fees and report extractions to the State. The City is currently in discussions with the landowner, local agencies, and the State to determine a mutually acceptable approach for ensuring SGMA compliance for this unmanaged area of the basin.

## Proposed Staff Actions

Staff is proposing two actions for moving forward with preparation of a GSP:

1. Entering into an MOU with EBMUD. The MOU will commit the City and EBMUD to working cooperatively to develop a single GSP to cover the entire East Bay Plain Subbasin, including the unmanaged area. The MOU will also establish the framework for negotiating the terms and conditions of a more detailed cooperation agreement. The timing of the MOU is critical because DWR's grant funding eligibility criteria requires documentation that GSAs are coordinating on the management and implementation of SGMA compliance for the basin.
2. Providing a resolution of support for EBMUD's grant application. Staff recommends that the Committee recommend that the City Council provide a resolution of support for EBMUD's grant application to DWR for funding of the GSP. In addition, staff will work with other basin stakeholders, including the County of Alameda, to secure letters of support that will position the East Bay Plain Subbasin more favorably for grant funding.

## ECONOMIC IMPACT

The economic impact of developing and implementing sustainable management of the City's portion of the East Bay Plain Subbasin has not yet been fully evaluated, and will depend in large part on the activities required to manage the basin. SGMA provides mechanisms for GSAs to recover costs associated with groundwater management through water rates, pumping extraction fees, and/or grants. SGMA implementation costs are difficult to estimate at this time but are not expected to significantly affect customer water rates.

## FISCAL IMPACT

The Water Improvement Fund in the Capital Improvement Program includes funds for groundwater-related activities such as preparation of a GSP and its implementation actions. Costs to implement the GSP will depend on the actions identified in the GSP that are necessary to ensure long-term basin sustainability. Costs to prepare and implement the GSP could potentially be offset by grants and cost-sharing with EBMUD. Staff believes that existing resources are sufficient to complete the technical studies and investigations necessary to prepare the GSP. There would be no impact on the General Fund.

## SUSTAINABILITY FEATURES

The City's emergency wells are an important part of Hayward's water supplies and critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply. Hayward's role as a GSA and responsibility for developing a GSP provide Hayward with the authority to ensure that groundwater beneath the City is protected and sustainably managed for the future. A long-term commitment to groundwater supplies increases Hayward's overall water supply reliability, maximizes local supplies, and diversifies

the City's water resources which will help the City respond to future water supply uncertainties such as the impacts of climate change.

#### PUBLIC CONTACT

SGMA requires extensive outreach and opportunities for stakeholder participation. The City's desire is to work in an open and collaborative way with the public and local agency stakeholders to implement SGMA requirements. Staff recently updated stakeholders on groundwater management activities and will continue to do so as the GSP is developed. Key stakeholders include neighboring local agencies and large groundwater users within the City, such as the County of Alameda, ACWD, Hayward Area Park and Recreation District, and Chabot College.

#### NEXT STEPS

If the Committee concurs, staff will take the necessary actions to bring a resolution to the City Council authorizing execution of an MOU with EBMUD to partner on SGMA activities and supporting EBMUD's grant application for funding assistance to prepare the GSP. Staff will continue to update the Committee on the progress of these efforts.

Prepared by: Jan Lee, Water Resources Manager

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

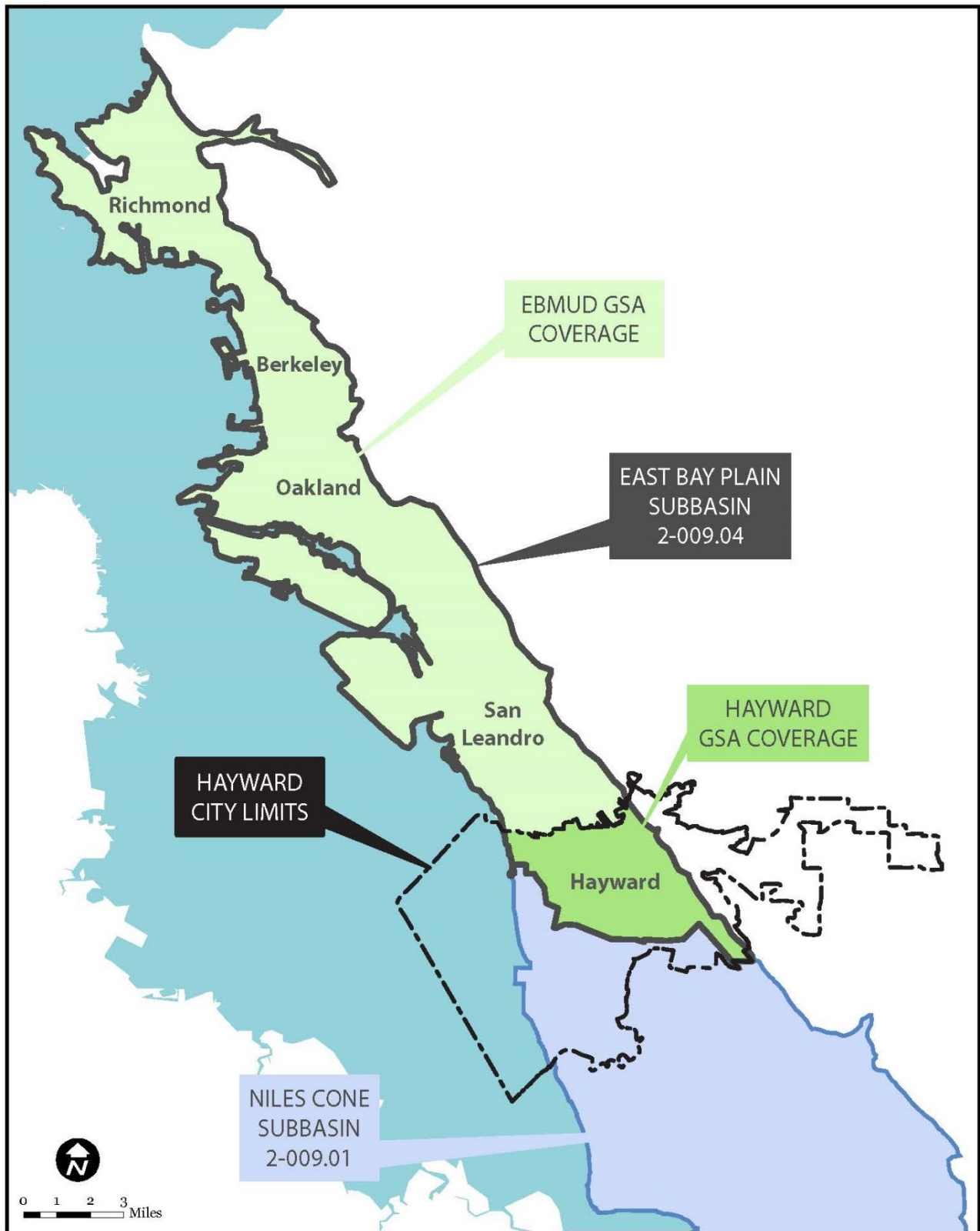
Approved by:



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Kelly McAdoo, City Manager

Figure 1. GSA Coverage for East Bay Plain Subbasin





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**File #:** RPT 17-093

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Annual Update on City's Waste Reduction and Recycling Programs

**RECOMMENDATION**

This is an informational report.

