

**CITY COUNCIL MEETING
TUESDAY, NOVEMBER 12, 2013
COUNCIL CHAMBERS – 7 :00 P.M.**

CORRESPONDENCE RECEIVED FROM THE PUBLIC

ITEM #6

- 6. Related to City Council Action Taken on September 24, 2013, Proposed Revisions Related to Hayward's Alcoholic Beverage Outlet Regulations, Proposed New Regulations for Cabarets and Dances to Replace Hayward's Public Dance Provisions, and Related Amendments to Zoning Ordinance Definitions and the CC-C and CG Zoning Districts; Proposed New Fees - (Text Amendment Application No. PL-2013-0175 TA); Adoption of Negative Declaration; Applicant: City of Hayward**

VIA EMAIL

November 11, 2013

Mayor Sweeney, Mayor Pro Tempore Salinas, and Council Members Peixoto, Halliday, Zermefio, Jones & Mendall
City of Hayward
777 B Street
Hayward CA 94541-5007

Re: **Alcohol Beverage Outlet Regulations**
12 November 2013 City Council Meeting: Public Hearing: Item 6

Mayor & Council Members:

Together with certain others, I own seventeen acres in the Hayward Hills; my family and our partners have held title to the parcels since the early 1970s. I'm writing today in regards to the above-referenced matter.

We strongly support the proposed ordinances and resolutions attached to the staff report for public hearing item 6 on the 12 November 2013 City Council agenda. We respectfully request the Council vote in favor of such ordinances and resolutions.

As you know, such pending items include revisions to the Alcoholic Beverage Outlet Regulations; re-introduced revisions to the Zoning Ordinance definitions; re-introduced revisions to the General Commercial and Central City-Commercial Zoning District regulations; re-introduced regulations for Cabarets and Dances; and a re-introduced Master Fee Schedule.

We are encouraged to hear the Hayward Police Department (HPD) will likely implement new data gathering techniques at or near 1 January 2014, enhancing the Department's ability to analyze service calls. Better data — including improved service call descriptions; resulting HPD responses; and assignment of incident responsibility — is a wise next step. Accumulating and reviewing such data will better enable HPD to pro-actively work with Hayward businesses to ensure better regulatory compliance and reduced serious incident frequency.

We look forward to the implementation of the ordinances and the first annual review by the Council late next year. We believe information gathered during 2014 will give City staff definitive markers on the efficacy of the program, its pro-active enforcement foundation, and the resulting benefits.

Make no mistake, there's a pressing need for the ordinances and resolutions; the current system is clearly broken.

At present, the State holds sole responsibility for alcoholic beverage outlet regulations. With a self-funded system reliant on fee monies from regulated businesses, the State is significantly under-capitalized and understaffed, with enforcement actions woefully inadequate. Although the problems are local, jurisdiction is not, leading to a mismatch of incentives. Faced with an increase in serious incidents tied to alcohol serving and consumption, local jurisdictions in the State are increasingly turning to new local regulations. Hayward is not the first municipality to adopt these regulations.

Unfortunately, a few Hayward businesses appear to have been the source of significant, serious service calls. The late September 2012 Alvarez shooting is perhaps a prime example here. Significant crimes linked to alcohol over-serving and over-consumption impact the lives of many beyond the inebriated and, unfortunately, impact the financial viability of great businesses in the City.

Enacting the package before you will help ensure a level playing field and send a strong, encouraging signal to businesses considering entry into Hayward's market. Passage of staff's recommended ordinances and resolutions will significantly reduce the possibility of an existing business — benefitting from a legal, non-conforming status and lax State enforcement — undercutting new entrants and existing, code-compliant businesses. The City of Hayward has many businesses worthy of retention and support; and the City wishes to encourage great new businesses — and those sited elsewhere but considering relocation — to start-up or locate, respectively, in Hayward. Enactment of the pending set of ordinances and resolutions will mark a significant City step in this effort.

City staff has done its homework.

