



CITY OF HAYWARD

Hayward City Hall
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Cover Memo

File #: CONS 16-057, **Version:** 1

DATE: February 2, 2016

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT

Consider Formation of the Hayward Geologic Hazard Abatement District Associated with the Approved La Vista Development Involving the Adoption of a Resolution Setting a Public Hearing for March 1, 2016

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) setting a public hearing for March 1, 2016 to consider the formation of the Hayward Geologic Hazard Abatement District.

BACKGROUND

In 2005, the Hayward City Council conditionally approved the 179-unit La Vista development (Tract 7620), with a condition requiring that a Geologic Hazard Abatement District (GHAD) be formed to address on-site geologic hazards associated with the development. State law authorizes GHADs to be formed to prevent, mitigate, abate or control geologic hazards. GHADs are typically financed by assessing property owners within their boundaries, subject to the restrictions of Proposition 218.

On November 17, 2015 the City Council approved Resolution No. 15-224 (Attachment III) committing the City of Hayward to be subject to the GHAD Law and directed the City Clerk to forward a copy of the Resolution to the State Controller. On January 26, a work session on GHADs <<https://hayward.legistar.com/LegislationDetail.aspx?ID=2555222&GUID=6795B255-EA43-4E96-9AAB-20AD166E3D94>> was held before the City Council, during which staff and consultant Eric Harwell of Engeo, Incorporated, provided an overview of GHADs and answered questions from the City Council.

DISCUSSION

Creation of the Hayward GHAD

The proponent of the La Vista project has petitioned the City Council to form the Hayward GHAD (Attachment II). This action is necessary in order for the La Vista development to meet the project conditions of approval, which require that the development be included in a GHAD.

The City Council will consider approving the creation of the Hayward GHAD at a public hearing proposed to be held on March 1, 2016. Should the Council approve the creation of the Hayward GHAD at the March 1, 2016 hearing, such action will allow the final GHAD Plan of Control for the La Vista development

(working draft included as Attachment II - Exhibit C) to be considered for inclusion in the new Hayward GHAD at a future GHAD Board of Directors meeting. Staff recommends the City Council form the Hayward GHAD based on the proven successful implementation of many other GHADs throughout the state to manage geologic hazard issues.

Appointment of GHAD Board of Directors

According to GHAD law, the City Council members may act as the Board of Directors of the Hayward GHAD or, alternatively, the City Council may appoint five property owners who own property within the GHAD, to serve as the GHAD Board of Directors. Having a jurisdiction's legislative body members serve as the GHAD Board of Directors is the most common arrangement in existing GHADs in California. Since there is currently only one property owner (La Vista L.P.) within the property to be included in the GHAD, should Council approve formation of the GHAD, staff will recommend on March 1 that the City Council appoint itself as as the Hayward GHAD Board of Directors.

Health, safety and welfare finding

GHAD Law (Public Resources Code 26550 et seq.) requires that a Plan of Control for the La Vista development be prepared to identify and mitigate the potential geologic hazards present on the site and to explain how those potential geologic hazards will be responsibly maintained and managed in the future. As required by law, the draft Plan of Control for the La Vista development (Exhibit C to Attachment II) describes the potential geologic hazards within the territory to be included as part of the La Vista development. Other portions of the Plan of Control address the prevention, mitigation, abatement or control of those geologic hazards, which includes the long-term maintenance of slopes, concrete-lined drainage ditches, open space storm drain facilities, detention basins and water quality treatment facilities.

Staff has reviewed the draft Plan of Control for the Hayward GHAD and has determined that the health, safety and welfare of the public require the inclusion of the La Vista development into a GHAD. This finding is a requirement of the GHAD Law and must be made in order for a property to be included in a GHAD.

ECONOMIC AND FISCAL IMPACTS

Adoption of the attached resolution, by itself, will not have a fiscal or economic impact. However, future formation of a GHAD will ensure a non-City funding source is established in perpetuity from property owners who would benefit from maintenance of nearby/adjacent geologic hazards, including slopes and related drainage systems.

PUBLIC CONTACT

No notices for this action have been distributed, since it is the precursor action, if taken, to the public hearing. A public hearing is required in order for the City to form the Hayward GHAD. Should Council adopt the attached resolution, written notices of the March 1 public hearing to consider the formation of the Hayward GHAD, along with a copy of the draft GHAD Plan of Control for the La Vista development, will be sent to all owners of real property within the proposed GHAD, pursuant to Public Resources Code

Sections 26561, 26562 and 26563. Since the La Vista development property is currently entirely owned by La Vista L.P., only one notice will be required to be sent. By state law, this notice must be mailed to La Vista L.P. at least twenty days prior to the March 1, 2016 hearing date. In order to keep adjacent property owners aware of what is proposed, staff will also send notices to HARD and adjacent property owners.

NEXT STEPS

If the Council adopts the attached resolution, the following action steps will occur:

A public hearing on formation of the GHAD will occur on March 1, 2016. Following the public testimony received by Council members at this public hearing, the City Council will choose whether or not to approve the creation of the Hayward GHAD.

If the City Council approves the creation of the Hayward GHAD at the March 1 public hearing, staff will request that, at the same meeting, the City Council also appoint the Hayward GHAD Board of Directors and Chair.

Following the appointment of the Hayward GHAD Board of Directors, at future meetings, the GHAD Board will need to:

1. Decide how the Hayward GHAD is to be administered, including recruitment/selection of a GHAD Clerk (required), GHAD Treasurer (required), and possible appointment by the Board of other Officers of the District such as GHAD Manager, GHAD legal counsel and GHAD maintenance entity (these positions may be staffed with either City employees or hired consultants);
2. If the GHAD Board decides to utilize consultants for any or all of the positions above, it will need to direct staff to issue Requests for Proposals (RFPs) to recruit/select the firm(s) to provide those services;
3. Adopt a resolution formally accepting the final Plan of Control for the La Vista development once it is completed;
4. Approve an Intent to Order an Assessment for the GHAD parcels;
5. Approve the Engineer's Report and Notice to Order an Assessment for the parcels in the GHAD;
6. Hold a public hearing to complete the Proposition 218 election process for adopting a new GHAD assessment for the parcels in the GHAD; and
7. Approve a Hayward GHAD yearly budget (after the GHAD accepts monitoring, maintenance and ownership responsibilities).

If the City Council does not choose to approve creation of the Hayward GHAD at the March 1, 2016 public hearing, the La Vista development proponent, which has previously been conditioned to be within a GHAD, will need to:

1. Petition for annexation into a GHAD located outside the City of Hayward; or
2. Form another City of Hayward designated entity to prevent, mitigate, abate, or control the potential geologic hazards within the La Vista development. (Staff is not aware of another entity, other than a GHAD, which would accomplish the same goals and outcomes.)

Prepared by: Peter Rei, PE, PLS Contract Development Review Engineer

Reviewed by: Sara Buizer, AICP, Planning Manager

Recommended by: David Rizk, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

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| Attachment I | Resolution to set a Public Hearing on March 1, 2016 to consider formation of the Hayward Geologic Hazard Abatement District |
| Attachment II | Petition from La Vista developer requesting formation of a Geologic Hazard Abatement District
Exhibit A - Vicinity Map
Exhibit B - Legal Description
Exhibit C - Plan of Control |
| Attachment III | Resolution 15-224 |