



CITY OF  
**HAYWARD**  
HEART OF THE BAY

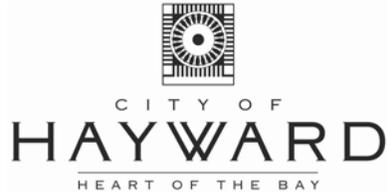
**CITY COUNCIL AGENDA**  
**FEBRUARY 7, 2012**

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**MAYOR MICHAEL SWEENEY**  
**MAYOR PRO TEMPORE BARBARA HALLIDAY**  
**COUNCIL MEMBER OLDEN HENSON**  
**COUNCIL MEMBER MARVIN PEIXOTO**  
**COUNCIL MEMBER BILL QUIRK**  
**COUNCIL MEMBER MARK SALINAS**  
**COUNCIL MEMBER FRANCISCO ZERMEÑO**

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**CITY COUNCIL MEETING FOR FEBRUARY 7, 2012**  
777 B STREET, HAYWARD CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

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**CLOSED SESSION**  
**Closed Session Room 2B – 4:00 PM**

**1. PUBLIC COMMENTS**

**2. Public Employment**

Pursuant to Government Code 54957

- Performance Evaluation  
City Attorney

**3. Conference with Labor Negotiators**

Pursuant to Government Code 54957.6

- Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu, Human Resources Director Robustelli, Finance Director Vesely and Assistant City Attorney Roufougar  
Under Negotiation: All Bargaining Units

**4. Conference with Legal Counsel**

Pursuant to Government Code 54956.9

- Pending Litigation  
Nanette Dillard v. Alameda County Associated Community Action Program Governing Board  
Alameda County Superior Court No. RG11572661

**5. Conference with Legal Counsel**

Pursuant to Government Code Section 54956.9

- Anticipated Litigation  
One Case

**6. Adjourn to City Council Meeting**

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**CITY COUNCIL MEETING**  
**Council Chambers - 7:00 PM**

**CALL TO ORDER Pledge of Allegiance** Council Member Henson

**ROLL CALL**

## CLOSED SESSION ANNOUNCEMENT

### PRESENTATION

Top 100 Chinese Restaurants Award Show and Conference  
New West Lake Restaurant – Top 100 Signature Dish  
Hong Kong Seafood Restaurant – Top 100 Take-Out

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**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 Informational Staff Presentation 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.)*

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**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 anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

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### CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on January 17, 2012  
[Draft Minutes](#)
2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on January 24, 2012  
[Draft Minutes](#)
3. Resolution Related to ABAG's Alternative Scenarios Associated with Formation of a Regional Sustainable Communities Strategy  
[Staff Report](#)  
[Attachment I Resolution](#)
4. Install Storm Water Trash Capture Device: Approval of Plans and Specifications, and Call for Bids  
[Staff Report](#)  
[Attachment I Resolution](#)  
[Attachment II Resolution Appropriation](#)  
[Attachment III Location Map](#)



5. Resolution of Local Support for the Sustainable Communities Planning Grant and Incentives Program Application for Development of a Downtown Specific Plan, Form-Based Code and Transit Access Plan

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II Plan Area](#)

[Attachment III Work Plan](#)

[Attachment IV Budget](#)

## 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 MEETING – 7:00 PM, TUESDAY, FEBRUARY 21, 2012

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**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 and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is available from the City Clerk at the meeting.*

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**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.*

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**\*\*\*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, 4<sup>th</sup> 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. \*\*\***

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*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.*

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**Please visit us on:**



FEBRUARY 7, 2012



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**MINUTES OF THE SPECIAL JOINT CITY  
COUNCIL/REDEVELOPMENT AGENCY/HOUSING  
AUTHORITY MEETING OF  
THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, January 17, 2012, 7:00 p.m.**

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The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Peixoto.

**ROLL CALL**

Present: COUNCIL/RA/HA MEMBERS Zermeño, Quirk, Halliday, Peixoto,  
Salinas, Henson  
MAYOR/CHAIR Sweeney  
Absent: COUNCIL/RA/HA MEMBER None

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that the Council met concerning four items: Public Employment regarding City Manager; Conference with Labor Negotiators regarding all bargaining units; Conference with Real Property Negotiators regarding former California Air National Guard Site; and Conference with Real Property Negotiators concerning South Hayward BART Land Purchase and Requisition. There were no reportable items.

**PRESENTATION**

The City of Hayward presented the Business Recognition Award for January 2012 to Columbus Food, Inc., a state of the art slicing and packaging facility of salami and deli meats. On July 21, 2011, Columbus Foods, Inc., opened its second Hayward facility at 30977 San Antonio Street, building on 94 years of tradition in making quality salami and deli meats. The award was given in recognition of the contributions this company has made to the community by: locating and expanding their slicing facility and corporate offices in Hayward; providing job opportunities to local residents; being an industry leader; and contributing to the overall economic well-being of the community. Mr. Ken Neishi, Vice President Operations, accepted the award on behalf of Columbus Foods, Inc., and thanked the City for such a special recognition.

**PUBLIC COMMENTS**

Mr. Monte Stump, fifth year apprentice with Union Apprenticeship Local 342 and resident of Hayward, urged the City Manager to adopt a city-wide Project Labor Agreement that would develop schools and revitalize the economy.

Mr. Obray Van Buren, resident of Hayward, supported, as part of the Council's priorities, a city-wide Project Labor Agreement that would create jobs for local residents. Mr. Van Buren suggested that Council consider a similar agreement to the one in place by the Hayward Unified School District and other municipalities.

Ms. Wynn Greich, Industrial Parkway SW resident, referred to an article entitled “Aluminum: Poison Hiding in Plain Sight,” a video entitled “Vaccines – What Center Disease Control Documents and Science Reveals,” and other books, and commented about the health risks that vaccinations pose, such as autism.

Mr. Andreas Cluver, with the Alameda County Building and Construction Trades Council, urged Council to adopt a city-wide Project Labor Agreement in order to provide career and employment opportunities for Hayward residents. He cited the Hayward Unified School District’s agreement as a good example.

Mr. Peter Garza, Thackeray Avenue resident and carpenter with Carpenters Local 713, urged Council to establish a Project Labor Agreement (PLA) as a priority. Mr. Garza praised the Hayward Unified School District and noted that 15 carpentry apprentices were recruited from local high schools to work on Hayward Unified School District projects. He favored a PLA because it gave him the opportunity to establish a career.

Mr. Agustin Ramirez, San Francisco resident and International Longshore and Warehouse Union organizer, spoke on behalf of Waste Management workers who reside in Hayward. Mr. Ramirez urged Council to consider a policy that hires locally, prevents companies conducting business in Hayward from outsourcing, and ensures that local workers are not underpaid.

Ms. Simone Williams, Sevilla Road resident, spoke on behalf of a group in attendance, and expressed opposition to a Wal-Mart discount store occupying the vacant Circuit City site because it would not benefit Hayward residents nor create taxable revenue. Ms. Williams urged Council to adopt an ordinance that would distinguish grocery from retail uses.

Ms. Mindy Davis, D Street resident, urged Council to direct staff to develop a comprehensive plan that would attract and retain full service grocery stores to Hayward.

Ms. Bonnie Peyton, Pinedale Court resident, encouraged Council to focus on completing construction road projects. Ms. Peyton noted that construction work affects business tax revenue, property values, and residents’ ability to travel due to increased traffic.

Mr. John Ostarello, Durham Way resident, commented that priority should be given to reducing home burglaries and lesser crimes and noted that gang injunctions are proactive tools to deter crime. Mr. Ostarello mentioned that good policing, training, and proper supervision could overcome claims that injunctions constitute a civil rights violation and abuse of power. He noted that preventative and predictive policing is a proactive tool, and added that the development of algorithms for predicting where crimes are likely to occur would allow for better deployment of resources.

Ms. Gay Ostarello, Durham Way resident, favored public safety as a top priority for the Council. Ms. Ostarello noted that gangs cause misbehavior, poor academics, criminal activity, and hate for other groups. She urged Council to include, as a priority, a well-crafted gang injunction program



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that would create positive influences on children so that they could grow up to be good and respectful members of society.

Ms. Desirae Schmidt, Willow Avenue resident, encouraged Council to endorse a policy requiring the review of grocery use applications. Ms. Schmidt did not agree that Wal-Mart's application to operate a grocery store at the former Circuit City location was a good use for the site due to poor traffic conditions in the area. Ms. Schmidt requested that Council consider an ordinance that would enable the City to have some discretion in the approval process to allow for the denial of a grocery store in an inappropriate location that was previously zoned for retail uses.

Ms. Veronica Curley, General Manager at Southland Mall, noted that Southland Mall had concerns about a portion of the Alameda County Airport Land Use Compatibility Plan (ALUCP) that would affect Marie Callender's expansion and the development of a convenience center, a grocery store, and more restaurants. Ms. Curley mentioned that this impact would result in lower sales for the Mall and sales tax revenue for the City. Ms. Curley asked Council's support in opposing the portion of the ALUC's Plan that would impede Southland Mall from making improvements.

Mr. Ray Baker, business owner on A Street, asked the Council and the community to consider leaving Foothill Boulevard a six-lane highway and leaving A Street and Mission Boulevard two-way streets. Mr. Baker noted doing so would eliminate congestion on A Street and Mission Boulevard, eliminate the frustration of drivers, and decrease air pollution.

Mr. Salvador Arzate, Yolo Street resident, with the assistance of an interpreter, noted he is a painter and has been unemployed for four months. Mr. Arzate asked Council to consider and approve a Project Labor Agreement so that Hayward residents could work locally and raise their families.

Mr. Robert Goodwill, currently homeless, spoke in support of the proposed Council priorities and noted that goals could be clearer. Mr. Goodwill stated that local businesses and agencies should be encouraged to stay in downtown.

Mr. Gabriel Hernandez, Day Labor Center employee, submitted a speaker card but did not speak.

Ms. Sara Lamnin, Patrick Avenue resident, recommended that, in setting up priorities, residents and community-based resources be included in order to promote more ideas and establish support during the implementation of the goals. Ms. Lamnin urged Council to focus on outcomes of productive economic development, such as jobs and student-focused establishments. Ms. Lamnin thanked Council for its consideration of a more inclusive, outcome-based, and diverse set of priorities.

Mr. Bryan Chan, Arundel Drive resident, noted that Stonebrae residents and parents of students attending Stonebrae Elementary School continue to oppose the cell phone tower being built at the current location because of aesthetic reasons, negative impacts on property values, and health

concerns. Mr. Chan noted four new concerns with the cell tower project: the list used for the notices of Planning Commission public hearings was not based on the latest equalized county assessment roll; Stonebrae Elementary School was not notified of the project; there were discrepancies that show that occupied properties were not notified but empty lots were; and concern that only 25% of 800 homes would have coverage by the cell tower, and the Fire Station would not. Mayor Sweeney asked staff to review the concerns posed by Mr. Chan, bring back findings to Council, and share them with Mr. Chan and his neighbors.

Mr. Jim Drake, Franklin Avenue resident, expressed concern about pine trees located on Harder Road that appear to be dying. Mr. Drake asked staff to determine if there is an infestation problem that is causing the trees to die.

Mr. Bud Eckert, Oaks Drive resident, expressed that he has worked as a school administrator in Hayward for 30 years and during this period he observed students who were killed due to gang violence or who were incarcerated. Mr. Eckert emphasized the need to develop a strong and effective gang abatement program for the youth of Hayward.

Mr. Doug Ligibel, Grand Terrace resident, referred to Oakland children who were killed by gangs and advocated for a preventative measure in Hayward. Mr. Ligibel referred to a serious shooting at the corner of Atherton and C Street. Mr. Ligibel mentioned that gang activities could be viewed as organized crime because gangs recruit well, train members well, and have good retention. He mentioned he would be meeting with downtown homeowner groups, BART, Hayward Police Department representatives, and City staff and would relay specifics of what Council is going to do to take aggressive action with the gang injunction implementation.