Over the past two (2) years, Development Services staff has diligently studied a number of other municipalities in the State — including, as we understand, Oakland, Alameda County, Walnut Creek, Santa Rosa, and San Leandro — looking at the approach taken by each at regulating similar alcoholic beverage outlets. The end result is a very strong work product compiled by City of Hayward staff. It's comprehensive, cogent, and well written; care and attention to detail are readily in evidence. In particular, we commend Director of Development Services David Rizk for his hard work here over a prolonged period. He's set a new gold standard for planning work.

To recap, the proposal before you tonight is the product of a joint Council and Planning Commission work session, three (3) earlier City Council public hearings, a City Council work session, two (2) community meetings, the 5 September 2013 Planning Commission public hearing, and the 24 September 2013 City Council public hearing. Together with the attendant work by City staff, the effort has stretched out over the past twenty-four (24) months or so.

After holding a public hearing on 5 September 2013, the Planning Commission voted unanimously in support of the then-proposed regulations, definitions, text, and fees, with relatively minor changes. We believe this vote was a very strong endorsement.

And, after holding a public hearing on 24 September 2013, you voted strongly in favor of such regulations, definitions, text and fees, again with several relatively minor revisions.

We strongly encourage the Council to endorse the revised work product before you on 12 November 2013.

Thank you for your attention to the foregoing.

Sincerely,

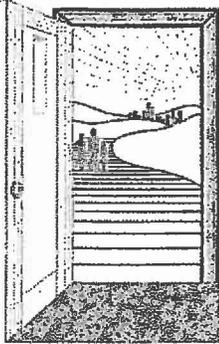
/s/ Richard C. Ersted

Cc: David Rizk, Director, Development Services, City of Hayward via email

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November 12, 2013

COMMPRE



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

Re: Proposed Revisions to Hayward's Alcoholic Beverage Outlet Regulations

Dear Honorable City Council Members,

We are writing to state our strong support for the majority of the proposed revisions, specifically the Deemed Approved performance standards and cost recovery fees associated with a proactive enforcement program.

The revisions to Hayward's alcohol-related ordinances will importantly provide a much higher level of oversight of Hayward's 130+ alcohol-licensed establishments. This will be a comprehensive program with a 3-prong approach, including: 1) education of licensees in responsible beverage service and sales; 2) annual inspections of all establishments to insure compliance with state and local laws; and 3) consistent enforcement to prevent underage access to alcohol at retail establishments.

A cost recovery annual fee structure that supports this 3-prong approach is fundamental to the ordinance. We support staff's recommended fee structure. We don't support an alternative \$130/annual fee for detectives. This would be a 'downstream' solution, paying for police AFTER potential violations have occurred, or been reported.

We also don't support allowing new bars in "oversaturated" areas with a super majority of the Council. This is counterintuitive to the intent of the ordinance, which is to reduce the opportunities for alcohol-only establishments. Further, the ABC is not supporting adding new bars (License 48) in communities, because most are oversaturated with bars.

We are strongly in support of the fine schedule for violations. This is an important mechanism in which violators of state and local laws are held accountable to the Hayward community. In Alameda County, this fine schedule has served as a strong deterrent, and has served as a message to change current business practices.

In addition, the City Council should strongly support critical incident fees, described in Section 10-1.2766. Over the past 10-15 years CommPre has documented the cost of several incidents that have occurred at various establishments, and presented them to the City Council. This ordinance is a result of a long history of the City's experiences dealing with critical incidents.

In summary, we urge the City Council to adopt these needed tools. This ordinance is a sensible best practice that has been proven in other communities to protect the public health and safety, including youth, and to support positive economic development.

Sincerely,

A handwritten signature in cursive script that reads "Linda Pratt".

Linda Pratt, M.A.
Program Director

22634 Second Street
Suite 210
Hayward, CA 94541
(510) 885-8743
(510) 885-1848 fax



A program of
Horizon Services, Inc.

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Miriam Lens

From: Traci Cross
Sent: Tuesday, November 12, 2013 7:44 AM
To: Miriam Lens
Cc: David Rizk; Michael Sweeney; Mark Salinas; Marvin Peixoto; Barbara Halliday; Francisco Zermeno; Greg Jones; Al Mendall
Subject: City Council Agenda - Nov 12th

Hello Miriam

Can you make sure this item is placed for Item #6 and delivered to each council member

Thank You!

