



**SPECIAL CITY COUNCIL MEETING
REMOTE PARTICIPATION
Tuesday, September 22, 2020, 7:00 p.m.**

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m. The special meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order No 29-20 dated March 17, 2020, and the Alameda County Health Officer Order No. 20-10 dated April 29, 2020 regarding the COVID-19 pandemic. Members of the City Council, City Staff, and members of the public participated via the Zoom Webinar platform.

Pledge of Allegiance: Council Member Lamnin

ROLL CALL

Present: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeño
MAYOR Halliday
Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session on September 22, 2020, at 5:00 p.m., regarding three items: 1) conference with legal counsel pursuant to Government Code 54956.9 regarding one anticipated litigation; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding Stoddard-Nunez v. City of Hayward; and 3) public employment pursuant to government code 54957(b)(1) regarding performance evaluation for the City Attorney. Mayor Halliday reported there was no reportable action on any items.

PUBLIC COMMENTS

Ms. Serena DeCorra with Extreme Sports Productions spoke on behalf of the proposal that was sent to the City for a concept for new family entertainment and outdoor recreation center.

CONSENT

Consent Item 6 was removed from the Consent Calendar for a separate vote.

1. Adopt a Resolution Approving Amendment No. 5 increasing the Professional Services Agreement with CSG Consultants Inc., for Development Review Services, Extending the Date of the Agreement and Authorizing an Increase in the Amount of \$320,000 for a Total Not-To-Exceed \$1,200,000 **CONS 20-432**

Staff report submitted by Director of Public Works Ameri, dated September 22, 2020, was filed.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermelo
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-150, "Resolution Authorizing the City Manager to Execute Amendment No. 5 to the Agreement with CSG Consultants, Inc., for Plan Check Review and Related Services Associated with the City of Hayward Development Review"

2. Adopt a Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Homebase to Prepare a Five-Year City of Hayward Homelessness Reduction Strategic Plan **CONS 20-474**

Staff report submitted by Deputy City Manager Ott, dated September 22, 2020, was filed.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermelo
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-151, "Resolution to Authorize City Manager to Execute Professional Services Agreement with Homebase to Provide Homelessness Reduction Strategic Planning Services and Create a Five-Year Homelessness Reduction Strategic Plan"

3. Adopt a Resolution Accepting the Resignation of Ms. Isabel Pimentel from the Community Services Commission, Effective Immediately **CONS 20-460**

Staff report submitted by City Clerk Lens, dated September 22, 2020, was filed.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:



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MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-152, "Resolution Accepting the Resignation of Ms. Isabel Pimentel from the Community Services Commission"

4. Adopt a Resolution Appointing Ms. Lenora Taylor to the Community Services Commission to Fulfill the Unexpired Term of Ms. Isabel Pimentel **CONS 20-463**

Staff report submitted by City Clerk Lens, dated September 22, 2020, was filed.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermelo
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-153, "Resolution Appointing Ms. Lenora Taylor to the Community Services Commission to Fulfill the Unexpired Term of Ms. Isabel Pimentel"

5. Adopt a Resolution Authorizing the Forgiveness of the Promissory Note for the City Manager After the City Received Full Repayment of the City-Issued Home Loan **CONS 20-466**

Staff report submitted by Director of Finance Claussen, dated September 22, 2020, was filed.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-154, "Resolution Recognizing the Repayment of the Home Loan Issued to City Manager McAdoo and Forgiving the Promissory Note used to Secure the Loan"

6. Motion to Renew Debate on Proposed Development of a Fuel Facility with Related Site Improvements at the Costco Business Center Located at 22330 Hathaway Avenue, Application No. 201706217 **CONS 20-476**

Staff report submitted by City Attorney Lawson, dated September 22, 2020, was filed.

Council Member Lamnin removed the item from the Consent Calendar to state she was not in agreement of renewing the debate and was not supportive of the proposed project.

