

AGENDA

REGULAR MEETING

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CLAYTON CITY COUNCIL

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TUESDAY, August 21, 2018

7:00 P.M.

Hoyer Hall, Clayton Community Library 6125 Clayton Road, Clayton, CA 94517

Mayor: Keith Haydon Vice Mayor: David T. Shuey

Council Members Julie K. Pierce Jim Diaz Tuija Catalano

- A complete packet of information containing staff reports and exhibits related to each public item
 is available for public review in City Hall located at 6000 Heritage Trail and on the City's Website
 at least 72 hours prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at <u>www.ci.clayton.ca.us</u>
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

* CITY COUNCIL *

August 21, 2018

- 1. <u>CALL TO ORDER AND ROLL CALL</u> Mayor Haydon.
- 2. PLEDGE OF ALLEGIANCE led by Mayor Haydon.

3. CONSENT CALENDAR

Consent Calendar items are typically routine in nature and are considered for approval by one single motion of the City Council. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or further input may request so through the Mayor.

- (a) Approve the minutes of the City Council's regular meeting of July 17, 2018. (View Here)
- (b) Approve the Financial Demands and Obligations of the City. (View Here)
- (c) Approve the City's response letter to the FY 2017-18 Contra Costa County Civil Grand Jury's Report No. 1808, "Joint Powers Authorities." (View Here)
- (d) Adopt a Resolution approving four (4) contracts for the purchase and outfitting of a new 2018 Ford F150 Police Responder Supercrew Truck in the total amount of \$59,028.16, and declaring a 2005 Ford Patrol Vehicle (Unit 1729) and a 2005 Ford Ranger Pickup as property surplus to the City's needs and authorizing its disposal by the City Manager at public auction. (View Here)
- (e) Approve with regret the resignation of Nancy Morgan from the citizens advisory Trails and Landscaping Committee. (View Here)
- (f) Adopt a Resolution approving a First Amendment to the expiring Professional Engineering Services Agreement with Harris & Associates, Inc., authorizing adjustments in professional engineering rates and term of the Agreement for the continued provision of city engineering services. (View Here)
- (g) Adopt a Resolution authorizing and approving the City's submission of a FEMA-CalOES Local Hazard Mitigation Plan grant application in the amount of \$150,000 and authorizing the City Manager to sign grant-related documents.

 (View Here)

4. RECOGNITIONS AND PRESENTATIONS

(a) Certificates of Recognition to the Dana Hills Swim Team ("Otters") and the Oakhurst Country Club Swim Team ("Orcas") for demonstrating extraordinary community spirit through its recent fundraising effort, "Team Up for Tucker." (View Here)

5. REPORTS

- (a) Planning Commission Vice Chairman Peter Cloven.
- (b) Trails and Landscaping Committee No meeting held.
- (c) City Manager/Staff
- (d) City Council Reports from Council liaisons to Regional Committees, Commissions and Boards.
- (e) Other Introduction of City Council candidates (present at the meeting).

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

7. PUBLIC HEARINGS

(a) Consider the Second Reading and Adoption of Ordinance No. 483 amending Title 17 – Zoning of the Clayton Municipal Code to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit. (View Here) (Community Development Director)

Staff recommendations: 1) Receive the staff report; 2) Open the Public Hearing and receive public comment; 3) Close the Public Hearing; 4) Following Council discussion and subject to any modifications to the Introduced Ordinance, approve a motion to have the City Clerk read Ordinance No. 483 by title and number only and waive further reading; and 5) Following the City Clerk's reading, by motion adopt Ordinance No. 483 with the finding the adoption of this Ordinance is not subject to the California Environmental Quality Act (CEQA) because CEQA only applies to projects which have the potential for causing a significant effect on the environment and this activity is not considered to be a project and can be seen with certainty that it will not have a significant effect or physical change to the environment.

8. <u>ACTION ITEMS</u>

(a) Request to discuss and reconsider the City Council's existing Clayton Fountain operating policy. (View Here)
(Mayor Haydon and Council Member Catalano)

<u>Staff recommendation</u>: Following discussion of the existing Clayton Fountain operating policy and opportunity for public comments, that Council provide policy direction to staff regarding the frequency for operation of the Clayton Fountain.

(b) Consider the option to designate a City Council Voting Delegate and Alternate Delegate to the League of California Cities 2018 Annual Conference to be held September 12th-14th in Long Beach, and determine a City voting position, if any, on the two League Conference General Resolutions. (View Here) (City Clerk)

<u>Staff recommendations</u>: Following staff report and opportunity for public comment, it is recommended the City Council 1). Determine if one or more of its elected officials will attend the League's Annual Conference and if so, select by motion the City's authorized Voting Delegate (and Alternate, if applicable) to attend subject to the maximum \$1,600 budgeted for this conference; and 2.) Determine the City's official voting positions, if any, on the two League Conference General Resolutions.

(c) Consider the rescheduling of the regular City Council public meeting of Tuesday, September 4, 2018. (View Here) (City Manager)

<u>Staff recommendations:</u> Following staff report and opportunity for public comment, it is recommended the City Council determine if it will need to hold its regular City Council meeting of Tuesday, September 4, 2018.

9. COUNCIL ITEMS – limited to requests and directives for future meetings.

10. CLOSED SESSION

- (a) Government Code Section 54956.8, Conference with Real Property Negotiator.
 - Real Properties: 1005 and 1007 Oak Street, Clayton, CA
 (APNs 119-050-034, 119-050-008, and 119-050-009)
 Instructions to City Negotiators: City Manager Gary Napper; Mr. Edward Del Beccaro, Managing Director, and Mr. Matt Hatfield, Senior Associate, with Transwestern, regarding price and terms of payment.
 Negotiating Parties: Mr. Michael Paez, The Kase Group (Investment Real Estate, Lafayette) representing Luis Munoz.