Ms. Doris Rodriguez, Contessa Street resident, expressed concern for the senior citizen population and the challenges they face with poor public transportation and isolation. Council Member Henson mentioned an upcoming Central County Transportation Forum that would address senior transportation options.

Ms. Betty DeForest, Westwood Street resident, spoke about poverty in Hayward indicating that 88% of children below the age of 18 live at or below the poverty level, which implied that there was a large block of citizens who were functioning at poverty level. Ms. DeForest requested that, when the budget is considered for reduction, the Council save the safety net of programs that help people living in poverty.

Ms. Carol Morgan, Mallard Court resident, expressed appreciation for the support Council has given to community and social services, public safety, incentives for homeowners, neighborhood cleanup efforts, and the arts. Ms. Morgan mentioned that the arts are important for the health of the community and hoped that they would not be forgotten.

In response to Council Member Quirk's question regarding when the Public Labor Agreement (PLA) policy was scheduled to be heard, City Manager David noted it would depend on how Council set its priorities and where the PLA falls in those priorities. Council Member Quirk requested that City staff consider an ordinance that would protect current full service grocery stores,



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allow full service grocery stores where needed, and prevent discount grocery stores from coming into Hayward. Council concurred to place such an item on a future agenda.

**WORK SESSION**

1. Discussion of Proposed FY 2013 Council's Priorities

Staff report submitted by City Manager David, dated January 17, 2012, was filed.

City Manager David provided a synopsis of the report.

Council Member Quirk asked staff to address the current status of the gang injunction program. City Manager David commented that staff was developing a gang injunction program that the City could employ when a situation fit the criteria defined by the courts as appropriate.

Council Member Quirk referred to the main priority "Clean" and asked staff why "reduce and clean up homeless encampments and address related issues," was crossed off the list. City Manager David responded that this priority would be difficult to address during the upcoming fiscal year due to lack of resources and added that the City could partner with other resources, such as CDBG block grants and other federal grants.

Council Member Quirk, with Mayor Sweeney's concurrence, asked staff to develop language for a city-wide Project Labor Agreement and present it to Council for consideration and vote. It was noted that this could be included under the supporting priority "Land Use". Additionally, Mr. Quirk asked staff to work with Council when the City begins negotiating the contract with Waste Management.

Council Member Peixoto referred to the main priority "Safe" and asked why the language "gang injunction program" was replaced with "gang injunction tool." City Manager David stated that a gang injunction tool could be applied when effective or appropriate. Council Member Peixoto noted that members of the public had asked him why it was taking so long to develop a gang injunction program and he commented that he believed that staff lacked the willingness to implement a gang injunction program.

Council Member Henson said that he remained committed to a gang injunction program and believed it would be an effective tool when implemented. Mr. Henson noted that the supporting priority "Fiscal Stability" would need to remain and the main priority "Safe" would need to develop methodologies to reduce violence in and around schools. He added that a Project Labor Agreement should be a short term goal. He mentioned that poverty and food are important issues for families. City Manager David commented that homelessness and poverty are not listed on the Council's priorities list, but they are addressed through the social programs that the City funds during the

budget process. Council Member Henson asked staff to reserve a bullet point for hunger and homelessness when the City is able to help. He favored leaving the main priority “Green” as proposed and supported the priority to “develop a Downtown Specific Plan.”

Council Member Zermeño favored pursuing a Project Labor Agreement and favored the idea of adding senior citizens and poverty concerns to the list of Council priorities. Mayor Sweeney suggested that Council Member Henson work with staff regarding opportunities via the Alameda County Transportation Committee to improve access to transportation for seniors.

Council Member Halliday noted a struggle placing children and the youth on the Council priorities and pointed out that elements seemed to be scattered under the priorities “Safe” and “Green” and favored a more coordinated policy for children and youth that would provide opportunities and activities to motivate them. Ms. Halliday acknowledged that City staff had been working on a gang injunction program that could be defended in court. She mentioned that the public comments suggested that Council needed to address gang crime and violence, which Council supports and could be addressed with a gang injunction ordinance. Ms. Halliday supported the need to help senior citizens and concurred with Ms. Lamnin that the City needs to partner with community members and social agencies to achieve common goals.

Council Member Salinas applauded the past work that Council did in developing priorities that were clear and concise, and noted that he believed the top priorities were budget and economic development. He favored having a city-wide Project Labor Agreement. As an oversight member on the Measure I Committee, he shared data that demonstrated success in hiring Hayward workers for Measure I projects. He suggested bringing already successful businesses in Hayward to the downtown. He added that the City needs to develop an intergovernmental relationship that would promote academic achievement and stem gang activity and mentioned that schools and project labor agreements are good examples of gang prevention programs.

Mayor Sweeney explained that priorities developed as a result of community meetings held over the last couple of years. Mayor Sweeney referred to the “Safe” priority and noted that the bullet “improve public safety in targeted areas - neighborhoods (SMASH)” could be separated so “SMASH” is a separate bullet. He noted that “reducing residential burglaries” could be an additional bullet. In regards to the gang injunction, he mentioned that there needs to be progress in reducing gang activity. Under the “Clean” priority, he suggested changing “evaluate Neighborhood Partnership Program” with “Continue the Partnership Program-Revise Strategic Plan to incorporate strategies for the next phase of the program, and implement.” Mr. Sweeney referred to the “Clean” priority and suggested to leave in the “control car sales in the Public ROW” bullet and look for more radical ideas to solve the problem. In terms of the concern posed by Council Member Zermeño about trees, Mayor Sweeney asked staff to confirm whether that was addressed in the Climate Action Plan. He referred to the priority “Organizational Health” and noted that the removed bullet “improve the organization’s ability to apply business process analysis in decision making,” would need to be brought back. He asked staff to develop language for the Project Labor for Council’s consideration. He also noted that under “Land Use” the bullet point “begin update of the Housing Element for the General Plan,” was more an obligation than a priority. Mayor Sweeney agreed with Council Members that “Fiscal Stability” is the most fundamental of the supporting priorities.



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City Manager David noted that the Council's priorities would come back to Council as a public hearing item in the next two to four weeks.

Council Member Quirk left the Council Chambers.

**CONSENT**

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on January 10, 2012

It was moved by Council/RA/HA Member Zermeño, seconded by Council/RA/HA Member Henson, and carried with Council/RA/HA Member Quirk absent, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of January 10, 2012.

3. Designation of the Mission Boulevard Corridor as a Priority Development Area

Staff report submitted by Senior Planner Pearson, dated January 17, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried with Council Member Quirk absent, to adopt the following:

Resolution 12-007, "Resolution of Support for the Mission Boulevard Corridor to be Designated a Priority Development Area"

**PUBLIC HEARING**

4. Draft Hayward Airport Land Use Compatibility Plan

Staff report submitted by Associate Planner Camire, dated January 10, 2012, was filed.

Development Services Director Rizk provided a synopsis of the report and staff clarified questions posed by Council Members.

Mayor Sweeney opened the public hearing at 9:39 p.m.

Ms. Veronica Curley, Southland Mall General Manager, expressed concern with a portion of the Airport Land Use Compatibility Plan (ALUCP) because it would prevent Southland Mall from expanding its space, opening it up, creating exterior seating, hindering the flexibility to bring in new businesses, and limiting economic growth.

Mr. Andy Wilson, Greenbrier Lane resident and Director for the California Pilots Association, stated that if Council decides to approve the overrule provision, then the decision would need to be submitted to the Caltrans State Division of Aeronautics.

Mr. Edward Bogue, Poinciana Street resident and President of the Southgate Homeowner's Association, pointed out that the Southgate neighborhood was included in the airport zones. Mr. Bogue believed that once the Marie Callender's site was redeveloped into a different restaurant, it would also have a higher density. He preferred that the City have the final determination of what is appropriate at the end of the runways and he supported the full override if the City had to make this decision.

Mayor Sweeney closed the public hearing at 9:50 p.m.

Development Services Director Rizk clarified for Council Member Zermeño that if Council approved the full override option, then the City would not be required to refer projects to the ALUCP, and consequently would not prolong the process.

Council Member Halliday stated that Council wanted to support Southland Mall and the neighborhood. Ms. Halliday noted that she understood the underlying concern of placing high concentrations of people in the vicinity of zones that could be impacted by an aircraft disaster. She added that Southland Mall had been grandfathered and should be allowed to develop as other malls. Council Member Halliday made a motion per staff recommendation.

Council Member Henson, as the appointed commissioner to the Alameda County Airport Land Use Commission, seconded the motion.

It was moved by Council Member Halliday, seconded by Council Member Henson, and carried with Council Member Quirk absent, to adopt the following:

Resolution 12-008, "Resolution Opposing Portions of the Draft  
Hayward Executive Airport Land Use Compatibility Plan"

## **LEGISLATIVE BUSINESS**

### **5. Approval of Acquisition and Disposition of Caltrans Parcels Adjacent to the South Hayward BART Transit-Oriented Development**

Staff report submitted by Public Works Special Projects Consultant  
Bauman, Project Manager DeClercq, and Development Services  
Director Rizk, dated January 10, 2012, was filed.

Assistant City Manager Morariu provided a synopsis of the report.

In response to Council Member Peixoto's question if \$400,000 was a reasonable price to pay for the land, Assistant City Manager Morariu noted that original estimates based on the value of the developable pieces of the Perry & Key site would have put the price in the \$800,000 range.



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There being no public comments, Mayor Sweeney opened and closed the public hearing at 10:04 p.m.

Council Member Henson made a motion per staff recommendation and Council Members Peixoto and Zermeño seconded the item.

It was moved by Council Member Henson, seconded by Council Members Peixoto and Zermeño, and carried with Council Member Quirk absent, to adopt the following:

Resolution 12-009, “A Resolution of the City Council of the City of Hayward Authorizing the City Manager to Execute a Certificate of Acceptance of Grant Deed for the Caltrans Property; Approving the Allocation of Park Fees to Acquire the Caltrans Property; Authorizing the City Manager to Negotiate and Execute a Land Exchange Agreement and Modify Restrictions on Amount of Funds Available for Predevelopment and Acquisition Costs Associated with the South Hayward BART Transit Oriented Development”

6. Transmittal of the Comprehensive Annual Financial Report for the Year Ended June 30, 2011; and of the Memorandum on Internal Control and Required Communications

Staff report submitted by Finance Director Vesely, dated January 10, 2012, was filed.

Finance Director Vesely and Maze and Associates external auditor, Cory Biggs, provided a synopsis of the report.

Council Member Henson asked if technology was taken into account in offsetting the need to have an investment manager to assist with the City’s portfolio management and also asked staff to identify improvement areas. Mr. Biggs noted the importance of having a background in professional investment and having those skills in place before implementing policy. Mr. Biggs added that proper staffing levels, updating technology and streamlining processes, and unwinding the redevelopment piece were important areas to consider.

In response to Council Member Peixoto’s question about internal controls, Mr. Biggs noted he tested transactions for internal controls. In response to questions relating to staff levels, Mr. Biggs noted that there was adequate clerical level staff, but pointed out that the department did not have an Accounting Manager.

Council Member Halliday inquired about the stated deficiency with documentation of internal investment controls. Mr. Biggs noted that if the City’s Investment Policy references internal controls, then the City needs to have documented internal controls. He added that policy should be

implemented. Ms. Halliday noted that the Enterprise Resource Planning system would help achieve better control mechanisms.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 10:22 p.m.

Council Member Henson made a motion per staff recommendation and it was seconded by Council Members Halliday and Zermeño.

Mayor Sweeney offered an amendment to direct staff to bring back to Council, every six months, a progress report concerning the eight items that were identified as deficient in the staff report. Council Members Henson, Halliday, and Zermeño were amenable to the recommendation.

