



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**CITY COUNCIL AGENDA**  
**JULY 22, 2014**

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**MAYOR BARBARA HALLIDAY**  
**MAYOR PRO TEMPORE GREG JONES**  
**COUNCIL MEMBER FRANCISCO ZERMEÑO**  
**COUNCIL MEMBER MARVIN PEIXOTO**  
**COUNCIL MEMBER AL MENDALL**  
**COUNCIL MEMBER SARA LAMNIN**  
**ONE VACANCY**

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CITY COUNCIL MEETING FOR JULY 22, 2014  
777 B STREET, HAYWARD, CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

AND  
TELECONFERENCE LOCATION  
HOTEL PUERTA DEL CAMINO C/MIGUEL FERRO CAAVEIRO  
15703 SANTIAGO DE COMPOSTELA, A CORUÑA, SPAIN  
TELEPHONE: 34 981 56 94 00

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**SPECIAL JOINT CITY COUNCIL/HOUSING AUTHORITY MEETING**  
**Council Chambers – 7:00 PM**  
**Hotel Room – 3:00 AM**

Pursuant to Government Code Section 54953 (b), this meeting will include a teleconference location at Hotel Puerta del Camino c/ Miguel Ferro Caaveiro, 15703 Santiago de Compostela, A Coruña, Spain. Council Member Zermeño will be participating via teleconference. The public will have the opportunity to address the City Council at this teleconference location pursuant to Government Code Section 54954.3. All votes during the teleconferencing session will be conducted by roll call vote. The teleconference location will be accessible to the public and the agenda will be posted at the teleconference location 72 hours before the meeting.

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

**ROLL CALL**

**PUBLIC COMMENTS**

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

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**CONSENT**

1. Authorization to Negotiate and Execute an Amendment to and Extension of Professional Services Agreement with David Paul Rosen and Associates, and Appropriation of Housing Authority Funds to Update an Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee Review and Study

[Staff Report](#)

[Attachment I Council Resolution](#)

[Attachment II HA Resolution](#)

2. Emergency Water Conservation Regulations: Authorization for City Manager to Implement Short-Term Water Conservation Actions to comply with the State Emergency Regulation for Statewide Urban Water Conservation

[Staff Report](#)

[Attachment I - Resolution](#)

3. Recommendation to enter into an agreement for the Fire Department's Fuel Reduction and Residential Chipping Program in the High Fire Area of the Hayward Hills and the Unincorporated Fairview Community

[Staff Report - Fuel Reduction Contractor](#)

[Attachment I - Resolution](#)

[Attachment II - Vicinity Map](#)

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*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*

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## **LEGISLATIVE BUSINESS**

4. Update on Appointment Process to Fill Two-Year City Council Vacancy (Report from City Clerk Lens)

[Staff Report](#)

[Attachment I Application](#)

[Attachment II Press Release](#)

[Attachment III Proof of Publication](#)

[Attachment IV Nomination Matrix](#)

[Attachment V List of Selected Applicants](#)

5. Process for Appointment of Two-Year Council Member (Report from Mayor Halliday)

[Staff Report](#)

6. Resolution Appointing a Council Member for the City of Hayward and Swearing In

[Draft Resolution](#)

## **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**

July 22, 2014



**NEXT SPECIAL MEETING – TUESDAY, JULY 29, 2014  
BOARD, COMMISSIONS, COMMITTEE, AND TASK FORCE INTERVIEWS**

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

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

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

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

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**Please visit us on:**





**DATE:** July 22, 2014

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

**FROM:** Assistant City Manager

**SUBJECT:** Authorization to Negotiate and Execute an Amendment to and Extension of Professional Services Agreement with David Paul Rosen and Associates, and Appropriation of Housing Authority Funds to Update an Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee Review and Study

**RECOMMENDATION**

That the City Council adopts the attached resolution (Attachment I) authorizing the City Manager to negotiate and execute an amendment to a Professional Services Agreement with David Paul Rosen and Associates (the “Contract”) to conduct a review and update of the City's Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee study (the “Study”) and to extend the term of the Contract.

That the Housing Authority Board adopts the attached resolution (Attachment II) authorizing the appropriation of funds from the Housing Authority operating budget in an amount not to exceed \$25,000 for the update of the Study.

**BACKGROUND**

On July 30, 2013, the City Council authorized staff to negotiate and execute a Professional Services Agreement with David Paul Rosen and Associates (“DRA”), and to appropriate Housing Authority funds to prepare an Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee Review and Study.<sup>1</sup>

DRA is one of five consultants that submitted proposals in response to a Request for Proposals (“RFP”) to hire a firm qualified to undertake the Study. DRA was selected at the conclusion of the RFP process in consideration of the firm’s qualifications and the quality of the proposal with emphasis on the firm’s experience in the area of policy and program design for affordable housing fees. Another important criterion for the selection of DRA was the firm’s exhibited understanding

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<sup>1</sup> This report is available at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2013/CCA13PDF/cca073013full.pdf>

(compared to the other proposals) of Hayward's Ordinance, affordable housing policies, and legal requirements related to similar types of studies.

