



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
MARCH 18, 2014

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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CITY COUNCIL MEETING FOR MARCH 18, 2014
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 4:30 PM

1. PUBLIC COMMENTS

2. Public Employment

Pursuant to Government Code 54957

➤ Performance Evaluation

City Clerk

3. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

➤ Under Negotiation: South Hayward BART Land Purchase and Requisition

Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Assistant City Attorney Conneely, Project Consultant DeClercq, Development Services Director Rizk, and Finance Director Vesely

4. Conference with Legal Counsel

Pursuant to Government Code 54956.9

➤ Pending Litigation

- Net Connection Hayward, LLC v. City of Hayward, U.S. District Court, N.D. of CA No. C 13-1212 SC
- City of Hayward v. Chances Are, Alameda County Superior Court No. RG13681065
- City of Hayward v. Donald T. Henriques, et. al., Alameda County Superior Court Case No. HG14713837

5. Conference with Labor Negotiators

Pursuant to Government Code 54957.6

➤ Lead Negotiators: City Manager David; City Attorney Lawson; Assistant City Manager McAdoo; Finance Director Vesely; Deputy City Attorney Vashi; Director of Maintenance Services McGrath; Acting Human Resources Director Collins; Senior Human Resources Analyst Monnastes; Jack Hughes, Liebert, Cassidy and Whitmore

Under Negotiation: All Groups

6. Adjourn to City Council Meeting

SPECIAL JOINT CITY COUNCIL/HAYWARD HOUSING AUTHORITY MEETING
Council Chambers – 7:00 PM

CALL TO ORDER Pledge of Allegiance Mayor Sweeney

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION American Red Cross Month – March 2014

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.)*

WORK SESSION

1. Hayward2040 General Plan Update Draft Environmental Impact Report
[Agenda Report](#)
-

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

CONSENT

2. Approval of Minutes of the City Council Meeting on February 25, 2014
[Draft Minutes](#)

March 18, 2014



3. Resolution Appropriating Funds and Authorizing the City Manager to Execute Amendments to Agreements to Increase Funds by \$200,000 with Consultants for Outside Building Plan Check/Inspection Services and \$25,000 for Development Review Engineer Services in Planning for the Current Fiscal Year
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[Attachment I City Resolution](#)
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[Attachment III Funding Resolution](#)

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

6. Adopt Findings for Denial for Conditional Use Permit (Application No. PL-2012-0069) and Vesting Tentative Tract Map (Application No. PL-2013-0070) associated with 194 townhomes and 16,800 square feet of commercial space on an 11.33 acre site located at 22301 Foothill Boulevard. Integral Communities (Applicant); MDS Realty II & 22301 Foothill Hayward, LLC (Owners)(Report from Development Services Director Rizk)
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[Attachment I Cost Quote Form](#)

March 18, 2014



[Attachment II Written Request Form](#)

[Attachment III Station Renaming Request Policy Memo](#)

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, MARCH 25, 2014

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:



March 18, 2014



DATE: March 18, 2014

TO: Mayor and City Council

FROM: David Rizk, AICP, Development Services Director

SUBJECT: Hayward2040 General Plan Update Draft Environmental Impact Report

RECOMMENDATION

That the City Council reads and comments on the proposed [Draft Program Environmental Impact Report \(DEIR\)](#) for the Hayward2040 General Plan Update.

SUMMARY

This work session is being held to allow the public and the City Council an opportunity to provide comments on the Draft EIR. Environmental impacts associated with implementation of the proposed draft General Plan have been assessed, and the DEIR identifies significant and unavoidable impacts associated with air quality, noise, and transportation and circulation.

BACKGROUND

Staff has updated the General Plan following extensive community outreach. On January 31, the [Draft General Plan](#) document was released for public review and comment. Shortly following, the DEIR was released on February 4, 2014, initiating the required minimum 45-day public review period. The DEIR review period runs from February 4, 2014 through March 21, 2014.

DISCUSSION

An Environmental Impact Report (EIR) is an informational document that informs public agency decision makers, the public, and agencies of the significant environmental effects of a project, identifies possible ways to minimize the significant effects, and describes reasonable alternatives to the project. The Draft EIR for the General Plan Update has been prepared in accordance with the California Environmental Quality Act (CEQA) and analyzes the potential environmental impacts associated with the proposed Hayward2040 General Plan. The DEIR analyzes impacts in the following topic areas at the program level rather than the project-specific level:

- Aesthetics and visual resources
- Agricultural and forestry resources
- Air quality
- Biological resources
- Geology, soils, and minerals
- Global climate change and greenhouse gas emissions
- Hazards and hazardous materials
- Historic and cultural resources
- Hydrology and water quality
- Land use and planning
- Noise
- Population and housing
- Public services
- Transportation and circulation
- Utilities and service systems

For the majority of the potential impacts, the proposed General Plan policies “self-mitigate” so that impacts are reduced to a less-than-significant level. There are, however, three (3) impacts that have been identified as significant and unavoidable: air quality, noise and transportation, and circulation.

Air Quality – The DEIR identifies four significant and unavoidable air quality impacts. The first identified impact is short-term construction and long-term operational emissions as well as health risk exposure associated with toxic air contaminants (TAC) and PM_{2.5}, generally. The second impact is the temporary generation of Reactive Organic Gases (ROG) and Nitrous Oxide NO_x (ozone precursors), and particulate matter (PM₁₀ and PM_{2.5} - criteria pollutants) emissions from site preparation (e.g. excavation, grading, and clearing), off-road equipment, material import/export, worker commute exhaust emissions, paving, and other miscellaneous activities.

The third impact identified is the operational PM₁₀ and PM_{2.5} emissions that increase due to increased vehicle trips compared to baseline conditions. The proposed General Plan is consistent with all applicable control measures in the 2010 Bay Area Clean Air Plan; however, the rate of increase in vehicle miles travelled (VMT) and vehicle trips under the proposed General Plan would be higher than the rate of population. Thus, impacts associated with long-term operational emissions would be significant.

The fourth impact results from siting sensitive receptors near major roadways or near major stationary sources of TAC and PM_{2.5} emissions, as well as the siting of potential new sources of these emissions. These actions could increase community health risk exposure associated with emissions. While the General Plan does include a Community Risk Reduction Strategy with goals, policies, implementation programs, and Best Management Practices (BMPs) to reduce these risks, the effectiveness of the strategy in reducing health risk exposure cannot be quantified at this time; therefore, the impact is considered significant and unavoidable.

While all feasible mitigation has been incorporated into goals, policies and implementation programs, there are no additional measures that would reduce these impacts. The TAC and PM_{2.5} emission impacts would remain significant and unavoidable.

Noise – The DEIR identifies two significant and unavoidable noise impacts. The first impact involves temporary construction noise generated primarily from heavy-duty construction equipment. Based on the modeling for typical construction activities, short-term construction-generated noise could exceed City noise standards, which limit noise levels from construction to 83dBA twenty-five feet from the noise source or 86 dBA outside of the property plane. While some proposed General Plan policies could reduce potential impacts, the policies would not fully prevent the exposure of sensitive receptors located near construction activities to excessive temporary construction noise levels. While the noise level is not expected to exceed levels normally produced from construction, the City's Noise Ordinance was never intended to truly address the noise impacts associated with temporary construction noise. It was intended as a tool to abate unreasonable noises that constitute nuisances, via administrative citation. As such, it would be the intention of City staff to incorporate as part of the Comprehensive Zoning Ordinance Update a Construction Noise and Dust Ordinance, which can serve as the tool through which temporary construction impacts are addressed, thus reducing this impact to a less than significant level.

The second impact is related to the long-term traffic noise levels, as the proposed General Plan would increase noise levels to sensitive receptors along transportation routes. While some of the new policies would ensure new development would comply with adopted noise standards and would not expose new sensitive receptors to excessive noise levels, much of the city is already built out. Thus, the ability of the City to reduce adverse effects of increased traffic noise on existing sensitive receptors is constrained, and the impact remains significant and unavoidable.

Transportation and Circulation – The DEIR identifies significant and unavoidable transportation and circulation impacts caused by growth and the increasing rate of trips and length of trips. The report identifies impacts at seven intersections:

- NB I-880 ramps/Whipple Road-Industrial Parkway SW
- Industrial Boulevard/WB SR 92 ramps – Cryer Street
- Hesperian Boulevard/Industrial Parkway
- Santa Clara Street/Jackson Street
- Santa Clara Street/Winton Avenue
- Santa Clara Street/West A Street
- Foothill Boulevard/Mattox Road.

Levels of Service (LOS) is a term used to describe automobile levels of service which measures the delay at individual local intersections and on individual highway segments, with LOS A having little or no delays and LOS F having significant delays. Mitigation is typically triggered at LOS thresholds defined by a General Plan or Congestion Management law. The current City of Hayward LOS threshold is a LOS D at intersections during peak commute periods. The proposed General Plan outlines a policy for flexible Levels of Service standards consistent with a multimodal system approach that looks at the movement of all uses, including bicycles, pedestrians, transit and automobiles. The proposed General Plan policy to allow flexible levels of service at intersections

reduces the impacts to less than significant. However, in the case of the following intersections - Industrial Boulevard/WB SR 92 ramps - Cryer Street, Santa Clara Street/Jackson Street, and Foothill Boulevard/Mattox Road; there is no feasible traffic mitigation and the impacts remain significant and unavoidable. In the case of the Industrial Boulevard/WB SR 92 ramps - Cryer Street and the Foothill Boulevard/Mattox Road, the intersection improvements that are identified are not solely under the City of Hayward's jurisdiction, therefore the mitigation is considered infeasible. In the case of the Santa Clara Street/Jackson Street intersection, the improvements necessary to maintain LOS standards would greatly impact pedestrian and bicycle access and circulation, which do not support the proposed General Plan policies and programs supporting alternative modes.

Cumulative impacts at thirteen intersections are also significant and unavoidable. The intersections are:

- Mission Boulevard/A Street
- SB I-880 Ramps/A Street
- Mission Boulevard/Carlos Bee Boulevard
- Mission Boulevard/Industrial Parkway
- Industrial Parkway SW/Industrial Parkway
- SB I-880/Industrial Parkway
- Hesperian Boulevard/EB SR 92 Ramps
- Hesperian Boulevard/WB SR 92 Ramps
- Industrial Parkway/EB SR 92 Ramps and Sleepy Hollow Avenue
- Hesperian Boulevard/West Winton Avenue
- Mission Boulevard/Sunset Boulevard
- Mission Boulevard/D Street
- Hesperian Boulevard/Tennyson Road

The proposed General Plan policy to allow flexible levels of service at intersections reduces the cumulative impact at the Mission Boulevard/Carlos Bee Boulevard intersection to less than significant. However, cumulative impacts at the remaining twelve intersections remain significant and unavoidable. The DEIR indicates that future growth both in the City of Hayward and the region would result in substandard intersection LOS under 2035 conditions with or without the project. According to significance thresholds, these changes constitute a significant cumulative impact.