Council Member Salinas noted there was an overwhelming amount of gas stations on A Street; had concerns about impacts on traffic as well as to businesses; noted similar concerns had been raised by the Planning Commission; and stated the proposal conflicts with the City's Climate Action Plan and the neighborhood was not in support.

Discussion ensued about the item. Mayor Halliday clarified the item on the agenda sought support or opposition to continue the debate on the matter at a future noticed meeting.

Council Member Márquez noted the staff report did not include information regarding a moratorium on fuel stations. Assistant City Attorney Brick clarified this was mentioned in the staff report as a footnote.

Mayor Halliday opened the public comment section at 7:18 p.m.

Mr. John Ellingsen, Costco Development Manager, requested an opportunity to renew the project and allow deliberation from the full Council on the merits of the project; and noted the proposal represented a significant investment including an expansion of tax base, electric vehicle charging stations, new landscaping and replacement of the parking lot lights with LED.

Mr. Mike Shafik, Hayward resident, spoke in support of the proposal stating he goes to Costco four to five times per week for his business and he can get gas at the same time.

Mayor Halliday closed the public comment section at 7:23 p.m.



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It was moved by Council Member Wahab, seconded by Council Member Zermeno, and carried by the following roll call vote, to continue the debate at a future noticed hearing:

AYES:	COUNCIL MEMBERS Márquez, Mendall, Wahab, Zermeno MAYOR Halliday
NOES:	COUNCIL MEMBERS Lamnin, Salinas
ABSENT:	None
ABSTAIN:	None

LEGISLATIVE BUSINESS

7. Temporary Limit on Third-Party Food Delivery Fees: Adoption of Emergency Ordinance Establishing a Temporary Limit of 15 Percent Limit on Fees of Food Delivery Service Providers to Support Restaurants in Hayward During the COVID-19 Pandemic **LB 20-043**

Staff report submitted by Deputy City Manager Ott, dated September 22, 2020, was filed.

Economic Development Manager Nguyen gave a synopsis of the staff report.

City staff responded to questions posed by members of the City Council regarding: the proposed termination clause and the pricing model; business and community outreach plan; food delivery providers; grocery delivery/pick-up service such as Instacart; benefits to local business owners and right to private action model and delivery fee structure.

Mayor Halliday opened the public hearing at 8:02 p.m.

Ms. Jasprit Kaur spoke in support of the proposed ordinance, noted takeout orders are currently the primary source of revenue for local businesses, and added that capping fees will ease financial burden.

Mr. Timothy Hwang spoke in support of the proposal noting the ordinance will support local restaurants as they do not make much using delivery services compared to direct orders.

Mayor Halliday closed the public comment period at 8:05 p.m.

Council Member Wahab noted the proposed ordinance was a step in supporting small businesses, wanted to expand to grocery-oriented businesses, and was supportive of a long-term cap on fees of delivery service.

Council Member Zermeno encouraged residents against using delivery services so they can visit the businesses and the employees.

Council Member Mendall found the business model dishonest, did not think the additional fee should be passed on to the businesses and supported researching a permanent restriction before the moratorium ends.

Council Member Wahab and Council Member Zermeño were amenable directing staff to consider a permanent restriction.

Mayor Halliday recommended the item be brought to the Council Economic Development Committee (CEDC) for discussion after the COVID-19 pandemic is over.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the ordinance and direct staff to bring an item back to the CEDC after the pandemic for consideration of a permanent cap on third party delivery fees.

AYES:	COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeño MAYOR Halliday
NOES:	None
ABSENT:	None
ABSTAIN:	None

Ordinance 20-16, “An Emergency Ordinance of the City Council of the City of Hayward Establishing a Temporary 15 Percent Limit on Fees of Food Delivery Service Providers to Support Restaurants in Hayward During the Covid-19 Pandemic”

8. Extend Commercial Evictions Moratorium: Adopt an Emergency Ordinance Amending Temporary Moratorium on Evictions to Extend the Moratorium for Commercial Evictions until January 31, 2021 **LB 20-045**

Staff report submitted by Deputy City Manager Ott, dated September 22, 2020, was filed.