Report Out From Closed Session: Mayor Haydon.

11. ADJOURNMENT - the City Council meeting of September 4, 2018 was previously canceled.

Depending on the action taken on Agenda Item No. 8 (c) above, the next regularly scheduled meeting of the City Council could be September 4 or 18, 2018.

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MINUTES

OF THE REGULAR MEETING CLAYTON CITY COUNCIL

Agenda Date: 8-21-2018
Agenda Item: 3a

TUESDAY, July 17, 2018

- CALL TO ORDER & ROLL CALL The meeting was called to order at 7:00 p.m. by Mayor Haydon in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. <u>Councilmembers present</u>: Mayor Haydon, and Councilmembers Catalano, Diaz and Pierce. <u>Councilmembers absent</u>: Vice Mayor Shuey. <u>Staff present</u>: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, City Engineer Scott Alman, and City Clerk/HR Manager Janet Brown.
- PLEDGE OF ALLEGIANCE led by Mayor Haydon.

3. CONSENT CALENDAR

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of June 19, 2018.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 28-2018 setting and levying real property tax assessments in FY 2018-19 for the Oak Street Permanent Road Division.
- (d) Adopted Resolution No. 29-2018 setting and levying real property tax assessments in FY 2018-19 for the High Street Permanent Road Division.
- (e) Adopted Resolution No. 30-2018 setting and levying real property tax assessments in FY 2018-19 for the Oak Street Sewer Assessment District.
- (f) Adopted Resolution No. 31-2018 setting and levying real property tax assessments in FY 2018-19 for the Lydia Lane Sewer Assessment District.
- (g) Adopted Resolution No. 32-2018 approving the Engineer's Report and levying the annual assessments in FY 2018-19 on real properties for the operation and maintenance of residential street lights in the Street Lighting Assessment District, pursuant to Streets and Highways Code 18070 and CA Government Code 54954.6.
- (h) Adopted Resolution No. 33-2018 approving the City Master Fee Schedule for FY 2018-19 regarding certain fees for user-benefit municipal services and rental of City facilities.
- (i) Adopted Resolution No. 34-2018 authorizing the Clayton City Engineer to approve a Quality Assurance Program in compliance with Caltrans requirements for federally funded local transportation projects.
- (j) Adopted Resolution No. 35-2018 adjusting and approving pay rate schedules for certain temporary hourly wage positions within the City of Clayton's employment organization.

(k) Adopted Resolution No. 36-2018 approving agreement No. C1000205 with the California Franchise Tax Board renewing the City of Clayton's reciprocal agreement to exchange tax data specific to City business license information for mutual tax administration and collection purposes, and authorizing the City Manager to execute the agreement in behalf of the City.

RECOGNITIONS AND PRESENTATIONS – None.

REPORTS

- (a) Planning Commission Commissioner A.J. Chippero indicated the Commission's agenda at its meeting of June 26, 2018 included the review of the FY 2018-19 Capital Improvement Program Projects for conformity with the Clayton General Plan. This action was unanimously approved
- (b) Trails and Landscaping Committee No meeting held.
- (c) City Manager/Staff No Report.
- (d) City Council Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Catalano attended the Annual 4th of July parade and the Clayton Business and Community Association's Clayton BBQ Cook-Off Event.

Councilmember Julie Pierce attended the Metropolitan Transportation Commission and Associated Bay Area Governments Legislative Forum, the Contra Costa Transportation Authority Board meeting, the 2018 Installation Dinner hosted by East Bay Leadership Council, the Saturday Concerts in The Grove featuring Pride and Joy, several Metropolitan Transportation Committee meetings, the Annual 4th of July Parade and has been serving time on jury duty.

Councilmember Diaz attended the second Classic Car Show and DJ event in downtown Clayton, the Clayton Business and Community Association's General Membership meeting, the Annual 4th of July Parade, and the Clayton Business and Community Association's 9th Annual BBQ Cook-Off Event.

Mayor Haydon attended the County Connection Board meeting where new routes are being proposed, the East Contra Costa Habitat Conservancy meeting, the Clayton Business and Community Association's General Membership meeting, officiated at the Clayton Bocce Spring League Playoffs, attended the Annual 4th of July Parade, the Clayton Business and Community Association's BBQ Cook-Off Committee meeting, the County Connection Administrative/Finance Subcommittee meeting, the Contra Costa County Mayors' Conference hosted in Pittsburg, and the Clayton Business and Community Association's BBQ Cook-Off Event.

(e) Other – None.

PUBLIC COMMENT ON NON - AGENDA ITEMS

Glenn Miller expressed his concern the Clayton Fountain is not operating on federal holidays and requested the City Council revisit the policy. Mr. Miller indicated he reached out to Mayor Haydon to inquire on the Clayton Fountain policy as the fountain was not

operating during Clayton's Annual Memorial Day event this year; in that instance there was a lack in City Hall communication in the need of its operation. Mayor Haydon had advised him the Clayton Fountain operating schedule is limited to certain days and City events. Mr. Miller did not understand why the City does not recognize all of the federal holidays. Mr. Miller asked that the Council reconsider the policy and a report on the basic operating agreements, developmental agreements during the construction and development of Oakhurst and current assessments, and the operating costs and who is paying for the operation of the Clayton Fountain during special events.