Good Evening Council Members

My name is Traci Cross and I am the new Project Director Hayward Coalition for Healthy Youth (HCHY) a drug free communities grantee and a program of Eden Family & Youth Center in South Hayward.

As the Project Director for HCHY I speak on behalf of the coalition that we support the adoption of the Alcohol Ordinance. In my past experience, I have worked in the unincorporated area to reduce the access and availability of alcohol and tobacco of teens. Having this ordinance in place in my prior community has allowed for proactive enforcement operations which reduced sales to minor rate. We know that ABC is understaffed when it comes to implementing minor decoy operations and monitoring alcohol outlets and we currently don't have all the resources in Hayward to do it without the funding from the ordinance. The money for this program will allow for local control and a dedicated officer to enforce the ordinance and will also assist in reducing the sales to minor rate in the city of Hayward.

Thank you for your time.

Respectfully, Traci Cross

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Miriam Lens

From: Tiffany Neira
Sent: Tuesday, November 12, 2013 12:14 PM
To: Michael Sweeney; Mark Salinas; Marvin Peixoto; Barbara Halliday; Francisco Zermeno; Greg Jones; Al Mendall; David Rizk; Miriam Lens
Subject: Alcoholic Beverage Outlet regulations

Dear Council Members,

I am Tiffany Neira, a high school senior at Mt. Eden , and am a 17-year resident of Hayward ; I'm a member of the Hayward Coalition for Healthy Youth (HCHY), too, and take an active interest in the City.

I am writing to ask your strong support of the draft Alcoholic Beverage Outlet regulations on the agenda for the Council meeting of Tuesday, November 12, 2013. These ordinances and resolutions are important to our City's future, to protect our youth, to level the playing field for all businesses, and to enact a pro-active enforcement program, with the costs paid by the businesses subject to the new regulations.

As a youth member of HCHY, I have learned that there are countless negative effects that result from substance abuse. These negative consequences not only affect our youth but our community as a whole. Youth access to alcohol is very easy in Hayward . According to the Hayward Unified School District 2011-2012 California Healthy Kids Survey, 18% of 7th graders, 36% of 9th graders, and 45% of 11th graders perceive that it is "very easy" to obtain alcohol. This is a problem that needs to be stopped now. I hope that this will be able to be done with your help and support of the Alcoholic Beverage Outlet regulations.

As a member and supporter of HCHY, I will take an active role in next year's local elections. I hope I can count on your support in favor of the draft Alcoholic Beverage Outlet regulations.

Tiffany Neira

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Miriam Lens

From: Traci Cross
Sent: Tuesday, November 12, 2013 8:06 AM
To: Miriam Lens
Subject: FW: Alcoholic Beverage Outlet regulations

Hello Miriam

I wanted to make sure this email was provided for agenda item #6 as she will not be attending the meeting tonight.

THX

Traci

From: Karishma Khatri
Sent: Monday, November 11, 2013 1:35 PM
To: greg.jones@hayward-ca.gov
Cc: David.Rizk@hayward-ca.gov; Traci Cross
Subject: Alcoholic Beverage Outlet regulations

Dear Council Member Jones,

I am Karishma Khatri and am currently a 18 year old student at CSU East Bay; I'm a member of the Hayward Coalition for Healthy Youth (HCHY), too, and take an active interest in the City. The last 3 years I have actively participated in ATOD (Alcohol, Tobacco, and Other Drug) prevention activities, which include being a tobacco and alcohol decoy for many cities in Alameda County.

I am writing to ask your strong support of the draft Alcoholic Beverage Outlet regulations on the agenda for the Council meeting of Tuesday, November 12, 2013. These ordinances and resolutions are important to our City's future, to protect our youth, to level the playing field for all businesses, and to enact a pro-active enforcement program, with the costs paid by the businesses subject to the new regulations. Cities with regular compliance checks had youth buy rates decrease. Also many other cities like Unincorporated Alameda County, Oakland, Vallejo, and Santa Cruz have alcohol ordinances.

