

**CITY COUNCIL MEETING
TUESDAY, JANUARY 15, 2019**

**DOCUMENTS RECEIVED
AFTER PUBLISHED AGENDA**

PUBLIC COMMENT

JERRY TURNEY

Competitive v. Comparable

D. Competitive Airport Data

Typically, an airport is considered competitive if it: (1) is located in relatively close proximity, (2) has similar infrastructure, and (3) offers similar products, services, and facilities.

For the purposes of this study, airports within 30 nautical miles of the Airport were identified as being potentially competitive airports. A total of seven airports were considered competitive to the Airport, as follows:

| Competitive Airports | | |
|---|------------|----------------------------------|
| Airport | Identifier | Location |
| Buchanan Field Airport | CCR | Concord, California ¹ |
| Livermore Municipal Airport | LVK | Livermore, California |
| Metropolitan Oakland International Airport | OAK | Oakland, California |
| Norman Y. Mineta San Jose International Airport | SJC | San Jose, California |
| Palo Alto Airport | PAO | Palo Alto, California |
| Reid-Hillview Airport of Santa Clara County | RHV | San Jose, California |
| San Carlos Airport | SQL | San Carlos, California |

Rental rates and related information were gathered and considered relevant and usable for this analysis from six of the competitive airports². Table 7 provides a summary and statistical analysis of the findings for the competitive airports.

NOTE (partial assessment):

1. Palo Alto has **no** public hangars
2. Buchanan has **3** public standard hangars
3. Livermore is **not** included in the comparison
4. Oakland is **not** comparable, AMCG
5. San Jose is **not** comparable, AMCG
6. San Carlos is **not** comparable, AMCG
7. Reid-Hillview is **not** comparable, AMCG

C. Comparable Airport Data

The first step in identifying comparable airports is developing an accurate profile of the Airport. The profile was developed based on data available from various sources, including the FAA and state and local agencies. The Airport profile provided the basis for establishing the criteria and parameters for identifying comparable airports.

The selection of comparable airports was based on a number of criteria including historic activity levels, total based aircraft, the presence of a control tower and presence/absence of a precision instrument approach, runway length, total airport acreage, and FAA NPIAS and General Aviation Asset Study classification. Parameters were then established in each of these areas to facilitate the selection process.

Rental rates and related information from 12 airports considered comparable to the Airport (identified in this section) were obtained and analyzed.

| Comparable Airports | | |
|---|------------|----------------------------|
| Airport | Identifier | Location |
| Buchanan Field Airport | CCR | Concord, California |
| Camarillo Airport | CMA | Camarillo, California |
| Chicago Executive Airport | PWK | Heights/Wheeling, Illinois |
| Georgetown Municipal Airport | GTU | Georgetown, Texas |
| Gwinnett County Airport – Briscoe Field | LZU | Lawrenceville, Georgia |
| Henderson Executive Airport | HND | Las Vegas, Nevada |
| Martin State Airport | MTN | Baltimore, Maryland |
| McKinney National Airport | TKI | Dallas, Texas |
| Naples Municipal Airport | APF | Naples, Florida |
| North Las Vegas Airport | VGT | Las Vegas, Nevada |
| Ohio State University Airport | OSU | Columbus, Ohio |
| St. Louis Downtown Airport | CPS | Cahokia/St Louis, Illinois |

NOTE(partial assessment):

1. Buchanan is included with **3** std public hangar
2. Livermore is excluded has **66** std public hangars
3. North Las Vegas has **no** st public hangars
4. Henderson has **no** std public hangars
5. Hayward has **170** std public hangars
6. Hayward's rate is **38%** above the comparables median

PUBLIC COMMENT

KATE TURNEY

Kate Turney
17460

1-15-19 Hayward City Council Meeting

We have already written to you about today's phony information dump concerning the 2017 51% proposed hangar rent hike so I won't repeat it now. I'll just remind everyone that the conclusion of the 2017 rental market study appears to have been reverse engineered: The 51% was the goal, not the result, of the study.

The original proposal has been sliced and diced in various ways: You added 10% of it (\$100,000) to our base \$1M yearly rent in 2017. That was continued in 2018, so we have paid \$200,000 more than our base rent over the last two years.

Tonight Airport managers propose a series of four annual 5% raises for a total of another 20% or \$200,000.

Add the extra \$200,000 from 2017 and 2018 to the \$200,000 from the next 4 years and the total is a 40% or \$400,000 rent increase. We are nearing the Airport manager's goal of 51%.

Where will the final 10% come from? How about the 2018 Kimley-Horn maintenance study?

That took a week of one man alone surveying the airport. It was completed in September 2017. HHG has asked for the report multiple times over the last four months only to be told, "It is in raw note form - not a finished report," or, in the last week, "We are correcting its grammar before we let Kimley-Horn finalized their report."

Really? Managers didn't read the \$10,000 2017 AMCG Report at all, but they insist on proofreading the \$75,000 2018 Kimley-Horn Report for its grammar? If the company cannot write a professional, proofed report on its own, why hire it in the first place?

Judgment, accuracy and truth are notably missing from the Airport managers' communications with hangar renters over the last two years.

We ask the Hayward City Council for relief.

PUBLIC COMMENT

CHARLIE PETERS

Washington Insider: New Trend in Antibiotic Resistance

DMPF / Washington-insider / January 14, 2019

The Washington Post is reporting that “very promising news about antibiotic use in farm animals has come from the Food and Drug Administration.”

The problem of resistance — the tendency of bacteria to fight back against antibiotic drugs — has grown decades, fueled by overuse and misuse of antibiotics in human health, as well as “widespread and often indiscriminate use in farm animals.” But new data shows the use of antibiotics in animal agriculture has taken a marked downward turn.

The Post report reflects a report from FDA Commissioner Scott Gottlieb who noted in mid-December that resistance to antibiotics is an important and costly public-health problem affecting some 2 million Americans every year—and leading to 23,000 deaths.

Gottlieb correctly pointed out that it is impossible to outrace resistance, but efforts must be made to “slow its pace and reduce its impact on both human and animal health.” Otherwise, antibiotics, the “miracle drugs” of the 20th century, will become useless, and a foundation of modern medicine could crumble, he said.

A large share of antibiotics, including those medically important to human health, are also given to food-producing animals.

While this use is “proper for sick animals,” a frequent industry practice for decades has also been to “use antibiotics so animals will grow faster and larger on the same amount of feed, and for prevention of disease in a whole herd or flock.” The agriculture industry defended these practices by saying they were not the culprit in the rising tide of resistance. However, the Post says “studies show key factors in resistance are overuse and abuse of antibiotics on the farm, as well as in human health.” Farms and people do not exist in a world apart but in a “linked ecosystem,” as pointed out by a predecessor of Gottlieb, Commissioner Donald Kennedy, in 1977.

The Obama administration proposed that manufacturers stop selling antibiotics for growth promotion and that veterinary oversight be strengthened for other uses. The FDA data now shows the fruits of this wise step that the Post links to a 33% decline between 2016 and 2017 in domestic sales and distribution of all medically important antimicrobials for use in food-producing animals — and a drop of 43% since 2015 .

The report says there are “still some unknowns in the data,” which reflects sales and distribution, not actual use—so, more research and data are needed, the Post thinks. But it says “the trend does seem to herald a new direction and fresh thinking about the problem.”

Importantly, change is being driven by the market and consumers, the Post says. Fast-food outlets such as McDonald’s are demanding meat with less use of antibiotics.

Also, there are signs of greater consensus. In an impressive joint effort, major food companies, retailers, livestock producers, and trade and professional associations announced last December a comprehensive “framework” aimed at strengthening stewardship of antibiotic use in food animals, the result of a two-year discussion moderated by the Pew Charitable Trusts and the Farm Foundation. While much more needs to be done to protect antibiotics for future generations, having so many players at the table is a great first step.

Well, it is not usual for the Post to report ag efforts with such enthusiasm — but the current trends do seem quite impressive, and to reflect many of the market trends and accomplishments the Post lauded. This is a development producers should watch closely for the positive impacts it promises, Washington Insider believes.

<https://www.dtnpf.com/agriculture/web/ag/perspectives/columns/washington-insider/article/2019/01/14/new-trend-antibiotic-resistance>

Corn Fuel Waiver for \$2 Gasoline, Clean Air & Clean Water

GOOGLE: 510-537-1796 ARB

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Clean Air Performance Professionals

**September 7, 2018
Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, California 95814
Fax: 916-558-3160**

**Introduction:
Position Statement**

Ethanol Voluntary Waiver for Improved Financial, Air and Water Considerations

There is significant concern regarding both the issue of global warming and the development of renewal fuels. Both concerns could be impacted in a positive way through a sensible approach.

Financial Economic Impacts:

Implement a waiver for voluntary ethanol for California gasoline. Some believe there is a proposal for a single federal allowance of 15% ethanol but there are also waivers showing other levels including none. Allowing for 15% and a voluntary choice generates policy that significantly increases not only the supply of oil but can also affect the price.

As funny as it might seem using ethanol actually increases the use of fossil fuel!

Fuel economy per gallon of gas is reduced due to the introduction of ethanol because the performance output is less than with unblended fuel. The net result is a loss of gas mileage per tank of gas so "more" fossil fuel is needed to cover the same distance driven.

The price of a gallon of gas is impacted by the introduction of ethanol due to increased transportation methods used today such as ships, barges, trains and trucks. Refining techniques required by California environmental policy mandates a boutique fuel which cannot be sold elsewhere affecting economies of scale which increases the cost.

PG&E nears plan to filter chromium on Colorado River, could take 30 years to decontaminate

By Zachary Matson Today's News-Herald, May 4, 2015

Bat Cave Wash cuts a deep ravine from the Chemehuevi Mountains northeast toward the Colorado River. Dry for most of the year, groundwater beneath the wash and its surrounding area sits nearly stagnant – a large underwater pond.

For 13 years more than a half century ago, the wash was used to dump water contaminated with a dangerous chemical: hexavalent chromium. That water seeped underground where it has remained.

Now, a plan to cleanup around 150 acres of groundwater contamination caused by the chemical used at Pacific Gas & Electric's Topock natural gas compressor station in the 1950s and '60s is nearing approval and could begin next year.

The proposed cleanup strategy comes after nearly 20 years of studying the extent of the contamination, 10 years of planning and mirrors a similar system in effect at the more controversial compressor station in Hinkley, Calif.

"We are in the process of what do we do about it," said Curt Russell, the remediation project site manager at Topock, during a tour of the compressor station as he spelled out the proposed cleanup.

