



**MINUTES OF MEETING OF THE CITY COUNCIL  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, July 15, 2003, 8:00 p.m.**

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**MEETING**

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Henson.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,  
Rodriquez, Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: None

**PRESENTATION: Pride in Hayward**

The Pride in Hayward Award Recipients for July 2003 were residents from the Tennyson Alquire Neighborhood. They included Ronald and Rosanne Bogue, Euselio and Emelinda Patron, Rajesh and Lisa Prasadi, Sainesh and Shobna Kimar, and Ali Feroza. Mayor Cooper thanked them all for helping to make Hayward and their neighborhood a more beautiful place.

**PUBLIC COMMENTS**

Alan Lyvere, a member of the California Air National Guard at the Hayward Executive Airport, commented on the City's determination not to renew the lease after fifty years. He has been involved for the past 18 years and described the assistance provided to the city during past emergencies. He cautioned that there could be some serious ramifications should emergencies occur. He concluded that there are currently 50 full time employees that work at this site.

Mayor Cooper asked that staff respond and provide information in its weekly report.

Don Wiggam reported that he sent an email to related to noise from overflights in his neighborhood. He asked that Council Member Ward urge the Port of Oakland to eliminate overflights path over residential areas, and request immediate resolution to noise.

Council Member Ward, who represents the City at the Oakland Airport Community Airport Management Forum, acknowledged receipt of the email and intends to present this issue at the next meeting.

Francisco Abrantes commented on the prices of homes in the downtown.

Jason Moreno made an announcement of a meeting of the Hayward Alliance and that Circus

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Vargas will be at the Southland Mall this week.

Barbara Swarr commented on parks. She discussed her family property values in comparison to what the developers could realize that was reported last week as nine percent.

## CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 8, 2003

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 8, 2003.

2. Adoption of Ordinance Related to Zone Change No. PL-2003-0101

Staff report submitted by City Clerk Reyes, dated July 15, 2003, was filed.

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

Ordinance 03-10, "An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Changing the Zoning from CO (Office Commercial) to CN (Neighborhood Commercial) pursuant to Zone Change Application No. 2003-0101 "

3. Hayward Medical Center Refinancing Approval

Staff report submitted by Neighborhood and Economic Development Manager Bauman, dated July 15, 2003, was filed.

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

Resolution 03-111, "Resolution Approving Issuance of Bonds by the California Statewide Communities Development Authority for a Local Kaiser Project"

4. Agreement with St. Rose Hospital for Health Insurance Outreach Services

Staff report submitted by Social Services Planning Manager Korth, dated July 15, 2003, was filed.



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

Resolution 03-112, "Resolution Authorizing the City Manager to Execute an Agreement with St. Rose Hospital"

## **HEARINGS**

5. Mission-Garin Annexation Study - General Plan Amendments, Rezonings and Prezonings, Approval of Plan for Provision of Municipal Services, Approval of Revenue-Sharing Agreement, and Adoption of Resolution on Application for Annexation

Staff report submitted by Senior Planner Calame, dated July 15, 2003, was filed.

Senior Planner Calame presented the report relating to the annexation study that involved included approximately four hundred twenty-six acres, of which two hundred forty-four acres are situated in the unincorporated area of the county. He emphasized that the study was a program level study and not to evaluate specific projects and included a number of community meetings for citizen input. He enumerated that five land use alternatives were originally prepared for the study area. Potential impacts of these alternatives were in the draft program environmental impact report (EIR). He summarized the development and design objectives to include focus housing close to transit corridors; provide for delivery of public services; avoid development near hazardous areas and protect sensitive areas and preserve hillsides and ridgelines as visual open space resources. He reviewed the staff recommendations. Lastly, if the annexation is approved, an appropriate ordinance would need to be adopted relative to the administration and enforcement of the Service Mining and Reclamation Act as it pertains to the La Vista Quarry.

Council Member Jimenez referred to the report and commented that new residents would increase sales tax revenues.

Council Member Dowling asked about the school impacts by the proposed housing. He noted that from information provided to him, most of the elementary schools are over capacity. He asked if the district responded. He asked about the Bodega Street alignment and whether the Alquire extension would cross the area on the fault. In reference to the special district, in particular #10 of the standards, he expressed his concerns that the special district did not also include some type of screening on the upper part of the homes so as not to be visible from the flat lands.

Senior Planner Calame reported that he asked school district staff, but did not receive input.

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Regarding the private road, Bodega Street, staff noted that currently there are no final determinations on the alignment or re-alignment of the private road, Bodega Street. Extensions could occur at Tennyson Road or at Alquire Parkway.