**ATTACHMENTS**

Attachment I      Staff Report





DATE: July 10, 2017

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT: Annual Update on City's Waste Reduction and Recycling Programs

#### RECOMMENDATION

That the Committee reviews and comments on this report.

#### SUMMARY

This report provides an update on the solid waste, recycling, and organic materials services that Waste Management of Alameda County (WMAC) provides Hayward residents and businesses under the City's contract that commenced March 1, 2015. This report also provides updates on WMAC's progress toward meeting contractual performance targets as well as a summary of the City's compliance with Alameda County Waste Management Authority's (ACWMA) mandatory recycling ordinance. The report further provides an overview of outreach activities conducted to inform residents, businesses, and multi-family property managers about the variety of services available under the City's contract with WMAC.

#### BACKGROUND

In accordance with the requirements of Measure D, a County Charter initiative amendment passed in 1990, the Alameda County Recycling Board established the goal of at least 75% diversion of all discarded materials in Alameda County by 2010. In 2007, in response to a recommendation from the ACWMA Board, Hayward City Council adopted a goal of diverting at least 75% of waste from the landfill by 2010 and in 2015, the City's actual diversion rate was 73%. The City's contract with WMAC establishes diversion goals based on the tons of material collected as recyclables, organics, or solid waste to be landfilled. The diversion goals identified in the WMAC contract are designed to help the City achieve an 80% diversion rate by 2018. In conjunction with the City's contract with WMAC, staff manages a variety of programs intended to help the City achieve its diversion goals. The last report on solid waste reduction and recycling was presented to the Committee on [January 9, 2017](#).

General Plan Policies – Hayward’s General Plan, adopted on July 1, 2014, includes the following policies related to solid waste, recycling and organics collection:

Public Facilities and Services, Policy 7.4 Solid Waste Diversion – The City shall comply with State goals regarding diversion from landfill, and strive to comply with the provisions approved by the Alameda County Waste Management Authority (ACWMA).

Public Facilities and Services, Policy 7.21: Mandatory Recycling – The City shall implement mandatory recycling for commercial and multifamily uses and work with ACWMA to increase participation in this program.

Public Facilities and Services, Policy 7.14 Commercial Recycling – The City shall encourage increased participation in commercial and industrial recycling programs, and strive to comply with the recycling provisions approved by the ACWMA. The City shall work with ACWMA to provide technical assistance to businesses to implement mandatory recycling.

The current WMA Franchise Agreement (Agreement) commenced March 1, 2015 and includes several provisions WMA must follow to improve solid waste management in Hayward and ensure the City, its residents, and businesses comply with State and County waste management regulations. Some provisions include: Franchise Recovery Rate targets and increased diversion of material from landfill; dedicated outreach resources; enhanced bulky items collection services; and compost giveaway events.

Mandatory Recycling Ordinance – The ACWMA enacts and implements County-wide ordinances and diversion programs to help member agencies achieve their waste reduction and diversion goals. In January 2012, the ACWMA Board approved a mandatory recycling ordinance, which includes a goal to reduce the amount of recyclable and compostable materials landfilled to no more than 10% by 2020.

The ordinance consists of two phases: the first phase required larger businesses and all multi-family properties to arrange for collection of recyclables; the second phase required all multi-family properties, and all businesses that generate a significant amount of food scraps and food-soiled paper, such as such as restaurants, food processors, and grocers, to implement separate organics collection. The second phase also required all businesses, regardless of size, to subscribe to recycling services. Multi-family properties are defined in the ordinance as properties having five units or more.

Enforcement of the ordinance is performed by ACWMA inspectors or staff from participating municipalities. However, ACWMA may only issue notices after receiving written approval by staff from participating municipalities. ACWMA assumes all costs to implement the enforcement program, including inspection, enforcement procedures, and assistance to businesses to implement required programs. After allowing a grace period of all affected entities to implement required services, the ACWMA started actively enforcing all phases of the ordinance on January 1, 2017.

The City's contract with WMAC includes organics and recycling collection service to multi-family properties. The contract also offers organics service to businesses at 50% of the comparable garbage rate and recycling to businesses at 30% the cost of comparable garbage service.