It was moved by Council Member Henson, seconded by Council Members Halliday and Zermeño, and carried with Council Member Quirk absent, to adopt the following with direction to staff to bring back to Council, every six months, a progress report concerning the eight deficiency items that were identified in the staff report.

Resolution 12-010, “Resolution Accepting the Comprehensive Annual Financial Report for the Year Ended June 30, 2011; and the “Memorandum of Internal Controls and Required Communications”

### **COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Zermeño noted that Chabot Community College entered into a sister city agreement with Wuxi City College of Vocational Technology. Mr. Zermeño displayed the first year Chabot College’s Spanish textbook entitled Plazas at Chabot College, which features a photograph of the Hayward City Hall Plaza on the cover.

Council Member Halliday commended the Dr. Martin Luther King Jr. Birthday Celebration Committee, Master of Ceremonies Mayor Sweeney, the City of Hayward, Chabot Community College, and the Hayward South Alameda County National Association for the Advancement of Colored People (NAACP) for executing an outstanding Dr. Martin Luther King Jr. Birthday Celebration at Chabot Community College on January 16, 2012. She noted the City was gifted with talented individuals and acknowledged the Annual Martin Luther King Rally and Peace Walk at the Hayward City Hall Plaza on January 16, 2012.

Council Member Henson concurred with Council Member Halliday regarding the Martin Luther King Jr. celebration. Mr. Henson announced that the Alameda County Transportation Committee and its Citizens Advisory Committee were hosting a Central County Transportation Forum on January 19, 2012, at Hayward City Hall, at 6:30 p.m. He noted there would be discussion about programs related to mobility access, safe routes for schools, and other items. He invited all to attend.



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**ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 10:30 p.m., in memory of Dolores Del Rio Gaymon Snell, a Hayward resident, Chabot College and California State University Hayward graduate, Dr. Martin Luther King Jr. Celebration Committee member, devoted teacher, artist, freelance model, and philanthropist. Council Member Halliday added that Dolores Del Rio Snell was a member of Delta Sigma Sorority, Inc., and was an advocate for promoting opportunities and participation for women. Mayor Sweeney asked staff to plant a tree in her memory.

**APPROVED:**

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Michael Sweeney, Mayor, City of Hayward  
Chair, Redevelopment Agency/Housing Authority

**ATTEST:**

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Miriam Lens, City Clerk, City of Hayward  
Secretary, Redevelopment Agency/Housing Authority



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The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Salinas.

**ROLL CALL**

Present: COUNCIL/RA/HA MEMBERS Zermeño, Quirk, Halliday, Peixoto,  
Salinas, Henson  
MAYOR/CHAIR Sweeney  
Absent: COUNCIL/RA/HA MEMBER None

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that the Council met concerning four items: Public Employment regarding City Attorney; Conference with Labor Negotiators regarding all bargaining units; Conference with Legal Counsel regarding California Redevelopment Association, et al v. Matosantos, California Supreme Court Case No. S194861; and Conference with Legal Counsel regarding Nanette Dillard v. Alameda County Associated Community Action Program Governing Board Alameda County Superior Court No. RG11572661. There were no reportable items.

**PUBLIC COMMENTS**

Mr. Ron Teague, General Manager at Mimi's Cafe in Hayward, expressed support for removing the prohibition of reduced price alcohol sales "happy hour." Mr. Teague noted that Mimi's Cafe has 57 locations in California and the ban in Hayward does not allow them to participate in company-wide alcoholic beverage programs and also places them at a disadvantage with competitors in neighboring cities. He added that the sales generated from a happy hour program would increase tax revenue and potentially increase employment opportunities for local residents.

Mr. Jason Jago, District Manager of the Elephant Bar Restaurant in the Bay Area, noted that the ban on "happy hour" in Hayward places them at an economic disadvantage. Mr. Jago added that reduced prices on alcohol beverage coupons issued by Elephant Bar restaurants have a disclaimer that coupons are valid everywhere except Hayward. Mr. Jago mentioned that employees are cognizant that the restaurant is a full-service restaurant and are properly trained to handle situations related to alcoholic beverages. Mr. Jago favored instituting a "happy hour" from 3:00 p.m. to 7:00 p.m., similar to other locations.

Mr. Sassan Pirzaden, Shift Manager at the Elephant Bar Restaurant, favored a "happy hour" for his restaurant, noting that employees are properly trained about alcohol sales. Mr. Pirzaden noted that the Elephant Bar is at an economic disadvantage with Applebee's restaurant because the restaurant has reduced price alcohol sales.

Mr. Jesús Armas, with a business address on Main Street, invited all to the second annual “Fire and Salsa Game II,” a basketball fundraising match between Los Chilonos de Hayward and Hayward Firefighters, Local 1909, on February 4, 2012, at noon at the Mateo Jimenez Gym. Mr. Armas noted that the proceeds would benefit the Hayward Youth Commission.

Mr. Doug Ligibel, Grand Terrace resident, relayed questions from Alcohol and Drugs Specialists (ADS) about the consideration of a “happy hour” at local restaurants. The questions related to happy hour and public safety, crime, nuisance, youth eating at restaurants, overconcentration of on-site alcohol outlets, and hours of service. Mr. Ligibel shared arrest records that reflected several driving under the influence offenses, and arrests that showed a problem with youth females drinking and driving. Mr. Ligibel was concerned about the 9:00 p.m. to close happy hour consideration and urged Council to pay attention to the 9:00 p.m. to 2:00 a.m., happy hour policies of some restaurants.

Mr. Kim Huggett, Chief Executive Officer of Hayward Chamber of Commerce, supported removing the prohibition against restaurants offering alcoholic beverages for a reduced price promotion because the prohibition placed Hayward restaurants at a competitive disadvantage, compared to neighboring communities, reduced restaurant income, impacted City sales tax, and jobs. He noted that the prohibition erroneously presumed that owners and managers of our restaurants did not know how to train their employees and how to responsibly serve alcoholic beverages. Lastly, on behalf of Buffalo Bills’ owner, Geoff Harries, he relayed to Council Mr. Harries’ support for removing the ban against restaurants offering discounted alcoholic beverages.

Ms. Julie McKillop, Neumanali Restaurant owner, stated that she was not aware of the City’s ordinance banning discounted alcohol beverages. Ms. McKillop favored happy hour as a good marketing tool and not necessarily something that increased alcohol consumption. She disapproved seeing Hayward restaurants at a competitive disadvantage and asked for a compromise on this issue.

## **SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION**

### **1. Revisions to the Alcohol Beverage Outlet Regulations in the Zoning Ordinance**

Staff report submitted by Development Services Director Rizk and Police Chief Urban, dated January 24, 2012, was filed.

Mayor Sweeney invited Planning Commissioners to join Council at the dais. Development Services Director Rizk provided a synopsis of the report.

Mayor Sweeney said it seemed inappropriate to modify regulations for alcohol-serving establishments without having a tangible plan for enforcing the regulation of any undesirable uses that might drain limited City resources.

Council Member Henson noted that the purpose of revising the City’s regulations on alcoholic beverage sales at full-service restaurants was an attempt to balance the economic needs of such restaurants with the need to eradicate problematic establishments.



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Mr. Henson shared that other cities offered cabaret licenses and/or entertainment permits. Development Services Director Rizk noted that upon receiving direction from Council, staff could conduct research on the topic. In response to Council Member Henson's request to address the concerns raised by Mr. Ligibel, Director Rizk commented that full-service restaurants would have to adhere to regulations that required that 60% of restaurant sales come from food, and noted that, according to the Police Department, full-service restaurants were typically not a large source of calls for service. Council Member Henson pointed out there should be a clause in the City's ordinance addressing the actions that could be taken if things got out of hand.

Council Member Peixoto supported a compromise on the timing of happy hours, noting that the ordinance could be revised to restrict happy hours during the late night period.

Council Member Peixoto commented that the City's priorities were in place to develop a thriving downtown and believed that happy hours would encourage customers to stay at the full-service restaurant and have a meal. He agreed with Mayor Sweeney's concerns about potential safety issues that may arise from permitting happy hours after 9:00 p.m.

Planning Commissioner Lamnin favored instituting happy hours for full-service restaurants and suggested the following: that the revised ordinance require full-service restaurants to also offer low priced appetizers in addition to the discounted drinks; that the training provided to restaurant personnel be consistent for all of the full-service restaurants offering a happy hour; that the ordinance contain language for violations of the happy hour provision; and that full-service restaurants participate in crime prevention through environmental design standards. Commissioner Lamnin asked staff to look into whether or not dancing could be permissible at certain establishments. Due to concerns regarding the added costs resulting from the institution of a happy hour, Commissioner Lamnin shared that some cities had implemented an alcohol and tobacco retailer's license to assist in offsetting the cost of enforcement. She further stated that as a reward for businesses that were compliant with the City's regulations, a business might receive a discount in their permit fee.

Planning Commissioner Lavelle favored lifting the restriction on happy hours because it would allow local full-service restaurants to compete with other restaurants in the Bay Area. Commissioner Lavelle noted that the Elephant Bar in Hayward was the only Elephant Bar restaurant in Northern California lacking a happy hour. She expressed that having one early happy hour time would be adequate for restaurants and customers and added that discounted drinks being available late at night could contribute to driving under the influence. Ms. Lavelle supported Commissioner Lamnin's suggestion of discounted appetizers. Ms. Lavelle asked staff to explore the possibility of permitting music of a variety of sources at the full-service restaurants, and when permitted, would be in concurrence with the City's noise regulations. Ms. Lavelle noted that she did not read any references to Community Prevention of Alcohol-Related Problems (COMMPRE) and hoped that a representative would share their views regarding the proposed happy hour regulations.

In response to Planning Commissioner Mendall's question regarding situations that would necessitate changing back to the former regulation such as due to an increase in the number of service calls, Assistant City Attorney Conneely stated that staff could propose a trial period during which to test the revised regulation. Mr. Mendall asked if the City could place restrictions on problematic establishment. Development Services Director Rizk noted that the establishment would not be in compliance with the criteria of full-service restaurant and, therefore, would need to obtain a conditional use permit. Commissioner Mendall was supportive of revising the ordinance to allow happy hour for full-service restaurants, but only if regulating mechanisms were in place. He was amenable to a 3:00 p.m. to 7:00 p.m. happy hour timeframe, but was not comfortable with the late night happy hour. He added that the funding mechanism would need to be proportional to the size of the establishment or the amount of alcohol being served.

Planning Commissioner Faria pointed out that Applebee's restaurant had a conditional use permit, but was not on the list provided. Ms. Faria noted that in an effort to promote growth and business in the City, she would support lifting the prohibition of happy hour for full-service restaurants. She supported a funding mechanism for the oversight of the ordinance.

Planning Commissioner Márquez stated support of loosening the restrictions placed on full-service restaurants; however, she also believed that there needed to be additional research in terms of handling problematic businesses and maintaining compliance. In response to Commissioner Márquez' question of what intervening agency would respond to a problematic business, Police Chief Urban responded that it would be a shared responsibility between the Police Department and Alcohol and Beverage Control (ABC). Commissioner Márquez noted that the City needed to have fees associated with a revised ordinance and noted that a trial period made sense. She was in support of restricting happy hour from 3:00 p.m. to 7:00 p.m.

Planning Commission Chair Loché concurred with the comments made. Chair Loché noted that businesses that were poorly managed, whether they served alcohol or not, were the businesses that drained City services and he noted the importance of addressing that issue. In terms of a funding structure, he suggested cabaret fees. He added that a funding structure could help eliminate poorly run businesses and, on the same token, could help incentivize well run businesses.

Council Member Zermeño agreed with Planning Commission Chair Loché's comments regarding problematic businesses. Mr. Zermeño noted that he had been a proponent of eliminating the provision that prohibited happy hours, but disagreed that there needed to be more research for a funding structure to enforce regulations. He mentioned that the City was in need of economic vitality. For the time being, he agreed with the 3:00 p.m. to 7:00 p.m. happy hour timeframe. Furthermore, he mentioned that he wanted to see no limit to the number of restaurants that could be next to each other on a particular block.