The purpose of the Study to be completed by DRA was to determine the impact of market rate housing on the need for affordable housing in the City, to calculate the appropriate amount of the Affordable Housing In-Lieu Fee (the "In-Lieu Fee"), and to recommend methods of payment/meeting the obligations under the Inclusionary Housing Ordinance (the "Ordinance") consistent with the cost of different types of market rate housing units in Hayward in light of the current state of the housing and real estate market. An additional goal of the Study was to calculate the affordable housing cost differential (the subsidy or differential needed to provide market-rate housing at affordable rents or prices) and to review best practices for calculating in-lieu fees.

Staff intended to present DRA's findings, conclusions, and recommendations to Council prior to the end of 2013 when the bulk of the Study was completed. However, staff postponed the discussion of this item to allow staff and DRA more time to review the findings of the Study and to afford more opportunities to the development community to provide input regarding the Study. Staff and DRA also determined that extending the ordinance that provided temporary interim relief from certain inclusionary housing provisions (the "Relief Ordinance")<sup>2</sup> was needed to mitigate the lingering effects of the recessionary housing market.

The December 2013 extension of the Relief Ordinance by resolution was made effective until June 30, 2014 because this was staff's new timeline to bring forward the findings and recommendations of the Study. However, once again, staff postponed the discussion of the Study until the second part of 2014 in order to consider and/or incorporate any public comments regarding the City's inclusionary housing policies resulting from the legally-mandated extensive community outreach in connection with the Housing Element Update.<sup>3</sup>

## **DISCUSSION**

Staff has scheduled the discussion of the Study including a discussion about temporary or permanent modifications to the Ordinance for the Fall of this year with the goal of bringing forward an action item in connection with the Ordinance and the In-Lieu Fee before the end of 2014. This means that one year will have elapsed since the completion of the Study's deliverables by DRA. However, the real estate market, which is dynamic by nature, has noticeably changed during the last year. Case law affecting inclusionary ordinances has also evolved during the last few months. Therefore, staff and DRA have agreed on the need to update the Study to take into account current local housing market conditions, recent legal cases affecting inclusionary ordinances, and the findings of the Housing Element Update.

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2 Adopted on January 18, 2011.

3 In February, 2014, the City released a Public Review Draft of the Housing Element update (the Update). This Update has been made available throughout different City locations to provide the public the opportunity to comment on the policies and programs discussed in the Update until its certification by the State Department of Housing and Community Development. The Ordinance is one of the programs discussed in the Update – both as a resource available to address the housing needs of the residents and as a potential constraint to the development of housing.

The consultant has proposed a \$22,500 fee for the tasks necessary to conduct the update of the Study, which is an expansion of the scope of work required under the Contract. However, staff is recommending that an additional \$2,500 be appropriated (for a total appropriation of \$25,000) in order to allow for incidentals, contingencies, and staff costs necessary for the update of the Study.

Specified approvals of local government are not “projects” under the California Environmental Quality Act (CEQA). Specifically, Section 15378(b)(4) creates an exemption from CEQA for the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The funding of this Study does not involve any commitment to any specific project and will not result in a potentially significant physical impact on the environment.

### **ECONOMIC IMPACT**

Any changes to the Ordinance or Relief Ordinance will consider local residential market conditions with two goals: a) mitigating the impact of those changes on new residential construction and job creation, and b) maximizing the opportunities the Ordinance may represent for the creation of affordable housing in case the economy in general and housing construction have permanently or substantially recovered. The latter is particularly important given the significant decreases in Federal funding for affordable housing and social services and the dissolution of redevelopment agencies by the State legislature which eliminated the main source of local funding for housing affordable to low- and moderate-income households.

### **FISCAL IMPACT**

The extension of the Contract and update of the Study will not have a direct immediate fiscal impact on the City’s General Fund. It is recommended that the \$25,000 be appropriated from the Housing Authority Fund (Fund 245) for the cost of updating the Study. The additional funding allocation for this purpose will bring the total cost of the Study to \$78,000. This total includes incidentals, contingencies, staff and legal costs associated with the Study. Moneys from the Housing Authority fund are to be used to promote affordable housing opportunities for low- and moderate-income households, which is one of the primary goals of this undertaking.

### **PUBLIC CONTACT**

The hiring of DRA was the result of a publicly-advertised request for proposals (RFP) process. As mentioned earlier in this report, on July 30, 2013, the City Council authorized staff to negotiate and execute the Contract with DRA and to appropriate Housing Authority funds for the preparation of the Study. Other than today’s report to Council, no other public outreach is necessary to authorize staff to negotiate and execute an amendment and extension of the agreement.

### **NEXT STEPS**

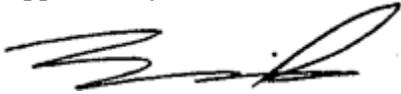
If staff’s recommendation is approved, the Consultant can start the update of the Study immediately by undertaking both local housing market research as well as stakeholder interviews. The update of

the Study itself will take up to two months to prepare. It is estimated that a draft of the updated Study can be ready by early October of 2014, and that any proposed modifications to the Ordinance, In-Lieu Fee, or Relief Ordinance can be presented to Council shortly thereafter, first in a work session and then in a regular session following Council input at the work session.