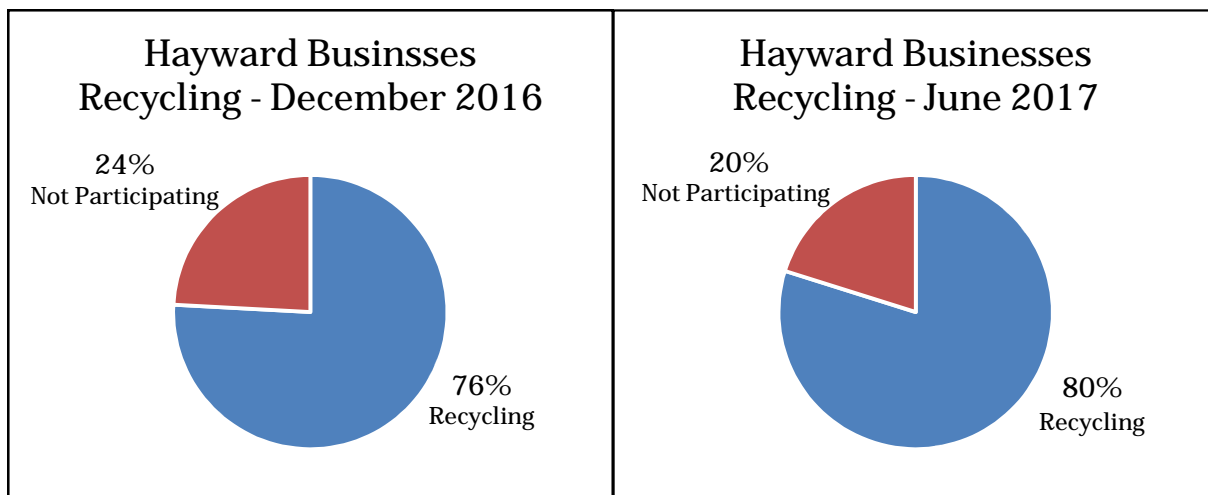
## DISCUSSION

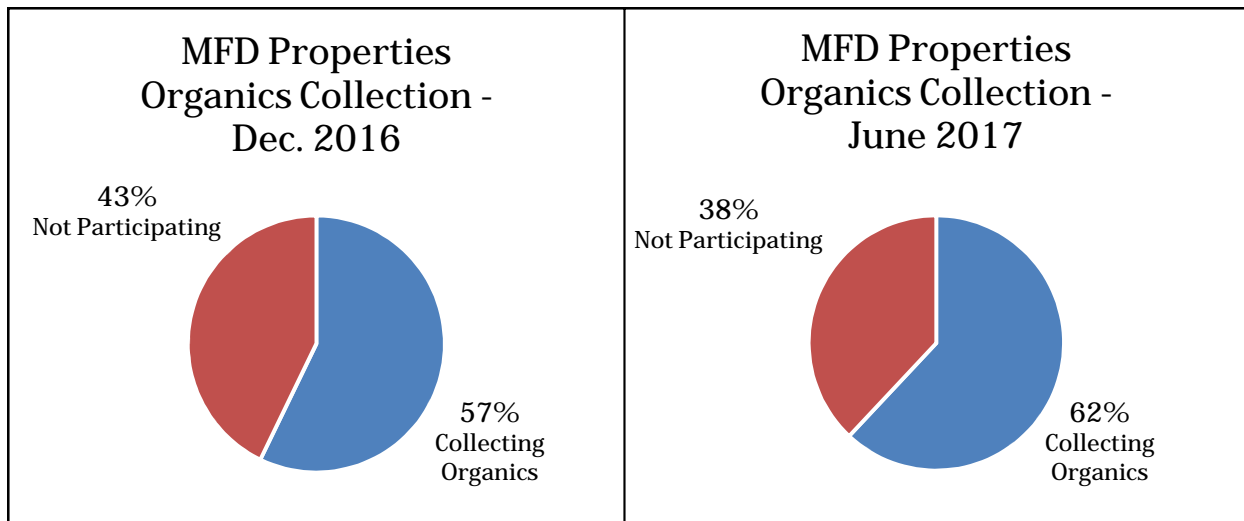
City and WMAC staff work with multi-family properties and businesses to help them meet all provisions of the ordinance. Currently, 93% of Hayward multi-family properties with five or more units participate in the recycling program by subscribing to services and 62% of multi-family properties participate in organics collection program by subscribing to services. Currently, 80% of all Hayward businesses subscribe to recycling services, and the number of Hayward businesses subscribing to organics collection services increased by 4% since December 2016. Since January 2017, the total number of businesses in Hayward subscribing to recycling services increased by about 4%.

The pie charts below summarize, as of December 2016 and June 2017, the percent increase in Hayward businesses that have arranged for collection of recyclables, and the percent increase in Hayward multi-family properties that have arranged for organics collection through WMAC. The information is based on data provided by WMAC. Businesses and multi-family properties may also comply with the ordinance by arranging with other service providers, or self-hauling their recyclables and organics.

The growth in the number of businesses and multi-family properties recycling has slowed as the percentage of those already recycling has increased. The remaining businesses and multi-family properties have been more difficult to contact, or more reluctant to initiate service than those currently recycling.

Mandatory Recycling Ordinance: Summary of Participation





At the commencement of the Agreement, WMAC was very slow to implement the required additional level of staffing dedicated to perform outreach. This additional WMAC staff is mandated by the Agreement and paid for by pass-through costs. WMAC staff, including two interns dedicated to Hayward, as well as City staff, continue to perform outreach and provide assistance to businesses and multi-family properties so they can implement both services and comply with the ordinance.

Outreach to Multi-Family Properties – In 2016, and through the first half of 2017, ACWMA has performed outreach to multi-family properties through social media and email. City and WMAC staff also continue to work with property managers and owners to improve organics sorting/collection and facilitate bulky item removal. WMAC staff meet one-on-one with property managers and make presentations to tenants to provide program details and explain proper sorting. Brochures have also been distributed at Hayward Downtown Street Parties and to the Keep Hayward Clean & Green Task Force. In addition, the City and WMAC collaborate to design and send bill inserts and mailings throughout the year to help inform residents of program parameters.

Outreach to Businesses – WMAC representatives offer Hayward businesses waste assessments and employee training to help facilitate implementation of programs. City assistance includes offering labels for containers and posters for reference by employees and patrons. City staff will continue to disseminate informational materials to businesses via field visits and inserts with bills issued by WMAC, and to inform businesses that recyclables collection is available at 30% of the comparable garbage rate, and organics collection is available at half the price of regular garbage collection. Although not always the case, some businesses, including restaurants, grocers, and food processors, have been able to reduce garbage service and cost after implementing one or both services.

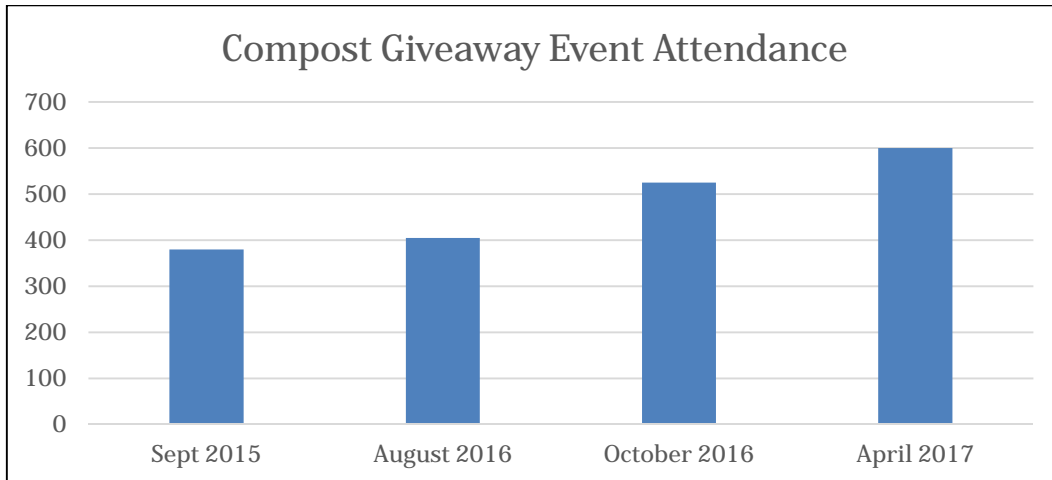
Outreach to Single-Family Residents – The mandatory recycling ordinance does not apply to single-family households. However, staff conducts outreach to single-family households to

help residents properly sort recyclables and increase their organics diversion by placing food scraps and food-soiled paper in the green bin. Informational materials to single-family residents include bill inserts that highlight the twice-annual bulky item appointments and the variety of other services that continue to be offered. Additionally, the City's website and WMAC's website each offer residents and businesses extensive information regarding recycling and available services. WMAC and City staff have recently designed Facebook ads to promote services available to residents. WMAC also mails postcards to all households describing removal of bulky items, and sends holiday tree removal instruction postcards to all residents.

