



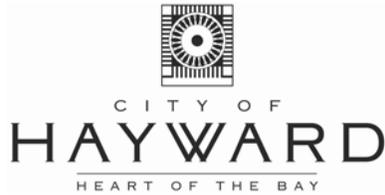
CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
OCTOBER 29, 2013

MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE MARK SALINAS
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER GREG JONES
COUNCIL MEMBER AL MENDALL

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SPECIAL CITY COUNCIL MEETING FOR OCTOBER 29, 2013
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

SPECIAL WORK SESSION
Conference Room 2A – 5:30 PM

CALL TO ORDER Pledge of Allegiance Council Member Mendall

ROLL CALL

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.

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

1. Council Priorities Discussion (Report from City Manager David)

- [Staff Report](#)
- [Attachment I](#)
- [Attachment II](#)
- [Attachment III](#)
- [Attachment IV](#)
- [Attachment V](#)

Adjourn to Special City Council Meeting

SPECIAL CITY COUNCIL MEETING
Council Chambers – 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Mendall

ROLL CALL

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.

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

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

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

LEGISLATIVE BUSINESS

2. Introduction of Ordinances Amending the Hayward Municipal Code by Adding Article 13 to Chapter 4 Relating to Food Sharing Events and Article 14 to Chapter 4 Relating to City Park Hours (Report from Assistant City Manager McAdoo)
 - [Staff Report](#)
 - [Attachment I Food Sharing Event Ordinance](#)
 - [Attachment II Park Hours Ordinance](#)
 - [Attachment III City Funded Housing and Food Access Programs FY 2014](#)
3. Introduction of an Ordinance Amending the Hayward Municipal Code by Adding Article 15 to Chapter 4 Relating to Social Nuisances (Report from City Attorney Lawson and Police Chief Urban)
 - [Staff Report](#)
 - [Attachment I Social Nuisances Ordinance](#)
4. Consideration of Continued Payment of National League of Cities Annual Membership Dues and Designation of Voting Delegates and Alternates for the National League of Cities 2013 Annual Congress of Cities Business Meeting (Presentation from Assistant City Manager McAdoo)
 - [Staff Report](#)

October 29, 2013



[Attachment I Resolution](#)
[Attachment II Notice Letter](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

NEXT REGULAR MEETING, 7:00 PM, TUESDAY, NOVEMBER 5, 2013

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

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. **PLEASE TAKE FURTHER NOTICE** that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

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

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

Please visit us on:



October 29, 2013



DATE: October 29, 2013
TO: Mayor and City Council
FROM: City Manager
SUBJECT: Council Priorities Discussion

RECOMMENDATION

That Council receives the attached materials, responds to staff questions posed in the report, and begins the discussion of Council priorities for the next two-year budget cycle for FY 2015 & FY 2016 (i.e., July 2014 through June 2016). Specific actions requested are:

- (1) Confirmation of the general process
- (2) Agreement on a definite schedule
- (3) Affirmation of the Vision Statement
- (4) Provide additional clarity for staff as noted in report

BACKGROUND

Each year, Council reviews Council priorities and establishes those things important to them, which they direct staff to use in preparing the next budget document for the upcoming year(s). This process is particularly critical when approaching the next full, two-year budget, as we are now.

Council has been focused and clear on three main priorities for the last several years, “Safe”, “Clean” and “Green”. Council has also been generally consistent in identifying three supporting priorities of “Fiscal Stability”, “Organizational Health”, and “Land Use”. During the FY 2014 priorities and budget development process, Council made some changes in how the priorities were defined and began to add performance measurements to each (See Attachment I).

As part of the FY 2014 discussion, Council directed staff to make some changes in process and timing for the priority setting process as part of the next two-year budget process:

1. Start the process earlier.
2. Provide a more informal and relaxed atmosphere in which to have the priorities discussion.
3. Allow more time for Council discussion among themselves and with staff.
4. Develop more robust performance measures and a process for reporting regularly on progress toward each.

This is the start of that FY 2015 & FY 2016 budget development process, with an earlier start on the Council priority discussion. Staff has made diligent attempts to meet Council's expectations for this process.

DISCUSSION

Timing: Attachment II lays out a suggested schedule for Council's deliberations and discussion on priorities and performance measures. Please note that suggested meeting dates take advantage of dates for which we would not normally hold Council meetings: 11/12/13, 11/26/13, 12/10/13, and 1/14/14. As an outcome of this meeting, staff would appreciate Council's confirmation of the attached schedule, including any alterations they would like to make.

The schedule, when taken as a whole, allows Council a full six months (October 2013 to April 2014) to complete the discussion, review staff work plans in support of the developed priorities, and approve draft performance measures. In addition, Council will have a full two months between May and June 2014 to refine their perspective and direction to staff before approving the final FY 2015 & FY 2016 budget, work plans, and performance measures by the end of June 2014. During the entire process, Council and staff will have a chance to interact on, discuss, and agree on priorities, resource allocations, and performance measures.

Process: The process as defined in this presentation deviates from what has been traditionally done in the recent past. Meetings are planned for Room 2A rather than the Council Chambers to allow for a more informal discussion and dialogue; and are suggested for an earlier start time than the usual Council meeting (i.e., 5:30 pm).

The meat of the process is the discussion of each priority area and Council's concerns, expectations, and desired outcomes or outputs, which will hopefully result in clear performance measures to improve accountability around service to our community and reportable progress on the Council priorities. Staff is suggesting that this be done by priority area, rather than by operating departments as in the past. In other words, focus will be on the priority area and what Council wants to accomplish rather than on the operations of a specific department. Applicable Department Directors will be available to participate in the discussion as desired by Council; and will make more traditional presentations to Council during the budget hearing process in May and June.

Council will note that the recommended draft timeline suggests that Council enter into working discussions with staff and provide direction on a priority, its definition, and its performance measures at one meeting (e.g. Safe on 11/12/13), and then review staff's revised documents in response to Council's direction at the subsequent meeting (e.g., Safe on 11/26/13). Once the definitions and performance measures are established during these early meetings that will conclude in January, the Department Directors will work with their staff as part of the budget development process during the January through April timeframe to define the work tasks that will help to accomplish the Council's defined priorities. Attachments III and IV are samples of what might emerge at the end of this process if Council chooses to follow staff's recommendations. The Council would then have an opportunity to offer further feedback on the priorities and work tasks as part of the budget presentations and hearings in May and June.

Staff relied on two successful models to develop the process and supporting timeline: the process used in the Neighborhood Partnership Program of listening, responding, and verifying across multiple meetings; and the development of the Economic Development Strategic Plan, which resulted in a document with strong Council support.

Council Actions Tonight: Council begins the process tonight with (1) confirmation of the general process, (2) agreement on a definite schedule, and (3) affirmation of the Vision Statement, which is taken directly from the draft General Plan update, and which has received preliminary Council support (See Attachment V).

The process continues with a discussion of some general concepts to help gain clarity on a priority framework for Council and staff. In listening to Council over the last few months, there seems not to be exact agreement on the purpose of identifying a priority. Is a priority identified because something is broken and needs to be fixed; and goes away once things are better? Is a priority a signpost and guide in a larger journey, as in making progress on reaching the long-term vision set by Council? Might they be both and exist in tandem? In either case, how does a priority guide the allocation of resources throughout the organization?

Council has been very clear on the three main priorities: Safe, Clean, and Green. There is less clarity around the “supporting priorities” or “initiatives”. Staff hopes that tonight’s discussion will bring some additional clarity to these areas and more clearly differentiate among true priorities like Safe, Clean, and Green, tools such as “land use”, and basic operational responsibilities, such as “organizational health” or “fiscal stability”. In addition, other areas obviously critical to Council such as educational improvement, economic development, library services, and community health have been somewhat force-fit into Safe, Clean, and Green, but don’t rest there comfortably.

ECONOMIC IMPACT/FISCAL IMPACT

Clearly, the actions taken by Council over the last few years and the work done by staff in response to Council direction have benefitted the organization financially and the community economically. Continued clarity of mission, focus on the right things, and effective operational implementation will only add to that.

PUBLIC CONTACT

Throughout this entire process, at the dates and times noticed, the public will have an opportunity to hear Council’s deliberations and to comment.

NEXT STEPS

Once Council agrees upon the timeline and the general process, staff will schedule and confirm all meeting dates; and will assure preparation of all needed documents and materials to aide Council’s discussion.

Prepared, recommended, and approved by:



Fran David, City Manager

Attachments:

- Attachment I** FY 2014 Adopted Council priorities
- Attachment II** Suggested timeline/schedule
- Attachment III** Sample Priorities at a Glance document
- Attachment IV** Sample Work Plan and Performance Measures document layout
- Attachment V** Draft General Plan Vision Statement

FY 2014 Adopted Council Priorities

Overarching Community Metrics:

- 1) On the bi-annual citizens' survey:
 - a. Increase the total percentage of residents who indicate they are very satisfied or somewhat satisfied with living in Hayward (2012 baseline = 79.6%).
 - b. Increase the total percentage of residents who indicate they are very satisfied or somewhat satisfied with the job the City is doing to provide resident services (2012 baseline = 70.2%).
 - c. Consistently decrease the percentage of respondents who indicate that crime/drugs/gangs contribute to their negative image of Hayward (2012 baseline: 46.2%).
 - d. Begin to measure the number of families who leave Hayward annually and their reason for leaving.
- 2) Improve Hayward Unified School District standardized test scores:
 - a. Standardized test score performance of students who participate in educational programs provided by the City will exceed test scores of comparable, non-participant students by 10% or more.
 - b. Increase the number of students being served by the Library and Community Services Department educational programs by at least 5% annually (2012 baseline: 1,100 unduplicated students; HUSD student population: 22,000).
 - c. Wherever possible, work with HUSD to raise average district wide API scores to 900 or above (2012 baseline: 718); and to achieve the goal that 100% of HUSD schools have API scores above 800

SAFE		
FY 2014 Priority Statements		Metrics for SAFE
1.a	Reduce all types of crime throughout the community; improve the Hayward experience in neighborhoods, retail areas, and public spaces, including significantly reducing unacceptable social behaviors such as aggressive panhandling, public intoxication, and related behaviors. Improve safety of school campuses and routes to and from schools.	<ol style="list-style-type: none"> 1) Reduce the number of Uniform Crime Reports (UCR)¹ crime consistently over the next three years. These consist of: <ol style="list-style-type: none"> a. Homicide b. Rape c. Robbery d. Aggravated Assault e. Burglary – reduce by 5% f. Larceny g. Motor Vehicle Theft – reduce by 5% h. Arson 2) Continue programs and strategies to geographically reduce crime a minimum of 5% in the identified hot spot areas. 3) Reduce the number of traffic-related accidents citywide consistently over the next 3 years. 4) Continue with the traffic-related accident reduction program at the top 3 accident zones. Reduce accidents by a minimum of 10% within those zones. 5) Conduct a minimum of 9 SMASH Programs within each 12 month period. 6) Reduce the number of reportable gang crimes:² <ol style="list-style-type: none"> a) Through proactive anti-gang enforcement, increase the number of gang-related: <ol style="list-style-type: none"> i. arrests by 5% ii. contacts by 10% iii. probation/parole searches by 5% b) Conduct a minimum of two intelligence-led, long
1.b	Eliminate sources of problems in neighborhoods, including the continued, consistent use of the SMASH Program	
1.c	Reduce gang violence in Hayward through aggressive and strategic law enforcement, use of all applicable legal initiatives (including gang injunctions), and implementation of prevention and intervention programs.	
1.d	Improve disaster preparedness in the community; and the ability of the municipal organization to manage disaster response and recovery (HLAC).	
1.e	Assure a safe infrastructure for the City including safe drinking	

¹ The Uniform Crime Reports (UCR) is a nationwide, cooperative statistical effort of more than 16,000 city, county and state law enforcement agencies voluntarily reporting data on crimes brought to their attention.

² The definition of a gang-related crime is any person who participates in any criminal street gang and who engages in any criminal conduct in which the purpose is to promote or further the gang.