By injecting large amounts of food-grade ethanol into the groundwater water column, the company's engineers plan to create an underground filter set a few hundred yards west of the Colorado River, paralleling its

course for about a half mile. The filter will begin just south of the I-40 bridge that crosses the river from California to Arizona and stretches north from there.

Water can then be injected into wells on the western edge of the contamination plume, flushing the groundwater through the filter system. The filtered water will be extracted from the ground, pumped to the edge of the plume and pushed through the system again. Russell said given the number of pumps and wells, PG&E engineers estimate it would take about 30 years to fully decontaminate the groundwater.

"We have studied this area so extensively, we probably know more about this acreage than anywhere along the river," Russell said.

The company plans to have a draft environmental report of the remediation plan finalized by the end of the year at the earliest but say release to the public could stretch into next year. Once released the public and interested stakeholders – Native American tribes and state and federal agencies – will have a chance to comment on the proposed cleanup strategy and hear from regulators at public meetings.

The report already takes into consideration many of the concerns of Native American tribes that lay claim to ancestral heritage in the Topock region. The Topock Maze, a collection of rows of intricate rock formations, lies on the western

edge of the contamination plume and is sacred to the Mojave Indians. Old Route 66 runs through the project site as well.

The contamination site is home bighorn sheep, bats, snakes and some rare bird and plant species. Habitat suitable to the Yuma clapper rail and southwestern willow flycatcher has been identified on the site. It also encompasses parts of the Havasu National Wildlife Refuge and crosses into land owned by the Fort Mojave Indian Tribe.

A separate environmental study has been circulating for nearly a year, which details the company's plans to take soil samples to measure the extent soil may be contaminated. Russell said he expects any soil problems to be minimal compared to the groundwater remediation. That report has been delayed, so the company can monitor potential bat habitat to see if it is used for roosting by groups of pregnant bats.

A history of contamination

The electric company, based in San Francisco, has similar contamination problems at another compression station in Hinkley, Calif., about 175 miles west of Topock. The contamination at Hinkley was dispersed over a larger area and led to a class-action lawsuit over chromium-related illnesses. The suit ended in a settlement of more than \$300 million and was the focus of the 2000 film "Erin Brokovich."

Many residents have left Hinkley in the past 20 years, forcing the local school to close and devastating home values. Some residents still fear groundwater contamination, according to an article in the Los Angeles Times last month, and in 2012 PG&E was slapped with a \$3.6 million fine when contamination was discovered in new areas.

Jeff Smith, PG&E spokesman, on Thursday said the company had made a lot of progress at Hinkley and that the chromium contamination had been reduced by around 40 percent thanks to the ethanol filtration system.

The contamination at both plants dates to the 1950s and 1960s, when carcinogenic hexavalent chromium, which can cause cancer and other illnesses, was used to limit rust in towers that cooled gas after it has been compressed at high pressure and temperatures.

In Topock in the '50s and '60s, the contaminated water was discharged into Bat Cave Wash on the western edge of the station site, where it soaked into the groundwater table and gradually migrated toward the Colorado River.

When the contamination was

discovered in the mid-1990s, PG&E installed more than 150 monitoring stations to measure the level and locations of the contamination and took more than 500 readings a year. The company's scientists and engineers used slant wells to take readings from the river and the rocky substrate below it and never recorded hexavalent chromium contamination in the Colorado River.

"The contamination cannot survive in the (floodplain) soils," Russell said. "There's a naturally created filter at the bottom and on the sides of the river."

Russell said that as the contaminated water approaches wetter substrate with more organic material, the hexavalent chromium converts back to its non-toxic trivalent form, which naturally occurs in the environment. The ethanol filtration system attempts to mimic this natural process.

The California Department of Toxic Substances in 2004 approved an interim remediation plan for the company to extract groundwater nearest the river and decontaminate it at a cleanup facility near the compressor station.

The company says it has cleaned up about 25 percent of the contamination through this process but doesn't consider it to be a viable or effective long-term strategy. Freshwater has filled in areas where the chromium has been removed, pushing the edge of the contamination slightly west. When the proposed cleanup system has been implemented and shown to work, Russell said, the interim plant will be decommissioned and the area restored.

Once finally approved, Russell said, construction of the remediation system would take about two years, bringing an average of 50 workers on site every day as dozens of wells and hundreds of yards of pipeline were installed.

During the visit to the plant last week, Russell and Smith said PG&E is "not the same company it was in the 50s and 60s" and has become more "environmentally conscience." The remediation project costs will go well into the hundreds of millions of dollars after completion.

"We'd love to bring everyone in the community (to the station) and tell them what we are doing," Russell said. "We are proud of what we are doing."

http://www.havasunews.com/news/pg-e-nears-approval-of-plan-to-filter-chromium-could/article_8dd25af6-f20c-11e4-8665-5f980b3b9e65.html

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**** Do you want clean air and water?***

An ethanol waiver and elimination of E-85 flex fuel credit can cut our CO2 transportation pollution over 50%

Let's improve performance of CA Climate change law, AB 32 (Pavley), in 2015 for future generations

CAPP contact: Charlie Peters (510) 537-1796 cappcharlie@earthlink.net

Hinkley: No Hollywood ending for Erin Brockovich's tainted town

By Jim Steinberg | S. B. Sun / Mercury News / July 12, 2013

Despite the polluted water in her beloved town, Reanna Banks has been a devoted Hinkley resident for most of her adult life. But time is taking a heavy toll on her devotion.

"I should have listened to my brain and not my heart," Banks said of the decision to build a dream house on family land in Hinkley.

With the ragged red-stone Mount General range in the background, Banks, 33, talked about the quietness of the location, the nighttime view of bright stars and the distant lights of Barstow.

It's here where her son, Aiden, 6, plays in the yard of her 10-acre parcel on a plateau overlooking the Hinkley Valley.

But now a groundwater plume of cancer-causing chromium-6 made famous in the 2000 movie "Erin Brockovich" has migrated underneath her property — and into her property's water well.

And now, Banks' feelings about Hinkley have changed.

Her son's frequent bloody noses, her lupus and her husband's stress in devoting every spare waking moment to studying aspects of the chromium pollution and representing the community at numerous meetings, has taken its toll. All these problems, in Reanna Banks' view, point back to the water.

Officially, the Banks property isn't in the plume. Its well testing did not detect chromium-6 several times. In late 2010, a well test picked up a trace amount of chromium-6 and it's been there every time since. But so far, the levels have not met the criteria for her property to be located within the plume's boundary. A house about a quarter mile away was recently identified as in the plume, and that means the Banks property falls within the one-mile buffer zone that flares out from the plume's official boundary. Therefore, the family qualifies for Pacific Gas & Electric Co.'s bottled water program and has opted for the utility's sophisticated household water filtration system, which should be operational by the end of August.

Reanna Banks, however, wants out — for her son, her own health and her husband's.

It wasn't supposed to be this way. Residents weren't supposed to see chromium-6 showing up in their wells again.

The Hollywood movie that earned Julia Roberts an Academy Award for her portrayal of Erin Brockovich, left many with the impression that everything would be OK in this unincorporated community of fewer than 2,000 people, 10 miles west of Barstow and two hours northeast of Los Angeles.

But 17 years after a settlement in which San Francisco-based Pacific Gas & Electric Co. awarded \$333 million to slightly more than 600 residents, the most recent map of the plume's boundary shows the known northern edge has nearly quadrupled from 1.75 miles north of the source to about 7 miles north of a PG&E natural gas compression station that opened in 1952. Back then, the utility company used chromium-6 in its giant cooling tanks to prevent rust and it would then dump the spent water into unlined ponds where the element eventually seeped into the groundwater.

And it's growing — 2.53 feet per day, according to Lisa Dernbach, a geological engineer with the Lahontan Regional Water Quality Control Board, one of nine regional water quality control boards in California, operating under the umbrella of the State Water Resources Control Board.

The plume's growth has swallowed a major part of Hinkley, and now, some people — even Brockovich — say the entire town is threatened with extinction. Its residents are fleeing. Its only school closed last month, and its only retail outlet — a small market — is struggling as the number of customers dwindles.

For PG&E, water filtration devices, bottled water and buyouts of homes have been ways to deal with the plume's effects in a time when there's no playbook for such cleanup. But for others, the death of the town from its toxic water is inevitable.

And why should anyone care?

The very future of Hinkley, like towns across the nation dealing with toxic water, is threatened by pollution, Brockovich said.

"Hinkley will be a ghost town," Brockovich said. "It will be another town lost in America due to pollution."

Brockovich left Hinkley in 1997 feeling justice had been done.

It was a story Hollywood played up.

Unemployed-single-mom-turned-legal-assistant almost single-handedly forces giant California power company to pay millions for years of polluting local water with a substance linked to cancer.

It was a "David and Goliath victory," Brockovich said in a recent interview.

But Brockovich knows better today.

“I’m almost ashamed to say that after all we had been through with PG&E, I thought that PG&E would have addressed this (the cleanup),” Brockovich said. “I walked away assuming that everything was OK, and it wasn’t. I feel duped, ashamed and really sad for the people of Hinkley.”

Even Roberta Walker, 59, who is Reanna Banks’ mother, and the resident who back in the 1990s alerted Brockovich to the plume, is dismayed.

She and her husband bought 10 acres far away from the plume and she was certain that after the legal settlement — and the movie — PG&E would contain it.

“I should have known better,” she said.

Many feel that way, including lifelong Hinkley resident Carmela Spasojevich.

It was Carmela Spasojevich — then Carmela Gonzalez — who in 2010 sounded the alarm that the chromium-6 plume had spread dramatically.

And it all started, she said, because her bay quarter horse, Katie, was drinking very little water.

One day, Spasojevich noticed that the horse looked drawn-in, and by pinching her skin, she determined Katie was dehydrated.

Substituting bottled water for well water, Katie, who was old for a horse, resumed drinking normally.

“I knew one thing for sure: My water had changed. That’s when I started doing some digging,” she said.

She started calling neighbors and looked up files at the Lahontan Water Quality Control Board website, which oversees the Hinkley cleanup.

Records, submitted to the water agency by PG&E, showed the plume of contaminated water had expanded.

Chromium-6 levels of some wells were “going off the chart,” she said.

None of the readings exceeded the state’s current safe water drinking standard — 50 parts per billion of total chromium, which includes chromium-6, a carcinogen, and chromium-3, which in trace amounts is essential for human life.

Because the levels were below current state guidelines, there is no requirement that residents be notified. In fact, there is no Hinkley resident drawing water from a well known to exceed the current state standard.