Significant and Unavoidable Impacts – Impacts that are identified as Significant and Unavoidable are those impacts where it has been determined that no amount of mitigation would be able to reduce them to less-than-significant levels. For these impacts, the City Council would need to determine whether such impacts are acceptable, based on other criteria or positive outcomes that outweigh the negative effects of such impacts. The Council would need to adopt a Statement of Overriding Considerations for each significant and unavoidable impact it is willing to accept as part of certifying the EIR and ultimately adopting the project.

FISCAL IMPACT

The fiscal impacts associated with the General Plan Update were provided in the September 25, 2012 City Council agenda report. Below is a table showing the approved General Plan Update budget and the portion that has been spent and portion remaining as of January, 2014.

| Budget for General Plan Update 2012-2014 (as adopted on 9/25/2012) | | | |
|---|------------------------|--------------------|--------------------|
| | Approved Budget | Spent | Remaining |
| City Staff Time | \$475,000 | \$137,816 | \$337,184 |
| Jason Jones | \$266,800 | \$196,800 | \$70,000 |
| Public Engagement Activities/Tools | \$10,000 | \$10,000 | \$0 |
| Mintier Harnish/MIG | \$1,157,840 | \$715,314 | \$442,526 |
| Miscellaneous Costs (outreach materials) | \$10,000 | \$5,677 | \$4,323 |
| Subtotal | \$1,919,640 | 1,065,607 | \$854,033 |
| 10% Contingency | \$191,964 | | \$191,964 |
| Grand Total | \$2,111,604 | \$1,065,607 | \$1,045,997 |

PUBLIC CONTACT

A Notice of Availability was sent to all interested parties, local agencies, those who commented on the Notice of Preparation, members of the General Plan Update Task Force, and members of the Hayward community requesting such notification. City staff also held an Open House event on Saturday, March 8, 2014 at City Hall for the community to learn more about the draft Hayward2040 General Plan and the associated DEIR.

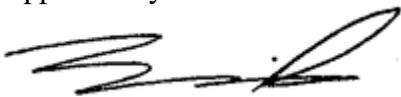
NEXT STEPS

At the close of the public comment period on March 21, comments received on the DEIR will be addressed in writing. The response to comments, along with the DEIR and any revisions to it, will constitute the Final EIR. It is anticipated that the Final EIR, along with the Final General Plan, will be presented to the Planning Commission in late May/early June. The Planning Commission recommendation will then be before the City Council for a final decision in late June/early July.

Prepared by: Sara Buizer, AICP, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager



**MINUTES OF CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 25, 2014, 7:00 p.m.**

The City Council meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Jones.

ROLL CALL

Present: COUNCIL MEMBER Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
MAYOR Sweeney

Absent: None

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that the Council met in closed session regarding the performance evaluation of the City Clerk pursuant to Government Code 54957; met with labor negotiators pursuant to Government Code 54957.6 regarding all groups; and met with legal counsel pursuant to Government Code 54956.9 regarding City of Hayward v. AEDIS, Inc., Alameda County Superior Court No. HG13673538. There were no reportable items.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, noted that chasing criminals without prosecuting them was not a cost-effective approach to reducing criminal activity.

Mr. Ramsey Hanafi, attorney representing Service Employees International Union (SEIU) Local 1021, asked why the City was imposing new non-economic terms in the Memorandum of Understandings.

Ms. Ashley Baltazar, attorney representing SEIU Local 1021, spoke against the flat tax of 17% that staff was trying to impose upon the least paid employees.

Ms. Ariana Casanova, SEIU Local 1021 representative, requested that the City continue to communicate with the unions and get back to the bargaining table, and expressed support for the Alameda County Transportation Expenditure Plan and the proposed funding measure.

Mr. Gil Hesla, Hayward employee and SEIU Local 1021 member, noted the membership was disappointed at the Council's imposition of the City's final offer.

Ms. Linda Reid, Hayward employee and SEIU Local 1021 member, urged Council to direct staff to get back to the bargaining table and attain a mutually agreed contract.

Mr. Rick Imsdahl, Hayward resident, noted that some City facilities were becoming inadequate to serve the community and he added that, according to results of the polls, the community might support a sales tax increase to assist with facilities upgrades.

Ms. Judy Harrison, Hayward resident, spoke in support of a ballot measure and the possibility of having a new library, and she noted that it was important to protect City staff that would operate the proposed City facilities.

Ms. Angela Osayande, Hayward resident and SEIU Local 1021 representative, expressed she was appalled at the Council's imposition and urged the City to get back to the bargaining table.

WORK SESSION

1. Update on the City's Efforts Related to Local Food Production

Staff report submitted by Library and Community Services Director Reinhart, dated February 25, 2014, was filed.

Library and Community Services Director Reinhart provided a synopsis of the report.

There was general support among Council members for local food production and community gardens and they offered the following comments: in reviewing the City's residential zoning regulations, consider residents' input related to raising chicken and beekeeping from a safety perspective; address why the incidence of obesity decreases as school grade level increases; address concern of animal abuse; the Administrative Use Permit process needs to be affordable and convenient, but also revocable in case of health concerns; make changes to the Zoning Ordinance as part of the General Plan update implementation; encourage property owners to facilitate community gardens particularly on empty lots; and ensure that funded programs do not cause nuisance.

2. Update on Potential Revenue Measure

Staff report submitted by Assistant City Manager McAdoo, dated February 25, 2014, was filed.

City Manager David announced the report and introduced Mr. Brian Godbe who provided an overview of the polling results conducted by Godbe Research related to voter support for a sales tax measure, and Assistant City Manager McAdoo who provided information about the community outreach and input.

Discussion ensued among Council, City staff, Mr. Brian Godbe of Godbe Research and Ms. Bonnie Moss of CliffordMoss. Council members offered the following comments and suggestions:

There was general consensus for staff to bring back at the next Council meeting the necessary documents to place a sales tax measure on the June 2014 ballot and give Hayward residents the opportunity to vote on it. Council members offered the following suggestions: identify the benefits and limitations of having an oversight committee for the expenditure of funds from the potential revenue measure; bring back the two options with some revisions for possible ballot language; ensure that there is an item in the City annual budget that speaks to the progress in each of the areas that were promised should the ballot measure pass; and, based on the poll results, suggested that the



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annual cost for the restoration of police officers be increased to \$2,000,000. Mayor Sweeney commended all the individuals who were involved by providing information, thanked the residents for their input, and encouraged continued community outreach.

CONSENT

3. Approval of the Alameda County Transportation Expenditure Plan and Recommendation for the Board of Supervisors to Place an Extension and Augmentation of the Existing Transportation Sales Tax on the November 4, 2014 Ballot

Staff report submitted by Senior Transportation Manager Parikh, dated February 25, 2014, was filed.

Council Member Peixoto noted he was appointed to the Alameda County Transportation Commission (ACTC) and to the Transportation Expenditure Plan Committee. Mr. Peixoto mentioned that the ballot measure supporting the Transportation Expenditure Plan (TEP) would raise \$8 billion countywide with a sunset of 30 years for transportation projects that would require local contracting, and he mentioned potential projects for Hayward.

Mr. Arthur L. Dao, Executive Director of the Alameda County Transportation Commission, noted that the TEP and ballot measure would provide funding for BART expansion and upgrades, local street maintenance, bicycle and pedestrian paths and safety, affordable transportation for seniors, youth and people with disabilities, and local community investments that create jobs, improve air quality and provide traffic relief. Mr. Dao added that TEP identified \$190 million for Hayward. Mr. Dao urged the Council's approval of the TEP and support to place a measure on the November 4, 2014 ballot.

Mayor Sweeney opened the public hearing at 8:49 p.m.

The following individuals spoke in favor of placing the 2014 Transportation Expenditure Plan and ballot measure on the November 2014 ballot noting that it would create local jobs, provide local street improvements, expand bike and pedestrian paths, commit to complete streets, provide transportation for people with disabilities, provide bus service expansion, and fund student transit passes.

Mr. Fernando Estrada, Hayward resident and Union representative
Mr. Dave Campbell, Bike East Bay Advocacy Director
Ms. Gaby Miller, member of the Citizens of the Bay Area and member of Genesis
Ms. Alberta Maged, Oakland resident and a member of the Alliance of Californians for Community Empowerment (ACCE) Riders for Transit Justice

Mr. Jeffrey Martinez, Hayward resident and Genesis supporter

Ms. Andrea Bell, Oakland resident and frequent transit rider
Mr. Nelson Gonsalves, Hayward resident, former Hayward High School teacher, and member of the Bike East Bay Coalition
Ms. Elizabeth Campos, Hayward resident

Mayor Sweeney closed the public hearing at 9:10 p.m.

Council Member Peixoto offered a motion per staff recommendation and Council Members Mendall and Zermeño seconded the motion.

Council Member Salinas expressed support for the item and commended Council Member Peixoto for his leadership on the Alameda County Transportation Commission.

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

Resolution 14-022, “Resolution Approving the 2014 Alameda County Transportation Expenditure Plan and Requesting that the Alameda County Board of Supervisors Place a Measure on the November 4, 2014 Ballot”

PUBLIC HEARING

4. Request for Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approval of a Zone Change from RH-SD4 (High Density Residential with Overlay) to PD (Planned Development) (Application No. PL-2013-0084) and Vesting Tentative Tract Map 7894 (Application No. PL-2013-0085) associated with 105 Townhome-styled Condominiums and 52 Single-family Detached Homes on 8.81 Acres Located at 199 Filbert Street in the Cannery Development – Sullivan Development Group (Applicant); Libitzky Property Companies / Kevin Perkins (Owner)

Staff report submitted by Senior Planner Golubics, dated February 25, 2014, was filed.

Planning Manager Siefers announced the report and introduced Senior Planner Golubics who provided a synopsis of the report.

Discussion ensued among Council members and City staff. Council members disclosed having met with the project developer, Mr. Michael Sullivan.

Mayor Sweeney opened the public hearing at 9:48 p.m.

Mr. John Super, Hayward resident, raised concerns about lack of parking spaces, noted there was a three-year waiting list for Burbank Elementary, suggested using the water under the water tank for lot irrigation, recommended lighting up the water tower, and proposed improving lighting along the sidewalks on the north side of Meek Place.



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Mr. Michael Sullivan, project developer with Sullivan Development Group, mentioned the proposed project envisioned additional parking throughout the development, additional public and private open space, a public park dedicated to the city, adequate lighting to alleviate lighting concerns, and incorporating green measures. Mr. Sullivan requested amending Conditions of Approval No. 14(s) by adding the language “as feasible” at the end of the sentence.

Ms. Lauri Fehlberg, architect with Dahlin Group, was present to answer any questions.

Mr. Sullivan and City staff confirmed for Council Member Mendall that the solar-ready language had been resolved and was already included in Conditions of Approval No. 11(f).

Mayor Sweeney closed the public hearing at 10:07 p.m.

