

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-154

Introduced by Council Member Mendall

RESOLUTION CALLING A SPECIAL MUNICIPAL ELECTION IN THE CITY OF HAYWARD FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE RELATING TO THE ENACTMENT OF A CANNABIS TRANSACTION AND USE TAX; SETTING FORTH THE STATEMENT OF THE MEASURE TO BE VOTED UPON; FIXING THE DATE AND MANNER OF HOLDING THE ELECTION; AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO PROVIDE FOR THE CONSOLIDATION OF THE SPECIAL MUNICIPAL ELECTION WITH THE STATEWIDE PRESIDENTIAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, AND TO PROVIDE ELECTION SERVICES

WHEREAS, the City Council of Hayward desires to call a Special Municipal Election to be held on November 8, 2016, for the purpose of submitting to the voters the following statement:

TO ASSURE LOCAL CONTROL AND CLOSE ON-GOING DEFICITS, SHALL THE CITY OF HAYWARD BE AUTHORIZED TO ENACT A GENERAL TAX ORDINANCE NOT EXCEEDING 15% OF GROSS SALES FOR ALL PRODUCTS ASSOCIATED WITH MEDICAL OR ADULT USE OF CANNABIS, FROM CULTIVATION, DISTRIBUTION, MANUFACTURING, AND RETAILING OF CANNABIS OR PRODUCTS DERIVED THEREFROM, IF THE CITY OF HAYWARD PERMITS CANNABIS BUSINESS ACTIVITIES, SUCH TAX TO BE IN ADDITION TO ANY OTHER TAXES IMPOSED BY THE CITY OF HAYWARD OR THE STATE OF CALIFORNIA?

WHEREAS, a State of California statewide presidential election will be held on Tuesday, November 8, 2016; and

WHEREAS, voters statewide will be presented with Proposition 64, an initiative measure which, if adopted, would legalize the sale and use of adult use of recreational cannabis and medical cannabis; and

WHEREAS, the City of Hayward is permitted to hold a special municipal election on November 8, 2016, that is consolidated with said statewide presidential election to be held on said date; and

WHEREAS, Proposition 218, California Constitution Article XIII C, sec. 2(b) requires a proposed tax to be submitted to voters at a general municipal election at which members of the City Council stand for election, except in cases of emergency declared by a unanimous vote of the Council; and

WHEREAS, in each of the last seven fiscal years, the City has had to budget for the significant use of reserves as a result of the ongoing structural budget deficit and in some years was eventually able to barely avoid the use of reserves to balance the budget due to mostly one time revenue or expense adjustments, as reflected in Exhibit A; and

WHEREAS, the City's ten-year forecast indicates the general fund operating budget gap will grow because of increased costs of doing business without a matching increase in revenues, but with declining reserves that will be unavailing for purposes of closing the gaps, as reflected in Exhibit B; and

WHEREAS, the proposed cannabis tax revenue might assist in closing the gap and would avoid elimination of important City services such as police, fire and emergency medical response times, social and cultural programs, support for community-based organizations, and youth and family counseling programs; and

WHEREAS, such proposed tax must be considered at the November 8, 2016 special municipal election because the next general municipal election will not be held until November, 2018; and

WHEREAS, the City of Hayward desires to submit to its voters a City Council-proposed measure enacting a not-to-exceed transaction and sales tax rate of fifteen percent of retail sales and business-to-business non-retail cultivation, distribution and manufacturing of adult use cannabis sales and medical cannabis sales; and

WHEREAS, the City of Hayward measure, if adopted, would authorize the City Council to determine whether or if such adult use of cannabis and medical cannabis would be permitted, in its discretion, and the regulatory framework within which such sales might be permitted; and

WHEREAS, Elections Code section 13119(b) requires the ballot question to include the estimated revenue of the proposed tax if such tax is proposed in an initiative measure that has qualified; and

WHEREAS, the proposed cannabis tax measure is a City Council-sponsored measure pursuant to Elections Code Section 9222 and not an initiative measure, and therefore Elections Code section 13119(b) is deemed inapplicable to the above-stated ballot question; and

WHEREAS, the sale of adult use cannabis has previously not been legal in the State of California or the City of Hayward and therefore no reasonable methodology is available to estimate the revenue from such tax;