<p>water; properly collected and disposed garbage and refuse; properly collected, treated, and discharged wastewater and sewage; and safe travel ways for all travelers, including implementing the Complete Streets policy.</p>	<p>term, & comprehensive investigations targeting the leadership of active and specific gangs to eliminate, dismantle and/or disrupt related criminal enterprise.</p> <ol style="list-style-type: none"> 7) Fire Department will maintain the current response time of five minutes or less to 93% of calls for service; and will continue progress toward goal of a response time of five minutes or less to 95% of calls for service. 8) Annually meet the requirements of the City’s applicable federal and state permits for the provision of safe water distribution and sewer collection, treatment, and disposal services. 9) The number of reportable violations in the City’s water distribution and sewer collection, treatment, and disposal services will stay within or be less than the range of performance as compared to neighboring water and sewer agencies. 10) Respond to and complete 90% of requests for streetlight repairs/replacements within ten business days after notification. 11) Repair six centerline miles of the City’s total lane miles of roadway each fiscal year. 12) Repair 20,000 square feet of the City’s sidewalk and install 100 new accessible curb ramps, with focus around schools and other high pedestrian use area.
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CLEAN	
FY 2014 Priority Statements	Metrics for CLEAN
<p>2.a Assure that Hayward is a community with minimum graffiti, litter, illegal dumping, and blight; and that the City provides and maintains attractive municipal spaces and buildings.</p>	<ol style="list-style-type: none"> 1) Reduce by at least 10% annually the cubic yards associated with dumping and collected debris, using FY 2012 as a baseline. 2) Remove all graffiti on either public or private property containing foul or offensive language and/or gang tags within 48 hours of the City becoming aware of it and remove all other graffiti within five business days of the City becoming aware of it. 3) Reduce the number of complaints received by the City Council regarding litter at fast food restaurants to zero annually. 4) Increase by at least 5% annually the number of blocks participating in the Adopt-a-Block program. 5) Repave and stripe one municipal parking lot every other year.
<p>2.b Continue, strengthen, and expand the Neighborhood Partnership Program</p>	
<p>2.c Continue, strengthen, and expand the KHCG Task Force</p>	

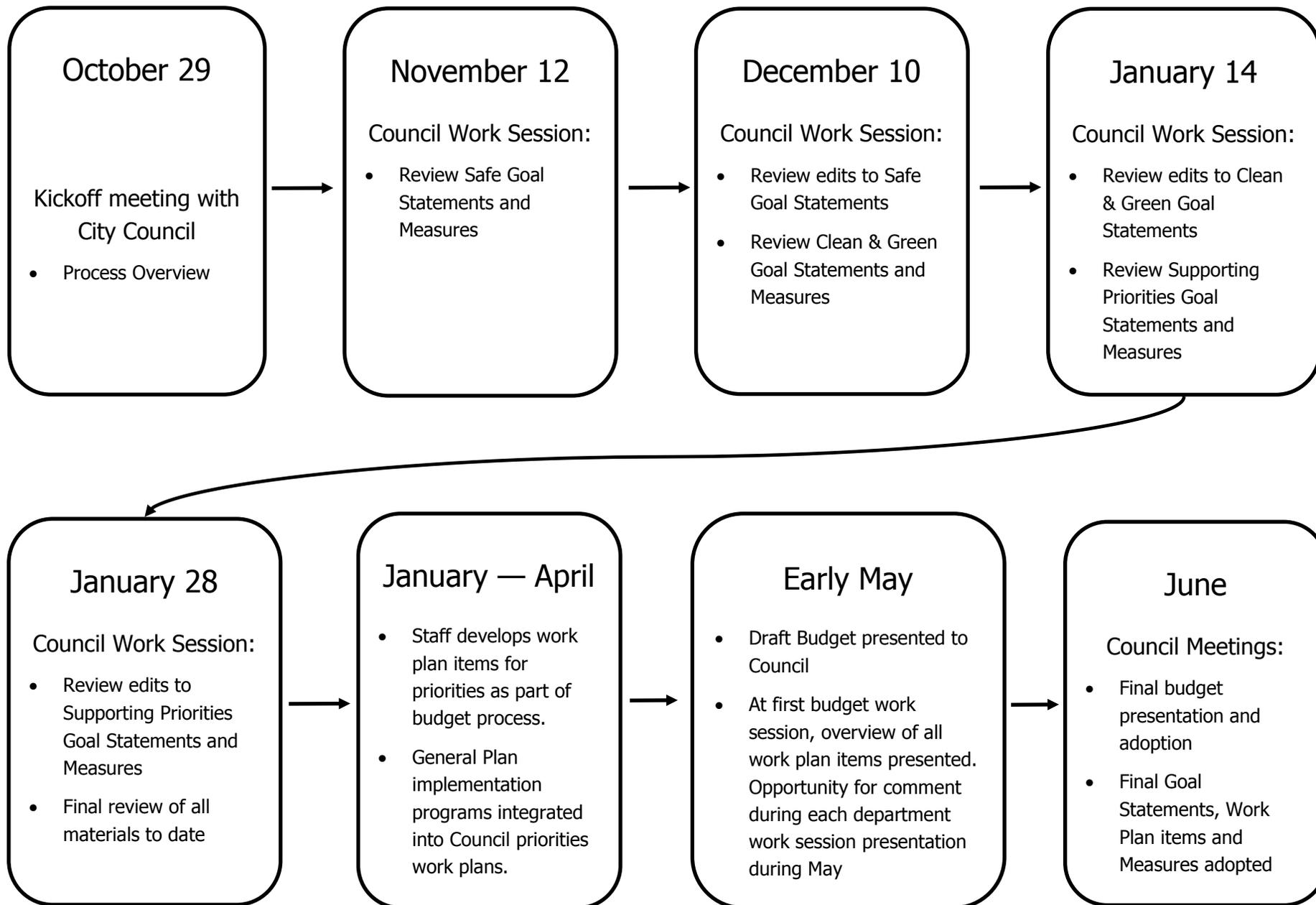
GREEN	
FY 2014 Priority Statements	Metrics for GREEN
3.a Continue implementation of the Climate Action Plan (CAP)	<ol style="list-style-type: none"> 1) Reduce greenhouse gas (GHG) emissions community wide according to the goals included in the CAP, with an annual reduction of at least 3%. 2) Increase diversion of waste by working with businesses to implement the Alameda County Waste Management Authority's mandatory recycling ordinance so that all businesses are in compliance by the end of CY 2014. 3) Reduce City energy usage from non-renewable sources by 50% or more over five years. 4) Continue to improve the City's Urban Forest by planting at least 400 new trees per year. 5) Work with appropriate community partners to create three new public-access community gardens over the next five years. 6) Develop and implement at least one new activity annually targeted at improving the physical activity of elementary-school age children.
3.b Increase Hayward's sustainability as a community in all aspects of urban life	
3.c Continue implementation of the "Healthy City" program and to gain national and state recognition; focus on reducing childhood obesity in Hayward; strengthen the City's urban agriculture program	
3.d Work to eliminate long-term homelessness in Hayward and identify housing for individuals when and where appropriate	

FISCAL STABILITY	
FY 2014 Priority Statements	Metrics for FISCAL STABILITY
<p>4.a Maintain a municipal corporation that is transparent to the public, and which operates annually within its revenue/income; assure that the organization is financially sustainable based on a rolling ten-year financial plan, with appropriate funding of all identifiable liabilities and areas of responsibility.</p>	<ol style="list-style-type: none"> 1) Close the structural budget deficit on a permanent and ongoing basis and develop plans to address unfunded liabilities and capital needs as part of the ten-year financial forecast. 2) Implement the Economic Development Strategic Plan and report regularly against the metrics identified therein.³ 3) Review potential revenue sources and develop recommendations to Council for additional or increased revenue streams. 4) Develop a plan to finance the City's long-term infrastructure needs.
<p>4.b Maintain a healthy and growing tax base in all major revenues, particularly property tax and sales tax.</p>	
<p>4.c In the wake of the demise of redevelopment, develop and implement a strategy to assure successful economic development and the development of quality housing in Hayward; protect and grow quality private sector jobs, particularly in the industrial sector.</p>	
<p>4.d Develop and support the necessary elements to provide high-quality educational opportunities for all, throughout the community; improve the academic performance of all K-12 students</p>	
<p>4.e Assure maximum efficiency in the use of organizational resources and physical assets, particularly as it relates to beneficial resource sharing among Hayward local agencies.</p>	

³ See adopted Economic Development Strategic Plan: http://www.hayward-ca.gov/haywardopenforbusiness/documents/2013/Economic_Development_Strategic_Plan.pdf

LAND USE	
FY 2014 Priority Statement	Metrics for LAND USE
<p>Maintain and implement land use policies that:</p> <ul style="list-style-type: none"> a. Support a safe, clean, and green community as defined by Council b. Support development of safe housing 5. c. Assure a thriving business community, strong retail base, and a healthy industrial sector d. Assure quality development and building projects in the City in all sectors and neighborhoods e. Assure continued development and expansion of Hayward’s parks and open space 	<ul style="list-style-type: none"> 1) Adopt the General Plan in FY 2014. 2) Ensure compliance with Economic Development Strategic Plan performance measures IS4.1 – IS4.3, IS5.1 – IS5.6, SR4.1 – SR4.3, and SR5.1 – SR5.6. 3) Complete the Mission Corridor Specific Plan.
ORGANIZATIONAL HEALTH	
FY 2014 Priority Statements	Metrics for ORGANIZATIONAL HEALTH
<p>Assure that the City of Hayward maintains an organization that delivers high-quality services to the community by attracting, employing , and retaining quality employees:</p> <ul style="list-style-type: none"> 6.a a. Hayward is viewed as a highly desirable place to work by people employed in the public sector throughout the Bay Area b. Hayward is able to retain and attract quality employees as vacancies and need arise The organization has good succession strategies into the future for all key positions. 	<ul style="list-style-type: none"> 1) Maintain employee turnover and retention rates that are in the top third of comparable surveyed cities. 2) Develop at least one additional strategic plan in a key programmatic area.
<p>6.b Assure that the organization employs quality strategic, long-range planning for a healthy and strong future.</p>	

FY 2015 & FY 2016 Council Priority Process



PRIORITIES AT A GLANCE

Priority 1: SAFE

Goal S1

Goal S2

Goal S3

Goal S4

Goal S5

Reduce gang violence in Hayward through aggressive and strategic law enforcement.

Priority 2: CLEAN

Goal C1

Goal C2

Priority 3: GREEN

Goal G1

Goal G2

Goal G3

Goal G4

Continue implementation of the Climate Action Plan (CAP).

Priority 4: SUPPORTING PRIORITIES

Goal SP1

Goal SP2

Goal SP3

Goal SP4

Goal SP5

Goal SP6

Goal SP7

Goal SP8

Develop and support the necessary elements to provide high-quality educational opportunities for all, throughout the community; improve the academic performance of all K-12 students.

**SAFE
GOAL S3**

Reduce gang violence in Hayward through aggressive and strategic law enforcement.

WORK TASKS		FY 2015	FY 2016	DEPARTMENTS
S3-WT.1	Use all applicable legal initiatives to reduce gang violence (including gang injunction).			
S3-WT.2	Implement prevention and intervention programs.			
S3-WT.3				

PERFORMANCE MEASURES		BASELINE	PRIORITY
S3-PM.1	Reduction in the number of reportable gang crimes. Through proactive anti-gang enforcement, increase the number of gang-related: arrests by 5%, contacts by 10%, probation/parole searches by 5%.		
S3-PM.2	Conduct a minimum of two intelligence-led, long-term, comprehensive investigations targeting the leadership of active and specific gangs to eliminate, dismantle, and/or disrupt related criminal enterprise.		
S3-PM.3			



CITY OF
HAYWARD

2040 VISION

Hayward will be a distinct and desirable community known for its central Bay Area location, vibrant Downtown, excellent schools, robust economy, growing reputation as a great college town, and sustainable neighborhoods that have adapted to climate change. With a variety of clean, safe, and green neighborhoods, and an accessible network of parks and natural open space, Hayward will be home to one of the most diverse, inclusive, educated, and healthy populations in the Bay Area. It will be a destination for life-long learning, entertainment, arts and culture, recreation, and commerce. It will be a community that values diversity, social equity, transparent and responsive governance, civic engagement, and volunteerism. Hayward will be a thriving and promising community that individuals, families, students, and businesses proudly call home.

DATE: October 29, 2013
TO: Mayor and City Council
FROM: Assistant City Manager
SUBJECT: Introduction of Ordinances Amending the Hayward Municipal Code by Adding Article 13 to Chapter 4 Relating to Food Sharing Events and Article 14 to Chapter 4 Relating to City Park Hours

RECOMMENDATION

That the City Council introduces the attached ordinances amending the Hayward Municipal Code (HMC) by adding to Article 13 to Chapter 4 relating to Food Sharing Events (Attachment I) and Article 14 to Chapter 4 relating to Park Hours (Attachment II). These ordinances pertain to City-owned properties.

SUMMARY

On October 1, 2013 staff presented to the Hayward City Council a report introducing two companion ordinances¹ that were proposed as part of a strategy to address concerns raised by residents, business owners, shoppers, and visitors to Hayward regarding nuisance behaviors and activities occurring in the Downtown. The proposed Food Sharing Event Ordinance requires that a City-issued permit be obtained regulating the time, place, and manner in which food sharing events can occur in City Parks. The second ordinance places restrictions on the use of City parks in the Downtown between sunset and sunrise daily, helping to address and curtail some of the bad behaviors that occur in these locations during nighttime hours.

At the October 1 meeting, Council directed staff to broaden the application of the proposed ordinances so that, in addition to the named Downtown City Parks, they would also apply to the sidewalks and other public right-of-ways near the City parks, as well as apply to all other City-owned open space that is managed by the City. Additionally, staff was directed to provide clear parameters regarding the specific locations where, and the frequency that, food sharing events would be allowed to take place on City property, so as to mitigate the negative impact of these events on surrounding uses. Staff was also directed to engage with advocates, faith-based representatives, community service organizations, the business community, and other community stakeholders to identify a longer term strategy to assist people in need.