Council Member Zermeño offered a motion per staff recommendation noting his support for the proposed project because it included public art, electric car charging stations, landscaping, solar-ready units, and was a transit-oriented project.

Council Member Mendall seconded the item and incorporated the following two amendments: 1) change the language of Conditions of Approval 11(c) to reflect that the designated parking space for vehicles to charge their vehicles shall be made available to electric vehicles by 8:00 a.m. each day; and change the language to Conditions of Approval 14(s) by adding the language “as City staff deems feasible” at the end of the sentence. Council Member Zermeño concurred with the two amendments.

Council Member Mendall added that the proposed project was an appropriate location for housing, addressed parking issues, had side by side garages, and included a public art element, and had balconies in the front of the house of the second floor.

Council Member Halliday thanked Mr. Super for the guided tour of the Cannery area. Ms. Halliday expressed support for the public art element and agreed that the applicant work with the Historical Society in developing a theme consistent with the Cannery’s history. Ms. Halliday offered a friendly amendment to recommend that the developer consider lighting the water tower if feasible. Council Members Zermeño and Mendall accepted the friendly amendment.

Council Member Jones supported the motion and appreciated that the developer integrated some of the lessons learned from previous projects and that the proposal incorporated public art. Mr. Jones suggested that future developments deemed transit-oriented incorporate more features such as a Community Facilities District as an option to fund shuttle service.

Council Member Peixoto supported the project noting that the proposed project included a favorable parking ratio and attractive building elevations. Mr. Peixoto was concerned about replicating the suburban lifestyle in dense projects and suggested that parking concerns could be addressed with

arterial transportation. He also mentioned that he wanted the majority of the units to be owner-occupied.

Mayor Sweeney noted that Conditions of Approval No. 111(p) stated, “The association shall ensure that no less than 75 percent of the units shall be owner-occupied.” Mayor Sweeney offered a friendly amendment to direct staff to work with the developer to improve lighting in the overall project with particular attention to Filbert Street. Council Members Zermeño and Mendall accepted the friendly amendment.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to adopt the following with amendments to Conditions of Approval: 1) Change the language of Conditions of Approval No. 11(c) to read as follows: “... Regular or non-electric vehicles shall be permitted to park in the parking space designated for electric vehicles charging their vehicles each day after 8:00 p.m. The designated parking space for electric vehicles to charge their vehicles shall be made available to electric vehicles by 8:00 a.m. each day. The designated parking space for electric vehicle charging their vehicles shall be signed to inform residents and visitors of the parking space’s hourly restrictions.” 2) Change the language of Conditions of Approval No. 14(s) to read as follows, “That the applicant shall incorporate universal design elements into all single-family detached homes as City staff deems feasible.” The motion included a friendly amendment that directed staff to work with the developer to improve street lighting of the project with particular attention to Filbert Street; and a recommendation that the developer consider lighting the water tower if feasible.

Resolution 14-023, “Resolution Adopting the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and Approving Vesting Tentative Tract Map Application PL-2013-0085 and Zone Change Application PL-2013-0084 Pertaining to the Development of One Hundred and Five Townhome-Styled Condominiums and Fifty-Two Detached Single-Family Homes at 199 Filbert Street in the Cannery Area”

Introduction of Ordinance 14-_, “An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2013-0084 Relating to a Residential Development at 199 Filbert Street”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced the Hayward Youth Commission was organizing a Hayward Youth Summit at City Hall on March 1, 2014, at 9:00 a.m., and invited all to attend the event.



**MINUTES OF CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 25, 2014, 7:00 p.m.**

ADJOURNMENT

Mayor Sweeney adjourned the meeting 10:21 p.m.

APPROVED:

Michael Sweeney
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward

DATE: March 18, 2014

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Resolution Appropriating Funds and Authorizing the City Manager to Execute Amendments to Agreements to Increase Funds by \$200,000 with Consultants for Outside Building Plan Check/Inspection Services and \$25,000 for Development Review Engineer Services in Planning for the Current Fiscal Year

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute amendments to agreements with four firms for outside plan check and inspection services, and Development Review Engineer services.

BACKGROUND

The City of Hayward has historically entered into agreements with private firms for plan check services regarding demand that exceeds the availability or capacity of City staff. Demand for plan check services has exceeded the capacity of in-house resources and previously approved agreement limits due to an extended leave by one of the City's Plan Checkers and due to the time needed to recruit a new Plan Checker to replace a City Plan Checker that retired at the end of calendar year 2013.

Additionally, related to the time it has taken to recruit a new Development Review Engineer in the Planning Division, an additional \$25,000 to the already approved \$65,000 is requested.

DISCUSSION

Currently, \$340,000 is allocated for this fiscal year for four outside consulting firms for building plan check and inspection services for the issuance of building permits and subsequent inspections. As of the end of January 2014, approximately \$280,000 of the allocation for plan checking has been used, as more plans have been sent to outside consultants. At the current average monthly rate of expenditures of \$40,000 per month, the allocation will be exhausted by the middle of March, 2014. This is due to an in-house plan checker retiring, staff being absent due to family illness and relatives passing away, an increase in the amount and complexity of more time consuming plan checks, time

spent with the codes changing, and the Senior Plan Checker providing more support for the Permit Center.

It is also due to increased demand for services. Plan check is an area that needs to expand and contract as the work demands. Using a combination of staff and outside services allows this flexibility with minimum disruption to staff and service delivery.

These services are paid out of plan check and permit fees paid by permittees. As of the end of January 2014, the City had taken in approximately \$720,000 in plan check fees. Expenditures for in-house staff plan checking at the end of January was \$327,668. The Building Division is requesting an additional allocation of \$200,000 to cover the additional consulting fees for services through the end of the fiscal year.

The four firms for which authorization to execute amendments to agreements are sought are: West Coast Consultants (WC₃); Kutzmann & Associates, Inc.; ASI Consulting Engineers; and CSG, Consultants. These firms were chosen through the Request for Proposal (RFP) process. The RFP was advertised by the Purchasing Division in the Finance Department. Firms were also called by the Building Division to inform them of the RFP. Eight firms responded. A committee consisting of the Building Official, Plan Check Engineer, Senior Plan Checker and two Plan Checkers reviewed the proposals. After reviewing the proposals, four firms were selected.

The City also has a contract with WC3 to provide a temporary Development Review Engineer for the Planning Division (Mike O'Connor). To date, a total of \$65,000 has been approved for such service, which will be expended by March 26. Staff is requesting an additional \$25,000 to allow Mr. O'Connor to serve as temporary Development Review Engineer through May 9. Staff is in the process of working with the HR Department to extend an offer to a candidate, and anticipates that candidate to be on board in mid-April. The requested additional amount would allow the new candidate to be trained by Mr. O'Connor for two to three weeks after he begins work with Hayward.

FISCAL IMPACT

The cost of contracting for additional consultant plan check and inspection services will be offset by plan check and permit fees paid by permit applicants at the time plans are submitted and permits issued. Construction permitting trends should continue through the remainder of the fiscal year with an anticipated positive fiscal impact.

The \$25,000 additional cost for Development Review Engineer services will be offset with salary savings related to unfilled positions in the Development Services Department (including the Development Review Engineer position), as well as developers who pay application fees for certain projects on which the Engineer works. It is anticipated that at least half of the \$90,000 in total costs requested for the temporary Development Review Engineer will be offset through payment of development fees.

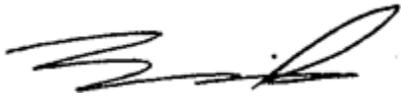
SCHEDULE/NEXT STEPS

If Council authorizes such contract increases, the City Manager will execute such contract amendments for this fiscal year.

Prepared by: Gary Lepori, City Building Official

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

Approved by:



Fran David, City Manager

Attachments:

Attachment I Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION APPROPRIATING FUNDS AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENTS TO AGREEMENTS TO INCREASE FUNDS BY \$200,000 FOR FISCAL YEAR 2014 WITH CONSULTANTS FOR OUTSIDE PLAN CHECK/INSPECTION SERVICES AND \$25,000 FOR OUTSIDE DEVELOPMENT REVIEW ENGINEER SERVICES

BE IT RESOLVED by the City Council of the City of Hayward to appropriate for Fiscal Year 2014 an additional \$200,000 above the existing \$340,000 for plan check and inspection services and \$25,000 above the existing \$65,000 for development review engineer services, and authorizing the City Manager to execute amendments to the existing agreements with each of the firms named below, in a form to be approved by the City Attorney.

- West Coast Consultants (WC3)
- Kutzmann & Associates, Inc.
- ASI Consulting Engineers
- CSG, Consultants

IN COUNCIL, HAYWARD, CALIFORNIA March 18, 2014.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: March 18, 2014

TO: Mayor and City Council

FROM: Director of Public Works – Utilities & Environmental Services

SUBJECT: Russell City Energy Center – Resolution Commenting on RCEC’s Application to Bay Area Air Quality Management District for Variances in Air Quality Permit Conditions

RECOMMENDATION

That Council adopts the attached resolution regarding Russell City Energy Center’s (RCEC) application to the Bay Area Air Quality Management District (BAAQMD) for variances in air quality permit conditions.

BACKGROUND

In early 2000, Calpine proposed to locate a power plant, named the Russell City Energy Center (RCEC), close to the Hayward shoreline. As the City Council is aware, final approval of the project and conditions of approval rested solely with the California Energy Commission (CEC). Air quality permit conditions were developed by the BAAQMD.

At its meeting on September 11, 2002, CEC approved the RCEC with permitting conditions, including specific air quality standards. Due to a variety of factors, including severe financial constraints, Calpine was unable to proceed with construction of RCEC at the original site. Calpine submitted a project amendment to the CEC to design and construct the facility at a different location, utilizing the western one-third of the Water Pollution Control Facility property. The CEC approved the new project in 2007. As part of the certification process, the CEC, in cooperation with the BAAQMD, set forth permit conditions and emission limitations to protect residents and workers employed in the area around the RCEC and the regional air quality from the effects of excessive particulates. The RCEC was commissioned last summer and has been in full commercial operation since August.

DISCUSSION

It recently came to the City’s attention, initially through media reports, that the RCEC had exceeded certain emission limits and air pollution parameters by as much as ten times the limit specified in the permits, essentially since the beginning of operations. The media also reported that the RCEC applied to the BAAQMD in December for variances in their permit conditions to allow continuation of permit violations until September 30, 2014 while it attempts to correct the malfunctions. The

RCEC indicated that this time was needed to implement corrective actions, citing that the violations resulted from design problems and system malfunctions on the part of the design-build contractor, Bechtel Corporation, and the situation would take some time to fix.

On January 28, 2014 the BAAQMD issued a violation notice and conditional order for abatement and set a hearing date of March 13, 2014 for action by the BAAQMD's Hearing Board, which is separate and distinct from the BAAQMD Board of Directors. It is established by State law and consists of five members, including an attorney, professional engineer, medical professional and two members of the public. The Hearing Board is a quasi-judicial body that rules on particular cases that affect only individual facilities. This body is authorized to hear requests for variance relief, permit revocation, abatement orders, and appeals by permit applicants or interested third parties concerning the issuance or denial of permits.