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

1. Calls for a Special Municipal Election to be held on Tuesday, November 8, 2016, for the purpose of submitting to the voters a measure concerning the enactment of a Cannabis Transaction and Use Tax; and
2. The City Council hereby finds that the City's ongoing budget gaps, as reflected in Exhibits A and B, constitute a fiscal emergency as required by California Constitution Article XIII, section 2(b)(2) in order submit this tax measure at a special municipal election; that the next general municipal election at which the offices of mayor and council members are to be filled will not be held until November, 2018.
3. Requests the Board of Supervisors of Alameda County to order the consolidation of the Special Municipal Election of the City of Hayward with the Statewide Presidential Election to be held on November 8, 2016, and to further provide that, within the territory affected by such order of consolidation, to wit, the City of Hayward, the election precincts, polling places and voting booths shall in every case be the same and there shall be only one set of election officers in each of said precincts.
4. Requests the Board of Supervisors of Alameda County to order the County Clerk and the Registrar of Voters to:
 - a. Set forth on all sample ballots that are to be mailed to the voters of the City the statement set forth above and mail with the sample ballots copies of the arguments (if any) for and against said measure; and
 - b. Provide absent voter ballots for the Special Municipal Election therewith for use of voters of the City who are entitled thereto, in the manner provided by law; and
 - c. Prepare and supply indices to precinct information, assist in the canvass of returns and provide services to complete the official canvass of returns.
5. The Board of Supervisors of Alameda County is hereby further authorized to canvass, or cause to be canvassed, as provided by law, the returns of the Special Municipal Election with respect to the votes cast for the measure and to certify such canvass of the votes cast.

6. The City Clerk is hereby authorized and directed to certify the adoption of this resolution and to transmit a copy thereof so certified with the County Clerk of the County of Alameda. The City Clerk is further authorized and directed to prepare, execute, and transmit to the County all documents necessary to carry out the purposes of this resolution.
7. The City Attorney is hereby authorized and directed to prepare and transmit to the City Clerk the official ballot title, impartial analysis, and statement of the measure as set forth herein.
8. The City Council shall meet at a regular meeting to review the canvass of the returns of the Special Municipal Election and declare the results thereof.
9. Upon the passage and adoption of this resolution, the City Clerk is directed to publish a synopsis of the measure pursuant to Election Code section 12111 and Government Code section 6061.

IN COUNCIL, HAYWARD, CALIFORNIA July 26, 2016

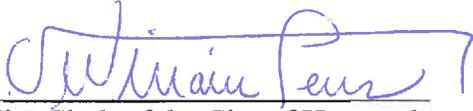
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermefio, Márquez, Mendall, Peixoto, Lamnin, Salinas
MAYOR: Halliday

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:



City Attorney of the City of Hayward

EXHIBIT A

General Fund

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Adopted Budgeted Additions to (Use of) General Fund Reserves*	3,382	(2,881)	(4,312)	(6,586)	(2,579)	(5,063)	0
Actual Additions to (Use of) General Fund Reserves	4,245	210	(2,331)	274	(547)	(1,594)	(5,800) est**

Dollars are in \$1,000s

* Amounts shown are as originally adopted and do not include adjustments made at mid-year

** Use of reserves in FY2016 is estimated based on year to date actuals in May 2016

General Fund Ten-Year Plan - FY 2017 Adopted

EXHIBIT B

General Fund	PY1 Projected FY 2016	Year 1 Adopted FY 2017	Year 2 Forecast FY 2018	Year 3 Forecast FY 2019	Year 4 Forecast FY 2020	Year 5 Forecast FY 2021	Year 6 Forecast FY 2022	Year 7 Forecast FY 2023	Year 8 Forecast FY 2024	Year 9 Forecast FY 2025	Year 10 Forecast FY 2026
Total Projected Revenue/Resources	148,885	144,665	147,284	150,119	152,302	156,610	161,078	166,715	170,519	175,510	179,730
Total Projected Expenditures	152,853	149,029	153,285	162,420	169,074	175,427	179,898	183,813	187,884	192,025	196,275
Total Surplus/(Shortfall)*	(3,968)	(4,364)	(6,002)	(12,301)	(16,772)	(18,816)	(18,820)	(18,098)	(17,364)	(16,514)	(16,545)
Ending Fund Balance	19,490	15,126	9,124	(3,177)	(19,943)	(38,765)	(57,565)	(75,583)	(93,043)	(109,562)	(126,107)

*This amount, also known as "the Gap" increases or reduces the General Fund Reserve