Mayor Haydon asked City Manager Gary Napper for comments. City Manager Napper advised this matter started with the initial Blue Ribbon Committee in the Landscape District which ultimately evolved to the Citizens Advisory Committee. There were frequent discussions about the operation of the Clayton Fountain every day and as that committee worked with staff, the Committee felt the Fountain's daily operational cost to the Landscape District was prohibitive as other landscape projects needed funding, such as taking care of the landscaping, irrigation, etc. The original Operation Policy was approved by the City Council in April 2002, in a public setting. When a question was asked why not operate on certain dates, the City Council revisited the item on July 16, 2002 whereby the Council reaffirmed the operational dates listed in the Policy; it was later amended in February 2008 to add the Clayton Garden Club's tour weekend.

City Manager noted the dates that it operates are paid by taxpayers through the Landscape District Budget. However, included in the Operation Policy is the opportunity for private parties or other organizations, wishing to have the fountain on, may pay the listed operation costs for that day or weekend. He noted some of those federal holidays are religious holidays; there is in fact a separation of church and state. Mr. Napper recognizes those holidays as well and people may not like the answer but in order to allow, for example, the fountain to operate on specific religious holiday, it would then be necessary to allow the operation of the fountain on any holiday recognized by religious groups. Mr. Napper indicated that is the framework for the operational policy and he provided Mr. Miller with a copy of the Clayton Fountain Operation Policy.

Mr. Miller reiterated his request for review of the Clayton Fountain Policy as he does not feel the operation of the Clayton Fountain is a Landscape District resource, rather an Oakhurst Development Resource where taxes are continually being paid by its residents through assessments.

7. PUBLIC HEARINGS

(a) Consider the Second Reading and Adoption of proposed City-initiated Ordinance No. 482 amending Chapter 6.04 to adopt by reference the Contra Costa County Animal Control Code, including County Ordinances Nos. 80-97 ("Revised Animal Control Ordinance"), 83-10 ("Animal Control Ordinance Amendments"), 85-23 ("Animal Services Contracting"), 87-74 ("Regulation of Dangerous Animals and Potentially Dangerous Animals"), 97-33 ("Penalty for Abandonment of Animal"), 2005-24 ("Dangerous Animals"), 2006-05 ("Amendment to Dangerous Animal Ordinance"), 2011-08 ("spaying and Neutering Dogs Impounded Dogs Prior to Release"), 2011-09 ("Microchipping Impounded Dogs and Cats Before Release"), 2016-02 ("Exemptions For Animal License Fees"), and 2017-12 ("Amendments to Division 416 (Animals) of the County Ordinance Code"), and Adopting Penalties therefor as provided in County Ordinance Nos. 97-33 and 2017-12 of Clayton Municipal Code for conformity with recent Contra Costa County animal control laws.

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City Attorney Mala Subramanian noted at the meeting of June 19, 2018 the first reading of this Ordinance occurred and set this evening as the Public Hearing date for the Council to consider adopting the Ordinance by reference. Ms. Subramanian advised this item was properly noticed noting it involves several county ordinances related to animal control services contracted by the City through Contra Costa County Animal Control Services.

Mayor Haydon clarified animal control services in the city are provided by Contra Costa County; the intent of this Ordinance is to have local ordinances and enforcement that can be applied consistently throughout the region.

Mayor Haydon opened the Public Hearing for public comments.

Ann Stanaway, 1553 Haviland Place, applauds the City's consideration of amendments to Contra Costa County Animal Control Act. If adopted she finds anonymous reporting of code infractions can be abused by persons filing meritless claims by hiding malicious practices or hidden agendas. Ms. Stanaway prefers County Child Services reporting requirements as they collect confidential information for all complainants upon first contact; without such information criminal cases cannot be prosecuted; worse, law abiding citizens and their pets can be victimized for purely private gain, at the public's expense. The City must not support private gain from public resources. A member of the council found support for frivolous usage of certain services provided under the adoption of the Contra Costa County Animal Control Act would be in violation of their oath as the City's responsible manager of public resources.

Having no further public comments offered, Mayor Haydon closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to have the City Clerk read Ordinance No. 482, by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 482 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Ordinance No. 482 with the finding the adoption does not constitute a project under CEQA this activity will not have a significant effect or physical change to the environment. (Passed; 4-0 vote).

(b) Public Hearing to consider the Introduction and First Reading of Ordinance No. 483 amending Title 17 – Zoning of the Clayton Municipal Code to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit.

Community Development Director Mindy Gentry provided background regarding issues with overcrowding and inmate recidivism which has been percolating for over a decade in the California prison system. In 2006, Governor Schwarzenegger declared a state of emergency regarding prisons as the inmate population was at an all-time high of more than 170,000 inmates. In May 2011, the United States Supreme Court determined California's overcrowded prisons were in violation of the Eighth Amendment's ban on cruel and unusual punishment. The decision mandated California to reduce its prison populations by more than 30,000 inmates within two years. The State Legislature chose to relocate a portion of its prison population to county facilities through the passage of Assembly Bill 109 that went into effect on October 1, 2011. AB 109 expands the role for

post-release supervision of these offenders by enacting a larger reliance on "community-based punishment" to reduce recidivism. California has one of the most expensive prison systems in the entire world with a cost of \$71,000 per year per inmate, expected to increase to \$80,000 per inmate per year beginning FY 2018-19. This paradigm shift from mass incarceration places a greater burden at the local level, and Clayton must be better prepared for anticipating these individuals within the community.