In response to the special district concerns, staff indicated that #10 and #11 in the standards are included to allow for screening of lower portions of the buildings that have exposed piers and that the upper portion of the homes would be situated to allow for a bay view.

Council Member Ward also spoke on potential negative visual impacts to the flat lands. He asked how the condition would be monitored. Senior Planner Calame responded that the City's tree preservation ordinance would be enforced to safeguard the trees.

Council Member Ward asked whether the geotechnical issues have been resolved to staff's satisfaction. City Manager Armas stated that currently there are no outstanding questions.

Council Member Ward asked staff if there was consideration to allow housing on the quarry site, how would services be provided and what are the options in respect to water.

Public Works Director Butler responded that it would require an extension of Tennyson Road to provide access into that area as well as connect a roadway from Alquire to Tennyson. The site is too far north to be served by the Garin water tank to insure good water quality. It would require a new water system, pump station, tank and supply lines to serve the quarry area.

Council Member Ward inquired on the school impact fees and the inclusionary housing fees for the as alternative. In response it was noted that 15% of the greatest amount of units and the fee is \$80,000 per unit.

Council Member Ward asked what additional environmental studies and CEQA evaluations need to be completed upon approval of this study. Senior Planner Calame reported that further environmental work would be required for specific sites and perhaps additional focused traffic studies.

Council Member Ward asked if quarry development were approved could visual impacts be eliminated or sufficiently minimized from the flatlands. Senior Planner Calame referred to the simulations submitted in the report, which were based on possible proposals from the developers.

Council Member Henson asked for the proposed infrastructure improvements. Senior Planner Calame responded that current existing conditions will need to be modified as recommended including improving the land use pattern, extending Alquire Parkway, realigning Bodega Street, and accessing the Ersted by extending Tennyson Road or the quarry haul road. In regards to water it is in the benefit district for the Garin Reservoir and the majority of the Ersted property development may be served from the existing water system on Mission Boulevard. Public Works Director Butler indicated that sanitary sewer needs could be serviced by the Mission Boulevard sewer system with improvements to the lower interceptors.



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Council Member Henson significant improvements at Mission, Industrial, and Alquire. He asked staff if conditions could be placed on developers to require landscaping to reduce visual impacts. He also asked for the rationale to the 200-foot elevation limit.

Senior Planner Calame responded that it was recommend the by residents who favor an Alternative E, but also coincidentally the 200-foot elevation contour tends to run very generally parallel to the Hayward fault.

Council Member Henson asked about development in the quarry or quarry "bowl." He noted that there are higher areas than the quarry bowl. He noted that this plan would not be possible without the annexation. Lastly, he asked about the tax exchange that maintains the ratios.

Council Member Jimenez commended Senior Planner Calame for his tenacity. He asked about #14 of the development standards and design guidelines in Exhibit C. He asked for an example of the midpoint. Senior Planner Calame stated that if an area is zoned for medium density the density range would be between fifty and one hundred percent.

Council Member Hilson stated that staff has made a good effort to identify all of the issues for this study. His main concern was the location of the earthquake fault and the proposed development near that fault. He asked about state rules. He commented on displacement depths and asked if the report provides any assurances that structures will withstand displacement.

Senior Planner Calame State law states that no habitable structure can be situated within fifty feet of the known fault trace. The earthquake fault zone boundary extends more on either side of the fault trace. Its purpose is to indicate when geotechnical studies must be done.

Director of Public Works Butler commented on the requirements of the Alquist Preito Act and stated that its purpose is to require detailed studies of the property within the zone identified to assure that no structure is built on active traces of a fault. He commented on the issue of ground shaking that is better addressed in the building codes. He also noted that the building code addresses life-safety issues not building damage. The quarry is primarily rock and would be less likely to have liquefaction issues. He discussed the issues related to good water quality.

Council Member Rodriguez thanked the staff for the study and noted that mitigation has covered practically everything. She asked about the habitat issue related to the frog and the whip snake. She also discussed the elevations of homes in relation to the preservation of views.

Senior Planner Calame more sites specific studies will require additional input from other agencies when individual sites are developed whereas this study only provides a program level.

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City Manager Armas reiterated that there are no regulations at this time to preserve view sheds.

Council Member Jimenez asked what the Tomanek property would be zoned. It was noted that would be zoned the same as the surrounding properties.

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

Jim Moita, representing his mother who resides on Bodega Street, also spoke on behalf of the property owners on that street. He asked for parity in density that allows 3,500 square feet per unit. If the staff recommendation is approved, the property owners may need to band together and request a separate inhabited annexation from LAFCO.