Given that the air quality impacts that result from RCEC's permit violations matter greatly to the Hayward community, it would have been preferable for the Council to adopt related resolutions before the Hearing Board meeting; however, there was insufficient time for the item to be placed on an agenda prior to March 13. Therefore, the City Manager submitted the attached letter to the Hearing Board on March 6, incorporating comments received from Council members in previous venues, and requesting that the Board take all immediate and necessary steps to correct the situation, including shutting down the plant if necessary. The City Manager's letter served as a formal request for consideration of the City's concerns, and staff is now following up with a recommended resolution which, if approved by Council, will also be made part of the public record on this issue. The draft resolution reiterates the points and requests made in the letter; including asking for additional monitoring by the BAAQMD and the requested actions by Alameda County Health.

The letter to the Hearing Board clearly reflected the City's position on this matter, indicating that the preferred option was to require the RCEC to cease operation until all necessary repairs are made. The City's communication recognized that this solution would likely pose an economic hardship on RCEC; however, the City also contended that, if the malfunctions are in fact due to design and construction flaws on the part of the contractor, then Bechtel's insurance would cover financial losses. In any event, protecting public health and safety should take precedence over short-term financial considerations.

The City's letter further stated that, if the Hearing Board is unwilling to shut the plant down, then the time allowed for repairs should be greatly reduced. Staff believes that Calpine would find a way to make the repairs well before September 30 if the plant were shut down, and asked the Board to set a time limit equal to the time that Calpine would have needed had the facility been ordered to stop operating. In addition to reducing the time allowed for continued violations, the Board was also urged to limit the allowable power production and the resulting amount of vapor emitted through the cooling towers until the repairs are made and verified.

Finally, the City requested that the air emissions be actively measured in and around the plant, along the path of any generated plumes, and in the community at large, and that the Alameda County Public Health Department be asked to monitor and report on the occurrences of air quality health related issues in Hayward.

Results of March 13th Board Hearing: The Hearing Board considered Calpine’s variance request on March 13 and voted unanimously to approve the stipulated conditional order for abatement, a settlement that was announced at the beginning of the hearing. The order is self-explanatory, but it essentially requires RCEC to achieve compliance through the installation of one of two types of technology currently being tested at RCEC, (or both used simultaneously if one or the other alone do not suffice). If one technology is used, the issue must be resolved by July 15. If two are required, they have until August 1.

During testimony before the Board, the APCO noted that he was not requesting a shutdown because the particulate matter issue “must be kept in context.” He said that there is no evidence of individualized health impacts, such as issues people in the Mission Bay area might have experienced as a result of the recent inferno there. He noted that the pollution problem in our area is coming from thousands of emitters, not one single emitter, and that shutting down the RCEC would not be a magic bullet. He also stated that “if we shut this facility down, another facility will have to meet the demand and it may produce even more emissions, since the RCEC is such an efficient plant compared to others.”

Relating to the City’s request to limit power generation as a means of controlling emissions in the near term, RCEC’s counsel explained that reducing the flow rate to the cooling tower actually would result in an increase of emissions, since this would cause more droplets to form. The Board did instruct APCO to reach out to the Alameda County Public Health Department pursuant to the City’s suggestion to see if they want to participate in this type of monitoring.

The attached Resolution reiterates and reinforces the request to BAAQMD to conduct increased and consistent monitoring and to provide updates to the City on the data and impact on the community. It also authorizes a formal request to Alameda County Health to conduct a comparative study in Hayward of health issues that do or could stem from air quality, particularly as it is impacted by RCEC emissions.

ECONOMIC IMPACT

There will be no economic impact on property owners or the City related to adoption of the resolution.

FISCAL IMPACT

Likewise, there will be no impact on City’s General Fund or enterprise funds related to adoption of the resolution

PUBLIC CONTACT

Given that this Council action is occurring after the Hearing Board has acted on the RCEC’s request, staff did not perform any additional public contact. A copy of the City’s letter was forwarded to appropriate RCEC staff.

NEXT STEPS

Assuming the Council approves the attached resolution, it will be forwarded to the BAAQMD and CEC to be entered into the public record. Staff will also prepare a follow-up letter to Alameda County health and will continue to monitor the situation closely. Council will be informed of any noteworthy future developments.

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I - Draft Resolution
- Attachment II - Letter to Bay Area Air Quality Management District

HAYWARD CITY COUNCIL

RESOLUTION NO.14-_____

Introduced by Council Member _____

RESOLUTION URGING THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT TO TAKE ACTION TO ADDRESS ONGOING EMISSION VIOLATIONS FROM THE RUSSELL CITY ENERGY CENTER.

WHEREAS, the Russell City Energy Center (RCEC) initiated commercial operation in August 2013 under Conditions of Certification established by the California Energy Commission, including air quality conditions and emissions limitations; and

WHEREAS, the RCEC has continuously and egregiously violated its air quality Conditions of Certification since the beginning of its operation by releasing emissions and pollutants at ten times the limits specified; and

WHEREAS, these violations could potentially adversely impact the public health and safety of residents and employees in the City and surrounding communities, including children in elementary, middle and high schools elderly, those with health conditions, and tens of thousands of students at Chabot Community College and California State University East Bay at Hayward; and

WHEREAS, the RCEC has requested variances in the Conditions of Certification to allow continued violations until September 30, 2014; and

WHEREAS, the Bay Area Air Quality Management District (BAAQMD) has jurisdiction over such variances.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the BAAQMD is urged to address air quality violations by the RCEC with an order to cease operations until permitted air quality standards can be consistently achieved.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that, if such an order is not issued, the City Council urges the BAAQMD to strictly limit the duration of air emission violations to as short a time as is absolutely necessary to implement corrective measures, and to limit energy production during this time in order to reduce the amount of vapor emitted through the cooling towers.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the BAAQMD is requested to actively measure air quality in the area surrounding the RCEC.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the BAAQMD is requested to ask the Alameda County Department of Public Health to monitor and report on air quality-related health issues in Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

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



March 6, 2014

Mr. Jack P. Broadbent
Chief Executive Officer/APCO
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Subject: Application of Russell City Energy Company, LLC, for Interim and Regular Variances from Regulation 2, Rule 1, Section 307 - Plant #B8136

Mr. Broadbent:

The City of Hayward is writing to express our deep concern regarding Russell City Energy Center's (RCEC) continuing and ongoing egregious violation of its air quality permit limits. As we unfortunately learned initially through the media, RCEC has exceeded certain air pollution parameters by ten times the limit specified in the permit. Further, we are asking that the Board take all necessary and immediate steps to correct the situation, including shutting down the plant if necessary.

We understand and appreciate that shutting down the power plant until the necessary repairs are completed would pose an economic hardship to Calpine. However, we are urging you to give that option serious consideration. If Calpine's contentions are proven correct and the malfunctions and resulting violations are indeed related to a design and construction flaw on the part of Bechtel Corporation, RCEC's design-build contractor, then Bechtel's insurance would cover any financial losses to Calpine. Assuming that is not the case, we believe protecting the public's health and safety in an urban area such as Hayward takes precedence over short-term financial concerns.

In its belated Application for Variance, Calpine has requested approval to continue to violate its air permit through September 30, 2014 while it attempts to address the malfunctions. This is not acceptable. We are confident that, if the facility is ordered shut down until the necessary repairs are completed, Calpine will find a way to perform the repairs in an exponentially shorter time. However, we ask that, if the Air Board is unable or unwilling to shut down this facility until the repairs are completed, at a minimum it should drastically reduce the time given to Calpine to complete the repairs to that equal to the time that Calpine would have taken for repairs had the facility been ordered shut down.

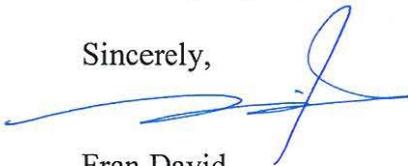
In addition, if the Air Board chooses to allow Calpine to continue to operate in violation of its air pollution limits while the repairs are underway, we urge the Board to take other actions to limit this major violation and air pollution, such as limiting the power production to a fraction of what it is today by allowing only one of the natural gas turbines to operate and to operate at lower production, thereby, limiting the amount of vapor emitted through the cooling towers. Furthermore, we urge the Air Board to actively and consistently measure the air emissions from RCEC, and air quality in and around the power plant and along the path of any generated plumes, as well as in the community at large. Lastly, we request that Alameda County Public Health Department be asked to monitor and report on the frequency of occurrence of the related air quality health issues in Hayward.

I want to make clear that this action on the City's part is related to our core responsibility to protect health and safety of our citizens; those who live, work, and attend school in the City. This is not about opposing Calpine or RCEC. The City has always been helpful to Calpine and RCEC during commissioning and operating the plant.

The air quality impacts that result from the RCEC's permit violations are, however, of paramount concern. With a population of close to 150,000, the City of Hayward is the third largest City in Alameda County. It has tens of thousands of children, elderly, and other health-compromised individuals, and is home to two large regional hospitals. There is a thriving community college (Chabot College) and two private colleges just minutes from the power plant. A state university (California State University East Bay) is downwind from RCEC, as well. Air pollution of this magnitude could expose all those who live, work, or attend school in the City and the surrounding communities to unhealthy air pollution that can have lasting consequences on the region.

We respectfully request that this letter be read into, and be made part of, the records during the scheduled hearing related to this item. If you have any questions or need additional information, please contact me. You may also contact Alex Ameri, Director of Utilities & Environmental Services, at (510) 583-4720.

Sincerely,



Fran David
ICMA-CM
City Manager

cc: Bruce Boyer, CEC, RCEC Compliance Project Manager
Mayor and City Council, City of Hayward
Michael Lawson, City Attorney, City of Hayward
Alex Ameri, Director of Environment & Utilities, City of Hayward

DATE: March 18, 2014

TO: Mayor and City Council
Chair and Housing Authority Board Members

FROM: Assistant City Manager

SUBJECT: Authorization to Negotiate and Execute Professional Services Agreements with John DeClercq for Project Management Services Related to the South Hayward BART Transit Oriented Development Project and Appropriation of Funds to Cover Agreement Services

RECOMMENDATION

That the City Council, as both the City Council and in its capacity as governing board of the Housing Authority:

- 1) Adopts the attached resolutions (Attachments I and II) authorizing the City Manager/Executive Director to negotiate and execute two agreements with John DeClercq (one with the Housing Authority and one with the City) for Project Management Services Related to the South Hayward BART Transit Oriented Development, not to exceed \$120,000 over a twelve month period.
- 2) Adopts the attached resolution appropriating \$68,880 from the General Fund fund balance to the South Hayward BART capital improvement project, Project 5076.

BACKGROUND

The California State Legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law in June of 2011. The California Supreme Court in its decision in *California Redevelopment Association v. Matosantos*, issued December 29, 2011, declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are now required by successor agencies to unwind the affairs of all former redevelopment agencies.