But the prospect of chromium-6 showing up in more residents' wells was alarming in a town already sensitive to water issues.

The plume of highly soluble chromium-6 glides easily with the groundwater beneath Hinkley. And that path is generally north at an average rate of 2.53 feet per day, although it can be pulled to the east or west by heavy pumping for agricultural uses, Dernbach said. Agricultural pumping can also pull the plume more rapidly northward, she said.

Using that number, Dernbach estimates that the chromium plume is actually more than seven miles long. One of the Lahontan water board's many directives to PG&E is to more accurately define the plume boundaries. But PG&E has been hampered in its quest to sink more wells north of the plume because the area is habitat for the endangered desert tortoise and the Mojave ground squirrel.

In its quest to do that, PG&E already draws water for testing from more than 600 sampling points.

Had the Hinkley compressor station been located somewhere, like Oregon or Ohio, where the yearly rainfall supports rich plant life, the soil would be packed with microbes, which would naturally convert chromium-6 to its benign relative, chromium-3, scientists say.

One of PG&E's remediation efforts involve planting fields of grasses or alfalfa over portions of the plume and irrigating those fields with the contaminated water from below. Conversion of chromium-6 to chromium-3 occurs quickly in the root zone.

Using the water board's records, Spasojevich revealed at a water board meeting that a groundwater monitoring well little more than a mile north of a compressor station had registered stunning increases in the level of chromium-6, a compound linked to cancers of the nose, lungs, stomach and other organs. She found the levels for total chromium had gone from 1.9 ppb in 2007 to 18.8 ppb in 2010, a huge increase, but still well below the state standard of 50 ppb.

Officials stressed caution.

Results of one water sampling don't determine a trend, said Lauri Kemper, the Lahontan water agency's assistant executive officer.

But by early 2010, additional sampling well water analyses confirmed that the initial readings were not a fluke — the plume was heading north.

The news of a growing plume set off alarm bells among many residents.

“This is crazy,” Roberta Walker recalled thinking after viewing Spasojevich’s information. “We exposed them in 1993. They

(PG&E) promised everyone they would contain it... . I thought they would contain it, like a fence.”

And many once again looked at the water as a source of health problems, a dwindling population and a shaky future for the town.

PG&E says that a massive, multimillion-dollar effort has been undertaken to contain the spread and keep people’s drinking water safe. That effort involves technology, water filtration and buyouts.

The company has always acknowledged that part of the plume was its doing, but there’s a caveat: The company asserts that naturally occurring chromium-6 was in the Hinkley groundwater water before its compressor station was built six decades ago.

“There is no playbook on how to do this,” said Sheryl Bilbrey, PG&E’s director of chromium remediation.

Hinkley’s water problems date back to the use of chromium-6 to protect the metal and kill algae in cooling towers at that station. The power company would periodically dump the contents into an unlined pond, a not uncommon practice in that era before the cancer-causing properties of chromium-6 were known.

Scientists from around the world have visited the remediation sites, where two 10,000-gallon tanks inject ethanol into the worst part of the plume, setting up a chemical reaction that turns chromium-6 into the less dangerous chromium-3, said Kevin Sullivan, the PG&E environmental engineer in charge of the Hinkley cleanup.

Little more than a mile north of the plant, PG&E has set up a half-mile wide barrier, with multiple ethanol injection points, to box in the worst part of the plume, Sullivan said.

The strategy is working, Sullivan said, because recent maps of the plume show that it has been split in two, a southern part and a larger part plume in the north — with much lower concentrations of chromium 6.

Sullivan said that he believes much of the northern plume is naturally occurring, thus not caused by PG&E’s operations.

“The travesty was that a \$333 million lawsuit and an Oscar-winning movie did not bring enough attention to this,” Spasojevich said. “What makes the situation that much more

shocking is that California has a reputation for being one of the most highly regulated states in the nation, yet it is allowing this to happen.”

Local officials agree.

“What happened in Hinkley is nothing less than horrific,” said First District San Bernardino County Supervisor Robert Lovingood. “Have we learned from what happened to Hinkley? I certainly think we have and I think the state has addressed any possibility of a repeat.”

“This is an ongoing issue that spans 40 years already and is still developing,” said 33rd District Assemblyman Tim Donnelly. “The facts on the ground are that this is a serious issue that has changed many residents’ lives forever because of human error.”

Will Hinkley become a ghost town, as Brockovich recently predicted?

PG&E’s Jeff Smith isn’t so sure.

Smith, the utility’s spokesman, would not respond to questions about whether Hinkley would become extinct or the extent to which the company would be responsible for such a fate.

“It is not appropriate for me to speculate on what the town will look like in the future,” he said.

Ultimately, it’s up to residents, he said.

“Certainly the dynamics of Hinkley are changing because of the options they (residents) are taking. Our objective has never been to make choices for folks,” Smith said.

“There are those who are going to remain in the community, and we will be part of the community for many years to come, and we want to be a good neighbor and partner for those who remain.”

<https://www.mercurynews.com/2013/07/12/hinkley-no-hollywood-ending-for-erin-brockovichs-tainted-town/>

GOOGLE: 510-537-1796 ARB

Ethanol Waiver for \$2 Gas, Clean Water & Clean Air

VW-Shell Oil-Parsons, interesting Partners?

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Clean Air Performance Professionals

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Alternative fuels. The Energy Independence and Security Act of 2007 requires that, by 2022, U.S. transportation fuels contain 36 billion gallons of renewable fuels.

1. Under the mandate, 15 billion gallons of renewable fuel may come from corn ethanol but the remainder must come from advanced biofuels, such as ethanol made from cellulosic sources like switchgrass, and forest and agricultural residues such as sawdust and sugarcane. The nation faces several key challenges in meeting these requirements. There is not enough cellulosic biofuel commercially available to meet the mandate, and U.S. ethanol use is approaching the blend wall—the 10 percent ethanol blend that most U.S. vehicles can use under existing vehicle and engine warranties. Additional ethanol use will require substantial new investment, including additional warranted and certified storage tanks and variable pumps at gasoline stations. 1

Renewable fuels levels may be waived if meeting the required level would severely harm the economy or environment of a state, a region, or the United States, or there is an inadequate domestic supply.

http://www.gao.gov/key_issues/petroleum_and_alternative_fuels/issue_summary#t=0

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US biofuel production should be suspended, UN says

Democratic Underground, August 10, 2012

The United Nations (UN) food agency has called on the United States to suspend its production of biofuel ethanol.

Under US law, 40% of the corn harvest must be used to make biofuel, a quota which the UN says could contribute to a food crisis around the world.

A drought and heatwave across the US has destroyed much of the country's corn crop, driving up prices.

The US argues that producing much of its own fuel, rather than importing it, is good for the country.

The latest forecasts from the US Department of Agriculture (USDA) suggest that this year's corn yield - the amount produced per acre - will be the lowest since 1995-6.

<http://www.democraticunderground.com/112721625>

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Reps. Markey, Slaughter Press FDA on Antibiotic Use in Ethanol Production

By Helena Bottemiller, Food Safety News, May 14, 2012

With growing concern over antibiotic resistance, public health advocates have long pushed for more responsible use of these drugs — both in human medicine and animal agriculture — but there is one piece of the antibiotics puzzle that has not received as much attention: ethanol production.

Last week, Reps. Ed Markey (D-MA) and Louise Slaughter (D-NY) wrote to the U.S. Food and Drug Administration asking some tough questions about the potential link between ethanol byproducts in animal feed and antibiotic-resistant bacteria.

“Antibiotic-resistant strains of bacteria are a grave public health threat that is growing worldwide,” wrote Markey and Slaughter. “As the threat of antibiotic resistance expands, we must ensure that the unnecessary use of antibiotics in agricultural animals is minimized and FDA has the ability to limit their use if it serves to protect public health.”

The letter follows a new report by Minneapolis-based Institute for Agriculture and Trade Policy, which highlights the fact that many ethanol producers routinely add antibiotics like medically important penicillin and erythromycin, as well as virginiamycin and tylosin, when mixing corn mash and warm water to ferment the ethanol.

Producers use antibiotics to keep the tanks from being contaminated with *Lactobacilli*, bacteria that compete with the yeast and lowers the ethanol yield. Contamination is common so tanks are often inoculated as a preventative measure.

So, what does this process have to do with food safety and antimicrobial resistance? Well, the leftover distillers grains can contain antibiotic

residues and they are routinely fed to food animals.

As IATP points out in their new paper, “Bugs in the system,” ethanol producers have no restrictions on antibiotic use: “Ethanol producers have full discretion over the quantity and frequency with which they dump antibiotics into their plants. As ethanol production has exploded, from 4.5 to 12.5 billion gallons per year between 2005-06 and 2009-10, antibiotic use also has undoubtedly increased, although currently the FDA does not appear to track antibiotic sales to ethanol producers, as it does sales for use in animals.”

In the last 10 years, distillers grains production has skyrocketed from, from 2.5 to 34.1 million metric tons per year according to the report. Around 41 percent of the byproduct is used in domestic beef production, 26 percent in dairy, 5 percent go to swine and poultry, and 22 percent heads overseas for livestock feed.

There is not a lot of data on antibiotics residues in distillers grains and it’s not clear whether the byproduct might be contributing to antibiotic resistance.

In 2008, FDA tested and analyzed 45 samples of distillers grains and found antibiotic residues in 24 (53 percent) of them, including some over .5 parts per million (ppm).

“These test results were exceedingly important because they disproved the belief that antibiotic use in ethanol production was benign vis-à-vis public health,” argues IATP in the paper. “This study showed the opposite: Antibiotic use in ethanol production increases the load of nontherapeutic antibiotics being fed to livestock, which the FDA itself acknowledges is a public health threat needing to be addressed.”

In 2010, FDA conducted another round of sampling. Out of 46 total samples, 28 of which were domestic and 18 imported, four tested positive for residues in concentrations ranging from .16 to .58 ppm.

The question is whether these levels are significant.

The study cites a new paper out of FDA's Center for Veterinary Medicine that analyzed the 2010 findings. Researchers found that the lowest levels of penicillin and virginiamycin present in the samples didn't contribute to antibiotic resistance among *Campylobacter* or *Enterococcus* bacteria. But they also found that Erythromycin at .58 ppm did select for resistance in enterococcal bacteria.

"Given these results it is suggested that residues in distillers grains be more fully evaluated given the importance of this antimicrobial in clinical medicine," the researchers wrote in their abstract.

Recent research out of the University of Minnesota, which has not yet been published, found antibiotic residues in all of the 117 samples they tested and one result was strong enough to inhibit *E. coli* growth.