Council Member Salinas stated that he was in agreement with the comments expressed by Council and Planning Commissioners. Mr. Salinas mentioned model businesses that were doing well. He liked the fact that bartenders were educated and skilled to identify and take care of problem customers. He added that full-service restaurants had a good opportunity to work with cab companies. He was supportive of lifting the provision that prohibits happy hour for full-service



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restaurants, allows music in those restaurants up until 10:00 p.m., and allows staff to conduct further research on alcohol sales.

Council Member Halliday mentioned that the Elephant Bar, Mimi's Cafe, Olive Garden, and Applebee's restaurants were relatively new to the Southland Mall area and appreciated staff's efforts to bring them into conformity with other cities in the area. In response to Council Member Halliday's question, Director Rizk explained that the State Board of Equalization would notify the Department of Alcohol Beverage Control (ABC) if a full-service restaurant had exceeded 40% of alcohol sales, and ABC would then work with the Hayward Police Department to address the issue. She agreed that having happy hour extended later into the night could prove problematic and therefore she favored allowing the earlier times for happy hours at full-service restaurants and allowing music and use permits for dancing. She was supportive of proper training for employees and researching a funding structure to regulate uses.

Council Member Quirk agreed with his fellow Council Members and, in particular, with Council Member Zermeño about getting the happy hour started right away. Mr. Quirk asked staff to poll participants of the restaurant tour about the importance of late night happy hours. He mentioned that if there was no evidence of problems, then he would not have a reason to be concerned about late night happy hours.

Council Member Henson said he was in favor of going forward and exploring the funding to support public safety oversight of alcohol-serving establishments. Mr. Henson noted that during this economic environment it was appropriate to give restaurants the opportunity to be competitive.

Mayor Sweeney stated there was general consensus among the two bodies and asked staff to provide options when the item comes back to Council. Mayor Sweeney noted that there was consensus to restrict the hours of the happy hour, with the exception of Council Member Quirk's request that staff poll restaurants and conduct a survey of late night happy hours, and bring back findings. Mayor Sweeney mentioned the suggestion offered by Commissioner Mendall to have a trial period with restrictions and at the end of the trial there would be a recommendation to establish a happy hour or leave the ordinance as is. Mayor Sweeney brought up Commissioner Lamnin's suggestion to consider adding discounted appetizers to the happy hour of full-service restaurants. He also pointed out that an effective strategy needed to be developed to address problem businesses that drain Police resources. Lastly, Mayor Sweeney commented that a stronger strategy needed to be developed to improve Hayward's economy.

2. Presentation of the Alternative Scenarios for the Regional Sustainable Communities Strategy

Staff report submitted by Development Services Director Rizk, dated January 24, 2012, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Pearson who provided a synopsis of the report.

Mayor Sweeney noted that the City, the Association of Bay Area Governments (ABAG), and the Metropolitan Transportation Commission (MTC) need to be firm when communicating to the State that the Sustainable Communities Strategy (SCS) could not be implemented with lack of resources. Mayor Sweeney noted that all the scenarios were constrained and the job analysis was unrealistic and represented low-paying jobs for Hayward. He added that if the City was trying to create the scenario where people were able to live, work, and commute in an efficient fashion, then the scenario assumptions regarding jobs would exacerbate already long commutes because people would not be able to afford housing in the “urban core.”

Council Member Henson concurred with Mayor Sweeney regarding the jobs and housing analysis, and added his concern for the assumption that San Francisco, Oakland and San Jose were cores that would sustain the most impact. Council Member Henson mentioned that One Bay Area Grant was not sufficient to implement sustainable strategies. Mr. Henson noted that the Locally Preferred Scenario gave the City the latitude to do what was needed to be in accordance with the desires stated by Council.

Council Member Halliday advocated for the Locally Preferred Scenario because it represented the least amount of housing projected for Hayward. She added that support for schools, parks, and public safety services, and the ability to pay for these services was an important element, as was economic development. In response to what performance targets and equity measures were most important, Ms. Halliday noted that she would have ranked “reduction in non-commute travel time,” higher.

Planning Commissioner Mendall echoed comments made and noted that the proposal sounded reasonable, but did not seem viable given the lack of adequate resources. Mr. Mendall noted that in the last 30 years, the City has had an explosion of housing without the jobs to match it. He said that although the jobs numbers would be difficult to reach, he said that he did not think that the number should be lowered but the City should work harder to try to meet them. He preferred reducing housing targets and increasing jobs. He agreed with Council Member Henson that the City did not have the tools to accomplish goals.

Planning Commissioner Lamnin stated that she would hesitate to give it all up in light of the current financial climate, but she would move back on the jobs numbers. Ms. Lamnin supported the Locally Preferred Scenario because it was more realistic and urged staff to continue the advocacy. She said that based on census numbers, the population was not growing as fast as it was presented. She appreciated that there was regional planning and dialogue. In response to the question regarding factors that were important in accommodating jobs and housing growth, Ms. Lamnin said that “transit service coverage” was extremely important, and the “provision of minimum account for housing” was very low importance. She appreciated the streamline permitting process recommendations. Additionally, in regards to performance targets and measures, Ms. Lamnin said that “reduction in housing and transportation costs,” should be at least number one.



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Planning Commissioner Márquez concurred with most of the comments made and noted that Hayward had already done its fair share of providing affordable housing and the City needed to push back because of the elimination of redevelopment agencies. She agreed that the City needed high-paying jobs and not just temporary positions or part-time positions in order to afford the homes. She said that if she had to choose one scenario, she would select the Locally Preferred Scenario, but did not appreciate demands being placed on all Cities when cities lack financial assistance.

Council Member Quirk agreed with most of the comments made, particularly that the City did not have the resources to implement the sustainable communities strategy. Mr. Quirk noted that fairly dense housing was built around the South Hayward BART and that project required \$30 million in State money and some in Redevelopment money, which was going away. He added that without Redevelopment money, the City would not be able to build affordable housing. Council Member Quirk stated that while he thought the scenarios were unrealistic, he did not think that it would cause the City a problem. Senior Planner Pearson responded that ABAG and MTC had not yet developed the details of the grant program.

Council Member Zermeño stated that the plan could work if the State were to give the City funding and tools. He agreed with the Locally Preferred Scenario and added that eventually the City would have to build up and not out.

Mayor Sweeney stated that it was clear there were concerns about how realistic the sustainable communities strategy was, and noted that constraints went with certain scenarios but funding for all the scenarios was very constrained. He thought that there was preference for the Locally Preferred Scenario, but more apparent than that, was a strong desire to “push back,” and noted that ABAG and MTC were in the position to communicate to the State the inability to implement projects without funding. He encouraged staff to work with their colleagues throughout the area to help make ABAG and MTC more of a force on this issue.

Mayor Sweeney thanked the Planning Commissioners for their participation.

**CONSENT**

**3. Hayward Municipal Election – June 5, 2012**

Staff report submitted by City Clerk Lens, dated January 24, 2012, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 12-011, “Resolution of the City Council of the City of Hayward Calling for a General Municipal Election and Requesting

the Board of Supervisors of Alameda County to Provide for the Consolidation of a General Municipal Election of the City of Hayward with the Presidential Primary Election to be Held on June 5, 2012, for the Purpose of Electing Four Members of the City Council for Terms of Four Years”

4. First Amendment to Debt Service Reserve Forward Delivery Agreement: 2002 Association of Bay Area Governments (ABAG) Lease Revenue Bonds

Staff report submitted by Director of Finance Vesely, dated January 24, 2012, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 12-012, “Resolution of the City Council of the City of Hayward Approving the Form and Authorizing Execution of a First Amendment to that Certain Debt Service Reserve Forward Delivery Agreement, Dated as of January 10, 2002, by and Among the City, the Cities of Grass Valley, Solana Beach, and South Lake Tahoe, Wells Fargo Bank, National Association, as Trustee, and First Union National Bank, as Provider, in Connection with the Issuance by the Association of Bay Area Governments of its \$14,355,000 Lease Revenue Bonds (California Capital Projects) Series 2001-2, Issued in Part to Finance Capital Projects for the City, and Authorizing and Directing Certain Actions with Respect Thereto”

5. Adoption of Revised Enforceable Obligations Payment Schedule (EOPS) Required Under ABx1 26 (the Redevelopment “Dissolution Act”)

Staff report submitted by Assistant City Manager Morariu, dated January 24, 2012, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Redevelopment Resolution 12-01, “Resolution of the Redevelopment Agency of the City of Hayward Approving and Adopting a Revised Enforceable Obligation Payment Schedule Pursuant to Part 1.8 of the Redevelopment Law”



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**LEGISLATIVE BUSINESS**

6. Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease for Phase I and an Option Agreement with Master Lease for Phases I-V with Hayward Airport Development, LLC on a Parcel of Land at Hayward Executive Airport

Staff report submitted by Director of Public Works Fakhrai, dated January 24, 2012, was filed.

Public Works Consultant Bauman provided a synopsis of the report.

Council Member Henson, also a member of the Council Airport Committee, asked staff to confirm the process that was followed for selecting a vendor for the hangars located at the California Air National Guard (CANG) site. Consultant Bauman noted that the Request for Proposals (RFP) process for the development project at the Hayward Executive Airport was properly followed, and with input by the Council's Airport Committee, Hayward Airport Development, LLC (HAD) was selected from the four participating firms.

Mr. Bauman confirmed that for all leases there was a Consumer Price Index (CPI) adjustment once in five years and an adjustment based upon an appraisal, once in the subsequent five years. In response to Council Member Henson's question of the number of Fixed-Base Operators (FBO) fuel sale facilities at the airport, Mr. Bauman responded there was only one FBO and it was provided by the APP Jet Center. Mr. Bauman confirmed for Council Member Henson that language was in place in the Ground Lease Agreement that would limit HAD, LLC from not being an FBO.

Council Member Quirk disclosed having had a discussion with Mr. Lee of SP Aviation about Mr. Lee's lease site and the staff report, and discussion with Mr. Thom Harrow of Airport Property Partners, LLC, about the contribution rate for the Airport's Aircraft Rescue and Fire Fighting Services (ARFF) vehicle. Council Member Quirk asked Mr. Bauman to explain what the City expected to charge for future ARFF vehicle payments. Mr. Bauman informed Council that a reasonable rate for the ARFF contribution for the CANG development site was determined to be \$1 per square foot.

In response to Council Member Zermeño's question about the location for the proposed Tuskegee Airmen Museum, Mr. Bauman responded it would be located toward the entrance of the hangar and would be showcased as an entrance way.

Mayor Sweeney opened the public hearing at 9:23 p.m.

Mr. Jonathan Lee, CFO with SP Aviation, Inc., thanked Council and staff for the opportunity to work on the California Air National Guard project. Mr. Lee asked the Council's support for the staff

recommendation, noting that their support would help his company expand; would provide tax revenue, jobs, and services; would create a museum and the opportunity to provide the Tuskegee Airmen with a home; and would make Hayward an inviting place to visit.

Mr. Darrin Perdue, President of SP Aviation, Inc., and member of the Hayward Airport Development, LLC team, noted his company had been operating at the Hayward Executive Airport for over 20 years, and for the last 10 years had been pursuing a facility that would allow them to grow their business. Mr. Perdue mentioned that his company competed in an open RFP process that drew four bidders. He added that after two and a half years of negotiations, their rent was triple the amount that was selected during the RFP process. Mr. Perdue indicated that by proceeding with the proposed development, the airport would retain a large operator, would see a developed area, would restore a landmark, and would create a home for the Tuskegee Airman.