*Prepared by:* Omar Cortez, Housing Development Specialist

*Recommended by:* Kelly McAdoo, Assistant City Manager

Approved by:



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Fran David, City Manager

Attachments:

Attachment I Resolution Authorizing City Manager to Negotiate and Execute an Amendment to and Extension of a Professional Services Agreement with David Paul Rosen and Associates

Attachment II Resolution Authorizing Appropriation of \$25,000 from Housing Authority Fund (Fund 245) for Update of Inclusionary Housing Ordinance and Affordable In-lieu Fee Review and Study

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO AND EXTENSION OF PROFESSIONAL SERVICES AGREEMENT WITH DAVID PAUL ROSEN AND ASSOCIATES TO PREPARE AN UPDATE TO THE CITY’S INCLUSIONARY HOUSING ORDINANCE AND AFFORDABLE HOUSING IN-LIEU FEE STUDY

WHEREAS, the City of Hayward (the “City”) and David Paul Rosen and Associates (“Consultant”), are parties to that certain Agreement for Professional Services Between the City of Hayward and David Paul Rosen and Associates dated August 7, 2013, as amended by that certain Amendment to Agreement for Professional Services dated July 1, 2014 (collectively the “Professional Services Agreement”); and

WHEREAS, the City and Consultant desire to amend the scope of the Professional Services Agreement to expand the scope of work and allow for a review of the City's Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee study (the “Study”) and to extend the term of the Professional Services Agreement through July 31, 2015; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of this Professional Services Agreement is exempt from the requirements of the California Environmental Quality Act (“CEQA”) in that the funding of the Study it is not a project, but instead consists of the continuation of an existing governmental funding mechanism for potential future projects and programs;

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute, in consultation with the City Attorney, an amendment to and extension of the Professional Services Agreement with David Paul Rosen and Associates to prepare an update to the Inclusionary Housing Ordinance and Affordable Housing In-Lieu fee study, extend the Term to July 31, 2015, and that the cost for performance of the additional scope will not exceed \$25,000.

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

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA 14-\_\_\_\_\_

Introduced by Commissioner \_\_\_\_\_

RESOLUTION AMENDING RESOLUTION HA 14-06, AS AMENDED, THE BUDGET RESOLUTION FOR FISCAL YEAR 2014 RELATING TO AN APPROPRIATION OF FUNDS FROM THE HOUSING AUTHORITY, FUND 245.

BE IT RESOLVED by the Board of the Housing Authority of the City of Hayward that Resolution No. HA 14-06, as amended, the Budget Resolution for fiscal year 2014, is hereby further amended by approving an appropriation of \$25,000 in order to conduct a review and update of the City's Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee study from the Housing Authority Fund, Fund 245.

HAYWARD, CALIFORNIA, \_\_\_\_\_, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: AUTHORITY BOARD MEMBERS:  
CHAIR:

NOES: AUTHORITY BOARD MEMBERS:

ABSTAIN: AUTHORITY BOARD MEMBERS:

ABSENT: AUTHORITY BOARD MEMBERS:

ATTEST: \_\_\_\_\_  
Secretary of the Housing Authority  
of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel of the Housing Authority  
of the City of Hayward

**DATE:** July 22, 2014

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT:** Emergency Water Conservation Regulations: Authorization for the City Manager to Implement Short-Term Water Conservation Actions to Comply with the State Emergency Regulation for Statewide Urban Water Conservation

### **RECOMMENDATION**

That the City Council adopts the attached resolution authorizing the City Manager to implement short-term water conservation actions in order to comply with the Emergency Regulation for Statewide Urban Water Conservation, as adopted by the State Water Resources Control Board.

### **BACKGROUND**

The past three years have seen exceptionally dry conditions throughout the State, prompting the Governor to call for a 20% reduction in state-wide water use in January of this year. Since then, the State Water Resources Control Board (also known as the State Water Board) has determined that insufficient progress has been made throughout the State towards reducing water consumption during the drought. On July 15, 2014, the State Water Board adopted the Emergency Regulation for Statewide Urban Water Conservation, which requires, among other provisions, that urban water agencies mandate certain water use prohibitions, including irrigation practices that result in water flowing onto adjacent properties, sidewalks, non-irrigated areas, roadways and parking lots.

The City is required, through the Urban Water Management Planning Act, to prepare a Water Shortage Contingency Plan (WSCP) to identify specific actions that would be taken in the event of a drought or catastrophic event. The City's WSCP, contained in the City's Urban Water Management Plan, includes four water shortage stages, each of which specifies increasingly stringent actions and water use prohibitions. The current Urban Water Management Plan was, adopted by the City Council in June 2011 after a required public hearing. In essence, the Emergency Water Conservation Regulations require agencies to implement all of the actions within the WSCP stage at which mandatory irrigation restrictions are triggered.

### **DISCUSSION**

The City's Stage I actions are all voluntary in that customers are encouraged to not engage in wasteful activities. There are no consequences for non-compliance. Thus, Stage I, in its current form, does not meet the State requirements. Stage II actions are mandatory, and therefore more

clearly meet the State requirements. However, this stage also includes water allocations to customers and penalties for exceeding those allocations, which are actions generally implemented when the City is under mandatory rationing requirement from its wholesale supplier and subject to excess use charges. Since the State requires that all actions within a stage be implemented, Stage II is problematic as well.