IATP argues that distillers grains containing antibiotics should be regulated as food additives and regulated by FDA. The paper

recommends that FDA ban the sale of unapproved antibiotics to ethanol producers and asks that the ethanol industry voluntarily switch to effective non-antibiotic antimicrobial alternatives. According to some estimates, half the industry already has already done this.

The paper also recommends that the U.S. Department of Agriculture, the Department of Energy and state and federal agencies help the industry make the switch with technical assistance and financial support.

In their letter to FDA, Markey and Slaughter seek specific responses to several of the issues raised in the IATP report.

They want to know why FDA hasn't published the full results of its 2008 survey on distillers grains and antibiotic residues and ask whether the survey results suggest that these residues could also be found in meat, poultry, dairy or egg products.

The lawmakers further ask, "Does FDA believe that the presence of antibiotics in DGS used for livestock feed may pose a similar public health concern as the impact of directly using antibiotic drugs to promote livestock growth?"

Markey and Slaughter also ask why the agency banned the use of distillers grains contaminated with certain antibiotics for laying hens but not for other food producing animals.

<http://www.foodsafetynews.com/2012/05/iatp-issues-report-on-antibiotic-use-in-ethanol-production/#.UpVWwY25c7B>

A random California Smog Check "secret shopper" audit, GMO ethanol waiver & elimination of dual fuel CAFÉ credit can cut mobil fleet ozone & pm over 50% in 2014.

Will California State Senate confirm a Department of Consumer Affairs / Bureau of Automotive Repair (DCA/BAR) Chief who will make sure (Partial) Zero Emissions Vehicles (PZEV) that fail Smog Check get fixed. Smog Check secret shopper audits would cut California's smog by 1500 tons per day, this will reduce the cost impact to Californians by \$billions\$.

CAPP contact: Charlie Peters (510) 537-1796 cappcharlie@earthlink.net

ITEM #6 – CONS 19-015

DECLARATION OF A CLIMATE EMERGENCY

REVISED RESOLUTION



DATE:

TO: Mayor and City Council

FROM: City Manager

THROUGH: Director of Utilities & Environmental Services

SUBJECT Declaration of a Climate Emergency

RECOMMENDATION

That Council accepts the amendment to agenda item #6, LB 19-015, correcting a typographical error on page 2 of the draft resolution. Page two has been revised to read, "...GHG emission reduction targets of 61.7% by the year 2040...", not "20430".

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

Approved by:

Kelly McAdoo, City Manager

ATTACHMENT

Attachment I Revised Draft Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Council Member _____

RESOLUTION ENDORSING THE DECLARATION OF A CLIMATE EMERGENCY
AND REQUESTING REGIONAL COLLABORATION ON AN IMMEDIATE JUST
TRANSITION AND EMERGENCY MOBILIZATION EFFORT TO RESTORE A SAFE
CLIMATE

WHEREAS, in April 2016 world leaders from 175 countries recognized the threat of climate change and the urgent need to combat it by signing the Paris Agreement, agreeing to keep warming “well below 2°C above pre-industrial levels” and to “pursue efforts to limit the temperature increase to 1.5°C”; and

WHEREAS, the death and destruction already caused by global warming of approximately 1°C demonstrates has increased and intensified wildfires, floods, rising seas, diseases, droughts, and extreme weather; and

WHEREAS, climate change and the global economy’s conflict with ecological limits are contributing to mass extinction of species, which could devastate much of life on Earth for the next 10 million years; and

WHEREAS, a recent state report, Rising Seas in California, projects a conservative estimate of between 1 and 3.4 feet of sea level rise in the San Francisco Bay by 2100; and

WHEREAS, the range of projections in the state report includes the possibility of up to 10 feet of sea level rise in the San Francisco Bay by 2100, a scenario consistent with rapid Antarctic ice sheet mass loss that would be catastrophic to Hayward and every other coastal community; and

WHEREAS, the United States of America has disproportionately contributed to the climate and ecological crises and has repeatedly obstructed global efforts to transition toward a sustainable economy, and thus bears an extraordinary responsibility to rapidly solve these crises; and

WHEREAS, restoring a safe and stable climate requires an emergency mobilization to reach zero greenhouse gas emissions across all sectors, to rapidly and safely draw down or remove all the excess carbon from the atmosphere, and to implement measures to protect all people and species from the consequences of abrupt climate change; and

WHEREAS, justice requires that frontline communities, which have historically borne the brunt of the extractive fossil-fuel economy, participate actively in the planning and implementation of this mobilization effort at all levels of government and that they benefit first from the transition to a renewable energy economy; and

WHEREAS, fairness demands a guarantee of high-paying, good-quality jobs with comprehensive benefits for all and many other tenets of a Green New Deal effort as the mobilization to restore a safe climate is launched; and

WHEREAS, the term "Just Transition" is a framework for a fair shift to an economy that is ecologically sustainable, equitable and just for all its members; and

WHEREAS, just transition strategies were first forged by a 'blue-green' alliance of labor unions and environmental justice groups who saw the need to phase out the industries that were harming workers, community health and the planet, while also providing just pathways for workers into new livelihoods; and

WHEREAS, just transition initiatives shift the economy from dirty energy to energy democracy, from funding highways to expanding public transit, from incinerators and landfills to zero waste, from industrial food systems to food sovereignty, from car-dependent sprawl and unbridled growth to smart urban development without displacement, and from rampant, destructive over-development to habitat and ecosystem restoration; and

WHEREAS, core to a just transition is equity, self-determination, culture, tradition, deep democracy, and the belief that people around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter; and

WHEREAS, the City of Hayward's Climate Action Plan, updated with the adoption of the Hayward 2040 General Plan in 2014, includes GHG emission reduction targets of 61.7% by the year 2040 and 82.5% by 2050 using the year 2005 as the baseline; and

WHEREAS, the City of Hayward can act as a global leader by both converting to an ecologically, socially and economically regenerative economy, and by catalyzing a unified regional just transition and urgent climate mobilization effort.

NOW, THEREFORE, BE IT RESOLVED by the City Council, the City of Hayward declares that a climate emergency threatens our city, region, state, nation, civilization, humanity and the natural world.

BE IT FURTHER RESOLVED, the City of Hayward commits to a citywide just transition and urgent climate mobilization effort to reverse global warming, which, with appropriate financial and regulatory assistance from the County of Alameda and State and Federal authorities, reduces citywide GHG emissions as quickly as possible towards zero net emissions, immediately initiates an effort to safely draw down carbon from the

atmosphere, and accelerates adaptation and resilience strategies in preparation for intensifying climate impacts.

BE IT FURTHER RESOLVED, the City of Hayward commits to educating our residents about the climate emergency and working to catalyze a just transition and urgent climate mobilization effort at the local, state, national, and global levels to provide maximum protection for our residents as well as all the people and species of the world.

BE IT FURTHER RESOLVED, the City of Hayward underscores the need for full community participation, inclusion, and support, and recognizes that the residents of Hayward, and community organizations, faith, youth, labor, business, academic institutions, homeowners' associations and environmental, economic, science-based, racial, gender, family and disability justice and indigenous, immigrant and women's rights organizations and other such allies who will be integral to and in the leadership of the mobilization effort.

BE IT FURTHER RESOLVED, the City of Hayward commits to keeping of the outcomes to vulnerable communities central to all just transition and urgent climate mobilization effort planning processes and invites and encourages such communities to actively participate in order to advocate directly for their needs.

BE IT FURTHER RESOLVED, the City of Hayward joins a nation-wide call for a regional just transition and urgent climate mobilization collaborative effort focused on transforming our region, enacting policies that dramatically reduce heat-trapping emissions, and rapidly catalyzing a mobilization at all levels of government to restore a safe climate.

BE IT FURTHER RESOLVED, the City of Hayward calls on the State of California, the United States of America, and all national and sub-national governments and peoples worldwide to initiate a just transition and urgent climate mobilization effort to reverse global warming by restoring near pre-industrial global average temperatures and greenhouse gas concentrations, that immediately halts the development of all new fossil fuel infrastructure, rapidly phases out all fossil fuels and the technologies which rely upon them, ends human-induced greenhouse gas emissions as quickly as possible, initiates an effort to safely draw down carbon from the atmosphere, transitions to regenerative agriculture, ends the potential for a sixth mass extinction, and creates high-quality, good-paying jobs with comprehensive benefits for those who will be impacted by this transition.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ITEM #6 – CONS 19-015

DECLARATION OF A CLIMATE EMERGENCY

MINANE JAMESON EMAIL

-----Original Message-----

From: Minane Jameson <>

Sent: Wednesday, January 16, 2019 8:12 AM

To: Barbara Halliday <Barbara.Halliday@hayward-ca.gov>; Sara Lamnin <Sara.Lamnin@hayward-ca.gov>; Al Mendall <Al.Mendall@hayward-ca.gov>; Francisco Zermeno <Francisco.Zermeno@hayward-ca.gov>; Mark Salinas <Mark.Salinas@hayward-ca.gov>; Aisha Wahab <Aisha.Wahab@hayward-ca.gov>; Elisa Marquez <Elisa.Marquez@hayward-ca.gov>

Cc: Miriam Lens <Miriam.Lens@hayward-ca.gov>; Minane Jameson <>

Subject: Agenda item #6

I wrote the following letter yesterday and sent it using the Hayward city website. It is my understanding that you didn't receive it so I am sending it again, however late.

Minane

Honorable Mayor Halliday and Councilmembers,

If you happened to catch today's paper you might have read the article declaring that Antarctica is losing ice six times faster than it was back in the 1980's. We read such alarming news daily, so it goes without saying, we really are in the midst of a 'climate emergency'.

I am so grateful that our city understands that global warming is not fake news and that humans are the primary reason for why it is gaining speed. I am also grateful that the city has been proactive on this issue for many years by implementing policies that encourage and demand greener and more sustainable lifestyles.

I hope you will take another step in the right direction to protect our planet by adopting the climate emergency declaration that will come before you tonight. By doing so, we can be part of a nation-wide coalition of cities focused on the urgency of restoring a safe climate and improving the quality of life for everyone.

Thank you for considering my request.

Sincerely,
Minane Jameson
Hayward, CA

ITEM #9 LB 19-003

**UPDATE ON COMMERCIAL CANNABIS PERMIT
PROCESS AND FUTURE ROUNDS AND
APPROPRIATION OF FUNDS FOR COMMERCIAL
CANNABIS PERMIT PROGRAM SECOND TIER
REVIEW**

HECTOR VILLASENOR EMAIL

From: Hector Villasenor <>
Sent: Tuesday, January 15, 2019 9:13 AM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: Re: LB 19-003 for January 15 2019 Agenda

The last e-mail unfortunately made a black box around the headers. Here is the plain text form for your review. Thank you for your consideration.