Mr. John Lynn Smith, attorney with Reed Smith LLP, representing Airport Property Partners, LLC and Hayward FBO LLC, (collectively “APP”) urged the Council to reconsider the proposed resolution concerning lease negotiations with Hayward Airport Development, LLC for the reasons expressed in letters written to the Council on December 16, 2011, December 19, 2011, and January 24, 2012. He asked that the Council consider the letters and include them as part of administrative record. His concerns related to the Request for Proposals (RFP) process for the redevelopment of the former Air National Guard site, Development of Aircraft Storage Hangars at the Hayward Executive Airport, and the Airport’s Aircraft Rescue and Fire Fighting Services (ARFF) contribution rate and self-fueling. Mr. Smith asked the Council to reconsider the current proposal.

Mr. David Cunningham, President of the local Tuskegee Airmen Chapter, pilot and aircraft owner, shared that the City and County of San Francisco had proclaimed January 24, 2012, as Tuskegee Airman Day. Mr. Cunningham noted that he had requested that space at the proposed hangar be considered for a Tuskegee Airmen Museum and kindly requested that the project be expedited before more Tuskegee man were lost.

Mr. William Stollberg, a member of the flight department of SP Aviation Inc., noted he had been flying for over 45 years and commended his company and management for their intentions with the proposal, the commitment to the people they hire, and the safety of their operation.

Mr. Gary Briggs, owner of development and management business at the Hayward Executive Airport, expressed concern that the proposed rent per square foot for hangar space was below market value. Mr. Briggs said he was informed that the hangar at the airport was worth less, but commented that other airports in the same market were not comparable with the proposal and he said this could hurt existing tenants at the airport. Mr. Briggs noted support for the proposed development because it would benefit the airport, the community, the industry, and potential customers, but he wanted it be done at market rate.

Ms. Bridgette Hendricks, spoke on behalf of her uncle, an original Tuskegee Airmen, and urged the Council to approve a museum dedicated to the Tuskegee Airmen in recognition of the pilots who fought in World War II.



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Mr. Mark Conroe, representing Presidio Development Partners, LLC, mentioned that three years ago SP Aviation, Inc., Devcon Construction, and Presidio Development Partners, LLC, brought a plan to renovate the Air National Guard site. Mr. Conroe mentioned that the RFP process was fair and open, and noted that since the four bids were received, about three years ago, the rent has tripled. He noted the project was different because it involved a contaminated site and the rent per square foot for phases two thru five would vary and be consistent with the fair market values. He explained that there were other costs that the project proponents would need to incur to renovate the hangar. Mr. Conroe urged the Council to approve the project because it would generate jobs, revenue, and would retain a long-term tenant at the airport.

Mr. Gregory Scott, with the Bay Area Black Pilots Association, noted that the association started around the same time as the Tuskegee Airmen, and supported the construction of the museum at the Air National Guard site.

Mayor Sweeney closed the public hearing at 9:50 p.m.

Council Member Halliday, also a member of the Council Airport Committee, noted that the hangar was part of the Hayward Airport history and agreed that it needed to be renovated. Ms. Halliday commented on the success of a Tuskegee Airmen film and reception at the downtown Hayward Cinema Place and noted that a museum dedicated to the Tuskegee Airmen would attract people to Hayward. She acknowledged Mr. Briggs and Mr. Smith for presenting the facts and also noted that staff had evaluated and addressed the concerns raised and believed that the process was open and fair.

Council Member Halliday made a motion per the staff recommendation and Council Members Quirk and Henson seconded the motion.

Council Member Quirk, also a member of the Council Airport Committee, noted that Mr. Conroe summarized the arguments well and stated that the Committee and City staff reviewed the facts in great detail and was convinced that the decision regarding the lease with Hayward Airport Development, LLC was fair. Mr. Quirk reassured Mr. Briggs and Mr. Harrow that the City would help ensure that their businesses were success at the airport.

In response to Council Member Peixoto's question about the procurement process, City Attorney Lawson noted that he reviewed the three letters and staff reports, and was comfortable that the recommendation was defensible, the process was not unfair, and the proposed terms of the deal were rationally related to the site and the market.

Council Member Henson, also a member of the Council Airport Committee, readily supported the project, stating that the procurement process was fair and that the Council Airport Committee had reviewed the process thoroughly. Mr. Henson noted that Mr. Conroe accurately presented the facts and added that the developers would invest \$1.5 million to improve the site. He added the museum

was an additional component to the project. He said he looked forward to the site being developed, making it feasible for aviators, and making it an attraction to visit Hayward.

Council Member Zermeño indicated he trusted the work of his colleagues who served on the Council Airport Committee on this matter. Mr. Zermeño was supportive of the project, but was frustrated that it would take another three years for the museum to be completed.

It was moved by Council Member Halliday, seconded by Council Member Henson and Council Member Quirk, and carried unanimously, to adopt the following:

Resolution 12-013, “Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease for Phase I and an Option Agreement with Master Lease for Phases I-V with Hayward Airport Development, LLC on a Parcel of Land at Hayward Executive Airport”

### **COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Zermeño announced that the City of Hayward and the City and Regional Planning Department of Cal Poly State University will be hosting a Downtown Plan Workshop on February 4, 2012, at noon at City Hall. Mr. Zermeño also announced a Hayward basketball fundraising match between Los Chilonos de Hayward and Hayward Firefighters, Local 1909, on February 4, 2012, at noon at the Mateo Jimenez Gym. He noted that the proceeds will benefit the Hayward Youth Commission.

Council Member Salinas announced that City Hall will host two events: Hayward Honors Women, on March 8, 2012, at 5:00 p.m.; and the Cesar Chavez Celebration on March 29, 2012, at 5:30 p.m. Mr. Salinas invited all to attend.

### **ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 10:04 p.m.

### **APPROVED:**

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Michael Sweeney, Mayor, City of Hayward  
Chair, Redevelopment Agency/Housing Authority

### **ATTEST:**

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Miriam Lens, City Clerk, City of Hayward  
Secretary, Redevelopment Agency/Housing Authority

**DATE:** February 7, 2012

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Resolution Related to ABAG's Alternative Scenarios Associated with Formation of a Regional Sustainable Communities Strategy

### **RECOMMENDATION**

That Council adopts the attached resolution (Attachment I) for transmittal of the City's comments on the Alternative Scenarios to the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC).

### **BACKGROUND**

Staff provided an overview of the Alternative Scenarios that are currently being considered for the regional Sustainable Communities Strategy (SCS) to Council and the Planning Commission during a joint work session on January 24, 2012<sup>1</sup>. Of the various scenarios presented, Council Members and Planning Commissioners supported the Locally Preferred Scenario. However, they also expressed significant concerns about the State and regional agencies developing a regional SCS that seeks to promote smart growth and transit-oriented development, as required by SB 375, without providing adequate funding and support to implement such growth. This is especially challenging given the State's recent action to eliminate redevelopment agencies throughout California.

### **DISCUSSION**

The following discussion outlines the various concerns articulated by the Council and Commission at the January 24 joint meeting. The attached resolution captures these concerns and will be forwarded to ABAG and MTC upon Council adoption.

*Quantity and Types of Jobs* – One of the concerns expressed by the Council and Commission was with the amount of job growth projected in the Alternative Scenarios, which is shown to be well above historic job growth rates. The Councilmembers and Commissioners also indicated that Hayward needs high-paying jobs. In the data released by ABAG, current and projected numbers of jobs for each growth scenario were broken out into eleven industry sectors. The sectors correspond to the primary activity of the employer, not the occupations of particular employees. Table 1 below shows Hayward's current distribution of jobs in the eleven sectors. In 2010, Hayward's

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<sup>1</sup> See Item 2 at <http://www.hayward-ca.gov/citygov/meetings/cca/2012/CCA12PDF/cca012412full.pdf>

largest sector was Manufacturing and Wholesale (28%); second largest was Health and Education (12.5%); and the third largest was Retail (12%). As shown in Table 2, the three largest sectors in 2010 in Alameda County were: Manufacturing and Wholesale (16.8%), Professional Services (16.2%), and Government (16%).

In all three scenarios for Hayward, in terms of percentage growth, the Professional Services sector is expected to gain the most jobs (57 to 66% growth), the Information sector second (41 to 55% growth), and the Health and Education sector third (31 to 34% growth). In relative terms, the Manufacturing and Wholesale and the Professional Services sectors are projected to gain the most jobs among the eleven industry sectors. Together, these two sectors make up 44 to 47% of the total job growth projected in all three scenarios.

With respect to the Council and Commission’s desire to gain new high-paying jobs, the Focused Growth Scenario seems to be the best of ABAG’s scenarios for Hayward, as it is projected to result in the highest number of new jobs in the Professional Services sector. This supports staff’s position, as stated in the January 24, 2012 agenda report that, of the scenarios presented by ABAG, the Focused Growth Scenario is the best one for Hayward. However, as stated during the January 24 joint work session, the Locally Preferred Scenario, which was developed in partnership with the Alameda County Transportation Commission and Alameda County Planning Directors, remains staff’s preferred scenario because it provides the most realistic distribution and rate of growth for Hayward.

**Table 1. Hayward Employment Projections for the Three Constrained Alternative Scenarios**

Industry Sector	Current Jobs		Core Concentration		Focused Growth		Outer Bay	
	2010	% of total	2010-2040 Growth	% Growth	2010-2040 Growth	% Growth	2010-2040 Growth	% Growth
Agriculture and Natural Resources	93	0.1%	1	1.1%	1	1.1%	1	1.1%
Construction	5,475	8.6%	418	7.6%	418	7.6%	475	8.7%
Manufacturing and Wholesale	17,696	27.7%	3,055	17.3%	3,055	17.3%	4,262	24.1%
Retail	7,645	12.0%	1,676	21.9%	1,675	21.9%	1,581	20.7%
Transportation, Utilities, and Warehousing	2,407	3.8%	946	39.3%	946	39.3%	931	38.7%
Information	721	1.1%	294	40.8%	335	46.5%	397	55.1%
Financial Activities	2,081	3.3%	-93	-4.5%	-93	-4.5%	-81	-3.9%
Professional Services	6,961	10.9%	4,081	58.6%	4,557	65.5%	3,940	56.6%
Health and Education	7,996	12.5%	2,439	30.5%	2,439	30.5%	2,710	33.9%
Leisure, Hospitality, and Other Services	6,918	10.8%	1,990	28.8%	1,990	28.8%	1,896	27.4%
Government	5,971	9.3%	1,246	20.9%	1,324	22.2%	1,324	22.2%
<b>Totals</b>	<b>63,964</b>	<b>100.0%</b>	<b>16,053</b>	<b>25.1%</b>	<b>16,647</b>	<b>26.0%</b>	<b>17,436</b>	<b>27.3%</b>

**Table 2. Alameda County – Current Employment Distribution (ABAG Data)**

Industry Sector	Current Jobs	
	2010	% of total
Agriculture and Natural Resources	2,072	0.3%
Construction	36,879	5.3%
Manufacturing and Wholesale	115,979	16.8%
Retail	69,453	10.1%
Transportation, Utilities, and Warehousing	20,416	3.0%
Information	16,344	2.4%
Financial Activities	29,082	4.2%
Professional Services	111,784	16.2%
Health and Education	91,268	13.2%
Leisure, Hospitality, and Other Services	85,827	12.4%
Government	110,625	16.0%
<b>Total Employment</b>	<b>689,729</b>	<b>100.0%</b>

The industry sector breakdowns provided by ABAG (see Tables 1 and 2) use the North American Industry Classification System (NAICS). The industry sectors used by ACTC and the Locally Preferred Scenario are according to the Standard Industrial Classification (SIC) System. The SIC system is used by ACTC because it is the system used in the Alameda County traffic model. A complete list of both classification systems and definitions for each industry sector is available on the Census Bureau website<sup>2</sup>. However, there are ten SIC codes and ACTC has aggregated them into only six categories. Descriptions of the ACTC job categories are provided below in Table 3.