Peter Ruggeri, consultant for the developers, used an aerial diagram to point out the property to be developed. He stated that the Alquire extension would allow access to the properties as well as access roads. He showed a close-up of the Bodega street area and stated that the developer will provide a new access to Bodega as well as provide water and sewer utilities, proper drainage, and pave the private street.

Council Member Henson asked about seismic mitigations and standards related to roads and their construction. Mr. Ruggeri made recommendations on the use of flexible materials for utilities.

Council Member Ward asked whether the residents were receptive to these amenities that would be provided to them by the developers.

City Manager Armas reported that he had two meetings with the residents, who thought it was a generous offer, but as stated by a previous speaker, the property owners would also like some other considerations.

Scott Raty, on behalf of the Chamber of Commerce, spoke in favor of development and the community amenities it would bring to Hayward. He urged the Council to allow development in the quarry.

William Burnside, a member of the first Mission-Garin Task Force, provided a historical perspective of the results of this effort and spoke against building on the hillsides. He did not agree that housing could be built then covered by landscaping. He commended Kendra Mendall for her submittal to the Daily Review related to this issue and read from her comments.

Evelyn Cormier, speaking on behalf of the Hayward Area Planning Association, thanked the staff for an excellent study and thanked the Council for allowing community input. She expressed that the best solution for this area is Alternative E of the proposal.

Dean Neilsen indicated that he has an option for the Cuevas property. He spoke in favor of placing a reasonable number of units on that property and agreed that views should be protected. He reported that development on this property would not visually impact the hills.



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Al Mendall stated that he was a member of the neighborhood group that provided information to recommend Alternative E. He gave five primary reasons for the 200-foot limit. Homes built less under that limit would be slightly visible. Secondly, the slope of the hillside increases and could cause slides. Thirdly, the fault runs through the hillside, which could be mitigated but not eliminated. His fourth reason was the existing infrastructure ends approximately at that elevation. The fifth reason is that the limit is consistent with the City's design guidelines. He was of the opinion that the fiscal impacts will be a short-term fiscal benefit to the City. The cost to the City exceeds the revenue benefits to the City. Lastly, he noted that this is the last undeveloped land and the City's last chance to seize this opportunity to preserve this land.

Kendra Mendall thanked the Council for providing community meetings and accepting public input. She stated that residents felt like they were being heard. She asked that the Council to preserve the open space as it is a benefit to all of the residents. She reiterated that Union City and Fremont have preserved their open space. She asked that Council be consistent with their current vision to meet the smart growth policies and preserve sensitive resources. She also urged support of Alternative E.

Norm Ihle spoke in favor of the residents and Alternative E.

Linda Cuevas owns property to the north as was previously addressed. She stated that the special district splits her property. She asked that her property be given consideration as those properties to the south.

Dave Knudsen reiterated the need for the higher density related to the Cuevas property.

Jay Egy, representing the De Silva Group presented the La Vista Quarry Concept Plan. He showed visual simulations and worked with staff to lessen the visual impact. He enumerated a number of amenities including benefits to the school and park districts and protecting open space. He reported that geotechnical work has been completed to verify that this is a safe and stable site for development. When asked by Council Member Jimenez why the project switched from condos to townhouses, he noted to reduce the view below. In response to Council Member Dowling's questions, he indicated that this project is shaped like a banana and would require some grading at the quarry entrance.

Frank Berlogar, the geotechnical soils engineer for the La Vista quarry site, stated that he has been working at that site for ten years. He described the work to provide for the safety and stability of the slope. The average slope face was 26 degrees, now it 18 degrees. He is recommending a one hundred foot set back to the main quarry slope. He talked about the fault issue. He described the work that identified fault traces on the quarry. He agreed with public works staff related to the issues addressing the fault crossings. He noted that he was involved in another project after

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construction to repair a slope that he was not involved with at construction. He reported that his repair was successful.

Council Member Ward asked Mr. Berlogar to address the issue of the potential for the soil to be subject to liquefaction. He also asked about creeping. He also asked whether he has experience from other locations related to seismic issues.

Frank Berlogar stated that the answer was zero regarding liquefaction. In regards to creeping, he noted that it is at a rate of two-tenths of an inch per year. Other parts of Hayward have no active fault traces. Ground motion does vary in different parts of Hayward and there are different types of buildings. In response to a question from Council Member Henson related to water issues, he provided information that included the use of automatic shutoff vales for water pipe ruptures and that EBMUD uses steel-welded pipes to cross fault lines.

Jim Summers passed his time to speak to Jay Egy. Mr. Egy urged the Council to approve the development of 321 units and could mitigate the impacts including zero visibility.