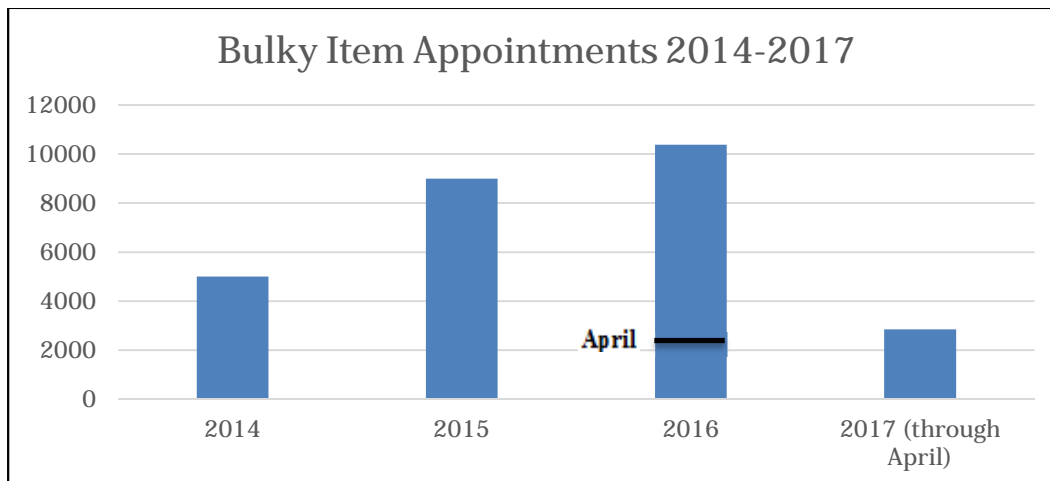
Pioneers for Sustainable Communities – In addition to outreach conducted with WMAC, staff worked with Cal State East Bay classes as part of the pilot Sustainable City Year Program to design and conduct outreach for Hayward residents. The Sustainable City Year Program is a collaboration between Cal State East Bay and the City of Hayward. The primary goals are: to provide students with real-world research experience; to apply the intellectual horsepower of faculty and the energy of students to projects of significant importance to the community, and to facilitate progress toward a more sustainable, desirable, and inclusive world. In the spring of 2017, Cal State Sustainable City Year Program students placed hang tag flyers on the garbage carts of approximately 6,000 single-family homes. The tags reminded residents to place food scraps in the green yard trimmings cart and not in the garbage. Cal State students are also completing the design of an interactive video game for outreach events, in which game participants sort recyclables. Cal State students also are completing a project to create informational videos regarding the problems illegal dumping causes Hayward, and the availability of bulky collections.

ACWMA's Benchmark Fee Removal – In July of 2013, ACWMA began collecting a fee from residents and businesses to fund the analysis of waste and the preparation of informational literature promoting recycling. As of July 1, 2017, the fee is no longer be charged. City and WMAC staff ensured Hayward rates were appropriately adjusted to reflect the elimination of the fee. Information regarding the fee removal has also been posted on the WMAC, Hayward, and Stopwaste websites.

Compost Giveaways – A provision of the WMAC Agreement requires WMAC to provide Hayward residents with 5,000 one cubic-foot bags of compost annually. The City distributes these bags of compost to residents by means of compost giveaway events held twice a year on Saturdays. During these events, residents drive to a designated venue and City staff loads bags of compost into residents' vehicles. Since the inception of the contract in March 2015, the City has hosted four events and given roughly 9,000 bags of compost to more than 1,800 residents. The events are promoted via inserts in garbage bills, emails, flyers at libraries, and by way of Nextdoor.com. Surveys conducted at the events indicate a very positive response from residents.



**Bulky Item Collection** – The WMAC Agreement offers Hayward single-family households and multi-family properties free collections annually of four cubic yards per dwelling unit of bulky items such as furniture, mattresses, and appliances. While the participation by Hayward residents in the program has increased over the first few years of the new contract with WMAC, residents only utilize about one-quarter of the appointments allowed by the contract. Also, about 20% of bulky appointments are second collections for the same address. Staff has continued to prioritize promoting bulky item collection in 2017. Through April of 2017, 2,717 collections have occurred from single-family homes, and 126 from multi-family properties. In the first four months of 2016, 2,640 collections had occurred from single-family homes, and sixty-one from multi-family properties.



**Franchise Recovery Rate** – CalRecycle’s diversion rate takes into consideration all wastes

generated within Hayward's boundaries, some of which is not hauled by WMAC. The Franchise Recovery Rate is an annual benchmark included in the WMAC Agreement to track WMAC's performance diverting material from landfill. It measures only the material collected and managed by Waste Management and the required Franchise Recovery Rate gradually increases each year of the contract to reach 80% by 2024, the final year of the Agreement. In calendar year 2016, WMAC achieved a Franchise Recovery Rate of 37%, well below the target of 50% for 2016. However, staff has continued to work closely with WMAC and their outreach team, and as of April 2017, WMAC increased the Franchise Recovery Rate to 42%.

WMAC periodically experienced challenges fully staffing its outreach team since the Agreement began in 2015, but has more effectively stabilized its staffing in 2017, and should reach more businesses and multi-family properties in 2017. In addition to more outreach, other factors that have positively affected the Franchise Recovery Rate include a larger amount of organics collected in 2017 than the first four months of 2016, and WMAC worked with some large industrial accounts to increase their recycling.

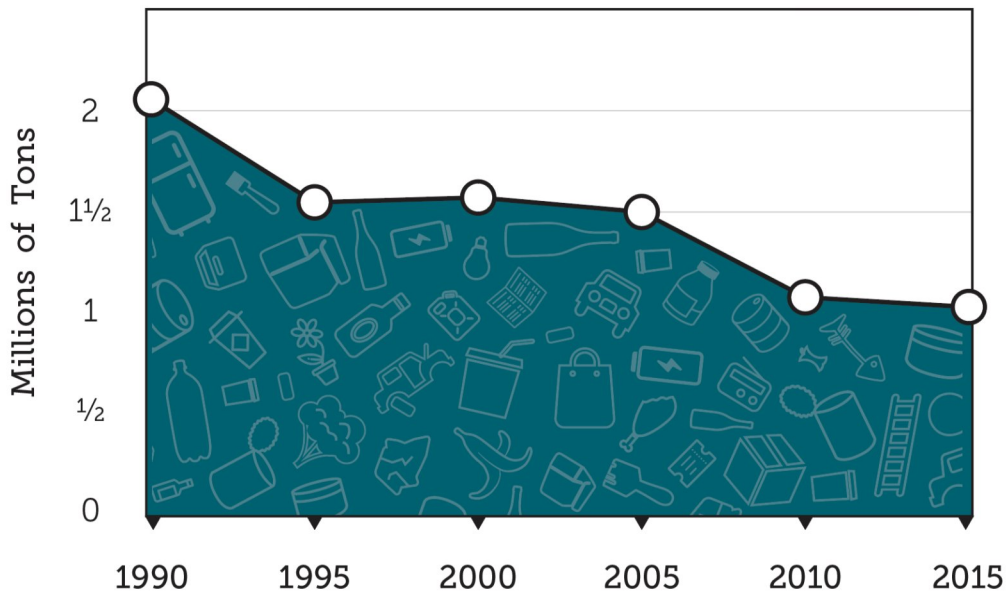
## SUSTAINABILITY FEATURES

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, and conserves natural resources. Separating organics for composting instead of disposing of them can significantly reduce greenhouse gas emissions from landfills. Proper management of solid waste plays an important role in making a community sustainable.