Table 3, below, shows the breakdown of jobs by industry sector for the jobs projected in the Locally Preferred Scenario. The total number of jobs does not match in Tables 1 and 3 because ACTC data is based on Traffic Analysis Zones; some of which extend beyond Hayward’s borders. The percentage of job growth projected in the Manufacturing and Retail sectors is lower than in the ABAG scenarios. The percentage of job growth projected for the Services, Government, Transportation, and Construction categories is higher than the ABAG scenarios. Due to the aggregation of classifications, it is difficult to know the exact number of high-paying jobs anticipated in the Locally Preferred Scenario.

<sup>2</sup> See <http://www.census.gov/epcd/www/naicstab.htm>

**Table 3. Employment Distribution for the Locally Preferred Scenario**

ACTC Industry Sector	Corresponding SIC Classification		Current Jobs		Locally Preferred Scenario	
	SIC Codes	Description	2010	% of total	2010-2035 Growth	% Growth
Agriculture	01-14	Agriculture, Forestry, and Fisheries Mineral Industries	208	0.3%	-8	-0.1%
Manufacturing	20-39	Manufacturing	12,685	19.4%	1,935	12.2%
Trade and Wholesale	50-51	All Wholesale Trade	6,444	9.9%	1,371	8.6%
Retail	52-59	All Retail	9,730	14.9%	2,429	15.3%
Services	60-67, 70-89	Insurance, Real Estate, Finance, Professional Services, Health, Education, Leisure and Personal Services	20,076	30.7%	6,169	38.8%
Other	15-17, 41-49, 91-97	Government, Transportation, Utilities, Construction	16,205	24.8%	3,997	25.1%
<b>Totals</b>			<b>65,348</b>	<b>100.0%</b>	<b>15,893</b>	<b>24.3%</b>

While the City of Hayward embraces the goals and the concepts advanced by the SCS, significant concerns remain regarding the loss of our redevelopment agency and its tax increment funding, the negative fiscal impacts associated with housing growth, and the overly optimistic jobs projections. These concerns are further detailed below.

*Redevelopment Agencies* – Hayward has been successful implementing smart growth in its three Priority Development areas; however, many projects have needed assistance from the City’s Redevelopment Agency to come to fruition. In particular, the South Hayward BART Transit-Oriented-Development project, which is scheduled to break ground in late 2012/early 2013, has required more than \$31 million in State Proposition 1C grants, \$2 million in Federal funding and over \$4 million in support from the City’s Redevelopment Agency Low and Moderate Income Housing Fund. The City of Hayward is concerned that future similar development projects will be much less likely to happen now that the State has abolished redevelopment agencies and their associated financing tools.

ABAG’s three constrained Alternative Scenarios were developed prior to the Supreme Court’s decision regarding redevelopment agencies. These three Alternative Scenarios are now further constrained by the loss of redevelopment.

*Funding*–The City of Hayward is concerned that funding through the One Bay Area Grant will be insufficient to implement the SCS. Additional funding is needed for public services, including safety, parks, and schools. Hayward cannot accept the housing growth projected without such assistance.

Housing – The City of Hayward can agree to the projected housing growth only if ABAG and MTC can assure that such growth will result in complete communities- with a mix of housing, retail, services, and high-paying professional jobs. Hayward does not have an interest in becoming a bedroom community for larger employment centers in the region. According to ABAG data, Hayward currently has 1.41 jobs per household and Hayward wants to remain a job-rich community. Housing will only be accepted if it comes with assistance to provide required public services and that there are jobs in the community to support the added residential population.

Jobs – The number of jobs projected for Hayward is unrealistic. While the City of Hayward would welcome job growth of 25 to 27% over the next thirty years as indicated in the three constrained scenarios, Hayward’s job growth over the last thirty years (1980 to 2010) was only 2.8%. The City of Hayward is concerned that overly optimistic job projections will result in traffic projections that are also unrealistic and may lead to requirements for unnecessary mitigation measures for transportation infrastructure. Also, as stated previously, Hayward seeks to attract higher paying jobs.

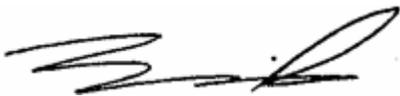
**NEXT STEPS**

Staff will forward the adopted resolution with an accompanying letter to ABAG and MTC for their consideration during the development of the Preferred Scenario, which is expected to be released in March 2012.

*Prepared by:* Erik J. Pearson, AICP, Senior Planner

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager

Attachments:

Attachment I    Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION FORMALIZING THE CITY OF HAYWARD'S  
COMMENTS ON THE ALTERNATIVE SCENARIOS FOR THE  
REGIONAL SUSTAINABLE COMMUNITIES STRATEGY  
(SCS)

WHEREAS, Senate Bill 375 requires the preparation of a regional Sustainable Communities Strategy (SCS) that coordinates transportation and housing planning; and

WHEREAS, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) are preparing the SCS with input from local jurisdictions throughout the Bay Area; and

WHEREAS, ABAG and MTC released the first draft of the SCS, known as the Initial Vision Scenario (IVS), on March 11, 2011; and

WHEREAS, the City of Hayward provided comments on the IVS to ABAG and MTC in a letter and resolution on May 20, 2011; and

WHEREAS, ABAG and MTC released the three Constrained Alternative Scenarios in September 2011, the results of the Performance Targets analysis in December 2011, and the Unconstrained Core Concentration Scenario on January 5, 2012; and

WHEREAS, the constrained Alternative Scenarios project 15,477 new households for Hayward between 2010 and 2040 and the Unconstrained Core Concentration Scenario projects 19,587 households for the same time period; and

WHEREAS, the constrained Alternative Scenarios project between 16,050 and 17,435 new jobs for Hayward between 2010 and 2040 and the Unconstrained Core Concentration Scenario projects 21,466 jobs for the same time period; and

WHEREAS, the Locally Preferred Scenario, prepared in partnership with the Alameda County Transportation Commission and Alameda County Planning Directors, projects 11,984 new housing units and 15,385 new jobs for Hayward between 2010 and 2035; and

WHEREAS, the Locally Preferred Scenario allocates housing and jobs throughout Hayward in a more realistic pattern; and

WHEREAS, City of Hayward staff estimates that the fiscal impact of the projected households and jobs through 2040 under the various scenarios would result in a significant negative impact to the City's General Fund; and

WHEREAS, the City of Hayward supports regional planning efforts to meet the requirements of SB 375 provided that funding and infrastructure exist to support the anticipated growth in jobs, housing, and the resulting increase in need for services; and

WHEREAS, on January 24, 2012, the City Council and the Planning Commission held a joint meeting to consider the Alternative Scenarios and expressed numerous concerns related to Alternative Scenarios, primarily focused on the lack of available funding from the State and regional agencies to help implement projected housing and job growth.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Hayward hereby finds the following:

#### Redevelopment

- The State's elimination of redevelopment agencies will make it difficult, if not impossible, to accommodate growth envisioned in the Sustainable Communities Strategy.
- This fiscal constraint created by the elimination of redevelopment agencies must be addressed in any Preferred Scenario that is ultimately adopted.
- ABAG and MTC must take a leadership role and must be more active in communicating to the State of California that SB 375 cannot be implemented without adequate resources.

#### Funding

- One Bay Area Grant funds should not be dependent on local housing production.
- Additional funding is needed for public services, including safety, parks and schools.
- Hayward is not in a position to accept the projected housing growth without financial assistance.

#### Jobs

- The number of jobs projected for Hayward is unrealistic in all four scenarios.
- Overly optimistic job projections will result in traffic projections that are also unrealistic and may lead to requirements for unnecessary mitigation measures for transportation infrastructure.

#### Housing

- The City of Hayward would be in a position to agree to the projected housing growth only if ABAG and MTC can ensure that such growth will result in complete communities

(including an appropriate mix of housing, retail, services, and high-paying professional jobs).

- The project housing growth is acceptable only if it is accompanied by assistance to provide required public services and jobs in the community to support the added residential population.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the City of Hayward strongly urges ABAG and MTC to take the above concerns into consideration when preparing the Preferred Scenario.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2012

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:** February 7, 2012

**TO:** Mayor and City Council

**FROM:** Director of Public Works - Utilities

**SUBJECT:** Install Storm Water Trash Capture Device: Approval of Plans and Specifications, and Call for Bids

### **RECOMMENDATION**

That Council adopts the attached resolutions to:

1. Approve the plans and specifications for the Install Storm Water Trash Capture Device Project and call for bids to be received on March 6, 2012;
2. Transfer \$113,000 from the Beverage Container Recycling Fund to the Sewer Collection System Replacement Fund; and
3. Appropriate funding of \$250,000 from the Sewer Collection System Replacement Fund for this project.

### **BACKGROUND**

The State Water Resources Control Board adopted the current Municipal Regional Stormwater Permit (MRP) at a hearing on October 14, 2009. The MRP covers storm water discharges from municipalities and local agencies in Alameda, Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun, and Vallejo. Under the MRP, permittees are required to install, by July 1, 2014, full trash capture devices to treat storm water runoff from an area equivalent to 30% of their respective retail/wholesale land that drains to Municipal Separate Storm Sewer Systems (MS4s) within the permittee's jurisdiction. The total Hayward retail/wholesale commercial area equals 726 acres. Assuming the MRP is not amended in the interim due to issues with unfunded state mandates, Hayward is required to install full trash capture devices for a minimum of 218 acres of drainage area ( $726 \times 30\% = 217.8$  acres).

This project will install a trash capture device near the intersection of Tennyson Road and Tyrrell Avenue to treat storm water and to partially meet the Water Board's requirement. Another device will be installed at a later date to fully reach the required goal. The trash capture device selected for this project is a hydrodynamic separator that uses vortex settling to remove debris and trash. As

storm water enters the separator, the swirling (or vortex) action of the water causes the solids to move to the center of the cylindrical chamber. These solids are trapped inside this chamber and eventually settle into a bottom storage compartment. The Maintenance Services Department will periodically use a vacuum truck to remove trash trapped in the storage compartment.

## **DISCUSSION**

In early 2011, City staff selected the Tennyson and Tyrrell intersection, located near the County flood control channel, as a strategic location to install the trash capture device. One reason for this selection is because the Maintenance Services Department regularly removes large amounts of trash from the storm system in this area; another is because this is the main outlet just before storm water is discharged to the County flood control channel, which is part of the MS4s. As a result, a large trash capture device at this location can capture trash from approximately 146 acres (67% of the required 218 acres) of stormwater runoff area. Another trash capture device will be installed at a later date to treat the storm water runoff from the remaining seventy-two acres to fully meet the MRP requirement prior to July 2014.

The State Water Resource Control Board developed a list of suppliers based on quotes received from various trash capture device suppliers for the Trash Capture Demonstration Project. As a result, it was not necessary for the City to issue a separate Request for Proposal to obtain and compare costs for the devices. All of the hydrodynamic separators have similar pricing. City staff evaluated various trash device vendors and decided the Contech CDS (Continuous Deflection Separation) unit is the most appropriate device to capture trash from storm water runoff at this location. The primary reason staff selected the Contech CDS unit was for its reliability. Several local cities such as Oakland and Dublin have installed the CDS unit and report the device is operating smoothly.

The project will remove the existing storm water inlet at the intersection of Tennyson Road and Tyrrell Avenue and replace it with the Contech CDS unit and a new inlet. Once the CDS unit is in place, the existing 48-inch and 39-inch Reinforced Concrete Pipes will be connected to the diversion box of the CDS unit. Leak testing will be done to assure water tightness at all the joints. When the installation is complete, the opened trench will be backfilled, compacted, and paved to match the original pavement section.

The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA). The Public Resources Code states that CEQA does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the modification, maintenance, repair, restoration, reconditioning, replacement, removal, or demolition of an existing pipeline.