Deputy City Manager Ott provided a synopsis of the staff report.

Discussion ensued among members of the City Council and City staff regarding provisions to address tenants who were receiving rent from subletters; ways to mitigate mediation fees; recourses to help businesses and efforts of lobbyists to assist landlords. Members of the City Council encouraged the legal team to find recourses to help those who are taken advantage of.

City staff noted tenants must demonstrate loss of income due to COVID-19 and landlords do not have recourses to evict but could file civil action to recover damages. It was also confirmed the Landlord Relief and Stabilization Act did not apply to businesses.



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There being no public members, Mayor Halliday opened and closed the public hearing at 8:36 p.m.

It was moved by Council Member Wahab, seconded by Council Member Zermeno, and carried by the following roll call vote, to approve the ordinance

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeno
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Ordinance 20-17, "An Emergency Ordinance of the City Council of the City of Hayward Extending a Temporary Moratorium on Commercial Evictions in the City of Hayward for Non-Payment of Rent Caused by the Coronavirus (Covid-19) Pandemic, or for a No-Fault Reason Unless the Eviction is Necessary for the Imminent Health and Safety of the Tenant or Landlord, which was Initially Adopted in Ordinance No. 20-07 and Subsequently Extended in Ordinance No. 20-11, said Extension to Expire on January 31, 2021 unless Repealed Earlier"

9. League of California Cities Annual Policy Resolutions: Adopt a Resolution Supporting the Singular League of California Cities Policy Resolution Being Considered at the 2020 League of California Cities Annual Business Meeting **LB 20-044**

Staff report submitted by City Manager McAdoo, dated September 22, 2020, was filed.

Assistant City Manager Hurtado provided a synopsis of the staff report.

Police Chief Chaplin noted that recent protest riots and sideshows were coordinated via social media and City Manager McAdoo noted this was also intended to address child trafficking and exploitation.

Mayor Halliday opened the public comment period at 8:48 p.m.

Mr. Joe Mullin with Electronic Frontier Foundation, a nonprofit to express privacy and protect freedom of expression, encouraged the City to oppose the League's resolution noting it undermines Section 230 of the Communications Decency Act and would result in internet censorship.

Mr. Carl Gorringer, Hayward resident, noted that an amendment of the Communications Decency Act would encourage activity on unencrypted apps or the dark web and would make it difficult for existence of smaller websites and apps, and asked Council to not support the resolution.

Mayor Halliday closed the public hearing at 8:54 p.m.

Council Member Wahab noted the Council should consider potential ramifications of supporting the resolution, believed there should be preventative measures to limit criminal activity but not limit freedom of speech, and made a motion to oppose support of the League of California Cities Policy resolution.

Council Member Lamnin noted the City should encourage the League to work with the National League of Cities, favored a proposal that supports freedom of speech and safety of communities, and noted she sits on a League policy committee that will make its own recommendation.

Assistant City Manager Hurtado clarified this is not currently a League resolution; it will be considered at the next League meeting, but it had been brought forth by cities in southern California; League staff did an analysis which is included in packet, that does not include a recommendation, but offers various perspectives.

Mayor Halliday disclosed that she currently sits on the League's Resolution Committee.

Council Member Mendall noted there was a need for social media companies to take more responsibilities for the content they allow and the resolution was a step in the right direction but not clear enough, and suggested the proposal could be brought before a technology committee.

Council Member Márquez would have preferred that cities who brought it forward would have consulted with more cities and would like the resolution revisited and strengthen its intent.

Council Member Zermeño stated that he was leery about accepting a recommendation from such a small group and wish it included input from cities in other parts of the state.

Council Member Salinas shared a story of a Hayward teenager who was attacked and the incident posted on YouTube, noted Council should consider examples of situations, added he was planning on attending discussion of the resolution at the League conference and supported the motion on the floor.



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Mayor Halliday appreciated all the input and understood the mixed feelings, noted that having evidence on social media can be helpful in prosecuting crimes, and added the resolution was co-authored by the City of Cerritos which suffered substantial looting following George Floyd protests.