After reviewing the Water Board's directive and the City's WSCP, staff believes that the most effective and appropriate means of complying with the State Regulation is to amend the WSCP Stage I provisions, following consideration by the City Council at a setting where public input can be received. It is envisioned that some of existing voluntary actions, such as installing water-saving devices and running only full loads of laundry, remain voluntary. These types of activities are generally done indoors and cannot be enforced. There are, however, a number of actions, such as prohibitions on washing sidewalks and overwatering, which are more visible and could be mandatory. Staff requests an opportunity to carefully review the Stage I actions and develop proposed revisions that would result in a more robust WSCP that also meets the Water Board requirements.

Timing is an issue because the Water Board has directed water agencies to implement the Regulation by August 1. Failure to do so may result in substantial fines or referral to the State Attorney General's Office. Since the Council will not be conducting public hearings until September, after the August recess, staff has reviewed options for complying with the Water Board's mandate in a timely manner, while allowing an opportunity for future public input and City Council discussion and action.

It should be noted that implementation of any stage of the Water Shortage Contingency Plan, regardless of whether it is amended, has typically been subject to a public hearing and the required public noticing. Therefore, even if no changes were proposed to the Stage I actions, there is insufficient time for the City Council to act on the Water Board's requirements prior to the August recess.

Staff proposes that the City Manager be authorized to administratively revise the Stage I provisions on an interim basis, consistent with the newly issued State Water Board regulations and implement the Stage I actions effective August 1. The item will then be placed on a City Council agenda in September to receive comments and request Council consideration of the proposed amendments. All interim amendments will be along the lines discussed in this report. Staff will inform the City Council of the interim mandatory and voluntary water conservation actions.

This action is exempt from CEQA pursuant to CEQA Guidelines Sections 15269(c) relating to actions necessary to prevent or mitigate an emergency and 15307 relating to actions by regulatory agencies for protection of natural resources.

## **ECONOMIC IMPACT**

While staff has not fully evaluated the economic impact of the State Water Board's actions, the restrictions do not appear to be onerous and should cause minimal, if any, economic hardship. The same would be true of any revisions to the WSCP Stage I provisions.

## **FISCAL IMPACT**

Staff has also not determined the fiscal impact of the State Water Board's actions, but it is not anticipated to be significant. Some staff time will be needed to prepare the recommended amendments and enforcement strategies. This effort will be funded by the Water Enterprise and therefore has no impact on the General Fund.

## **PUBLIC CONTACT**

While no specific public contact was initiated related to the recommended action, there has been considerable media coverage of the Water Board's decision and requirements. Staff will be implementing additional outreach, including updates to the City's website and social media, and utilizing Access Hayward to receive reports of water wasting activities.

All noticing requirements for a public hearing related to this item would be implemented at the appropriate time.

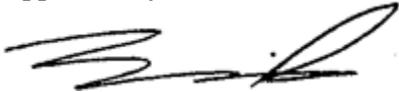
## **NEXT STEPS**

If approved, staff will prepare interim amendments to the WSCP Stage I actions and implement them on August 1. The item will be scheduled in September to allow the City Council to consider the amendments on a permanent basis.

*Prepared by:* Marilyn Mosher, Administrative Analyst III

*Recommended by:* Alex Ameri, Director of Utilities and Environmental Services

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Draft Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

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

RESOLUTION AUTHORIZING THE CITY MANAGER  
TO IMPLEMENT SHORT-TERM WATER CONSERVATION ACTIONS  
TO COMPLY WITH THE STATE WATER RESOURCES CONTROL BOARD'S  
EMERGENCY REGULATION FOR STATEWIDE URBAN WATER CONSERVATION

WHEREAS, continued drought conditions have prompted the State Water Resources Control Board to adopt an Emergency Regulation for Statewide Urban Water Conservation ("Regulation"); and

WHEREAS, the Regulation requires urban water suppliers to implement certain mandatory water use restrictions on or before August 1, 2014, or be subject to fines or referral to the Attorney General's Office; and

WHEREAS, there is insufficient time to prepare for and conduct a public hearing related to implementation of mandatory water conservation actions prior to the City Council's August recess; and

WHEREAS, a public meeting will be scheduled in September 2014 to consider implementation of water use restrictions, and the City Council will have an opportunity to receive public comments; and

WHEREAS, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15269(c) relating to actions necessary to prevent or mitigate an emergency and 15307 relating to actions by regulatory agencies for protection of natural resources.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized to implement interim water conservation actions in a manner to be in conformance with all requirements of the newly promulgated Emergency Regulation for Statewide Urban Water Conservation.

IN COUNCIL, HAYWARD, CALIFORNIA , 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

APPROVED AS TO FORM:

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

**DATE:** July 22, 2014

**TO:** Mayor and City Council

**FROM:** Fire Chief Garrett Contreras

**SUBJECT:** Recommendation to enter into an agreement for the Fire Department's Fuel Reduction and Residential Chipping Program in the High Fire Area of the Hayward Hills and the Unincorporated Fairview Community.

### **RECOMMENDATION**

That City Council adopts the attached resolution (Attachment I) authorizing the City Manager to enter into an agreement for services with Pacheco Brothers Gardening Inc., as sole provider for the Fire Department's Fuel Reduction and Residential Chipping program in the high fire area of the Hayward Hills and the Unincorporated Fairview Community.