On June 27, 2012, as part of the state budget package, the California legislature passed AB 1484. As a budget trailer bill, AB 1484 became effective immediately upon signature by the Governor, which occurred that same day. The main objective of AB 1484 was to amend the 2011 Redevelopment Dissolution Act (AB1x 26) based on experience in implementing the Act at the state and local level during the past year. AB 1484 imposes significant new obligations on the successor agencies and oversight boards of dissolving redevelopment agencies, which staff has been

implementing over the past nine months. One of these obligations was the completion of a Due Diligence Review (or audit) of the former Redevelopment Agency's Low-Moderate Income Housing Funds.

As part of the Department of Finance's (DOF) determination on the Hayward Successor Agency's Housing Fund Due Diligence Review, the DOF disallowed two agreements for legal expenses and project management expenses related to the South Hayward BART transit oriented development project. DOF asserted that these agreements were entered into after the June 28, 2011 Dissolution Act date and therefore, did not justify the transfer of Housing funds to cover the expenses.

The DOF did however uphold the Eden loan for construction of the affordable housing units in the South Hayward BART project as an enforceable obligation. As such, in September 2013, the Successor Agency Board approved an agreement amendment with Mr. John DeClercq to cover the project management expenses related to this enforceable obligation and added a request for these funds on the ROPS 13_14B. The DOF denied these expenses (both prior expenses dating back to 2011 and for the extended agreement period through 2014). Staff participated in the Meet and Confer process with the DOF and was unsuccessful in securing approval for these project-related expenses. The Successor Agency Board did not direct staff to pursue litigation against the Department of Finance on this matter due to the likelihood of success and the potential costs of litigation.

DISCUSSION

John DeClercq has been providing project management services on the South Hayward BART project since November 2011. His previous agreement outlined the following scope of services, which would continue in the new agreements. Due to the timing of the DOF denial, the two new agreements will have a retroactive effective date of October 1, 2013 and will terminate on September 30, 2014. This covers the services that Mr. DeClercq continued to provide during this period while staff awaited the DOF determination on funding availability.

The monthly agreement payment will be a minimum of six thousand dollars (\$6,000) and a maximum of ten thousand dollars (\$10,000) based on an average of fifteen hours per week at an hourly rate of \$150/hour.

Scope of Services: Consultant will provide project management services related to the South Hayward BART Transit Oriented Development which includes:

- Overseeing the day-to-day operations of the project
- Coordinating with Wittek/Montana (the market-rate developer) and Eden Housing (the affordable developer)
- Coordinating with and meeting as needed with BART
- Coordinating with and meeting as needed with HCD
- Coordinating with various City departments and personnel, including Development Services, Public Works, Finance, City Attorney, and the City's consultants, including outside counsel
- Maintaining the overall project schedule
- Keeping project moving forward, and

- Assisting in the preparation and review of required project documents

FISCAL IMPACT

As a result of the Department of Finance’s denial of this agreement as a project management expense for an enforceable obligation, staff must prepare and execute two separate agreements with Mr. DeClercq, one with the Housing Authority and one with the City. The South Hayward BART project contemplates the construction of 151 affordable housing units and 203 market rate housing units. As such, staff recommends that the Housing Authority and the City proportionally bear the costs of this project management work as Housing Authority funds can only be utilized for costs related to the production, monitoring, and maintenance of affordable housing units in the City. Staff will be requesting a mid-year budget adjustment to cover the prior agreement expenses that were denied by the DOF.

This report only covers the expenses from October 1, 2013 through September 30, 2014, totaling \$120,000. Staff recommends that funds for this agreement be allocated as follows:

| | |
|---|-----------------|
| Housing Authority: | \$51,120 |
| General Fund (Fund balance appropriation into CIP): | <u>\$68,880</u> |
| | \$120,000 |

Due to recent State legislation that has been signed by the Governor, the Housing Authority will be receiving approximately \$350,000 that can be utilized for administrative and project-related expenses on affordable housing projects as determined by the Successor Housing Entity (the City’s Housing Authority). As these funds will be received in FY2014, the Housing Authority will have sufficient budget to cover the expenses related to this agreement (\$51,120).

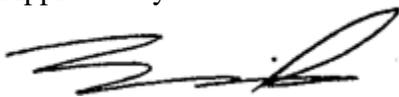
Since there are no longer Redevelopment Agency funds to cover the balance of the project management expenses (and the DOF has denied these as eligible Successor Agency expenses), these expenses will need to be covered by the City’s General Fund (\$68,880) as indicated above.

NEXT STEPS

If the Council and Authority Board approve the agreements, staff will work with Mr. DeClercq to execute these agreements.

Prepared by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

1. City Resolution Approving Agreement
2. Housing Authority Resolution Approving Agreement
3. Resolution Appropriating Funding to Capital Improvement Program (CIP)

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A
PROFESSIONAL SERVICES AGREEMENT WITH JOHN DECLERCQ TO
PROVIDE PROJECT MANAGEMENT SERVICES FOR THE SOUTH
HAYWARD BART PROJECT

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the City Manager to negotiate and execute a contract with John DeClercq for Project Management Services related to the South Hayward BART Transit Oriented Development, in an amount not to exceed \$68,880 and for the term October 1, 2013 to September 30, 2014, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD HOUSING AUTHORITY

RESOLUTION NO. HA14-

Introduced by Board Member _____

RESOLUTION OF THE HOUSING AUTHORITY BOARD AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH JOHN DECLERCQ TO PROVIDE PROJECT MANAGEMENT SERVICES FOR THE SOUTH HAYWARD BART PROJECT

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the Executive Director to negotiate and execute a contract with John DeClercq for Project Management Services related to the South Hayward BART Transit Oriented Development, in an amount not to exceed \$51,120 and for the term October 1, 2013 to September 30, 2014, in a form approved by the Authority Counsel.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:
CHAIR:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: _____
City Clerk of the Housing Authority Board

APPROVED AS TO FORM:

Housing Authority Counsel

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD AMENDING RESOLUTION 13-104, AS AMENDED, THE BUDGET RESOLUTION FOR THE OPERATING BUDGET OF THE CITY OF HAYWARD FOR FISCAL YEAR 2014, FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND (FUND 100) TO THE GENERAL FUND CAPITAL IMPROVEMENT FUND, SOUTH HAYWARD BART PROJECT, PROJECT NO. 5076

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Resolution 13-104, as amended, the Budget Resolution for the Operating Budget of the City of Hayward for Fiscal Year 2014, is hereby further amended by approving a transfer of \$68,880 from the General Fund fund balance (Fund 100) and appropriating these funds to the General Fund Capital Improvement Fund, South Hayward BART project, Project No. 5076.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



DATE: March 18, 2014

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adopt Findings for Denial for Conditional Use Permit (Application No. PL-2012-0069) and Vesting Tentative Tract Map (Application No. PL-2013-0070) associated with 194 townhomes and 16,800 square feet of commercial space on an 11.33 acre site located at 22301 Foothill Boulevard. Integral Communities (Applicant); MDS Realty II & 22301 Foothill Hayward, LLC (Owners)

RECOMMENDATION

Based on City Council action at the March 4, 2014 public hearing, staff recommends that Council adopt the attached findings for denial of the proposed project.

SUMMARY

After listening to public testimony and reviewing the merits of the project, the City Council on March 4 voted to not approve the development request on a 3-4-0 vote. Staff recommended to Council that findings for denial be brought back at a future meeting for consideration supporting the project decision. Such findings are included in the attached resolution.

Since the California Environmental Quality Act (CEQA) does not apply to projects that are not approved, the previously presented Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program are no longer applicable, as reflected in the attached resolution.

Information presented to the City Council at the March 4 public hearing is available on the City's website at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca030414full.pdf>. Draft meeting minutes for the March 4, 2014 Council meeting were unavailable as an attachment for this staff report.

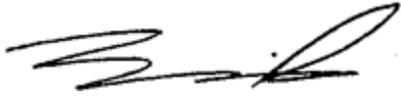
NEXT STEPS

A motion to deny the project along with findings to support the decision would be the final action on the project.

Prepared by: Damon Golubics, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I Draft Resolution with Recommended Findings for Denial

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Councilmember _____

RESOLUTION DENYING VESTING TENTATIVE TRACT MAP APPLICATION PL-2013-0070 AND CONDITIONAL USE PERMIT APPLICATION PL-2012-0069 PERTAINING TO THE DEVELOPMENT OF ONE HUNDRED AND NINETY-FOUR TOWNHOME-STYLED CONDOMINIUMS AND SIXTEEN THOUSAND EIGHT HUNDRED SQUARE FEET OF COMMERCIAL SPACE AT 22301 FOOTHILL BOULEVARD IN DOWNTOWN HAYWARD

WHEREAS, Integral Communities (Applicant) has submitted Conditional Use Permit Application No. PL-2012-0069 and Vesting Tentative Tract Map Application PL-2013-0070 to develop the property located at 22301 Foothill Boulevard with 194 townhome-styled condominiums at the ground floor level and 16,800 square feet of commercial space in two buildings (the “Project”); and

WHEREAS, an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared to assess and mitigate the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on January 30, 2014, and adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and conditionally approved Conditional Use Permit Application No. PL-2012-0069 and Vesting Tentative Tract Map Application No. PL-2013-0070; and

WHEREAS, the Project was called up for City Council review by Council Member Salinas, in accordance with the applicable provisions of the Hayward Municipal Code; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on March 4, 2014; and

WHEREAS, the City Council heard public testimony, considered all project documents and correspondence, and evaluated environmental effects for the project and voted not to approve the Conditional Use Permit or the Vesting Tentative Tract Map for the project.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15270(a), CEQA does not apply to projects that a public agency rejects or disapproves.

CONDITIONAL USE PERMIT

2. **The proposed use is not desirable for the public convenience or welfare.**

The Project, and specifically residential uses on the first floor of the Project, is not desirable for the public convenience and welfare, because the Project will convert a large, vacant former office site of significant size and visibility into a primarily residential community without ground floor commercial/retail/office uses throughout the site. This Project will not create the desired economic stimulus or job creation desired in the downtown, nor will the Project, through both its site plan and its amenities, be considered a transit-oriented development. A transit-oriented community is desirable at this location, which is less than one-half mile to the Hayward BART Station. The Project would provide a medium-density ownership housing product with some on-site amenities, which are not centrally located on the Project site. Providing ground-floor residential units could provide more active “eyes on the street” later in evenings, in line with “crime prevention through environmental design” (CPTED) principles; however, ground floor commercial, retail or office development throughout the site and along the entire Foothill Boulevard frontage with higher density housing above would better serve this part of Downtown Hayward. The site is considered a City “gateway” and key opportunity site for Hayward commercial, retail and/or office development due to its location close to Downtown Hayward, extensive frontage on Foothill Blvd., transit access, and size (11.33 acres). Sufficient lands exist elsewhere in the City for the type of medium-density residential development this Project proposes.