In response to Council Member Wahab's inquiry, City Attorney Lawson stated that the question being presented was not a legal issue but more of a policy/political consideration; and noted the Council had to make a decision about balance. Council Member Wahab noted the American Civil Liberties Union was in opposition.

It was moved by Council Member Wahab, seconded by Council Member Lamnin, and carried by the following roll call vote, to direct Mayor Halliday to oppose this Resolution at the LOCC Assembly:

AYES:	COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas, Wahab, Zermeno MAYOR Halliday
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 20-155, "Resolution Opposing the Singular League of California Cities Policy Resolution being Considered at the 2020 League of California Cities Annual Meeting"

10. City Attorney Employment Agreement Extension: Adopt a Resolution Approving a One-Month Extension to the Employment Agreement Between the City of Hayward and the City Attorney and Authorizing the Mayor to Execute the Agreement **LB 20-046**

Staff report submitted by Assistant City Manager Hurtado, dated September 22, 2020, was filed.

Assistant City Manager Hurtado provided a synopsis of the staff report.

There being no public comment, Mayor Halliday opened and closed the public hearing at 9:23 p.m.

It was moved by Council Member Mendall, seconded by Council Member Zermeno, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-156, "Resolution Approving the Extension and Modification of the City Attorney's Employment Agreement as Amended and Authorizing the Mayor to Execute the Agreement on Behalf of the Council"

11. City Clerk Employment Agreement Extension: Adopt a Resolution Approving the Extension and Modification to the Employment Agreement Between the City of Hayward and the City Clerk and Authorizing the Mayor to Execute the Agreement **LB 20-047**

Staff report submitted by Assistant City Manager Hurtado dated September 22, 2020, was filed.

Assistant City Manager Hurtado provided a synopsis of the staff report.

There being no public comment, Mayor Halliday opened and closed the public hearing at 9:26 p.m.

Council Member Márquez acknowledged City Clerk Lens for her dedication to the City and making government as accessible as possible and thanked her and her team for their great work through the challenges during the year.

It was moved by Council Member Márquez, seconded by Council Member Salinas, and carried by the following roll call vote, to approve the resolution:

AYES: COUNCIL MEMBERS Lamnin, Márquez, Mendall, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 20-157, "Resolution Approving the Extension and Modification of the Employment Agreement between the City of Hayward and City Clerk as Amended and Authorizing the Mayor to Execute the Agreement"



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CITY MANAGER'S COMMENTS

City Manager McAdoo made three announcements: 1) shared statistics from the September 17 food distribution to 1,493 families (779 at Chabot College, 378 at St. Clements Church and 336 at Glad Tidings Church) made possible through donations from the SEWA Foundation and Columbus Meats; 2) noted the State moved Alameda County into a Red Tier which allows for some businesses to open indoor activities and schools to apply for modified in-person instructions; and 3) added the Hayward Public Library had partnered with the Hayward Unified School District to distribute over 1,500 school supply bags.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Wahab reminded all about the September 26 Census canvass walk with gathering in front of Glad Tidings Church and the importance of completing the survey.

Council Member Márquez echoed the need to complete the 2020 Census survey and shared that Kaiser Permanente was providing updates that highlighted the importance of getting flu shots this season.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:42 p.m. in memory of Mr. Rich Essi, long time organizer of the Hayward Zucchini Festival.

Mr. Rich Essi was the general manager of the Hayward Zucchini Festival for 37 years, was a respected member of the Hayward Lions Club, was a US Air Force veteran of the Vietnam War, and was a committed member of the city who always made the festival possible despite budget constraints. Mayor Halliday asked staff to work with the Essi family to dedicate a tree in his memory.

The meeting was also adjourned in honor of Supreme Court Justice Ruth Bader Ginsburg who was remembered for her contributions to the country and women's rights. Mayor Halliday asked staff to find a way to recognize and honor her in the city. Council Member Wahab suggested naming the Hayward post office after her.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward