



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
JUNE 16, 2015

MAYOR BARBARA HALLIDAY
MAYOR PRO TEMPORE GREG JONES
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER AL MENDALL
COUNCIL MEMBER SARA LAMNIN
COUNCIL MEMBER ELISA MÁRQUEZ

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CITY COUNCIL MEETING FOR JUNE 16, 2015
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

Conference Room 2B – 4:30 PM

1. CITY COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS;
PUBLIC COMMENTS
 2. CLOSED SESSION
 3. Conference with Labor Negotiators
Pursuant to Government Code 54957.6
 - Lead Negotiators: City Manager David; City Attorney Lawson; Assistant City Manager McAdoo; Finance Director Vesely; Public Works-Engineering & Transportation Director Fakhrai; Human Resources Director Collins; Senior Human Resources Analyst Lopez; Assistant City Attorney Vashi; Community and Media Relations Officer Holland; Jack Hughes, Liebert Cassidy and Whitmore
Under Negotiation: All Groups
 4. Conference with Property Negotiators
Pursuant to Government Code 54956
 - Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Public Works – Engineering & Transportation Director Fakhrai, Development Services Director Rizk.
Under Negotiations: Property located near 2nd Street and Walpert Street, APNs 445-00-500-1001 & 445-00-500-1900
 5. Conference with Property Negotiators
Pursuant to Government Code 54956.8
 - Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Development Services Director Rizk
Under Negotiations: 9/11 Memorial
 6. Public Employment
Pursuant to Government Code 54957
 - Performance Evaluation
City Manager
City Attorney
City Clerk
 7. Adjourn to the Special Joint City Council/Redevelopment Successor Agency/Housing Authority meeting
-

**SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT SUCCESSOR AGENCY/
HOUSING AUTHORITY MEETING
Council Chambers – 7:00 PM**

CALL TO ORDER Pledge of Allegiance Council/RSA/HA Member Peixoto

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION Certificate of Commendation – Annabelle Candy Company

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

ACTION ITEMS: *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Approval of Minutes of the Special City Council Meeting on May 30, 2015
[Draft Minutes](#)

2. Approval of Final Tract Map 7583 – Highland Villas Development by Highland Villas LLC(Applicant/Owner); the Project is Located on a Parcel Totaling 1.3 Acres Generally Located at the Southeast Corner of Hayward Boulevard and Tribune Avenue in the Hayward Highlands Area
[Staff Report](#)
[Attachment I](#)
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[Attachment III](#)

3. Downtown Business Improvement Area Annual Report and Proposed Budget for FY 2015-2016
[Staff Report](#)
[Attachment I](#)
[Attachment 1-A](#)
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June 16, 2015



4. Authorize the City Manager to Execute an Amendment to the Agreement with Buchalter-Nemer for Development of Land Use/Zoning Regulations and Related Environmental Impact Analysis for the Hayward Executive Airport Influence Area

[Staff Report](#)
[Attachment I](#)
[Attachment II](#)

5. Authorization to Negotiate and Execute a Master Services Agreement with Hayward Chamber of Commerce for 2015-2016 Special Event Season

[Staff Report](#)
[Attachment I Resolution](#)

NON-ACTION ITEMS: *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

WORK SESSION

6. Review of 3rd Quarter Progress for Police Department (Report from Police Chief Urban)

[Staff Report](#)

7. Work Session on Campaign Disclosure Practices for City Elective Offices and Ballot Measures (Report from City Attorney Lawson)

[Staff Report](#)
[Attachment I](#)
[Attachment II](#)

The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
 - *Staff Presentation*
 - *City Council Questions*
 - *Public Input*
 - *Council Discussion and Action*
-

PUBLIC HEARING

8. Public Hearing for the Proposed FY 2016 Operating Budget for the City of Hayward, Hayward Redevelopment Successor Agency, and Hayward Housing Authority; and the FY 2016 Capital Improvement Program Budget (Report from Finance Director Vesely)

[Staff Report](#)
[Attachment I](#)



9. Designation of Additional Preferential Residential Permit Parking Areas (Report from Director of Engineering and Transportation Fakhrai)

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

10. Establishment of Zoning Conformance Permit for Minor Uses and Improvements: Introduction of an Ordinance and Adoption of Two Resolutions Related to Amendments to Chapter 10, Article 1, Zoning Ordinance, of the Hayward Municipal Code and Establishment of Related New Fee; the proposed project is exempt from the California Environmental Quality Act (CEQA) under CEQA Section 15061(b)(3); City of Hayward (applicant) (Report from Development Services Director Rizk)

[Staff Report](#)

[Attachment I Ordinance Introducing HMC Section 10-1.2950.doc](#)

[Attachment II Resolution Adopting CEQA and Findings.doc](#)

[Attachment III Resolution Adopting New Fee.doc](#)

[Attachment IV Draft PC Minutes 05.28.15](#)

CITY MANAGER'S COMMENTS

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

ADJOURNMENT

NEXT REGULAR MEETING – 7:00 PM, Tuesday, June 23, 2015

PUBLIC COMMENT RULES: *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

PLEASE TAKE NOTICE *that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

PLEASE TAKE FURTHER NOTICE *that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

June 16, 2015



****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk’s Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City’s website. Written comments submitted to the Council in connection with agenda items will be posted on the City’s website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

Please visit us on:





**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
Conference Room 2A
777 B Street, Hayward, CA 94541
Saturday, May 30, 2015, 8:30 a.m.**

The Special City Council meeting was called to order by Mayor Halliday at 8:30 a.m., followed by the Pledge of Allegiance led by Council Member Mendall.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin,
Márquez
MAYOR Halliday
Absent: None

PUBLIC COMMENTS

Ms. Renée Besold, Hayward resident and past Hayward Literacy Council President, asked the City on behalf of the Hayward Literacy Council, to fund or make arrangements to fund a part-time English as a Second Language Coordinator position.

Mr. Jim Drake, Hayward resident, requested to add more Police officers to serve throughout Hayward.

SPECIAL WORK SESSION

1. FY2016 Proposed Operating Budget – Departmental Budget Presentations

Staff report submitted by Finance Director Vesely, dated May 30, 2015, was filed.

Mayor Halliday and City Manager David provided an overview of the agenda and laid out the expectations for the day. City Manager David alluded to the SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis for the entire organization.

The Council was in receipt of two documents: 1) The City of Hayward Budget in Brief and 2) Policy Document: Part 4 General Plan Administration and Implementation.

Fire Chief Contreras provided an overview of the continued effort needed for the FY 2015 Performance Measures/Goals for the Fire Department as presented in the Proposed FY 2016 Operating Budget, provided a SWOT analysis for the Fire Department, and noted that the department necessitated the creation of an Emergency Manager/Coordinator position to direct the City's disaster preparedness efforts.

Discussion ensued among Council Members and City staff related to the proposed budget and operations of the Fire Department. There was Council consensus that disaster preparedness should

be a priority and there was support for developing an Emergency Coordinator position and for staff to evaluate a possible funding partnership with members of the Hayward Local Agencies Committee. There was Council consensus to be involved in trainings related to the Council's policy-maker's role in disaster response and recovery. Council commended staff for the accomplishments of the Fire Department.

Development Services Director Rizk provided an overview of the Development Services Department and its divisions as presented in the Proposed FY 2016 Operating Budget; and provided a SWOT analysis for the Development Services Department.

Discussion ensued among Council Members and City staff related to the proposed budget and operations of the Development Services Department. There was consensus for staff to bring forward quality developments that make sense to the community; there was consensus to add the language "that benefit the community" at the end of the Mission Statement; and there was support to add a community component to the Department Overview section of the Development Services Department as well as other departments. Council commended staff for the accomplishments and improvements of the Development Services Department.

Police Chief Urban provided a brief overview of the Police Department's operations related to the legalization of marijuana, body worn cameras, Public Records Act Request, and the department's performance metrics.

Discussion ensued among Council Members and City staff related to the proposed budget and operations of the Police Department. There was a recommendation to include, in the future, more information in the department's performance metrics. Council praised the department's accomplishments, the community engagement and collaboration with other agencies, and the overall operations of the Police Department.

The Council took a lunch break at 11:31 a.m. and reconvened the special meeting at approximately 11:40 a.m.

Public Works-Engineering and Transportation Director Fakhrai provided a brief department overview, accomplishments and division/program projects, department challenges, and proposed changes as presented in the Proposed FY 2016 Operating Budget.

Discussion ensued among Council Members and City staff related to the proposed budget and the operations of the Public Works-Engineering and Transportation Department. There was a recommendation to include, in the future, more detail in the department's performance metrics. Council praised the accomplishments of the Public Works-Engineering and Transportation Department.

Utilities and Environmental Services Director Ameri provided a brief department overview and the department's accomplishments and challenges, and proposed staff changes as presented in the Proposed FY 2016 Operating Budget.



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
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777 B Street, Hayward, CA 94541
Saturday, May 30, 2015, 8:30 a.m.**

Discussion ensued among Council Members and City staff related to the proposed budget and the operations of the Utilities and Environmental Services Department. It was clarified that the number of FY 2016 staffing for the department would be 105.0 FTE as opposed to 106.0 FTE. There was a recommendation to include, in the future, more information in the department's performance metrics. Council praised the accomplishments and the operations of the Utilities and Environmental Services Department.

Maintenance Services Director Rullman provided a department overview and the FY 2016 service objectives and goals as presented in the Proposed FY 2016 Operating Budget.

Discussion ensued among Council Members and City staff related to the budget and the operations of the Maintenance Services Department. The Council congratulated Director Rullman on his appointment as the Maintenance Services Director, praised the accomplishments and the operations of the department, and commended him for the information and graphics provided in the department's performance metrics.

Library and Community Services Director Reinhart provided a brief department overview, provided a SWOT analysis for the Library and Community Services Department, and alluded to the changes planned for FY 2016 as presented in the Proposed FY 2016 Operating Budget.

Discussion ensued among Council Members and City staff related to the budget and the operations of the Library and Community Services Department. In response to the ESL Coordinator position, Library and Community Services Director Reinhart noted there was support to continue the program and to make it consistent and sustainable. There was consensus to modify Item No. 3 under FY 2016 Key Service Objectives/Goals by noting that the goal is to achieve unanimous consent of CDBG funding recommendation only through the process of productive discourse. Mr. Reinhart was congratulated for his efforts with the department's performance metrics.

Human Resources Director Collins provided a brief department overview and alluded to the SWOT analysis for the Human Resources Department.

Discussion ensued among Council Members and City staff related to the budget and the operations of the Human Resources Department. There was a recommendation to include, in the future, more detail in the department's performance metrics. Council praised the accomplishments and the operations of the Human Resources Department.

Interim Information Technology Director Vesely provided a brief department overview and the FY 2016 service projects planned for implementation in the Information Technology Department.

Discussion ensued among Council Members and City staff related to the proposed budget and operations of the Information Technology Department. There was a recommendation to include, in the future, more performance metrics. There was a suggestion to include, under FY 2016 Key

Service Objective/Goals, the hiring of a new Director of Information Technology. There was a suggestion to modify Item No. 3, under FY 2016 Key Service Objectives/Goals, with “Upgrade free downtown Wi-Fi and evaluate expansion to other retail and academically concentrated areas of the city.”

Finance Director Vesely provided a department overview, shared challenges in the Finance Department, and noted that while not included in the goals for FY 2016, her department would be evaluating an open government transparency portal for the City’s website that would assist with Public Records Act Requests submitted to the Finance Department.

Discussion ensued among Council Members and City staff related to the proposed budget and operations of the Finance Department. There was a recommendation to include, in the future, more detail in the department’s performance metrics. Council praised the accomplishments of the Finance Department.

City Attorney Lawson provided a brief department overview; provided a synopsis of the operations of the department and the support to other departments; and provided a SWOT analysis for the City Attorney Department.

Discussion ensued among Council Members and City staff related to the budget and the operations of the City Attorney’s Department. There was a recommendation that in the future, staff might entertain adding how risk can be mitigated from an organizational perspective in the department’s performance metrics. Council praised the accomplishments of the City Attorney Department.

City Clerk Lens provided a brief department overview and a SWOT analysis for the City Clerk Department.

Discussion ensued among Council Members and City staff related to the budget and the operations of the City Clerk Department. Ms. Lens was congratulated for her efforts with the department’s performance metrics. Council praised the accomplishments of the City Clerk Department.

Assistant City Manager McAdoo provided a brief department overview, an overview of performance/accomplishments, and SWOT analysis for the City Manager Department.

Discussion ensued among Council Members and City staff related to the budget and the operations of the City Manager’s Department. It was noted that the department’s performance metrics were qualitative statements, but not metrics. It was recommended to highlight the Business Improvement District process under the FY 2016 Key Service Objective/Goals for the Economic Development section. Council praised the accomplishments of the City Manager’s Department.

Council Members offered suggestions for the City Council/Mayor section of the Proposed FY 2016 Operating Budget. It was suggested to include the following under FY 2016 Key Service Objectives/Goals: add to Goal No. 1 the “Thriving Priority”; and add to Goal No. 5 an item related to strengthening internal and external working relationships. There was consensus to move the salary of the Executive Assistant position to the City Manager Department’s budget.



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
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It was suggested to add the following under Department Performance Metrics: note that the Council contributed thirty percent toward benefits; add the number of regional boards that Council members serve on; add the number of pre-application development review meetings; add the number of major initiatives launched or completed such as the General Plan, Economic Development Strategic Plan, Downtown Specific Plan; add major community engagement efforts; and add the number of ordinance modifications. Mayor Halliday requested that, in the future, staff engage the Council in discussion about performance/accomplishments and goals/objectives.

There was Council consensus to have discussion regarding the possibility of pursuing a list of revenue generators via lobbying State legislators or a ballot measure and to start the conversation with the Council Budget and Finance Committee.

There was Council consensus to postpone the discussion of General Fund Ten-Year Plan, Council Priorities, and general budget questions to a special Council meeting on June 9, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 4:52 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward

DATE: June 16, 2015

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Approval of Final Tract Map 7583 – Highland Villas Development by Highland Villas LLC(Applicant/Owner); the Project is Located on a Parcel Totaling 1.3 Acres Generally Located at the Southeast Corner of Hayward Boulevard and Tribune Avenue in the Hayward Highlands Area

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) approving the Final Map for Tract No. 7583 – Highland Villas Development, and finding that it is in substantial conformance with the approved Vesting Tentative Tract Map No. 7583 and the conditions of approval thereof; and authorizes the City Manager to take other administrative actions and execute a Subdivision Agreement and such other documents as are appropriate to effectuate the required improvements for the development.

BACKGROUND

Tentative and final subdivision maps are required for all subdivisions creating five or more parcels. A tentative tract map is required to ensure that any proposed subdivision of land complies with the Subdivision Map Act; the California Environmental Quality Act; the City Subdivision, Zoning, and Building regulations; the Hayward General Plan and Neighborhood Plans; and the requirements of the Public Works, Fire, and Police Departments. After the tentative map is approved, the developer submits the final map and improvement plans for review and approval by the City Engineer (and subsequent recordation of the final map after Council review and approval) before proceeding with construction of improvements. The developer is required to file tentative and final maps so that these proposed 14 single-family dwelling unit lots can be sold individually.

On November 1, 2005, relying on the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the development applications, the Council approved the Zone Change and Vesting Tentative Tract Map applications to change the Zoning from Single Family Residential District to a Planned Development District in order to subdivide the property and construct 14 single-family homes.

On November 13, 2006, Highland Villas LLC submitted a Precise Plan, preliminary Improvement Plans and the Final Map to the City for review and approval. The original Precise Plan was administratively and conditionally approved by the Planning Director on December 19, 2006. The

project was originally submitted in 2004. Due to the economic downturn during the late 2000s, the developer opted not to complete the project at that time. Now that economic conditions have improved, the developer is interested in completing the project and constructing the homes.

DISCUSSION

Final Map – The project is located on a parcel totaling 1.3 acres generally located along Hayward Boulevard and Tribune Avenue in the Hayward Highlands area (see vicinity map, Attachment II). The project site is located within an existing single-family residential neighborhood that includes a mix of one-, two-, and three-story single-family homes. This proposed development includes fourteen detached units, and incorporates private and group open spaces to serve the future owners of these homes (see site plan, Attachment III).

The subdivision improvement plans and Final Map were reviewed by the City Engineer and were found to be in substantial compliance with the vesting tentative map, and in conformance with the Subdivision Map Act and Hayward’s regulations. There have not been significant changes to the final map, compared to the Tentative Tract Map the City Council approved in November of 2005.

The City Council’s approval of the Final Map shall not become effective until and unless the developer enters into a Subdivision Agreement and posts bonds with the City for the construction of improvements and other obligations required per conditions of approval of the Vesting Tentative Tract Map.

Environmental Review - The development of Tract 7583 was previously reviewed under a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program adopted for the development by the Hayward City Council via Resolution 05-134 on November 1, 2005.

ECONOMIC AND FISCAL IMPACT

The Final Map approval is consistent with the approved project and the Final Map, by itself, will not have any additional fiscal or economic impacts. The development created by the approval of the Final Map will improve commerce, provide housing, and employ construction workers.

PUBLIC CONTACT

A public hearing is not required for the filing of Final Map Tract 7583. Public hearings were already conducted for the Vesting Tentative Tract Map 7583 and related Zone Change applications, of which Final Map Tract 7583 is part.

NEXT STEPS

Assuming the City Council approves the Final Map and adopts the attached Resolution, the applicant will have the Final Map recorded, will execute a Subdivision Agreement with the City, and will commence the construction of improvements shown on the approved Improvement Plans.

Prepared by: Peter Rei, P.E., Contract Development Review Services Engineer

Reviewed by: Sara Buizer, Planning Manager

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Approving Final Map and Authorizing Execution of a Subdivision Agreement
Attachment II	Vicinity Map
Attachment III	Site Plan Tract 7583

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION APPROVING FINAL MAP FOR TRACT 7583 AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT

WHEREAS, Vesting Tentative Tract Map No. 7583, Highland Villas, was approved by the Planning Commission on September 22, 2005, and the Final Map for Tract 7583 has been presented to the City Council of the City of Hayward for development of 14 single family dwelling units, located a parcel totaling 1.3 acres generally located along Hayward Boulevard and Tribune Avenue in the Hayward Highlands area; and

WHEREAS, the Director of Public Works/City Engineer reviewed the Final Map and found it to be in substantial compliance with the approved vesting tentative tract map, the Subdivision Map Act and the City of Hayward regulations.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby find that the Final Map for Tract 7583 is in substantial compliance with the approved Vesting Tentative Tract Map and does hereby approve the Final Map, subject to the subdivider entering into an agreement for the construction of improvements and other obligations as required by the conditions of approval of the vesting tentative map for Tract 7583, and that the approval of the Final Map for Tract 7583 shall not be effective until and unless such agreement is entered into.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized for and on behalf of the City of Hayward to negotiate and execute a subdivision agreement in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

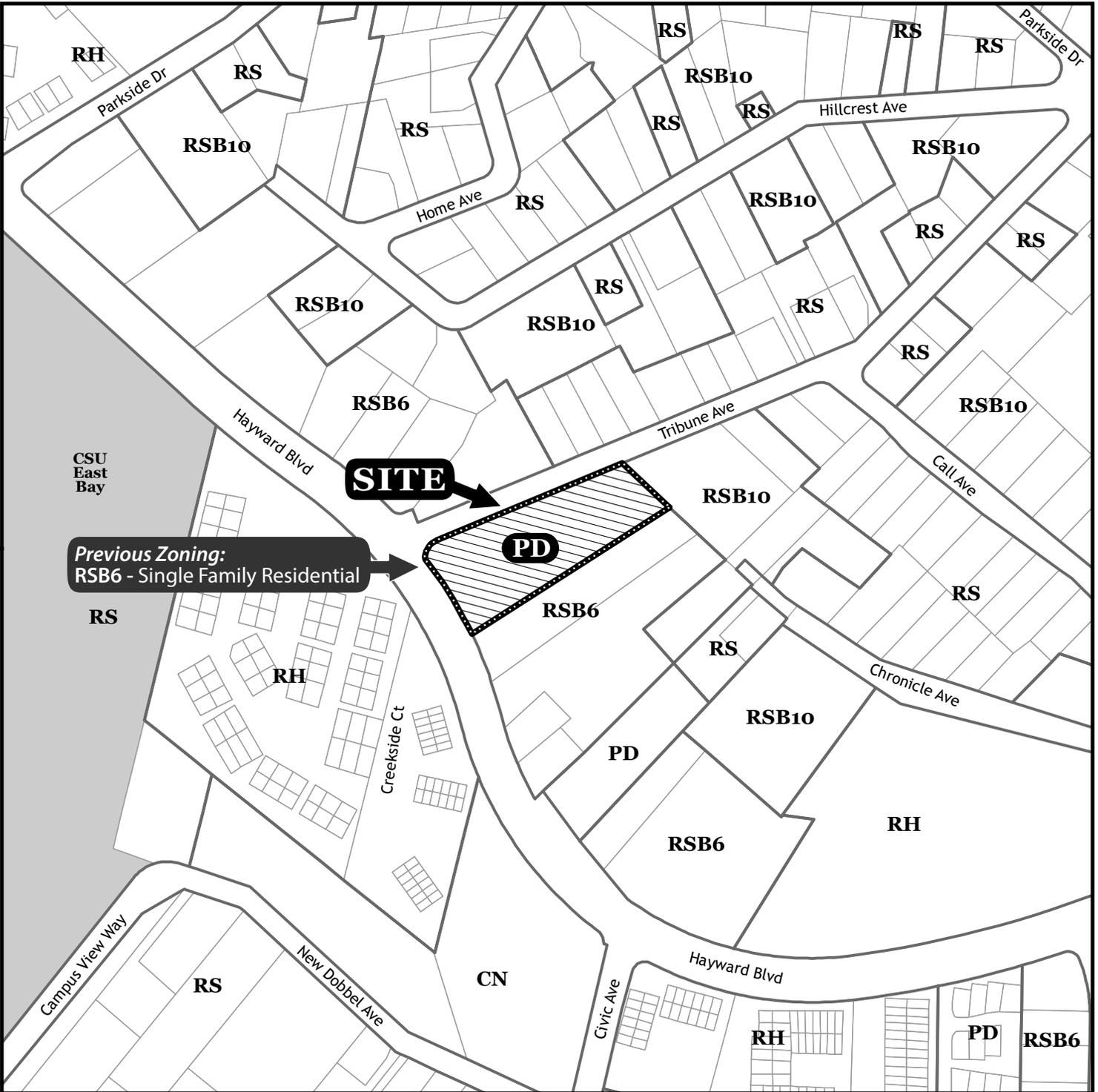
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Area & Zoning Map



PL-2004-0628 TTM 7583 & PL-2004-0627 ZC

Address:
26528 Hayward Blvd

Applicant:
Highland Villas, LLC

Owner:
Uni Trust

Zoning Classifications

RESIDENTIAL

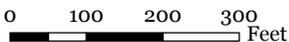
- RH High Density Residential, min lot size 1250 sqft
- RS Single Family Residential, min lot size 5000 sqft
- RSB6 Single Family Residential, min lot size 6000 sqft
- RSB10 Single Family Residential, min lot size 10000 sqft

COMMERCIAL

CN Neighborhood Commercial

OTHER

- PD Planned Development
- RNP Residential Nature Preserve

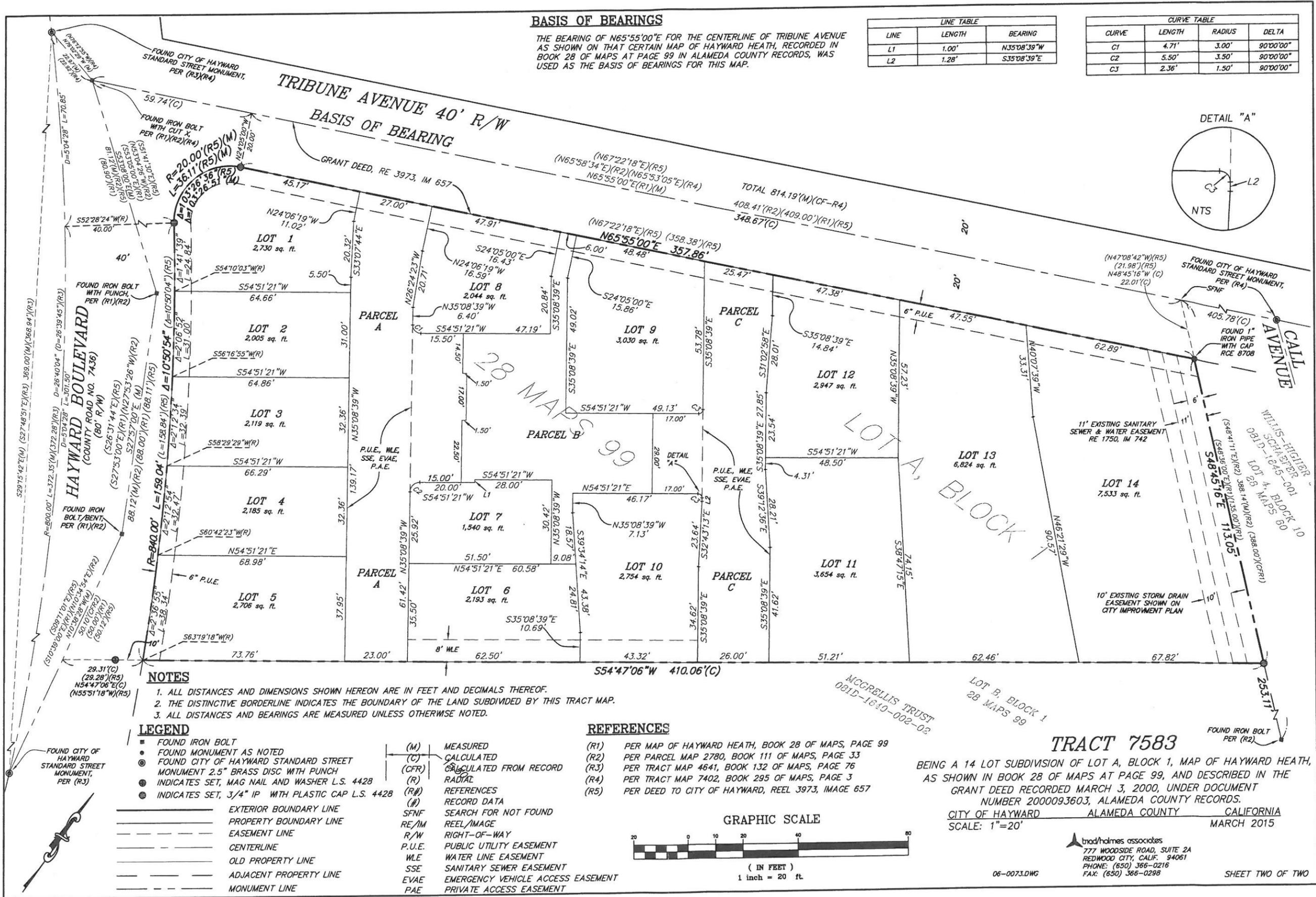
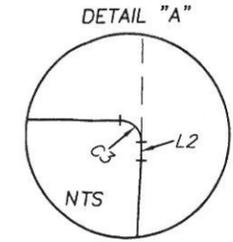


BASIS OF BEARINGS

THE BEARING OF N65°55'00"E FOR THE CENTERLINE OF TRIBUNE AVENUE AS SHOWN ON THAT CERTAIN MAP OF HAYWARD HEATH, RECORDED IN BOOK 28 OF MAPS AT PAGE 99 IN ALAMEDA COUNTY RECORDS, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

LINE TABLE		
LINE	LENGTH	BEARING
L1	1.00'	N35°08'39"W
L2	1.28'	S35°08'39"E

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	4.71'	3.00'	90°00'00"
C2	5.50'	3.50'	90°00'00"
C3	2.36'	1.50'	90°00'00"



NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
2. THE DISTINCTIVE BORDERLINE INDICATES THE BOUNDARY OF THE LAND SUBDIVIDED BY THIS TRACT MAP.
3. ALL DISTANCES AND BEARINGS ARE MEASURED UNLESS OTHERWISE NOTED.