3. **The proposed use will impair the character and integrity of the zoning district and surrounding area.**

The Project entails a “pork chop island” design for vehicles exiting from the site onto Hazel Avenue. As designed, traffic leaving the Project on Hazel Avenue will be required to turn right (eastward towards Foothill Boulevard) so that existing neighborhoods to the west would not experience increased traffic. However, the opportunity for pass-through traffic, particularly associated with Project residents driving through surrounding neighborhoods to the site during peak commute hours, remains a potential concern associated with the design of the proposed development. Also, there is no guarantee that this traffic design feature will preclude Project traffic from making illegal left turns from the Project site toward the existing neighborhood; thus, the Project has the potential to negatively impact the character and integrity of the existing lower density residential neighborhoods adjacent to the Project.

4. **The proposed use will be detrimental to the public health, safety, or general welfare.**

The small amount of commercial/retail spaces proposed do not provide the size or type of commercial/retail use warranted on this significantly sized (11.33 acres) and highly visible site along Foothill Boulevard, nor does the project entail jobs generation commensurate with the

largest potential commercial, retail, and/or office site in the downtown. Such uses would not only entail more jobs, but would also provide daytime demand to help support existing retail uses and attract future uses that would help activate the downtown during daytime/early evening hours.

A fiscal analysis of the Project by staff showed that there will be an additional demand for public services and that the costs of these services will not be covered by the revenue generated by the project. Annexation into or formation of a community facilities district would be required, or the applicant would be required to make a one-time, present value payment, which would offset added costs of public services created by the Project.

The transit orientation of the development has not been established, since the Project has no bus stop along any project frontage, nor entails a shuttle or other transit-friendly amenities/incentives, such as reduced price BART tickets for Project residents. The prior use, Mervyn's headquarters offices, provided a frequent shuttle to the Hayward BART Station. The lack of incentives and incorporation of design elements to encourage transit use would lead to more automobile dependency and use, and reduced air quality and increased traffic congestion.

5. The proposed use is not in harmony with the applicable City policies and the intent and purpose of the zoning district involved.

The current General Plan designation of the site is Downtown - City Center / Retail and Office Commercial (CC-ROC). On page C-4 of Appendix C of the General Plan, the Downtown - City Center Area has the following text that explains the unique vision for this area:

“This area is a major activity center in the planning area. It contains major public facilities such as City Center and the Main Library, retail and office areas, and high-density residential areas. Mixed-use development is encouraged to promote the pedestrian orientation and to maintain the downtown area as an integrated living, working, shopping and recreational area. The boundary of this area is delineated in the Downtown Hayward Design Plan.”

Although this development is identified as a mixed use project, the townhome-styled condominiums cannot be considered “high-density residential.” The proposed density of the project is 21 units per acre. The allowable density is up to 65 dwelling units per acre. Also, given the minimal amount of commercial space proposed, this development may not be considered a mixed-use project and an “integrated living, working, shopping and recreational area” in the Downtown area.

Page C-3 of that General Plan appendix lays out the vision for areas with a Retail and Office Commercial land use designation:

“These areas include the regional shopping center (Southland Mall), community shopping centers, concentrations of offices and professional services, and portions of the downtown area and South Hayward BART Station area where mixed retail and office uses are encouraged. Not shown are neighborhood convenience centers that support and are compatible with residential areas.” Again, the minimal amount of proposed commercial space in relationship to the proposed

residential component of the Project cannot be considered the right mix of such uses as envisioned by the General Plan.

One additional section of the General Plan further speaks to what the Project should be, pursuant to City policies:

“Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses.”

This Project does not carry forward this key notion of having “continuous retail frontage to pedestrian shopping areas” since the minimal amount of proposed commercial space along Foothill Boulevard creates an “unwarranted intrusion” of the townhome-styled condominiums to the detriment of more significant retail/commercial uses along this key frontage in Downtown Hayward. This Project also does not “encourage residential and office uses to locate above retail uses.”

These sections of the General Plan show that the proposed Project is not consistent with the policies of the General Plan in that the Project provides ground floor residential use and minimal ground floor commercial use.

VESTING TENTATIVE TRACT MAP

6. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]

The proposed subdivision is not consistent with the Hayward General Plan, since the mixed use development request provides for a townhome-styled condominium product instead of a desired “high-density residential” development or non-residential development envisioned by the City’s General Plan. With the exception of the new pedestrian/bicycle trail along San Lorenzo Creek, the Project cannot be considered pedestrian oriented given the great amount of covered parking that accompanies each new townhome fostering possible automobile usage. Also, given the minimal amount of commercial space proposed, this development would not be considered an “integrated living, working, shopping and recreational area” in the downtown area pursuant to the provisions of the “City Commercial – Residential Office Commercial (CC – ROC)” land use category of the General Plan.

7. That the design or improvement of the proposed subdivision is inconsistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]

The proposed Project is an underutilization of the site. A previous development plan for the site incorporated more housing units and additional ground floor commercial space designed into the Project, which was more in keeping with what the General Plan envisioned for this section of Downtown Hayward.

8. That the site is not physically suitable for the type of development. [Subdivision Map Act §66474(c)]

The geotechnical investigation performed by Berlogar, Stevens & Associates (February 10, 2012), which is referenced in the Project IS and MND, shows that the proposed subdivision might not be suitable for the proposed development since an additional geotechnical evaluation of the site is necessary prior to a building permit issuance for the Project.

9. That the site is not physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]

The site is too large and important by way of its visibility, location, size, zoning, and existing structures (multi-level parking garage and office building) to be dedicated to a medium density residential development with minimal commercial space. A Project that generates jobs and has a high-density residential component is more appropriate for this key gateway site in the City.

10. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]

There is no evidence to suggest that any substantial environmental damage would occur that would injure fish or wildlife on the site.

11. That the design of the subdivision or type of improvements is likely to cause serious public health problems. [Subdivision Map Act §66474(f)]

The project is not likely to cause any serious or significant public health problems as a result of its construction.

12. That the design of the subdivision or the type of improvements may conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]

There are several existing public easements within the boundary of the proposed subdivision. A 10-foot access easement to an existing transformer, a City street lighting easement and an access easement for the County Flood Control and Water Conservation District to access the San Lorenzo Flood Control Channel will remain and the project would not conflict with any of these easements. There is one additional access easement that would be quitclaimed, thus there would be no conflict with the proposed project design.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby denies Conditional Use Permit Application No. PL-2012-0069 and Vesting Tentative Tract Map Application PL-2013-0070.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: March 18, 2014

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Approval of Financing Plan for Fire Station 7 and Firehouse Clinic Project

RECOMMENDATION

That Council approves the recommended conceptual financing plan for the construction of Fire Station 7 and the new Firehouse Clinic, and directs staff to return with formal financing documents and a request to issue bids for construction of the project.

BACKGROUND

For the past couple of years, staff in the Public Works-Engineering & Transportation and Fire Departments has been working with an architect to develop proposed designs and site plans for a remodeled Fire Station 7. Hayward Fire Station No. 7, located at 27280 Huntwood Avenue, is currently a four piece modular building with an adjacent apparatus bay that opened in 1998. The modular building is 4,300 square feet, and the apparatus bay is 2,300 square feet. This modular fire station is dilapidated and lacking in several areas primarily due to its original purpose as a temporary facility. This presents significant safety and operational concerns, especially during a major emergency such as an earthquake. The station is also the third busiest station in the City, responding to over 4,082 calls for service in 2013. While the City has many unfunded capital facility needs, rebuilding Station 7 has been a critical priority and the current conditions at the station require that staff develop immediate plans for moving forward with the construction of a new fire station on this.

The development of a new station at the site also presented an opportunity to partner with Alameda County on a new health care delivery model being developed in the County. According to the Alameda County Public Health Department, health care coverage is unaffordable for more than 200,000 residents in Alameda County. Many of these uninsured residents use emergency rooms (ER) throughout the County as their primary health care providers, creating undue burden and overcrowding in these ERs. In addition, there is a significant shortage of primary and preventative care health providers in the County. An innovative and forward thinking effort to address these issues evolved the concept of a Firehouse Clinic. These centers would provide a new level of localized care that would be fully integrated in the existing County health care delivery system. The clinics would be co-located at fire station sites in Alameda County and would have limited-scope

staffing that would be a referral point for sub-acute 911 calls (approximately 30,000 calls annually in Alameda County that currently use emergency room services); and would also help provide discharge follow up for local residents within forty-eight hours of discharge from Acute Care.

Alameda County is proposing a pilot program for these clinics at five fire stations but Hayward is the only clinic moving forward in the near term. The construction of a new Fire Station 7 provides an opportunity to serve as a primary pilot site for a health care clinic, especially given the portion of the Hayward population that this station serves. City and County staff have collaborated on the project with the City's architect to incorporate the design of the health center into the new fire station design. Staff presented these preliminary designs to the City Council in a work session on September 24, 2013¹. Work on the designs has continued and the project is now ready to move into the construction phase. However, the issue of funding for the project must be addressed before proceeding further.

DISCUSSION

The proposed Fire Station No. 7 building will be a 10,400 square feet, two story building, which will consist of a four-bay, double-depth apparatus bay, a public lobby, Battalion Chief quarters, staff work spaces, and living quarters. A day room, kitchen, dining room, and a secure access to staff parking area are also provided. Other features being proposed for this fire station include a workshop, conference room, and an exercise room.

The proposed Firehouse Clinic will be a 2,400 square feet, one story building, which will consist of seven exam rooms, a waiting area, a treatment room, a consultation room, a laboratory, and restrooms. The outside architectural features of the clinic building will be compatible with the new fire station building. The site that will accommodate both buildings has an area of 52,200 square feet (1.15 Acre). Site features include parking for 30 vehicles (including two ADA accessible spaces).

As mentioned previously, the need to reconstruct Fire Station 7 has been a high priority over the past few years and debt service for this project was built into the City's ten-year financial forecast. This project needs to move forward now for a couple of reasons. The first is the current condition of the station and the sub-standard living conditions that exist for the assigned firefighters. The second is the partnership with Alameda County. Cost-saving partnerships between public agencies have been a priority for Council as the City has looked for mechanisms to enhance efficiencies and deliver services in a cost effective manner.

This partnership between Hayward and the County is a prime example of the type of effort the Council has been seeking. As part of this partnership, the County has offered \$1.2 million towards the construction costs of the new firehouse clinic, but these funds must be utilized in the near term. As such, staff is bringing forward a financing plan that would allow this project to move forward now. Staff is asking for Council direction on this financing plan and would then work with the

¹ September 24, 2013 presentation: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2013/cca092413-P01.pdf>

City's financial advisors to bring back the appropriate documentation for official Council approval and issuance of debt.

ECONOMIC AND FISCAL IMPACT

The financing plan would fund the construction of Fire Station 7 and Firehouse Clinic through a combination of traditional bank financing, a funding allocation from Alameda County, and an internal loan from the Water Enterprise Fund. The total project cost is estimated at approximately \$12.2 million (\$10 million for the fire station and \$2.2 million for the clinic). As a partner in the project, Alameda County has agreed to provide funding in the amount of \$1.2 million toward the construction of the health center. Also previously, City funded the \$500,000 needed for architectural and engineering design services, which is part of the overall \$12.2 million cost.

Therefore, the City will seek financing in the amount of \$10.8 million to cover the remaining construction and basic financing costs. The City has allocated funding for the debt service in the General Fund ten-year plan in the amount of \$590,000 annually for the next twenty-five years.

Staff anticipates that the lowest available financing rate will come from a fifteen-year lease between the City and a community bank or other financial institution. This would not be a traditional "bond" financing requiring the engagement of underwriters and disclosure counsel, but rather a negotiation between the City and one financing source (as determined through a bidding process).

Most of these financial institutions will not lend for a period longer than fifteen years so staff is proposing to pair the financing with an internal loan between the General Fund and the Water Enterprise Fund. This will allow the loan payments to the Water Fund to be amortized over a longer period of time in order to fit the available debt service funding programmed in the City's General Fund ten-year financial plan. Payments will be made annually between the General Fund and the Water Enterprise Fund with the majority of the loan principal paid in years 16-25. The total amount to be borrowed privately would be \$5.5 million and the total amount to be borrowed from the Water Enterprise Fund would be \$5.3 million. These amounts may fluctuate slightly based on market interest rates and cost of financing.

Current market rates indicate that a fifteen-year private placement loan could be structured with an interest rate of approximately 4% with the City loan from the Water Enterprise Fund earning 2% over the 25-year amortization. The Water Enterprise Fund is currently earning approximately an average .6% on its investment portfolio, which is included in the City's overall cash investment pool.

Staff also anticipates structuring the Water Enterprise Fund loan to allow for prepayment from any source the City deems available prior to final maturity. The intention is to use the Water Enterprise Fund loan as the flexible funding portion that can be modified or redeemed early from future General Fund dollars or other sources. Prepayment of the private placement loan would likely require a prepayment penalty; therefore, it is assumed that this loan will be paid over the initial fifteen-year term.

Alameda County Health Services Agency, through its partnership with Tiburcio Vasquez Clinic, has assumed the responsibility for operating the clinic and for covering the annual operating costs. This would be in addition to the Silva Pediatric Clinic Tiburcio currently operates at Eden Youth and Family Center. If, for some reason in the future, the pilot program does not continue, the City has agreed that the clinic building will continue to be used for the delivery of health services in some form until the building is fully depreciated. This is a condition of receiving the \$1.2 million capital funds from the County.

NEXT STEPS

If the Council approves of the proposed financing plan, staff will move forward to finalize the fire station/clinic design, secure the financing, and issue bids for construction. These steps include:

| | |
|---------------|--|
| April 1, 2014 | Council approval of plans and call for bids |
| May 6, 2014 | Council consideration of debt financing documents with debt issued shortly thereafter. |
| May 27, 2014 | Award of construction contract |
| June 30, 2014 | Begin Construction |
| Summer 2015 | Complete Construction |

Prepared by: Kelly McAdoo, Assistant City Manager
Morad Fahkrai, Director of Public Works – Engineering & Transportation
Garrett Contreras, Fire Chief
Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Cc: Alex Briscoe, Health Care Services Agency Director

DATE: March 18, 2014

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Direction on Potential Hayward BART Station Renaming

RECOMMENDATION

That the Council directs staff to explore the Bay Area Rapid Transit (BART) station renaming process for the Hayward station, beginning with a “request for station renaming quote.”

BACKGROUND

The City of Hayward is home to two BART stations: the “Hayward” station and the “South Hayward” station, both of which have been operating continuously since September 11, 1972. Since that time, significant development has taken place in the downtown area adjacent to the “Hayward” station, including construction of the current City Hall building, hundreds of additional housing units and new retail facilities. The City’s Economic Development Strategic Plan (EDSP) also calls for concerted efforts to revitalize the downtown area by encouraging and supporting new business activity and promoting the neighborhood as an attractive location to live, shop and dine.

The somewhat ambiguous nomenclature for the “Hayward” station fails to recognize the station’s location near the heart of Downtown Hayward. This causes confusion among many visitors who – if unfamiliar with the city – can find it difficult to differentiate between the two stations and their respective surrounding areas. Moreover, development projects, infrastructure improvements to the downtown area in recent years and future initiatives driven by the EDSP will likely result in an increase in traffic through the station, further demonstrating the need for the BART station to more accurately reflect a sense of “place” for riders. By renaming the “Hayward” BART station the more precise “Downtown Hayward,” the stations within the City of Hayward would more closely follow the naming convention of other cities within the system that boast two or more stations, such as “North Berkeley” and “Downtown Berkeley,” the El Cerrito stations (“del Norte” and “Plaza,” respectively) and the independently identified stations in San Francisco and Oakland.

DISCUSSION

The process of renaming a BART station is somewhat involved, but it is not without precedent. To date, name changes have been affected at Pleasant Hill/Contra Costa Centre and Civic Center/UN

Plaza. All name change requests are subject to the approval of BART's Staff Review Committee, the General Manager of the agency and eventually the BART Board of Directors. Name change requests follow a three-step process:

1. Request for Station Renaming Cost Quote
2. Community Outreach Process
3. Written Request for Station Renaming Request Form

The first step is relatively brief and may be completed within 10-20 days after receipt by the appropriate BART officials. The cost to develop an estimate is \$1,818.24. The quote will take into account a number of criteria, including the station's size, its place on the line and the amount of signage affected, among other things. In Fiscal Year 2014, the BART district estimates the cost to rename one station to be between \$600,000 and \$5.4 million. Because the Hayward station is not an end-of-the-line station and it has only two entrances, costs would likely be toward the lower-mid-level of the range.

Assuming the City decides to move forward following production of the quote, the second step is a community outreach process with significant standards set forth by the district.

Finally, the third step requires a written request to rename the station, accompanied by a deposit in the amount of 20% of the cost quote. (This deposit is fully-refundable in the event that the BART Board of Directors denies the application.)

Because there are two other stations currently in the process of pursuing name changes (19th Street Oakland and Oakland Airport), an opportunity exists for potential cost sharing on the "indirect" costs associated with Hayward's prospective name change. Although the City would remain responsible for all station-specific name change costs in full, indirect costs such as updates to maps, brochures, manuals, etc., would be eligible to be split three ways among Hayward and the other two stations. Unfortunately, the quote received in step one will not reflect any discounts due to cost sharing, since these can only be calculated following the approval and simultaneous scheduling of the projects in question.

For Hayward to take advantage of this cost sharing opportunity, all steps in the application process would have to be completed no later than early May of 2014.

FISCAL IMPACT

The cost to develop an estimate is fixed at \$1,818.24. This initial cost can be covered in the City Manager's Office budget. The cost to rename a BART station ranges between \$600,000 and \$5.4 million, although the cost to rename the Hayward station would likely fall toward the lower-mid-level of the range. An accurate cost estimate can only be produced following the formal written request. If the Council authorizes moving forward to receive a formal price quote, staff would return after the quote is prepared to discuss possible funding sources with the Council.

NEXT STEPS

If Council accepts the recommendation to secure the renaming cost estimate, staff will move quickly to begin the process in order to maintain the availability of this unique cost sharing opportunity.

Prepared by: Frank Holland, Community and Media Relations Officer

Approved by:



Fran David, City Manager

Attachments:

1. BART Station Name Change Policy Memo
2. Request for Station Renaming Quote (form)
3. Written Request for BART Station Renaming (form)

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Request for Station Renaming Cost Quote

Application is made by _____ (Applicant) on _____ (Date). Applicant authorizes the San Francisco Bay Area Rapid Transit District (District) to provide Applicant with a cost estimate quote (Quote) to rename the _____ (current BART Station name) to _____ (Proposed new name of BART Station).

By signing below, Applicant acknowledges having read the Name Change Application Overview memo and fully understanding the policies and process of renaming a BART Station, agrees to pay the required fee for devising a quote (\$1,818.24 for Fiscal Year 2014), and authorizes the San Francisco Bay Area Rapid Transit District to devise the Cost Quote. Applicant also acknowledges this Cost Quote is good for the submitted name only. Any future changes to the proposed name may affect the price of the quote and the District may require Applicant to submit a new Cost Quote request and pay the required Cost Quote Fee.

| | |
|---|---|
| Name of Applicant (Print name or agency) | Name of Applicant Partner (Optional) |
| | |
| Address | Address |
| | |
| Phone Number | Phone Number |
| | |
| Email Address | Email Address |
| | |
| Signature | Signature |
| | |
| Name and Title | Name and Title |
| | |
| Date | Date |
| | |

APPLICANT: Applicants may choose to attach any supporting documents to justify the name change along with this form.

SUBMISSION: Applicants must send both this signed authorization form and fee to:
District Secretary
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 23rd Floor
Oakland, CA 94612
510-464-6011 fax

Written Request for BART Station Renaming

Date: _____

Application is made by _____

to rename the _____ (current station name)

to _____ (new station name).

Included with this Application are:

- Cover letter
- Public Participation Summary Report
- Letters/Resolutions endorsing name change
- Certified check or money order for the amount of 20% of the quoted cost to rename station.
- Other documentation (please list):

By submitting this Application, Applicant acknowledges:

- Having read the Name Change Application Overview memo and understanding the policies and process of renaming a BART station.
- The proposed name is NOT the name of a private enterprise, or of a commercial nature, or the name of an individual, living or deceased; and not being more than thirty-five (35) characters in length (BART has the right to abbreviate a proposed name accordingly).
- Having paid for and received a Cost Quote and the quote being no more than one-hundred eighty (180) calendar days old.
- A Cost Quote is good for the submitted name only. Any future changes to the proposed name may affect the price of the quote and the District may require Applicant to submit a new Cost Quote request and pay the required Cost Quote Fee.
- If the Application is approved, Applicant will pay for all materials, labor, and permitting costs associated with station renaming, as determined by the District, within one-hundred eighty (180) calendar days of application approval or (30) calendar days prior to the date the name change project is scheduled to commence . whichever comes first.

- Having vetted name change ideas with local businesses and residences in accordance with District policies and receiving community endorsements of the proposed name change.
- The name change request has been approved by the majority votes of the city councils (or county boards of supervisors if station is located in an unincorporated area) of all cities/unincorporated areas affected by the name change.

Applicant believes that the affected local jurisdiction(s) in which the station resides is

_____ (name of city or county).

| Name of Applicant (Print name or agency) | Name of Applicant Partner (Optional) |
|--|--------------------------------------|
| | |
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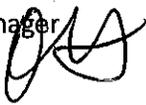
SUBMISSION: Applicants must send both this signed authorization form and fee to:

District Secretary
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 23rd Floor
Oakland, CA 94612
510-464-6011 fax

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMO

TO: BART Station Name Change Applicants **Date:** February 6, 2014

FROM: Kerry Hamill, Assistant General Manager
Office of External Affairs 

SUBJECT: Name Change Application Overview

The San Francisco Bay Area Rapid Transit District (BART) has 44 stations that reside in four counties and 26 cities. The primary purpose of station naming is to provide BART customers with information in a consistent and logical manner in order to assist customers in successfully navigating the transit system and the region it serves.