## FISCAL IMPACT

Solid Waste Program staff will continue to work with the ACWMA and WMAC to coordinate implementation and enforcement of the mandatory recycling ordinance. Recycling Fund monies will be used to fund these activities, so there will be no impact to the General Fund. These funds are based on tons of garbage disposed at the landfill, and are collected and disbursed by ACWMA. Currently, there is sufficient revenue in the Recycling Fund balance to pay costs associated with implementing the ordinance. However, funds have decreased by about 50% from several years ago, as tons landfilled has decreased, see Figure 1 below. To replenish the City's Recycling Fund, additional funds will be remitted to the City by WMAC per the terms of the franchise agreement starting in FY2018-2019.

**Figure 1, Alameda County Landfill Tonnages 1990-2015**



#### NEXT STEPS

City staff will continue to offer assistance to businesses and multi-family properties to implement separate collection of recyclables and organics. Outreach efforts will continue through a variety of channels, including the Rental Housing Owners Association, special events, and the Chamber of Commerce.

In the Fall of 2017, staff will implement the new Construction and Demolition Debris (C&D) Ordinance. The C&D Ordinance was updated to better align with new State requirements and increase diversion of material from landfill.

In June 2017, City staff started following the Agreement rate-setting procedures and began the process of conducting an evaluation of WMAC's operating costs for 2016, the second year of the Contract. The cost analysis is part of the 2018 rate-setting process and will be presented to Council this fall.

Prepared by: Jeff Krump, Solid Waste Program Manager

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

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 #:** ACT 17-051

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Update on PAYS Implementation

**RECOMMENDATION**

That the Committee receives this update and recommends that Council adopts additional flexibility related to the length of the PAYS Program repayment term.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Location Map of PAYS Projects



DATE: July 10, 2017

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT: Update on PAYS Implementation

## RECOMMENDATION

That the Committee receives this update and recommends that Council adopts additional flexibility related to the length of the PAYS Program repayment term.

## BACKGROUND AND DISCUSSION

On June 23, 2015, Council [passed a resolution](#) authorizing the Green Hayward PAYS® (Pay-As-You-Save) On-Bill Conservation and Efficiency Financing Pilot Program. Because PAYS failed to secure private financing, Council allocated \$1,000,000 from the Water Improvement Capital Fund to cover the upfront costs associated with installing conservation and efficiency measures at multifamily properties. This money will be paid back over ten years through a surcharge on each participating customer's water bill.

This Committee received updates on PAYS implementation at its [May 9, 2016](#) meeting and its [December 10, 2015](#) meeting. For more details about the PAYS Program, including frequently asked questions, please visit [www.Hayward-ca.gov/PAYS](http://www.Hayward-ca.gov/PAYS).

### Program Design

Following a competitive process, the City selected a preferred contractor, Bottom Line Utilities Solutions (BLUS), and suppliers to perform the installations and supply water conservation products on behalf of the City. In addition, the City selected a Certification Agent, BKi, to provide program administration and quality assurance. BLUS and BKi conduct outreach to Hayward multifamily property owners and managers with assistance from the City. Once a customer expresses interest, BLUS does an assessment of the property and estimates water, sewer, and energy savings. BKi checks BLUS's estimates and calculates the cost of the surcharge that will appear on the customer's bill, which must be less than 80% of the customer's estimated bill savings.

Customers can either select BLUS to complete the upgrades or select their own contractor, with the stipulation that their contractor cannot cost more than BLUS. Customers then repay program costs over ten years through a surcharge on their bi-monthly water bills. The goal is

that the customer will realize an immediate net reduction in their bills. If a property were to change hands, the surcharge would stay with the property.

### Program Participation

As of June 2017, two years past PAYS authorization, only four properties have completed upgrades, totaling 138 units and using \$130,452 of the \$1,000,0000 dedicated to the program. In addition, eight properties are actively considering proposals they have received from PAYS to perform updates, totaling 515 units and using \$221,222. These properties are summarized in the table below and their locations are shown on the map in Attachment I.

#### Completed Projects and Active PAYS Proposals

	# of Units	Cost of PAYS Upgrades	Surcharge/Bill	Projected Net Savings/Bill
Completed Projects				
1	34	\$9,100	\$211	\$329
2	24	\$12,261	\$285	\$230
3	12	\$6,483	\$151	\$434
4	68	\$102,608	\$2,382	\$17,440
Subtotal	138	\$130,452	\$3,029	\$18,309
Active Proposals				
5	102	\$53,311	\$1,238	\$5,044
6	33	\$14,694	\$341	\$773
7	45	\$20,001	\$464	\$1,069
8	30	\$8,898	\$207	\$201
9	8	\$3,174	\$74	\$76
10	41	\$20,422	\$474	\$819
11	68	\$31,370	\$728	\$2,449
12	188	\$69,352	\$1,610	\$7,317
Subtotal	515	\$221,222	\$5,136	\$17,748
TOTAL	653	\$351,675	\$8,165	\$36,057

In addition to the properties above, two multifamily properties totaling twenty-three units completed upgrades on their own due in part to the marketing efforts of the PAYS Program. These properties received assessments from the PAYS contractor and decided to complete the upgrades, but declined to use the on-bill financing.

### Bill Analysis for Completed Projects

Staff conducted a bill analysis for the first completed project, which is summarized in the table below. Staff does not have sufficient billing data yet to assess the performance of property four's upgrades. Properties one and two have twelve months of billing data. Property three has seven months of billing data. Bills savings are calculated using an estimate of what the

customer would have paid had they not completed the upgrades. This estimate is based on two years of historic billing data for the property.

For properties one and two, staff only looked at water bills because the owner was new and thus did not have access to two-years of historic PG&E bills. For property three, staff looked at water and energy bills.

As an example, property two installed twenty-four new toilets, thirteen showerheads, thirty-one aerators, and sixty-three in-unit LEDs in twenty-four units. In addition, they replaced sixty-three common area lighting fixtures and added a hot water demand controller and pipe insulation. The cost of the PAYS upgrades was \$12,261. This amount will be paid back with interest over ten years through a bi-monthly surcharge of \$285. The projected net water savings (after subtracting the surcharge) for this property was \$230 per bill. The actual average net water savings has been \$487 per bill (\$257 greater than projected). Actual savings are calculated by comparing consumption during a billing period to two years of historic water consumption during that same billing period. As stated above, staff was unable to calculate actual energy savings for this property because we did not have access to historic PG&E bills.