As a member and supporter of HCHY, I will take an active role in next year's local elections. And as a student in Hayward, I hope I can count on your support in favor of the draft Alcoholic Beverage Outlet regulations.

Thank you,
Karishma Khatri

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James Marrable
11/8/2013

Dear Hayward City Council,

I would like to begin by sharing with you that I have just recieved my GED, from The Hayward Center for Education and Careers through Hayward's EDD Program; not only has our City assisted the development of myself, but of many others likewise.

I support the proposed Alcoholic Beverage Outlet Regulations. It is important to decrease the availability of alcohol to minors and to have the police conduct enforcement. Even though I am only 19, I have been approached by younger people and they have asked me to purchase alcohol. I personally feel that youth will ask other people to complete the transaction for them after I refuse and the youth will be able to get the alcohol. We need to step in and take more action to prevent easy access to alcohol by youth. Please support the proposed regulations. Thank you.

Sincerely,
James Marrable
Concerned Hayward Young Adult

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November 12, 2013

Honorable Mayor and City Council
City of Hayward
777 B Street
Hayward, CA 94541

Re: Agenda Item #6 Proposed Revisions to the Hayward Alcohol Beverage Outlet Regulations

Dear Honorable Mayor and City Council:

The California Restaurant Association (CRA), on behalf of its members, would like to thank the Hayward City Council for voting to codify the happy hour pilot program that allows full-service restaurants to offer customers menu items at discounted prices and provide live and recorded entertainment. This action by the city council is a step in the right direction that will help level the playing field for restaurant operators in Hayward. We believe this move will attract new restaurants that could potentially contribute to the economic vitality of the city by generating additional tax revenues and creating more jobs.

However, we are concerned about and are opposed to the \$280 fee that full-service restaurant operators will incur for a redundant permit and another layer of bureaucracy. The California Department of Alcohol Beverage Control (ABC) already is charged with the licensing of establishments serving alcoholic beverages, enforcing the laws and regulations and conducting investigations and inspections of licensed establishments. Requiring an additional \$280 fee will increase the cost of doing business for an industry that is already heavily regulated and is required to pay for numerous costly permits.

Additionally, we urge the city council to consider amending the proposed fee schedule. The proposed recommendation calls for a \$750 fine for the first offense. **Instead, the council should amend the proposed recommendation to provide a warning for the first violation and subsequently issue citations for future violations.** This is a critical step that will help foster a harmonious relationship among city officials and operators as it provides regulators with the opportunity to educate business owners about new changes to the existing ordinance and the proposed regulations.

Should you have questions, please contact me at 408.416.6344 or jgonzalez@calrest.org.

Sincerely,

A handwritten signature in black ink that reads "Javier M. González".

Javier M. González
Director, Government Affairs + Public Policy

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can I have all supporters please stand

Good Evening,

My Name is Kiana Capelli. I'm currently a junior at Hayward High and have been involved with the Hayward Coalition for Healthy Youth for two years. As a teen who has lived in Hayward my whole life, I've witnessed first hand the crimes and tragedies that occur in regards to alcohol abuse in minors. Every day at school I hear my peers talk about their weekend plans and they more often than not include obtaining some sort of liquor. I personally steer clear from ~~that~~^{the} crowd, but even I am aware of where I can get alcohol, tobacco, and other drugs in my community.

It has slowly but surely become almost effortless for minors to obtain alcohol. Just driving from my house to city hall, which is only five minutes away, I counted eight retailers that I know sell liquor. The more alcohol outlets there are, the more chances youth have to obtain alcohol illegally.

Hayward has worked hard to improve the city aesthetically and although the green arches and painted electric boxes are pretty, they don't hide the fact crimes are being committed at the cost of our cities youth. What's a pretty downtown if it's consumed by public urination and intoxication.

I'll be leaving for college soon, but my two younger brothers, who also attend Hayward schools, will remain here. I hope that something will be done to better enforce alcohol policies in Hayward. The last thing I want is my younger brothers to be influenced by this sort of behavior.

Thank you for your time