In response to AB 109, the County Board of Supervisors adopted the Contra Costa County Realignment Implementation Plan; to provide a system of alternatives to postconviction incarceration, to not overburden the County's detention facilities. According to the County's Public Safety Realignment Report for FY 16/17 the County has focused on formalizing partnerships between law enforcement agencies, health and social service agencies, and AB 109-contracted community based organizations. Clayton staff reached out to Contra Costa County Sheriff's Office and to its Office of Reentry and Justice for additional information where currently there are five (5) active parolees reporting addresses in Clayton under juvenile supervision, court supervision and traditional probation. No individuals under AB 109 are reporting an address in Clayton. The Office of Reentry and Justice reported the County does not directly operate any residential homes for parolees and are relying on community-based program operators for the provision of services and housing; advising there are several private organizations that run homes for the parolee/probationer population "under the radar since communal housing is not required to report its existence to anyone." The proposed Ordinance would prevent these private organizations from being established undetected while simultaneously restricting their location and regulating conditions for operation as well as require these private organizations to apply for a City use permit.

On May 22, 2018 the Planning Commission held a Public Hearing recommending the City Council deny the proposed Ordinance which accepting such action would result in the City Council not adopting the proposed Ordinance and maintaining the status quo of allowing such homes in any residential district. Over twenty (20) speakers addressed the Planning Commission with comments such as: the City should ban parolee housing outright, slow the implementation of the regulation of parolee homes, consideration should be given to increasing buffers, and adoption of the proposed Ordinance would be inviting parolees to locate in Clayton.

The current Municipal Code is silent and does not address parolee homes; under present conditions if an organization, individual, and/or State grantee sought to locate a parolee home in the city of Clayton, the use would be permitted by right, meaning it would be able to locate in any residential area of Clayton without a buffer between it and sensitive uses and would not be subject to any regulations or controls beyond those of a typical residential use. On August 5, 2016 the City received an email inquiry from a non-profit County contractor/grantee searching for a community to house a facility where a use permit would not be required to operate a transitional housing program to assist individuals that have been previously incarcerated as part of the Contra Costa County Reentry Program. This inquiry prompted City staff and the City Council to adopt a temporary moratorium, allowed by state law, to prevent any parolee homes from establishing within Clayton; this moratorium is set to expire on October 3, 2018 and cannot be extended under state law. The proposed Ordinance for consideration appropriately restricts and regulates these types of land uses.

Ms. Gentry noted that even though staff received and inquiry in August 2016, currently there are no requests or applications for parolee homes that have been submitted for consideration or are pending upon the expiration of the moratorium. The operator that originally inquired on the parolee homes subsequently opened such a facility in Pittsburg. Should the moratorium expire without a regulatory ordinance in place, there is no foreseen immediate risk that staff is currently aware of; however, there could be long term risk if the City Council does not take action restricting and regulating this land use.

Clayton does not have any inherent control over how the State and County manages correctional and rehabilitative services; however it does control and maintains its land use authority. The shift to decrease incarceration, the flux and fluidity regarding correctional services raised concerns about the City's vulnerability for the possible placement of parolee homes. Inherently in Clayton, there are a low number of parolees with a Clayton address, lack of convenient access to public transit, lack of rehabilitative services and programs to assist with reentry, high cost of housing, and high rates of owner-occupied housing. Ms. Gentry briefly compared the neighboring jurisdictions of Pleasant Hill, Walnut Creek, Danville, Lafayette, Concord, Oakley, Pittsburg, and Antioch noting how each has addressed parolee homes. In most cases, the City's proposed Ordinance would be more restrictive than currently found in those cities.

Ms. Gentry noted the proposed City ordinance would allow parolee housing in the six designated areas of Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density, subject to a City use permit, requiring a public hearing with review and consideration by the Planning Commission. Multifamily housing projects with 25 units or less would be limited to one parolee housing unit, whereas multifamily housing projects with more than 25 units would be limited to two parolee homes. Parolee homes would be prohibited from locating within 500' of a daycare, school, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelters. Additionally, parolee homes could not locate within 1,000' of another parolee home and requires 24-hour onsite supervision.

Ms. Gentry presented three alternatives for the Councils consideration: 1. regulate parolee housing as proposed in the Ordinance: 2. take no action allowing parolee homes to locate in any residential district without any regulation; 3. outright ban parolee housing in Clayton. Staff has recommended the first alternative to restrict and regulate parolee housing to specific land use designations and subject to a City conditional use permit. Ms. Gentry noted Ms. Patty Grant from the Contra Costa County Sheriff's Office is available for specific questions the Council may have regarding the County's custody program and its implementation of AB 109.

Councilmember Catalano stated the City is currently and effectively regulating parolee housing by having enacted a moratorium Ordinance by the Government Code noted in the staff report. Councilmember Catalano noted the code establishes time limits and asked why we cannot just adopt another moratorium Ordinance or have we exhausted the time limits? Ms. Gentry advised the moratorium time limits have been exhausted and will automatically expire on October 3, 2018.

Councilmember Catalano referred to the staff report that at this time staff does not have any pending applications or requests that would be waiting for the expiration of the moratorium ordinance. Absent any action by the City Council this evening after October 3rd, an application would not be required for parolee housing and the use would be permitted in Clayton? Ms. Gentry responded yes, essentially it could be permitted as the Municipal Code does not address parolee housing as it is considered any other type of residential use and not reviewed any differently.