When Council Member Dowling asked where the school would be located at this project, Mr. Egy replied that an existing school could be improved.

Council Member Dowling commented that if this development was approved with mitigations and an earthquake damaged roads, water and sewer services the city would be responsible to repair.

Virginia Rose stated that she has lived on Bodega road for over eighty years. She asked that Alternative C or D be approved land use for her property.

Ed Mullins expressed his concerns that Hayward must meet the bay area housing crisis. He spoke in favor of the project.

Council Member Hilson discussed the State housing allocation to the city. He asked if there is adequately zoned land to meet those allocations. City Manager Armas responded that the regional housing obligation for Hayward through 2006 is 2,800 units. The City has identified the ability to generate approximately 4,100 units to potentially meet and exceed its fair share obligation based on re-use of properties as well as vacant land. This does not include the Caltrans properties.

Jeff Moita, Virginia Rose's nephew, spoke in favor of the Bodega street property owners' request to request the land use designation and zoning as RMB planned development. He urged the Council not to adopt the Planning Commission recommendation to zone their properties as AB10A, agriculture and not to restrict heights. He noted that these properties couldn't be viewed from the flatlands. The elevations should not be considered as a hindrance and are at or below the 200-foot elevation. Lastly, he stated that the quarry mining has impacted his mother's property.

Council Member Ward asked staff to explain the Bodega residents' issues. In response, Senior Planner Calame noted that the properties are above the fault trace. The current staff proposal is to



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continue the home sites and not be affected by the rezoning in agricultural area. There are various infrastructure issues as well.

Colleen Hutchings lives on East 16<sup>th</sup> Street. She spoke against the development, as the streets are narrow, increasing traffic problems. She suggested waiting for the quarry to be completed and suggested Alternative E as a good compromise.

Andrew Garin, Annette Warren, Richard Warren and Janet Garin submitted speaker cards, but passed their time to Jack Smith.

Jack Smith, attorney, reported that the owners of the La Vista quarry including the Garin, the Warren and the Peixoto families have given an option to the De Silva Group to purchase the property. The staff recommendation allows sixteen houses on this site. It does not warrant the sale of the property. He retold the story of Andrew Garin's desire to keep much of his ranch at the top of the hills across Hayward as open space. Mr. Smith worked with the East Bay Regional Park District to arrange a purchase of the Garin property for open space. He urged the Council to increase the number of units as recommended. The units will hardly be visible and would He rebutted Mr. Burnside's comments and noted that the chair of that task force was Joseph Connell, President of Moreau High School, who did an excellent job.

Joe Callahan thanked the staff in its report, but was not in agreement with the number of units at the quarry site and urged additional units. He commented that the school fees could be used to enhance the Bidwell school site.

Mimi Bauer, representing the Fairway Park Neighborhood Homeowners Association, thanked the Council for providing for resident input. She also commended the Council for adopting the hillside design guidelines. She commented that the Clearbrook project that was constructed only five years ago currently has sliding issues and is visible from the bridges. She reported that her association favored Alternative E. She suggested the 200-foot limit be a general benchmark.

Guy Warren stated that Alternative E would not work for this project. He spoke in favor of the Bodega residents increased density.

Garin Warren spoke in favor of his family and the asked that the sixteen units be increased.

Gil Zaballos, representing Oak Hills development, urged an increase to the densities by allowing 3,500 square feet per unit to increase the number of units in the planned development, but not to exceed thirty-five units. By allowing the density increases, a new school could be built or enhancements be made by taking the existing Bidwell school site and enhancing it.

Anthony B. Varni, representing the Lynch family, emphasized that the City approached his clients

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and to focus that this is a pre-annexation proceeding. The quarry is required to participate as a condition of extending the permit on the hot plant, which is up on the quarry floor. He emphasized the city's authority to regulate construction and development. He also supported Mr. Smith's comments related to the Peixoto and the Garin families. Lastly, he indicated that the quarry owners have complied with the County related to slopes stability and designs for future use.

Warren Garin urged that the Garin property be considered as RB3.5 rather than the staff recommendation of RB4.

Mayor Cooper closed the public hearing at 11:10 p.m. and called for a ten-minute recess. She reconvened at 11:20 p.m.

Council Member Ward asked about the Garin tank usage and the possibility of serving the proposed development. He also asked about re-circulating pumps.

Public Works Director Butler would not recommend the use due to the impact to the water quality.