¹ October 1, 2013 staff report regarding proposed Food Sharing Event and Park Hours ordinances:
<http://www.ci.hayward.ca.us/CITY-GOVERNMENT/CITY-COUNCIL-MBETINGS/rp/2013/cca100113-IRAPA03.pdf>

Staff is now introducing two revised ordinances that include the changes Council requested. Both ordinances would give City staff, primarily Police and Code Enforcement staff, the ability to more effectively control and/or stop events that are having negative impacts on Hayward residents, businesses, shoppers, and visitors. Neither ordinance would apply to parks managed by the Hayward Area Recreation & Parks District (HARD) which is an independent special district with exclusive rulemaking authority over the properties that it manages.

BACKGROUND

At the October 1, 2013 City Council meeting, staff referred to the March 5, 2013 City Council Work Session report² that describes the impact that regularly scheduled food-sharing events taking place outdoors in City parks in Downtown Hayward are having on local residents, businesses, shoppers, and visitors to Hayward. It was noted that the City continues to receive a significant number of calls for service to address public nuisances and illegal behavior, as well as to clean-up human waste, litter, trash, and other debris associated with the outdoor food-sharing events.

It was also recognized that while some food providers make an effort to clean up before and after their respective food sharing events, these efforts have not effectively addressed the ongoing problems perpetrated by other less responsible individuals who provide or receive food from these food sharing events. For example, earlier this year, staff increased the waste pick-up schedule at Portuguese Park. This, however, has not effectively addressed the fact that the volume of trash picked up at Portuguese Park continues to frequently exceed the capacity of the City's litter containers. The excess waste has attracted furniture, debris, and other illegally dumped items that while not apparently from the food sharing events, are dumped next to the other waste items left behind by these events. In addition to the costs borne by Waste Management, the City's Maintenance Services staff spent approximately \$15,000 last year responding to community service requests to clean up Portuguese Park. The health risk to City and contractor employees exacerbates the problem. The residue and debris left from unregulated food sharing events also serves as a deterrent to visitors, shoppers, and property investors, and negatively impacts the economic viability of local businesses.

The intent of the proposed Food Sharing Event Ordinance is to mitigate the negative impact that unregulated food sharing events currently have on other community members, and to shift the costs associated with cleaning up after food sharing events on City property to those conducting the events. The ordinance will allow regulated food-sharing events to continue to serve those in need while enabling the City to focus its limited resources on other priority problems where no other responsible party can be identified and costs cannot be recovered. The proposed Ordinance will also provide greater authority to City officials to intervene when needed and to protect the City's interests by mitigating liability as it pertains to activities conducted on City property. Additionally, in order to protect the health and welfare of those receiving food, the Food Sharing Ordinance will require permit holders to secure the appropriate County Health Department permits and certifications to prepare, transport and distribute food in a safe manner.

² **March 5, 2013 Agenda Packet (Item 1):** <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2013/CCA13PDF/cca030513full.pdf>

The City Park Hours Ordinance is a companion ordinance that will prohibit the use of City parks between the hours of sunset and sunrise, or for periods otherwise posted as operation hours at the entrance to or clearly visible on City properties. The ordinance describes exceptions that will allow individuals to use the park as a passage way via a sidewalk, pathway, or other right-of-way within or through the property, and accounts for situations where a person is a participant or spectator at an authorized event taking place on the property, or is accessing a facility located within the property that is open for business during the specified hours.

DISCUSSION

The following section highlights the key provisions of the revised Food Sharing Event Ordinance and the revised City Park Hours Ordinance, followed by a brief overview of the separate and larger issues of chronic homelessness and hunger that will be discussed in more detail in a future report:

Food Sharing Event Ordinance: The revised Food Sharing Event Ordinance (Attachment I) focuses on a very specific concern, that is, to better regulate the way in which outdoor City-owned property is utilized. The goal of the ordinance is to protect public health, safety, and welfare by:

- A. Requiring all persons or organizations that sponsor, promote, or engage in food sharing events on City-owned property to obtain a permit issued by the City prior to engaging in this activity;
- B. Requiring applicants to demonstrate their compliance with applicable Alameda County regulations regarding food preparation and distribution;
- C. Accommodating competing interests and uses for the limited City-owned open space; and
- D. Ensuring that the events taking place on city-owned property are consistent with the intended primary uses of the property, and do not have a significant or lasting negative impact on surrounding people or properties.

The following revised definitions are included in the draft Food Sharing Ordinance:

- ***“Food Sharing Event”*** means, a non-social gathering that is planned, organized, promoted, or advertised where food is distributed or offered for charitable purposes at no cost, or for a nominal charge, to any member of the public.
- ***“City-owned property”*** means municipal parking lots, municipal parking structures, public sidewalks, public streets and rights-of-way, and City parks.
- ***“City park”*** means any park or open space within City limits that is not under the management of the Hayward Area Recreation and Park District such as Portuguese Park, Giuliani Plaza, Newman Park, Library Park, and City Hall Plaza.

- **“City Hall Plaza”** is further defined to include the pathways, green space, and rights-of-way located on the property bounded by “B” Street to the North, Watkins St. to the East, Montgomery Ave. to the West and the City Walk Condominiums to the South.

The revised ordinance also includes the following provisions:

- A. The requirement that those conducting a food sharing event on any City property to first obtain a valid permit issued by the City, and to demonstrate possession of the valid City permit when requested by a Hayward police officer or code enforcement inspector.
- B. The requirement that Hayward Food Sharing Event Permit applicants demonstrate that they are in possession of:
 - 1) General Liability insurance – with coverage limits up to \$1,000,000 per occurrence, and includes the City of Hayward as an additional insured. Cost estimates for this type and level of insurance is estimated to range between \$500 and \$1,500 per year for a new policy. An addendum to a provider’s existing insurance policy is likely to be less expensive, as would be coverage for less frequent events, or for events that are shorter than two hours in duration.
 - 2) Valid documentation issued by the County of Alameda representing that they are in compliance with all applicable regulations relating to food preparation, handling and distribution. The County issued permit must also be shown to a Hayward police officer or code enforcement inspector upon request.

County officials have indicated that individuals and organizations offering food for charitable purposes are eligible for permit fee waivers, and would be offered stipends to offset the costs of an eight hour Food Manager Training and Certification required only of the managers of food sharing operations. The County also offers food handler training and certification online for \$15.00; however, individuals working for charitable purposes are eligible for County stipends or waivers.
- C. Permit holders will be required to provide a refundable deposit for cleaning or repairs in the amount of \$500.00; and enter into a Reimbursement Agreement with the City for cleaning or repairs associated with the permitted activity.
- D. In order to further protect the City’s financial interests, permit holders will be required to sign a “hold harmless” agreement with the City to protect against any claims or lawsuits that may arise from the permitted activity.
- E. Prohibitions against:
 - 1) Any event taking place on City property that prevents the normal use of public streets, sidewalks or other rights-of-way.
 - 2) Food sharing events from taking place in any municipal parking lot or parking structure, in Giuliani Plaza, or in Library Park at any time.

- 3) Food sharing events from occurring on any City-owned property between the hours of sunset and sunrise.
- F. Permit holders will be limited to one (1) food sharing event per month regardless of location.
 - G. No City owned property will be allowed to be used for food sharing events more frequently than one (1) time per month
 - H. No food sharing event on City property will be permitted to last for more than two (2) hours in duration.
 - I. Permit holders will be required to notify the City Manager's Office at least seventy-two (72) hours prior to conducting a food sharing event, providing the location, date and time of the event.

Staff recommends that, prior to establishing a permit fee, that the fee be waived during the first year that the Ordinance is in effect. During this time, actual implementation costs will be assessed that will help determine the appropriate fee level, if any is necessary, in the future.

The provisions of the proposed ordinance would not apply to farmer's markets or events/activities where commercial food distribution takes place, as other regulations (that are not applicable to food sharing events in City parks) apply to these events and activities. Additionally, the ordinance will not apply to food-sharing or other related services that take place on private property providing such activity does not encroach upon or block the public right-of-way.

Park Hours Ordinance: During the community meetings held on this topic, a number of concerns were raised regarding the after-hours use of City parks in the Downtown. In response to these concerns and in conjunction with the proposed Food Sharing Event Ordinance, staff has prepared a Park Hours Ordinance (Attachment II). If adopted, this ordinance will prohibit the use of downtown City Parks between the hours of sunset and sunrise unless one is using a sidewalk, pathway, or other public right-of-way to access a public facility located within the park, such as the main library or City Hall, during the public-serving hours of such a facility; to access an authorized event taking place within the park during the hours such event is open to the public; to access private property that may be entered from the park or pathways within the park, such as the City Walk Condominiums; or to access a public transit facility during hours when public transit is available. The Ordinance will not apply to the children's play structure at Giuliani Plaza, which is regulated by the Hayward Area Recreation and Park District (HARD).

Penalties for violation of the ordinance may include orders to immediately cease a particular event and/or the issuance of administrative citations to those responsible for the event. Administrative citation fines for violations of this Article shall be in the amounts set forth in the Master Fee Schedule as adopted each year by the City Council. Fines are only imposed after a violation reoccurs after a warning has been issued. Fine amounts are currently: \$100 for the first offense; \$200 for a second offense of the same violation; and \$500 for the third and each subsequent occurrence of the same violation. Alternatively, any violation of the Municipal Code may be

prosecuted as a criminal infraction. After three convictions for violations of the same provision, any subsequent violation within a twelve (12) month period of the third conviction can be prosecuted as a misdemeanor.

An applicant or permit holder may appeal the denial of a permit application, revocation of a permit, or issuance of an administrative citation by completing a Request for Hearing form and returning it to the City after a defined period following their denial or violation notification. The applicant or permit holder will then have an opportunity to present their appeal before a neutral third party Hearing Officer. After considering all of the testimony and evidence submitted at an appeals hearing, the Hearing Officer will render a written decision, and the reason for that decision based on the facts presented, which will be final.

Other strategies to address the issues of chronic homelessness and hunger in the Hayward community:

Given the number of concerns that have been raised about nuisance behaviors and litter in the Downtown area, staff has been working to develop and design a comprehensive strategy for dealing with these concerns. The proposed Food Sharing Event Ordinance, City Park Hours Ordinance, and the proposed Social Nuisance Ordinance also presented to Council this evening – make up only a small part of the multi-level strategy staff is undertaking to improve conditions in Hayward for all community members.

As previously reported, staff acknowledges that the three revised ordinances will not resolve all of the problems in the Downtown and other areas throughout the city, or the homelessness/food security issues in Hayward. Per Council's direction, staff is continuing to engage with advocates and concerned members of the community to identify a more comprehensive and long-term strategy, recognizing the following critical elements of the conversation:

1. Being homeless is a major life event for those experiencing it; and being homeless does not necessarily equate to behaving badly or inappropriately.
2. The homeless population, like the mainstream population, is comprised of all kinds of individuals, with a wide variety of problems, issues, and attributes: one solution does not fit everyone.
3. The situation of being homeless does not excuse one from being a responsible resident of the community, or from impacting the environment of others through negative behaviors.
4. No strategy or service net will end homelessness a hundred percent; it is a part of the urban fabric. No matter how many are served or how well, there are likely to be new entrants into the urban homeless population.
5. Serving the homeless population successfully is a cooperative and inter-dependent mixture of long-term programs (housing, job training and employment, and social services) and immediate response (i.e., community outreach, shelter, food, and safety).
6. Finding financial resources to address the problem, both short-and long-term is a major obstacle to a complete programmatic strategy; and a significant challenge to both public and private organizations.
7. The City has a responsibility to support and ensure a healthy and safe economic environment for its business community.

That said, the City of Hayward has for many years devoted significant effort and resources to help mitigate the impacts of chronic homelessness and hunger in Hayward, including significant outlays of City funding to support local housing-related and food access programs. In FY 2014 alone, the City Council, at the recommendation of the Community Services Commission, allocated a total of over \$250,000 in grant funding support to ten emergency shelters and homelessness prevention programs that operate in Hayward. An additional \$78,000 of City funding was allocated by Council to support the distribution of food to residents in need through grants to ten food pantries and indoor meal providers that operate in Hayward. All told, the City allocated \$351,971 during FY 2014 in service grants to twenty local organizations in support of prevention and intervention services to Hayward residents in need (See Attachment III).

While not fully meeting the need or resolving the problems, these efforts make a positive impact on the lives of thousands of low-income Hayward residents each year. Yet in today's era of constrained resources, it is simply not possible for the City to wholly solve the issues of homelessness and hunger on its own. It is essential that local partner nonprofits and social service agencies continue to step up and independently develop the resources they need to fulfill their responsibilities for maintaining and strengthening the community safety net in the Hayward community.