## **FISCAL IMPACT**

The estimated project costs are as follows:

Design	\$ 15,000
Construction	220,000

Inspection & Testing During Construction  
Total:

15,000  
\$250,000

In October 2009, the San Francisco Estuary Project (SFEP) received an award of \$5 million in federal stimulus funds (American Recovery and Reinvestment Act of 2009) to support a Bay Area-wide Trash Capture Demonstration Project; the City of Hayward has participated in this Demonstration Project. All Bay Area cities and counties that wish to participate will receive funds to install trash capture devices to retrofit existing storm drainage infrastructure. Hayward's current grant allocation for this project is approximately \$137,000. All construction must be completed and all devices installed by November 1, 2012.

This project will be funded from a combination of the SFEP grant and available monies from the Beverage Container Recycling Fund. The California Beverage Container Recycling and Litter Reduction Act provides grant funds to eligible cities and counties that may only be used for beverage container recycling or litter cleanup activities. The City receives about \$40,000 annually. Staff is proposing to use these grant funds to pay the City's share of the expenditure for this project. This is an eligible expenditure of the funds. There is enough balance in the fund to cover the remainder of the project cost. As a practical matter, necessary funds should be deposited in an existing capital improvement program fund to pay for the project. Therefore, staff recommends transfer of \$113,000 from the Beverage Container Recycling Fund to the Sewer Collection System Replacement Fund and an appropriation of \$250,000 from the Sewer Collection System Replacement Fund for this project.

On a separate but related note, Governor Brown has recently indicated that to lessen the impact on local governments as a result of his proposed budget, he may propose eliminating, suspending, or limiting the scope of a number of state unfunded mandates on local governments. Because the State requirement for this project could be affected by the Governor's action, staff will monitor this situation and return to Council if the requirement is lifted or significantly delayed.

## **PUBLIC CONTACT**

As parking is already prohibited on Tennyson Road at Tyrrell Avenue, the project will not cause a parking issue in the area. However, construction will have noise impacts on residents adjacent to the project. Prior to construction, staff will notify area residents of the project and its potential impacts. To limit impacts of construction noise on adjacent residences, the contractor will be restricted to work between the hours of 7:30 a.m. and 4:30 p.m. during weekdays.

Prior to start of construction, staff and/or the contractor will provide notices to affected residents, property, and business owners to inform them of the nature and purpose of the work, potential impacts, work schedule, and City contact for additional information.

## **SCHEDULE**

Open Bids	March 6, 2012
Award Contract	April 3, 2012
Begin Work	May 2012
Complete Work	July 2012

*Prepared by:* Thomas Lam, Associate Civil Engineer

*Recommended by:* Alex Ameri, Director of Public Works – Public Utilities & Environmental Services

Approved by:



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Fran David, City Manager

Attachments:

- Attachment I – Resolution (Approval)
- Attachment II – Resolution (Appropriation)
- Attachment III - Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE  
INSTALL STORM WATER TRASH CAPTURE DEVICE PROJECT,  
PROJECT NO. 7541, AND CALL FOR BIDS

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

1. That those certain plans and specifications for the Install Storm Water Trash Capture Device Project, Project No. 7541, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project;
2. That the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law;
3. That sealed bids therefore will be received by the City Clerk's office at City Hall, 777 B Street, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, March 6, 2012, and immediately thereafter publicly opened and declared by the City Clerk in Conference Room 4D, City Hall, Hayward, California;
4. That the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2012

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:

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City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AMENDING RESOLUTION 11-094, AS AMENDED, BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2012, FOR A TRANSFER OF FUNDS FROM THE BEVERAGE CONTAINER RECYCLING FUND (213) TO THE SEWER COLLECTION SYSTEM REPLACEMENT FUND (614); AND FOR AN APPROPRIATION OF FUNDS FROM THE SEWER COLLECTION SYSTEM REPLACEMENT FUND TO INSTALL STORM WATER TRASH CAPTURE DEVICE PROJECT, PROJECT NO. 7541

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 11-094, as amended, Budget Resolution for Capital Improvements Projects for Fiscal Year 2012, is hereby further amended by approving a transfer of \$113,000 from the Beverage Container Recycling Fund (213) to the Sewer Collection System Replacement Fund (614); and an appropriation of \$250,000 from the Sewer Collection System Replacement Fund for the Install Storm Water Trash Capture Device Project, Project No. 7541.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

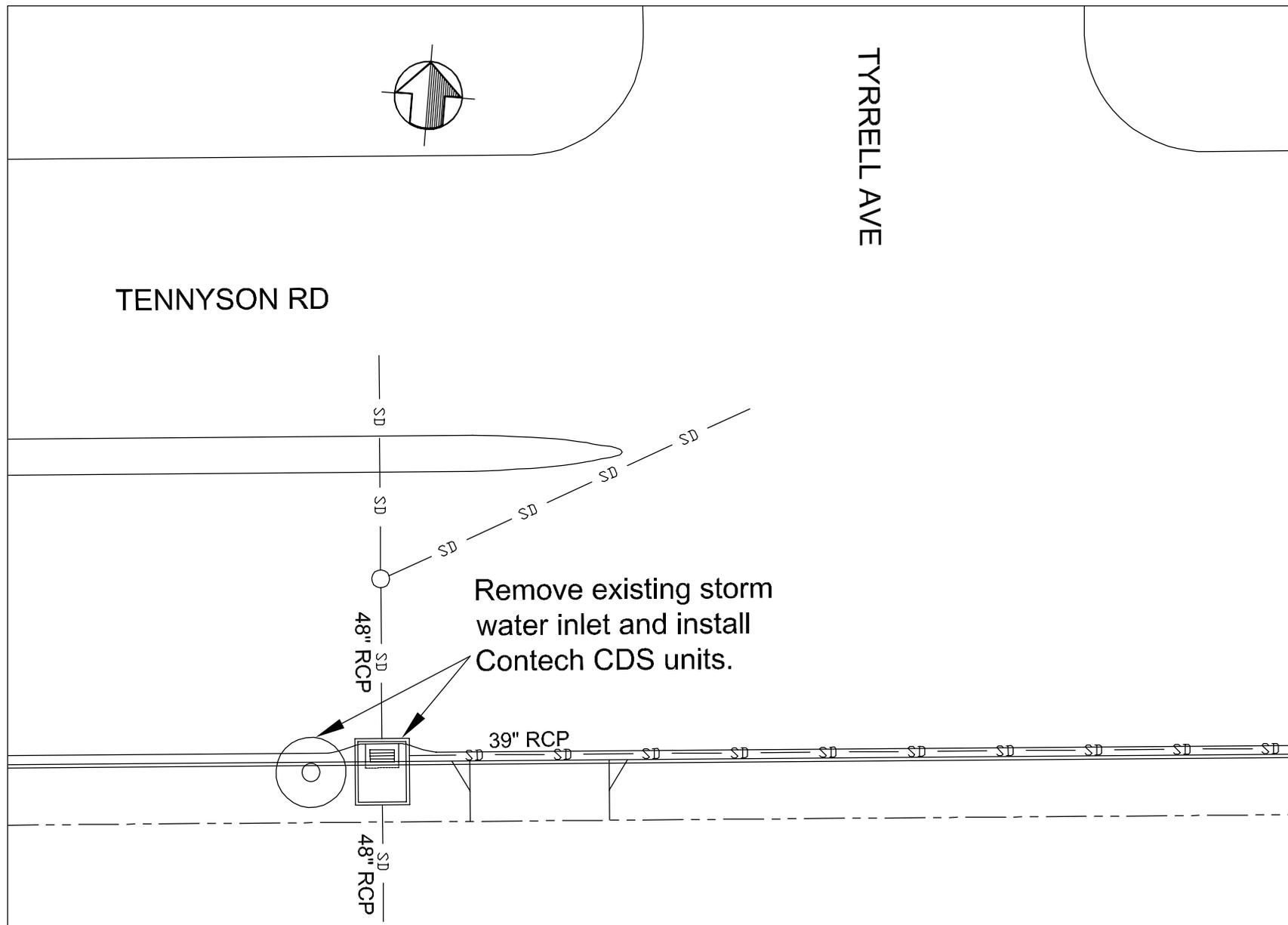
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



Location Map

**DATE:** February 7, 2012

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Resolution of Local Support for the Sustainable Communities Planning Grant and Incentives Program Application for Development of a Downtown Specific Plan, Form-Based Code and Transit Access Plan

## **RECOMMENDATION**

That Council adopts the attached resolution (Attachment I) supporting the Sustainable Communities Planning Grant and Incentives Program Application that City staff will submit to the Strategic Growth Council by February 15, 2012, to support the development of a Downtown Specific Plan, Form-Based Code, and Transit Access Plan.

## **BACKGROUND**

The Sustainable Communities Grant and Incentives Program is a grant program funded by Proposition 84 and administered by the Strategic Growth Council. The primary goal of the grant program is to help local governments develop and implement plans that reduce greenhouse gas emissions and achieve such objectives as improving air and water quality, promoting public health and equity, increasing infill and compact development, reducing automobile usage, and strengthening the economy.

In November 2011, the Strategic Growth Council issued its second call for projects with an application submittal deadline of February 15, 2012. The Grant Program is intended to fund projects in one of three focus areas: Local Sustainable Planning, Regional SB 375 and/or AB 32 Implementation, and Regional Planning Activities with Multiple Partners. The grant program is available for cities, counties, and regional agencies. The grant application guidelines for the current funding round<sup>1</sup> identify eligible projects, which include Specific Plans, Climate Action Plans, targeted General Plan Updates, and Local Coastal Plan Updates. The grant is intended to support the development of local plans that support the State's AB 32 greenhouse gas (GHG) emission reduction targets and implement SB 375. The Strategic Growth Council envisions three funding cycles with approximately \$22 million available this cycle. The minimum amount that will be awarded for any proposal is \$100,000 and the maximum amount is \$1,000,000. There is not a

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<sup>1</sup> <http://www.sgc.ca.gov/meetings/20111102/pgip-guidelines-2011.pdf>

required match; however, leveraging other resources including staff or “in-kind” services is encouraged. Also, environmental work/analysis is not an eligible expense.

In line with the City Council’s adopted 2010 priorities related to “Land Use and Sustainability” and “Crime and Public Safety,” City staff will submit a grant application for the preparation of a Downtown Specific Plan and Form-Based Code, along with a Transit Access Plan, which are envisioned to replace a number of outdated and inconsistent documents that currently govern the Downtown area. The grant application, along with the attached Resolution of Local Support, will be submitted on or before February 15, 2012.

## **DISCUSSION**

The project submitted involves preparation of a Downtown Specific Plan, Form-Based Code, and Transit Access Plan. Although not eligible for grant funds, an environmental impact report would also need to be prepared, in accordance with the California Environmental Quality Act (CEQA). The Specific Plan and Form-Based Code scope would be similar to that of the Mission Boulevard Specific Plan project, and the Transit Access Plan would entail an analysis and recommendations to encourage better access to, and enhanced use of, public transit (AC Transit buses and BART). The project area (Attachment II) coincides with the designated regional Priority Development Area boundary for Downtown Hayward. This is an area that has potential for improved sustainability and safety through design, given its proximity to public transit, such as BART and AC Transit. In the application submittal, staff stresses that the main purposes of such a Plan and Code would be to encourage more sustainable development that would integrate Crime Prevention through Environmental Design (CPTED) principles.

As reflected in the submitted work plan (Attachment III), the proposed Specific Plan project is envisioned to begin with issuance of a Request for Proposals (RFP) in summer 2012 and the subsequent hiring of a consultant team, and a public charrette in fall 2012. The Downtown Visioning project currently being developed in coordination with students from Cal Poly State University in San Luis Obispo will be used to help develop the RFP and guide the Specific Plan project development. The City’s funding of that project (totaling \$20,000) will be highlighted in the grant application to show the City’s willingness to invest in improving the Downtown and planning for its future. This should help with the grant application scoring.