LEGEND

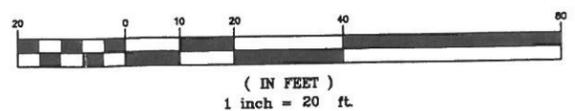
- FOUND IRON BOLT
- FOUND MONUMENT AS NOTED
- FOUND CITY OF HAYWARD STANDARD STREET MONUMENT 2.5" BRASS DISC WITH PUNCH
- ⊙ INDICATES SET, MAG NAIL AND WASHER L.S. 4428
- ⊙ INDICATES SET, 3/4" IP WITH PLASTIC CAP L.S. 4428
- EXTERIOR BOUNDARY LINE
- PROPERTY BOUNDARY LINE
- EASEMENT LINE
- CENTERLINE
- OLD PROPERTY LINE
- ADJACENT PROPERTY LINE
- MONUMENT LINE

- (M) MEASURED
- (C) CALCULATED
- (CFR) CALCULATED FROM RECORD
- (R) RADIAL
- (R#) REFERENCES
- (#) RECORD DATA
- SFNF SEARCH FOR NOT FOUND
- RE/IM REEL/IMAGE
- R/W RIGHT-OF-WAY
- P.U.E. PUBLIC UTILITY EASEMENT
- WLE WATER LINE EASEMENT
- SSE SANITARY SEWER EASEMENT
- EVAE EMERGENCY VEHICLE ACCESS EASEMENT
- PAE PRIVATE ACCESS EASEMENT

REFERENCES

- (R1) PER MAP OF HAYWARD HEATH, BOOK 28 OF MAPS, PAGE 99
- (R2) PER PARCEL MAP 2780, BOOK 111 OF MAPS, PAGE 33
- (R3) PER TRACT MAP 4641, BOOK 132 OF MAPS, PAGE 76
- (R4) PER TRACT MAP 7402, BOOK 295 OF MAPS, PAGE 3
- (R5) PER DEED TO CITY OF HAYWARD, REEL 3973, IMAGE 657

GRAPHIC SCALE



TRACT 7583

BEING A 14 LOT SUBDIVISION OF LOT A, BLOCK 1, MAP OF HAYWARD HEATH, AS SHOWN IN BOOK 28 OF MAPS AT PAGE 99, AND DESCRIBED IN THE GRANT DEED RECORDED MARCH 3, 2000, UNDER DOCUMENT NUMBER 2000093603, ALAMEDA COUNTY RECORDS.
CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA
SCALE: 1"=20' MARCH 2015

brad/holmes associates
777 WOODSIDE ROAD, SUITE 2A
REDWOOD CITY, CALIF. 94061
PHONE: (650) 366-0216
FAX: (650) 366-0298



DATE: June 16, 2015

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Downtown Business Improvement Area Annual Report and Proposed Budget for FY 2015-2016

RECOMMENDATION

That the City Council adopts a resolution accepting the Annual Report and declaring intention not to levy annual charges for the Downtown Hayward Business Improvement Area (DBIA) for Fiscal Year 2016.

BACKGROUND

Hayward's Downtown Business Improvement Area (DBIA) was established by the City Council in 1985. The DBIA's purpose is to promote the economic revitalization and physical improvement of the downtown business district and to attract new businesses to the downtown. Funding for the DBIA is generated by assessment fees collected from business owners in the three downtown zones.

Historically, the DBIA funds received were coupled with financial support from the Hayward Redevelopment Agency and were used to promote and improve downtown Hayward. With the State of California's decision to eliminate Redevelopment Agencies in 2012, DBIA funding was essentially reduced by fifty percent and greatly compromised program effectiveness. Coupled with the downturn in the economy, annual DBIA fee assessments have been averaging \$43,000 for the last several years and have been directed to select services including sidewalk cleaning, special event funding, and marketing. Administrative support of the DBIA has been handled through the City Manager's Office and staff time and resources to administer the collected DBIA funds has reduced time available for other priority programs.

The City is currently evaluating a Community Benefit District (CBD) to provide necessary funding to support downtown priorities. By providing a stable source of revenue derived from property owners, including the City and Bay Area Rapid Transit, the funding generated could provide for the desired services to improve the downtown including sidewalk cleanliness, security, marketing, and special events.

Understanding that the City and DBIA are potentially moving away from assessing businesses, the DBIA Advisory Board made the decision to set aside approximately \$50,000 for fiscal year 2015-2016 and begin spending down remaining DBIA balance held in reserve.

The DBIA's Annual Report and Proposed Budget for FY 2016 are included with this report as Attachment II. Mandated by State legislation, the Annual Report is required to discuss a variety of topics concerning boundaries, levy rates, business classifications, recommended funding from the DBIA levy, and other sources. It also recommends the DBIA activities for the upcoming fiscal year.

DISCUSSION

Since the elimination of the Redevelopment Agency support in 2012, the DBIA funding and program effectiveness has been greatly reduced creating a question of long term viability of the DBIA and its funding and administration structure. The Downtown remains a focal point of City activity; however, its current needs in terms of marketing, maintenance, cleanliness, and hosting of community events is far greater than the DBIA assessments and funding capacity.

All administrative activities of the DBIA are administered through the City from the General Fund. Current activities supporting the DBIA include: DBIA assessments and collections; administration and legal review of service contracts; DBIA Advisory Board quarterly meetings and special meetings; and fulfillment of regulatory requirements of the DBIA. Given the activities and funding level of the DBIA, City staff resources allocated to the collection and administration of the very limited annual DBIA revenues has become a strain on limited City resources.

Through discussions with the DBIA Advisory Board and current activities for the potential formation of the Community Benefit District, staff is recommending approval of the below 2015-2016 budget and suspension of the Annual Downtown Business Improvement Area fees and annual Public Hearing to set levy amounts. The suspension of levying fees for the DBIA for next year will wind down activities of the DBIA in 2017, allowing the City and Downtown Property owners to determine if the CBD is a desired approach to address the needs of the Downtown. If the CBD approach is determined not a desired approach, then the City would re-evaluate the DBIA assessment for FY2017.

The proposed FY 2015-2016 DBIA budget (Table 1) is listed below:

TABLE 1

REVENUES	
DBIA Assessments	\$ 0
Total Revenues	\$ 0
EXPENSE ITEMS	
EVENTS	
Summer Street Parties	\$ 24,000
Vintage Alley Car Show (9/12/15)	\$ 6,000
Mariachi Festival	\$ 500
Light Up the Season	\$ 500
2016 Bike Rodeo	\$ 7,500
Undetermined Events	\$ 4,500
ARTscape	\$ 7,000
2016 Asian American Heritage Festival	\$ 1,000
Item Subtotal:	\$ 51,000
BEAUTIFICATION	
Undetermined	\$ 45,000
Item Subtotal:	\$ 45,000
TOTAL EXPENSES	\$ 96,000
BEGINNING FUND BALANCE	\$ 139,516
ENDING FUND BALANCE	\$ 43,516

FISCAL AND ECONOMIC IMPACT

Business Improvement Districts exist to help create the conditions that support a robust downtown economy. The DBIA mission/vision statement is: “To create a safe, clean, and inviting downtown environment that supports existing businesses, attracts new businesses, and increases the number of downtown visitors.”

As discussed above, the cost to levy, collect and administer the DBIA funds is handled through the City staff. No administration fees or costs for services are charged to the DBIA collections. A fully burdened cost benefit analysis has not been prepared, but given the staff time supporting DBIA assessments and collections, administration and legal review of service contracts, DBIA Advisory Board quarterly meetings and special meetings, and fulfillment of regulatory requirements for collection of \$40,000 to \$50,000 in annual revenues has become an area of concern given limited City resources.

If the Community Benefits District comes to fruition, the monies generated could be used for additional downtown security, regular sidewalk cleanings, and to combat blight created by vacant properties; all the items and issues the DBIA has been unable to address with a steadily decreasing

budget. If the Community Benefits District does not come to fruition, then collection of DBIA assessments could be reevaluated and potentially reestablished.

PUBLIC CONTACT

The DBIA Advisory Board met on the following dates during FY 2015: October 1, 2014; January 7, 2015; and April 1, 2015. A representative from the Hayward Chamber of Commerce attended DBIA Board meetings to report on Chamber activities. The DBIA and Chamber coordinate closely on the street party implementation. A special DBIA meeting was held January 28, 2015 to discuss budget options. On April 1, 2015, a quorum of the DBIA Advisory Board adopted a motion approving the proposed FY 2016 budget.

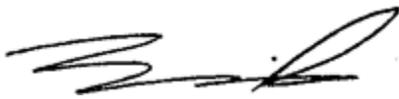
NEXT STEPS

With the proposed suspension to collect DBIA assessment fees for fiscal year 2015-2016, staff has not included a resolution to set a Public Hearing to determine fee amounts. Staff will continue to support the DBIA to implement the proposed DBIA budget for FY2016.

Prepared by: Suzanne Philis, Senior Secretary, Economic Development

Recommended by: Micah Hinkle, Economic Development Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I:	Resolution
Attachment II:	FY 2015 Annual Report and FY 2016 Proposed Budget

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

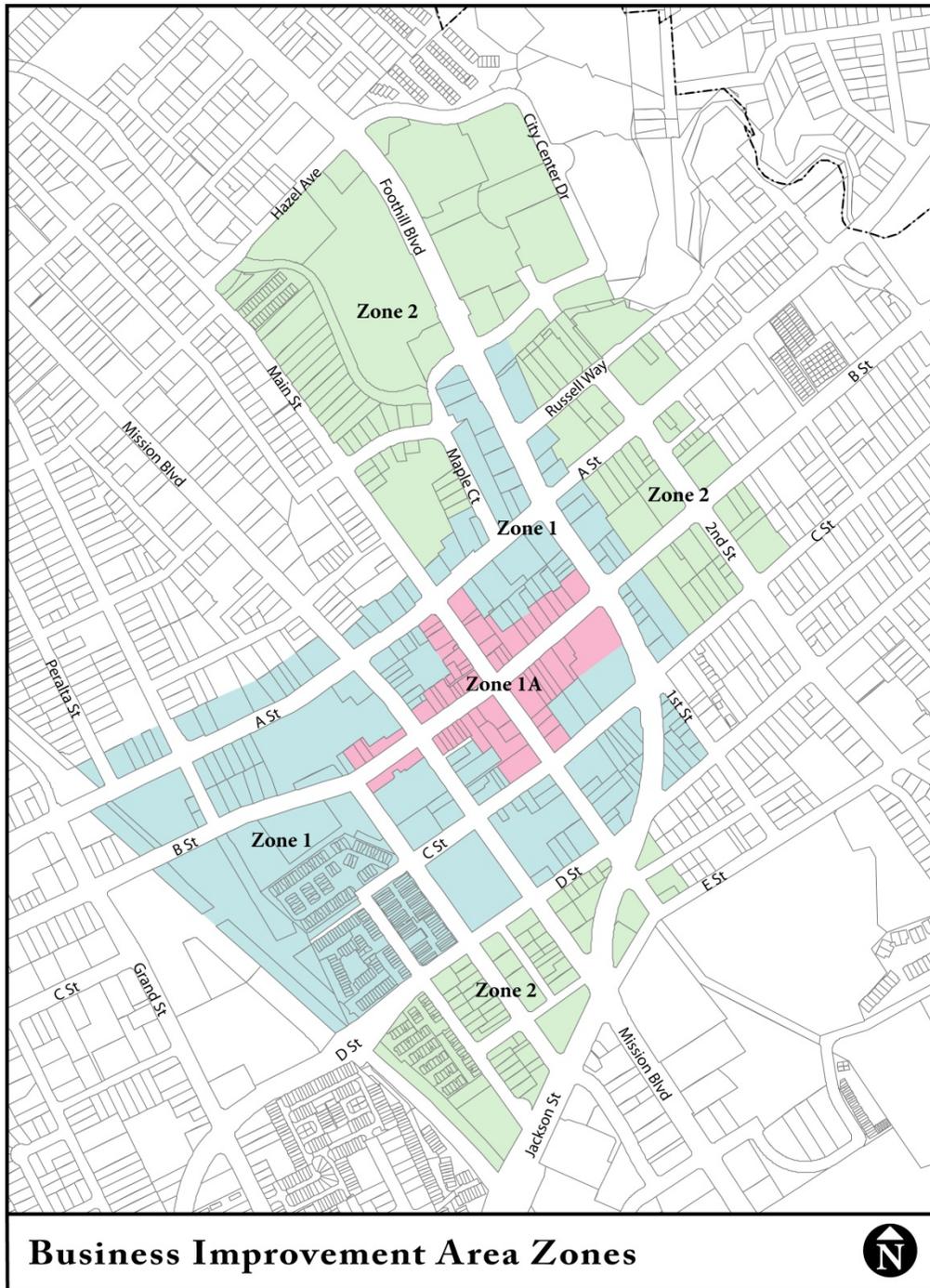
Introduced by Council Member _____

RESOLUTION ACCEPTING THE ANNUAL REPORT AND
DECLARING INTENTION NOT TO LEVY ANNUAL
CHARGES FOR THE DOWNTOWN HAYWARD BUSINESS
IMPROVEMENT AREA (DBIA) FOR FISCAL YEAR 2016

BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. On January 1, 1985, the City Council established the Downtown Hayward Business Improvement Area pursuant to section 36500 et. seq of the Streets and Highways Code of the State of California, which was commonly known as the Parking and Business Improvement Area Law of 1979 and, as now codified, is commonly known as the Parking and Business Improvement Law of 1989.
2. Funds collected from the Hayward Business Improvement Area received were coupled with financial support from the Hayward Redevelopment Agency and were used to promote and improve downtown Hayward including sidewalk cleanness, security, marketing, and special events.
3. Since the elimination of the Hayward Redevelopment Agency support in 2012, the DBIA funding and program effectiveness has been greatly reduced creating a concern of long term viability of the DBIA and its funding and administration structure. The City is currently evaluating a Community Benefit District (CBD) to provide necessary funding to support downtown priorities including sidewalk cleanness, security, marketing, and special events.
4. The Advisory Board for the Downtown Hayward Business Improvement Area prepared an annual report for the fiscal year July 1, 2014, to June 30, 2015, on behalf of the Downtown Hayward Business Improvement Area pursuant to section 36533 of the California Streets and Highway Code, which report, on file in the office of the City Clerk, is hereby accepted by the City Council. Said report may be referred to for the particulars as to the detailed descriptions of improvements and activities to be provided, that the City does not intend to levy assessment charges, the benefit zones within the area, and exact boundaries of the area.
5. It is the intention of the City Council to cancel the collection of charges within the Downtown Hayward Business Improvement Area for fiscal year 2016 as set forth in the annual report or such report as hereafter modified. Existing funds up to \$96,000 may be used for both new and returning events and beautification. The area of fund expenditure is generally described on the map attached hereto as Attachment I-A.

Map of Downtown Business Improvement District



Sidewalk Cleaning Contract: \$34,300

In cooperation with Maintenance Services staff, the DBIA agreed to pay \$34,300 for two steam cleanings of the entire DBIA area and one deep cleaning (gum removal). To date, \$23,487 has been paid out, with the entire amount funded to be transferred by the end of the fiscal year.

The Annual Report addresses the following six topic areas:**1. PROPOSED BIA BOUNDARY CHANGES DURING FY 2016**

The Advisory Board is proposing no changes to the boundaries at this time. Figure 1 on page six of this report shows a map of the DBIA boundaries.

2. STATEMENT OF PROPOSED BUDGET AND ACTIVITIES FOR FY 2016

The services recommended by the DBIA Advisory Board were guided by their “mission/vision” statement: “To create a safe, clean, and inviting downtown environment that supports existing businesses, attracts new businesses, and increases the number of downtown visitors.” As of June 1, 2015, the City’s Finance Department had collected \$44,177 in assessment fees. The Proposed FY2016 DBIA Budget can be found in Table 2 at the end of this attachment.

PROPOSED ACTIVITIES FOR FISCAL YEAR 2016:**Events: \$51,000**

Board Members agreed that downtown events benefit local businesses and voted unanimously to fund the highly anticipated Summer Street Parties (July and August 2015, and June 2016), new events including the Bike Rodeo and ARTScape event, and fund emerging events such as the 2016 Asian American Heritage Festival.

Beautification: \$45,000

DBIA Members voted to allocate \$45,000 for “Beautification.” At the counsel of staff, members were advised to allocate monies during the budget planning period and determine exact uses later. Money left unspent would roll back into reserves.

3. PROPOSED BUDGET EXPENDITURES FY 2016

The total proposed budget for fiscal year 2015 is \$96,000.

4. PROPOSED METHOD AND BASIS FOR LEVYING DBIA ASSESSMENTS

The DBIA zones are indicated below. It is proposed that collection of fees is terminated.

5. CONTRIBUTIONS FROM OTHER SOURCES

The proposed budget includes the use of \$45,000 from the budget reserve.

6. CLOSING STATEMENT OF THE BOARD

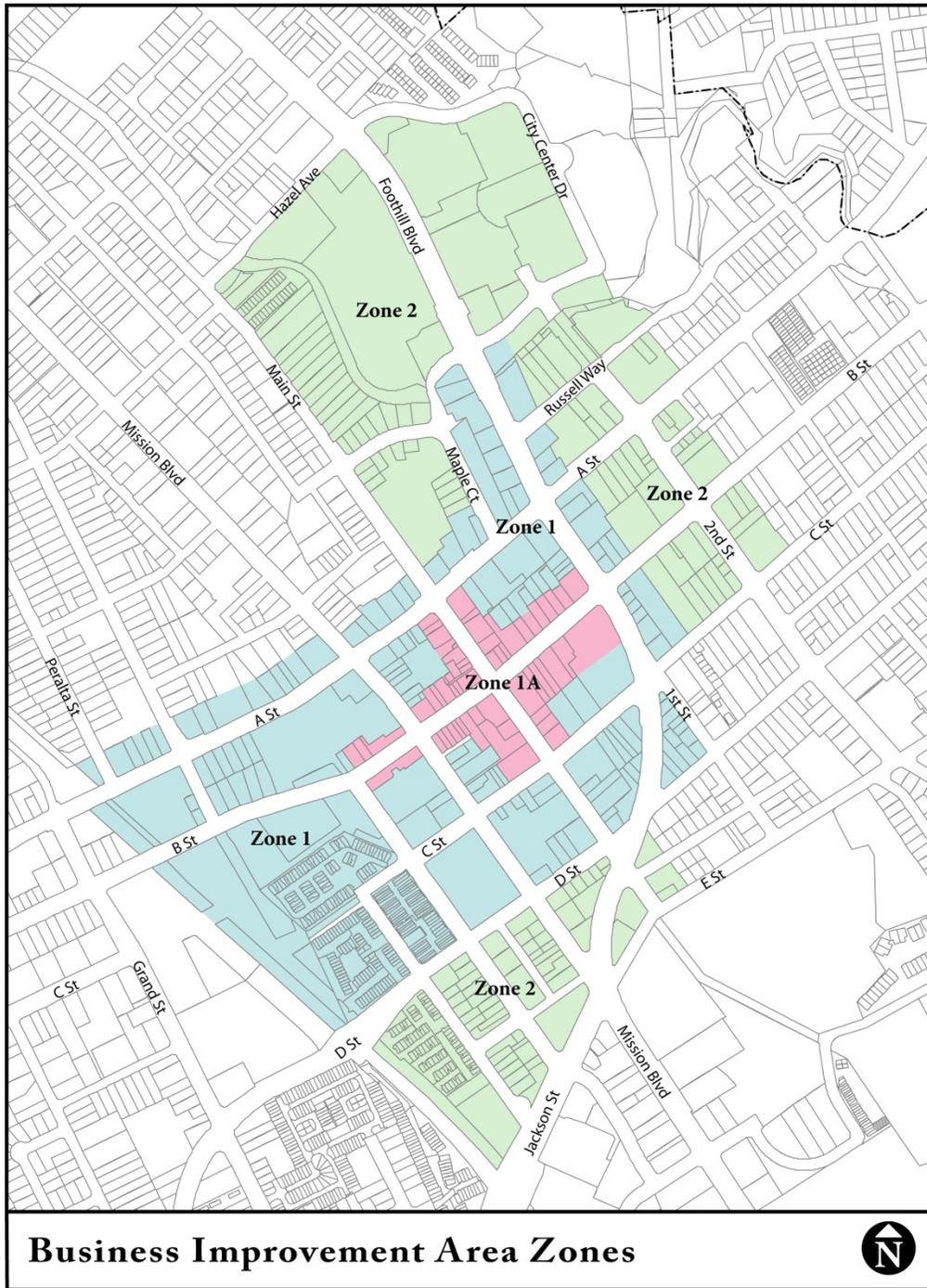
The Downtown Hayward BIA Advisory Board will continue to seek input from downtown merchants to ensure that the District's limited funds best reflect the memberships' priorities for downtown services. This year the Advisory Board will be focused on spending down reserves and representing downtown business interests while migrating to a property owner-based fee district.

Table 1: FY 2015 DBIA BUDGET		
	Budget	Actual*
REVENUES:		
DBIA Assessment	\$ (57,000)	\$ (44,177)
<i>Subtotal Revenue</i>	<u>\$ (57,000)</u>	<u>\$ (44,177)</u>
Total Revenue	\$ (57,000)	\$ (44,177)
EXPENSES:		
Events		
Summer Street Parties	\$ 22,500	\$ 15,000
Annual Vintage Alley Car Show (9/12/15)	\$ -	\$ -
Mariachi Festival	\$ -	\$ -
Light Up The Season	\$ -	\$ -
Bicycle Rodeo	\$ 8,200	\$ 8,200
Asian Heritage Event	\$ 1,000	\$ -
Unassigned Events	\$ 800	\$ -
Artscape	\$ -	\$ -
<i>Subtotal Events</i>	<u>\$ 32,500</u>	<u>\$ 23,200</u>
Banners		
2nd Banner Rotation	\$ -	\$ 25,227
<i>Subtotal Banners</i>	<u>\$ -</u>	<u>\$ 25,227</u>
Area Beautification		
Biannual Sidewalk Cleaning	\$ 14,300	\$ 15,672
Deep Cleaning of All BIA Sidewalks	\$ 20,000	\$ 7,815
<i>Subtotal Beautification</i>	<u>\$ 34,300</u>	<u>\$ 23,487</u>
Security		
Security Program	\$ 20,200	\$ -
<i>Subtotal Security</i>	<u>\$ 20,200</u>	<u>\$ -</u>
Total Expenses	\$ 87,000	\$ 71,914
Transfers In	\$ (11,000)	\$ (11,242)
Transfers Out	\$ 59,160	\$ 59,160
Net Change in Fund Balance	\$ 135,160	\$ 75,655
Beginning Fund Balances	\$ (233,827)	\$ (233,827)
Ending Fund Balances	\$ (98,098)	\$ (139,516)

*As of June 2, 2015 Fund 280 MUNIS Account Inquiry

Table 2: FY 2016 DBIA PROPOSED BUDGET	
	Budget
REVENUES:	
DBIA Assessment	-
<i>Subtotal Revenue</i>	<u>-</u>
Total Revenue	-
EXPENSES:	
Events	
Street Parties (Third Thursday)	24,000.00
Annual Vintage Alley Car Show (9/12/15)	6,000.00
Mariachi Festival	500.00
Light Up The Season	500.00
Bicycle Rodeo	7,500.00
Asian Heritage Event	1,000.00
Unassigned Events	4,500.00
Artscape	7,000.00
<i>Subtotal Events</i>	<u>51,000.00</u>
Area Beautification	
Undetermined	45,000.00
<i>Subtotal Beautification</i>	<u>45,000.00</u>
Total Expenses	96,000.00
Net Change in Fund Balance	(96,000.00)
Beginning Fund Balances	139,516.02
Ending Fund Balances	43,516.02

Figure 1: Map of Downtown Business Improvement District



Services	Zone 1A	Zone 1	Zone 2
Banners	√	√	√
Street Parties, etc.	√		
Side Walk Cleaning (Twice)	√	√	√
Side Walk Deep Cleaning	√	√	√
BIA Members Communications	√	√	√

DATE: June 16, 2015

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Authorize the City Manager to Execute an Amendment to the Agreement with Buchalter-Nemer for Development of Land Use/Zoning Regulations and Related Environmental Impact Analysis for the Hayward Executive Airport Influence Area.

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to execute an Amendment to the Agreement with Buchalter-Nemer for the development of Land Use/Zoning Regulations and Related Environmental Impact Analysis for the Hayward Executive Airport Influence Area, increasing the budget from \$50,000 to an amount not to exceed \$100,000.

BACKGROUND

On January 13, 2015, the City Council adopted Resolution 15-007, authorizing the City Manager to execute an Agreement for up to \$50,000 with Buchalter-Nemer to provide consultant services to assist in the development of airport-related regulations and development standards for the influence area of the City of Hayward's Executive Airport.

The objectives of the project are to:

- Ensure Hayward's ability to secure FAA grants/funding for the airport are not undermined or reduced;
- Ensure the most flexibility exists for future development at our regional mall, Southland Mall, in compliance with Federal and State regulations; and
- Satisfy the policies and implementation programs of our General Plan.

DISCUSSION

On January 16, 2015, the City entered into an Agreement with Buchelter-Nemer. The Scope of Work includes the following nine (9) major tasks, with costs per the original Agreement indicated for each task:

- Task 1: Initial meeting with City staff (\$3,845)
- Task 2: Review relevant documents, policies and information (\$4,380)

- Task 3: Develop draft regulations that satisfy stated objectives (\$13,600)
- Task 4: Revise draft regulations based on City staff input (\$2,100)
- Task 5: Prepare a staff report (1) and attend City Council and Planning Commission work sessions (2) (\$4,905)
- Task 6: Attend a public/community meeting (\$2,550)
- Task 7: Finalize draft regulations (\$2,100)
- Task 8: Prepare CEQA analysis on regulations (\$13,600)
- Task 9: Develop draft staff reports for Planning Commission and City Council public hearings (\$2,500)

Tasks 1-3 have been completed. It was anticipated the work would be completed prior to the end of this fiscal year, but completion of the work will occur next fiscal year, with public hearings anticipated for the fall because further evaluation is needed in order to determine whether a Mitigated Negative Declaration will be sufficient (tiering off the General Plan Environmental Impact Report (EIR)), or if a new EIR is necessary. Also, Tasks 2 and 3 have exceeded original agreement estimates, given the large amount of background material required to be reviewed and the complexity and work required in developing the first draft of the regulations.

ECONOMIC IMPACT

Clarity regarding regulations pertaining to development within the Hayward Airport Influence Area, which the new regulations will provide, will help expedite projects in this portion of Hayward, benefitting developers and property owners.

FISCAL IMPACT

Funding for the original agreement was to be shared in this fiscal year's budgets between the Development Services Department (\$23,000; 46%), the Economic Development Division within the City Manager's Office (\$17,000; 34%), and the Hayward Airport Fund (\$10,000; 20%). If Council approves the additional maximum amount of \$50,000 in funding, such costs will again be shared between the three departments, and can be absorbed within approved (FY15) or proposed (FY16) budgets.

PUBLIC CONTACT

No public contact has occurred associated with this action.

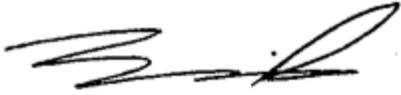
NEXT STEPS

Upon Council approval of the attached resolution, staff will execute an Amendment to the Agreement with Buchalter-Nemer.

Prepared by: Jade Kim, Administrative Analyst

Recommended by: David Rizk, AICP, Development Services Director
 Micah Hinkle, Economic Development Manager
 Morad Fakhrai, Public Works Director for Engineering and Transportation

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Draft Resolution
Attachment II	Resolution #15-007

HAYWARD CITY COUNCIL

RESOLUTION NO.15-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH BUCHALTER-NEMER FOR DEVELOPMENT OF LAND USE/ZONING REGULATIONS AND RELATED ENVIRONMENTAL IMPACT ANALYSIS FOR THE HAYWARD EXECUTIVE AIRPORT INFLUENCE AREA.

WHEREAS, on January 13, 2015, Council adopted Resolution 15-007, authorizing the City Manager to execute an Agreement with Buchalter-Nemer to provide consultant services to assist in the development of airport-related regulations and development standards for the influence area of the City of Hayward's Executive Airport; and

WHEREAS, on January 16, 2015, the City entered into an Agreement with Buchalter-Nemer with included the following nine (9) major tasks:

- Task 1: Initial meeting with City staff
- Task 2: Review relevant documents, policies and information
- Task 3: Develop draft regulations that satisfy stated objectives
- Task 4: Revise draft regulations based on City staff input
- Task 5: Prepare a staff report (1) and attend City Council and Planning Commission work sessions (2)
- Task 6: Attend a public/community meeting
- Task 7: Finalize draft regulations
- Task 8: Prepare CEQA analysis on regulations
- Task 9: Develop draft staff reports for Planning Commission and City Council public hearings; and

WHEREAS, further funding is needed, primarily related to Tasks 2 and 3 above, and further evaluation is needed in order to determine whether a Mitigated Negative Declaration will be sufficient or if a new Environment Impact Report will be necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that the City Manager is authorized to negotiate and execute an Amendment to the Agreement with Buchalter-Nemer for Development of Land Use/Zoning Regulations and Related Environmental Impact Analysis for the Hayward Executive Airport

Influence Area, increasing the budget from \$50,000 to an amount not to exceed \$100,000.

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2015

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-007Introduced by Council Member Mendall

RESOLUTION AUTHORIZING THE CITY MANAGER
TO NEGOTIATE AND EXECUTE A CONTRACT FOR
UP TO \$50,000 WITH BUCHALTER-NEMER FOR
DEVELOPMENT OF LAND USE/ZONING
REGULATIONS AND RELATED ENVIRONMENTAL
IMPACT ANALYSIS FOR THE HAYWARD
EXECUTIVE AIRPORT INFLUENCE AREA.

WHEREAS, an updated Hayward Executive Airport Land Use Compatibility Plan (ALUCP) was approved by the Alameda County Airport Land Use Commission (ALUC) on July 18, 2012; and

WHEREAS, City staff forwarded a draft of the new Hayward General Plan in January of 2014 to the ALUC, which did not take action regarding determining the General Plan inconsistent with the ALUCP within 60 days as required by Section 2167(d) of the California Public Utilities Code, and

WHEREAS, such inaction by the ALUC resulted in the General Plan being deemed consistent with the ALUCP by operation of law and therefore, eliminated the need to refer projects within the airport influence area to the ALUC; and

WHEREAS, the City of Hayward seeks to ensure compliance with state and federal laws regarding land use near an airport and continued ability to receive FAA grants for the Hayward Executive Airport; and

WHEREAS, the City of Hayward General Plan 2040, adopted on July 1, 2014, contains the following applicable policies:

Mobility Chapter Policies:

M-10.2 Airport Land Use Compatibility

The City shall ensure uses surrounding the Hayward Executive Airport are compatible with existing and planned airport operations and comply with all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written

guidance, and State law, with respect to criteria related to land use safety and airspace protection.

Hazards Chapter Policies:

HAZ-7.1 Land Use Safety Compatibility and Airspace Protection Criteria

The City shall consider all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written guidance, and State law, with respect to criteria related to land use safety and airspace protection when evaluating development applications within the Airport Influence Area of the Hayward Executive Airport.

HAZ-7.2 Airport Land Use Compatibility Plan

The City shall require all development projects within the Airport Influence Area designated in the Airport Land Use Compatibility Plan of the Hayward Executive Airport to comply with all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written guidance, and State law, with respect to criteria related to land use safety and airspace protection.

HAZ-8.14 Airport Noise

The City shall monitor noise impacts from aircraft operations at the Hayward Executive Airport and maintain and implement the noise abatement policies and procedures outlined in the Airport Noise Ordinance and Airport Land Use Compatibility Plan.

HAZ-8.15 Airport Noise Evaluation and Mitigation

The City shall require project applicants to evaluate potential airport noise impacts if the project is located within the 60 dB CNEL contour line of the Hayward Executive Airport or Oakland International Airport (as mapped in the Airport Land Use Compatibility Plan). All projects shall be required to mitigate impacts to comply with the interior and exterior noise standards established by the Airport Land Use Compatibility Plan.

HAZ-8.16 Airport Disclosure Notices

The City shall require that all new development within an airport-defined over-flight zone provide deed notices disclosing airport over-flights and noise upon transfer of title to future residents and property owners; and

WHEREAS, on November 7, 2014, the Development Services Department solicited proposals for consultant services to assist in the development of airport regulations and standards for the Hayward Executive Airport's Airport Influence Area; and

WHEREAS, Buchalter-Nemer ("Consultant") submitted a proposal to provide such services; and

WHEREAS, Consultant is specially trained, experienced, and competent to perform the special services that will be required.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that the City Manager is authorized to negotiate and execute an Agreement up to \$50,000 with Buchalter-Nemer to provide consultant services to assist in the development of airport-related regulations and development standards for the influence area of the City of Hayward's Executive Airport, in a form acceptable to the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA January 13, 2015

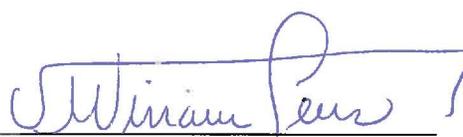
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR: Halliday

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

DATE: June 16, 2015

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Authorization to Negotiate and Execute a Master Services Agreement with Hayward Chamber of Commerce for 2015-2016 Special Event Season

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) authorizing the City Manager to negotiate and execute a professional services agreement with Hayward Chamber of Commerce for Special Event Production in an amount not to exceed \$48,500.

BACKGROUND AND DISCUSSION

The City of Hayward and Hayward Chamber of Commerce have partnered on multiple community events to promote the City of Hayward and the business community over the years. For the 2014-2015 event session, the City and the Chamber completed three Downtown Summer Street Parties, the annual Light-Up the Season winter event, and most recently the family-friendly, Bike Rodeo event. These events benefitted local businesses by bringing the community downtown for shopping and dining and by creating a festive atmosphere. As part of the Economic Development Strategic Plan, strengthening and expanding events was identified as an economic development goal. To that end, the City has been working with event sponsors including the Chamber of Commerce to grow and enhance community events.

Historically, separate contracts with the Chamber have been developed for the Street Parties and Light Up the Season. In order to streamline contracting for events with the Chamber, staff developed a Master Services Agreement that encompasses all funded events with the Hayward Chamber of Commerce for fiscal year 2015-2016.

FISCAL IMPACT

The Downtown Business Improvement Area (DBIA) Board has recommended approval of \$32,500 from the DBIA fund to support Chamber Sponsored Special Events within the DBIA District Boundaries. In addition, as part of the approved FY 2015-2016 Budget, Council allocated \$16,000 funds for Light up the Season for a total events budget of \$48,500.

ECONOMIC IMPACT

Special events in Downtown Hayward create both direct and indirect economic impacts. Direct economic impacts include the increased sales and exposure experienced by businesses on the day of the event. Attendance to downtown events has remained steady or grown with approximately 5,000 attendees to each of the Downtown Street Parties and with warm weather, the Chamber reports numbers as high as 8,000. Downtown businesses report increased sales on the day of the event as many participants visit restaurants and shop retail stores when hours are extended. The indirect economic impacts include the additional spending made by the businesses. For example, local restaurants that benefit from increased revenue from the event may in turn purchase more inputs from local suppliers, offer workers additional hours, and/or spend a portion of new revenue within the community.

Special events are also an important tool for creating community cohesion and marketing Hayward as a whole. For example, Light Up the Season, Hayward's holiday celebration, consistently draws families downtown for ice skating, pictures with Santa, and the tree lighting ceremony led by the Mayor. These special events foster a sense of community for Hayward residents and draws both residents and visitors downtown to see what's new. As more residents and visitors experience the downtown's revitalization through these events, they are more likely to return and patronize these and other Hayward businesses.

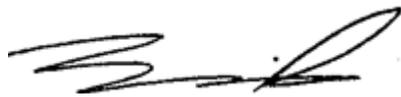
NEXT STEPS

Once Council approves the resolution and proposed Master Services Agreement, staff will execute the agreement.

Prepared by: Suzanne Philis, Senior Secretary

Recommended by: Micah Hinkle, Economic Development Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I Draft Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH THE HAYWARD CHAMBER OF COMMERCE FOR THE FY2015-2016 EVENT SEASON

WHEREAS the City of Hayward and the Hayward Chamber of Commerce have partnered to organize community events for many years; and

WHEREAS these events create a sense of community for residents and bring people downtown to shop and dine at local businesses; and

WHEREAS without funding assistance from the Downtown Business Improvement Area Advisory Board and the City of Hayward these events would not take place; therefore

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a professional services agreement with the Hayward Chamber of Commerce for the fiscal year 2015-2016 event season in an amount not to exceed \$48,500.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

DATE: June 16, 2015
TO: Mayor and City Council
FROM: Chief of Police
SUBJECT: Review of 3rd Quarter Progress for Police Department

RECOMMENDATION

That Council reviews and comments on the Police Department's 3rd quarter report on their progress towards achieving the Council Priorities for FY 2015.

BACKGROUND

The Police Department reports quarterly to Council on progress on the Department's six performance measurements for FY 2015 as originally adopted by Council on May 21, 2013. This report covers actions taken or completed by the Police Department in relation to Council Priorities during the 3rd quarter of FY 2015¹.

DISCUSSION

Priority #1: Reduce the number of Part I² crimes consistently over the next three years.

*Reduce theft-related crimes by five percent (burglary, auto theft, larceny).
Include Part I Uniform Crime Report data in the city manager's bi-weekly report.*

Quarterly Progress as shown on the following chart:

- Burglary – The burglary rate is down fifteen percent year -over-year for the quarter.
- Larceny³ - Larceny is down three percent.

¹ The 3rd quarter for FY 2015 covers January 1, 2015 through March 31, 2015.

² In Part I, the UCR indexes reported incidents in two categories: violent and property crimes. [Aggravated assault](#), [forcible rape](#), [murder](#), and [robbery](#) are classified as violent while [arson](#), [burglary](#), [larceny-theft](#), and [motor vehicle theft](#) are classified as property crimes. These offenses were chosen because they are serious crimes, they occur with regularity in all areas of the country, and they are likely to be reported to police.

³ The FBI's Uniform Crime Reporting (UCR) Program defines larceny-theft as the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles, motor vehicle parts and accessories, shoplifting, pocket-picking, or the stealing of any property or article that is not taken by force and violence or by fraud.

- Auto Theft – Auto Theft also saw a decrease this reporting period of seven percent.
- Overall – Theft-related crimes all saw decreases this reporting period. The Department met and exceeded the five percent reduction rate for the period.

	January		February		March		Quarter		Quarterly Summary: Year over Year		Performance Against Measure – All Theft	
	2014	2015	2014	2015	2014	2015	2014	2015	#	%	#	%
Burglary	73	65	91	75	69	57	233	197	-36	-15%	-77	-6%
Larceny	205	238	192	170	211	184	608	592	-16	-3%		
Auto Theft	132	108	115	128	114	100	361	336	-25	-7%		

The first three months of 2015 yielded new law enforcement technology tools for the Hayward Police Department. Automated License Plate Readers or ALPR have been outfitted on two patrol vehicles. This technology constantly scans license plates and compares the scans of stolen car, stolen plate, and felony warrant plate data from the California Department of Justice databases. Training on how to use this technology as well as the policy governing its use is slated to be completed in the coming months.

Alameda County has provided the Hayward Police Department with ten Mobile ID fingerprint readers. These handheld, cell-phone sized devices utilize Bluetooth technology to scan fingerprints in the field and relay the fingerprint data to crime databases in Alameda and Contra Costa Counties. This can be especially useful in situations where a false-id is provided or incorrect identity details are shared with law enforcement officers. These devices will be deployed after policy and training governing their use is completed.

In the first three months of 2015, twenty-five Taser Axon Flex body worn cameras have recorded close to 500 hours of body camera video. These devices continue to perform well in the field and remain durable despite every day, rugged use.

Actions taken this quarter:

There was one homicide that actually occurred during this quarter and one that occurred during the last quarter, but the victim died during this quarter. The suspect involved in the homicide that occurred in this quarter has been arrested. The suspect(s) involved in the other homicide has (have) not been identified.

A male suspect shot at several Cal State University of the East Bay (CSUEB) students during an unprovoked road rage incident, and then attempted to shoot and kill two HPD officers who tried to detain him. Luckily the officers were not injured and the suspect was arrested. He was already on parole for discharging a firearm. He was charged with attempted murder on the two police officers and the CSUEB students and is awaiting trial. Oakland PD investigated a murder

the same suspect likely committed earlier the same night: the suspect was charged May 13th with the high profile murder of a fourteen year-old star student and athlete from Oakland.

Investigators conducted directed enforcement in areas designated as “Hot Spots” due to burglaries and thefts. This was done in an effort to suppress these crimes and resulted in eight arrests and nine different people receiving cites for various violations.

There were three cases that involved latent print identification leading investigators to solve three cases.

Below are highlights of four outstanding cases and arrests made by HPD.

In January, an officer contacted three people in a suspicious vehicle at the Heritage Inn. A search of the vehicle revealed cocaine for sale, marijuana, and a loaded handgun. In addition to the contraband, stolen property related to two separate robberies and a robbery kit (ski mask, gloves, and black scarf) were also recovered. Three suspects were arrested and it appears the suspects may be linked to additional robberies and other violent crimes throughout the Bay Area.

In January, an attempted carjacking/robbery occurred at 254 Jackson St. The two victims were parked in the parking lot to the rear of the business. The suspect approached them on a bicycle and knocked on their vehicle window. The suspect brandished a handgun at the victims and demanded their vehicle and property in their possession. HPD arrived on scene and the suspect fled on foot; discarding the handgun which turned out to be a replica. The suspect was detained, positively identified by both victims, and the replica handgun was recovered.

In January, a City of Hayward employee had his vehicle broken into in the City Garage and his parking permit was stolen. The downtown officers reviewed hours of video surveillance footage from the City Garage and discovered the suspect who committed the theft from the vehicle also siphoned gas from a nearby car. While conducting additional follow up investigative work, they discovered a stolen license plate had been attached to another City of Hayward employee’s car. Days later they overheard a broadcast of a theft from vehicle that had just occurred on Foothill Blvd. The suspect car was similar to the car they had observed on video steal the gas and parking pass. Minutes later they located the car and, with the assistance of patrol personnel, arrested the driver, who was a wanted parolee.

In March, officers responded to an in-progress burglary; however the suspect fled prior to our arrival. While interviewing neighbors, the responding officer was able to identify a suspect that matched the CCTV video that the victim recorded on a home recording system. The suspect was contacted at his last known address, arrested, and confessed to committing the burglary.

As a community outreach strategy, HPD sent out a total of twenty-two messages via Nixle this quarter. Both community and advisory messages sent out this quarter on Nixle served the purpose of raising community awareness about pressing issues related to crime within the City of Hayward, as well as education crime prevention information. Staff is currently reviewing the Department's outreach strategy in an effort to enhance community engagement.

Several community events were held this quarter aimed at improving police-community relations and providing a forum for HPD to discuss crime trends and prevention tips with the community. Some Highlighted Events are listed below:

- "Coffee with Cops" hosted at Starbucks on Industrial Pkwy on February 7th attended by fifty people.
- The Citizen's Academy had sixty participants over nine sessions.
- The Spanish Academy had thirty-two participants over nine sessions.
- Hayward Neighborhood Alert board meeting covering the State of the City and fifty people were in attendance.
- Crime Free Multi-Housing training and thirty people were in attendance.

Priority #2: Continue strategies to geographically reduce crime in "hot spots" by five percent

The Hayward Police Department uses a data driven approach to combat and prevent crime. The most recent program put into effect, Trends n' Tactics (TNT), uses the analysis of data to narrow the patrol focus to geographical areas that create a clustering of specific crimes. Based on the analysis of this data, Northern and Southern "hot spots" are identified geographically and resources are then directed where these problems exist.

For a three week period, patrol officers spend their discretionary time in these "hot spot" locations. Each officer is encouraged to conduct walking patrols, traffic enforcement, and pedestrian stops, in addition to other proactive activities within the assigned "hot spot". At the end of the time period, ongoing analysis is performed to determine the next focus area. It should be noted the success of this plan partially relies on standard or above standard staffing levels, among other factors.

Actions taken this quarter:

Four "hot spots" within geographical zones were identified in the Northern and Southern Districts during this quarter. Patrol and K9 officers were asked to spend their discretionary patrol time conducting directed enforcement and/or high visibility patrol in the identified "hot spots". Here is the analysis for two "hot spots" (note – the "hot spots" change based upon the time of day):

Day Shift Hours (0600-1800 hours)

“Hotspot” Location	Total # of Designated Crimes Before Directed Enforcement January 30 – February 20	Total # of Designated Crimes After Directed Enforcement February 20 – March 13
Jackson/ Hesperian/ A St (North District)	20	21
880/Tennyson Rd / Harder Rd (South District)	25	11

Night Shift Hours (1800-0600 hours)

“Hotspot” Location	Total # of Designated Crimes Before Directed Enforcement January 30 – February 20	Total # of Designated Crimes After Directed Enforcement February 20 – March 13
A St/ Jackson/ Santa Clara/ BART (North District)	16	9
880 / Tennyson Rd/ Harder Rd (South District)	25	9

Priority #3: Reduce the number of traffic accidents citywide over the next three years.

Reduce accidents by ten percent within the top three accident zones.

The Traffic Bureau continues to rely on data driven approaches which allow for supervisors to assign traffic officers to conduct directed enforcement in collision-prone locations. Our Department is also six months into managing two grant awards; the Alameda County “Avoid the 21” (Avoid) Grant and the “Selective Traffic Enforcement Program” (STEP) Grant. By utilizing these grants, our Department is able to spearhead DUI and other safety-related saturation patrols, checkpoints, multi-agency traffic operations and warrant service operations both locally and countywide on an overtime basis for our officers. However, there are a couple key factors that can slow or negate the overall reduction of traffic accidents. First, directed enforcement actions related to DUI and traffic safety are reliant on special grant funds, which can change depending on the fiscal climate. Second, staffing shortages in the Traffic Bureau can limit the number of officers that can be directed to collision-prone areas on any given day.

Actions taken this quarter:

Below are the top ten high-collision intersections that were identified at the beginning of the 3rd quarter⁴:

High Collision Intersections	2 nd Quarter	3 rd Quarter	Rate
Santa Clara @ Winton	7	4	Decrease
Santa Clara @ Jackson	3	5	Increase
Hesperian @ Depot	3	4	Increase
Hesperian @ Longwood	3	4	Increase
Mission @ Harder	7	3	Decrease
Mission @ Tennyson	5	2	Decrease
Tennyson @ Ruus	4	1	Decrease
Whipple @ Industrial	11	2	Decrease
Huntwood @ Industrial	4	3	Decrease
Tampa @ Patrick	4	3	Decrease
Total	51	31	39% ↓

Citywide vehicle collisions decreased seven percent from 200 to 185. Pedestrian involved collisions decreased fifty-three percent from seventeen to eight. During this quarter, our department issued 1,815 Notice to Appear (NTA) and Courtesy Citations, a twenty-seven percent increase from the last quarter which was 1,421.

During this quarter, the Traffic Bureau conducted the following Avoid and STEP Grant activities:

- Three distracted Driving Operations in High Collision Zones resulting in ten Citations
- Six Traffic Enforcement Operations in High Collision Zones resulting in forty Citations
- Seven Bicycle/Pedestrian Operations in the downtown corridor resulting in sixty-four Citations
- Six DUI Saturation Patrols resulting in the following:
 - Three DUI arrests
 - One Criminal Arrest
 - Eight Arrests for unlicensed/suspended drivers

⁴ The Traffic Division collects and analyzes CAD and traffic report data to identify the top 10 high accident intersections each quarter. These intersections are categorized into three zones, to which Traffic Officers are assigned to and carry out directed enforcement.

- One DUI/DL Checkpoint was conducted on Saturday February 21st at Foothill/City Center having the following results:

790 Vehicles Screened

Eleven Field Sobriety Tests (FST's)

Two DUI Arrests

Twenty-two Arrests for unlicensed/suspended drivers

There were three fatal collisions resulting in four deaths, all occurring within the first two weeks of March. The first one was a hit and run (vehicle vs. pedestrian). The second involved a speeding vehicle that collided with a tree resulting in both unrestrained occupants being ejected and killed. The last one was a collision involving a bicyclist and a pickup truck. Due to these events occurring consecutively, our Traffic Bureau officers were only able to provide limited enforcement in March.

In March, two officers from our Department were recognized for their high number of DUI arrests at a seminar being hosted by Mothers Against Drunk Driving (M.A.D.D.) and our Grant Administrators, the California Office of Traffic Safety.

Priority #4: Conduct a minimum of nine SMASH operations.

Synchronized Multi-Agency Safe House (SMASH) operations, from past to present, continue to address chronic problem locations throughout the City of Hayward. Led by the Hayward Police Department's District Command Unit, representatives from various City Departments unite and converge on a particular problem location. By deploying multiple resources all at once, City enforcement teams are able to aggressively identify violations and hold occupants accountable, either through arrest or citation. These violations include criminal, building and other illegal hazards or activities that may exist. Five SMASH operations have been conducted so far this Fiscal Year.

SMASH operations completed this quarter:

1. A SMASH operation was conducted on January 29th at 22343 S. Garden Avenue which resulted in the following:
 - Two probation searches, two probationers were contacted.
 - No arrests.
 - Interior and exterior fire and code enforcement violations were issued.

As a result of this operation, three apartments were vacated and the units are under major renovation.

2. A SMASH operation was conducted on February 25th at 923 Douglas Street which resulted in the following:
 - One probation search, one probationer was contacted.
 - One arrest, suspect currently not in custody.
 - Six interior and exterior fire and code enforcement violations were issued.

As a result of this operation the violations have been repaired.

3. A SMASH operation was conducted on March 24th at 24558 Sybil Avenue which resulted in the following:
 - One probation search, one probationer was contacted.
 - One arrest, suspect currently not in custody.
 - There were seven fire, code enforcement and building violations issued.

As a result of this operation the residence was deemed uninhabitable. The owner will likely obtain a permit to demolish the residence.

The residence at 26147 Evergreen Street finally complied with Code Enforcement by removing garbage from their property. This was accomplished after a Social Nuisance Order was issued. City personnel collected the garbage, which was placed on the curbside.

Priority #5: Prevent the expansion of reportable gang crimes.

Increase number of gang-related arrests by five percent .

Increase contacts with gang members by ten percent .

Increase parole and probation searches by five percent .

Conduct at least two comprehensive conspiracy investigations targeting gang leadership.

The Special Duty Unit (SDU), a street enforcement team, works collaboratively with the Special Duty Investigative Unit (SDIU), an investigative gang team. These two teams actively share intelligence, which then allows them to strategically target gangs and gang-related activity throughout the City of Hayward; Intelligence sharing aids in the development and completion of comprehensive gang investigations.

Actions taken this quarter:

Gang Related Arrests – fifty-nine gang-related arrests were made during this quarter.

Gang Contacts (Field Interviews – F.I.s) – 114 gang contacts were conducted during this quarter.

Search Warrants – The Special Duty Unit (SDU) and the Special Duty Investigative Unit (SDIU) authored and served twenty-eight search warrants and conducted three parole searches.

Firearms- SDU and SDIU recovered six handguns and two long rifle/assault weapons.

SDU and SDIU made forty-three felony arrests and sixteen misdemeanor arrests.

HPAY Program: As mentioned last quarter, effective January 1, 2015, the Hayward Positive Alternatives for Youth (HPAY) program discontinued gang prevention and intervention services for Hayward youth and their families due to the Board of State and Community Corrections not awarding ongoing California Gang Reduction, Intervention, and Prevention (CalGRIP) funding

to the City of Hayward. While multiple other funding sources were explored, including submission of grant applications, meeting with partner agencies to identify funding, and exploring a possible collaboration with the Hayward Promise Neighborhood project, ultimately, none of these efforts were successful and the HPAY Program has officially concluded.

While HPAY specific counseling services are no longer being offered, in the third quarter of Fiscal Year 14-15, YFSB's in-house Delinquency Prevention Network counseling program provided crisis intervention, family counseling and case management services to fifty-seven new clients, serving an average of fifty-five families per month. An additional ninety-seven youth were served with individual, family and group therapy in the school-based program, along with regular teacher and parent support interventions and school climate initiatives.

In partnership with HUSD, the School Resource Officer Unit gave safety presentations to all students at all HUSD middle and high schools (nine schools total) regarding an attempted kidnapping series. Thousands of HUSD students were given critical information regarding both the current kidnapping threat, as well as safety practices in general. The presentations were very well received by students and school district staff. In addition to being an effective way to disseminate important safety information, the School Resource Officers also reported the safety assemblies were invaluable in our ongoing efforts to strengthen relationships with the schools, students, and community.

Priority #6: Continue to invest in our people.

The Police Department has been working to overcome the systemic issues related to shortages, as reported in the 1st quarter report. Historically low staffing levels have caused an increased workload on operations and administration that has been unsafe and/or unmanageable at times. Therefore, the Police Department focuses on hiring police officers and professional staff in an effort to restore staffing levels. In fact, the Personnel and Training Unit has made strides in this area. The successes with hiring mean the Department can refocus some efforts on training, succession planning, and promotional preparation for employees.

Actions Taken This Quarter:

Four lateral Police Officers were hired.

Four Police Officers completed the Field Training Program and were assigned to the Patrol Division.

Four Police Officer Trainees started the Police Academy on January 5th.

Fifty-Two candidates participated in the Police Officer Trainee oral boards in March. This resulted in twenty-one candidates being interviewed for a position in the August 31, 2015 police academy.

Personnel/Training Recruitment Team attended the Hayward Job Fair.

Reserve Police Officers augmented the patrol force by volunteering 1,568 hours this quarter.

One Community Services Officer was hired.

One Records Clerk was hired.

Three Communications Operators were hired.

Significant training accomplishments:

- Lt. Angela Averiett graduated from the prestigious Los Angeles Police Department Leadership Program

On January 13, 2015, Officers Ken Landreth and Libby Ledezma were each presented with an award for outstanding service at the Second Annual Cops for Cops Service Awards Presentation. At the presentation ceremony, Ken and Libby were recognized, along with officers from the Fremont and San Leandro police departments, for their compassion and exemplary service to the victims of domestic violence in cases each investigated last year.

Prepared by: Lesley Hayes, Crime Analyst

Recommended by: Diane E. Urban, Police Chief

Approved by:



Fran David, City Manager

DATE: June 16, 2015
TO: Mayor and City Council
FROM: City Attorney
SUBJECT: Work Session on Campaign Disclosure Practices for City Elective Offices and Ballot Measures

RECOMMENDATION

That the Council discusses and provides direction regarding proposed regulations requiring prominent disclosure of major contributors on campaign materials.

SUMMARY

In response to a request from the City Council, this report offers proposed regulations that would require candidates, campaign committees, and proponents and opponents of measures, to prominently display the names of major contributors on campaign mailers, print and electronic media advertising, robocalls, flyers, door-hangers and the like. Such regulations, if adopted by the Council and codified in the Hayward Municipal Code (HMC), would apply only to City of Hayward local elections. Such regulations would not apply to Hayward Unified School District elections or Hayward Area Recreation District elections. Such regulations, if enacted, would supplement current regulations imposed by the state Fair Political Practices Commission (FPPC) pursuant to the 'Fair Campaign Practices Act, adopted by the voters in 1974.

BACKGROUND

The Council adopted Article 13 (sec. 2-13.00, et seq.) of the HMC in 2002, regulating campaign contribution and expenditure limitations for candidates for City offices (Mayor and City Council). The regulations contained in Article 13 established a contribution cap of \$250 for candidates declining to accept the voluntary expenditure cap of \$50,000 for an election cycle, and a \$1,000 contribution cap for candidates voluntarily agreeing to the expenditure cap of \$50,000.¹ Article 13 was amended in 2005 to clarify the definition of 'contribution' and 'in-kind' donations. No other amendments have been made to Article 13. Specifically, nothing in Article 13 regulates the manner in which political advertising is displayed to the public or registered voters during the election cycle, as defined at sec. 2-13.07 (Election Contest and Election Term.) Of significance, the regulations currently in the HMC do not apply to campaign materials related to the support of, or opposition to, measures. There have been two City measures submitted to Hayward voters in recent years: Measure A in 2009 (utility users tax), and Measure C in 2014 (sales tax).

¹ Per City Clerk notice dated March 25, 2015, these amounts are now \$315, \$66,009, and \$1,295.

DISCUSSION

For the purpose of providing greater transparency and disclosure to the public, the Council may choose to enact regulations that would require candidates for the office of Mayor or City Council, as well as committees supporting or opposing measures, to display the names of the top four contributors on campaign materials sent to registered voters or otherwise intended to influence registered voters or the public generally. Except as noted below regarding candidates who loan funds to their own campaigns, the proposed regulations are not intended to change the contribution and expenditure regulations already in place for candidates, nor would this type of regulation impose contribution or expenditure limits on committees or individuals supporting or opposing measures.

Other cities with regulations in place of the type discussed in this report include San Jose, San Francisco and Berkeley (see Attachment I).

1. Disclosure of Top Four Contributors

As currently conceived, the new regulations would require that a candidate or campaign committee would disclose the top four contributors who donate more than \$500 to a candidate or campaign committee. The proposed regulation would provide the format in which the disclosure would be presented in campaign materials, including the phrase, 'Major Funding Provided by the following,' immediately followed by the name of the contributor, the contributor's city of domicile, and the total cumulative sum of contributions by each of the top four contributors. Identifying the top four contributors is suggested; the number could be five or ten, just as the \$500 threshold could be higher or lower.

Following is an example of a compliant disclosure under this proposed regulation:

Paid for by Citizens for Cats, Yes on Measure C Committee.

Major Funding Provided by the following: Cat Lovers of America, Hayward, CA, \$5000; Cats for All, Piedmont, CA, \$1000; John Doe, Berkeley, CA \$600; Jane Smith, Oakland, CA \$501.

As discussed earlier in this report, current regulations establish contribution caps of \$1,295 or \$315 for candidates. In such case, the candidate could not accept contributions of more than \$1,295 (per the voluntary contributions and expenditures option) or \$315 (per rejection of the voluntary contributions and expenditures option), from any single individual, business or organization during the election cycle. Since the enactment of sec. 2-13.07, et seq., in 2002, all candidates have selected the voluntary contributions and expenditures option. The proposed regulations, if applied to a candidate or a committee controlled by a candidate, would result in the prominent display of contributors over \$500 and up to \$1,295, assuming \$500 is the threshold. Prominent display of such modest amounts might not give registered voters or the public generally incisive information about the source of support in support of a candidate. If such indication is correct, it might not prove beneficial for the proposed regulations to focus on contributions to a candidate who has opted to abide by contribution and expenditure limitations of \$1,295 and \$66,009, respectively. Independent committees, however, which are not subject to the contribution or expenditure limitations of sec. 2-13.07, et seq., should be required to display

the prominent contributors to campaign communications which might better inform registered voters and provide the public generally with more incisive information about the source of a candidate's support. Thus, if the Council were to decline to require the display of top contributors of modest amounts to a candidate or a candidate's controlled committee, it would nevertheless be prudent to require the display of top contributors to an independent committee whose expenditures would significantly benefit a candidate.

2. Definition of "Campaign Communication"

Only things defined as campaign communications would be subject to the above-suggested disclosure. The proposed regulation would generally define a 'campaign communication' as 500 or more pieces of campaign literature, such as flyers, mailers, pamphlets or door hangers. Campaign communications would also include advertisements in newspapers, on the Internet/Web, radio commercials, robocalls, mass e-mails, and television promotions.

Generally, items that are too small to fit the disclosures would not be defined as a 'campaign communication,' such as campaign pens, mugs, pot holders, and yard signs.

3. Updating Top Contributor Lists

Any campaign disclosure regulation the City adopts should take into account that a candidate's or committee's top contributors may change throughout the course of an election cycle. Therefore, it would be necessary to require that candidates and committees update campaign communications within specified time periods if their top contributors were to change. The goal of such provision would be to insure campaign disclosures accurately reflect contributor information during the election cycle, and particularly during the thirty-day period immediately prior to the availability of absentee ballots and sixty-days prior to the municipal election date.

Similarly, it would be proposed that only the top contributor to a candidate or committee, rather than the four top contributors, would need to be disclosed in a television or radio advertisement that is one minute or less in duration. Television and radio advertisements over one minute in duration would be required to disclose the top four contributors to the candidate or committee, city of domicile, and cumulative sum of contributions during the election cycle.

4. "Committees" and "Contributions"

For purposes of the proposed regulations "committees" would be generally defined as any person or combination of persons who attempt to influence an election or ballot measure with \$250 or more. Committees would be required to file a statement of organization with the City Clerk prior to engaging in any forms of campaign communication. This is so the City will be able to monitor campaign communications and ensure committees are following the requirements of the disclosure and display regulations.

Full public disclosure of who is supporting a candidate's election or ballot measure relies on a broad definition of the term "contribution" as currently found at sec. 2-13.02.01.

“Contribution” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term “contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term “contribution” further includes a transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term “contribution” shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term “contribution” include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars. For the purposes of this section, in-kind contributions shall be valued in a manner consistent with State law. The after-hours use of this office shall not be considered a contribution for the purposes of the Article.

As noted above, ‘contribution’ includes loans, which conceivably could indicate that a loan from a candidate to his or her campaign would be prohibited. As a practical matter, candidates for City elective offices do in fact loan funds to their campaigns, and such candidates typically attempt to raise funds to retire such personal debt after the election cycle is over. Consequently, the Council may wish to resolve this question by clearly permitting candidates to loan funds to their campaigns that would not count towards the contribution caps, but the expenditure caps would remain intact for candidates who otherwise voluntarily agree to abide by the contribution and expenditure caps. Resolution of this issue, while not directly related to the prominent display of major donors, would clarify actual practices and facilitate compliance with the proposed regulations.

5. The proposed regulations discussed in this report would be in addition to regulations promulgated by the State via the Fair Political Practices Commission (FPPC). For example, during the period for nominating candidates for Mayor and/or City Council, and at the time declarations of candidacy are filed, the City Clerk provides a copy of Gov. Code sec. 84305 related to mass mailings. Sec. 84305 states:

‘84305. (a) Except as provided in subdivision (b), no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type which shall be in a color or print which contrast with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the organization’s address is a matter of public record with the Secretary of State. (b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail. (c) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a).’

The FPPC has generated guidelines to assist candidates and committees engaged in campaign communications and ‘political advertising,’ as reflected in Attachment II. The proposed City regulations would be in addition to the FPPC requirements and might result in greater transparency than the FPPC guidelines by themselves.

The emergence and influence of ‘independent committees’ is of significant concern. Contributors to independent committees are often non-local and desire anonymity. The proposed regulations would attempt to identify and disclose organizations and individuals contributing to candidates and committees or expending funds through an independent committee to influence City elective offices or City measures to the extent constitutionally permitted.

6. Technical Specifications

The regulations would establish technical requirements for Internet/Web-based advertising. It might be impracticable for full campaign disclosure as modeled in the above example to be placed in a small Internet/Web banner. The proposed regulations would allow some campaign disclosures to be offered in rollover or drop-down content and/or an ad link if the advertisement is under a certain size.

CONCLUSION

This report offers modest suggestions for better informing Hayward’s registered voters and the Hayward public generally about sources of financial or in-kind support to candidates for the offices of Mayor and City Council. Even if such proposed regulations were adopted, it is conceivable that such regulations could be evaded, and any penalties would likely be imposed after the election. (Sec. 2-13.06 currently authorizes fines up to \$1,000 per violation) There are important public policy questions raised by the proposed regulations and financial disclosure regulations in general. Following are a few of the public policy questions, as well as questions

designed to guide the development of specific Hayward regulations if Council were to direct staff to do so.

- 1) Do the proposed campaign and contribution disclosures add effectively to transparency and provide meaningful information to voters?
- 2) How much money should the threshold be for what constitutes a top donor (currently proposed at more than \$500)?
- 3) Should candidates be able to take out loans to finance their campaigns over the \$1,295 limit? Should there be different personal loan maximums for candidates who accept the voluntary expenditure limits versus candidates who do not accept the expenditure limits? What should the maximum loan amount be?
- 4) What kinds of campaign materials should be exempt from the campaign disclosure (e.g. pens, mugs, t-shirts, etc.)
- 5) Should entities created specifically for the purpose of a City campaign be required to disclose the parent entity (e.g. "Cats for All" is an entity created and funded by President Barack Obama or The Rock brothers)?

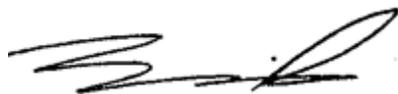
FISCAL IMPACT

There could be an increase in staff time spent by the City Clerk's Office registering committees, as well as educating candidates and committees about the new requirements. These costs will be potentially balanced by the potential for the collection of penalties payable to the General Fund for violations.

Prepared by: Justin Nishioka, Deputy City Attorney

Recommended by: Michael Lawson, City Attorney

Approved by:



Fran David, City Manager

Attachments: City of Berkeley Guidelines
FPPC Political Advertising Disclaimers

2.12.335 Disclosure on campaign communications of certain contributions and loans.

A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term "contributor" shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.

B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, "campaign communication" means any of the following items:

1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

C. For purposes of this section, "campaign communication" does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard or street signs, billboards, supergraphic signs, skywriting, and similar items; television, cable, satellite, and radio broadcasts or advertisements; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members.

D. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection A, campaign communications must be updated on the following schedule:

1. For printed campaign communications under subsection B.1 or subsection B.2, disclosures must be updated within seven calendar days to include current disclosure information every time an order to reproduce the campaign communication is placed, or any time the campaign communication is reprinted;
2. For e-mails or pre-recorded telephone calls under subsection B.3, disclosures must be updated to include current disclosure information within seven calendar days. (Ord. 7253-NS § 1, 2012)

Compile Chapter

The Berkeley Municipal Code is current through Ordinance 7400-NS, passed April 7, 2015.

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.cityofberkeley.info/Home.aspx>
(<http://www.cityofberkeley.info/Home.aspx>)
Telephone number: (510) 981-6900
Code Publishing Company
(<http://www.codepublishing.com/>)

Home (<http://www.cityofberkeley.info>) | Web Policy (<http://www.cityofberkeley.info/webpolicy>) | Text-Only Site Map (<http://www.cityofberkeley.info/SiteMap.aspx>) | Contact Us (<http://www.cityofberkeley.info/contactus>)
City Clerk (<http://www.cityofberkeley.info/clerk>), 2180 Milvia Street, Berkeley, CA 94704
Questions or comments? Email: clerk@cityofberkeley.info (<mailto:clerk@cityofberkeley.info>) Phone: (510) 981-6900

California
Fair Political Practices Commission

Political Advertising Disclaimers

Under California's Political Reform Act, committees must put "paid for by" disclaimers on campaign advertising, including campaign mailers, radio and television ads, telephone robocalls, and electronic media ads. This brochure discusses "disclaimer" requirements for committees that purchase advertisements or circulate material supporting or opposing a state or local candidate or ballot measure in California.

What is a disclaimer?

A "disclaimer" is the portion of a political message that identifies the person or entity who paid for or authorized the communication. "Paid for by *committee name*" is the basic disclaimer required by the Act on most campaign communications sent by a *committee*.

Who is a committee?

A candidate's campaign committee, a political action committee, a political party committee, a major donor, and a person or entity making independent expenditures on candidates or ballot measures in California are all types of committees. A person or entity qualifies as a *committee* under the Act if they receive contributions from others for political purposes of \$1,000 or more per year; if they make independent expenditures on California candidates or ballot measures of \$1,000 or more per year; or if they make contributions to California candidates or ballot measures of \$10,000 or more per year.

When is a disclaimer required on political ads or materials?

Political committees must include the following disclaimers:

- **Mass mailings** must include identification of the sender;
- **Paid telephone calls** must identify the candidate or committee who paid for or authorized the call;
- **Radio and television ads** must include "paid for by" disclaimer under Federal Communications Commission (FCC) law;

Ballot measure ads and independent expenditure ads require the following disclaimers:

- **Broadcast ads, including television, radio, and electronic media advertisements** must include "paid for by *committee name*" and list top two donors of \$50,000 or more;
- **Newspaper ads, billboards, yard signs, and other print advertisements** for ballot measures must include "paid for by *committee name*" and list top two donors of \$50,000 or more.

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Are the Act's disclaimer rules the same for all committees and all ads?

No. Basic disclaimer rules apply to campaign materials disseminated by a candidate for their own election campaign because it is generally clear to the public that the candidate is sending the communication. Stricter disclaimer rules apply to (1) ballot measure advertisements and (2) independent expenditure advertisements on candidates and ballot measures, because it is less clear to the public who is responsible for these ads.

What does the disclaimer have to state?

The basic disclaimer must state: "Paid for by *committee name*." Ballot measure and independent expenditure ads must also list top two donors of \$50,000 or more and special committee name rules apply. All *independent expenditure* ads for or against a candidate must state that the ad was: "Not authorized by a candidate or a committee controlled by a candidate."

What is an independent expenditure?

An "independent expenditure" is an expenditure made by any person in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate or measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made at the behest of (e.g., in consultation, cooperation or coordination with) the affected candidate or committee. For further clarification see FPPC Regulation 18225.

Political Advertising Disclaimer Charts
Click on these links to charts showing the disclaimer requirements for your communication.

Candidates

- 1. Communications by Candidate Committees for their own Election**
- 2. Independent Expenditure Ads on Candidates**
(by general purpose recipient committees, major donors, and independent expenditure committees)

Ballot Measures

- 3. Ballot Measure Ads** (by committees primarily formed for a state or local ballot measure)
- 4. Independent Expenditures Ads on Ballot Measures**
(by general purpose recipient committees, major donors, and independent expenditure committees)

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On mass mailings, what does the disclaimer state?

A mass mailing -- over 200 substantially similar pieces of mail -- must include on the outside of the envelope: "Paid for by" and the name and address of the candidate or committee sending the mailing. The name and address must be in no less than 6-point type and in a color or print which contrasts with the background so that it is easily read.

If a mass mailing is paid for by more than one candidate or committee, the name and address of the candidate or committee who is paying the greatest share of the mass mailing (including costs for designing, postage, and printing) must be placed on the outside of each piece of mail as described above. If two or more candidates or committees pay equally for the mailer, the name and address of at least one of the candidates or committees must be shown on the outside as described above, and the names and addresses of all candidates or committees paying for the mailer must appear on at least one insert.

Candidate:

Paid for by Jones for Mayor 2012 123 Elm Street Elmont, CA 95523	Fred Smith 7200 Oak St Oakville, CA
--	---

Measure:

Paid for by Citizens in Support of Measure B 123 Elm Street Elmont, CA 95523	Fred Smith 7200 Oak St Oakville, CA 92253
--	---

Independent Expenditure:

Paid for by ABC Company 123 Elm Street Elmont, CA 95523	Fred Smith 7200 Oak St Oakville, CA 92253
---	---

How must the disclaimer appear?

Disclaimers on political ads and literature must be clear and conspicuous so as to be understood by the intended public. Written disclaimers must be printed clearly and legibly. Spoken disclaimers must be clearly audible and intelligible. Specific requirements for color contrast, print font size and time appearing on screen are listed in the disclaimer charts above.

Updating a disclaimer

When a committee's name changes because of new top donors or otherwise, advertisement disclaimers must be revised. Television, radio or electronic media must be amended within five calendar days. Print media or other tangible items must be amended every time an order to reproduce is placed.

Advertisements in Languages Other than English

Disclaimers on political advertisements should be written or spoken in the same language used in the advertisement.

Does a disclaimer have to appear on ALL printed materials or campaign items?

No. A disclaimer is not required on regular-size campaign buttons, pins, bumper stickers, or magnets. It is not required on pens, pencils, rulers, mugs, potholders, key tags, golf balls and similar small campaign promotional items where a disclaimer cannot be conveniently printed. The disclaimer is not required on t-shirts, caps, hats, and other articles of clothing; skywriting; or committee checks and receipts.

Does a disclaimer have to appear on communications from an organization to its members?

For political party communications, yes. For communications from other organizations to their members, a disclaimer is not required.

Can the FPPC answer my questions about disclaimers on my campaign communications?

Yes. The FPPC can assist you with questions about disclaimers on campaign communications. Call the Technical Assistance Division toll-free at 1-866-ASK-FPPC. In some cases a copy of the ad will be required.

Is there a penalty for circulating or publishing literature or other material concerning a candidate or ballot measure without a disclaimer?

Yes. The penalty for failing to comply with the Act's disclaimer requirements is a fine of up to \$5,000 per violation. In addition, any person who violates the disclaimer requirements concerning ballot measure and independent expenditure advertisements may be liable for a fine of up to three times the cost of the advertisement, including placement costs.

What is the proper procedure to report violations for circulating or publishing materials without a disclaimer?

You may file a written complaint with the Fair Political Practices Commission's Enforcement division.

Can the FPPC check the truth or accuracy of the political communication?

No. The Act does not regulate the truth or accuracy of the content of political communications, given the broad First Amendment protection for political speech.

Must political messages in literature or other material concerning candidates for federal offices include a disclaimer?

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Federal election law governs disclaimers on election materials for federal candidates. Contact the Federal Election Commission at www.fec.gov or (800) 424-9530 for information.

"Do not call" lists

Questions or comments regarding "do not call" lists should be addressed to the National Do Not Call Registry, administered by the Federal Trade Commission (FTC) at www.donotcall.gov. The federal Do Not Call Registry is a list of phone numbers of consumers who want to limit the telemarketing calls they receive. The "do not call" provisions do not cover calls from political organizations, charities, telephone surveyors or companies with which a consumer has an existing business relationship.

Posting political signs on utility poles and other public property

Check local ordinances for rules on posters and yard signs. Local law may restrict or prohibit the placement of campaign signs on government-owned property.

This brochure presents a summary of the law. For further legal information, consult the Act and its corresponding regulations and opinions.

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Political Advertising Disclaimers

1. Communications by Candidate Committees for their own Election

The disclaimer must include, unless otherwise noted: "Paid for by *committee name*."

Examples: "Paid for by Jones for Assembly 2012"

"Paid for by Friends of Smith for Mayor 2012"

Communication	Manner of Display
All mass mailings (more than 200)	<ul style="list-style-type: none"> • Candidate's committee name/address (on file with Form 410) on outside of mailing - see example in fact sheet • If sent by more than one candidate/committee: <ul style="list-style-type: none"> ◦ Also on at least one insert in the mailing • No less than 6 pt type/contrasting print color • Return envelopes (included in solicitation) – committee's name, address and ID number are recommended but not required
Telephone calls advocating candidate's own election (500 or more) - made by: <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) or • Paid individuals other than the candidate, campaign manager or volunteers 	<ul style="list-style-type: none"> • Any time during the message • Must identify the candidate that paid for the call unless an organization authorizing the call is identified and files campaign reports • Must state that the call is "paid for by" or "authorized by" the identified candidate or organization • <i>Examples: This call was paid for by Senator Jones; This call was authorized by (name of committee)</i> • No ID required on telephone calls personally dialed by candidate, campaign manager or volunteers
<p align="center">The Political Reform Act does not require a specific disclaimer on the following communications, although the FPPC recommends placing "paid for by <i>committee name</i>" and committee ID number on all public campaign materials.</p>	
Newspaper, radio and television ads	<ul style="list-style-type: none"> • Radio or television advertisements require "paid for by" or sponsor identification under Federal Communications Commission rules • Check the Elections Code for newspaper ad requirements
Electronic media (Websites, blogs, Twitter feeds, faxes, emails, social media pages - i.e. Facebook)	<ul style="list-style-type: none"> • "Paid for by <i>committee name</i>" and committee ID number are recommended but not legally required

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Candidate Committee Communications

Communication	Manner of Display
Billboards, yard signs, business cards, door hangers, flyers, and posters	<ul style="list-style-type: none">• "Paid for by <i>committee name</i>" and committee ID number are recommended but not legally required

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control. Communications made by a candidate to support or oppose a ballot measure or other candidates are not addressed in this chart.

References: [Government Code Sections](#): 84305, 84310.
[Title 2 Regulations](#): 18435, 18440.

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Political Advertising Disclaimers

2. Independent Expenditure Ads on Candidates

(by general purpose recipient committees, major donors, and independent expenditure committees)

The disclaimer must include, unless otherwise noted:

"Paid for by *committee name*" and "Not authorized by the candidate or a committee controlled by the candidate"

Examples:

- "This call was paid for by ABC Trade Association and was not authorized by Senator Jones"
- "This ad was paid for by Going Green Political Action Committee and was not authorized by Friends of Mayor Smith for 2012"

The following ad disclaimers apply to broadcasts that expressly advocate support or opposition of a candidate

Communication	Manner of Display
All mass mailings (more than 200)	<ul style="list-style-type: none"> • Committee name/address (on file with Form 410) on outside of mailing in no less than 6 pt type/contrasting print color - see example in fact sheet • An insert in the mailing must also state that the ad was not authorized by the candidate or a committee controlled by the candidate
Telephone calls (500 or more) - made by <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) • Paid individuals other than volunteers/campaign manager 	<ul style="list-style-type: none"> • Any time during the message. • Committee paying for the calls must be identified unless another organization authorizing the calls files campaign statements and is identified
Radio	<ul style="list-style-type: none"> • Either at beginning or end of ad • At least 3 seconds
Television	<ul style="list-style-type: none"> • Both written & spoken at the beginning or end of ad • Not less than 4 seconds • Size & contrasting color must be legible to average viewer • <u>Exception</u> - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on 60 second broadcast
Electronic Media 1. Websites and blast emails 2. Ads of limited size (micro bar, button ad, ads limited to 500 characters or less)	<ol style="list-style-type: none"> 1. Disclaimer statement must be in the same font size as majority of text and displayed conspicuously near the ad 2. Ad must provide disclaimer via rollover, link, or other connection to website with the disclaimer

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Independent Expenditures - Candidate Ads

Communication	Manner of Display
3. SMS texts	3. Include the committee ID number and if technically possible link to the committee's campaign statement on Secretary of State's website
4. Electronic ads sent in an audio format	4. Same requirements as for radio ads above
5. Electronic ads sent in a video format	5. Same requirements as for television ads above
The following ads only require the statement "not authorized by the candidate or committee controlled by the candidate"	
Telephone calls (200-499) <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) • Personally dialed 	<ul style="list-style-type: none"> • The disclaimer must be at the beginning or end • Must be at least 3 seconds
Newspaper ads	<ul style="list-style-type: none"> • 10 pt type in contrasting color • Also check the Elections Code
Billboards and yard signs (more than 200)	<ul style="list-style-type: none"> • 5% of height of advertisement in contrasting color
Door hangers, flyers, posters, and oversized campaign buttons and bumper stickers (buttons 10" across or larger and stickers 60 sq inches or larger) (all more than 200)	<ul style="list-style-type: none"> • 10 pt type in contrasting color

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

References: Government Code Sections: 82031, 84305, 84310, 84506, 84506.5, 84507, 84509.
Title 2 Regulations: 18225, 18435, 18440, 18450.1, 18450.4, 18450.5.

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Political Advertising Disclaimers



3. Ballot Measure Ads

(by committees primarily formed for a state or local ballot measure)

The disclaimer must include, unless otherwise noted: "Paid for by *committee name*" and, if applicable "Major funding by (name of top two donors of \$50,000 or more)."

Examples:

- "Paid for by Citizens in Support of Measure B, Sponsored by the Taxpayers Alliance Major Funding by ABC Corporation and XYZ Partnership"
- "Paid for by Californians for Education, a Committee Opposed to Proposition 1, Top Contributors are Student Political Action Committee and ZZZ Trade Association"
- "Paid for by Voters in Support of Measure A (no sponsors/\$50,000 donors)"

Communication	Manner of Display
All mass mailings (more than 200)	<ul style="list-style-type: none"> • Committee name/address (on file with Form 410) on outside of mailing in no less than 6 pt type/contrasting print color - see example in fact sheet • If sent by more than one committee: <ul style="list-style-type: none"> ◦ Also on at least one insert in the mailing
Telephone calls (200-499) <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) • Personally dialed 	<ul style="list-style-type: none"> • The disclaimer must be at the beginning or end • Must be at least 3 seconds
Telephone calls (500 or more) - made by <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) • Paid individuals other than volunteers/campaign manager 	<ul style="list-style-type: none"> • Must state that the call is "paid for" or "authorized by" the committee • Any time during the call • Committee paying for the calls must be identified unless another organization authorizing the calls files campaign statements and is identified • Personal calls made by volunteers or campaign managers do not require a disclaimer
Radio	<ul style="list-style-type: none"> • Must be at least 3 seconds either at the beginning or end of the ad • Ad which is 15 seconds or less requires only highest major contributor
Television	<ul style="list-style-type: none"> • Both written & spoken at the beginning or end of ad • Not less than 4 seconds • Size & contrasting color must be legible to the average viewer • Ad which is 15 seconds or less requires only highest major contributor • <u>Exception</u> - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on 60 second broadcast
Electronic Media 1. Websites and blast emails	<ol style="list-style-type: none"> 1. Disclaimer statement must be in the same font size as majority of text and displayed conspicuously near the ad

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Ballot Measure Ads

Communication	Manner of Display
<p>2. Ads of limited size (micro bar, button ad, ads limited to 500 characters or less)</p> <p>3. SMS texts</p> <p>4. Electronic ads sent in an audio format</p> <p>5. Electronic ads sent in a video format</p>	<p>2. Ad must provide disclaimer via rollover, link, or other connection to website with the disclaimer</p> <p>3. Include the committee ID number and if technically possible link to the committee's campaign statement on Secretary of State's website</p> <p>4. Same requirements as for radio ads above</p> <p>5. Same requirements as for television ads above</p>
<p>Paid spokesperson - \$5,000 or more (For ballot measures only)</p>	<ul style="list-style-type: none"> • Printed or televised ad: shown continuously in highly visible roman font • Radio broadcast or phone message: spoken in clearly audible format • Must also include: "<i>spokesperson's name</i> is being paid by this campaign or its donors"
<p>Newspaper ads</p>	<ul style="list-style-type: none"> • 10 pt type in contrasting color • Ad which is 20 sq. in. or less requires only highest major contributor • Also check the Elections Code
<p>Billboards and yard signs (more than 200)</p>	<ul style="list-style-type: none"> • 5% of height of ad in contrasting color
<p>Door hangers, flyers, posters, and oversized campaign buttons and bumper stickers (buttons 10" across or larger and stickers 60 sq. in. or larger) (more than 200)</p>	<ul style="list-style-type: none"> • 10 pt type in contrasting color • Ad which is 20 sq inches or less requires only highest major contributor

- **Ballot measure committee names.** Specific rules apply to the name of a ballot measure committee - see notes below and Statement of Organization, Form 410, instructions.
 - Within 30 days of a ballot designation, the committee name must include the measure number or letter and whether it supports or opposes the measure
 - A committee controlled by a candidate and a committee that receives \$50,000 or more from a candidate must include the candidate's name
 - A sponsored committee must include the sponsor's name
 - A name or phrase that clearly identifies the economic or other special interest of its major donors of \$50,000 or more is required
 - The name of an employer is required if donors of \$50,000 or more share a common employer
 - Donors of \$50,000 or more must be listed in descending order based on the amount of contributions made (if top two donors gave identical amounts, disclose the most recent)
 - The top two \$50,000 or more donors must be listed first, before other groups such as "concerned citizens," "consumers," "taxpayers," etc.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

References: Government Code Sections: 84305, 84310, 84503, 84507, 84509, 84511.
Title 2 Regulations: 18435, 18440, 18450.1, 18450.4, 18450.5.

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Political Advertising Disclaimers

4. Independent Expenditure Ads on Ballot Measures

(by general purpose recipient committees, major donors, and independent expenditure committees)

The disclaimer must include, unless otherwise noted: "Paid for by *committee name*"

Examples:

- "This call was paid for by ABC Trade Association"
- "This ad was paid for by Going Green Political Action Committee"

Communication	Manner of Display
All mass mailings (more than 200)	<ul style="list-style-type: none"> • Committee name/address (on file with Form 410) on outside of mailing in no less than 6 pt type/contrasting color • If sent by more than one committee - see example in fact sheet
Telephone calls (500 or more) - made by <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) • Paid individuals other than volunteers/campaign manager 	<ul style="list-style-type: none"> • Any time during the message • Committee paying for the calls must be identified unless another organization authorizing the calls files campaign statements and is identified
Radio	<ul style="list-style-type: none"> • Either at beginning or end of ad • At least 3 seconds
Television	<ul style="list-style-type: none"> • Both written & spoken at the beginning or end of ad • Not less than 4 seconds • Size & contrasting color must be legible to the average viewer • <u>Exception</u> - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on 60 second broadcast
Electronic Media 1. Websites and blast emails 2. Ads of limited size (micro bar, button ad, ads limited to 500 characters or less) 3. SMS texts	<ol style="list-style-type: none"> 1. Disclaimer statement must be in the same font size as majority of text and displayed conspicuously near the ad 2. Ad must provide disclaimer via rollover, link or other connection to website with the disclaimer 3. Include the committee ID number and if technically possible link to the committee's campaign statement on Secretary of State's website

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Independent Expenditures - Ballot Measures Ads

Communication	Manner of Display
4. Electronic ads sent in an audio format	4. Same requirements as for radio ads above
5. Electronic ads sent in a video format	5. Same requirements as for television ads above
Paid spokesperson - \$5,000 or more (For ballot measures only)	<ul style="list-style-type: none"> • Printed or televised ad: shown continuously in highly visible roman font • Radio broadcast or phone message: spoken in clearly audible format • Both must also include: "spokesperson's name is being paid by this campaign or its donors"
<p>The Political Reform Act does not require a specific disclaimer on the following communications, although the FPPC recommends placing "paid for by committee name" and the committee ID. Newspaper ads (check Elections Code), billboards, yard signs, door hangers, flyers, posters</p>	

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

References: Government Code Sections: 82031, 84305, 84310, 84506, 84507, 84509, 84511.
Title 2 Regulations: 18225, 18435, 18440, 18450.1, 18450.4, 18450.5.

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DATE: June 16, 2015

TO: Mayor and City Council
Redevelopment Successor Agency Board of Directors
Housing Authority Board of Directors

FROM: Director of Finance

SUBJECT: Public Hearing for the Proposed FY 2016 Operating Budget for the City of Hayward, Hayward Redevelopment Successor Agency, and Hayward Housing Authority; and the FY 2016 Capital Improvement Program Budget

RECOMMENDATION

That the City Council consider the Proposed FY 2016 Operating Budget, and the FY 2016 Capital Improvement Program Budget, including changes made through the Council Work Session process; conducts a Public Hearing on each; and that following public testimony and in preparation for adoption on June 23, 2015, the Council and Agency Board Members further review and comment on the:

- ❑ Proposed FY 2016 Operating Budget
- ❑ Proposed FY 2016 Capital Improvement Program (CIP) Budget

BACKGROUND

The City Manager presented the Proposed FY 2016 Operating Budget to City Council on May 26, 2015. The operating budget is comprised of a number of different funding sources¹, with the General Fund representing the largest single fund for which the City Council has the most discretion. The total City expenditure budget for the Proposed FY 2016 Annual Budget as presented on May 26, 2015, was \$279.7 million, with a General Fund budget of \$140.4 million.

Since May 26, Council has held three budget work sessions (May 30, June 2, and June 9) to further discuss the proposed budget. These work sessions included presentations, Council discussions, and a time for public input on

- the overall operating budget,
- department/program budgets and operations,
- the proposed CIP budget,
- Council priorities and program performance measures, and
- City's benefit liabilities and budget-related financial policies.

¹ The budget is comprised of the General Fund and Other Funds, which include all non-General Fund revenue sources with key funds including the City's enterprise funds (Water, Sewer, Airport, etc.) and Internal Service Funds (Facilities, Equipment, Technology, Workers' Compensation).

Following these work sessions, staff recommends several changes to the FY 2016 Proposed Operating and CIP Budgets – as detailed in this report. Tonight’s meeting has been advertised as a public hearing on the proposed operating and CIP budgets and is another opportunity to receive public input. Upon closure of the public hearing, Council will provide any additional comments and direction to staff before adopting the operating and CIP budgets on June 23, 2015.

The changes from the May 26 submission of the FY 2016 Proposed Budget, as included in this report, result in no increase to General Fund expenditures.

It should be noted that the City is concluding open contract negotiations with SEIU Local 1021 and the Hayward Association of Management Employees (H.A.M.E.); and is engaged in open contract negotiations with IFPTE Local 21. Any financial impacts resulting from these negotiations are not reflected in the budget projections at this point.

DISCUSSION

The Proposed FY 2016 Operating Budget and CIP documents provide the foundation for the budget discussions. As the budget process has progressed, both City Council and staff have recommended some minor adjustments to the proposed budget. This report contains a summary of the key changes to date, and the resultant impacts to both the General Fund and other revenue funds for FY 2016. At this point, staff is not recommending any changes to the General Fund revenue projections.

Both Tables 1 and 2 compare the Proposed FY 2016 Budget presented on May 26, 2015 and tonight’s (June 16, 2015) revision – as well as a comparison to the FY 2015 Adopted Budget.

Table 1 – Citywide Expenditure Budget Changes

<i>in the 1,000's</i>	FY 2015 Adopted	FY 2016 Proposed 5/26/15	FY 2016 Proposed 6/16/15	Change from 5/26/15	\$ Change from FY 2015	% Change from FY 2015
General Fund	133,903	140,421	140,421	-	6,518	4.9%
All Other Funds	119,046	139,311	138,889	(422)	19,843	16.7%
Total City Budget	252,949	279,732	279,310	(422)	26,361	10.4%

While there are no proposed increases in the General Fund over the originally proposed budget for FY 2016, there are a number of non-financial items that we are highlighting in this document. Additionally, there are slight modifications to the Water Enterprise and Intertie Funds as described below that result in a reduction of planned expenditures of \$422,000 for FY 2016 over the originally proposed FY 2016 budget.

1. Shift 1.0 FTE Executive Assistant from Mayor and City Council budget to the Office of the City Manager. This change does not result in any funding impact and is simply a shift of the authorized position from one department to another – and is being done to more accurately reflect the cost of the position in the appropriate department.

2. Update the budget-related Financial Policies pursuant to Council Budget & Finance Committee review on June 3, 2015 and City Council discussion on June 9, 2015 (Attachment I).
3. Following the May 26 budget submission, 1.0 FTE temporary Operator in Training position was erroneously reported in the Water Enterprise Fund and has been deleted.
4. The Water Enterprise Fund budget is corrected to reflect the FY 2016 projected cost of water from to \$27.7 million to \$27.5 million.
5. Intertie Fund expenditures slightly increased, but like offsetting revenue is also identified – so no bottom-line impact.

Table 2 summarizes total proposed staffing . The revised total citywide staffing of 864.20 for FY 2016 – a total increase of 40.0 FTE (4.9%) over the FY 2015 Adopted Budget. Of these 40.0 FTE, 20.0 FTE are attributable to Measure C Funding.

Of the 4.0 FTE increased in the General Fund, 3.0 FTE are positions that were previously home-based in the CDBG (Special Revenue) Fund but, due to a Housing and Urban Development audit, were required to be home-based in the General Fund. However, these positions will be allowed to charge a significant portion of their time to the Special Revenue Funds which will offset their impact on the General Fund.

Even with these staffing additions in FY 2016, overall city staffing remains significantly reduced from prior year highs (e.g., FY 2003 total staffing was 936.8 FTE).

Table 2 – Citywide Position Changes

	FY 2015 Adopted	FY 2016 Proposed 5/26/15	FY 2016 Proposed 6/16/15	Change from 5/26/15	\$ Change from FY 2015	% Change from FY 2015
General Fund	642.70	646.70	646.70	-	4.00	0.6%
All Other Funds	181.50	218.50	217.50	(1.00)	36.00	19.8%
Total City Budget	824.20	865.20	864.20	(1.00)	40.00	4.9%

Capital Improvement Program (CIP) FY 2016 – FY 2025

The City’s capital improvement program budget has followed a similar review and public process as the operating budget. On May 13, the Council Budget & Finance Committee reviewed and discussed the proposed FY 2015 CIP budget; on May 14, the Planning Commission held a public hearing and found the document in conformance with the General Plan; and during the June 2 Council Budget Work Session, Council reviewed and discussed the FY 2016 CIP budget.

The CIP for FY 2016 totals approximately \$193 million (including a \$2 million General Fund contribution and a \$2.4 million Internal Service Fund contribution); with a total of about \$506 million budgeted through FY 2025.

Significant changes made to CIP Funds since the June 2 Council Budget Work Session is as follows:

1. Fund 210 – Gas Tax - Transfer to General Fund increase from \$223,000 to \$723,000 to support balancing the FY2016 General Operating Budget. The funds will be used by Gas Tax eligible programs such as street maintenance.
2. Fund 201 – Gas Tax – Decreased FY 2016 Pavement Rehabilitation Project from \$1,650,000 to \$1,100,000 to allow for the increased transfer to the General Fund.
3. Fund 215 – Measure B (Local Transportation) – Increased Project 05199 from \$30,000 to \$255,000 to conduct scoping analysis for two Measure BB funded projects, 880/Winton Interchange and Tennyson Grade Separation. Alameda CTC will contribute \$100,000 and the City will use its Measure B/BB funds for this study.
4. Fund 460 – Transportation System Improvement – Corrected HSIP funding for new project Mission/Blanche & Huntwood/Grading Traffic Signal from \$792,000 to \$396,000.

FISCAL IMPACT

The above items reflect the changes received to date for the City of Hayward’s Proposed Operating Budget for Fiscal Year 2016 – with Table 1 (on page 2) summarizing the expenditure changes to the City’s General, Special Revenue, and Enterprise Funds should all proposed changes be approved.

As noted in the City Manager’s Budget Message for FY 2016, this budget is balanced for the first time in years without the assumed use of the General Fund Reserve. This is a precarious balance that will be susceptible to changes in revenue receipts and/or increases in expenditures.

PUBLIC CONTACT

The Proposed FY 2016 Operating Budget has been discussed by City Council over the last couple of months. A public notice was published in The Daily Review on June 6 and June 13, 2015 announcing the date, time, location, and subject matter of this public hearing. A notice advising residents about the Planning Commission’s public hearing on the CIP was published in the *Daily Review* newspaper more than the requisite ten days in advance. Furthermore, staff members from Alameda County Transportation Commission (ACTC) were contacted in the event that any members from the organization’s Measure B Citizen Watchdog Committee were interested in learning more about City projects funded through Measure B.

The FY 2016 Proposed Operating Budget is currently available for public review in the City Clerk’s Office at City Hall, at the Main Library and the Weekes Branch, and on the City’s website at: http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2015/FY16_Proposed_Operating_Budget.pdf

A schedule of the FY 2016 Proposed Operating Budget work sessions is available for public information on the City’s website at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/index.shtm?tab=1>

The FY 2016 Capital Improvement Program Budget is currently available for public review in the City Clerk's Office at City Hall, at the Main Library and the Weekes Branch, and on the City's website at: http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/PUBLIC-WORKS-ET/documents/2015/FY16-FY25_CIP.pdf

NEXT STEPS

Council's direction from this Public Hearing will be incorporated into the operating and CIP budgets and will be reflected in the resolutions prepared for formal budget adoption at the City Council meeting of June 23, 2015.

Prepared by: Nan Barton, Financial Analyst

Recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachment I: Proposed FY 2016 Financial Policies

PROPOSED FY 2016 FINANCIAL POLICIES

Overview of Financial Policies

The City Council's adopted financial policies establish the framework for the City's overall fiscal planning and management. They set forth decision-making guidelines against which current budgetary performance can be measured and proposals for future programs can be evaluated. The City of Hayward's publicly adopted financial policies demonstrate the Council's commitment to sound financial management and fiscal integrity. Adherence to adopted financial policies promotes sound financial management, which leads to improvement in City bond ratings and lower cost of capital.

Below is a listing of key policies related to the citywide budget. Many of these policies have been in operation for a number of years. However, staff is updating some of these and introducing several new policies for Council's consideration during the FY 2016 budget process.

1. Balanced Budget Policy – UPDATED
2. Use of One-time Revenue for One-time Expenditures Policy – PROPOSED
3. Benefit Liabilities Funding Plan Policy – PROPOSED
4. Long Range Financial Forecasting Policy – existing
5. General Fund Reserve Policy – UPDATED
6. Investment Policy - existing
7. Debt Issuance and Management Policy - existing
8. Charges and Fees Policy - existing
9. Multi-Year Capital Improvement Program Plan Policy- existing
10. Internal Service Maintenance & Capital Replacement Policy - existing

Balanced Budget Policy

The City Manager must propose and City Council must adopt a balanced annual operating budget. A structurally balanced budget exists when recurring operating revenues equal or exceed recurring operating expenditures and there is no planned or actual use of reserve cash to cover any "negative gap" between the two. The following elements are considered when calculating a balanced budget:

1. Operating revenues and other resources (transfers in),
2. Operating expenditures, including transfers out,
3. One-time revenues should be carefully considered before being used to balance the operating budget,
4. Available fund balances may be used as a resource for non-recurring expenditures as approved by City Council, and
5. Capital Improvement Program budget funds are excluded, unless included as a transfer from the operating budget.
6. All budget changes that will be presented as part of a fiscal year mid-year review should first be considered by the Council Budget & Finance Committee.
7. It is the desire of City Council that new positions be addressed during the normal budget process and not during the mid-year review. However, it is recognized that there are critical priority projects or circumstances that may require position changes during the middle of a fiscal year.

For a variety of reasons, true structural balance may not be possible. In such a case, using reserves to balance the budget may be considered but only in the context of a plan to return to

PROPOSED FY 2016 FINANCIAL POLICIES

structural balance, replenish fund balance, and ultimately remediate the negative impacts of any other short-term balancing actions that may be taken. The City shall conduct midterm budget reviews to review the budget and take any necessary action to bring the budget into balance.

Use of One-Time Revenue for One-Time Expenditures - Proposed

One time revenues shall be considered for use toward one-time expenditures. While one-time revenues may occur over more than a single fiscal-year period (i.e. an allocation of one time funds over multiple fiscal years), they should not be used to support recurring operational expenses. One-time expenses that Council will consider for use of one-time revenues include:

1. Restoration of depleted reserve balances
2. Payments toward unfunded benefit liabilities such as Retiree Medical (other post-employment benefits – OPEB); CalPERS retirement unfunded liability, Workers' Compensation unfunded liability; or reduction of accrued leave through pay off of leave balances
3. One-time capital improvements or economic development investments
4. Early debt retirement

Uses that increase ongoing operating expenditures should be carefully reviewed and avoided if at all possible. For example, capital expenditures that significantly increase ongoing operating expenses without a sustainable and offsetting long-term revenue plan should be avoided. Uses of one-time funds for reasons not mentioned above require explicit, public Council discussion and authorization.

Property Transfer Tax – Threshold for Recurring & One-time Revenue - Proposed

The Real Property Transfer Tax (Transfer Tax) rate set by the City of Hayward is \$4.50 per \$1,000 of the value of consideration paid for the documented sale of real property or any transfer of interest in real property. Property Transfer Tax revenue is volatile and is driven directly by the real estate market, based on the rate of property turn over and the sales price of said properties. The City has experienced dramatic swings in its Property Transfer Tax.

In order to best budget this general fund revenue, the City Council will establish a threshold for recurring revenues that support recurring City operations. Based on historical averages and the current economic climate, a baseline annual threshold of \$4.8 million is established to fund recurring City operations. Transfer Tax revenues received in excess of this amount should be considered one-time revenues and used in accordance with the City's policy on the Use of One-Time Revenue for One-Time Expenditures.

In FY 2016, the City Manager shall propose and the City Council shall consider a possible increase to the City of Hayward's Property Transfer Tax rate as a prudent method to increase General Fund operating revenues.

PROPOSED FY 2016 FINANCIAL POLICIES

Benefit Liabilities Funding Plan & Policies - Proposed

Unfunded liabilities are defined as identifiable obligations of the City for which the organization does not have 100% of the funding (cash or other assets) set aside to cover the cost should all obligations become immediately and simultaneously due. The City's primary benefit liabilities include:

- California Public Employees' Retirement System (CalPERS)
- Other Post-Employment Benefits (OPEB) – Retiree Medical Benefits
- Workers' Compensation
- Accrued Leave Payouts

Council shall identify appropriate funding levels for each benefit liability considering the associated risk that the unfunded portion of the obligations present to the organization, timing of the liability's ultimate due date and realistic and responsible management of the organization's cash flows. The funding policies for each of these benefit liabilities is as follows:

Overarching Benefit Liability Funding Policy

1. The City Manager will incorporate in each proposed operating budget funding toward the City's benefit liabilities as appropriate and fiscally prudent; and the City Council will review and incorporate some level of this recommended funding in its adopted budget as appropriate and fiscally prudent.
2. All allocations toward funding benefit liabilities shall be attributed to the appropriate City revenue funds (e.g., General Fund, Enterprise Funds, etc.).
3. Upon receipt of any one-time funds – beyond funds needed to maintain the City's desired service levels and supporting operating expenditures – Council should review the City's benefit liabilities and assess whether some or all of the one-time money should be used to pay down one or more of the benefit unfunded actuarial liabilities (UAL) before expending the funds in other areas, with the Retiree Medical UAL having first priority.
4. The City Manager will constantly seek to identify innovative methods of reducing the City's benefit liabilities to achieve long-term fiscal stability – including, but not limited to, the reduction of healthcare costs.

California Public Employee Retirement System (CalPERS)¹

1. Pursuant to the CalPERS rate structure, the City is currently paying its Annual Required Contribution (ARC) – and shall continue to do so.
2. Council will strive to attain an 80% funding level of its CalPERS benefit liabilities.

¹Although a prepayment to pay down the City's CalPERS liability will reduce the City's unfunded actuarial liability and save money in the long-term, it will have little impact on current costs. Given other competing financial priorities, it may be difficult to justify allocating additional funding toward the CalPERS liability, especially in the absence of any short-term benefit of doing so, but that decision should be made thoughtfully and within the over-arching philosophy of reducing all unfunded liabilities to a financially prudent level.

PROPOSED FY 2016 FINANCIAL POLICIES

Retiree Medical (Other Post Employment Benefit - OPEB)

1. Council will strive to attain full funding of the ARC.
2. Council will strive toward attaining an 80% funding level of its OPEB benefit liability.

Workers' Compensation²

1. Council will strive to attain an 80% funding level of its Workers' Compensation benefit liability.

Accrued Leave

1. The City Manager will continue actively managing employee's leave balances below established caps to prevent excessive accumulation of leave and increased liabilities.

Long Range Financial Forecasting Policy

Hayward's budget will include a long range financial forecast of operating revenues and expenditures of the General Fund and other key operating funds. The forecast will extend to ten years for the General Fund and Capital Improvement Program, and five–ten years for other key operating funds (e.g., enterprise, internal service and special revenue funds), including the budget period. The forecast, along with its underlying assumptions and methodology, will be clearly stated and made available to participants during the budget process. It will also be included in the final budget document. The forecast shall include a spendable fund balance calculation and any difference from established reserve levels.

General Fund Reserve Policy - Updated

The City Council will establish and maintain adequate financial reserve levels. Reserves are one-time funding intended for emergency needs (such as a catastrophic natural or financial disaster). Reserves also provide some flexibility to address one-time priority programs, smooth out economic swings, and to buffer the loss of state and federal funds. When revenues fail to meet the normal operating requirements of essential public services, or expenditures temporarily exceed revenues, upon the recommendation of the City Manager and the authorization of the City Council, reserves may be used in accordance with the standards set forth herein.

Name	Minimum	Basis
General Fund	Goal of at least 25% of budgeted General Fund operating expenditures, including transfers out	To create a reserve that will allow the City to continue providing acceptable service levels during emergencies and economic downturns while maintaining adequate liquidity to make all payments without short term borrowing.

² The City has implemented a funding plan through the current Workers' Compensation rate structure (rates include element toward UAL) to gradually bring the level of plan funding to 80%.

PROPOSED FY 2016 FINANCIAL POLICIES

Council expects that the annual budget presented by the City Manager will include a recommendation for the amounts to be appropriated to these Reserves.

In times of economic downturn, if revenues are insufficient to meet the normal operating requirements of essential services, funds contained in the Reserve may be used if authorized by the City Council, based on the following principles:

- 1) Staffing levels in essential services shall be temporarily maintained, in order to avoid or reduce the necessity for immediate lay-offs: only in extreme conditions will reserves be used to balance the operational budget for more than two years;
- 2) The City Manager has taken and/or recommended to Council all reasonable and available expenditure reduction measures including, but not limited to:
 - a) Implementing a hiring freeze for positions as appropriate to maintain essential services to the public;
 - b) Assuring that user fees and services charges have been fully utilized for those services for which they were collected;
- 3) The level of the Reserve shall be restored in a timely manner as economic recovery occurs, consistent with the maintenance of essential services:
- 4) "Essential services", "appropriate levels" of such services, and "extreme conditions" will be determined from time to time by the City Council upon the recommendation of the City Manager.

Investment Policy

The City of Hayward incorporates a prudent and systematic investment process and investment related activities are formalized in the Annual Statement of Investment Policy. The primary objectives of the policy, in priority order, are: safety, liquidity, and yield. City policy requires diversification of the investment portfolio, in order to reduce the risk of loss resulting from over concentration of assets in a specific maturity, issuer, or class of securities. An Investment Advisory Committee is appointed by the City Manager to oversee the City's investment program and assure it is consistent with the investment policy as approved by the City Council. The committee meets quarterly to monitor portfolio performance and consider changes in strategy and investment policy. The policy is approved annually by the City Council at a public meeting. The Director of Finance provides periodic reporting to the Committee and to City Council on the status of City cash and investments.

Debt Issuance and Management Policy

The City of Hayward has developed a comprehensive debt management policy. The following parameters are to be considered before debt issuance:

1. The purposes for which debt may be issued shall be approved by City Council.
2. Legal debt limitations or limitations established by policy, including limitations on the pledge of the issuer's general credit, shall be calculated.
 - o The City is bound by a provision in state law limiting indebtedness for California cities to 15% of the assessed value of all real and personal property of the city. This statutory limitation applies to bonded indebtedness of the City payable from the proceeds of taxes levied on property.

PROPOSED FY 2016 FINANCIAL POLICIES

3. Types of debt permitted to be issued are:
 - short-term and long-term debt
 - general obligation and revenue debt
 - capital and variable rate debt
 - lease-backed debt, such as certificates of participation
 - special obligation debt such as assessment district debt
 - pension obligation bonds
 - conduit issues
 - State Revolving Loan Funds and Pools
 - inter-fund borrowing
 - taxable and non-taxable debt
4. Prior to the issuance of any debt, the funding source for the debt service must be identified and designated. The level of debt to which the Council obligates the City is managed within available resources and represents a minimal cost to general taxpayers.
5. Except in extreme conditions as defined by City Council, the issuance of new debt in and by itself shall not jeopardize or lower the City's bond ratings.
6. To the extent possible, the issuance of new debt occurs when resources are made available by the retirement of an existing obligation. By managing the timing of new debt, current City operations are not affected.
7. Method of selecting outside finance professionals shall be consistent with the City's procurement practices.
8. The City shall comply with federal tax law provisions, such as arbitrage requirements.
9. The City shall not engage as a fiscal agent for agencies that are not directly affiliated with the City of Hayward.

In order to be an effective management tool, the parameters of the debt issuance and management must be compatible with the City's goals pertaining to the capital improvement program and budget, the long-term financial plans, and the operating budget. Debt parameters should strike an appropriate balance between establishing limits on the debt program and providing sufficient flexibility to respond to unforeseen circumstances and new opportunities. Finally, the Director of Finance should consider debt parameters on a given issuance, and the debt program should be continuously monitored to ensure that it is in compliance with these parameters.

Charges and Fees Policy

The City of Hayward supports the use of charges and fees as a method of funding governmental services. The following policy is established regarding the charge and fee setting process:

1. Hayward intends to recover the full cost of providing goods and services as appropriate. Circumstances where a charge or fee is set at less than 100 percent of full cost must be considered and approved by City Council.
2. Charges and fees will be reviewed annually and updated based on factors such as the impact of inflation, cost of service increases, the adequacy of the coverage of costs, and current competitive rates.
3. There shall be a direct relationship between the amount paid and the level and cost of the service received.

PROPOSED FY 2016 FINANCIAL POLICIES

4. Information on charges and fees will be made available to the public both before and after adoption.
5. The use of service charges and fees as a source of funding service levels is especially appropriate under the following circumstances:
 - a. The service is similar to services provided through the private sector.
 - b. Other private or public sector alternatives exist for the delivery of the services.
 - c. Expedited or unusual handling or service is requested by the person or entity paying the fee.
 - d. The service is regulatory in nature and voluntary compliance is not expected to be the primary method of detecting failure to meet regulatory requirements. Building permit, plan checks, and subdivision review fees for large projects would fall into this category.
6. The following general concepts will be used in developing and implementing service charges and fees:
 - a. Fees structures must comply with current law (such as Proposition 26) – and revenues should be reasonable and not exceed the total cost of providing the service.
 - b. Cost recovery goals should be based on the total cost of delivering the service, including direct costs, departmental administration costs, and organization-wide support costs such as accounting, personnel, data processing, vehicle maintenance and insurance.
 - c. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection and increase the transparency of how the fees are calculated.
 - d. Where possible, accommodations should be made and rates set for low income residents.

Multi-Year Capital Improvement Program Plan Policy

The City Manager will prepare and recommend, and the City Council will adopt, a comprehensive ten-year capital improvement program (CIP) plan to ensure effective management of capital assets. A prudent multi-year capital improvement plan identifies and prioritizes expected needs based on the City's General Plan, replacement plans, and other needs; establishes project scope and cost; details estimated amounts of funding from various sources; and projects future operating and maintenance costs. The capital plan should identify present and future service needs that require capital infrastructure or equipment, including:

1. Capital assets that require repair, maintenance, or replacement that, if not addressed, will result in higher costs in future years
2. Infrastructure improvements needed to support new development or redevelopment
3. Projects with revenue-generating potential
4. Time-sensitive investments for projects that take advantage of economic or other opportunities to achieve Council goals or further the progress of the community.
5. Improvements or resources that support economic development
6. Changes in community needs
7. New policies, such as those related to sustainability and energy efficiency

The full extent of project costs should be determined when developing the multi-year capital improvement plan. Cost issues to consider include the following:

8. The scope and timing of a planned project should be well defined in the early stages of the planning process

PROPOSED FY 2016 FINANCIAL POLICIES

9. Identify and use the most appropriate approaches, including outside assistance, when estimating project costs and potential revenues
10. For projects programmed beyond the first year of the plan, staff should adjust cost projections based on anticipated inflation
11. The ongoing operating costs associated with each project should be quantified, and the sources of funding for those costs should be identified
12. A clear estimate of all major components required to implement a project should be outlined, including land acquisition needs, design, construction, contingency and post-construction costs
13. Recognize the non-financial impacts of the project (e.g., environmental) on the community.

Internal Service Maintenance & Capital Replacement Policy

The City of Hayward maintains internal service funds for facilities, fleet, and technology. These funds create a system for planning, budgeting, and periodic assessment of capital maintenance/replacement needs. The following actions are considered in these assessments:

1. Develop and maintain a complete inventory of all capital assets and related cost.
2. Perform periodic measurement of the physical condition of all existing capital assets including estimated remaining useful life of assets.
3. Establish condition/functional performance standards to be maintained for each category/component of capital assets. Use these standards and a current condition assessment as a basis for multi-year capital planning and annual budget funding allocations for capital asset maintenance and replacement.
4. Develop financing policies for capital maintenance/replacement that encourage a high priority for those capital programs whose goal is maintaining the quality of existing assets.
5. Allocate sufficient funds in the ten-year capital improvement plan and annual operating budgets for routine maintenance, repair, and replacement of capital assets in order to extend the useful life of these assets and promote a high level of performance throughout the target period.
6. Periodically, report on long-lived capital assets, including:
 - Condition ratings jurisdiction-wide
 - Condition ratings by geographical area, asset class, and other relevant factors
 - Indirect condition data (e.g., work orders, repeat repairs)
 - Replacement life cycle(s) by asset type
 - Year-to-Year changes in net asset value
 - Actual expenditures and performance data on capital maintenance compared to budgeted expenditures performance data (e.g., budgeted improvements compared to actual)



DATE: June 16, 2015
TO: Mayor and City Council
FROM: Director of Public Works – Engineering & Transportation
SUBJECT: Designation of Additional Preferential Residential Permit Parking Areas

RECOMMENDATION

That Council holds a public hearing and adopts the attached resolution (Attachment I) designating the following areas as Preferential Residential Permit Parking Areas under Section 3.95 of the Hayward Traffic Regulations:

1. South of A Street and East of Interstate 880 (I-880): Happyland Avenue and Fuller Avenue from A Street to Elmwood Street;
2. South of A Street and West of I-880: Marvin Way, Barker Avenue, and Westpark Street from Barker Avenue to 21651 Westpark Street; and
3. North of Hayward Boulevard: Parkside Drive from Hayward Boulevard to Tribune Avenue and Rainbow Court.

BACKGROUND

In 1987, Council adopted a resolution that approved a Preferential Residential Permit Parking Program (PRPPP). The PRPPP restricts on-street parking to residential permit-holders during posted hours.

Residents are required to submit a permit parking request to Public Works - Engineering and Transportation Department staff. Subsequently, parking surveys are conducted by staff to verify the parking issues. If the survey shows 75% parking occupancy in at least six adjacent block faces, residents are then required to submit a petition that must include signatures from at least 55% of the residents within the proposed area.

If the petition requirements are met, the Director of Public Works may recommend to the City Council that the area be added to the program.

Since 1987, Council has made updates to the fee structure in response to public concerns and has tried to make the program more self-sustaining. On May 31, 2011, Council approved a revised fee structure for newly designated areas as follows:

2 residential or visitor permits (biennial)	\$50.00
Each additional residential or visitor permit (biennial)	\$25.00

There are five areas currently covered by the Preferential Residential Permit Parking Program, which are in effect Monday through Friday (except holidays): (1) the Eden Gardens neighborhood near Chabot College, between 8:00 AM and 8:00 PM; (2) Santa Clara Street near the Alameda County offices and the Post Office, between 8:00 AM and 6:00 PM; (3) Edloe Drive/Ocie Way near the Alameda County offices, between 8:00 AM and 4:00 PM; (4) University Court/Highland Boulevard neighborhood near the California State University, East Bay (CSUEB) campus, between 8:00 AM and 9:00 PM; and (5) Spencer Lane, Hemmingway Court and portions of Dobbel Avenue and Civic Avenue neighborhoods near the CSUEB campus, between 8:00 AM and 9:00 PM.

DISCUSSION

Over the past several years, Happyland Avenue and Fuller Street residents have expressed concerns regarding on-street parking in their neighborhood being occupied by the employees from nearby businesses. Similarly, residents on Marvin Way, Barker Avenue and Westpark Streets have expressed concerns regarding on-street parking being impacted by residents from nearby apartment complexes. In both these areas, staff received complaints about unsafe and illegal parking activities (i.e., blocking driveways and/or fire hydrants, parking on corners) as well as trash being left on the street.

In addition, Parkside Drive and Rainbow Court residents have resubmitted their request for the Permit Parking Program with modified boundaries. This neighborhood was originally part of the permit parking request that was approved by Council on October 28, 2014. However, for various reasons, the residents decided not to pursue their request at that time. As a result, it was pulled from the approval process prior to the Council meeting. This is one of the several neighborhoods impacted by student parking from CSUEB.

Field observations have concluded that the majority of the vehicles parked on-street in all three neighborhoods are not residents, but are from outside the area. Therefore, based upon the field observations and signatures received from residents and property owners (shown in percentage) in support of the program, staff recommends including the following streets in the Preferred Residential Permit Parking program:

1. South of A Street and East of I-880: Happyland Avenue and Fuller Avenue from A Street to Elmwood Street (62%);
2. South of A Street and West of I-880: Marvin Way, Barker Avenue, and Westpark Street from Barker Avenue to 21651 Westpark Street (78%); and
3. North of Hayward Boulevard: Parkside Drive from Hayward Boulevard to Tribune Avenue and Rainbow Court (64%).

The proposed permit parking will be in effect for these streets on weekdays only (excluding weekends and holidays) between 8:00 AM and 9:00 PM. These areas, as shown in Attachment II, will be subject to the procedure and fees approved by Council on May 31, 2011.

ECONOMIC IMPACT

There are approximately 207 residences in the three areas. Assuming that each participant purchases two residential permits and an additional visitor permit, the added areas will potentially bring in \$15,525 bi-annually to the City.

The revenue to be generated from the additional designated areas will be used to partially offset the costs incurred by staff from Public Works - Engineering and Transportation (working with the public to obtain the signatures, and preparation of maps and petitions), Maintenance Services (preparation and installation of signs), Revenue (printing and distributing the permits, and collecting the fees) and the Police Department (enforcement).

PUBLIC CONTACT

Per Section 3.95 of the Traffic Regulations, on June 6, 2015, a public hearing notice was duly printed in *The Daily Review* newspaper, ten days before the public hearing. In addition, staff provided written notification of the public hearing to each of the affected residents in the proposed designated areas. Staff has not received any objections to the proposed designation as of the submission of this report.

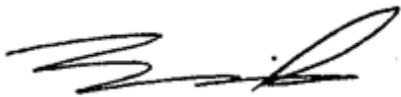
NEXT STEPS

Once Council approves the designation, staff from the Finance Department will send out residential permit parking applications and Maintenance Services staff will install the appropriate signage on the subject streets indicating that parking is by permit only. This work is expected to be completed by August 14, 2015. The Hayward Police Department will also be notified of the designation for enforcement purposes. Courtesy citations will be issued for a period of two weeks prior to initiating actual enforcement.

Prepared by: Fred Kelley, Transportation Manager

Approved by: Morad Fakhrai, Director of Public Works – Engineering & Transportation

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution
- Attachment II: Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO.15- _____

Introduced by Councilmember _____

RESOLUTION DESIGNATING HAPPYLAND AVENUE SOUTH OF A STREET, FULLER AVENUE BETWEEN A STREET AND ELMWOOD STREET, MARVIN WAY, BARKER AVENUE, PORTIONS OF WESTPARK STREET, RAINBOW COURT, AND PORTIONS OF PARKSIDE DRIVE AS PREFERRED RESIDENTIAL PERMIT PARKING AREAS

WHEREAS, Section 3.95 of the Hayward Traffic Regulations, as amended May 31, 2011, allows the City to designate certain streets for preferred residential permit parking if certain conditions are met as described by the Traffic Regulations;

WHEREAS, greater than 55% of the residents of the above areas have agreed to the designation of these streets for preferred residential permit parking and have agreed to pay the fees adopted on May 31, 2011 associated with this designation;

WHEREAS, a public hearing notice was duly advertised at least ten days prior to the public hearing; and

WHEREAS, a public hearing was held on June 16, 2015.

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates the following streets for preferred residential permit parking:

- Happyland Avenue - South of A Street;
- Fuller Avenue from A Street to Elmwood Street;
- Marvin Way;
- Barker Avenue;
- Westpark Street from Barker Avenue to 21651 Westpark Street; and
- Parkside Drive from Hayward Boulevard to Tribune Avenue and Rainbow Court.

Permit parking will be in effect for these streets between 8:00 AM and 9:00 PM, Monday through Friday (excluding weekends and holidays).

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

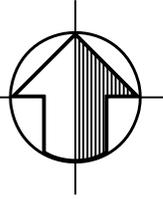
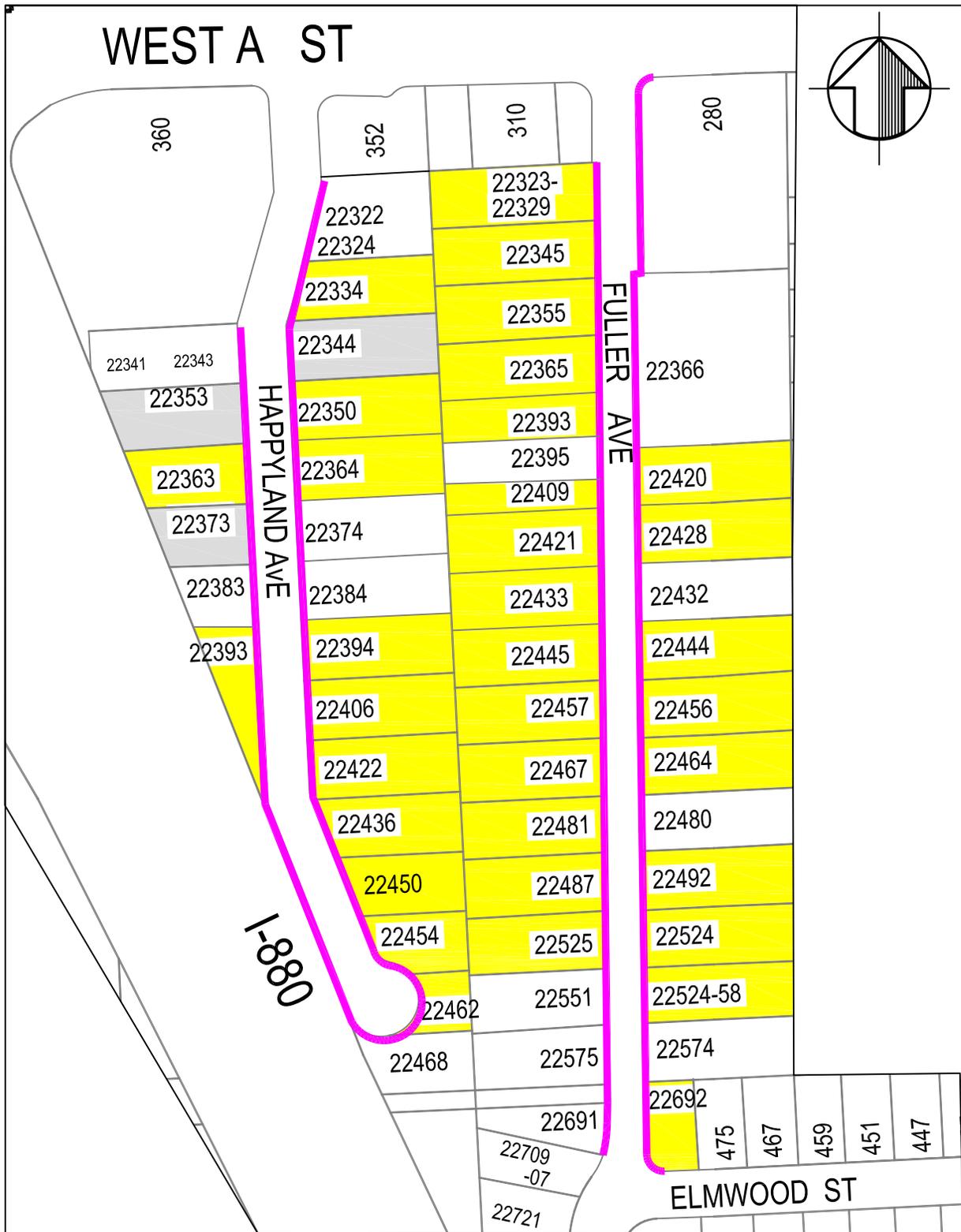
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

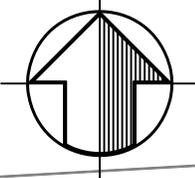


 Proposed Permit Parking Area

 Residents that signed the petition

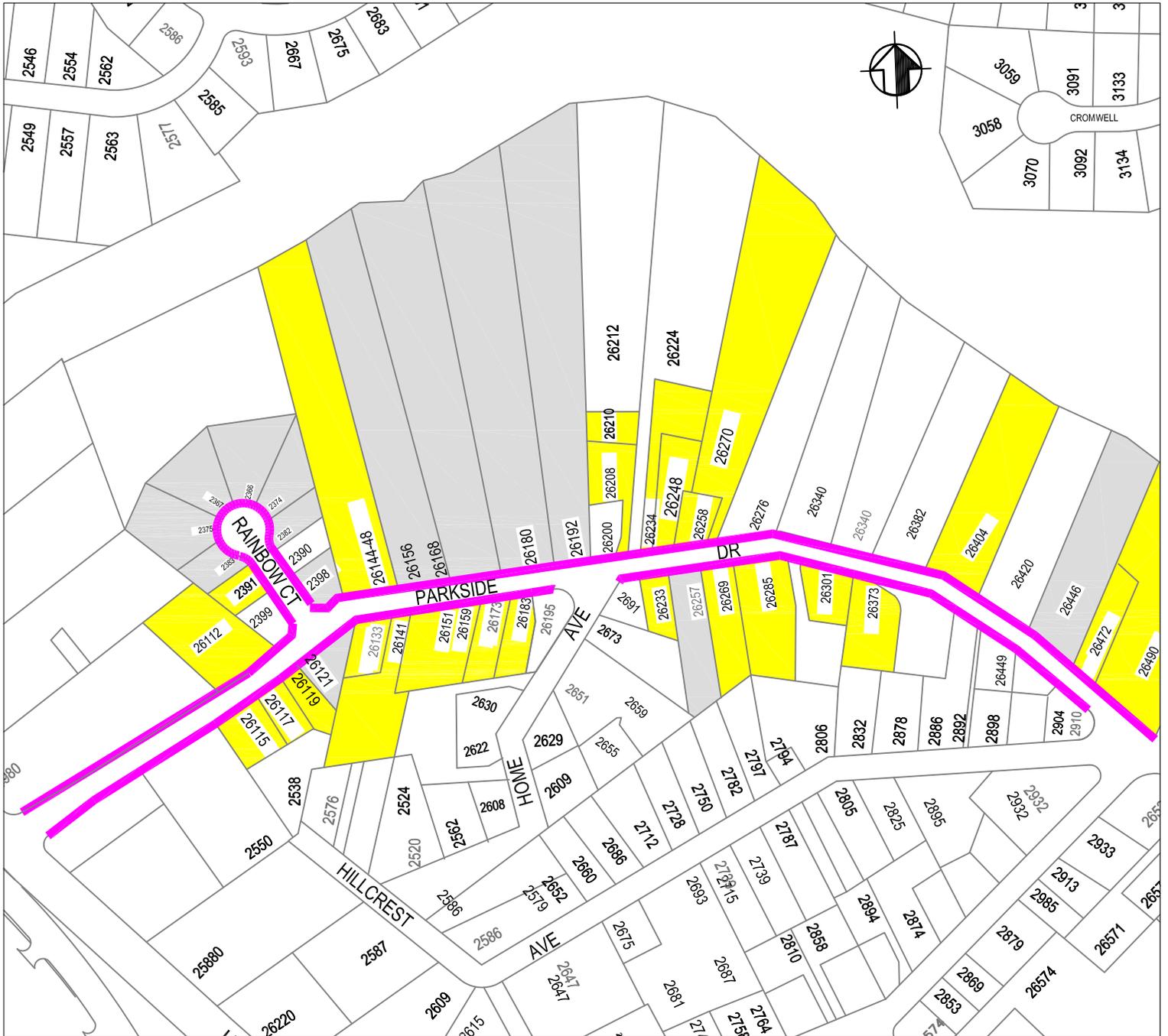
 Vacant Lots

**PROPOSED PREFERENTIAL PERMIT PARKING AREA
HAPPYLAND AVE AND FULLER AVE**



— Proposed Permit Parking Area
 Residents that signed the petition

**PROPOSED PREFERENTIAL PERMIT PARKING AREA
WESTPARK ST-MARVIN WAY-BARKER AVE**



 Proposed Permit Parking Area



Residents that signed the petition



Vacant lots or HARD Properties

**PROPOSED PREFERENTIAL PERMIT PARKING AREA
PARKSIDE DR-RAINBOW CT**

DATE: June 16, 2015

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Establishment of Zoning Conformance Permit for Minor Uses and Improvements: Introduction of an Ordinance and Adoption of Two Resolutions Related to Amendments to Chapter 10, Article 1, Zoning Ordinance, of the Hayward Municipal Code and Establishment of Related New Fee; the proposed project is exempt from the California Environmental Quality Act (CEQA) under CEQA Section 15061(b)(3); City of Hayward (applicant)

RECOMMENDATION

That the City Council introduces the attached ordinance (Attachment I) to amend the Hayward Municipal Code (HMC) (Text Amendment Application No. 201502107) to add a new Section 10-1.2950, *Zoning Conformance Permit*, and adopts the attached two resolutions (Attachments II and III) related to such ordinance and a related new permit fee in the City's Fiscal Year 2016 Master Fee Schedule.

SUMMARY

In the coming months, City staff anticipates bringing forward City-initiated amendments to the Hayward Municipal Code (HMC), including but not limited to, establishment of regulations for Unattended Collection/Donation Boxes, fencing on vacant property, and other minor uses and improvements that will require planning review to ensure consistency with specified regulations and standards. The proposed Zoning Conformance Permit (ZCP) would provide a simplified over-the-counter planning application process to allow streamlined planning review, approval and documentation of such activities, while ensuring cost recovery through establishment of a new permit fee.

BACKGROUND

The HMC contains general planning/zoning permits (i.e. Administrative and Conditional Use Permits, Variances, and Zoning Text Amendments,) and specific planning permits related to uses or types of development (i.e., Food Vendors, Chickens, and Tobacco Establishments). Generally, the City's planning permit application deposit amounts are set to cover thorough multi-department review, public noticing, public hearing attendance and preparation by staff, and time to draft and review findings of fact and conditions of approval. Specific permits that do not require intensive review or public noticing are generally priced lower. However, the practice of establishing numerous special permits for minor uses every time that a set of regulations comes before the

Commission and Council is bureaucratic and overly complex, and could be remedied by the establishment of a general, over-the-counter ministerial planning permit, as proposed.

Other jurisdictions with similar permits include Berkeley's Zoning Conformance Permit (\$180 permit fee); Fremont's Determination of Zoning Compliance (no fee); Santa Rosa's Zoning Clearance Certification (no fee); Pasadena's Code Compliance Permit (\$69); and the County of San Diego's Zoning Verification Permit (approximately \$1,000), among others.

Planning Commission Public Hearing and Recommendation - On May 28, 2015, the Planning Commission held a public hearing to consider the proposed regulations. The Commission supported the concept of a simplified permitting process and reduced fee for certain minor improvements and uses, and voted 6:0:1 to recommend Council adoption of the permit and associated ordinance and resolutions, as proposed (see draft meeting minutes, Attachment IV).

DISCUSSION

As noted in the Summary above, City staff anticipates bringing forward City-initiated zoning text amendments in the next few months to introduce new minor uses and improvements that will be permitted in certain districts subject to specific, fixed standards and objective measurements. These uses and minor improvements would not warrant significant scrutiny and public noticing over and above an over-the-counter review by staff to ensure that the proposed project is consistent with the adopted standards and measures, such as is already done for a single sign permit. Rather than creating separate individual permit types for each of these uses or modifying already established planning permits to cover these minor land improvements and uses, staff recommends the establishment of a simplified, over-the-counter ministerial ZCP at a set fee. Like sign permits, issuance of the ZCP would create a legal record of the proposed project, ensure ongoing compliance with the adopted standards, and provide an enforcement mechanism if the use/improvement is not conducted in accordance with standards. However, the process would be streamlined and cost-effective, making it relatively simple for customers.

Overview of Proposed Zoning Conformance Permit Regulations and Fee - The ZCP would be a new stand-alone Section 10-1.2950, Zoning Conformance Permit, in the HMC. Like other planning permit sections in the HMC, the proposed ZCP section would contain various sub-sections including Purpose, When Required, Application Submittal Requirements, Notice of Decision and Effective Date, Conformance, Uses Not Specified and Violations and Penalties. Please see Attachment I to this report for the complete text of the ordinance.

Unlike other planning permits, the ZCP would not contain required findings, conditions of approval, the option for appeal, and public noticing. The proposed permit would be ministerial and would apply only when uses and or minor land improvements are permitted by right subject to fixed standards or objective measurements. Ministerial permits are defined as actions in which the local government does not have discretion and result in issuance of a permit if certain conditions are met. Examples of ministerial permits include sign permits and building permits. If the proposed project does not objectively meet the adopted standards or measurements set forth in the HMC, the applicant would be directed to modify the proposed project to bring it into conformance with the adopted regulations, or the permit would be denied. If an application for a ZCP is denied, the

applicant would be provided the option to submit a higher level planning permit such as a variance, or other applicable standard discretionary permit.

As regulations for new types of uses or improvements are developed and added to the HMC, such as for Unattended Collection Boxes and for Fencing on Vacant Property that will be presented to City Council in the near future, language will also be added or modified to indicate a ZCP will be required. Currently, there are no specific uses or improvements listed that require a ZCP; this action will simply establish the ZCP provisions and process.

Staff recommends that the proposed ZCP fee at this time be set at \$210, equal to one hour of the standard hourly Planning rate. Staff recommends that a flat, consistent fee be adopted for all applicants regardless of for profit or non-profit status due to the simple nature of the permit. The single fee approach is consistent with other ministerial Planning permits, such as a sign permit.

Text Amendment Findings for Approval - In order for the Text Amendment to be approved, the following findings must be made. Staff provides reasons why the findings can be made in the attached resolution (Attachment II).

- A. *Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.***
- B. *The proposed change is in conformance with all applicable, officially adopted policies and plans.***
- C. *Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.***
- D. *All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.***

Environmental Impact Analysis - The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed zoning text amendments would establish a new simplified permit and process for minor uses and improvements such as installation of small structures ancillary to the main use on the site. Thus, it can be seen with certainty that there is no possibility that the proposed project would have a significant effect on the environment.

ECONOMIC IMPACT

Establishment of a ZCP would provide a simplified, lower-priced permit for property and business owners without going through a typical administrative use permit or site plan review process, both of which have higher deposit amounts priced to cover public noticing, multiple department staff review, and development of findings and conditions of approval. Further, the ZCP would provide a record to the establishment of the use or land improvement to ensure ongoing consistency with the HMC.

FISCAL IMPACT

The proposed ZCP fee would be set at one hour of a planner's time to ensure cost recovery of staff time during the initial in-take, consistency review, issuance of permit and records management post-permit issuance. Staff does not anticipate that the ZCP process would normally require more than one hour of staff time; however, future annual adjustments may be required to set the fee at a higher or lower rate to ensure full cost recovery, depending on the time that is spent processing applications for the new permit and the fully-loaded hourly staff rates/costs.

PUBLIC CONTACT

On June 6, 2015, notice of the public hearing related to the proposed zoning text amendments was published in *The Daily Review*, and was posted at City Hall and the Hayward Public Library. On April 27, 2015 and May 15, 2015, Planning staff met with representatives from USAgain and Recycle for Change, respectively, and described the proposed ZCP process and fee.

Recycle for Change submitted a letter on May 21, 2015, which is primarily related to the Unattended Collection Box Ordinance, a revised version of which is scheduled for City Council review this summer. Staff will attach such letter to that staff report when the Unattended Collection Box Ordinance is presented to City Council. With regard to the ZCP, Recycle for Change was concerned about the requirement for a property owner signature on applications for permits noting, "Property owners are often absentee and can be impossible to locate and/or contact." Recycle for Change supports a permitting process that allows the applicant to have such permit authorized by the property owner or person in legal possession of the property. It is current practice for staff to accept written application support from the owner's representative, who is authorized in writing by the property owner, in addition to the property owner. Staff recommends the ordinance not be modified in this respect, since staff feels it is important that the property owner or his/her authorized representative acknowledge any ZCP application.

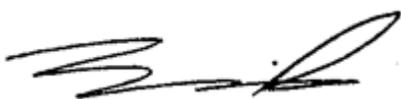
NEXT STEPS

Should the Council adopt the attached two resolutions and introduce the attached ordinance, staff will bring back the ordinance for adoption at the next City Council meeting on June 23, 2015, and it will become effective immediately upon adoption.

Prepared by: Leigha Schmidt, AICP, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- | | |
|----------------|--|
| Attachment I | Proposed Ordinance - Proposed HMC Section 10-1.2950, Zoning Conformance Permit |
| Attachment II | Proposed Resolution – CEQA and Zoning Text Amendment Findings |
| Attachment III | Proposed Resolution - Revision to the Master Fee Schedule |
| Attachment IV | Draft Planning Commission Meeting Minutes, May 28, 2015 |

ORDINANCE NO.

ORDINANCE ADDING NEW SECTION 10-1.2950 TO HAYWARD MUNICIPAL CODE CHAPTER 10, ARTICLE 1, ZONING ORDINANCE, RELATED TO ESTABLISHMENT OF REGULATIONS PERTAINING TO ZONING CONFORMANCE PERMITS

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 15-_____ approving the text changes requested in Zoning Text Amendment Application No. 201502107.

Section 2. As reflected in attached Exhibit A, amend Hayward Municipal Code Chapter 10, Zoning Ordinance, to add a new Section 10-1.2950 et seq, Zoning Conformance Permit, to establish a new ministerial planning application and process for activities that are allowed as a matter of right, subject to fixed standards and objective measurements set forth in applicable sections of the municipal code.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2015 by Council Member_____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the____ day of _____, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

SEC. 10-1.2950 ZONING CONFORMANCE PERMIT

Sections:

Section 10-1.2955	Purpose.
Section 10-1.2960	When Required.
Section 10-1.2965	Application.
Section 10-1.2970	Notice of Decision and Effective Date.
Section 10-1.2975	Conformance.
Section 10-1.2980	Uses Not Specified.
Section 10-1.2985	Violations and Penalties.

SEC. 10-1.2955 PURPOSE.

A Zoning Conformance Permit is associated with a simplified process for reviewing applications for activities that are allowed as a matter of right, subject to fixed standards or objective measurements set forth herein. Any action of the Planning Director pursuant to this section may be taken without neighborhood notice or public hearing. The decision by the Planning Director pursuant to this section shall be final.

SEC. 10-1.2960 WHEN REQUIRED.

A Zoning Conformance Permit shall be required for all uses or development that are allowed as a matter of right and that are identified as requiring a Zoning Conformance Permit. Site Plan Review may be required if the Planning Director determines that the project materially alters the appearance and character of the property or area or may be incompatible with City policies, standards and guidelines, in accordance with the Site Plan Review provisions of this Ordinance.

SEC. 10-1.2965 APPLICATION.

- a. Application for a Zoning Conformance Permit shall be on a form provided by the Planning Division and shall be signed by the applicant and by an owner of the property or the owner's authorized representative. The application shall be submitted to the Planning Division and shall be accompanied by payment of a fee, as established by resolution of the City Council.
- b. Each application shall be accompanied by:
 - (1) A scaled map or diagram of the property;
 - (2) A statement describing the existing improvements or use of the subject property and any proposed changes;

- (3) Other documents or information in such form and number as may be required by the Planning Director, including, but not limited to, materials specifically required for the proposed use or development, title reports, dimensioned architectural drawings showing elevations of existing and proposed buildings, existing and proposed landscaping and other ground treatment, required parking facilities and circulation, provisions for refuse, fencing, lighting, storage, signs, proposed open space, building materials and drainage facilities, and existing and proposed grades.
- c. No application shall be acted upon until it is deemed complete by the Planning Director.

SEC. 10-1.2970 NOTICE OF DECISION AND EFFECTIVE DATE.

- a. Notice. Any notice provided for in this section shall be served on the applicant and the property owner in accordance with State law, and shall include the name of the applicant, the purpose of the application and the location of the property. A copy of the notice will be mailed to the person(s) and address(es) identified in the application. The failure of any person to receive notice properly given shall not affect the validity of any proceedings hereunder.
- b. Effective Date. The decision of the Planning Director shall take effect upon approval.

SEC. 10-1.2975 CONFORMANCE.

A Zoning Conformance Permit issued on the basis of plans and applications approved by the Planning Director are valid only for uses, arrangements, and construction set forth in the permit. Any use, arrangement, or construction other than those set forth in the permit is a violation of the Zoning Ordinance.

SEC. 10-1.2980 USES NOT SPECIFIED.

When a proposed use is not listed where other uses of the same general character are specified, the Planning Director may interpret the Ordinance to include said use as comparable to a primary or conditional use in the same district.

SEC. 10-1.2985 VIOLATIONS AND PENALTIES.

- a. Any person violating any provision of this Ordinance or failing to comply with any approved plans or conditions, shall be guilty of an infraction or misdemeanor as set forth in Chapter 1, Article 3 of the Hayward Municipal Code.
- b. Whenever there exists cause to suspect a violation of any provision of this Ordinance, the official responsible for enforcement may enter on any site or into any structure for the purpose of investigation. No secured building shall be entered without the consent of the owner or occupant or agent thereof. Where the owner refuses to permit entry for investigation, the official responsible for enforcement may seek to obtain a warrant issued by the Superior Court of Alameda County for the purposes of inspection.

- c. The procedures for abatement of an infraction set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances and regulations or abating public nuisances in any other manner provided by law.
- d. Any violation of this ordinance shall be a public nuisance and may be abated as such. Nothing in this Ordinance shall be deemed to prevent the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law.
- e. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code section 36900. After a third conviction for a violation of the same provision, subsequent violations within a 12-month period may be charged as a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code section 36901.
- f. Each day that a violation or failure to comply continues shall be deemed a separate offense and may be punished as such.
- g. The remedies provided for herein shall be cumulative and not exclusive.

HAYWARD CITY COUNCIL

RESOLUTION NO 15-

Introduced by Council Member _____

RESOLUTION ADOPTING FINDINGS SUPPORTING
AMENDMENTS TO THE CITY OF HAYWARD MUNICIPAL CODE
ESTABLISHING PROVISIONS FOR ZONING CONFORMANCE
PERMITS

WHEREAS, there is a need and benefit in establishing a ministerial, over-the-counter Planning permit to provide a simplified, cost effective planning review and approval process for activities that are allowed as a matter of right, subject to fixed standards or objective measurements set forth in the Municipal Code; and establishment of a new permit requires an amendment to the Master Fee Schedule (the “Project”); and

WHEREAS, the proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed zoning text amendments would establish a new ministerial planning permit and process for minor uses and improvements such as installation of small structures ancillary to the main use on the site. Thus, it can be seen with certainty that there is no possibility that the proposed project would have a significant effect on the environment.

WHEREAS, the Planning Commission considered the Project at a public hearing held on May 28, 2015, and where the motion passed (6-0-1), that the City Council approve the proposed text amendment (Application No. 201502107); and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on June 16, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. The proposed project is exempt from CEQA under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA in that the proposed zoning text amendment would not have the potential for causing a significant effect on the environment.

AMENDMENTS TO THE MUNICIPAL CODE RELATED TO ESTABLISHMENT OF A ZONING CONFORMANCE PERMIT (REFERRED TO AS THE “TEXT AMENDMENTS”)

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed text amendments will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the ministerial Zoning Conformance Permit will provide a simplified Planning review process and timeline and reduced cost for minor uses and small improvements that are consistent with adopted development and performance standards. Further, the Zoning Conformance Permit will provide a record for the establishment of the use or improvement. If the use or land improvement is found to be operating outside of the approval and not in accordance with adopted standards, the proposed Violations and Penalties regulations would provide a mechanism whereby any nuisance uses or improvements may be subject to code enforcement action.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

The proposed change will add a new general, ministerial planning permit to document and track minor uses and land improvements permitted “by right” in accordance with specific development and performance standards as determined appropriate by the Planning Commission and City Council. The permit will be consistent with all applicable, officially adopted policies and plans in that the permit will only be applicable to allowable uses subject to Zoning Conformance Permit approval as specified in the municipal code. Further, the proposed permit will provide a clear record of establishment of certain uses, subject to those standards, and a remedy to revoke such a permit or abate any uses or improvements that do not operate in accordance with the approved permit.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

No properties are proposed to be reclassified. Rather, the Zoning Conformance Permit involves establishment of a ministerial planning permit to establish and track minor uses and improvements that are consistent with the Municipal Code.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified. The Zoning Conformance Permit will be applicable only to minor uses and land improvements permitted by the Zoning Ordinance subject to specific development and performance standards. The Zoning Conformance Permit will offer a simplified, over-the-counter planning application process with a nominal permit fee to ensure cost recovery, thus benefitting property and business owners via a reduced fee. Staff efficiencies will also improve with a streamlined process, helping

free up limited staffing resources to focus on more substantial and impacting projects. The Zoning Conformance Permit also will benefit the City in that it will minimize the number of individual permits staff administers and will provide a method of tracking uses and minor land improvements throughout the City while providing legal remedy in the event that a property or business owner does not comply with the municipal code and the plans attached to the approved permit.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Text Amendment Application No. 201502107, subject to the adoption of the companion ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion ordinance (Ordinances No. 15-) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

HAYWARD CITY COUNCIL

RESOLUTION NO 15-

Introduced by Council Member _____

RESOLUTION AMENDING THE CITY OF HAYWARD FISCAL YEAR 2016
MASTER FEE SCHEDULE ASSOCIATED WITH AMENDMENTS TO THE
HAYWARD MUNICIPAL CODE TO ESTABLISH A NEW ZONING
CONFORMANCE PERMIT

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or,
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by city Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed amendment to the Master Fee Schedule (MFS) to set a new fee to process simple, ministerial Planning permits is considered a Planning Permit fee pursuant to Exception 1 for Fees for Benefits and Privileges, Article XIII C, § 1(e)(1) of Proposition 26.

WHEREAS, the City's goal is to provide a ministerial planning permit to provide efficient, over the counter service to support applications for minor projects that are permitted as a matter of right, subject to fixed standards or objective measurements set forth in the HMC, and to achieve cost recovery cost recovery for the staff time in implementing such a permit.

WHEREAS, the ministerial planning permit fee would be set at one hour of the standard planning staff rate to ensure cost recovery during the initial in-take, consistency review, issuance of permit and records management post-permit issuance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts certain changes in the Master Fee Schedule, as reflected in Attachment A.

BE IT RESOLVED that this resolution shall become effective on the date that the companion ordinance (Ordinances No. 15-) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

Attachment A

B PLANNING		
1. Pre-Application Meeting¹ (includes Fire Dept. fee) No Charge		No Charge
2. Code Assistance Meeting¹ (payable with Fire Dept. fee)		No Charge
3. Annexation Proceedings Costs shall also include, but not be limited to, current annexation filing fees established by the Board of Equalization in manner provided by the State Government Code Section 54902.5.	\$15,000	Time & Material; Initial Deposit ²
4. LAFCO Utility Service Agreement (Preparation and processing of documents in connection with utility service to property outside of the City limits)	\$5,000	Time & Material; Initial Deposit ²
5. Environmental/Technical Analysis (Contract) Consultant	\$5,000	Time & Material; Initial Deposit ²
6. General Plan Amendment¹	\$12,000	Time & Material; Initial Deposit ²
7. Text Change to Zoning Ordinance¹	\$12,000	Time & Material; Initial Deposit ²
8. Rezoning and Prezoning (Including New or Major Modification to a Planned Development)¹	\$12,000	Time & Material; Initial Deposit ²
9. Rezoning (Planned Development Precise Plan or Preliminary Plan Minor Modification)	\$6,000	Time & Material; Initial Deposit ²
10. Conditional Use Permit¹	\$6,000	Time & Material; Initial Deposit ²

¹It is recommended that major projects be reviewed at a Pre-Application Meeting prior to submittal of a Development Review Application. A Code Assistance Meeting is also recommended involving project design professionals to address technical code questions.

²This is an initial deposit only. If during the review of the project, the Planning Director estimates that the charges will exceed the deposit, additional deposit(s) will be required. Also, the Planning Director may authorize a lesser initial deposit than shown if he/she determines that processing of an application will not entail need for the full initial deposit. Prompt payments of deposits or outstanding fees owed in association with the application will assure continued staff review of the project. Any surplus deposit remaining shall be refunded promptly upon project completion.

11. Administrative Use Permits¹		
a. Chickens	\$500	Per Application
b. Food Vendors	\$700	Per Application
c. Processed Administratively	\$2,000	Time & Material; Initial Deposit ²
d. Involve Public Hearing	\$6,000	Time & Material; Initial Deposit ²
12. Site Plan Review¹		
a. Processed Administratively	\$2,000	Time & Material; Initial Deposit ²
b. Involving Public Hearing	\$6,000	Time & Material; Initial Deposit ²
13. Variance/Warrants - Processed Administratively	\$2,000	Time & Material; Initial Deposit ²
14. Variance/Warrants & Exceptions – Involving Public Hearing	\$6,000	Time & Material; Initial Deposit ²
15. Modification of Approved Development Plan – Processed Administratively	\$2,000	Time & Material; Initial Deposit ²
16. Modification of Approved Development Plan – Involving Public Hearing	\$6,000	Time & Material; Initial Deposit ²
17. Extension of Approved Development Plan/Applications	\$1,000	Time & Material; Initial Deposit ²
18. Designation of Historical or Architectural Significance¹	\$6,000	Time & Material; Initial Deposit ²
19. Development Agreement		
a. Review of application, negotiation of agreements, processing through Planning Commission and City Council	\$12,000	Time & Material; Initial Deposit ²
b. Amendment Processing	\$6,000	Time & Material; Initial Deposit ²
c. Annual Review	\$1,000	Time & Material; Initial Deposit ²

² This is an initial deposit only. If during the review of the project, the Planning Director estimates that the charges will exceed the deposit, additional deposit(s) will be required. Also, the Planning Director may authorize a lesser initial deposit than shown if he/she determines that processing of an application will not entail need for the full initial deposit. Prompt payments of deposits or outstanding fees owed in association with the application will assure continued staff review of the project. Any surplus deposit remaining shall be refunded promptly upon project completion.

20. Written Verification of Zoning Designation or Similar Request	\$500	Per Application
21. Research	\$216 plus \$41	per hour after first 15 minutes
22. Zoning Conformance Permit	\$210	Per Application
223. Sign Permits		
a. Sign Permit (one business)	\$300	
b. Sign Permit (each additional business – same application)	\$250	
234. Sign Program	\$1,500	
245. Appeal Fee for Applicant	\$6,000	Time & Material; Initial Deposit ²
256. Appeal Fee Other Than Applicant	\$250	
267. Tentative Tract or Tentative Parcel Map		
a. Processed Administratively	\$4,000	Time & Material; Initial Deposit ²
b. Involving Public Hearing	\$6,000	Time & Material; Initial Deposit ²
278. Final Parcel Map	\$2,000	Time & Material; Initial Deposit ²
289. Final Tract Map	\$6,000	Time & Material; Initial Deposit ²
2930. Lot Line Adjustment	\$4,000	Time & Material; Initial Deposit ²
301. Certificate of Merger or Certificate of Compliance	\$4,000	Time & Material; Initial Deposit ²
342. Grading Permit Application	\$4,000	Time & Material; Initial Deposit ²
323. Security Gate Application	\$2,000	

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334. Encroachment Permit – Street Events	\$1,500	
The City Manager may reduce or waive this fee for certain events. (<i>See Fee Reduction, Waiver, and Sponsorship for Special Events Policy</i>)		
345. Encroachment Permit Application – Major Work	\$4,000	Time & Material; Initial Deposit ²
356. Encroachment Permit Application – Minor Work	\$2,000	Time & Material; Initial Deposit ²
367. Food Sharing Event		No charge
378. Tree Preservation:		
a Annual Pruning Certification	\$126	
b Tree removal/pruning	\$211	
389. Mobilehome Park Closure/Change of Use	\$12,000	Time & Material; Initial Deposit ²
3940. Review of Building Permit Applications		
a Commercial/Industrial Tenant Improvements or Additions	\$416.00	
b Addition - Single-Family Dwelling	\$274.00	
c Addition - Multi-Family Dwelling	\$568.00	
d New Accessory Structure	\$186.00	
e New Single Family Dwelling	\$499.00	
f New Single-Family Dwelling – Hillside	\$721.00	
g New Industrial Building	\$686.00	
h New Commercial Building	\$742.00	
i Over-the-Counter Approvals	\$149.00	

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401. Inspections - Planning and Landscape

a	Single-Family Residential - Subdivision	\$212
b	Multi-Family Residential Development	\$319
c	Single-Family Residential - Hillside	\$255
d	Re-Inspection	\$212
e	Miscellaneous	\$79

412. General Plan Update Fee12% of Building Permit
Fee

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Council Chambers
Thursday, May 28, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair McDermott.

ROLL CALL

Present: COMMISSIONERS: Schott, Enders, Faria, Lavelle, Parso
CHAIRPERSON: McDermott
Absent: COMMISSIONER: Loché

Commissioner Faria led in the Pledge of Allegiance.

Staff Members Present: Ajello, Bristow, Buizer, Lawson, Madhukansh-Singh, Rizk, Schmidt

General Public Present: 4

PUBLIC COMMENTS

Mr. Lewis shared an upcoming event Show Up For Your Life that will take place on July 10 and July 11, 2015 in Oakland.

PUBLIC HEARING

1. Establish a New Zoning Conformance Permit and Related Fee Associated with Amendments to Chapter 10, Article 1, Zoning Ordinance, of the Hayward Municipal Code; the Proposed Project is Exempt From the California Environmental Quality Act (CEQA) Under CEQA Section 15061(b)(3); City of Hayward (Applicant)

Development Services Director Rizk introduced Senior Planner Schmidt who provided a synopsis of the staff report.

In response to Commissioner Faria's question about public outreach on the proposed Zoning Conformance Permit (ZCP), Senior Planner Schmidt indicated that no public meetings were organized prior to the current public hearing and added that staff did meet with two unattended collection and donation box providers to explain that the proposed permit would simplify the process for uses subject to the ZCP. Ms. Schmidt noted that both providers offered feedback to staff stating that an over-the-counter permit would be beneficial and agreed with having a one-time fee. She shared that one of these providers submitted a letter to staff; however, the letter pertained to the unattended collection box regulations.



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Commissioner Faria asked if staff had contacted the Hayward Chamber of Commerce regarding the proposed permit process. Senior Planner Schmidt responded that staff did not contact the Hayward Chamber of Commerce as the proposed changes were to add a permit that would simplify the permitting process for certain uses.

In response to Commissioner Lavelle's questions, Senior Planner Schmidt stated that the proposed permit could be applied towards unattended collection and donation box uses. She commented that the unattended collection box regulations have not been adopted yet and elaborated that this was because the Administrative Use Permit (AUP) process was burdensome in regards to time, noticing and cost. She noted that staff recognized that they would have to develop a set of regulations for unattended collection boxes and may also have to develop a set of regulations for other city initiated projects such as decorative fencing for vacant properties and a chicken permit, staff saw the value in developing a ZCP that could be utilized for such uses. Ms. Schmidt underscored how simplified the process will become for staff and how staff could efficiently issue permits over-the-counter with the proposed permit. She also pointed out that the City currently lacked a record keeping process for when telecommunications carriers switch antennas and noted that the proposed permit could be also be used for these types of uses since it involved a lower level design and use.

Commissioner Lavelle asked if ZCPs could be approved and issued electronically through the City's website in the future. Senior Planner Schmidt responded that the capability to approve and issue certain permits electronically was currently lacking. Ms. Schmidt commented that there was a benefit to meeting applicants in person through an over-the-counter exchange as this would allow staff to verify project details, review the site plan together with the applicant, and clarify information.

Commissioner Lavelle commented that the proposed permit was a wise and smart proposal and noted that the \$210 ZCP fee was reasonable as it accounted for staff time. She mentioned that once there was a means to approve and issue permits electronically, this fee could potentially be reduced.

Development Services Director Rizk added that at the Capital Improvement Program public hearing, staff had discussed electronic plan submittals and reviews, and was hoping to implement this in the future. He noted that staff was currently working on fully implementing the new permitting system. He shared that many other cities already have simplified ZCPs in place for small and straight forward projects.

Chair McDermott agreed with Commissioner Lavelle's comments in making some permitting services available online. In order to determine how much staff time the proposed ZCP would save, she requested staff to elaborate on how much of the Planning Division's current workload is dedicated towards working on projects that could be simply addressed in the future using the proposed process.



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Planning Manager Buizer noted that the proposed permit was a brand new process with new regulations and could not be applicable to actions and activities currently handled by the Planning Division. She shared that this simplified process was one which the division could integrate into its toolbox of permitting requirements and that could be applied towards a number of projects that will be coming before the City Council and Planning Commission in the future. She pointed out that in absence of the ZCP, current projects of similar nature may be subject to a use permit process which can be lengthier and consist of higher fees for the applicant. She stressed that the proposed ZCP would reduce the amount of work and time required of staff, and would reduce costs to the applicant. Ms. Buizer noted that the ZCP could not be applied retroactively to the department's existing processes.

In regards to Chair McDermott's question on what was considered a small development, Senior Planner Schmidt exemplified that a small development could be a decorative fence around a vacant property. She stated that the ZCP process would allow staff to review plans for a decorative fence in order to determine consistency with design standards in the code, and would also enable staff to create a record for the project. By having a record of the approval, staff could better enforce violations of the permit. Ms. Schmidt noted that staff did not anticipate having any larger structures that would fall under the category of a small development aside from a decorative fence.

Director Rizk commented that a better term to use rather than development could be either minor improvements on a property or minor auxiliary/ ancillary uses to a property. Chair McDermott supported the terminology suggested by Director Rizk.

Commissioner Enders referenced the section on Administrative Use Permits for chickens on Attachment II of the staff report, and asked staff if the AUP application fee overlapped with the proposed ZCP fees for chickens. Planning Manager Buizer responded that the current process for keeping chickens included an AUP and pointed out that there were minimum standards that had to be met. She indicated that as the regulations were currently written, it was challenging for many properties to keep chickens. Ms. Buizer shared that in the future, staff will go through an entire public process to evaluate the current regulations and identify what the permit requirements would be. She indicated that if it is determined that the ZCP can be applicable to the keeping of chickens, then the application fee through a AUP for chickens will be repealed from the fee schedule.

Chair McDermott opened and closed the public hearing at 7:21 p.m.

Commissioner Schott made a motion per staff recommendation, and Commissioner Lavelle seconded the motion.

AYES: Commissioners Schott, Enders, Faria, Lavelle, Parso
Chair McDermott
NOES: None
ABSENT: Loché



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ABSTAIN: None

2. Amendments to Hayward's Sign Regulations (Chapter 10, Article 7 of the Hayward Municipal Code); Repeal of Sign Provisions in Hayward's Two Form-Based Codes; and Establishment of Proposed New Fees; the City has Prepared a Negative Declaration, which Concludes that the Project will not have a Significant Negative Impact on the Environment; Applicant: City of Hayward

Senior Planner Ajello provided a synopsis of the staff report. She stated that there were modifications made to the Draft Sign Regulations after the publication of the Planning Commission agenda packet and noted that she had provided these revisions to the Planning Commission at the present meeting. The additional revisions made to the Draft Sign Regulations consisted of the following: correct formatting and typographical errors; a correction to the staff report regarding the amortization process regulations being revised from five years to three years; the addition of standards for inflatables as temporary signage under Section 10-7.501; and modifications to Section 10-7.711 Enforcement of Signs on Private Property and Section 10-7.712 Enforcement of Signs on Public Property.

Development Services Deputy Director Bristow noted for Commissioner Faria that enforcement of the sign regulations was typically complaint driven. She added that staff will conduct an initial survey and would notice businesses that they have to come into compliance.

Senior Planner Ajello clarified for Commissioner Schott that Section 10-7.300 of the Sign Regulations on Address Signs applied to new Single-family home developments and added that older subdivisions or tracts that don't have the illuminated addresses would not be impacted by the proposed regulations. She also noted that the internally illuminated cabinet signs through time would be amortized out in three years. Ms. Ajello indicated that the section of the Sign Regulations under Appendix: Definitions addressing Vehicle Sign, was intended to prohibit a business from using a vehicle with a billboard sign in the bed of the truck and parked in front of a business establishment for advertisement purposes; she stated that advertising on commercial vehicles had to be in conformance with the Department of Motor Vehicles code. She noted for Commissioner Schott that signs posted on telephone poles were not permitted.

Development Services Deputy Director Bristow added that although posting signs on telephone poles was illegal, political signs were permitted within a given timeframe. She elaborated that staff had done outreach to sign companies as a courtesy to notify them that such signs were illegal. Ms. Bristow noted that staff will do sweeps of various corridors as an enforcement measure and shared that such signs tended to be seasonal.

In response to Commissioner Enders' question about who the responsible party will be for the removal of abandoned signs if they are not removed within a six month period, Deputy Director Bristow indicated that after six months, it was always the property owner's responsibility and noted



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that the procedures outlined in Chapter 5, Article 7 referred to the Community Preservation Ordinance. She stated that if a complaint was received regarding an abandoned sign, staff would send a notice to the property owner giving them ten days to remove the sign; if the property owner does not remove the sign, then staff will abate the sign for them and send the owner a bill.

Senior Planner Ajello noted for Commissioner Enders that the human signs/hand-held signs were not permitted under the current code; however, she indicated that staff was proposing to allow this as temporary signage. She shared that the human signs/hand-held signs were typically used by developers to advertise new home developments at street corners mainly on weekends. Ms. Ajello exemplified that the provisions in the proposed regulations include the following: the temporary signage could not interfere with traffic; they cannot have bullhorns or produce loud noises that could create a traffic hazard; there would be limitations on where the signage would be permitted in the public right of way; would have to be a certain size which would make them consistent with the requirements of A-frame signs; and would be required to have a temporary sign permit and an encroachment permit. Commissioner Enders asked if the fees assessed for human signs/hand-held signs were per individual doing the advertising. Senior Planner Ajello responded that permits would be required per individual with a temporary sign as each location would require a separate permit; she noted that she would review the regulations to ensure that this was carefully addressed.

Commissioner Lavelle thanked staff for conducting a thorough review of the proposed regulations and shared that it was extremely helpful that the Planning Commission had a study session prior to the present meeting to offer input on the regulations. In regards to the A-frame signs, she expressed that she cared about the quality of these signs and asked staff about the regulations on the materials the signs were made of, the maintenance of signs, and adherence to the proposed regulations. Senior Planner Ajello indicated that the update for the A-frame signs consisted of the following: there was a maximum sign area; they have to be constructed of durable weather-proof materials; and the copy area was kept open in order to make the signs available to all parties including restaurants that utilize chalkboards or cork boards.

Deputy Director Bristow added that staff could enforce adherence to A-frame sign regulations that had signs that were dirty, deteriorated, and were not being maintained.

Commissioner Lavelle commented that some communities have attractive A-frame signs in place which really enhanced and drew customers into a business, noting that this style would be an improvement for Downtown Hayward. She stated that she had seen A-frame signs in the downtown being used for businesses advertising for smoking vapor cigarettes, low cost massages, and for nail shops, which were business supported in the community; however, she did not want the regulations to proliferate the advertisement of such businesses and preferred A-frame signs also being used for businesses like cupcake shops or jewelry stores in the downtown. She recommended that there be a better explanation under the fiscal impact section of the staff report regarding the \$50 fee proposed for a portable/A-frame sign revocable encroachment permit, adding that the purpose of the fee was also so that staff would have a record of who the owner of an A-frame sign was and so that the



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Code Enforcement staff could contact the owner if there were any complaints. Commissioner Lavelle was pleased that the regulations included inflatable signs as temporary signs that would be permitted, adding that this could assist in attracting customers to the auto and other businesses in the main corridors of Hayward. She did not support allowing inflatable signs on the roofs of businesses.

Commissioner Schott asked if individuals with human signs/hand-held signs would be required to carry a copy of the temporary sign permit on them. Senior Planner Ajello responded that this could be added to the provisions that individuals with hand-held signs carry the permit on their person; she stated that another solution would be for staff to have a list of temporary sign permits issued for a given period of time be distributed to the Hayward Police Department and the Code Enforcement Division. In response to Commissioner Schott's question about whether there was a limit on the going out of business and store closing signs, Ms. Ajello noted that businesses that were closing were required to have a temporary sign permit and confirmed that there was a limitation on the number of days such signs could be displayed.

In regards to the 28 complaints received predominantly for the A-frame signs, Chair McDermott asked if these were received from citizens and/or businesses. Deputy Director Bristow exemplified that the complaints received were from competing or neighboring businesses, from individuals with other abilities that bump into the signs, from PG&E and AT&T workers when it interferes with their work area, and a variety of other sources.

Chair McDermott expressed that she was impressed with the depth and scope of the proposal and commented that she had learned a lot about sign regulations, praising the inclusion of images. She was surprised that a few number of businesses participated in the review of the proposed regulations, given the broad based impact of the provisions. Senior Planner Ajello noted for Chair McDermott that staff and Hayward Chamber of Commerce President Huggett met with only one business owner, Mr. Ted Miller, at Mr. Miller's request. Chair McDermott pointed out that 738 notices were mailed out to businesses that were Chamber of Commerce members and underscored that the sign ordinance was significant to the City.

Senior Planner Ajello indicated for Commissioner Enders that Attachment VII of the agenda packet which was submitted by a member of the public, contained concerns about having easier to understand language in the regulations.

Director Rizk added that the images included in the regulations would also assist with explaining the language. In regards to conducting further outreach prior to the City Council public hearing on this item, Mr. Rizk commented that staff would explore how additional participation could be sought from interested parties, as there was fairly limited participation thus far.

Chair McDermott commented that although efforts to conduct outreach had been made, she was afraid that after the regulations are adopted, individuals impacted will be frustrated and may say that they were not aware of the revised regulations. Director Rizk stated staff will closely monitor the



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implementation of the regulations and if there were significant complaints received after its adoption, then staff could always consider revising the regulations at a later time.

Commissioner Enders asked staff if specific businesses in the downtown entertainment district that were out of compliance with the regulations had been contacted. Deputy Director Bristow indicated that staff had done this, in addition to ample outreach through social media. She highlighted that the opportunity to do more outreach to the community had expanded with the addition of a Public Information Officer position to the City. Ms. Bristow underscored that whenever there was a comprehensive modification to an ordinance or a program in the City, the Code Enforcement Division would make extra efforts to send notifications to the affected areas of the community. Chair McDermott suggested that when a future noticing is done regarding the proposed regulations, information be added to the notice detailing the various outreach opportunities the City had hosted, including the Work Session and Public Hearing meetings.

Chair McDermott opened the public hearing at 8:01 p.m.

Mr. Tad Miller, business owner of Liberty Tax in Hayward, referenced cabinet or can signs from Section 10-7.400 and asked staff if the regulations applied to lighted cabinets or the free standing signs. Senior Planner Ajello responded that the cabinet signs were often wall-mounted and/or free standing, noting that these signs no longer comply with current design standards and would now be codified through the proposed regulations. Mr. Miller commented that about 90% of the cabinet signs on buildings were contrary to the proposed regulations. Ms. Ajello stated that staff will have accurate data available on the types of signs in the City once the sign survey was completed. She also confirmed that costumed sign wavers were permitted under the regulations addressing temporary promotional signs. In regards to the regulations on inflatable characters, Mr. Miller raised the concern that his business did not have ground space available at his establishment to tether the inflatable character to the ground. He requested that a variance be allowed for businesses that do not have adequate ground space available and be allowed to secure inflatable characters on the rooftop, as his establishment had done in the past. Senior Planner Ajello indicated that the sign regulations as presently stated did not permit roof mounted signs, noting that this included the promotional signage. She added that if the Planning Commission desired, the body could make a recommendation to the City Council requesting that the sign regulations be modified for this purpose.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, reported that the Government Relations Council of the Chamber of Commerce held a meeting comprised of a panel of sixteen local businesses, noting that City staff members present at the meeting included Planning Manager Buizer and Senior Planner Ajello. He noted that the report from the Government Relations Council was reviewed by the Chamber of Commerce's Board of Directors. Mr. Huggett was pleased that a number of the comments suggested by the Chamber of Commerce had been reflected in the proposed sign regulations, pointing out that one of the concerns addressed was incorporating a \$200 refundable deposit for the temporary sign permit fee.



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Chair McDermott closed the public hearing at 8:06 p.m.

Commissioner Lavelle made a motion per staff recommendation and including the following revisions to the Draft Sign Regulations as proposed by staff: to correct the formatting and typographical errors; to modify the five year amortization process indicated in the staff report to three years; to add standards for inflatable signs as temporary signage under Section 10-7.501 General Regulations by Sign Type; to include modifications to the Enforcement Section under Section 10-7.711 Enforcement of Signs on Private Property and Section 10-7.712 Enforcement of Signs on Public Property.

In regards to inflatable signs, Commissioner Schott asked staff if it would be possible to tether this to a cement block for businesses that did not have adequate ground space available at their establishment. Senior Planner Ajello responded that proposed regulations require the bottom of the inflatable signs to be on the ground, she reiterated that these proposed regulations could be modified if the Planning Commission desired. Commissioner Schott expressed that he did not wish to modify the language of the proposed regulations. Ms. Ajello noted that other cities also had similar regulations requiring inflatable signs to be tethered to the ground.

Commissioner Parso seconded the motion.

AYES: Commissioners Schott, Enders, Faria, Lavelle, Parso
Chair McDermott
NOES: None
ABSENT: Loché
ABSTAIN: None

COMMISSION REPORTS

3. Oral Report on Planning and Zoning Matters

Planning Manager Buizer shared that there were no items scheduled for the June 11, 2015 Planning Commission meeting; however, she did have a couple items scheduled for the June 25, 2015 Planning Commission meeting.

4. Commissioners' Announcements, Referrals

Commissioner Faria stated that she had observed individuals rummaging through unattended collection boxes at the Nations Giant Hamburgers restaurant on Jackson Street and Harder Road, and commented that people would layer themselves with clothes. She added that the unattended collection box located at the Smart & Final on Hesperian Boulevard had clothes strewn around the box in the parking lot which seemed to occur mostly on weekends. Planning Manager Buizer stated that the City Council has not adopted any regulations yet on unattended collection boxes



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and noted that if the Zoning Conformance Permit is approved by the City Council, then the permit requirements could be applied towards unattended collection boxes as well. She pointed out that present issues with unattended collection boxes involving trash and debris were enforceable actions and one way in which citizens could report these violations was through Access Hayward. Ms. Buizer indicated that she would inform Code Enforcement staff of the problems being experienced at the two locations mentioned by Commissioner Faria.

In response to Chair McDermott's question whether staff had a list of unattended collection boxes in operation in the City, Planning Manager Buizer noted that staff was trying to gather a list by soliciting information from unattended collection box operators. Ms. Buizer commented that a reason behind the proliferation of unattended collections boxes was in order to establish locations in anticipation of regulations.

Commissioner Enders announced that the City had emailed the Planning Commission notifying them that the Bay Area Quality Management District had denied the City of Hayward's request for air monitoring data at the Russell City Energy Center. She had asked the City if they would consider alternate methods for firms that have the capacity to seek out the data and noted that she received a response from the City that this will be addressed at the July 23, 2015 Hayward Area Shoreline Planning Agency Board of Trustees meeting. Ms. Enders underscored that this was an important issue that data collection and monitoring had been denied.

Chair McDermott congratulated the Golden State Warriors for advancing to the NBA Finals.

APPROVAL OF MINUTES

5. None.

ADJOURNMENT

Chair McDermott adjourned the meeting at 8:16 p.m.

APPROVED:

Heather Enders, Secretary
Planning Commission

ATTEST:

Avinta Madhukansh-Singh, Senior Secretary
Office of the City Clerk