	Cost of PAYS Upgrades	Surcharge /Bill	Projected Net Savings/Bill	Average Actual Net Savings/Bill	Surcharge as % of Bill Savings*
Completed Projects					
1	\$9,100	\$211	\$329	\$845	20%
2	\$12,261	\$285	\$230	\$487	37%
3	\$6,483	\$151	\$434	\$177	46%
TOTAL	\$27,844	\$647	\$993	\$1,509	

\*Surcharge as % of Bill Savings is calculated by dividing the surcharge by the average actual full savings (net savings + surcharge)

Measures Installed	Property 1	Property 2	Property 3
Toilets	33	24	10
Showerheads	19	13	9
Bathroom Aerators	24	12	9
Kitchen Aerators	21	19	9
Hot Water Demand Controller	0	1	1
Hot Water Pipe Insulation	0	1	1
Common Area Lighting	22	63	40
In-Unit LEDs	48	63	36

Staff's conclusions from the above data:

1. All three of the properties are saving money and were well below the "80%" threshold. In other words, only 20%, 37%, and 46% of the savings realized by these customers went to pay their surcharges. The remaining savings went back to these customers.
2. The average net bill savings (after subtracting the surcharge) realized by these customers ranged from \$177 to \$845. In contrast, the average bill savings for the two properties who completed the toilet upgrades on their own were \$136 and \$279.
3. The first two properties have achieved actual bill savings higher than their projected bill savings. The projected savings were calculated with very conservative estimates of existing measures with uniform characteristics.
4. The third property achieved lower actual savings than what BLUS had projected. This customer achieved reductions in their water usage, but the energy upgrades did not deliver expected savings based on misreported existing conditions. BKi and BLUS have updated their protocols to minimize this error for future properties.

In summary, the program has had substantially less participation than projected. PAYS projection was that thirty-seven properties with 2,000 units would be completed in the first year. However, the limited number that have been completed are performing well thus far. Staff will continue to monitor billing data to ensure that the projections are realistic and savings are being realized.

#### Staff Recommendation: Flexible Repayment Term

The PAYS® Program launched in October 2015. While initial interest has been strong (thirty-seven site visits completed), projects have been completed substantially below the pace originally expected. Staff has identified a few barriers that may account for this slower rollout. Many of the larger property management companies have several layers of administration. This has delayed the signing of agreements and the onsite installations. In addition, some larger properties, including some owned by Eden Housing, have already updated their toilets. Finally, small to medium sized properties, which are more likely to need the financing, have expressed concern about the amount of interest they would be paying over ten years of financing. The current program design requires a payback period of ten years.

To address that last barrier, staff is recommending the following updates to the PAYS program:

1. Allow flexible repayment terms from five to ten years, up to the point that the surcharge will be no more than 100% of savings for property owners (rather than 80%). Shorter repayment terms result in higher bi-monthly surcharges, but the property owner will end up saving more over the life of the repayment due to less interest. (see example below)
2. Allow for prepayment without penalty.

Below is an example of a real property in Hayward with ten units. The City's PAYS contractor gave this property owner a quote to do \$12,712 worth of upgrades on her property. She declined to participate in the program because she felt the ten-year payment term would result in her paying too much interest. If her payment term was shortened to five years, she would have saved \$2,586 in interest, per the table below. If she had been able to prepay without penalty, she could have further reduced the interest amount.

Number of Payments	Surcharge/Bill	Total Surcharge over 10 years	Total interest over 10 years	Estimated Savings/Bill	Surcharge as % of Savings
Cost of Surcharge with 60 bi-monthly payments (10 years)					
60	\$295	\$17,708	\$4,996	\$534	55%
Cost of Surcharge with 30 bi-monthly payments (5 years)					
30	\$504	\$15,122	\$2,661	\$504	100%
Difference	\$209	-\$2,586			

## ECONOMIC IMPACT

The Green Hayward PAYS® Program allows residents and property owners to improve energy and water efficiency in their homes with no up-front costs and no projected increases in their overall utility bills. Flexible repayment terms would decrease the total amount owed by customers, which would save them money in the long term. In the short term, the customer's bi-monthly bills would be higher due to a higher surcharge amount.

## FISCAL IMPACT

The funding for the program is \$1,000,000 from the Water Improvement Capital Fund, which will be paid back over time with interest through a surcharge on each participating customer's water bill. The City is currently receiving money back through the surcharges on the four completed projects. If customers select reduced repayment terms, the City would receive less interest over the life of the repayment. However, the Water Fund would receive its money back sooner.

## SUSTAINABILITY FEATURES

Water: Access to on-bill financing through the PAYS program enables water upgrades, which reduce Hayward's per capita water consumption. The hope is that there will be greater participation in the PAYS program if flexible repayment terms are introduced.

Energy: Access to on-bill financing through the PAYS program enables energy efficiency upgrades, which reduce the community's reliance on fossil fuels.

## NEXT STEPS

If the Committee recommends that Council approve staff's recommendations as outlined above, then staff will return with a report to the full Council.

Prepared by: Mary Thomas, Management Analyst

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is positioned above a horizontal line.

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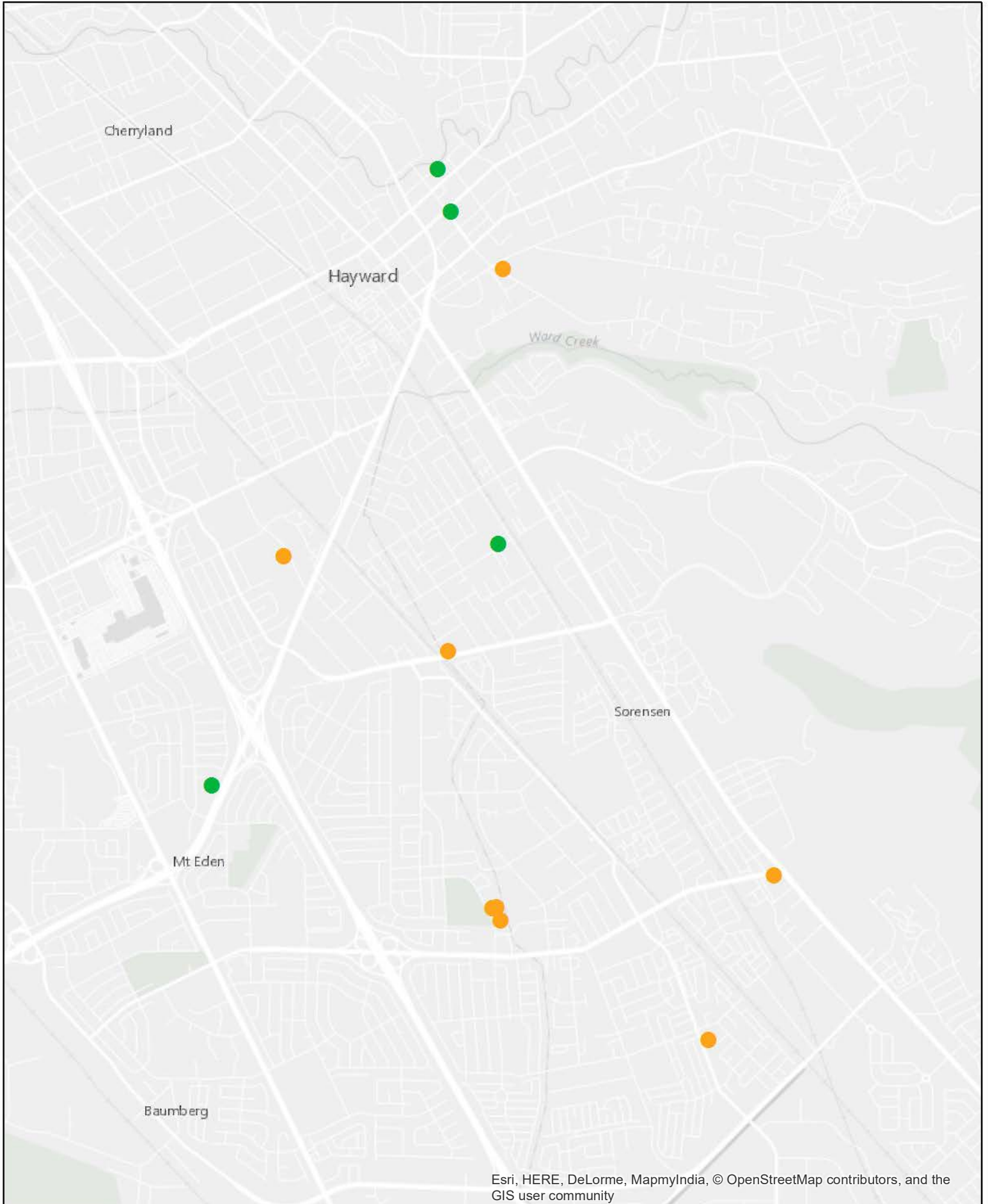
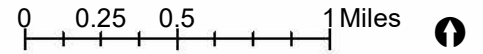
Kelly McAdoo, City Manager