### **BACKGROUND**

Since 2010 the City has been receiving grant funds to improve wildfire safety in the Ward Creek and Ziele Creek drainage areas (Attachment II). The grant has been administered by the Fire Department and funded through the National Fire Plan grant from the Cooperative Fire Program of the U.S. Forest Service, Dept. of Agriculture and the Pacific Southwest Region, through the California Fire Safe Council.

These funds have provided for the reduction of fuels and a fuel chipping program for the citizens of Hayward and the Fairview Community. Since the start of the program, over fifty-five acres have had fire fuels reduced.

The City has been awarded an additional \$65,000 in grant funds from Pacific Gas and Electric's – Response to Emergency Drought Conditions- Fire Fuels Reduction program (\$25,000 for the chipping program and \$40,000 for the fuel reduction). The funds from this program must be used by October 31, 2014.

### **DISCUSSION**

Project Location: The Fire Department is planning to use these funds to augment and to continue the fuel reduction program at identified target locations and the no-cost residential chipping service for homeowners located in the High Fire Areas of the City of Hayward and the adjacent unincorporated community of Fairview.

The target locations include, but are not limited to- Campus Dr. between Oakes and Highland Blvd., Ziele Creek Drainage from Skyline to Ziele Creek Drive, the Emergency Vehicle Access road off of Fox Hollow, Randall/Medeiros Rds. and the Hansen Rd. corridor. All locations are identified as evacuation routes or are adjacent to multiple single family structures.

Contractor Selection: From the inception of the program, a competitive bid process was completed. Two vendors submitted bids for the project, Pacheco Brothers Gardening Inc., from Hayward and Cuevas Landscaping from San Jose. Both vendors were selected and have completed numerous projects within the targeted area. These projects were small work orders that covered several sites within the targeted area.

With the amount of funds available and a completion deadline imminent, staff is requesting that Pacheco Brothers Gardening Inc. be awarded the entire project. This will allow quick implementation, easy coordination as they are locally located, and have proven to fully understand the program mission with a reliable and rapid response to program needs.

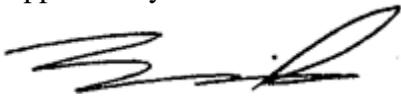
### **FISCAL IMPACT**

There is no direct cost associated between the City of Hayward and Pacheco Brothers Gardening Inc. All funding for services provided will be funded through the PG&E project award of \$65,000.

The U.S. Forest Service grant funds, for which this PG&E is an augmentation, require a 50% cost share/match (“dollar for dollar”). There is \$60,000 remaining from the Federal grant to use for consultation, outreach, training, planning, supplies and any contractual agreements. The match from the City comes from personnel hours worked and from the PG&E project award.

*Prepared and Recommended by:* Garrett. Contreras, Fire Chief

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Vicinity Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 14 -

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR SERVICES WITH PACHECO BROTHERS GARDENING INC., AS SOLE PROVIDER FOR THE FIRE DEPARTMENTS FUEL REDUCTION AND RESIDENTIAL CHIPPING PROGRAM IN THE HIGH FIRE AREA OF THE HAYWARD HILLS AND THE UNINCORPORATED FAIRVIEW COMMUNITY.

WHEREAS, the City of Hayward and the Fire Department have secured grant funds through the National Fire Plan grant from the Cooperative Fire Program of the U.S. Forest Service, Dept. of Agriculture and the Pacific Southwest Region, through the California Fire Safe Council and from Pacific Gas and Electric’s – Response to Emergency Drought Conditions- Fire Fuels Reduction program for the Fuel Reduction and Residential Chipping program; and

WHEREAS, the field work for the grant funds received by PG&E need to be spent by October 31, 2014, and the federal grant funds need to be spent by February 25, 2015

WHEREAS, through a past formal bid process and work orders there is sufficient history that Pacheco Brothers Gardening Inc., can accommodate our immediate needs of the no-cost chipping service program and fuel reduction projects.

WHEREAS, the City and the Fire Department through the grant program have been actively reducing the fire danger threat in the high danger area since 2010; and

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized and directed to execute a contract of services to Pacheco Brothers Gardening Inc., as the sole provider for the Fire Department’s Fuel Reduction and Chipping program in the high fire area of the City of Hayward and the Fairview Community.

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



### Vicinity Map

Hayward Fire Department,  
Ziele Creek Canyon Community Defensible Space 13USFS-SFA0091  
San Francisco Quadrangle, 1978. Scale: 1:100,000



North

ESAN

**DATE:** July 22, 2014  
**TO:** Mayor and City Council  
**FROM:** City Clerk  
**SUBJECT:** Update on Appointment Process to Fill Two-Year City Council Vacancy

### **RECOMMENDATION**

That Council receives and reviews applications received from eighteen qualified individuals interested in appointment to the two-year vacant City Council seat; proceeds to interview these candidates per the previously approved process and timeline; and that if the interview process is not successful, Council directs the City Manager and City Clerk to proceed with the Special Election as called for on July 8, 2014.

### **BACKGROUND**

At the July 8, 2014 City Council meeting, the Council approved a process for filling a two-year City Council vacancy created when Ms. Halliday was elected Mayor and sworn into office on July 8, 2014.