Councilmember Catalano inquired if the City decided to ban parolee housing in Clayton would it put the City at risk of a lawsuit and if so what is the likelihood the City would prevail? City Attorney Mala Subramanian advised it would be a case of first impression; as noted in the written and verbal staff report there is a real reason why most cities dealing with this issue are regulating it and not banning it. Ms. Subramanian stated it is strongly defensible to regulate parolee housing as proposed in the Ordinance regarding public health, safety, and welfare issues and secondary impacts of parolee housing; however banning it would put the City of Clayton in a very difficult positon to defend it.

Councilmember Catalano noted in 2016 the voters were able to vote on this issue in Proposition 57 - allowing certain types of felons to be considered parolees, and she was curious how Clayton as a city voted on this particular matter. As a city we voted in favor of Prop 57 with 3,740 "yes" votes and 2,607 "no" votes. Is there any possibility on the horizon that would reverse this trend in the State by it building more prisons, or is this becoming more of an issue? Ms. Gentry advised the research that has been conducted and through conversations with the Contra Costa County Sheriff's Office, the trend is going toward decreasing mass incarceration and going towards community-based supervision. There is a Senate bill currently in committee at the State legislature to eliminate any bail requirements; if they meet the criteria they will be awaiting pre-trial in the community rather than in county jail.

Councilmember Catalano stated the proposed Ordinance is to require any parolee home considering locating to Clayton must first obtain a conditional use permit and she inquired on the notification aspect of the process. Ms. Gentry advised if a community based organization submitted an application to the City for consideration of a parolee home and this proposed ordinance was in effect, City staff would analyze if the application could meet the findings located in the Municipal Code; if so, notification to all of the property owners within a 300' radius that surround the target property would occur; the proposed use would then be considered before the Planning Commission with notification in a newspaper of general circulation, and posting on the City's three posting boards. The Planning Commission has the ability to add additional conditions of approval and hear public comment; however its decision is always appealable to the City Council.

City Manager Napper added in addition to regulating the front end of a conditional use permit, those conditions have to stay in place and the operator must meet those conditions or a conditional use permit is subject to revocation due to violations.

Councilmember Diaz noted as a member of the League of California Cities Public Safety Policy Committee, every quarter legislators continually bring bills forward to increase the Realignment Act, and each time the Public Safety Policy Committee recommends the League and its cities vote against it. Councilmember Diaz requested clarification specifically to Clayton regarding the five (5) active parolees currently in Clayton: it was also stated there a number of them who have not listed their address in Clayton? Ms. Gentry clarified there are currently five (5) parolees who live within the city of Clayton; however none of them fall under the umbrella of AB 109. The Sheriff's Office of Reentry and Justice has stated they do not have numbers for those who are on probation by jurisdiction.

Councilmember Pierce commented if the Council chooses to take no action, there could be a home established next door to any one of us and we would never know it until there is a problem. Councilmember Pierce would rather know about it in advance and discourage the use through transparency by providing lots of notice about a process going forward so any prospective home operator can hear from the public when it wants to make its application. This community wants to protect itself by knowing what is going on in the community.

Mayor Haydon clarified currently the City is protected per the adopted moratorium Ordinance however it is due to expire on October 3. If the City Council chooses to take no action, then parolee homes can establish in Clayton with no required notification to the City. The second option would be to prohibit parolee homes all together. Mayor Haydon clarified that no city in Contra Costa County has decided to prohibit parolee homes all together. Mayor Haydon stated those are the two extremes. The remaining option would be to adopt restrictions to maintain control. Since the Planning Commission's review, the buffer zone for public notification increased from 300' to 500'; Mayor Haydon asked why wasn't a larger buffer zone been considered to 800' or 1,000'?

Ms. Gentry advised the further expansion of the buffer could result in a ban through exclusion; there could be limited or no possibilities of a location, effectively constituting a ban.

City Attorney Mala Subramanian added if the buffer zone was expanded it would become a de facto ban, creating no options for an operator to have a location in Clayton.

Councilmember Pierce inquired if a 300' notice distance is standard? Ms. Gentry advised the 300' notice is a standard part of the Municipal Code's land use noticing. Councilmember Pierce inquired on the ramifications if the public notification zone was expanded for this use, or would that be discriminatory? City Attorney Mala Subramanian advised the City could choose to provide notice beyond the 300' distance. Councilmember Pierce advised notices would also appear on the City's website through agenda posting, with the option of additional noticing through a page on the website if we wanted to.

Mayor Haydon inquired if the City Council chooses not to take action, and it was discovered that a parolee home was established, would the Council be allowed after the fact take action on that house and restrict or prohibit it after they have moved into the community? Ms. Gentry advised if the parolee home is established, it would be grandfathered in; the City would have no recourse or legal grounds to remove it from the community.

Mayor Haydon opened the Public Hearing for public comments.

Nancy Ahern, expressed many questions including is this a building being constructed or is the City buying someone's property to house parolees? She wondered the effect of property values on properties located around a parolee home; if this action is State or County mandated; and does the Marsh Creek Detention Center count for something?

Ms. Gentry responded the likelihood of a community organization or non-profit building something from the ground up is highly unlikely to occur as limited funds are granted by the county or state to a nonprofit; more than likely, they would probably try to locate in an existing structure. Ms. Gentry advised the Marsh Creek Detention Center is located in unincorporated Contra Costa County and not within the boundaries of the City. Mayor Haydon commented we are trying to protect what is within the city limits of Clayton, Ms. Ahern advised she is getting a lot of inaccurate information, and was told the Council was voting to have parolee housing in Clayton. Ms. Ahern noted we already have parolees in Clayton; if we safeguard ourselves then we cannot pull them out. Ms. Gentry added the City cannot regulate how the County or the State manages correctional rehabilitation services; parolees will always be a part of the community; however the City does retain control over its land uses and can prevent parolee homes from establishing anywhere without any controls. Ms. Ahern asked for confirmation the only way a parolee home would come to Clayton then would be through a rental or to build? Ms. Gentry advised if someone purchases a home in the proposed district or rents out a house or ground-up development in those designated areas would be the only way a parolee home could come to Clayton, and then by submitting a use permit application for review by the City Planning Commission.