# PAYS Project Status 2017-06

## ATTACHMENT II

● Active Proposal ● Completed PAYS Project



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community





# 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 #:** ACT 17-047

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Consideration of CMFA Open PACE

**RECOMMENDATION**

That the Committee recommends that the City Council adopt a resolution authorizing the City Manager to execute an agreement to join CMFA Open PACE and sign ABAG member addendums to the PACE Regional Collaborative Services Agreement.

**ATTACHMENTS**

Attachment I      Staff Report



DATE: July 10, 2017

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT: Consideration of CMFA Open PACE

## RECOMMENDATION

That the Committee recommends that the City Council adopt a resolution authorizing the City Manager to execute an agreement to join CMFA Open PACE and sign ABAG member addendums to the PACE Regional Collaborative Services Agreement.

## BACKGROUND

Property Assessed Clean Energy (PACE) programs are intended to allow property owners to finance energy and water efficiency improvements and pay off the debt through annual installments on their property tax bill. The intent is to provide an additional means of financing to make environmentally sustainable property improvements and seismic upgrades more affordable and accessible to property owners. The potential benefits of PACE financing over other financing options include 100% financing for eligible improvements, a longer repayment period of up to twenty years, and the reliability of pre-approved contractors. Traditional home improvement loans or second mortgages require some down payment and do not certify specific contractors; however, they may have lower interest rates than PACE financing.

The potential risk of PACE financing is that it increases the debts of property owners and may lead to foreclosure in the case of default. In addition, because marketing for PACE is led by the contractor, there is potential for contractor misrepresentation.

The City Council has previously authorized eight PACE programs to operate in Hayward. Five of the programs serve both commercial and residential customers, two serve exclusively commercial, and one serves exclusively residential. Links to each of the programs are available on the [City's PACE website](#).

Up to this point, Council has taken the approach of creating an open PACE market in Hayward to maximize the amount of financing and offerings available to Hayward property owners. In other words, Council has approved all PACE programs that request to operate in Hayward once staff has reviewed them to ensure there are no program-specific concerns. Many other

Bay Area jurisdictions have taken the same approach, including Fremont, Oakland, San Leandro, and Berkeley.

The last PACE report to the Committee was on January 9, 2017.

## DISCUSSION

### Consideration of CMFA Open PACE

One of the purposes of this report is to present an additional Open PACE program to the Committee for consideration. Over the past several months, California Municipal Finance Authority (CMFA) Open PACE has contacted City staff and elected officials to state their interest in operating in Hayward. CMFA Open PACE is currently operating in over eighty California jurisdictions, mostly in Southern California. In the Bay Area, Berkeley and Fremont have joined and San Francisco is currently considering joining.

CMFA Open PACE is the same model as California Statewide Communities Development Authority (CSCDA) Open PACE, which the City has already joined. Both are Joint Powers Authorities (JPAs) that select specific PACE providers to administer their PACE financing programs. The model is considered “open” because once a municipality has joined the JPA, they can be served by any PACE programs that the JPA reviews and decides to sponsor.

If Council does join CMFA Open PACE, then any future PACE programs sponsored by CMFA will also be authorized to operate in Hayward. However, if the City does not want to authorize a program, then it can choose to opt out of individual programs at any point in the future.

CMFA Open PACE currently sponsors these four PACE Programs:

- BluePACE - commercial only
- Structured Finance - commercial only
- OnPACE Energy Solutions - commercial only
- Energy Efficient Equity (E3) - residential only

Staff has reviewed the three commercial-only programs, BluePACE, Structured Finance, and OnPACE Energy Solutions, and found that they each have very similar terms, interest rates, and consumer protection measures as existing PACE commercial programs in Hayward.

Staff spent additional time vetting Energy Efficiency Equity (E3) because it is a residential program and staff is sensitive to the fact that residential customers may be less knowledgeable than commercial customers when it comes to financing programs. Of the over 300 PACE projects in Hayward so far, approximately 95% have been residential. Staff does not have program-specific concerns about E3’s program, which is similar to the other residential PACE programs in Hayward. A few areas where E3 stands out:

- E3 offers slightly lower interest rates than other PACE programs in certain instances. For example, they have a 4.99% rate for a five-year repayment term for customers with a good credit profile.

- E3 has all their contractors sign a repurchase agreement to protect homeowners from contractor fraud and program misrepresentation.
- E3 uses BBB ratings and Yelp reviews as part of their contractor screening.
- E3 requires homeowners to have the household income necessary to pay back the assessment, in addition to the industry standard equity requirements (many PACE programs do not have an income requirement).
- Like other PACE programs, E3 allows property owners to borrow up to 96.5% of the equity in their home.

### Mitigating Risks Related to an Open PACE Market

As with most financing mechanisms, PACE programs can present risks to consumers. In particular, PACE carries the risk of contractor fraud or misrepresentation of financing terms. Because the industry is new, the laws regulating the industry continue to evolve. States and the Federal government are still debating which types of regulations will best protect consumers without unnecessarily hindering the growth of the PACE industry.

The State of California requires PACE programs to complete a degree of contractor screening and training. In addition, the State passed [AB 2693](#) in September 2016, which requires specific disclosure guidelines consistent with the federal Consumer Financial Protection Bureau's [Know Before You Owe](#) disclosures. In a parallel effort, the Obama administration and HUD (FHA) announced in July 2016 that the FHA would back mortgages with PACE liens for its programs for veterans and low-income property owners. HUD released [consumer protection requirements](#) that PACE assessments must meet for the property to qualify for FHA insurance (it is not yet clear if this will change with the Trump administration).