Applications for the City Council vacancy were made available beginning July 9, 2014, at City Hall and on the City's web site. A press release announcing the vacancy and information on the application process was issued on July 9, 2014, and a Public Notice was published in the Hayward Daily Review on July 11, 2014. The vacancy message was also displayed at the Clear Channel and Southland boards.

The application period closed at noon on July 16, 2014, and eighteen qualified applications were received by the deadline. Applications were received from: Cheryl Butler-Adams, Daniel daSilva, Shaun English, Valarie Evans, Ryan Fernandez, Faryal Habib, Austin Intal, Fahim Khan, Rodney Loché, Elisa Márquez, Charlie Peters, Theresa Reyes, Mark Salinas, Manny Sawit, Brian Schott, Thuy Tran, Vishal Trivedi, and Virginia Williamson.

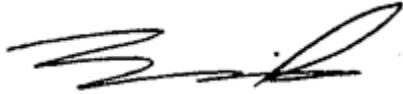
Copies of the applications were forwarded to the City Council for review and were available for public review upon request in the Office of the City Clerk.

As part of the appointment process approved on July 8, 2014, each Council Member selected up to five applicants and individually notified their selections to the City Clerk by noon on July 18, 2014.

The City Clerk tallied the choices using a matrix. (Attachment IV). The applicants who received three or more votes from the Council were invited on July 18, 2014, to attend the July 22, 2014 Special City Council meeting for an interview with the Council.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



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Fran David, City Manager

Attachments:

- Attachment I City Council Vacancy Application
- Attachment II Press Release
- Attachment III Proof of Publication in the Daily Review
- Attachment IV Nomination Matrix
- Attachment V List of Selected Applicants



**APPLICATION**  
**For Appointment to Fill a Two-Year Term Vacancy on the**  
**HAYWARD CITY COUNCIL**

This application will be forwarded to the City Council for consideration to fill the vacancy for the term ending June 2016.

**For Official Use**  
Resident of Incorporated Hayward Yes \_\_\_ No \_\_\_  
Registered Voter Yes \_\_\_ No \_\_\_

Please type or print

Name  Mr.  Ms. \_\_\_\_\_  
*Last First Middle Initial*

Home Address \_\_\_\_\_  
*Address City Zip*

Home Phone ( ) \_\_\_\_\_ Cell Phone ( ) \_\_\_\_\_

Work/Alternate Phone ( ) \_\_\_\_\_ Email \_\_\_\_\_

**Current Employment Information**

Employer: \_\_\_\_\_

Address: \_\_\_\_\_

Position: \_\_\_\_\_ Dates of Employment: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Questionnaire**

(A separate sheet may be attached)

Describe your education, training, and/or any special certifications relevant to serving on the City Council:

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Explain why you want to be appointed to the City Council and what your goals for the two years will be if you are selected:

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List any previous City of Hayward Board, Commission, or Committee on which you have served; and any other relevant Hayward community service in which you have been involved or are currently involved:

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Briefly, please provide information on any additional relevant experience you believe supports your qualifications for this appointment:

Five horizontal lines for providing additional relevant experience.

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed. I am also aware that this application is a public document. If appointed, I will file the necessary disclosure documents as required under the Political Reform Act.  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Please return your application by **noon on Wednesday, July 16, 2014** to:

**Miriam Lens, City Clerk**  
**City of Hayward**  
**777 B Street, 4<sup>th</sup> Floor, Hayward, CA 94541**  
[Miriam.lens@hayward-ca.gov](mailto:Miriam.lens@hayward-ca.gov)  
**(510) 583-4401**

No application will be accepted after the deadline.



## FOR IMMEDIATE RELEASE

**Date: 7/9/14**

**Media Contact:**

Miriam Lens

Hayward City Clerk

510.583.4400

Miriam.Lens@hayward-ca.gov

### NOTICE OF VACANCY ON THE CITY COUNCIL OF THE CITY OF HAYWARD

**(HAYWARD, CA)** – The City of Hayward will be accepting applications for potential candidates to fill the remaining two years of former Council Member Barbara Halliday’s term. The vacancy was created when Halliday was elected Mayor and sworn into office on Tuesday, July 8, 2014.

Applicants must be residents of incorporated Hayward and qualified electors of the City of Hayward. The term of the appointment will expire subsequent to the certification of the canvass of the General Municipal Election in 2016, and assumption of the office of Council Member by the duly elected candidate.

All interested applicants must complete an application which is available from the Office of the City Clerk, 777 B Street, Hayward, or online at [www.hayward-ca.gov](http://www.hayward-ca.gov)

The office is open Monday through Friday, 8:00 a.m. to 5:00 p.m. All completed applications must be filed in the Office of the City Clerk by noon, Wednesday, July 16, 2014. No application will be accepted without a completed questionnaire or after the deadline.

The applications received will be screened by the members of the City Council. Those candidates selected from the screening process will be scheduled for an interview at a Council meeting on July 22, 2014. The City Council may appoint the new Council Member at the end of this meeting.

For further information, please call the City Clerk at (510) 583-4400.

###

# Daily Review

c/o Bay Area News Group-East Bay  
22533 Foothill Blvd.  
Hayward, CA 94541  
Legal Advertising  
(800) 595-9595 opt. 4

HAYWARD, CITY OF/CITY CLERK  
MIRIAM LENS, 777 B ST.  
HAYWARD CA 94541

## PROOF OF PUBLICATION

FILE NO. Vacancy/Election

In the matter of

Daily Review

The Daily Review

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Daily Review, a newspaper published in the English language in the City of Hayward, County of Alameda, State of California.