Council Member Ward moved to approve the staff recommendation with several modest adjustments. He suggested that the number 320 is far too many for the quarry development and recommended 200 units. For the Zaballos property, he recommended the zoning be 3,500 square foot lots and not establish a unit count. He also recommended this for the Garin Vista parcel. He felt that this recommendation would be approximately 530 units lower than Alternatives B and C. He commented on the economic benefits to the City of Hayward. He felt that sales tax factor be included in revenue generation. He indicated that a new water tank would be needed at the La Vista location. Council Member Henson seconded the motion.

Council Member Dowling stated that he would not be supporting the motion. His main concern was the view shed. He felt that Garin Vista area is visible from Industrial. He noted that both Union City and Fremont have preserved their hillsides. He was not in favor of adding portables to the already impacted Bidwell School. He expressed disappointment that HUSD did not provide input. He questioned the earthquake mitigations. He was concern about Bodega street and that the quarry development may go higher than the 200 feet elevation. He noted the future availability of the Caltrans properties.

Council Member Dowling moved to accept Alternative E. The motion died for a lack of a second.

Mayor Cooper disagreed with the statement that housing would create a better quality of life. She commented on neighborhood rights. She was not comfortable with development at the quarry due to seismic issues that could be mitigated, but she was pessimistic about that. She noted that the school district already has concerns about maintaining the schools that the City has provided through development. Mayor Cooper would not be supporting the motion. She preferred the staff recommendation.



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Council Member Henson, as the maker of the second, spoke in favor of the recommendation. He felt that creative ways could be utilized to preserve the view shed or view corridor as he called it. He felt that the City has learned from previous developments and would be very vigilant in maintaining open space. He commented on the ABAG statistics. He felt that the motion was a compromise to balance the number of units.

Council Member Rodriguez emphasized the need for proper balance. She felt that the City must be aware and careful where it allows development. She referred to the correspondence received regarding the Garin and Warren families and commended their longtime contributions. She empathized with the Bodega residents. She moved a substitute motion to accept the staff recommendation. Council Member Dowling seconded her motion.

Council Member Jimenez commended the Garin, Warren and the Zaballos families. He was not in favor of utilizing City reserves to balance future budgets and felt that developments could be economically beneficial.

Council Member Hilson asked several questions as he deliberated. What is our real housing need? Do we take on the more available or the more difficult? He surmised that it costs the City about \$600 per capita. He felt that there would be a deficit with this development. He also agreed that our schools need help and reported that the schools have no operating funds. He also commented that HARD has a similar financial constraint. He did not agree with the first motion being a compromise. He would be supporting the substitute motion.

It was moved by Council Member Rodriguez, seconded by Council Member Dowling, and carried to adopt the following resolutions and introduce two ordinances in the vote as follows:

Resolution 03-113, "Resolution Certifying Program Environmental Impact Report and Adopting Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations, General Plan Amendments and Zoning Ordinance Amendments Relative to the Mission-Garin Annexation Project"

Resolution 03-114, "Resolution of the City of Hayward Making Application to the Alameda County Local Agency Formation Commission Requesting Initiation of Proceedings for a Change of Organization Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000- Mission-Garin Annexation"

Resolution 03-115, "Resolution Approving Plan for Providing Municipal Services in Relation to Mission-Garin Area Annexation"

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Application”

Resolution 03-116, “Resolution Effectuating Exchange of Property Tax Revenues in Connection with Certain Municipal Annexations”

INTRODUCE ORDINANCE 03-\_\_\_, “An Ordinance Amending the Zoning Ordinance, Chapter 10, Article 1 of the Hayward Municipal Code, to Establish a New Special Design Overlay Zoning District for the Mission-Garin Area”

INTRODUCE ORDINANCE 03-\_\_\_, “An Ordinance Amending the Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning and Prezoning Certain Territory Located in the Mission-Garin Area”

AYES: Council Members Hilson, Rodriquez, Dowling  
MAYOR Cooper  
NOES: Council Members Jimenez, Ward, Henson  
ABSENT: None  
ABSTAINED: None

In accordance with Council policy, Council Member Hilson moved, seconded by Council Member Ward, and unanimously carried, to continue to discuss matters on the agenda beyond midnight.

#### 6. Selection of Mayor Pro Tempore

Staff report submitted by City Clerk Reyes, dated July 15, 2003, was filed.

There were no requests to speak. Mayor Cooper opened and closed the public hearing at 11:58 p.m.

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

Resolution 03-117, “Resolution Authorizing the Election of Mayor Pro Tempore of the City of Hayward for 2003-2004”

#### **COUNCIL REPORTS**

There were no Council Reports.

#### **ADJOURNMENT**

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Mayor Cooper adjourned the meeting at 11:59 p.m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward

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