The “housing first” approach

It is well-known that the condition of chronic homelessness negatively impacts the health and well being of the individuals who experience it; and it is also well-known that the longer an individual remains homeless, the deeper and more devastating are the impacts to that individual's health, survivability, and quality of life. As touched upon in the above discussion, chronic homelessness also can cause significant negative impacts to the health, safety, and vitality of the community overall, including: increased blight and crime; public health hazards; inhibition of business activity affecting the local economy; and excessive burden on costly and limited public safety and emergency medical resources. Many communities including Hayward have struggled for years to mitigate and solve chronic homelessness and the deeper, underlying problems that cause it. Yet truly effective and sustainable solutions have long remained elusive.

However, in recent years, new data and insights have resulted in renewed efforts at the Federal and local levels to develop more effective, sustainable, coordinated solutions. Recent guidance and technical assistance on the issue of chronic homelessness from the U.S. Department of Housing and Urban Development (HUD) has shown a clear shift in philosophy and emphasis away from transitional housing and shelters, and toward a “housing first” approach. Also known as permanent supportive housing, the “housing first” approach focuses on chronically homeless individuals in local communities who have been identified by local law enforcement and emergency responders as being most in need. These chronically homeless individuals are typically in poor health and are the source of multiple public safety and emergency medical response calls resulting in extraordinary costs to the community – costs that are readily measurable and verifiable.

Once identified, the individuals are engaged by skilled outreach service providers and given the opportunity to immediately move to stable, permanent housing – not a transitional group shelter or center, but an apartment that they can keep and call their own. Once safely housed, they are then able to receive comprehensive case management and supportive services to address the underlying causes of their homeless condition including substance addiction, mental illness, and/or trauma. The

formerly homeless individuals contribute one-third of their income toward their housing costs; master lease agreements are held by the skilled service provider who works with the housed individual to access available income sources including veteran's benefits, disability, general assistance and/or gainful employment.

The underlying premise of HUD's "housing first" philosophy is that it costs less and is more effective to permanently and supportively house the chronically homeless, than it does to leave them in a homeless or marginally housed state and deliver "treatment" through frequent and costly law enforcement and emergency medical interventions. Studies have clearly shown that supportive services such as substance abuse and mental health treatments have far greater success and sustainability rates when an individual is safely and supportively housed as opposed to living in a shelter or on the streets. Additionally, once the individual is safely housed, the frequency and intensity of problematic street behavior, emergency room visits, and law enforcement contacts are dramatically reduced, resulting in significant and measurable cost savings to the community.

EveryOne Home and AC Impact

At the direction of City Council in 2006, the City of Hayward and a coalition of every city in Alameda County, community based organizations, County agencies, public safety, and emergency medical care providers came together and adopted the EveryOne Home plan to work toward permanently ending homelessness in Alameda County by the year 2020 (www.everyonehome.org). The vision of EveryOne Home is that "all extremely low-income residents [will] have a safe, supportive and permanent place to call home with services available to help them stay housed and improve the quality of their lives".

As a result of this unprecedented collaborative effort, HUD in 2012 awarded major funding to EveryOne Home partner Abode Services to lead the implementation of a multi-jurisdictional "housing first" pilot program in Alameda County. The pilot program, known as AC Impact, will provide stable housing and coordination of supportive services for fifty high-need, chronically homeless individuals countywide during the FY 2014 pilot phase, including eight individuals in Hayward.

Each partner jurisdiction has contributed match funding needed for local coordination and street outreach; Hayward City Council allocated \$30,000 of Community Development Block Grant (CDBG) funding in FY 2014 to support the AC Impact program (see Attachment III). During the program's pilot phase, comprehensive performance and cost data will be collected to measure the program's effectiveness in two major areas: ending chronic homelessness for targeted individuals and demonstrating significant cost savings to the community resulting from fewer public safety and emergency medical response calls. If the pilot program is successful, additional HUD funding could be made available to scale up the project to potentially reach every chronically homeless individual County wide.

In addition to these promising new efforts, and per Council's direction at the October 1 work session, staff will continue to engage with local community based service providers, agency partners, and faith based organizations to further develop and coordinate strategies to address the issues of chronic homelessness and hunger in Hayward. Key elements of the proposed process would include: a complete inventory and assessment of the current array of existing resources and

services in Hayward that address homelessness and hunger; a comprehensive needs analysis informed by empirical evidence and supported by complete and accurate data; a community engagement and strategic planning process involving key stakeholders under the policy direction and guidance of Council; and a clearly identified set of goals, recommendations, performance measures, and next steps. This process may include work with community partners on the concept of a comprehensive services center, but this concept must be evaluated in light of available funding for such a center and resources to develop and subsequently operate this type of center. Staff anticipates returning to Council work session with an initial planning and progress report in mid-2014.

ECONOMIC IMPACT

As previously reported, the negative economic impact currently associated with outdoor food-sharing events that occur on City property are expected to improve when, under the adopted Ordinances, their use is better regulated and enforced by the City. Hayward residents, businesses and property owners, along with visitors and shoppers, have long identified outdoor feeding and the resulting blight and sanitation problems, and the unacceptable behaviors of some participants as a major deterrent to visiting, shopping, dining, and enjoying our community. Staff anticipates that the elimination of blight and these other negative activities will enhance overall conditions in the Hayward, leading to increased economic development activities and renewed investment by property owners.

FISCAL IMPACT

Staff will determine the administrative costs associated with the administration of these Ordinances during the first year of implementation in order to set reasonable permit fees in the future, if needed. Staff anticipates that the costs that are incurred by the City for park maintenance and repairs due to the current unregulated food sharing events will be covered by payment of cleaning deposits and use of a reimbursement agreement.

Also, staff intends to conduct a public education process that will help inform prospective permit holders of the ordinance requirements. This, along with the prospect of incurring fines for noncompliance, is anticipated to reduce the volume of calls for service, and thus City expenses, for the Hayward Police Department, Code Enforcement, Public Works, and Maintenance Services Departments that are due to current food sharing events. Revenue from fines that are issued will also help to cover costs that are associated with the enforcement of the new ordinance. Staff anticipates that by not charging for permits during the first year, food providers will be encouraged and willing to participate in the permit process, and that all other costs associated with the administration of the proposed ordinance will not require additional City resources beyond the currently approved budget.

PUBLIC CONTACT

In addition to the two community meetings that staff conducted, and contacting faith and community based service organization representatives and homeless advocates – as reported in the October 1, 2013 staff report - City staff also contacted individual residents and business owners, as well as three local business groups including, the Hayward Chamber of Commerce, the Downtown

Hayward Business Improvement Area Advisory Board (DB IA), and the newly formed United Merchants of Downtown Hayward. The residents, business owners and business groups contacted reiterated their concern about the negative impact that unregulated food sharing events are having on their quality of life, their safety, and economic well being and expressed their support for the proposed Food Sharing Event and Park Hours Ordinances.

Some of the residents and merchants contacted noted that prior to the October 1, 2013 Council meeting they were asked to sign petition that was entitled, "Productivity, not Permits." Some of those who signed the petition indicated that when doing so they understood that their signature meant that they were in support of moving the food sharing events taking place in City Parks away from those areas. They also indicated, however, that they did not realize that their signatures were also used to convey that they opposed the proposed Food Sharing Event and Park Hours Ordinances – which they actually support. Consequently, it is unclear the extent to which all of the signatories on the Productivity, not Permits petition submitted to the City prior to the October 1, 2013 Council meeting were opposed to, or in support of, the proposed ordinances.

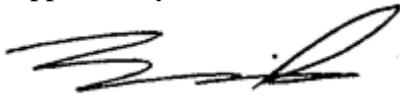
NEXT STEPS

Upon introduction this evening, the Council will consider adoption of the two ordinances during the November 5, 2013 City Council Meeting and they will become effective thirty days after that date. Staff will report to Council at least annually thereafter, or more frequently if needed, on the success of or issues with the Ordinances, along with recommendations for any changes that might be needed.

Prepared by: David Korth, Neighborhood Services Manager

Recommended by: Kelly McAdoo, Assistant City Manager
Sean Reinhart, Director of Library & Community Services

Approved by:



Fran David, City Manager

Attachment I – Food Sharing Event Ordinance

Attachment II – Park Hours Ordinance

Attachment III – FY 2014 Roster of Social Service Agencies funded by the City of Hayward

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA
ADDING ARTICLE 13 TO CHAPTER 4 OF THE HAYWARD
MUNICIPAL CODE REGARDING FOOD SHARING EVENTS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Article 13 is added to Chapter 4 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 13

FOOD SHARING EVENT ORDINANCE

SEC. 4-13.00 FINDINGS AND PURPOSE. The City Council finds as follows:

- (1) Regularly scheduled outdoor food sharing events take place on city-owned property several times a week. A number of the people served are homeless, but many are also people with very limited economic means who are housed and who are able to avoid homelessness in part by accessing food from these events.
- (2) Individuals and organizations currently engage in the distribution of food to those in need without having to obtain permits or operate under regulations that control the manner in which food is prepared, stored, transported, or served.
- (3) City departments have been repeatedly called to address public nuisance and other illegal behavior, clean-up human waste, litter, trash and other debris left over from the food sharing events.
- (4) These activities have resulted in a significant deterioration of the condition of public property and the overall quality of life in Hayward.
- (5) The parks in Downtown Hayward, specifically Portuguese Park and Newman Park are small urban pocket parks with limited space to accommodate these types of events and also allow for normal use by the public.
- (6) The use of Library Park for food sharing events is inconsistent with the operating purpose of the library.
- (7) The use of Giuliani Plaza for food sharing events is inconsistent with the interest in providing a children's play space at that location.

(8) The purpose of this article is to: protect public health, safety and welfare by requiring all persons or organizations that sponsor, promote or engage in food sharing events on City-owned property to obtain a permit issued by the City prior to engaging in such activity, and requiring compliance with applicable Alameda County regulations regarding food preparation and distribution; to accommodate competing interests and uses for the limited park space when these activities take place in city parks; and to ensure that events taking place on city-owned property are consistent with the intended primary uses of the property.

SEC. 4-13.10 DEFINITIONS. For the purpose of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their content that a different meaning is intended:

- a. “City-owned property” includes municipal parking lots, municipal parking structures, public sidewalks, public rights-of-way and City parks.
- b. “City Park” means Portuguese Park, Giuliani Plaza, Newman Park, Library Park and City Hall Plaza and any other park or open space within City limits that is not under the management of the Hayward Area Recreation and Park District.
 - a. City Hall Plaza includes the pathways, green space and rights-of-way located on the property bounded by “B” Street to the North, Watkins St. to the East, Montgomery Ave. to the West and the City Walk Condominiums to the South.
- c. “Food sharing event” means a non-social gathering that is planned, organized, promoted or advertised where food is distributed or offered for charitable purposes at no cost, or for a nominal charge, to any member of the public.

SEC. 4-13.20 PERMIT REQUIRED. It is unlawful for any individual or organization to sponsor, promote or engage in a food sharing event on City-owned property in violation of the provisions of this Article. Any public officer identified in Section 1-3.06 of this Code may issue an administrative citation for a violation of this Article. Public officers, in order to protect public health, safety and welfare, are authorized to order immediate discontinuation of a food sharing event if the sponsor cannot provide proof of compliance with Alameda County

regulations concerning food preparation and distribution.

SEC. 4-13.25 ADMINISTRATIVE PENALTIES. Administrative citation fines for violations of this Article shall be in the amounts set forth in the Master Fee Schedule as adopted each year by the City Council.

SEC. 4-13.30 PERMIT APPLICATION PROCEDURE. Any person or organization sponsoring, promoting or engaging in a food sharing event on City-owned property must obtain a permit issued by the City Manager's Office and comply with the following requirements:

- a. Submit a permit application on a form provided by the City;
- b. Submit a permit fee in an amount established by the City Council.;
- c. Provide proof of compliance with all applicable Alameda County regulations relating to food preparation and distribution;
- d. Provide proof of General Liability insurance with coverage limits up to \$1,000,000 per occurrence with the City of Hayward named as an additional insured;
- e. Agree to indemnify, hold harmless and defend the City from claims arising from negligent acts, omissions or reckless or willful conduct of the Permittee or Permittee's employees, agents or volunteers related to Permittee's activities pursuant to the permit;
- f. Provide a refundable deposit in the amount of \$500 for maintenance and cleaning costs and agree to reimburse the City for maintenance and cleaning costs in excess of the deposit.

SEC. 4-13.35 EVENT REGULATIONS. A Permittee must comply with the following regulations when conducting a food sharing event:

- a. Notify the City Manager's Office at least 72 hours prior to an event, providing the location, date and time of the event.
- b. Permittees shall be prepared to show proof of a valid permit issued pursuant to this Article upon request by any police officer or code enforcement officer of the City of Hayward.

- c. Permittees shall be prepared to show proof of compliance with all applicable Alameda County regulations relating to food preparation, handling and distribution upon request by any police officer or code enforcement officer of the City of Hayward.
- d. Permittees shall not conduct an event in a manner that prevents normal use of public streets, sidewalks or rights-of-way.
- e. Permittees shall not conduct food sharing events in any municipal parking lot or parking structure, in Giuliani Plaza, in Library Park.
- f. Food sharing events shall not be conducted between the hours of sunset and sunrise of the following day.
- g. Permittees shall hold no more than one (1) event per month, regardless of location. No location will host more than one (1) event per month.
- h. No food sharing event shall be permitted to last more than three (3) hours in duration.