To Honorable City Council and Mayor,

I am writing this letter regarding Legislative Business Item #9 (LB 19-003) in the January 15, 2019 agenda.

As someone who has actively participated within the cannabis industry particularly in compliance matters, I want to express support for the following Staff Recommendation options:

- **Required Buffer for Retail Dispensaries**

- Option 4: Maintain the Over-Concentration Buffer (1000' from other dispensaries)**

- Two applicants have identified locations with their applications since July 2018 that fall outside of the 1000-foot buffer requirement from each other. Under this option, Aunty Honey's would receive denial without prejudice which would allow them to find a suitable location that does not interfere with the 1000' buffer. Hayward is a large city and as such, it would make more sense to expand the zoning for allowed retail as opposed to changing buffer requirements to favor one applicant.

Alternative: Option 3 (Process Applications on First-Come, First-Served Basis)

Although none of the three applications are deemed complete, the city should consider the following scenarios:

Scenario 1: Hayward Station Completes First

| | |
|-------------------------------------|--------------------------|
| Aunty Honeys = Eliminated by Zoning | Jiva Life = Zoning Clear |
|-------------------------------------|--------------------------|

Scenario 2: Aunty Honey's Completes First

| | |
|--|----------------------------------|
| Hayward Station = Eliminated by Zoning | Jiva Life = Eliminated by Zoning |
|--|----------------------------------|

Scenario 3: Jiva Life Completes First

| | |
|-------------------------------------|--------------------------------|
| Aunty Honeys = Eliminated by Zoning | Hayward Station = Zoning Clear |
|-------------------------------------|--------------------------------|

If either Hayward Station or Jiva Life have their land use permit deemed complete first, then Aunty Honey's location would be eliminated by the buffer. If Aunty Honey's location has their land use permit deemed complete, then Hayward Station and Jiva Life's locations would be eliminated by the buffer.

If City staff pursues this option, I would encourage them to consider as a requirement of completion, that the applicant must have their State Annual Application approved by the Bureau of Cannabis Control. No more temporary permits will be issued starting January 1, 2019 meaning all applicants will now be held to the stricter reporting standards of an Annual license. This would allow the state agency dedicated to overseeing cannabis compliance assist City staff in determining which applicants will have the capability to open within the cities desired timeline.

- **Second Round of Commercial Cannabis Permits**

Option 3: Develop Round Two Request for Proposals (RFP for FY19/20)

The year 2019 will be a huge year for cannabis as more licensees across the state will have to either apply for Annual licenses or let their temporary permits expire. I don't believe lowering the application threshold for interviews will bring more qualified businesses to the city and instead will serve to lower the quality of cannabis businesses that make Hayward home.

Every licensee in the cannabis supply chain is crucial for the success of the industry and City staff should carefully consider that before making this quick fix decision. I strongly believe the City of Hayward already possesses the right talent within its own departments and funds would be better suited to training staff internally to review these applications in-house. The City can simply open another RFP or make the land-use process for B2B businesses more streamlined (No RFP and CUP/AUP that complies with ordinances). Please note that delivery businesses are also involved in direct to consumer sales which may impact retail storefront projections if unlimited delivery licenses are granted. They are held to the same standards as a Storefront Retailer except for having customers visit the facility.

As a longtime resident and previous finalist for the commercial cannabis permit, I have respected City of Hayward's commercial cannabis process and the time and resources City staff has allocated to make cannabis in Hayward a reality. I simply ask that the City stay true to the nature of the process and not lower standards or have to modify their overconcentration zoning criteria to appease applicants the city initially did not qualify.

ITEM #9 LB 19-003

**UPDATE ON COMMERCIAL CANNABIS PERMIT
PROCESS AND FUTURE ROUNDS AND
APPROPRIATION OF FUNDS FOR COMMERCIAL
CANNABIS PERMIT PROGRAM SECOND TIER
REVIEW**

SHARMI SHAH EMAIL

From: Sharmi Shah <>

Sent: Monday, January 14, 2019 8:14 PM

To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>; Miriam Lens <Miriam.Lens@hayward-ca.gov>; Kelly McAdoo <Kelly.McAdoo@hayward-ca.gov>

Subject: January 15, 2019 Agenda Item #9

Dear Mayor Halliday, Council Members, City Clerk, and City Manager:

I am writing on behalf of my clients Always on Time Consulting and Precision Apothecary. Mr. Doug Chloupek submitted applications on behalf of Always on Time Consulting and Precision Apothecary during Hayward's initial RFP process in 2018. These applications scored 4th and 5th for Microbusiness. Attached hereto please find my correspondence on behalf of each of these entities. Thank you for your time and consideration.

Sincerely,

Sharmi Shah, Esq.

Sharmi Shah, Attorney at Law, A PLC

San Jose, CA 95110

Office Phone: **(NEW NUMBER!)**

Mobile Phone:

Email:

Website: www.shahattorney.com

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Sharmi Shah
ATTORNEY AT LAW, A PLC

255 W. Julian St., Ste. 400
San Jose, CA 95110
(408) 459-8120

VIA EMAIL

January 14, 2019

Hayward City Council
Hayward City Hall
777 B Street
Hayward, CA 94541

Re: Application of Always on Time Consulting (dba Frosted Flowers)

Dear Hayward City Council:

My office has been retained by Doug Chloupek of Always on Time Consulting (dba Frosted Flowers).

I have worked with numerous cannabis businesses during the last decade. I currently represent nine of the sixteen licensed cannabis businesses in San Jose and numerous other cannabis businesses throughout the State. I have submitted applications at the local and State level for retailers, distributors, manufacturers, cultivators, and microbusinesses. I believe that of Always on Time Consulting will be a great fit for Hayward and was happy to hear that the City Council is considering allowing prior applicants like Always on Time Consulting and Mr. Chloupek an opportunity to interview and convey their full qualifications.

Mr. Chloupek received a letter on or about May 24, 2018 from the Hayward City Manager's office advising that his application on behalf of Always on Time Consulting for a Type 12 Microbusiness Commercial Cannabis Permits had been denied and offering Mr. Chloupek the opportunity to re-apply during the next application period. Thereafter, Mr. Chloupek's prior attorney wrote to the Council requesting that the application be re-considered.

Always on Time Consulting scored 633 points for its Microbusiness Application and ranked 4th in the initial review of applications – just missing the initial cut-off for approvals. Always on Time Consulting's score is well above the 500-point limit set by Staff for the second round of applications.

In reviewing Always on Time Consulting's Score Report, the feedback was mostly positive with the review committee writing that the responses provided were "good" and "excellent". One of the issues pointed out by the review committee was the fact that Always on Time Consulting did not include the resume of its CEO, Doug Chloupek. Though I did not prepare Always on Time Consulting's application, this was entirely inadvertent.

Hayward City Council

Re: Application of Always on Time Consulting (dba Frosted Flowers)

January 14, 2019

Page Two

Mr. Chloupek

Mr. Chloupek has pioneered commercial cannabis laboratories, dispensaries, cultivation sites, and distribution businesses in California since 2009.

Mr. Chloupek founded his first dispensary, MedMar Healing Center, in San Jose in 2009. Thereafter, Mr. Chloupek co-founded LUX, a grassroots, community-based San Jose medical cannabis cooperative. LUX is one of only sixteen (16) licensed retail facilities in San Jose, CA - and one of approximately 290 State-licensed microbusinesses.

Mr. Chloupek was one of the founders of California's first manufacturing laboratory, BAS Research in Berkeley, CA. This lab was opened in 2016.

Mr. Chloupek is the CEO of Frosted Flowers. Frosted Flowers produces connoisseur grade medical cannabis products and prides itself on purity, quality and consistency. Mr. Chloupek and his medical team are dedicated to developing breakthrough pharmaceutical grade cannabis products to help suffering patients. Attached hereto is Mr. Chloupek's history in the cannabis industry both as a businessman and an advocate for patients.

Always On Time Consulting

As a trusted connoisseur cannabis brand serving the medical and adult use market in California, Always on Time Consulting prides itself on purity, quality and consistency. Always on Time Consulting has well established relationships with California's top dispensaries. To date, Always on Time Consulting has total sales of \$2.3 million. Always on Time Consulting has produced 63 successful harvests from its nursery.

Always on Time Consulting applied for a Microbusiness license for purposes of having cultivation of less than 10,000 square feet (utilizing an existing greenhouse), manufacturing and distribution.

Hayward Municipal Code

The issuance of Cannabis Business Permits is governed by *Hayward Municipal Code Chapter 6, Article 14 and Chapter 10, Article 1, Section 10-1.3600*.

Hayward Municipal Code Section 6-14.12 provides the following as to review of the applications for Commercial Cannabis Permit:

- (a) The City Manager shall establish procedures for accepting and evaluating applications submitted pursuant to this Article. The evaluation process shall include a method for scoring and ranking each application.

- (b) Upon completing the evaluation of all applications, the City Manager shall prepare a report to the City Council and provide a recommendation regarding selection of permittees.
- (c) Applications shall include information required by the City Manager including, but not limited to the following:
 - (1) A detailed description of the type of commercial cannabis business that includes proposed hours of operation/shift scheduling; type of specialized equipment to be used for cultivation or manufacturing; whether hazardous materials, including volatile solvents or gases are proposed to be used as part of the operation; how industrial waste will be disposed of; anticipated gross annual revenue; list of State licensed transportation and distribution providers serving the facility, if known; anticipated frequency of deliveries serving the facility; other pertinent information involving the operation of the facility.
 - (2) The applicant's full, true name, including all other names used presently or in the past, date of birth, valid California driver's license number, identification number or other form of government issued photo identification and Social Security number.
 - (3) The names and addresses of all persons financially interested in the business.
 - (4) The full, true name under which the business will be conducted.
 - (5) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the name, residence address, and telephone number of each of its current officers, directors, along with the amount of stock held.
 - (6) If the applicant is a partnership, the application shall set forth the name, residence street address, and telephone number of each of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner. The applicant, if a corporation or partnership, shall designate one (1) of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this Article and shall, at all times, meet all of the requirements set for permittees by this Article or the permit shall be suspended until a responsible managing officer who meets such requirements are designated. If no such person is found within ninety (90) calendar days after the permit's suspension, the corporation or partnership's permit is deemed canceled. If the corporation or partnership wishes to reapply for a permit, a new application shall be filed.
 - (7) Proposed location(s) within the City where the business will be located including documentation showing that the property owner of the proposed location(s) consents to the operation of a commercial cannabis business at the location.
 - (8) A security plan describing proposed security arrangements for the premises including, but not limited to: alarm systems; surveillance equipment; use of security personnel; lighting plans; plans for securing points of entry.