Staff has not received any concerns or complaints from Hayward community members since the launch of PACE. The State of California monitors most PACE programs, including E3, through its California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). The Authority administers the State's Loss Reserve program, which makes first mortgage lenders whole for losses if a PACE lien is in foreclosure. To date, CAEATFA has not received any claims on the loss reserve. CAEATFA collects statewide information on PACE participation, which can be found at: <http://www.treasurer.ca.gov/caeatfa/pace/activity.asp>

ABAG Regional Collaborative Services Agreement: In addition, the Association of Bay Area Governments (ABAG) has created a Regional Collaborative Services Agreement (RCSA) with residential PACE programs to improve transparency and reporting standards. Commercial PACE programs were not included in the RCSA because they tend to be highly customized, have built-in protections (e.g. lender consent), and the transactions do not lend themselves to standardization. Most of the residential PACE programs operating in the Bay Area have signed the RCSA, including E3. RCSA features include:

- Designates ABAG as the liaison regarding implementation of the Agreement
- Requires all residential PACE programs to have clearly visible disclosures regarding the Federal Housing Finance Authority's (FHFA) policies on residential PACE programs
- Requires all residential PACE programs to participate in the State's PACE Loss Reserve
- Requires data sharing between the RPP's and local governments to monitor program performance locally and improve reporting
- Clarifies that RPP's are responsible for negligence in administering PACE programs

Cities can sign individual member addendums to the ABAG RCSA with the residential PACE programs that they have approved to operate in their jurisdiction. The purpose of these addendums is to ensure the PACE providers are aware that the City will hold the providers accountable to the terms of the RCSA. Staff is recommending that the Committee recommends that Council pass a resolution authorizing the City Manager to sign member addendums to the ABAG Regional Collaborative Services Agreement.

PACE in the News: There have been anecdotal cases reported by local news outlets of PACE contractors misrepresenting financing terms to customers. In these cases, the related PACE program has removed the contractor from its list of certified contractors and has refused to finance the proposed work. In some cases, the PACE program has assisted the homeowners with claims against the contractor. There have been no reports with verifiable data of systematic contractor misrepresentations or a growth in customer dissatisfaction with PACE. However, staff is aware that these scenarios are possible and is monitoring the news.

The Kern County Board of Supervisors recently voted to disband their PACE programs after groups of realtors voiced their concerns. The heated testimony at their meetings included many voices on both sides. Each side offered anecdotal evidence of PACE benefits and potential downsides of PACE financing, but no data showing trends. There are approximately 2,500 properties with PACE assessments in Kern County.

The California State Assembly is currently considering [SB-242](#) (Skinner), which passed in the Senate on May 30, 2017. This bill expands on the consumer protection rules that were passed by the State in 2016, including requiring PACE program administrators to record an oral confirmation that the property owner has reviewed key terms of the contract.

In addition, the California State Senate is currently considering [AB-271](#) (Galgiani), which passed in the Assembly on May 30, 2017. This bill authorizes the county tax collector to direct the county auditor to remove delinquent PACE installments from the tax roll so they do not accrue penalties. Delinquent property taxes can accrue higher penalties than other types of delinquent payments and come with greater risks. Proponents of this bill claim that it removes the incentives for PACE lenders to profit from the penalty provision of the property tax collection system.

The US Senate is currently considering a Republican-sponsored bill titled the [Protecting Americans from Credit Exploitation \(PACE\) Act](#). This bill is being backed by the Mortgage Bankers Association and the California Association of Realtors. The bill would require PACE issuers to follow the same regulations and disclosures as banks and mortgage lenders. The PACE industry is opposing this bill, claiming it would be overly burdensome and harm the industry. The bill is also being opposed by Natural Resources Defense Council and the Rocky Mountain Institute.

## FISCAL AND ECONOMIC IMPACTS

Participation in PACE programs does not impact the General Fund or any City funds. PACE programs use private sector capital to provide property owners with funding.

The primary economic benefit of allowing an open PACE market in Hayward is that it increases the total amount of financing available to Hayward property owners for improvements. This also increases the total debts carried by property owners who choose to take part, which creates potential economic risks. In the worst case, cost savings may not materialize as predicted and the owners could end up owing more than they can afford, which could result in increased foreclosures. However, this has not been the experience of PACE programs up to this point. On the contrary, most PACE programs claim that the default rates of their property owners are lower than nationwide averages, which is reflected by the fact that there have been zero claims on the State's loss reserve to date.

## SUSTAINABILITY FEATURES

Energy: Access to PACE funding enables solar photovoltaic installations and energy efficiency upgrades – both of which reduce the community's reliance on fossil fuels.

Air: Access to PACE funding enables energy efficiency upgrades, which may reduce the use of wood-burning stoves/fireplaces and related emissions.

Water: Access to PACE funding enables water upgrades, which reduce Hayward's per capita water consumption.

Seismic: Access to PACE funding enables seismic upgrades, which will increase structures' resiliency after an earthquake.

## NEXT STEPS

1. If the Committee recommends that Council adopt a resolution authorizing the City Manager to join CMFA Open PACE and sign ABAG addendums to the RCSA, then staff will bring a resolution to Council in early fall.
2. If the Committee recommends that Council pass a resolution authorizing the City Manager to sign ABAG addendums to the RCSA, then staff will bring a separate

resolution as part of the same Council agenda item in early fall. Staff will then follow up with each of the City's residential PACE programs to execute addendums.

Prepared by: Mary Thomas, Management Analyst

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

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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 #:** RPT 17-092

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**DATE:** July 10, 2017

**TO:** Council Sustainability Committee

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Proposed 2017 Agenda Planning Calendar

**RECOMMENDATION**

This is an informational report.

**ATTACHMENTS**

Attachment I      Staff Report





DATE: July 10, 2017

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT Proposed 2017 Agenda Planning Calendar

#### RECOMMENDATION

That the Committee reviews and comments on this report.

#### DISCUSSION

For the Committee's consideration, staff suggests the following tentative agenda topics.

September 2017
Car Sharing
Accelerating Multifamily Building Upgrades (California Energy Commission grant)
Pioneers for Sustainable Communities – Final Report
East Bay Energy Watch – Small/Medium Business Programs
Lead Testing in Schools (Oral Update)
November 2017
Recycled Water Program
Sustainable Groundwater Plan
Solar Photovoltaic at WPCF – Phase II
Review of Last Winter's Mountain Tunnel Shutdown
Unscheduled Items
Stormwater Trash Reduction Requirements
Laundry to Landscape Ordinance
Progress Toward 2025 ZNE Goal
Tiny Homes

## NEXT STEPS

Upon direction from the Committee, staff will revise the above list and schedule items accordingly for the remaining 2017 meetings.

Prepared by: Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is positioned above a horizontal line.

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Kelly McAdoo, City Manager