Glenn Miller, inquired on the number of units allowed and asked how many areas are zoned with 25 units in Clayton? Ms. Gentry advised there are two locations; one would be prohibited because of the 500' buffer, and the other location is behind the U.S. Post Office, limited to two parolee homes as they cannot be located within 1,000' of one another. Mr. Miller also inquired in regards to money it would be prohibitive for someone to come in as an organization to build a parolee home, and if that person decided to sell that home, would the house in perpetuity become a parolee housing unit or does the conditional use permit go away with the sale of the property? Ms. Gentry advised if such

a house was not backfilled with another parolee home operation and someone from the community purchased that home, then it would be 6 months the use permit would be applicable to that piece of property. If it were to lapse beyond the six months then it would no longer operate as a parolee home and must go through the public application and review process again. Mayor Haydon advised it is not a proposal; it is to address someone coming forth and asking for approval.

City Manager Gary Napper added all the concerns Mr. Miller just shared would be in place and spread throughout the entire city in any residential district if we do nothing.

Mr. Miller referred back to his time on the City Planning Commission and found it virtually impossible to approve these types of units. He suggested go back to the drawing board and see if you can come up with a larger buffer zone or use 65 units before a development could be considered.

John Kramci, 3001 Coyote Circle, personally has not seen anything positive come out of parolee housing or to reduce recidivism; they usually go back, there is no control of who comes to the property to visit regardless of what their parole states even when they can't associate with other convicted felons. Please remember: a parolee by definition is a convicted felon. Mr. Kramci's partner, Marci Longchamps, wanted to be here tonight but was unable due to a medical procedure. Mr. Kramci then read her note: "I wanted to speak so badly tonight, unfortunately my health prevented me from being here. I am a retired school teacher and a nana to my 2 year old grandson. I strongly oppose any proposal that allows parolee housing into our community and I will stand firm in opposing any measures or proposals that encourage passage of this kind of thing. Our children, the elderly, all of us need to be protected and feel safe in our precious town of Clayton and especially in our own homes. As I sat in the doctor's office today, I read one of the sayings posted on the wall. I found it to be somewhat relevant tonight. It said 'The purpose of life is to be useful, to be responsible, to be compassionate, it is above all to matter to count and stand for something to have made some difference'. It is my hope that I have made a difference to you tonight. Please do the right thing and listen to your constituents and hear what we have to say. And let me shout out to everyone that has written to me in support and kindness. This is what our Clayton is all about, and it goes on to say I will see you all at the next Planning Commission meeting as well as the next City Council meeting."

Frank Gavidia, 104 Gold Rush Court, indicated the City could still end up in court by the ACLU; if they think the City is being discriminatory they are going to challenge the Ordinance. Mr. Gavidia had a Form 990 4(e) by the nonprofit that contacted the City; it does not have a large budget or the resources to come out here and rent a property. Mr. Gavidia does not of know of anyone willing to rent their house to a bunch of parolees or an organization who will have a bunch of parolees. The email received by the City from the nonprofit specifically stated they wanted to come to Clayton without a use permit, so they want to operate under the radar. Clayton is a small town that does not have the resources or the space to have to deal with this problem. Mr. Gavidia suggested an outright ban like the two cities that were listed in the staff report.

Mayor Haydon inquired of staff on which two cities outright banned parolee housing? Ms. Gentry advised the two cities were Newport Beach in 2008, and the City of Colton limited it to one parolee in the room and boarding requirements. No city in Contra Costa County has outright banned parolee housing. City Manager Napper added those cities banned them before the Realignment Act.

Brian Buddell, expressed his concerns with the City Council trying to take the easy way out, at the expense of the safety and concerns of citizens of Clayton. Mr. Buddell recently read in the Clayton Pioneer the City of Clayton has enough reserves to operate 4 years without collecting any taxes. Mr. Buddell referred to Council Member Diaz's

recommendation of 1,000' buffer; why isn't that being considered? Mr. Buddell expects the safety of the city he resides in to be paramount; whether that's putting a senior center downtown, parolee housing, or anything else.

James Gamble, Prospector Place, inquired if costs were included for added police protection that is going to be needed or additional calls to these properties potentially and what is the clerical cost overhead that is going to be added to the City for this? Ms. Gentry responded there will be no direct fiscal impacts; it would be implementation of the Ordinance and as of right now they can locate anywhere without any notification to the City.

Mr. Gamble then asked if Ms. Gentry personally worked on the Antioch regulations while employed there? Ms. Gentry advised a different staff member worked on the regulations in Antioch. Mr. Gamble asked if Ms. Gentry called the police on people who showed up for the Fulcrum informational meeting when there were no chairs in the room? Ms. Gentry advised the police officers were asked to be in attendance due to a creditable threat that was given to the developers so the police were not called by her or anyone except they were in attendance to ensure safety. Mr. Gamble inquired if he came come down to City Hall can he obtain that information? Ms. Gentry advised if it is a matter of public record, then yes.