SEC. 4-13.40 BASIS FOR DENYING PERMIT. The City Manager or City Manager's Designee shall issue a permit pursuant to this Article unless:

- a. The applicant fails or refuses to pay the required permit fee.
- b. The applicant fails or refuses to sign an agreement indemnifying the City for any claims that may arise from the Permittee's activities in relation to the permit.
- c. The applicant fails or refuses to obtain appropriate insurance coverage for the event.
- d. The applicant fails to provide proof of compliance with Alameda County regulations applicable to food preparation, storage, transportation, and distribution.
- e. The applicant fails or refuses to provide the required deposit for maintenance and cleaning costs.

SEC. 4-13.45 REVOCATION OF PERMITS. Any permit granted pursuant to the provisions of this Article may be revoked by the City Manager or the City Manager's Designee for any

violation of this Article, any applicable provision of the Hayward Municipal Code or laws and regulations of the County of Alameda or State of California.

Such revocation shall be made only after written notice of the City's decision to revoke has been provided to the permit holder and upon a hearing granted to the holder of the permit so revoked as specified in this Article. A permit holder may not sponsor, promote or engage in a food sharing event once written notice of the permit revocation has been issued.

SEC. 4-13.50 ADMINISTRATIVE APPEALS. An applicant or permit holder may appeal the denial of a permit application, revocation of a permit or issuance of an administrative citation by completing a Request for Hearing form and returning it to the City within fifteen (15) days from the date of being notified of the denial of the application, revocation of the permit or issuance of the administrative citation. The applicant or permit holder shall be entitled to a hearing pursuant to the provisions of this Article.

SEC. 4-13.55 ADMINISTRATIVE APPEAL HEARING PROCEDURE.

a. Any hearing pursuant to this Article shall be undertaken or held by a person designated by the City Manager. The person to whom a matter is assigned shall be deemed a "Hearing Officer". The Hearing Officer shall not be a Hayward City employee. The employment, performance evaluation, compensation, and benefits of the Hearing Officer, if any, shall not be directly or indirectly conditioned upon the amount of fines upheld by the Hearing Officer or the outcome of any appeal.

b. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen(15) and not more than thirty (30) days from the date that the request for hearing is filed in accordance with the provisions of this Article. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

c. In conducting such hearings the Hearing Officer shall not be bound in the conduct thereof by the common law or statutory rules of evidence and procedure, but inquiry shall be made in the matter, through oral testimony and records, which is best calculated to ascertain the substantial rights of the public and parties. The Hearing Officer shall ensure a record of the hearing is made.

d. The Hearing Officer may continue the hearing and request additional

information from the parties prior to issuing a written decision.

e. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision containing findings of fact and an evaluation of the sufficiency of evidence to support the denial of an application, revocation of a permit or finding of a violation. The written decision shall be prepared and mailed to the appellant within ten (10) days of the conclusion of the hearing and shall list in the decision the reasons for that decision. The decision of the Hearing Officer shall be final.

f. If the Hearing Officer determines that an administrative citation should be upheld, then the fine amount shall be paid within five working days to the City.

g. If the Hearing Officer determines that a denial of an application for a permit should be reversed, the Hearing Officer’s written decision shall include direction to City staff to issue a permit consistent with the Hearing Officer’s findings.

h. If the Hearing Officer determines that a revocation of a permit should be reversed, the Hearing Officer’s written decision shall include direction to City staff to reinstate the permit consistent with the Hearing Officer’s findings.

SEC. 4-13.60 EXEMPTIONS. The provisions of this Article shall not apply to farmer’s markets or events/activities where commercial food distribution takes place.

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of ___, 2013, by Council Member _____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____ , 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:
Mayor of the City of Hayward

DATE:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA
ADDING ARTICLE 14 TO CHAPTER 4 OF THE HAYWARD
MUNICIPAL CODE RELATING TO PARK HOURS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Article 14 is added to Chapter 4 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 14

PARK HOURS

SEC. 4-14.00 DEFINITIONS. For the purpose of this Article, certain words

and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their content that a different meaning is intended:

a. “Authorized event” means an event for which a permit or other authorization has been obtained from the City.

b. “City Park” means Portuguese Park, Giuliani Plaza, Newman Park, Library Park City Hall Plaza and any other park or open space within city limits that is not under the management of the Hayward Area Recreation & Park District.

1. City Hall Plaza includes the pathways, green space and rights-of-way located on the property bounded by “B” Street to the North, Watkins St. to the East, Montgomery Ave. to the West and the City Walk Condominiums to the South.

SEC. 4-14.10 PARK HOURS. No person shall enter upon or otherwise remain within any City park between the hours of sunset and sunrise of the following day or for the period specifically posted as closure hours at the entrance to the particular park unless the person is using a sidewalk, pathway or other right-of-way to access: an authorized event taking place at the park ;a public facility located within the park that is open during that time period; private property located adjacent to the park with entry gates or doors adjacent to the sidewalk, pathway or right-of-way; a public transit facility located adjacent to the park during hours

when public transit is available for use.

- a. These provisions shall not apply to the Children’s Playground located at Giuliani Plaza which is regulated by the Hayward Area Recreation and Parks District.

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of ___, 2013, by Council Member _____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ___ day of ___, 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:
Mayor of the City of Hayward

DATE:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

CITY OF HAYWARD

Dept. of Library and Community Services

City Funding Allocated to Support Housing-Related Services and Food Access Programs in Hayward
Fiscal Year 2013-2014

PROGRAM TYPE		AMOUNT
1	Food Access	78,201
2	Emergency Shelters	94,730
3	Homelessness Prevention	50,600
4	Housing Advocacy and Legal Aid	128,440
TOTAL		\$351,971

BREAKDOWN BY PROGRAM TYPE

FOOD ACCESS			
	Program	Program Description	Amount
5	Alameda County Community Food Bank	Provides food scholarships to six Hayward-based nonprofits	20,750
6	Services Opportunities for Seniors	Meals on Wheels food delivery program for low-income seniors	24,500
7	South Hayward Parish Food Pantry	Food pantry for low-income residents	12,201
8	Spectrum Community Services	Meal service for low-income seniors	20,750
			Subtotal
			\$78,201

EMERGENCY SHELTERS			
	Program	Program Description	Amount
9	Emergency Shelter Program (Ruby's Place)	Shelter for women and children survivors of domestic violence	37,100
10	Family Emergency Shelter Coalition	Transitional housing for homeless families	37,630
11	Women on the Way	Shelter and substance abuse rehabilitation for women	20,000
			Subtotal
			\$94,730

HOMELESSNESS PREVENTION			
	Program	Program Description	Amount
12	Abode Services AC Impact	Permanent supportive housing for the chronically homeless	30,000
13	EveryOne Home	Homeless Management Information System data collection	10,000
14	South Hayward Parish	Street outreach and support services for the chronically homeless	10,600
			Subtotal
			\$50,600

HOUSING ADVOCACY AND LEGAL AID			
	Program	Program Description	Amount
15	ECHO Fair Housing	Fair housing audit and housing rights workshops	25,970
16	ECHO Tenant Landlord	Tenant and landlord mediation and counseling	26,235
17	Family Violence Law Center	Housing-related legal services for survivors of domestic violence	50,000
18	Centro Legal de la Raza	Housing-related legal services for low-income residents	26,235
			Subtotal
			\$128,440

DATE: October 29, 2013

TO: Mayor and City Council

FROM: City Attorney
Chief of Police

SUBJECT: Introduction of an Ordinance Amending the Hayward Municipal Code by Adding Article 15 to Chapter 4 Relating to Social Nuisances

RECOMMENDATION

That the City Council introduces the attached ordinance amending the Hayward Municipal Code (HMC) by adding to Article 15 to Chapter 4 relating to Social Nuisances (Attachment I).

SUMMARY

On October 1, 2013, staff presented to the City Council a work session report concerning regulations to reduce property-related social nuisance behavior. Staff recommended the introduction and adoption of a municipal ordinance requiring property owners to prevent and abate nuisance-creating behavior on their property. The new ordinance would hold property owners accountable for their own nuisance-creating behaviors and/or those of the occupants of their property.

At the October 1 meeting, the Council directed staff to bring back a proposed ordinance for Council consideration. Additionally, staff was directed to engage with, and receive feedback from, community stakeholders concerning the proposed ordinance.

Staff met again with stakeholders as directed and continues to recommend introduction of the Social Nuisance Ordinance. The ordinance would give City staff the ability to effectively and efficiently address nuisance-creating behaviors existing on properties in Hayward. Adoption of the Social Nuisance Ordinance aligns with the City's overall efforts toward neighborhood livability, safety, and cleanliness.

BACKGROUND

The Hayward Police Department (HPD) and other City staff routinely receive complaints from members of the community regarding physical conditions and behaviors that deteriorate neighborhoods. These conditions and/or behaviors are often associated with criminal activity such as drug dealing, drug use, prostitution, gang activity, chronic unruly gatherings, and noisy activity during late night hours. Oftentimes, this activity results from the lack of proper management and inadequate oversight of private properties. Staff recognizes that public nuisances sometimes occur without the property owner's knowledge, but in many cases the property owner is aware, or should be aware, of the problem, but chooses not to take action. Among the City's current abatement strategies, there exists no administrative recourse for addressing behavior-related social nuisances; and the City must often rely on time-consuming and expensive judicial proceedings to abate or resolve nuisance issues.

Many cities face similar challenges of dwindling resources and the need to find more effective and efficient ways to deal with the abatement process. Cities such as Stockton, Vallejo, and Woodland have successfully adopted nuisance abatement policies that give teeth to the process of holding property owners accountable for nuisance behavior occurring on their property. These model ordinances allow their municipal staff to provide notice and warning to property owners, management groups, or landlords regarding potential social nuisances and require them to take appropriate action to abate the issue. These cities then work cooperatively with owners in their efforts to reach compliance.

Currently, the Police Department handles an average of 5.5 incidents a month relating to chronic social nuisances at private properties. These nuisances are primarily handled by patrol officers and followed up by Police personnel who staff the two District Command offices. Thus far, the City has relied on voluntary compliance through the issuance of informative letters to property owners, managers, and landlords making them aware of the nuisance behavior and hoping they comply. However, when the responsible parties ignore such warnings, the City has little recourse absent expensive and time-consuming civil litigation.

The proposed Social Nuisance Ordinance creates an administrative process to hold property owners accountable for their own nuisance-creating behaviors and/or those of the occupants of their property. The ordinance authorizes City staff to issue orders to abate nuisance-creating behaviors on properties and impose a monetary penalty when a property owner fails to take the necessary actions within the purview of their property management responsibilities. To assist and encourage successful resolution of nuisances, the ordinance also provides additional remedies such as providing training to owners and property management personnel, offering participation in the Crime Free Multi- Housing Program, and recommending specific physical improvements to the property.

DISCUSSION

The Social Nuisance Ordinance:

Staff recognizes that with limited City resources, it is imperative to creatively, efficiently, and fairly enhance the City's ability to encourage compliant behavior of those who own and manage properties on which nuisance activities repeatedly occur. To address social nuisances, staff has developed an ordinance to address irresponsible ownership and maintenance of property. The Social Nuisance Ordinance prohibits an owner of property from permitting nuisance-creating behaviors to exist on their property and contains the following key features:

- **Public Nuisance Defined:** a precise definition of public nuisance activities that includes behaviors such as illegal drug use and sales, prostitution, violent criminal acts, unreasonable noises, and the firing of gunshots or brandishing of weapons.
- **Courtesy Notice:** A courtesy notice process designed to attain voluntary abatement.
- **Order to Abate:** A process for issuing an order to abate that compels a property owner to abate a nuisance and the authority to impose an administrative penalty for non-compliance with an order.
- **Administrative Hearing Right:** the right to an administrative hearing when a property owner chooses to contest an order to abate or an administrative penalty.
- **Judicial Review:** the right to judicial review of a hearing officer's administrative decision.

The proposed ordinance includes administrative penalties up to \$5,000, but provides ample opportunity for violators to correct the nuisance conditions and provide evidence of such abatement within an appropriate time-frame to avoid penalties. Safeguards are included to protect property owners demonstrating good-faith efforts from receiving unnecessary penalties. However, failure to comply may result in additional enforcement, including civil litigation to compel owners to abate the nuisance-creating behaviors.

Public Comments:

On October 18, 2013, City staff conducted a public meeting to present the draft social nuisance ordinance to community stakeholders and to obtain feedback. The meeting was attended by a cross-section of community interests. The neighborhood groups represented at the meeting included those from Central Avenue, Fairway Park, Upper B Street, C Street, Optimist Street, and Cypress Avenue. Also in attendance were members from the Chamber of Commerce, Downtown Business Improvement Area Board, Rental Housing Association Board of Directors, Bay East Association of REALTORS, Crime Free Multi-Housing program, and Hayward Neighborhood Watch. The comments received reflect the varied perspectives of the diverse stakeholders at the meeting.

