

**SPECIAL CITY COUNCIL MEETING  
TUESDAY, DECEMBER 8, 2020**

**DOCUMENTS RECEIVED  
AFTER PUBLISHED AGENDA**

# **eCOMMENTS RECEIVED**

## **Public Comment**

**eComments received for December 8, 2020 Hayward City Council Meeting:**

Item	Name	Comment	Position
6. CONS 20-596 Adopt a Resolution Authorizing the City Manager to Accept and Execute a Funding Agreement with the Bay Area Air Quality Management District for the 2020 Vehicle Trip Reduction Grant Program and Appropriate Funds	Steven Dunbar	Wonderful work. Awesome job getting the grant.	Support

**ITEM #10 WS 20-049**

**Commercial Cannabis Program Work  
Session: Review and Provide Feedback  
on Recommended Process and Policy  
Updates to the City's Commercial  
Cannabis Program (Report from  
Development Service Director Simpson)**

**PUBLIC COMMENTS**



To Whom it may concern,

I write to you today, ahead of the City of Hayward's planned work session on Commercial Cannabis regulations, to highlight some areas of the ordinance that need attention. I detail these areas below and provide recommendations. I make these recommendations in support of many of the findings from ICF and with the intent of better aligning Hayward's ordinance with the State's regulations.

**Microbusinesses and Storefront Retail:**

Microbusinesses in Hayward are currently only allowed an ancillary storefront retail use (see Sec. 10-1.3605 and Sec. 10-1.3606). This limits the microbusiness to only selling products they produce. As I understand it, the intent behind this regulation was an attempt to limit the amount of traffic that would be going into the industrial zones where cannabis microbusinesses are allowed to operate. However, a menu with fewer options doesn't always translate into less traffic. To illustrate this think about the menus of In-and-Out Burger and Burger King. In-and-Out has a total of 6 menu options and they are much busier than a Burger King which has over 80 menu items. Additionally under the current ordinance a customer at a Juva retail store would have very limited options to purchase in person, but they can order from a full menu on their cell phone or on a tablet at our store and have the product delivered to them.

**Recommendation:** Follow state law and allow cannabis microbusiness to sell all products allowed by state law.

**Value Limits on Delivery Vehicle Inventory**

Currently there is no part of the ordinance regulating inventory value in delivery cars. However, as a condition of approval all cannabis businesses performing deliveries to consumers are limited to an inventory not to exceed \$3,000. We believe this was taken from the State's previous regulation that has since been modified to allow for up to \$5000, with some minor conditions. The limitation of inventory means more trips to and from the licensed facility which increases traffic around the facility. It also limits the amount of business a non-storefront retailer can do in a day.

**Recommendation:** Follow state law and add a section to the ordinance that establishes inventory limits that are in alignment with the states regulations of \$5000.

**Retail Hours of Operation:**

Currently, retail hours of operation are dictated and approved by the Planning Commission (see Sec.6-14.15.a.5 and Sec. 10-1.3607.D.4). While the Planning Commission has been fair to all retail license holders within Hayward, limiting all to the operating hours of 9:00 am to 9:00 pm, this doesn't allow Hayward retailers to operate on a fair and level playing field with licensed retailers outside of Hayward, let alone the Black Market. State regulations require licensed retailers to close at 10:00 pm. If a Hayward resident needs to purchase cannabis after 9:00 pm they have two options: order from a licensed storefront retailer or non-storefront (delivery) retailer outside of Hayward or order from the Black Market, where they don't charge tax and aren't required to test their products for safety. Either way, the city of



Hayward loses those tax dollars. It's hard enough to compete with the Black Market as is, but further limiting the legal industry's ability to operate doesn't benefit the City or the population. I suggest modifying the City's ordinance to allow retailers to operate in accordance with state law.

**Recommendation:** Follow state law and allow cannabis retailers to stay open until 10:00 pm.

**Cannabis Paraphernalia:**

Sec. 10-1.3607.D.7 states that "No dispensary shall sell or display any cannabis related paraphernalia or any implement that may be used to administer Commercial Cannabis or Commercial Cannabis Products unless specifically described and authorized in the Conditional Use Permit." The way this portion of the ordinance is written prevents a retailer from selling some of the necessary tools consumers require to use the products sold by the retailer. For instance, a customer who purchases cannabis from a retailer might need a lighter or a customer who purchases a vapor cartridge might need a battery to operate it. As written, unless the retailer explicitly has permission in their Conditional Use Permit to sell these items, they cannot provide the customer the basic necessities to use the products they sell. It is an industry standard for cannabis retailers to sell basic paraphernalia like (but not limited to) grinders, rolling papers, vaporizers, and lighters in order to best serve the needs and desires of the customers.

**Recommendation:** Follow state law and remove this portion of the ordinance in its entirety.

**Delivery Only Cannabis Storage:**

Sec. 10-1.3607.F.6 states "Commercial Cannabis Delivery Only businesses shall not store or sell cannabis or cannabis products on site." This portion of the ordinance eliminates a delivery only retailer from possessing an inventory, because they can't legally store the product anywhere.

**Recommendation:** Follow state law and update this section to allow for secure onsite cannabis storage for delivery businesses.

If you have any questions please feel free to reach out. Thank you for your consideration.

Sincerely,

Doug Chloupek  
CEO, Juva Life Inc.

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**From:** Kim Huggett  
**Sent:** Thursday, December 3, 2020 11:30 AM  
**To:** List-Mayor-Council  
**Cc:** Kelly McAdoo; Miriam Lens; Jeremy Lochirco; Paul Nguyen  
**Subject:** Commercial Cannabis Review Tuesday  
**Attachments:** City Council Letter . Cannabis Downtown.pdf

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

Members of the Hayward City Council,

Since the staff report with a commercial cannabis program update for your meeting of Dec. 8 has not yet been posted, I thought I would anticipate some of the related issues, based on the council's discussion on cannabis issues last Tuesday night. My observations are also based on my experience working virtually every weekday (and most weekends) at the corner of B and Main streets for the last 10 years (and two months.)

I have attached a copy of my letter to you of June 14, 2019 regarding Hayward Station / Cookies, and I think the points regarding cannabis sales downtown are still valid. Principally, the blocks extending from the intersection of B and Main streets have been designed (by past city councils) for adult-related businesses. There are 21 alcohol-related businesses within two blocks of my office, and a card club within three. Downtown is not a route to or from any school. The few youth-related businesses that are downtown (karate, dance, tutoring) have participants with an accompanying parent.

The development of the Sector 19 laser tag (closed, for now) and Craft Eatery in the Hayward Area Historical Society building is a welcome one, and we look forward to welcoming families back there in a pandemic recovery. Chalk it Up, destroyed by fire, was not a family-oriented business. The loss of High Scores Arcade was due to a landlord issue.

Cookies, across the street from my office, has been run with efficiency and security, without long lines. True, its customers don't tend to linger downtown to make purchases at other stores, but that can be as a result of the pandemic. A better measure will be when restaurants and cafes again open regularly for lunch, can stay open late, and the theatres reopen. And I highly recommend the live music every weekend at The Bistro on Main Street.

Finally, I encourage you to consider allowing development of the third dispensary somewhere in Hayward not restricted by the boundary lines of "downtown." Through no fault of her own, the one dispensary applicant who is a Hayward resident and the only woman-owned business, has had problems with acquiring her desired location. Surely there are other areas in Hayward that could accommodate this business, and she has even identified locations where the property owners are agreeable. In fact, the city has already approved another business that incorporates cultivation, manufacturing, distribution "and ancillary storefront retail," for a business off Clawiter Road.

Thank you for your consideration and service to the citizens of Hayward.