- (9) A summary of the applicant's relevant experience, if any, in operating permitted commercial cannabis businesses in other jurisdictions, with contact information for references in those jurisdictions.
 - (10) Category of state cannabis license(s) the applicant holds or intends to apply for.
 - (11) A summary of any regulatory actions currently pending or taken against the applicant, including issuance of notices of violation, citations, suspension or revocation of licenses, or similar actions, related to any business owned or operated by the applicant related to air quality, water quality, storage or use of hazardous chemicals, building code violations, or public health and safety violations. The name and location of the jurisdiction or agency, which took the action shall also be included.
 - (12) Written authorization for the city, its agents, and employees to conduct a background investigation of the applicant and the responsible managing officer/employee of the commercial cannabis business, including submission of fingerprints for criminal background investigation.
 - (13) Community benefit proposals.
 - (14) A conceptual site plan with proposed interior and exterior building designs and layouts.
- (d) In addition to the information described in (c) above, each application shall be accompanied by a refundable deposit in an amount established by resolution of the City Council.
- (e) The City Manager or his/her designee shall review the applications to determine compliance with subdivision (c) of this section. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by the City. Failure to submit requested information may be deemed an abandonment of the application resulting in no further action being taken by the City.
- (f) The City Manager or his/her designee shall investigate the truth of the statements set forth in the application to determine if an applicant is qualified to obtain a commercial cannabis permit. An application will be rejected if:
- (1) It is found to contain material misstatements or omissions;
 - (2) The applicant is determined to be ineligible or prohibited from obtaining a state cannabis license pursuant to state law.
 - (3) The applicant, or any of its officers, directors, or owners is found to have been convicted of any of the following offenses: A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code; A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code; A felony conviction involving fraud, deceit, or embezzlement; A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

Hayward City Council

Re: Application of Always on Time Consulting (dba Frosted Flowers)

January 14, 2019

Page Five

- (4) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (5) The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities.

The application of Always on Time Consulting met all of the requirements of *Hayward Municipal Code Section 6-14.12(c) and (d)*.

Always on Time Consulting welcomes the opportunity to meet with the City Council to share its vision of what it can bring to Hayward.

Sincerely yours,

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

SHARMI SHAH

Attorney at Law

Enclosures

Doug Chloupek

doug@juvalife.com
(408) 667-9727

BAS Research (BAS)

COO & Co-Founder

Doug Chloupek is the visionary, co-founder and COO of BAS Research. BAS Research (BAS) is California's first licensed medical cannabis manufacturing and research group, dedicated to developing breakthrough pharmaceutical grade cannabis products. Products produced at BAS provide all of the potential medicinal benefits of cannabis without the risks associated with the variations in the current marketplace. Standardized dosing and research is the first step to confirming the effectiveness of medical marijuana.

LUX

COO & Co-Founder

Doug is the Co-founder and COO of LUX. LUX is a grassroots, community-based San Jose medical cannabis cooperative that offers support and alternative health resources to patients facing health challenges. Lux is one of only 16 licensed dispensaries in San Jose, CA. Lux is also a state-licensed microbusiness.

Juva Life, Inc.

CEO & Founder

Doug is the Founder and CEO of Juva Life, Inc. Juva Life, Inc. is an industry leading cannabis corporation with interests in cultivation, manufacturing, and distribution facilities throughout California.

Frosted Flowers

CEO & Founder

Doug is the CEO of Frosted Flowers. Frosted Flowers produces connoisseur grade medical cannabis products and prides itself on purity, quality and consistency. All Frosted Flowers products are laboratory tested for potency, terpenes, pesticides and residual solvents. Frosted Flowers master grower has perfected the art of cultivating perfectly formed trichome stalks with swollen resin glands and extremely unique terpene profiles.

Day2Day Inc.

President & Co-Founder

Doug is also a Co-founder of Day2Day Inc. One of the biggest issues affecting cannabis product manufactures is their inability to access clean, solventless, pesticide free, cannabis oil. Day2Day saw the need to create a constant, customizable platform to deliver pharmaceutical grade ingredients to the infused product manufactures of the world. Day2Day products are water soluble, odorless, virtually tasteless and are blended to any cannabinoid ratios our clients desire. Day2Day currently produces infused salt, sugar and powdered non-dairy creamer.

Sensible San Jose*Founding Board Member*

With an extensive background in marketing and advertising, Doug has successfully used his talents to position himself as a leader in California's medical cannabis industry. He is a board member and director of Sensible San Jose which qualified a voter initiative.

Citizens Coalition for Patient Care*Founding Board Member*

Doug was also a board member and key negotiator on behalf of Citizens Coalition for Patient Care (CCPC) which successfully ran a referendum that led to the cities repeal of their unworkable ordinance.

Other Roles

CEO & Founder, Valley Grown Entreprises Inc. (Indoor Cultivation)

Vice President, Santa Clara Specialty Farms (Outdoor Cultivation)

Founding Member, California Cannabis Industry Association

Member, NCIA

Personal

Doug is an inventor and entrepreneur at heart who lives in the Bay Area with his wife, two children, and two dogs.



Sharmi Shah
ATTORNEY AT LAW, A PLC

255 W. Julian St., Ste. 400
San Jose, CA 95110
(408) 459-8120

VIA EMAIL

January 14, 2019

Hayward City Council
Hayward City Hall
777 B Street
Hayward, CA 94541

Re: Application of Precision Apothecary (dba Juva)

Dear Hayward City Council:

My office has been retained by Doug Chloupek of Precision Apothecary (dba Juva).

I have worked with numerous cannabis businesses during the last decade. I currently represent nine of the sixteen licensed cannabis businesses in San Jose and numerous other cannabis businesses throughout the State. I have submitted applications at the local and State level for retailers, distributors, manufacturers, cultivators, and microbusinesses. I believe the Precision Apothecary will be a great fit for Hayward and was happy to hear that the City Council is considering allowing prior applicants like Precision Apothecary and Mr. Chloupek an opportunity to interview and convey their full qualifications.

Mr. Chloupek received a letter on or about May 24, 2018 from the Hayward City Manager's office advising that his application on behalf of Precision Apothecary for a Type 12 Microbusiness Commercial Cannabis Permits had been denied and offering Mr. Chloupek the opportunity to re-apply during the next application period. Thereafter, Mr. Chloupek's prior attorney wrote to the Council requesting that the application be re-considered.

Precision Apothecary scored 625 points for its Microbusiness Application and ranked 5th in the initial review of applications. Precision Apothecary's score is well above the 500-point limit set by Staff for this next round of interviews.

In reviewing Precision Apothecary's Score Report, the feedback was mostly positive with the review committee writing that the responses provided were "good" and "excellent". One of the issues pointed out by the review committee was the fact that Precision Apothecary did not include the resume of its CEO, Doug Chloupek. Though I did not prepare Precision Apothecary's application, this was an oversight.

Mr. Chloupek and Team

Mr. Chloupek has pioneered commercial cannabis laboratories, dispensaries, cultivation sites, and distribution businesses in California since 2009.

Mr. Chloupek founded his first dispensary, MedMar Healing Center, in San Jose in 2009. Thereafter, Mr. Chloupek co-founded LUX, a grassroots, community-based San Jose medical

cannabis cooperative. LUX is one of only sixteen (16) licensed retail facilities in San Jose, CA - and one of approximately 290 State-licensed microbusinesses.

Mr. Chloupek was one of the founders of California's first manufacturing laboratory, Best Manufacturing, Inc. (dba BAS Research) in Berkeley, CA. This lab was opened in 2016.

Mr. Chloupek is the CEO of Frosted Flowers. Frosted Flowers produces connoisseur grade medical cannabis products and prides itself on purity, quality and consistency. Mr. Chloupek and his medical team are dedicated to developing breakthrough pharmaceutical grade cannabis products to help suffering patients.

Further, Precision Apothecary will be part of Juva Life whose management team (attached hereto) brings years of cannabis and experience and scientific knowledge to Hayward. Also attached hereto is Mr. Chloupek's history in the cannabis industry both as a businessman and an advocate for patients.

Precision Apothecary

There are multiple gaps that exist for patients to access Precision Medical Cannabis (PMC) where conventional modalities aren't working. PMC produced by Precision Apothecary will provide the right medicine, to the right patient, at the right dose, at the right time.

Precision Apothecary is led by expert specialty physicians that service the Hayward community with affiliations with multiple local hospitals. These physicians span the continuum of pain management, neurological conditions, cancer treatments, etc. – specialties where patients are often seeking to integrate cannabis into their care plan. A novel clinic model will be developed onsite to foster a discrete, medical office experience with health care professionals so as to allow patients access to research trials with the precision medicines that we plan to manufacture.

Precision Apothecary's team of doctors, researchers, cannabis extraction specialists and commercial experts are developing intellectual property, patent formulations supported by research registries using cannabis and selected organic plant compounds.

This information will be used to design specific molecular ratios to strategically target biological receptors. These formulas present opportunities for more powerful and effective ways of treating specific ailments, such as Cancer, Multiple Sclerosis, Epilepsy, PTSD, Parkinson's disease, among many others. Precision Apothecary's condition-based cannabis products will use formulated mechanisms of delivery leveraging capsule, transdermal, sublingual, and inhaled modalities.

To accomplish its goal of creating this precise medication, Precision Apothecary applied for a Microbusiness license for an 18,000 sq. ft. building which has a Class 5 ISO 7 certified clean room.

Precision Apothecary was hoping to show Hayward how it can be the industry leader in this new bio-tech cannabis market and was disappointed to learn that they would not receive an interview with the City Council.

Hayward Municipal Code

The issuance of Cannabis Business Permits is governed by *Hayward Municipal Code Chapter 6, Article 14 and Chapter 10, Article 1, Section 10-1.3600*.