COST TO RENAME STATIONS:

In Fiscal Year 2014, the District estimates the cost to rename one station to be between \$600,000 and \$5.4 million.

APPLICATON PROCESS:

Applicants making a request of the District to rename one or more of its train stations must do so in writing. The process for the Applicant consists of three steps and two forms. The first step requires an Applicant to fill out the "**Request for Station Renaming Cost Quote**" (Cost Quote) form. The second step requires the Applicant to conduct community outreach. The third step requires the Applicant to submit a "**Written Request for BART Station Renaming**" (Renaming Request) form.

STEP ONE

- A. REQUEST FOR STATION RENAMING COST QUOTE FORM:** The Cost Quote form allows the Applicant to obtain an estimated cost to change out signage and other materials at the station to be renamed. These are "direct costs." The Cost Quote will also provide the Applicant of an estimate of "indirect costs" that include, but are not limited to, the printing of brochures, manuals, maps and the updating of District software such as internal and external websites. If an Applicant wishes to rename more than one station, the Applicant must fill out a Cost Quote form for each proposed station to be renamed and pay the associated fee. Please note, once an Applicant submits a Cost Quote for a proposed name, the quote will be good for the submitted name only. Any future changes to the proposed name may affect the price of the quote and the District may require Applicant to submit a new Cost Quote request. Once the Applicant submits the form, the District will conduct a preliminary review of the Renaming Request to determine

whether it meets certain criteria. If the District rejects the proposed name the District will refund the Applicant's fee. If the District accepts the Renaming Request, the Applicant will be notified to proceed to step two in the process.

- **GUIDING POLICY REVIEW:** Before completing any of the forms, Applicants must carefully review the District's "Guiding Policy Statement for Consideration in Station Renaming" (Guiding Policy), adopted by the BART Board of Directors on April 28, 2005, and the "Key Factors Considered in Original Station Names" (Key Factors). Both the Guiding Policy and the Key Factors accompany this memo.
- **BART STAFF REVIEW COMMITTEE:** Once the Cost Quote form is submitted, it will be given to an internal BART Staff Review Committee (Committee), which will determine whether the proposed name adheres to the Guiding Policy and the Key Factors. If the Committee allows the Applicant to proceed to steps two and three, the Committee will meet again and determine whether the Applicant has properly conducted a public outreach process.
- **FEE:** According the Guiding Policy, the District may require the proposer to pay all the costs necessary to rename a station, including "the costs to develop an estimate." The fee typically covers the staff time expenses required to develop the Cost Quote. In Fiscal Year 2014, the cost to develop an estimate is \$1,818.24. This fee must accompany each Cost Quote request form.
- **COST QUOTE EXPIRATION:** Applicant will have one-hundred eighty (180) calendar days after issuance of the Cost Quote to submit the Renaming Request form. If the Applicant fails to submit the Renaming Request form in a timely manner, the Applicant will be required to seek a new Cost Quote and pay the full cost of the fees should the Applicant wish to resubmit the Renaming Request form. If the BART Board of Directors rejects an Applicant's station Renaming Request, the Applicant shall have thirty (30) calendar days to modify the Applicant's Renaming Request form and resubmit the form without seeking a new Cost Quote regardless of whether the initial Cost Quote has expired.

STEP TWO

- B. COMMUNITY OUTREACH PROCESS:** Prior to submitting the Renaming Request form, the District requires that an Applicant seeking to change the name of a BART station must first reach out to the public to garner feedback about the renaming proposal prior to submitting the Renaming Request form. These outreach efforts are entirely at the Applicant's expense. An Applicant's public outreach efforts must incorporate the process the District uses in its federally-approved Public Participation Plan (PPP). The PPP, which is available upon request, requires the District to identify whether the affected area has significant low-income, minority or limited English proficient populations. . In order for an Applicant to determine whether such

communities exist, an Applicant must receive a geographic data analysis report performed by the District. If the analysis determines the area does have significant low-income, minority or limited English proficient populations, then the Applicant must make extra efforts to reach out to those communities. (The District will provide the geographic data analysis to the Applicant around the same time it provides the Applicant with the results of the Applicant's Cost Quote request.)

The PPP provides guidelines on how to conduct a public outreach process that meets District standards. At a minimum, the community outreach process must:

1. Identify and inform all local "stakeholders" including residences, businesses and property owners within ½ mile of the station of the proposal to rename the station.
2. Work with local jurisdiction to host a series of public workshops (no fewer than 3) to take public comment on the proposed renaming. Workshops must be advertised with printed notices (with publication date) and public meetings must have sign-in sheets.
3. Secure resolution(s) endorsing the station renaming proposal from the city councils (or county boards of supervisors if station is located in an unincorporated area) of all cities/unincorporated areas affected by the name change.
4. Conduct targeted outreach to low-income, limited English proficient and minority communities (if required by the District).
5. Conclude with a Cover Letter and Public Participation Summary Report. The Cover Letter should include the reasons and justifications for changing a name, consistent with the Guiding Policy and the Key Factors. The Public Participation Summary Report should have:
 - An executive summary;
 - A detailed explanation of the process for soliciting public comment (including the process used to reach out to low-income, limited English proficient and minority communities if required)
 - Copies of meeting notices, including both posting and mailing dates (include copies of translated materials distributed)
 - Summaries of meeting presentations; Newspaper advertisements (include publication dates)
 - Sign-in sheets and handouts
 - Copies of signed resolutions and/or letters endorsing the station renaming proposal from the appropriate local jurisdictions
 - Summary of public comments

District staff reserves the right to refine this process as appropriate.

STEP THREE

C. WRITTEN REQUEST FOR STATION RENAMING REQUEST FORM: An Applicant must fill out the Renaming Request form when the Applicant is ready for the BART Board of Directors to review the Applicant's request to rename a station. An Applicant must fill out one form for each of the stations the Applicant wishes to rename. The Applicant must submit the cover letter, the PPP summary report and letters and/or resolutions endorsing the name change along with the Renaming Request form for the Committee to review.

- **DEPOSIT:** Applicant must submit a good faith deposit (Deposit) with Applicant's Renaming Request form in the amount of twenty-percent (20%) of the Cost Quote. The Deposit is fully-refundable should the BART Board of Directors deny Applicant's Renaming Request application. However, if the BART Board approves the Renaming Request, the Deposit will be fully applied to the cost to rename the station.
- **FULL PAYMENT:** Applicant shall pay the balance of the Cost Quote within one-hundred eighty (180) calendar days after the BART Board of Directors' approval of Applicant's Renaming Request or thirty (30) calendar days prior to the renaming project's scheduled start date – whichever comes first.
- **COST SHARING:** When a station name change occurs, the various signs in and around the respective station have to be changed. **Station-Specific Name Change Costs:** Among other examples, this includes the signs at the entrances to the stations, BART-maintained signs that direct people to the stations, and the signs on station platforms. With so many variations in signage design, different stations having more or fewer signs, and other unique differences, the range in station-specific renaming costs is wide. Because station signs are unique to and serve a specific station, these costs are ineligible for cost sharing. **Indirect Name Change Costs:** In addition to station signage changes at and around renamed stations, all passenger and District staff related information resources must also be changed when a station's name is changed. These resources include, but are not limited to, the system map on-board trains and at stations, online map and schedule information, various BART brochures, internal manuals and our operations control information system. Most of these costs are "indirect" in that any number of things could result in these resources needing to be updated. Examples include, but are not limited to, other stations being renamed and BART extensions being opened. For this reason, these indirect name change costs are eligible for cost sharing when a station is renamed in-parallel with another event that would result in these resources needing to be updated. **Splitting Costs:** When any two or more events by two or more agencies (including BART) trigger an update to the aforementioned passenger and District staff related information resources, the costs for

those updates can be split equally amongst the two or more agencies. If any of the two or more agencies has more than one event that triggers the update to passenger resources, the splitting of costs will be based on the number of agencies involved as opposed to the number of triggering events. For example, if one city requests a name change of two stations and another city requests a name change of one station, the indirect costs for these station name changes would be split two ways; not three ways.

Once the Committee has received the Renaming Request, the Committee will review the materials and pass its recommendation to the General Manager. The General Manager will then decide whether to forward the Renaming Request to the BART Board of Directors for consideration.

- D. PAYMENT, FEE, DEPOSIT AND FORM SUBMISSIONS:** All payments, fees and deposits must be paid in the form of a certified check or money order only and made payable to the "San Francisco Bay Area Rapid Transit District." Fees, deposits, forms and other correspondence required by the District should be sent to:

**District Secretary
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 23rd Floor
Oakland, CA 94612
510-464-6011 fax**

GUIDING POLICY FOR CONSIDERATION IN STATION RENAMING

As exemplified by the factors considered by the previous Board in the establishment of the original station names, the primary purpose of station naming is to provide users of a transit system with information in a straightforward and unified manner, in order to assist patrons in successfully navigating the transit system and the region. Therefore, the following criteria must be considered in the development and evaluation of station renaming proposals.

- **Transit System Context** – Names provide information on where the station is located within the context of the transit system. The name should significantly contribute to the transit users understanding of the station's location, and assist passengers in his or her use of the system.
- **Simplicity** – Names must be brief enough to allow for quick recognition and retention by the transit patron, and to fit within signage, operational and mapping technical parameters. Names that are brief, distinctive, easy to pronounce and understand are preferred.
- **Station Area context** – Names provide specific information as to the location of the station within the context of the surrounding area. The name should reference an area whose name has a historical basis, or is geographically significant in the area.

The continuity and permanence of station names is critical in the development and maintenance of a "user-friendly" transit system. Given the confusion that would arise with the modification of an existing station name, station renaming should not be undertaken unless the additional benefit to the transit patron or to BART clearly outweighs the inherent advantages of retaining the existing station name.

Naming or renaming stations after enterprises, private or commercial in nature, is not desirable given the changing nature of commercial names (e.g., Pacific Bell to SBC Park, Network Associates to McAfee Coliseum) and the noted desire for continuity.

All applicants shall be required to pay for staff costs to develop an estimate for station renaming. Successful applicants shall also be required to pay for all material, labor and permitting costs associated with the renaming of the station.

KEY FACTORS CONSIDERED IN ORIGINAL STATION NAMES

- Overall helpfulness to the passenger
- Informativeness
- Geographical Significance
- Brevity
- How well it sounds
- Distinctiveness
- Ease of Pronunciation
- Historical basis
- Prominence in the area
- Overall appeal

(Complete text of BART Executive Decision Document regarding Station Renaming Policy and Procedure is available upon request)