Sincerely,

Kim Huggett, IOM  
President & CEO  
Hayward Chamber of Commerce  
[www.hayward.org](http://www.hayward.org)



June 14, 2019

Members of the Hayward City Council,

I write to you to correct some statements about downtown Hayward that were made during the city council's discussion on Hayward Station. If city staff has been directed to create "findings for denial" that are based on the idea that there are schoolchildren at B and Main streets, they'll have no data because it simply is not true.

I was particularly surprised by the city council's vote because last summer council members accepted the staff and consultant report that not only was Hayward Station the No. 1 qualifier for a dispensary, but expressed pleasure that the old bank building could finally be developed. Both the council and the planning commission, which voted 6-0 in support, knew last summer that the old bank building would be the location for Hayward Station because they had already signed a lease.

#### SCHOOLCHILDREN DO NOT POPULATE DOWNTOWN

I have worked at the corner of B and Main streets for nearly nine years. I'm also there frequently on the weekends at my office at 22561 Main St. I walk the downtown every workday, do my banking there, have my business and personal lunches there, confer with chamber business members, and make innumerable trips to city hall for meetings with staff and to attend more than 280 city council meetings (and many planning commission sessions) since September 2010. Schoolchildren simply are not a presence downtown. None of the downtown streets are on the way to or from school, certainly not Hayward High, Bret Harte Intermediate, or Burbank Elementary.

And schoolchildren certainly don't hang out in an area created by this city council and your predecessors to attract adults.

#### OUR CITY COUNCILS HAVE CREATED A DOWNTOWN OF BARS

Within one block of the old bank building at B and Main streets (and my office) there are five bars (Turf Club, Funky Monkey, Stein Room, Dirty Bird, The Bistro), another on the way (990 Lounge), as well as a wine shop on the way for the first floor of the former Green Shutter Hotel. If you want to go two blocks from that intersection, there are bars at PLaYT, Buffalo Bills, Brews & Brats, the Russell City Distillery, and Doc's Wine Shop. In restaurants within two blocks, alcohol is sold at Sapporo, Kin Café, Hinata (formerly Kokyo), Rock-It Burger, Los Compadres and Metro Taquero as well as all three Italian restaurants. That is 21 alcohol-serving establishments within two blocks of an intersection that was purported to be a gathering place for schoolchildren. These businesses are worthy contributors to our economy, run with professional standards, and are subject to scrutiny by code enforcement officials, the ABC and Hayward police. However, why would they be permitted there by your city council and previous ones if schoolchildren truly had the run of the neighborhood? The reason is that the presence of schoolchildren is **not** pervasive in downtown Hayward, especially at B and Main streets.

#### THE 'TUTORING CENTER'

I believe this business will be evicted from the establishment adjacent Eden Jewelry and Pawn. In any case, these students all arrive directly from the BART station and return in that direction right after "classes." Students at the karate studio at C Street and Main are accompanied by parents who wait during their sessions and park in the adjacent municipal lot.

## THE B AND MAIN STREET SECURITY INTERSECTION / CAMERAS ON EVERY CORNER

B and Main streets could become the most video-recorded intersection in Hayward. There are multiple exterior cameras on my building and the L'Amour Shop next door. There are cameras protecting ATM users at US Bank at B and Main, and exterior cameras put up by Structure Properties around the B Street Apartments (former Green Shutter). There will be multiple exterior cameras at the 990 Lounge, and Hayward Station will have cameras in the parking lot adjacent the building to the north, along the Main and B streets sidewalks and over windows (which will not be displaying products). **All four corners** at B and Main would then have businesses with exterior cameras on the street. Hayward police often come to my office to look at replays on my video screens to try and resolve incidents that happen downtown at night. Hayward Station's cameras would give them many more options.

Sometime Thursday, yesterday, two persons defecated against the wall in what would be Hayward Stations' parking lot. Cameras would allow security to address that ongoing issue.