I declare that the Daily Review is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's decree, dated March 2, 1950, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Daily Review as a Newspaper of General Circulation, case number 221938. Said decree states that "'The Daily Review' has been established, printed, and published daily in the City of Hayward, County of Alameda, State of California, for one year or more next preceding the date of the filing of said petition; that it is a newspaper published for the dissemination of local and telegraphic news and intelligence of a general character and has a bona fide subscription list of paying subscribers; ... [ ] [and] THEREFORE, ... 'The Daily Review' is hereby determined and declared to be a newspaper of general circulation [within the meaning of Government Code §§ 6000 et seq.]" Said decree has not been revoked, vacated or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

7/11/2014

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: July 14, 2014

  
Public Notice Advertising Clerk

07/16/14 10:25 CLK

ATTACHMENT III

Legal No.

0005237539

### NOTICE OF VACANCY ON THE CITY COUNCIL OF THE CITY OF HAYWARD

NOTICE IS HEREBY GIVEN that the City Council of the City of Hayward will be accepting applications for potential candidates to fill a two-year term vacancy created by the election of Mayor Halliday.

Applicants must be residents of incorporated Hayward and qualified electors of the City of Hayward. The term of the appointment will expire subsequent to the certification of the canvass of the General Municipal Election in 2016, and assumption of the office of Council Member by the duly elected candidate.

All interested applicants must complete an application which is available from the Office of the City Clerk, 777 B Street, Hayward. The office is open Monday through Friday, 8:00 a.m. to 5:00 p.m. All completed applications must be filed in the Office of the City Clerk by noon, Wednesday, July 16, 2014. No application will be accepted without a completed questionnaire or after the deadline.

The applications received will be screened by the members of the City Council. Those candidates selected from the screening process will be scheduled for an interview at a Council meeting on July 22, 2014. The City Council may appoint the new Council Member at the end of this meeting.

For further information, please call the City Clerk at (510) 583-4400.

Dated: July 11, 2014  
Miriam Lens, City Clerk  
City of Hayward

### CITY OF HAYWARD CALL AND NOTICE OF SPECIAL MUNICIPAL ELECTION

NOTICE IS HEREBY GIVEN that a Special Municipal Election will be held in the City of Hayward on Tuesday, November 4, 2014, to fill the following vacancy created by the election of Mayor Halliday:

Member of the City Council (two-year term)

The nomination period for this office begins on July 14, 2014 and closes on August 8, 2014, at 5:00 p.m.

Nomination information can be obtained in the Office of the City Clerk, 777 B Street, Hayward, California, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or by calling (510) 583-4400.

The polls will be open between the hours of 7:00 a.m. to 8:00 p.m. on Election Day.

If the City Council successfully fills the two-year term vacancy by appointment, there will not be a special election to fill such vacancy. For more information, please call (510) 583-4400.

DATED: July 11, 2014  
Miriam Lens, City Clerk  
City of Hayward

DR #5237539; July 11, 2014



## OFFICE OF THE CITY CLERK

NOMINATION MATRIX							
CANDIDATES	ZERMEÑO	MENDALL	JONES	PEIXOTO	LAMNIN	HALLIDAY	VOTES
Butler-Adams, Cheryl							0
daSilva, Daniel							0
English, Shaun							0
Evans, Valarie		1				1	2
Fernandez, Ryan “Rocky”	1				1		2
Habib, Faryal							0
Intal, Austin							0
Khan, Fahim							0
<b>Loché, Rodney</b>	1	1	1	1		1	<b>5</b>
<b>Márquez, Elisa</b>	1	1	1	1	1	1	<b>6</b>
Peters, Charlie							0
Reyes, Theresa							0
<b>Salinas, Mark</b>		1	1	1	1	1	<b>5</b>
Sawit, Manny (Mariano)							0
<b>Schott, Brian</b>			1	1	1		<b>3</b>
Tran, Thuy							0
<b>Trivedi, Vishal</b>	1	1	1	1	1	1	<b>6</b>
Williamson, Virginia							0



**OFFICE OF THE CITY CLERK**

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**INTERVIEW SCHEDULE  
For Appointment to Fill a Two-Year Term Vacancy on the  
Hayward City Council  
July 22, 2014**

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**Márquez, Elisa**

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**Loché, Rodney**

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**Schott, Brian**

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**Salinas, Mark**

---

**Trivedi, Vishal**

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**DATE:** July 22, 2014  
**TO:** City Council  
**FROM:** Mayor  
**SUBJECT:** Process for Appointment of Two-Year Council Member

### **RECOMMENDATION**

That Council approves and implements the process described herein for filling the vacant, unexpired term of Council Member currently open.

### **BACKGROUND**

The recent June 3, 2014 General Municipal Election encompassed two races for vacancies for positions on the Hayward City Council: Mayor and Council Member. Council Member Barbara Halliday ran for Mayor and won the election. Ms. Halliday took her seat as Mayor effective July 8, 2014, creating a two-year vacancy on the Council, as Ms. Halliday's term as Council Member runs from July 10, 2012 through the date the next Council is seated in early July 2016.