The residents and neighborhood group representatives at the meeting generally expressed support for the Social Nuisance Ordinance. Many residents provided anecdotes of nuisance properties within their neighborhoods and expressed optimism that the ordinance could address problem properties within their community.

City staff also received comments from the owners of rental housing and rental housing organization representatives (“rental housing stakeholders”). The comments largely focused on two specific topics and the comments are summarized as follows:

- **The Residential Rent Stabilization Ordinance:** the rental housing stakeholders expressed their position that the “Eviction for Cause” provisions in the City’s Residential Rent Stabilization Ordinance create a burden, economic and otherwise, on property owners. The rental housing stakeholders expressed a desire to repeal the Residential Rent Stabilization Ordinance.
- **Conflict with the Proposed Social Nuisance Ordinance:** the rental housing stakeholders were also concerned that the proposed Social Nuisance Ordinance may conflict with the terms of the “Eviction for Cause” section of the Residential Rent Stabilization Ordinance.

Originally adopted in 1983, the [Residential Rent Stabilization Ordinance](#) (“RRSO”) expresses the existing policy of the City Council concerning rent control and eviction for cause. The stated purpose of the RRSO includes: providing relief to residential tenants by stabilizing rent increases to certain tenants; encouraging investment in new residential property by providing for the gradual elimination of rent increase controls; and assuring efficient landlords both a fair return on their property and rental income.

In addition to providing relief to residential tenants by stabilizing rents, the RRSO also limits the “causes” for which a landlord may evict a tenant. Section 19 of the RRSO – known as “Eviction for Cause” – requires a landlord to prove the existence of specific “cause” or reason before a tenant can be evicted from a rental unit. If a landlord fails to establish cause under the Eviction for Cause provisions, a landlord is unable to recover possession of the unit.

The proposed Social Nuisance Ordinance does not conflict with the Eviction for Cause section of the RRSO. Although the Social Nuisance Ordinance provides an administrative process for compelling a property owner to abate nuisance-creating behavior – including the imposition of a monetary penalty – the ordinance does not require a property owner to perform an eviction in order to comply with its terms. As the Social Nuisance Ordinance does not compel an eviction, it does not conflict with the RRSO’s provisions protecting against evictions without cause.

In fact, the Social Nuisance Ordinance complements the RRSO and can facilitate a proper eviction. The illegal sale of controlled substances is an example: where a tenant engages in the illegal sale of a controlled substance on a property, the tenant runs afoul of the Social Nuisance Ordinance and is subject to proper eviction pursuant to the Eviction for Cause provisions. Under the Social Nuisance Ordinance, the illegal sale of controlled substance is defined as a public nuisance. Under the Eviction for Cause provisions, the illegal sale of controlled substance is a cause for eviction.

A second example is where a tenant repeatedly causes unreasonable noises by hosting unruly parties. The behavior is defined as a public nuisance and violates the Social Nuisance Ordinance. The behavior is also cause for eviction – for disturbing the peace and quiet of other tenants of the premises – under the Eviction for Cause provisions. In both of the examples cited, the notices and orders produced as part of the City’s code enforcement action could be used as evidence in an eviction proceeding initiated by a landlord against that tenant.

In response to the concerns raised by the residential housing stakeholders, City staff included the following additional protections in the proposed ordinance:

- Language protecting a property owner from the imposition of a monetary penalty where the owner is making good faith efforts to abate the nuisance.
- Access to any City notices and orders, and authority to use said records as evidence in any judicial action, including but not limited to eviction proceedings.
- Language affirming that the City’s Enforcement Officer will comply with any subpoena issued in accordance with California law.

City staff believes the proposed Social Nuisance Ordinance strikes a balance between the City’s efforts towards neighborhood livability, safety and cleanliness, and the concerns articulated by the stakeholders.

ECONOMIC IMPACT

Public nuisance on properties not only negatively impacts a neighborhood’s health and safety, but also impacts the real property value and livability of a neighborhood. Public nuisance behavior also has a negative economic impact and is a drain on City resources. It is anticipated that the negative economic impact will be alleviated by adoption of the Social Nuisance Ordinance, through efficient enforcement and the availability of cost recovery.

FISCAL IMPACT

Staff believes the efficiency of a Social Nuisance Ordinance will decrease the time and expense currently attributed to civil litigation in extreme nuisance cases. Furthermore, the ordinance will minimize the wasted costs of chronic Police responses to nuisance properties not yet the subject of litigation. Therefore, the fiscal impact is likely to be positive.

PUBLIC CONTACT

Over the past nine months, City staff has discussed the creation of a social nuisance ordinance in various public forums. City staff has addressed the topic at Neighborhood Watch meetings, Neighborhood Alert board meetings, the Hayward Police Department Community Academy, and Crime Free Multi-Housing Program training. The prospect of such an ordinance has also been discussed at other neighborhood meetings specific to the issue of social nuisances.

During the months of May and June, City staff met with board members of the Downtown Business Improvement Association (DBIA), the Rental Housing Association (RHA), the Bay East Realtors Association, and the Hayward Chamber of Commerce. The concept of the ordinance was shared with each group and feedback was received.

On October 18, 2013, City staff conducted a public meeting to discuss the topic of social nuisances and receive feedback concerning the draft social nuisance ordinance. The comments received reflect the varied perspectives of the diverse stakeholders at the meeting and included both support for the ordinance as well as reservations concerning its impact on owners of rental housing.

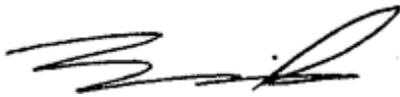
NEXT STEPS

If introduced on October 29, the City Council will consider adoption of the ordinance on November 5, 2013. The ordinance will become effective thirty days after adoption.

Prepared by: Mark Koller, Lieutenant (Northern District Commander)
Rafael Alvarado, Assistant City Attorney

Recommended by: Michael Lawson, City Attorney
Diane E. Urban, Chief of Police

Approved by:



Fran David, City Manager

Attachment I: Ordinance of the City of Hayward, California Adding Article 15 to Chapter 4 of the Hayward Municipal Code Relating to Social Nuisances

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA
ADDING ARTICLE 15 TO CHAPTER 4 OF THE HAYWARD
MUNICIPAL CODE RELATING TO SOCIAL NUISANCES

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Article 15 is hereby added to Chapter 4 of the Hayward Municipal Code, as set forth in Exhibit A attached hereto, to be known and referred to as the ‘Social Nuisance Ordinance.’

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of, _____ 2013, by Council Member _____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____ , 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Mayor of the City of Hayward

DATE:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

4-15.14	PUBLIC NUISANCE
	<u>NOTICES</u>
4-15.15	COURTESY NOTICE
4-15.16	ORDER TO ABATE – CONTENT
4-15.17	ORDER TO ABATE –SERVICE
4-15.18	ORDER TO ABATE – FEE
4-15.19	CITY MANAGER’S REVIEW OF COMPLIANCE
4-15.20	NOTICE OF ADMINISTRATIVE PENALTY
	<u>HEARING RIGHTS</u>
4-15.21	RIGHT TO HEARING
4-15.22	REQUEST FOR HEARING
4-15.23	HEARING NOTICE - CONTENTS.
4-15.24	HEARING NOTICE - SERVICE
4-15.25	HEARINGS - GENERALLY
4-15.26	RECORD OF ORAL EVIDENCE AT HEARING
4-15.27	CONTINUANCE
4-15.28	OATHS
4-15.29	EVIDENCE RULES
4-15.30	RIGHTS OF PARTIES
4-15.31	OFFICIAL NOTICE
4-15.32	DECISION OF THE HEARING OFFICER
4-15.33	ENFORCEMENT OF HEARING OFFICER ORDERS
4-15.34	<u>ACCESS TO RECORDS AND EVIDENCE.</u>
4-15.35	JUDICIAL REVIEW OF ADMINISTRATIVE DECISION

COLLECTION PROCEDURE

4-15.36	NOTICE OF LIEN/SPECIAL ASSESSMENT
4-15.37	LIEN/SPECIAL ASSESSMENT HEARING
4-15.38	ACCOUNT AND REPORT OF COST
4-15.39	NOTICE OF REPORT
4-15.40	COLLECTION ON TAX ROLL

ARTICLE 14

SOCIAL NUISANCE ORDINANCE

SEC. 4-15.01 TITLE. This ordinance shall be known as the "Social Nuisance Ordinance," may be cited as such, and will be referred to herein as "this ordinance."

SEC. 4-15.02 FINDINGS. The city council finds as follows:

- a) Just as the physical conditions of properties within the City of Hayward can constitute public and private nuisances, so too the behavior of persons on properties within the city can constitute public and private nuisances. Examples of behavior which can constitute nuisances include large and noisy gatherings, noisy activities during late night hours, use or sale of controlled substances on the premises, and the coming and going of persons with the intent to purchase controlled substances.
- b) It is as important to the public health, safety and welfare for interested residents of the city or the city to be able to abate nuisance-creating behaviors as it is to abate nuisance-creating physical conditions.
- c) The owners of properties within the city are responsible to monitor their properties and to take appropriate action if a nuisance exists thereon, whether that nuisance be created by existing physical conditions or by nuisance-creating behaviors. Such nuisances can be avoided with adequate property management. If property owners do not fulfill their responsibilities, it is necessary for the safety, health and welfare of neighborhoods and the city as a whole that interested persons or the city be able to undertake abatement action.
- d) Neighborhood health and safety must be protected in a way which does not promote housing discrimination or promote evictions based on prejudice, unfounded fears, or personal animosities.
- e) Nothing in this ordinance exempts property owners from strict compliance with state housing law on evictions, retaliatory conduct or discriminatory conduct, or privacy.

SEC. 4-15.03 PURPOSE. The purpose of this ordinance is:

- a) To set forth and enforce minimum standards relating to the management of properties to protect the public health, safety, and welfare, and
- b) To put in place a remedy which will permit aggrieved persons or the city to take effective, efficient administrative or judicial action against property owners who permit nuisance-creating behaviors to occur on their properties on a continuing basis in order to compel such owners to abate the nuisance-creating behaviors.
- c) The provisions of this ordinance are intended to be supplementary and complementary to all of the other provisions of the Hayward Municipal Code and state law and all remedies

set forth herein shall be cumulative to other remedies which may be available under the Hayward Municipal Code or state law.

SEC. 4-15.04 APPLICATION. The provisions of this ordinance shall apply generally to all property, whether owner occupied or rental, throughout the City of Hayward wherein any of the nuisances hereinafter specified, are found to exist. A criminal conviction is not required for establishing the occurrence of a nuisance violation pursuant to this ordinance. The provisions of this ordinance shall not apply to activities which constitute a bona fide exercise of constitutional rights.

GENERAL RESPONSIBILITIES

SEC. 4-15.05 RESPONSIBILITY FOR PROPER PROPERTY MANAGEMENT. Every owner of real property within the city is required to manage the property in a manner so as not to violate the provisions of this ordinance and the owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding the property.

SEC. 4-15.06 RESPONSIBILITY OF EVERY TENANT. Every tenant, occupant, lessee or holder of any possessory interest in the real property is required to behave on the property, and supervise any guests on the property, in a manner so as not to violate the provisions of this ordinance.

SEC. 4-15.07 AUTHORITY. The City Manager, or the city manager's designee (hereafter "city manager"), shall administer the provisions of this ordinance. The city manager shall have the authority to designate employees as Enforcement Officers in conformance with this ordinance to assist with enforcement responsibilities of this ordinance, including, but not limited to, the issuance of notices, orders and fines. Hearings or appeals of the city manager's orders shall be heard by a hearing officer appointed by the city manager.

SEC. 4-15.08 PENALTY FOR VIOLATIONS; ENFORCEMENT.

- a) The administrative enforcement described in this ordinance notwithstanding, the city attorney may bring a civil action for injunctive relief and civil penalties against any owner who violates this ordinance.
- b) Any person affected by a public nuisance described in this ordinance may bring a civil action for injunctive relief and damages against any owner who violates this ordinance.
- c) In any civil action brought pursuant to this ordinance, the court may award reasonable attorneys fees and costs to the prevailing party.

DEFINITIONS

SEC. 4-15.09 OWNER. Owner shall mean any person, persons, organizations or legal entity owning property as shown on the last equalized assessment roll for City taxes.

SEC. 4-15.10 TENANT. Tenant shall mean any occupant, lessee, sublessor, sublessee, or holder of any possessory interest in the real property.

SEC. 4-15.11 ENFORCEMENT OFFICER. Enforcement Officer shall mean any person authorized by the City Manager to enforce the provisions of this ordinance.

SEC. 4-15.12 HEARING OFFICER. Hearing Officer shall mean any person appointed by the City Manager to preside over the administrative hearings pursuant to this ordinance.

SEC. 4-15.13 ADMINISTRATIVE EXPENSES. "Administrative expenses" shall include, but not be limited to:

- a) The costs associated with any hearings before a hearing officer.
- b) City's personnel costs, direct and indirect, incurred in enforcing this article and in preparing for, participating in or conducting any hearings subject to this article, including but not limited to attorney's fees.
- c) The cost incurred by the city in documenting the safety violations, including but not limited to, the actual expense and costs of the city responding to the safety violation(s); investigating and enforcing statutory crimes related to the safety violation, including, but not limited to, court appearances; conducting inspections; attending hearings; and preparing notices, administrative citations, and orders.