Hayward Municipal Code Section 6-14.12 provides the following as to review of the applications for Commercial Cannabis Permit:

- (a) The City Manager shall establish procedures for accepting and evaluating applications submitted pursuant to this Article. The evaluation process shall include a method for scoring and ranking each application.
- (b) Upon completing the evaluation of all applications, the City Manager shall prepare a report to the City Council and provide a recommendation regarding selection of permittees.
- (c) Applications shall include information required by the City Manager including, but not limited to the following:
 - (1) A detailed description of the type of commercial cannabis business that includes proposed hours of operation/shift scheduling; type of specialized equipment to be used for cultivation or manufacturing; whether hazardous materials, including volatile solvents or gases are proposed to be used as part of the operation; how industrial waste will be disposed of; anticipated gross annual revenue; list of State licensed transportation and distribution providers serving the facility, if known; anticipated frequency of deliveries serving the facility; other pertinent information involving the operation of the facility.
 - (2) The applicant's full, true name, including all other names used presently or in the past, date of birth, valid California driver's license number, identification number or other form of government issued photo identification and Social Security number.
 - (3) The names and addresses of all persons financially interested in the business.
 - (4) The full, true name under which the business will be conducted.
 - (5) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the name, residence address, and telephone number of each of its current officers, directors, along with the amount of stock held.
 - (6) If the applicant is a partnership, the application shall set forth the name, residence street address, and telephone number of each of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner. The applicant, if a corporation or partnership, shall designate one

- (1) of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this Article and shall, at all times, meet all of the requirements set for permittees by this Article or the permit shall be suspended until a responsible managing officer who meets such requirements are designated. If no such person is found within ninety (90) calendar days after the permit's suspension, the corporation or partnership's permit is deemed canceled. If the corporation or partnership wishes to reapply for a permit, a new application shall be filed.
- (7) Proposed location(s) within the City where the business will be located including documentation showing that the property owner of the proposed location(s) consents to the operation of a commercial cannabis business at the location.
 - (8) A security plan describing proposed security arrangements for the premises including, but not limited to: alarm systems; surveillance equipment; use of security personnel; lighting plans; plans for securing points of entry.
 - (9) A summary of the applicant's relevant experience, if any, in operating permitted commercial cannabis businesses in other jurisdictions, with contact information for references in those jurisdictions.
 - (10) Category of state cannabis license(s) the applicant holds or intends to apply for.
 - (11) A summary of any regulatory actions currently pending or taken against the applicant, including issuance of notices of violation, citations, suspension or revocation of licenses, or similar actions, related to any business owned or operated by the applicant related to air quality, water quality, storage or use of hazardous chemicals, building code violations, or public health and safety violations. The name and location of the jurisdiction or agency, which took the action shall also be included.
 - (12) Written authorization for the city, its agents, and employees to conduct a background investigation of the applicant and the responsible managing officer/employee of the commercial cannabis business, including submission of fingerprints for criminal background investigation.
 - (13) Community benefit proposals.
 - (14) A conceptual site plan with proposed interior and exterior building designs and layouts.
- (d) In addition to the information described in (c) above, each application shall be accompanied by a refundable deposit in an amount established by resolution of the City Council.
 - (e) The City Manager or his/her designee shall review the applications to determine compliance with subdivision (c) of this section. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by the City. Failure to submit requested information may be deemed an abandonment of the application resulting in no further action being taken by the City.
 - (f) The City Manager or his/her designee shall investigate the truth of the statements set forth in the application to determine if an applicant is qualified to obtain a commercial cannabis permit. An application will be rejected if:

Hayward City Council
Re: Application of Precision Apothecary (dba Juva)
January 14, 2019
Page Five

- (1) It is found to contain material misstatements or omissions;
- (2) The applicant is determined to be ineligible or prohibited from obtaining a state cannabis license pursuant to state law.
- (3) The applicant, or any of its officers, directors, or owners is found to have been convicted of any of the following offenses: A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code; A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code; A felony conviction involving fraud, deceit, or embezzlement; A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
- (4) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (5) The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities.

The application of Precision Apothecary met all of the requirements of *Hayward Municipal Code Section 6-14.12(c) and (d)*.

Precision Apothecary welcomes the opportunity to meet with the City Council to share its vision of what it can bring to Hayward.

Sincerely yours,

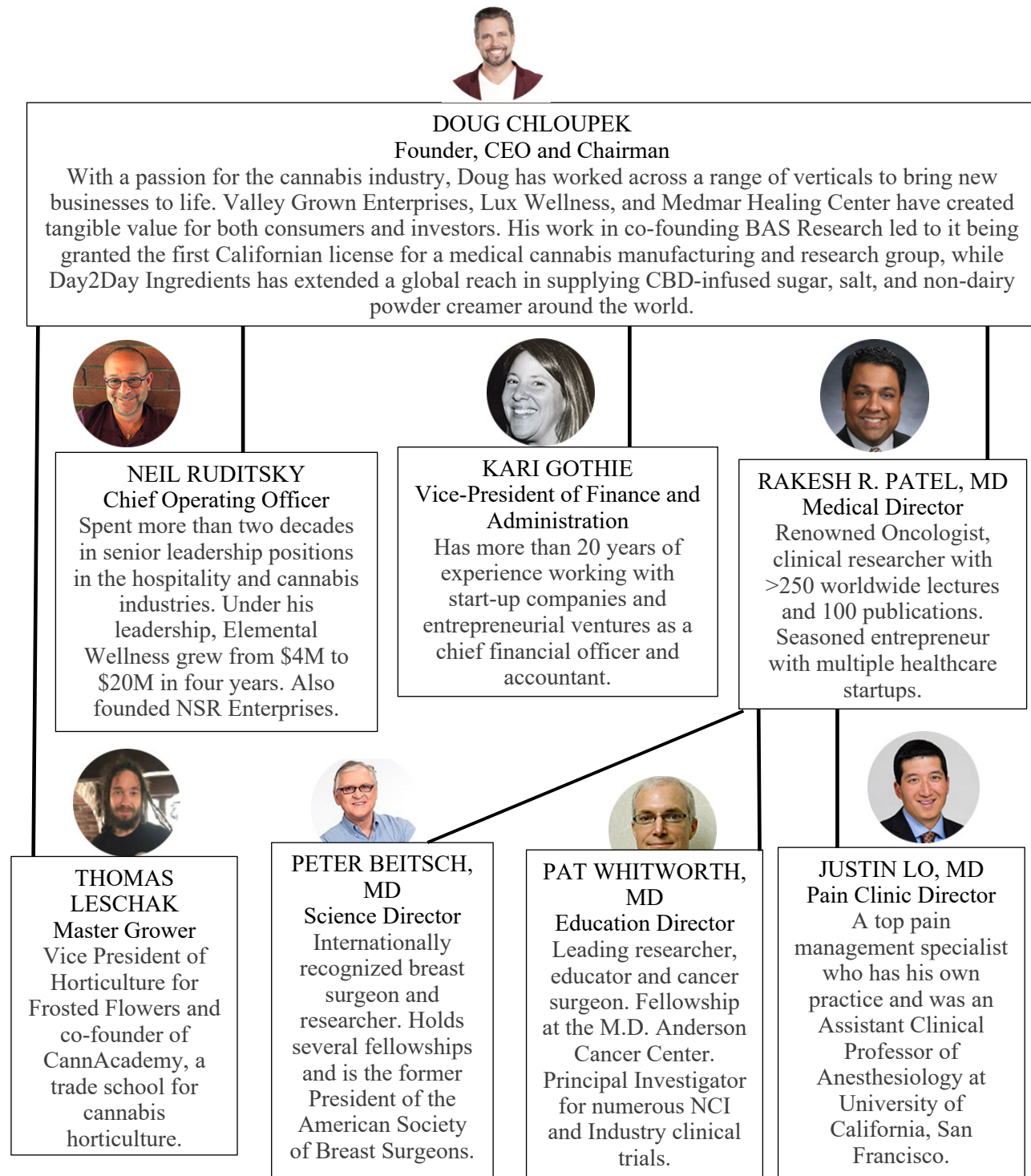


SHARMI SHAH
Attorney at Law
Enclosures

JUVA LIFE

ORGANIZATIONAL CHART

Juva Life, Inc. is a duly organized California corporation with the following organizational structure.



Doug Chloupek

doug@juvalife.com
(408) 667-9727

BAS Research (BAS)

COO & Co-Founder

Doug Chloupek is the visionary, co-founder and COO of BAS Research. BAS Research (BAS) is California's first licensed medical cannabis manufacturing and research group, dedicated to developing breakthrough pharmaceutical grade cannabis products. Products produced at BAS provide all of the potential medicinal benefits of cannabis without the risks associated with the variations in the current marketplace. Standardized dosing and research is the first step to confirming the effectiveness of medical marijuana.

LUX

COO & Co-Founder

Doug is the Co-founder and COO of LUX. LUX is a grassroots, community-based San Jose medical cannabis cooperative that offers support and alternative health resources to patients facing health challenges. Lux is one of only 16 licensed dispensaries in San Jose, CA. Lux is also a state-licensed microbusiness.

Juva Life, Inc.

CEO & Founder

Doug is the Founder and CEO of Juva Life, Inc. Juva Life, Inc. is an industry leading cannabis corporation with interests in cultivation, manufacturing, and distribution facilities throughout California.

Frosted Flowers

CEO & Founder

Doug is the CEO of Frosted Flowers. Frosted Flowers produces connoisseur grade medical cannabis products and prides itself on purity, quality and consistency. All Frosted Flowers products are laboratory tested for potency, terpenes, pesticides and residual solvents. Frosted Flowers master grower has perfected the art of cultivating perfectly formed trichome stalks with swollen resin glands and extremely unique terpene profiles.

Day2Day Inc.

President & Co-Founder

Doug is also a Co-founder of Day2Day Inc. One of the biggest issues affecting cannabis product manufactures is their inability to access clean, solventless, pesticide free, cannabis oil. Day2Day saw the need to create a constant, customizable platform to deliver pharmaceutical grade ingredients to the infused product manufactures of the world. Day2Day products are water soluble, odorless, virtually tasteless and are blended to any cannabinoid ratios our clients desire. Day2Day currently produces infused salt, sugar and powdered non-dairy creamer.

Sensible San Jose

Founding Board Member

With an extensive background in marketing and advertising, Doug has successfully used his talents to position himself as a leader in California's medical cannabis industry. He is a board member and director of Sensible San Jose which qualified a voter initiative.

Citizens Coalition for Patient Care

Founding Board Member

Doug was also a board member and key negotiator on behalf of Citizens Coalition for Patient Care (CCPC) which successfully ran a referendum that led to the cities repeal of their unworkable ordinance.

Other Roles

CEO & Founder, Valley Grown Entreprises Inc. (Indoor Cultivation)

Vice President, Santa Clara Specialty Farms (Outdoor Cultivation)

Founding Member, California Cannabis Industry Association

Member, NCIA

Personal

Doug is an inventor and entrepreneur at heart who lives in the Bay Area with his wife, two children, and two dogs.