Ms. Subramanian advised Mayor Haydon she didn't feel this discussion is on the agenda and encouraged him to move on.

Bob Scrosati, 5181 Keller Ridge Drive, advised he used to live across the street from a local nonprofit state facility that housed four people who were incapable of handling their own lives. Although there were some regulations placed on that property by the state, inspections occurred on both the inside and outside of the home. Mr. Scrosati questioned the frequency of the County to perform inspections on these types of properties and on the education or training requirements a supervisor has on the regulation of a parolee? Mr. Scrosati prefers Option 1, but would like to know who has been trained to control these parolees and has consideration been made to duplexes and condos as they are occupied by young families with children.

Linda Cruz, 359 Chardonnay Circle, expressed her opposition to parolees coming to Clayton and she like the community as is. Ms. Cruz asked for a definition of multifamily low density, multifamily medium density; are those choices we want to put in the regulations? Ms. Gentry advised those are the General Plan designations that would be allowable subject to a use permit, and the rest of the city would be a prohibition.

Steve White, Morgan Territory Road, worked with parolees and as a retired police officer, the change of certain housing definitions caught his attention. Changes made to the General Plan could get Clayton in line with potential restrictive parolee realignment. Contra Costa County recently backed out of housing ICE inmates, so more parolees will be housed in the county.

Dena Stephens, Morningside Drive, resides next to a house that had someone living there with an ankle bracelet, a known drug dealer, known to the City, known to the police. Ms. Stephens expressed concerns of parolees having multiple friends that are probably not nice people. Clayton already has a limited police force of three (3) at the most on duty? Mr. Napper confirmed the deployment of the Police Department is three (3) per shift. Ms. Stephens thinks this is inadequate.

Rick Martin, 93 El Portal Place, indicated the reason he relocated to Clayton was because of similar problems in Walnut Creek where care homes located into neighborhoods; by state law, they are considered private homes. Mr. Martin inquired if a parolee has one of these homes is it considered a private home and not a business and

how many would be allowed in a home? Ms. Gentry advised they would be located in a residential unit; two (2) per bedroom, based on the California Building Code allowance for occupancy. Mr. Martin stated the idea of no one able to afford these houses will come as a surprise as they can divide up a house by creating more bedrooms and bathrooms depending on how many parolees they want to house. This is why he moved to Clayton.

(Unidentified speaker). His family relocated to Clayton from Antioch because it got so bad there. The speaker indicated if the government is imposing this the City should outright ban it and if challenged, fight it. If the other two cities in California outright ban it and got under it, then Clayton can too.

Ann Stanaway suggested an outright ban for now and if challenged and too costly for the City to defend, revoke the ban and put in regulations.

Councilmember Catalano went over the proposed options: Option 2, to do nothing, we have a moratorium expiring October 3rd; we do nothing, parolee housing would be allowed anywhere, without any notice or process. Option 3 to ban it: she personally thinks that would be an invitation for a lawsuit risking City monies and resources, our budget is not that large. Option 1 to regulate: there are ways regulations can be very permissive, or they can be very restrictive as the staff is proposing by the requirement of a conditional use permit limited to only certain zoning districts.

Councilmember Diaz stated he believes in second chances, however not in this instance. His primary responsibility to represent the community is public safety for the community and all of the residents in Clayton, and he will not suggest wasting resources to challenge the state or the federal governments with their unlimited resources to come after Clayton if we choose to ban it, not regulate it or do nothing. Councilmember Diaz also confirmed our Police Department operates three people per day per shift; he noted recently around the corner of Kirker Pass and Oakhurst Drive there were ten (10) police cars due to a recent armed robbery at the Togos Restaurant in Concord. Guess who caught the robber? It wasn't the Concord Police Department; it was our eyes and diligent Clayton police officers who were on duty; they not only recovered the money, they took in custody of that individual, his rifle, and his bullets. If we do allow parolees, most likely other parolees will visit, increasing the probability that something negative can happen in this City. Councilmember Diaz would like to take some action on the buffer zone, whether it is 300', 500', 1,000' or 1,500'; he supports revamping of this characteristic to make it a little more challenging, protecting the Clayton community.

Brian Buddell said he does not feel Councilmember Diaz is representing Clayton's values, needs or safety, and his position as a public official is to do what the public tells him to do; the people want a ban, test a ban.

Councilmember Pierce advised parolee housing can be a lucrative business for somebody, understanding there is a subsidiary of \$1,200.00 per person housed in these homes. When this moratorium expires a parolee home can establish in Clayton without any notification to the City. She also wanted to correct a couple of statements: one was the City has four (4) years of budget reserves; that is incorrect, the City has one (1) year of budget reserve which is a little over \$5 million, which goes nowhere when one is fighting a lawsuit. In speaking with a great number of people regarding these proposed regulations, it was understood such regulations would protect Clayton. AB 109 is now state law, the County is implementing it, and they are contracting with non-profit and for-profit agencies looking for locations. City staff was alerted two (2) years ago before our temporary moratorium went into place, many of these groups want to avoid any type of public permitting process so they can fly under the radar to locate their facilities. Currently our Clayton Municipal Code does not define parolee homes at all. The Clayton

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Municipal Code allows group homes of six (6) or less anywhere in the community without a permit or notice; including senior care homes and small daycare homes. The City does not even know they exist unless there is a complaint. Without a specific definition in our code, parolee homes would be considered a generic group home, a generic residential use. Councilmember Pierce advised by passing this Ordinance, we get regulation of where these types of homes can be located with a very public transparent process including a use permit, and a broad public notice to the entire community published in the newspaper, mailed directly to neighbors, requirement of a public hearing, the ability to add appropriate conditions for community safety and the opportunity for residents to comment at those hearings.