SEC. 4-15.14 PUBLIC NUISANCE. It is hereby declared a public nuisance and a violation of this ordinance for an owner or tenant of any premises in this City to permit those premises to be used in such a manner that any one or more of the activities described in the following subsections are found to occur and to occur repeatedly thereon:

- d) The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480.
- e) The illegal use of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Section 3479 and 3480.
- f) The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances on the premises.
- g) The occurrence of prostitution.
- h) Violent criminal acts, whether or not a criminal case is filed, including, but not limited to, rape, attempted rape, robbery, battery, homicide, shooting, kidnapping, or arson.

- i) Unlawful activities of a criminal street gang (as defined in Penal Code Section 186.22).
- j) The creating or causing to be created any unreasonable noises which disturbs the peace, quiet, and comfort of the community, or any portion thereof.
- k) Allowing the occupancy load to exceed the permitted number within a public assembly, as established by the California Building Code, when alcohol and/or drugs are being consumed or accessible to the gathering;
- l) The firing of gunshots or brandishing of weapons by a resident, or by a guest of a resident.
- m) The occurrence of any criminal activity not specified above which threatens the life, health, safety or welfare of the residents of the property, neighbors or the public.

NOTICES

SEC. 4-15.15 COURTESY NOTICE.

- a) To commence enforcement of this ordinance, the city manager shall notify the property owner of the occurrence of a nuisance violation on the owner's property. The city manager shall communicate with the owner to request that the owner voluntarily cooperate with the city to abate the nuisance. The city manager may concurrently give notice thereof to the property manager where applicable.
- b) The city manager shall also concurrently give written notice to the tenants, where applicable, identifying the nuisance violations.
- c) The courtesy notice shall contain the following information:
 - 1) The street address where the nuisance violation is occurring.
 - 2) A statement specifying with particularity the activities and behaviors which constitute the nuisance, including where applicable, addresses and unit numbers of the person or persons allegedly causing the nuisance.
 - 3) A statement that the tenant(s) have the right to contest the allegations of nuisance at an informal meeting with the city manager as described in subsection (d). The request for meeting with the city manager must be made within fifteen (15) calendar days of the initial notification. Notice to the tenant or unit need not be given when the city manager determines that doing so would endanger persons or compromise an ongoing police investigation.
- d) The city manager shall hold an informal meeting pursuant to subsection (c)(3) no later than fifteen (15) calendar days after the tenant's request. At the meeting, the tenant shall be given the opportunity to demonstrate that he or she is not causing a nuisance. The city

manager shall mail copies of a letter describing the results of the informal meeting to the tenant and the property owner.

- e) The Courtesy Notice shall be served in the manner prescribed by Section 4-15.24.
- f) An “Order to Abate” shall not be issued hereunder if the owner is making good faith efforts to abate the nuisance. Indicia of good faith may include prompt responses to city communications and requests, active professional property management, taking steps to repair physical conditions which contribute to the nuisance, and utilizing any and all legal remedies to abate and/or remedy the nuisance, including but not limited to an unlawful detainer action.
- g) The city manager may issue an “Order to Abate” the nuisance after following the procedures described in subsections (a) through (f).

SEC. 4-15.16 ORDER TO ABATE – CONTENT. The Order to Abate shall contain:

- a) The street address where the nuisance violation is occurring.
- b) A statement specifying with particularity the activities and behaviors which constitute the nuisance, including where applicable, addresses and unit numbers of the person or persons allegedly causing the nuisance, and reasonable actions which the city manager orders the owner to take to abate the nuisance.
- c) A statement advising the owner to abate the nuisance within thirty (30) calendar days of mailing of the Order to Abate, or such longer time as the city manager may order. An extension of time to abate the nuisance shall be granted if the owner is making good faith efforts to abate the nuisance and those efforts are delayed due to judicial proceedings relating to the property.
- d) A statement advising the owner that he or she has the right to request a hearing to contest the Order to Abate.
- e) A statement advising the owner that an administrative penalty in an amount not to exceed five thousand dollars (\$5000.00) shall be imposed upon the owner and made a lien/special assessment on the property involved if the nuisance is not abated as required by the Order to Abate and no written request for hearing is filed within thirty (30) days of receipt of the Order to Abate.
- f) A statement that in responding to the Order to Abate, the owner should comply with all applicable federal, state, and local regulations relating to evictions and prohibitions against discrimination.
- g) Whenever the city manager issues an Order to Abate to abate a nuisance at a rental residential property, the city manager shall concurrently issue a written notice to the tenants of the cited property or unit.

- h) The Order to Abate shall state that a written abatement plan executed by the owner and city manager shall be deemed to be a final order of the hearing officer.

SEC. 4-15.17 ORDER TO ABATE – SERVICE. The Order to Abate shall be served in the manner prescribed by Section 4-15.24.

SEC. 4-15.18 ORDER TO ABATE – FEE. In addition to administrative penalties, the city may impose a fee on the owner of any property for which an Order to Abate is issued pursuant to this ordinance. The fee shall be calculated to recover any and all administrative expenses incurred by the city. The fee shall be a personal obligation of the owner and a lien/special assessment against the property which is the subject of the Order to Abate. Any fee not paid within the time specified shall be recovered pursuant to Section 4-15.35 – 4-15.39 of the Hayward Municipal Code.

SEC. 4-15.18 CITY MANAGER’S REVIEW OF COMPLIANCE. After the time for abatement set forth in the Order to Abate has expired, the city manager shall determine whether the owner has taken action ordered by the city manager and whether the nuisance has been abated. If the city manager determines that the owner has complied with the city manager’s order and the nuisance has been abated, the owner and any tenants other than the owner shall be notified in writing of such determination and the administrative action shall be suspended. If the city manager suspends the administrative action, he/she may continue to monitor the property and activity associated with it. If the city manager determines that the nuisance activity recurs and/or the owner has failed to comply with the previously issued Order to Abate within eighteen months (18) of suspension of the case, the city manager may impose an administrative penalty as provided in Section 4-15.20.

SEC. 4-15.20 NOTICE OF ADMINISTRATIVE PENALTY.

- a) If the city manager determines that the nuisance has not been abated and that the owner has failed to comply with the city manager’s order, or that the nuisance actually has recurred, the city manager shall issue a “Notice of Administrative Penalty” imposing an administrative penalty of not more than five thousand dollars (\$5,000.00) upon the owner of the premises. In addition, the city manager may issue another Order to Abate to the owner pursuant to Section 4-15.16 for the existence of any nuisance which has not been abated, or which has recurred.
- b) The Notice of Administrative Penalty shall specify the amount of the administrative penalty, advise the owner of his or her right to request a hearing to contest the administrative penalty, and state that if no hearing request is received within thirty (30) calendar days, the administrative penalty will become final and be made a lien/special assessment upon the property involved.
- c) No owner shall pass on to tenants penalties incurred pursuant to this ordinance.
- d) The notice of administrative penalty shall be served in the manner prescribed by Section 4-15.24.

HEARING RIGHTS

SEC. 4-15.21 RIGHT TO HEARING. The property owner has the right to request a hearing to contest any Order to Abate issued, any fee or any administrative penalty imposed by the city manager.

SEC. 4-15.22 REQUEST FOR HEARING. A request for hearing to contest an Order to Abate, a fee or an administrative penalty imposed shall be made in writing, to the city manager, within thirty (30) calendar days after mailing of the Order to Abate or Notice of Administrative Penalty. If a request for hearing is not timely filed, the Order to Abate, the fee or the administrative penalty imposed shall be deemed a final order of the hearing officer.

SEC. 4-15.23 HEARING NOTICE - CONTENTS. Upon the owner's request for a hearing, the city manager shall issue a hearing notice. The notice shall contain:

- a) A copy of the Order to Abate.
- b) A copy of the Notice of Administrative Penalty, where applicable.
- c) The amount of any fee imposed, where applicable.
- d) An order to the owner to appear before a hearing officer at a stated time, but in no event less than twenty calendar days after mailing of the hearing notice.
- e) A list of the actions which the city manager intends to ask the hearing officer to order the owner to take if the matter is not resolved before hearing. Nothing shall prevent the hearing officer from ordering other actions not listed in the hearing notice.
- f) A statement that all interested persons may attend and testify at the hearing.

SEC. 4-15.24 HEARING NOTICE - SERVICE. The hearing notice shall be served in the following manner:

- a) The hearing notice, and any amended or supplemental notice, shall be served either by personal delivery or by first class mail, proof of service attached, postage prepaid, upon the owner at the owner's address as it appears on the latest equalized assessment roll of Alameda County, or as known to the city manager. At the discretion of the city manager, copies of the notice may also be mailed to any holder of an interest in the property or a mortgage, deed of trust, or other lien or encumbrance of record.
- b) Proof of service of the hearing notice shall be certified by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made.
- c) Failure to effect service on any person specified herein shall not invalidate proceedings against any person who is properly served.

SEC. 4-15.25 HEARINGS - GENERALLY. At the time set the hearing officer shall proceed to hear the testimony of city staff, the owner, any tenants, and other persons regarding the nuisance-creating behaviors on the premises and the steps necessary to abate the nuisance, the imposition of an administrative penalty or any fee imposed.

SEC. 4-15.26 RECORD OF ORAL EVIDENCE AT HEARING. The proceedings at the hearing shall be recorded by a tape recorder. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

SEC. 4-15.27 CONTINUANCES. The hearing officer may grant continuances from time to time for good cause shown.

SEC. 4-15.28 OATHS. The hearing officer shall administer the oath or affirmation.

SEC. 4-15.29 EVIDENCE RULES.

- a) Oral evidence shall be taken only on oath or affirmation.
- b) Hearings need not be conducted according to the technical rules of evidence.
- c) Any relevant evidence shall be admitted if it is of the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
- d) Irrelevant and unduly repetitious evidence shall be excluded.

SEC. 4-15.30 RIGHTS OF PARTIES. The parties and anyone who participates in a hearing under this ordinance may be represented by an attorney or other person of the party's choice. If a party does not proficiently speak or understand the English language, the party may provide an interpreter, at the party's own cost, to translate for the party. An interpreter shall not have any involvement in the issues of the case prior to the hearing.

SEC. 4-15.31 OFFICIAL NOTICE. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or any of its departments.

SEC. 4-15.32 DECISION OF THE HEARING OFFICER

- a) If it is shown by a preponderance of evidence that behaviors occurring on the premises constitute a public nuisance and that the owner of the premises has not taken adequate steps to abate the nuisance as prescribed by the city manager, the hearing officer shall issue a written decision declaring the premises a public nuisance. The hearing officer may order the owner to take such action the hearing officer deems appropriate to abate the nuisance. The actions ordered shall be reasonable and may include, but shall not be limited to:

- 1) Provision of additional exterior lighting;
 - 2) The posting of security personnel on the premises;
 - 3) Installation of appropriate fencing;
 - 4) Posting of signs on the premises, and provisions in rental applications and agreements, which state that nuisance-creating behaviors on the premises, including but not limited to the nuisance-creating behaviors identified in this ordinance, shall be grounds for eviction;
 - 5) Hiring a competent property management firm to manage the property;
 - 6) Hiring of a competent resident manager who has experience, education, and training in rental property management;
 - 7) Posting a sign on the premises setting forth the name, address and daytime and evening telephone numbers of the owner or of a local property manager who is authorized to make decisions relating to management of the property;
 - 8) Obtaining education and training in rental property management, including completion of the Hayward Police Department's the Crime Free Multi-Housing Program;
 - 9) Correcting any violations of the Uniform Housing Code or Uniform Code for the Abatement of Dangerous Buildings;
 - 10) Such other reasonable actions as may be deemed appropriate by the hearing officer.
- b) The hearing officer may affirm, reject or modify any administrative penalty imposed on the owner by the city manager based upon the severity of the nuisance-creating behaviors on the premises and the owner's efforts, or lack thereof, to remedy the problem. The administrative penalty may be adjusted if the hearing officer finds that imposition of the penalty would work a substantial undue economic hardship on the owner or tenants.
 - c) The hearing officer shall not have the authority to order that the owner evict a tenant or any other person from the premises.
 - d) If the hearing officer orders the owner to take specified actions to abate the nuisance, the city manager shall review the owner's compliance with the hearing officer's order pursuant to Section 4-15.18.
 - e) The decision shall inform the owner that if the nuisance is not abated within the time specified and the owner has not complied with all orders of the hearing officer, an administrative penalty in an amount not to exceed five thousand dollars may be imposed upon the owner and made a lien/special assessment on the property involved.