## THE REAL DANGER DOWNTOWN

For the past dozen years The Green Shutter Hotel has been a source of vermin, vandals and vagrants. You can ask Hayward PD about this veritable dumping ground for the Department of Corrections. By my nine-years of observation, it has been the single biggest detriment to the development of downtown. From 2010 to 2017 fire engines would make the one-block drive, sometimes two or three times a week, from the station at Main and C streets to deal with overdose victims, and police dealt with everything from drug-dealing to naked people coming out onto the street. Structure Properties has done a fine job of renovating the apartment complex to become an attraction to adults who want to live in apartments and mainly rely on mass transit.

Look at the plans for Hayward Station. They call for renovation of a building that has been as much an eyesore as The Green Shutter and empty for decades at the very same intersection. The architectural concepts are beautiful and the city will have control over that look because of the use permit process.

## MANDATING RETAIL

Just by saying that we want a retail store selling something different from cannabis at B and Main streets will not make it happen, and has not for 40 years. Retail does not work that way in the 21st Century. That was learned from mandating retail stores on the ground level at the senior apartments at 808 A Street, only to find that even the experts at Colliers couldn't find a single retailer after a year and a half of trying. That's why it is now office space.

## FINALLY

We have an investor willing to develop a legal business at this blighted building, make major tenant improvements, generate revenue estimated at \$6.5 million a year (and the resulting sales tax and "community benefit" infusion"), hire locally, with their own parking lot, and with consumers who the research says generally spend an average of seven minutes making a purchase and then leaving.

The property owner has been collecting signatures from local businesses in support of the project, and any of them could tell you the same story I have laid out here. You can even add conditions that protect the CUP or come up with some other mechanism so that we don't, once again, deter a business from investing in Hayward.

Feel free to contact me any time to discuss this correspondence. I also invite you to join me on a visit to this part of downtown Hayward to meet some of the business folk and tour the area.

Sincerely,



Kim Huggett  
President & CEO

cc: Kelly McAdoo, Jennifer Ott, Leigha Schmidt

## **ITEM #13 LB 20-060**

**Temporary Hayward Navigation Center Hotel Annex Project: Adopt a Resolution Authorizing the City Manager to Take Emergency Actions Consistent with the City of Hayward's Shelter Crisis Declaration to Implement the Temporary Hayward Navigation Center Hotel Annex Project to House Vulnerable Homeless Individuals by Allocating \$1.21 Million in Existing Funds, Appropriating and Allocating Up to \$90,000 in Anticipated State Grant Funds, and Entering into Relevant Agreements  
(Report from Deputy City Manager Ott)**

**PUBLIC COMMENTS**

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**From:** Collin Thormoto  
**Sent:** Tuesday, December 8, 2020 1:37 PM  
**To:** List-Mayor-Council  
**Subject:** Support of LB-20-060

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

Dear Mayor and City Councilmembers,

I hope you are well. I wanted to reach out in support of LB-20-060, which seeks to allocate \$1.2 million dollars in existing funds to expand the Hayward Navigation Center into the Navigation Center Hotel Annex. From reading the Staff Report on the subject, it seems like a very worthwhile use of funds, especially considering the overwhelming success that the Navigation Center has had so far.

I understand why the different hotels in the running for the contract are unnamed in the report, my only hope is that one of them is centrally located and near public transit of some kind. This will hopefully alleviate some of the issues with the current Navigation Center. I understand why the location was chosen, but I still think being located in the industrial part of town is problematic from an environmental, equity, and social justice standpoint.

Considering that homelessness is overwhelmingly the issue at the forefront of people's minds in the City, I hope that this Resolution passes so that we can continue the successes already begun with the Navigation Center.

My only other comment is that the Staff Report lists out some of the overwhelmingly positive results of the Transit Center so far, and I hope that the City finds a way to showcase these successes for the many Hayward residents who aren't going to dig into a Staff Report on a Council Agenda to find it. :)

All the best,  
Collin Thormoto  
Citizen of Hayward