ITEM #9 LB 19-003

**UPDATE ON COMMERCIAL CANNABIS PERMIT
PROCESS AND FUTURE ROUNDS AND
APPROPRIATION OF FUNDS FOR COMMERCIAL
CANNABIS PERMIT PROGRAM SECOND TIER
REVIEW**

RAJ POTTABATHNI EMAIL

From: Raj Pottabathni <>

Sent: Tuesday, January 15, 2019 1:01 PM

To: Miriam Lens <Miriam.Lens@hayward-ca.gov>; List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>

Cc: Kelly McAdoo <Kelly.McAdoo@hayward-ca.gov>

Subject: General Comments & Feedback RE: Legislative Business Item #9 (LB 19-003)

Honorable Mayor, City Council Members, City Manager & City Staff,

Jiva is particularly excited about getting to work in the City of Hayward and wanted to thank your City Staff again for working meticulously on making Commercial Cannabis Business Program a reality. I am writing to you today to humbly request you consider our position within the City given the current cannabis landscape and upcoming challenges in 2019.

As a proposed retailer participating in the City's commercial cannabis program, Jiva is appreciative of the opportunity and would like to share its support for items being considered today January 15, 2019 City Council Meeting (LB 19-003).

Both Mr. Lochirco and Mr. Stefanski have been diligently helpful. After speaking with them yesterday, we were able to gain further clarity and an understanding of the options being presented tonight. Primarily, we wanted to address the following items:

1. Required Buffer for Retail Dispensaries

We support Option 4 given that only the Downtown District is currently expected to host all of Hayward's dispensaries despite an obvious overconcentration issue. Instead of modifying the over-concentration buffer, the City could alternatively open up the zoning possibilities allowing for a more diverse retail mix across Hayward. While 2 retail applicant finalists identified possible locations by observing the 1,000-foot buffer, another did not despite being aware of the selected locations as they were released in July of 2018 at a Hayward Public Hearing. This option, however, would allow that prospective retailer, without prejudice, to seek another location which ensures a level of fairness for all of those involved since it would not require modification to favor any retail applicant finalist.

Alternatively, we would endorse Option 3. Since it was not clearly established as to the process of the "First-Come, First-Served Basis", Jiva suggests determination made through the following steps: verbal notification to City of the physical site, submittal of CUP land-use application, determination of completeness, and

additionally final a requirement for the permittee to secure their Bureau of Cannabis Control (BCC) State Annual License.

2. Second Round of Commercial Cannabis Permits

We support Option 4 and Option 3 respectively given the current cannabis landscape that will see many of the BCC Temporary Licenses expire in 2019.

The ability to gauge and assess current tier one applicants' performance will allow the City to adjust the 2nd round RFP to facilitate a comprehensive screening application process. Please note that going forward, all permittees will be required to meet Annual License Requirements by the BCC which are more stringent than the current Temporary License.

If the City chooses to pursue Options 1 or 2, then we would request to consider allowing the 3 retail finalist applicants a chance to apply for other use permits (manufacturing, microbusiness, distribution, and/or cultivation) under the same merits by simply submitting an RFP within 30 days establishing a 2nd round. Please note that going forward, all licenses will be required to meet Annual License Requirements by the Bureau of Cannabis Control which are more stringent than the current Temporary License.

Thank you for your time and consideration.

--

Rajiv "Raj" Pottabathni
Managing Director & Business Development
Jiva Life, LLC

San Francisco, CA 94103
732.801.6300 | www.JivaLife.org



ITEM #9 – LB 19-003

**UPDATE ON COMMERCIAL CANNABIS PERMIT
PROCESS AND FUTURE
ROUNDS AND APPROPRIATION OF FUNDS FOR
COMMERCIAL CANNABIS
PERMIT PROGRAM SECOND TIER REVIEW**

STEPHEN CASSIDY

Hayward City Council Meeting January 15, 2019

Request: Accept applications for any abandoned microbusiness licenses from *all previous applicants for commercial cannabis* licenses and not, as recommended by staff, limit the review to the five applicants for microbusinesses that received “below threshold” scores between 500 and 650.

Rationale:

1. Staff’s recommendation to create now a “second tier of first round” applicants and interview those applicants that pay a second \$5,000 fee is **premature**.

- All applicants that were awarded licenses in 2018 have until April 9, 2019 to submit their paper for a conditional use permit
- City cannot guarantee that any “second tier” applicant will receive a license if and until after April 9, 2019
 - Not a rational business decision to spend \$5,000 to receive an interview when the entity has no assurance it is eligible to receive a license

2. Staff’s recommendation that no new applications and no changes to the applications from the “second tier of first round” applicants be allowed would **result in awarding licenses to unqualified applicants**

- Almost all the “second tier” microbusiness applicants had deficient scores in the categories of business and operations plan and management experience
 - Peninsula Plug – 174 out of 400
 - Doja Dash – 176 out of 400
 - Always on Time – 214 out of 400
 - Precision Apothecary – 205 out of 400
 - Hope Net – 251 out of 400
- The information and data within the applications is out of date and unreliable.
 - Applications were drafted in December 2017 and January 2018.
 - Financial projections made a year ago are worthless today because California cannabis industry has experienced wrenching changes since adult use legalization on January 1, 2018:
 - Comprehensive and costly regulations including new testing regime and strict packaging and labeling requirements
 - High taxes and fees – increased price of cannabis from licensed dispensaries by up to 45% compared to period prior to January 1, 2018

- Competition from vigorous underground market that sells cannabis at lower prices than sold in licensed market
 - proliferation of illegal shops
 - thousands of unlicensed delivery services across state
 - tens of thousands of commercial cultivators have chosen not to become licensed – only 2,160 growers are registered with the state; an estimated 50,000 California commercial cannabis cultivation operations existed before Proposition 64.

“Because we are up against high taxes and the proliferation of illegal shops, it is difficult right now. We expected lines out of our doors, but unfortunately the underground market was already conducting commercial cannabis activity and are continuing to do so.” - Javier Montes, cannabis dispensary owner, quoted in “One year of legal pot sales and California doesn’t have the bustling industry it expected,” Los Angeles Times, December 27, 2018.

“The bottom line is that there’s always been a robust illicit market in California – and it’s still there. Regulators ignored that and thought they could go into an incredibly strict and high-tax environment.” – Tom Adams, BDS Analytics, quoted in “Now for the Hard Part: Getting Californians to Buy Legal Weed,” New York Times, January 2, 2019

- Shift in consumer preferences away from cannabis flower to manufactured cannabis products

3. City goal should be granting cannabis licenses to the most qualified companies. Licenses should only be awarded to companies with:

- ◆ Sound business plan and management experience
- ◆ Commitment to the community and operating in strict compliance with state law, local ordinance and applicable regulations
- ◆ Well capitalized, transparent, audited financial records and a track record of properly paying taxes and fees
- ◆ Superior labor and employment practices demonstrated by a willingness to work with Labor and have workers as union members

Achieving this goal requires competition, not a limited applicant pool.

Foothill Blvd. Hayward Corridor #1, below is a list of all addresses and their availability in this section. All businesses have been contacted in person or by representing Real Estate Agent.

1. 21313, 21353 Foothill Blvd. / Church, not moving, selling or renting
2. 21365 Foothill Blvd. currently a appliance business, not moving or selling
3. 21393, 21411, 21427 Foothill Blvd. currently residential rented properties, not feasible
4. 21439 Foothill Blvd, currently a established Fish and Chips location, not selling or moving
5. Walgreens building, located at Northwest corner of Foothill Blvd and Grove Way. Real Estate Agent of this property states owner will not rent to Cannabis Industry.
6. 21501 Foothill Blvd. currently established Chevron gas station.
7. 21573 Foothill Blvd. not availability and will not rent to Cannabis Industry
8. 21354-21406 Foothill Blvd. current mattress store, not moving, new business and eagles lounge, not selling and not moving
9. 21458 Foothill Blvd. current Liquor store and breakfast diner, not moving and not for sale
10. 21732 Foothill Blvd. Hayward tool, not selling or moving
11. 21988 Foothill Blvd. Building at this location all units occupied and not selling
12. 22230 Foothill Blvd, current Dentist office, not moving or selling
13. Safeway and business park located at Foothill Blvd and City Center, management states will not rent to cannabis industry.
14. Old Mervyns headquarters located at Foothill Blvd. and City Center, not feasible, townhomes slated for area.
15. 22401-22491 Foothill Blvd, large commercial plaza on the westside of Foothill, nothing available, will not rent to cannabis industry.
16. 1027 A Street, owner in China is starting his or her own business there and will not rent to cannabis industry
17. 1032, 1036 A Street Occupied as current businesses
18. 730 A Street, current Aaron business, not for sale or rent
19. 750 A Street, Larrys Tire, not selling and current established renter and business
20. 766-770 A Street current businesses, not for sale or rent
21. 720, 722, 724, 726, 728 A Street, will not rent to cannabis industry
22. 702 A Street, established restaurant, not for sale or rent
23. 650 A Street, attorneys office, not for sale or rent
24. 662 A Street, current business, not for sale or rent
25. 636 A Street, current Automotive repair, not for sale or rent
26. Small plot of land on Peralta Street, not feasible for cannabis retail
27. 603 A Street, owner is opening mountain mikes pizza and at this time not feasible for rent or purchase
28. Russel Street, old bank location, owner not selling or renting, hung up on several times
29. 1045 C Street, was for rent but rented to utility company

30. Old Crab Shack on C Street, owners price gouging and too many renovations for cannabis use. Over 7k square feet.
31. 22712 Foothill Blvd, owner not selling and no rental space available
32. 22724 Foothill Blvd, current established sushi restaurant. Not selling or renting
33. Several misc locations in Hayward that are residential homes, do not apply and are not feasible, 926 Rose Street and 720 Simon Street
34. 571 Jackson, no parking, not for sale or rent
35. 529 Jackson Street, Uhaul, not for sale or rent
36. 467 Jackson, current restaurant, not for sale or rent
37. All remaining locations on Jackson Street either, within state's 600 foot boundary, or is not for sale or rent and will not work with cannabis industry
38. Downtown Hayward, much is prohibited by the state's, 600 foot rule from a library. The remaining either will not rent to cannabis and will not sell the location.
39. Several locations are within Southland mall on Hesperian Blvd, the Southland mall will not rent to cannabis, the space is too large, 50,000 square feet and is not feasible for cannabis