- f) If the decision orders the owner to take any actions which were not listed in the hearing notice, the decision shall specifically designate those actions.
- g) The decision shall be posted on the premises and served upon the owner and to any tenants other than the owner, by personal delivery or by first class mail, proof of service attached, postage prepaid. The decision shall also be sent by first class mail to any holder of any mortgage or deed of trust or the lien or encumbrance of record, the owner or holder of any lease of record, the holder of any other estate or legal interest of record in the premises. Failure to serve the decision on any person specified herein shall not invalidate proceedings against any person who is properly served.
- h) The decision of the hearing officer shall be final. Any person aggrieved by the administrative decision of a hearing officer may seek judicial review, as specified in Section 4-15.34.

SEC. 4-15.33 ENFORCEMENT OF HEARING OFFICER ORDERS. After any order of the hearing officer made pursuant to this ordinance becomes final, no owner to whom any such order is directed shall fail, neglect or refuse to obey any such order. The city attorney may commence appropriate judicial action against any owner who fails to abate a nuisance pursuant to the order of the hearing officer.

SEC. 4-15.34 ACCESS TO RECORDS AND EVIDENCE.

- a) Any notice, order, and/or decision, including the Courtesy Notice, Order to Abate, Notice of Administrative Penalty, and the Decision of the Hearing Officer, shall be a record subject to disclosure pursuant to terms set forth in the California Public Records Act. Said records may be used, subject to any applicable rules of evidence, in any judicial action.
- b) In a judicial action, the Enforcement Officer shall comply with a subpoena issued in accordance with the procedures set for the in the California Code of Civil Procedure, Section 1985 *et seq.*

SEC. 4-15.35 JUDICIAL REVIEW OF ADMINISTRATIVE DECISION.

- a) Any person aggrieved by an administrative decision of the hearing officer ordering the abatement of a nuisance and any associated administrative penalties or reimbursement for costs set forth in the Hearing Decision, may seek review of the administrative decision in the Superior Court by filing with the court a petition for writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure.
- b) The filing of a request for judicial review shall not stay the operation or effect of an administrative decision or order unless a court of competent jurisdiction issues a specific stay order.

PROCEDURES FOR COLLECTION OF ADMINISTRATIVE PENALTY

SEC. 4-15.36 NOTICE OF LIEN/SPECIAL ASSESSMENT. Pursuant to California State Government Code Sections 38773.1 and 38773.5, prior to placing any liens or special assessments against a property for unpaid inspection fees, charges or penalties, all applicable owners shall be properly served written notice of past due amounts, and the right to have a Lien/Special Assessment Hearing as described hereinafter.

SEC. 4-15.37 LIEN/SPECIAL ASSESSMENT HEARING. Any owner may request a Lien/Special Assessment Hearing by written request within 10 days of receipt of the notice of lien/special assessment. The purpose of the Lien/Special Assessment Hearing is to provide an opportunity for any objections which may be raised by any person liable to be charged for the work of abating cited code violations and related charges associated with their property. The city manager shall attend said Lien/Special Assessment Hearings with his or her record thereof, and upon the hearing, the hearing officer may make the modifications in the proposed lien/special assessment as deemed necessary. When a Lien/Special Assessment Hearing is requested, the amount of the cost of abating cited code violations upheld by the hearing officer, including inspection charges and administrative expenses shall, after being confirmed by the city council, constitute a lien or special assessment on the property for the amount of the charges until paid. The right to judicial review shall be governed California Code of Civil Procedure Section 1094.5.

SEC. 4-15.38 ACCOUNT AND REPORT OF COST. The Enforcement Officer shall keep an account of the cost of abating the nuisance on each separate lot or parcel of land where the work is done by the City, as well as any inspection charges which remain unpaid, and shall render an annual itemized report in writing to the City Council showing the cost of abatement, including any salvage value, and outstanding inspection charges. The City Council shall review and confirm the annual report and lien/special assessment list, amended as necessary, by way of resolution.

SEC. 4-15.39 NOTICE OF REPORT. The City Clerk shall post a copy of the report and lien/special assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for confirmation by way of resolution. Notice shall also be published once in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least 10 days before the time the report is considered by the City Council.

SEC. 4-15.40 COLLECTION ON TAX ROLL. After City Council confirmation of the annual report and lien/special assessment list, a copy shall be given to the City Director of Finance who may receive the amount due on the abatement cost and issue receipts at any time after the confirmation and until a list of unpaid liens/special assessments is sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection, and enforcement of City taxes are hereby made applicable to such liens or

special assessments and this lien or special assessment shall have priority of the taxes with which it is collected.

DATE: October 29, 2013

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Consideration of Continued Payment of National League of Cities Annual Membership Dues and Designation of Voting Delegates and Alternates for the National League of Cities 2013 Annual Congress of Cities Business Meeting

RECOMMENDATION

That the Council considers and recommends whether to continue membership in the National League of Cities and payment of the annual membership dues. If the answer is affirmative and if there are Councilmembers interested in attending, that Council then adopts the attached resolution (Attachment I) designating a voting delegate and two alternate voting delegates as Hayward's representatives to the National League of Cities 2013 Annual Congress of Cities and authorizes the City Manager to complete and submit the 2013 Annual Congress of Cities Credentials Form along with the adopted Resolution.

BACKGROUND

The National League of Cities (NLC) is primarily an advocacy organization that works on behalf of the more than 19,000 cities, villages and towns it represents. More than 2,000 municipalities pay dues directly to NLC and actively participate in the organization. NLC works closely with the League of California Cities to ensure California city priorities are heard at the national level. A city or town joins NLC and the elected officials and staff participate in NLC's programs, activities and governance. The NLC website¹ highlights the following member benefits:

- Advocates for cities and towns in Washington, D.C. through full-time lobbying and grassroots campaigns
- Provides programs and services that give local leaders the tools and knowledge to better serve their communities
- Provides opportunities for involvement and networking to help city officials seek ideas, share solutions, and find common ground for the future
- Keeps leaders informed of critical issues that affect municipalities and warrant action by local officials

¹ <http://www.nlc.org/>

- Strengthens leadership skills by offering numerous training and education programs
- Recognizes municipal achievements by gathering and promoting examples of best practices and recognizing cities and towns for model programs and initiatives
- Partners with state leagues to supplement resources and strengthen the voice of local government in the nation's capital and all state capitols
- Promotes cities and towns through an aggressive media and communications program that draws attention to city issues and enhances the national image of local government.

For many years, the City of Hayward has maintained a City membership and relationship with the National League of Cities (NLC) and paid dues in FY2013. Past Councilmembers have participated on NLC policy committees and have actively participated in NLC events.

DISCUSSION

The annual business meeting of the National League of Cities will be held Saturday, November 16, 2013 in Seattle, WA at the conclusion of the annual Congress of Cities. The National League of Cities only issues voting credentials to those delegates who have been officially designated by the City. Consistent with the process the City uses for designation of voting delegates for the annual League of California Cities conference, staff is bringing forward a resolution for the Council to consider in order to designate the voting delegates. At this time, staff has not received notice that any Councilmembers will be attending the Congress of Cities or the business meeting. The City can choose not to participate in the business meeting but staff wanted to alert the Council of this meeting based on the letter received by NLC (Attachment II). Lack of participation in the business meeting does not impact the City's membership status in NLC.

Staff wanted to bring this item forward to the Council to alert the Council of the opportunity to participate in the business meeting and also to obtain Council direction on the City's continued membership in NLC. The fiscal impact of the City's membership is outlined below.

ECONOMIC AND FISCAL IMPACT

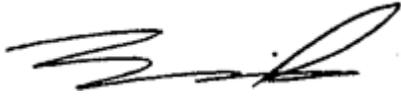
In FY2013, the City paid annual dues to the National League of Cities in the amount of \$9,674 from the Mayor and Council's annual General Fund budget. Membership dues are calculated based on the City's population as identified in the 2010 Census.

NEXT STEPS

If Council confirms the City's continued membership in NLC, staff will continue to pay the annual membership dues and will make an effort to notify the Council of upcoming NLC events. If a Councilmember chooses to participate in the annual business meeting and is designated as the voting delegate, staff will return the appropriate form to NLC.

Prepared and Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution Designating a Voting Delegate and Alternates to the National League of Cities 2013 Congress of Cities
- Attachment II: Notice letter from NLC regarding 2013 Annual Business Meeting

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Council Member _____

RESOLUTION DESIGNATING A VOTING DELEGATE AND TWO ALTERNATE VOTING DELEGATES AS HAYWARD REPRESENTATIVES TO THE NATIONAL LEAGUE OF CITIES 2013 ANNUAL CONGRESS OF CITIES BUSINESS MEETING

WHEREAS, the City of Hayward is a member of the National League of Cities (NLC) and the 2013 Congress of Cities and Business Meeting is scheduled for November 16, 2013 in Seattle, WA, and

WHEREAS, during the annual business meeting, the NLC membership considers and takes action on resolutions that establish NLC policy, and

WHEREAS, in order to vote on behalf of the City of Hayward at the NLC Annual Business Meeting, it is necessary to designate voting delegates and alternates prior to the Congress of Cities, and

WHEREAS, Council Members _____ and _____ have expressed interest in attending the NLC Congress of Cities and are planning on registering to do so.

NOW THEREFORE BEIT RESOLVED by the City Council of the City of Hayward that Council Member _____ is hereby designated as the City voting delegate and Council Members _____ and _____ are hereby designated as the City's alternate voting delegates to the National League of Cities 2013 Congress of Cities.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

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

2013 Officers

President
Marie Lopez Rogers
 Mayor
 Avondale, Arizona

First Vice President
Chris Coleman
 Mayor
 Saint Paul, Minnesota

Second Vice President
Ralph E. Becker
 Mayor
 Salt Lake City, Utah

Immediate Past President
Ted Ellis
 Mayor
 Bluffton, Indiana

Executive Director
Clarence E. Anthony

September 30, 2013

10/07/13 10:00 AM

Miriam Lens
 City Clerk
 City of Hayward
 777 B St
 Hayward, CA 94541-5007

Dear City Clerk Lens:

The National League of Cities (NLC) Annual Business Meeting will be held on Saturday, November 16, 2013, at the conclusion of the Congress of Cities and Exposition in Seattle, Washington. As a direct member city, your city is entitled to vote at this meeting. Based on population as of the 2010 Census, each member city casts between one and twenty votes. The number of votes for each population range can be found below.

POPULATION	VOTES	POPULATION	VOTES
Under 50,000	1 vote	500,000 – 599,999	12 votes
50,000 – 99,999	2 votes	600,000 – 699,999	14 votes
100,000 – 199,999	4 votes	700,000 – 799,999	16 votes
200,000 – 299,999	6 votes	800,000 – 899,999	18 votes
300,000 – 399,999	8 votes	900,000 and above	20 votes
400,000 – 499,999	10 votes		

To be eligible to cast a city's vote, a voting delegate and alternate(s) must be officially designated by the city using the enclosed credentials form. This form will be forwarded to NLC's Credentials Committee. NLC bylaws expressly prohibit voting by proxy. City elected officials should be made aware of this request so that decisions can be made as to who will be the voting delegate and alternate(s).

At the Congress of Cities, the *voting delegate must pick up and sign for the city's voting card at the Ask NLC Booth before the Annual Business Meeting, and must be present at the Annual Business Meeting to cast the city's vote.* The Ask NLC Booth will be open during scheduled times throughout the Congress of Cities and Exposition.

Please return the completed form to NLC by fax (202-626-3109) before October 31, 2013, and keep the original for your files. If you have any questions, please contact Mae Davis, Member Relations Representative at mdavis@nlc.org or 202-626-3150; or contact Gail Remy, Director of Member Relations at remy@nlc.org, or 202-626-3026.

Thank you,



Clarence E. Anthony
 Executive Director

Enclosure





CREDENTIALS FORM

NATIONAL LEAGUE OF CITIES · 2013 CONGRESS OF CITIES AND EXPOSITION · SEATTLE, WASHINGTON

At the Annual Business Meeting on Saturday, November 16, 2013, from 2:30 p.m. to 4:30 p.m., each direct member city of the National League of Cities (NLC) is entitled to cast from one to 20 votes based upon the city's population per the 2010 census, through its designated voting delegate. Please indicate below your city and state, your voting delegate and alternate(s), and sign and date the form. The form should be faxed to NLC at 202-626-3109, or mailed to National League of Cities, Attn: Mae Davis, 1301 Pennsylvania Ave., NW, Washington, DC 20004, by the October 31, 2013, deadline.

The official voting delegate and alternate(s) for the:

City of Hayward, CA

VOTING DELEGATE:

1. NAME: _____

TITLE: _____

ALTERNATE VOTING DELEGATE(S):

2. NAME: _____

TITLE: _____

3. NAME: _____

TITLE: _____

<p align="center">FOR OFFICE USE ONLY <i>(DO NOT WRITE IN THIS SPACE)</i></p> <p align="center">Voting card issued to:</p> <hr/> <p align="center"><i>(signature)</i></p> <p align="center">Votes: (4)</p>
--

**PLEASE SIGN AND FAX THIS FORM TO NLC BY OCTOBER 31, 2013
ATTENTION: MAE DAVIS, MEMBER RELATIONS REPRESENTATIVE
FAX: 202-626-3109**

Signature (city representative): _____

Title: _____ Date: _____