Section 501 of the Charter of the City of Hayward ("Vacancy in Elective Office") provides guidance when an elective office becomes vacant: "*A vacancy in an elective office shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next General Municipal Election and until his successor is elected and qualified. At the next General Municipal Election following any such appointment, the person so elected shall serve for the remainder of any unexpired term.*

*No appointment to fill a vacancy in an elective office shall be made during such time prior to a General Municipal Election that nomination papers may be filed for candidates seeking office at said election.*

*In the event that Council shall fail to fill a vacancy by appointment within thirty days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy. (AMENDED: STATS. 1964 CH. 41)"*

Council last experienced the need to engage in a similar process in 2006 upon the untimely death of Council Member Matt Jimenez shortly after his election to the City Council: a link to that report can be found [here](#). On June 10, 2014, staff presented a report to Council on a draft timeline for this process and a general outline of options. Council directed staff to return with a specific

recommended process at this meeting: a link to that report can be found [here](#). Council further suggested that the process be based on that used successfully in 2006.

On July 8, Council took action to define, agree upon, and approve a process for filling the unexpired term; and called for a Special Election if the appointment process is unsuccessful. That report can be accessed [here](#), along with a revised timeline, which was presented to Council at the meeting, and which can be found [here](#). The resolution calling for the Special Election can be found [here](#). The July 8 Council report also included a draft application that Council approved for use in the process of soliciting applicants for consideration by Council, which can be found [here](#).

## **DISCUSSION**

Per the direction established by Council, the City Clerk properly noticed the Special Election and solicited applications for Council to interview and consider for appointment to the unexpired term. Twenty applications were received by the deadline of noon on Wednesday, July 15, 2014. Eighteen of those were certified as eligible by the Clerk. Those applications and the outcome of the Clerk's process is presented in a separate report to Council included for tonight's meeting as Agenda Item #4.

Based on Council's comments at the July 8, 2014 Council meeting and subsequent discussion with staff, the following process is being recommended for Council's use in considering the applicants for appointment to the vacant two-year term:

### *TIMING AND APPLICANT MANAGEMENT*

1. 30 minutes total – each applicant. The City Clerk will manage the timer accordingly
  - a. 3 minutes – each applicant makes a presentation to Council as to why they want the position and why they are the best qualified candidate
  - b. 25 minutes – Council asks questions after the applicant's opening remarks and allows candidate to respond
  - c. 2 minutes – the applicant makes closing remarks
2. Applicants will be present in the Chambers during Public Comment and as Council publically explains the process and format. They will then be escorted into Room 2B (Closed Session room) until they make their appearance before Council for the individual interview. Applicants will not be allowed to use any cellphones or other “smart technology” in Room 2B while waiting their turn to interview: a staff person from the Clerk's Office will be in the room with the applicants; and another member of the Clerk's staff will escort applicants into Chambers at their scheduled times. Applicants will be allowed to remain in Chambers after they complete their interview.
3. The entire process will be televised as usual on KHRT as a regular Council meeting.

## *INTERVIEW FORMAT AND QUESTIONS*

4. Council will have copies of applicant's completed applications at the dais for their reference; Council Member Zermeño will have his by email.
5. There will be no set, pre-established questions. Rather, the Mayor will allow each Council Member to ask one question of each applicant if they choose. Follow-up questions by Council Members will be allotted according to the above timing format and at the discretion of the Chair.
6. The Mayor will manage the starting order of questions with each candidate, rotating among Members, including Council Member Zermeño.

## *OTHER*

Council Member Zermeño will be teleconferenced into the meeting. The City Clerk is assuring all proper noticing of the meeting at his location in Spain.

## **PUBLIC CONTACT**

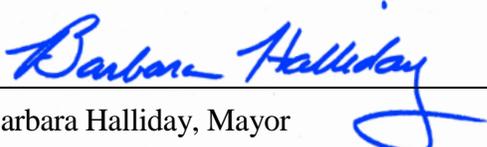
The City Clerk issued a "Notice of Vacancy on the City Council of the City of Hayward" and a press release on July 9, 2014, and also published a Notice in the Daily Review on July 11, 2014. Staff utilized all available social media to publicize the appointment opportunity, including electronic billboards.

## **NEXT STEPS**

This process will be used by Council to interview applicants for the two-year, unexpired Council seat, and to possibly select one applicant to appoint to the vacant seat. If the appointment process is unsuccessful, Council will confirm the need for a Special Election consolidated with the November General Election and direct the City Clerk to proceed accordingly.

*Prepared by:* Fran David, City Manger

Approved by:

  
\_\_\_\_\_  
Barbara Halliday, Mayor

Cc Michael Lawson, City Attorney  
Miriam Lens, City Clerk

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member

RESOLUTION APPOINTING \_\_\_\_\_  
AS COUNCIL MEMBER FOR THE CITY OF HAYWARD

BE IT RESOLVED that the City Council of the City of Hayward hereby appoints \_\_\_\_\_ as Council Member, to serve for the remaining term of Barbara Halliday. The term of appointment will expire subsequent to the certification of the canvass of the General Municipal Election to held in June 2016, and assumption of the office of Council Member by the duly elected candidate unless otherwise designated.

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