The Resolution of Local Support is required in order to allow for the City’s application to be competitive. Submitted applications are anticipated to be reviewed by the Strategic Growth Council’s Technical Advisory Committee in March 2012, with formal Strategic Growth Council approval in April 2012.

## **ECONOMIC IMPACT**

The preparation of a Specific Plan, Form-Based Code and Transit Access Plan for the Downtown area would not have a significant impact on Hayward’s immediate economic situation. However, securing the grant funding will assist in having a new concise Plan and Code document that will clarify and simplify the Downtown development approval process and land use and design standards for this critical area of the City. The Plan and Code could result in higher densities and

will include design standards that seek to discourage undesirable or criminal activity. This will all encourage additional desirable development in the Downtown and will have a positive impact on Hayward's economic future.

## **FISCAL IMPACT**

Staff will be requesting just over \$900,000 in grant funds to complete the project. The project budget (Attachment IV), outlines the costs associated with the project and money expended to date on the Visioning process with the Cal Poly students. If the City's grant request is approved, there will be fiscal impacts associated with preparation of an Environmental Impact Report (EIR) for the project: the Sustainable Communities Grant cannot cover costs associated with preparation of environmental documents. There will also be staff time associated with coordinating with consultants in the preparation of the documents.

Given staff's experience with these types of projects, staff has estimated the total project cost to be \$1.43 million, with EIR costs estimated at approximately \$200,000. There is an additional estimated cost of just over \$300,000 associated with staff time for the entire project (to be supported with existing staffing positions in the Planning Division). Staff anticipates seeking other grant sources to cover the costs of the environmental document preparation: at this point, a funding source for the EIR preparation has not been identified. If the City is successful with this grant opportunity, but unsuccessful at identifying and securing funding for preparation of the EIR, staff will likely recommend declining the grant award as the EIR is required, per the California Environmental Quality Act.

## **PUBLIC CONTACT**

A significant amount of public outreach has been undertaken in advance of preparing the Specific Plan and Form-Based Code. From September 2011 through today, with the assistance of the Cal Poly students, the City has embarked on a visioning process for the downtown including community workshops, work sessions with both the City Council and Planning Commission and stakeholder interviews. This proposed project will continue to build on that momentum. The preparation of the Specific Plan project would include significant public outreach as well throughout the process, including a public design charrette, as has been done on the Form-Based Code for the South Hayward BART area and for the Mission Boulevard Specific Plan and Form-Based Code. Additionally, there would be community workshops, stakeholder focus group meetings, and work sessions with the City Council and Planning Commission throughout the project development process. Both AC Transit and BART staff have agreed to provide letters of support to assist the City with obtaining grant funds and to participate in development of the project, particularly the Transit Access Plan component.

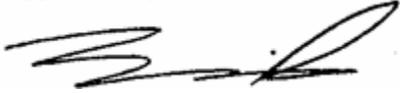
## **NEXT STEPS**

If adopted, the attached resolution would be forwarded to the Strategic Growth Council along with the City's grant application.

*Prepared by:* Sara Buizer, AICP, Senior Planner

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager

Attachment:

- Attachment I Resolution of Local Support
- Attachment II Plan Area
- Attachment III Proposed Work Plan
- Attachment IV Proposed Budget

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member

RESOLUTION IN SUPPORT OF THE APPLICATION FOR GRANT FUNDS FOR THE SUSTAINABLE COMMUNITIES PLANNING GRANT AND INCENTIVES PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)

WHEREAS, the Legislature and Governor of the State of California have provided funds for the Sustainable Communities Planning Grant and Incentives Program under Proposition 84; and

WHEREAS, the Strategic Growth Council has been delegated the responsibility for the administration of this grant program and establishing necessary procedures to implement the grant program; and

WHEREAS, said procedures require all award recipients commit to threshold requirements; and

WHEREAS, said procedures established by the Strategic Growth Council require a resolution certifying the approval of an application by the Applicant's governing board before submission of said application to the State; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the development of the proposal, which includes the preparation of the Downtown Specific Plan, Form-Based Code, Transit Access Plan and other related documents.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward:

1. Approves and authorizes staff to file an application under the Sustainable Communities Planning Grant and Incentives Program for the Downtown Specific Plan, Form-Based Code, and Transit Access Plan (the "Proposal") in order to become a sustainable community; and
2. Certifies that Applicant or title holder will have sufficient funds to develop the Proposal or will secure the resources to do so; and

3. Certifies that the Proposal will comply with any applicable laws and regulations, including consistency with the State’s Planning Priorities identified in Government Code section 65041.1 and summarized below:
  - a. Promote infill development and invest in existing communities; and
  - b. Protect, preserve and enhance agricultural land and natural resources; and
  - c. Encourage location and resource efficient new development; and
4. Certifies that threshold requirements outlined in the guidelines, including consideration of Ocean Protection Council Sea Level Rise Guidance, will be met; and
5. Agrees to reduce, on as permanent a basis as feasible, greenhouse gas emissions consistent with California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 3850) of the Health and Safety Code) and any applicable regional plan; and
6. Agrees to meet the collaboration requirements of the focus area applicable to the Proposal and include all required documents in the application package; and
7. Appoints the Development Services Director, or designee, as agent to conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, and payment requests, which may be necessary for the completion of the Proposal.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

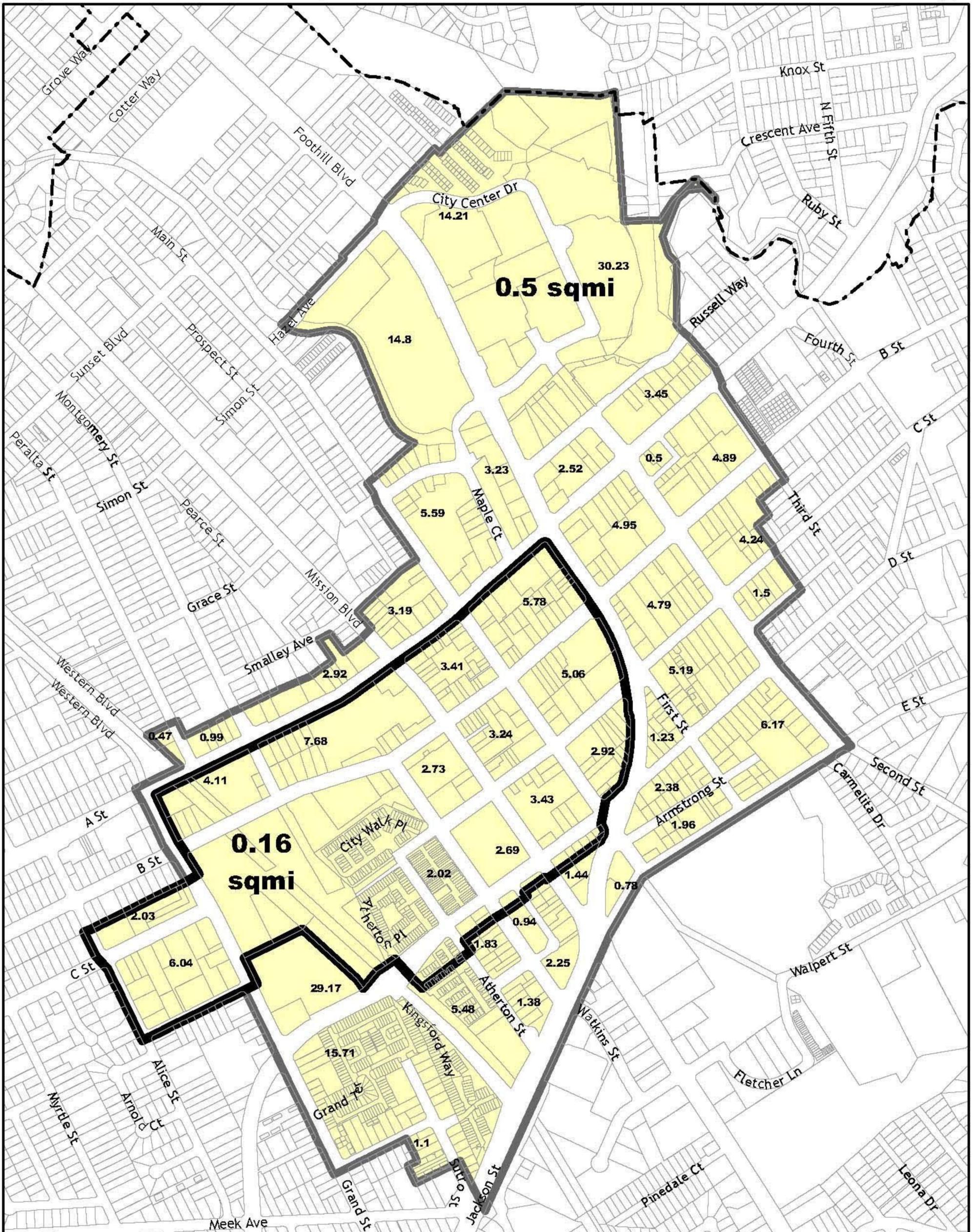
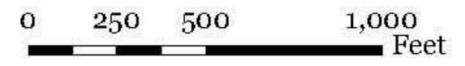
ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



# Downtown Hayward



## Work Plan

<b>Lead Applicant:</b> City of Hayward, CA		
<b>Proposal Title:</b> Downtown Specific Plan, Form-Based Code and Transit Access Plan		
High Level Activities/Milestones	Responsible Party	Proposed Start/End Dates
Issue RFP	City of Hayward	April 2012
Select and Execute Contract with Consultant	City of Hayward	June 2012
Project Initiation Meeting with Staff and Consultant Team	City and Consultants	July 2012
Public Charrette/Workshop	City and Consultants	November 2012
City Council and Planning Commission Review of Alternatives	City of Hayward	January and February 2013
Community Meeting on Alternatives	City of Hayward and Consultants	February/March 2013
Prepare Draft Specific Plan, Transit Access Plan and Draft Form-Based Code	City of Hayward, BART, AC Transit, and Consultants	January 2013 – November 2013
Public Meetings on Draft Specific Plan, Transit Access Plan, and Form-Based Code	City of Hayward, BART, AC Transit, and Consultants	November-December 2013
Prepare Draft Environmental Impact Report (DEIR)	Consultants	June 2013 – February 2014
Public Review of DEIR	City of Hayward	March 2014 – May 2014
Public Meeting before Planning Commission on DEIR	City of Hayward and Consultants	April 2014
Develop Final EIR and Final Draft Plans and Code	City of Hayward and Consultants	May 2014
Planning Commission Review of Final Draft Plans, Code and EIR	City of Hayward	June 2014
City Council Adoption of Plan and Code	City of Hayward	July 2014

<b>Budget for Proposed Downtown Specific Plan and Form-Based Code</b>				
<b>Proposal Element</b>	<b>Total Cost</b>	<b>Council Grant</b>	<b>In-Kind Match</b>	<b>Cash Match</b>
<b>Administration</b>				
Staff	\$234,000		\$234,000	
Consultants	\$650,000			
Specific Plan		\$300,000		
Form-Based Code		\$200,000		
Transit Access Plan		\$150,000		
<b>Public Outreach</b>				
Consultant	\$250,000	\$250,000		
Staff	\$75,000		\$55,000	
Cal Poly Students - Visioning				\$20,000
Security Guard for Mtgs.	\$750	\$750		
Mailed Notices	\$1,500	\$1,500		
Newspaper Ads	\$3,600	\$3,600		
<b>Printing</b>	\$15,000	\$15,000		
<b>EIR Preparation</b>	\$200,000			\$200,000
<b>Grand Total</b>	\$1,429,850	\$920,850	\$289,000	\$220,000

3 weekend days at \$250 each

Assumes 500 postcards per mtg. (500 x 6 x 0.47 = \$1,410.00)

2 ads @ \$1,000 each and 4 @ \$400 each