Mayor Haydon addressed concerns many have shared as there is a community-wide interest in banning or limiting parolee housing in Clayton. The proposed ordinance addresses a control on parolee housing in Clayton. With no regulation Clayton would likely become a place for parolee homes to locate. He thinks regulation is the best protection of Clayton.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to modify Ordinance No. 483 to amend the notice requirements from 300' to 500', and to have the City Clerk read Ordinance No 483 by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 483 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve for Introduction the amended Ordinance No. 483 with the finding its adoption is not a project under CEQA and it will not have a significant adverse effect on the environment and therefore is exempt under CEQA. (Passed; 4-0 vote).

The City Council further requested City staff provide maps at its next public meeting to illustrate additional buffer distances of 750' and 1,000' from designated sensitive use sites.

ACTION ITEMS

 (a) City Council discussion of its vacant opportunities for Clayton citizens to serve on various regional advisory committees/commissions.

City Manager Napper noted Mayor Haydon requested this agenda item and he advised there are several positions on regional boards to which the City is entitled to have representation. Mr. Napper remarked here seems to be some chronic difficulty with citizens applying for those volunteer positions. In the Staff Report it is indicated there is a vacancy on the Central Contra Costa Transit Advisory Committee County Connection (CCCTA); vacant since 2011, this position prefers someone interested in public transportation, preferably one that has used public transportation or has been rider. The second position is to represent Clayton on the Contra Costa Transportation Authority (CCTA) Advisory Committee; vacant since 2013, this position allows representation from every city in the county, including the County. This particular position receives reimbursement for mileage to and from its meeting. The final vacancy just occurred due to the recent resignation of Joyce Atkinson as the City's long-time representative on the County Library Commission; the Commission is requesting a replacement from Clayton to serve. The requirements for each position are that a person be at least 18 years old, and a resident of City from where the appointment is made. He noted volunteerism is always a difficult matter, especially without a stipend or compensation.

Mayor Haydon advised he wanted to address this need in an upcoming Mayor's Column in the local newspaper as a reminder of these types of opportunities. Currently, opportunities are posted on bulletin boards and announced at City Council meetings. Mayor Haydon would like to expand outreach efforts to generate more interest so we can have Clayton represented on these regional committees and he would like to continue mentioning these opportunities at City Council meetings.

Councilmember Pierce suggested reaching out to any of the groups the Council is a member of who have volunteers that do things. It doesn't seem like merely advertising the opportunities in the newspaper is generating interest.

Mayor Haydon indicated there are many volunteers in clubs around town and often those are the people who are active in community activities and he encouraged their membership to consider a positon on a regional committee.

Councilmember Catalano advised she sits on the monthly Clayton Community Library Foundation Board meetings and has mentioned multiple times if anyone would be interested in serving, even on County Library Commission. Recently one (1) citizen expressed interest to her in one of the transportation committees and she will follow up with that citizen.

Councilmember Diaz advised he has tried to solicit some citizens to help without any luck.

Mayor Haydon opened up the subject for public comment.

Ann Stanaway advised she has not been approached to volunteer and does not require a stipend or anything. Ms. Stanaway noted she has volunteered for many things since she was ten years old.

Alex Restall, Stranahan Circle, suggested flyers distributed at KinderCare or local businesses, advertisement on the Nextdoor website, or local Mom's groups, for example, the Mt. Diablo Mothers Club.

Mayor Haydon advised the City Council will continue with its outreach and take these suggestions into consideration.

9. COUNCIL ITEMS - limited to requests and directives for future meetings.

Mayor Haydon requested the Clayton Fountain Operation Policy be brought to a future meeting for review. Councilmember Catalano also expressed interest in a review of the Clayton Fountain Operation Policy.

RECESS THE CITY COUNCIL MEETING - Mayor Haydon recessed the City Council
meeting at 9:33 p.m.
(until after the conclusion of the Oakhurst Geological Hazard Abatement District meeting)

 RECONVENE THE CITY COUNCIL MEETING – Mayor Haydon reconvened the City Council meeting at 9:37 p.m.

12. CLOSED SESSION

Brian Buddell raised point of order regarding the Government Code section as the Closed Session requirement is for a prior open and public comment of the hearing. Mr. Buddell is not aware of any such occurrence and he objects as a citizen to the session being closed as it would be a violation of the stated Government Code.

Attorney Mala Subramanian advised this noticed is on the agenda to discuss; this is the matter before Council which involves the listed properties located on Oak Street.

Mr. Buddell advised the Government Code section under which this session is being closed actually requires a prior open and public hearing for it to be discussed before this can be closed and if it hasn't happened this session cannot be closed by statute. Mr. Buddell then read Government Code Section 54956.8, "Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate."

City Attorney Subramanian indicated this agenda meets those Government Code requirements prior to going into closed session. She noted the Agenda included the description of the property, 1005 and 1007 Oak Street with the appropriate APNs, lists the City's negotiators and in addition it lists the negotiating parties that are interested in purchasing the property, and the matter restricted to the terms of price and terms of payment.

Mr. Buddell remarked with all due respect, counsel, it does not require public disclosure, it requires a prior hearing; it is a statuary requirement that cannot be avoided by listing the names on the agenda. Mr. Buddell continued his objection to closed session of this hearing and going forward he will consider legal action against the City if it continues and will also move to block any negotiations and sale of the property that come out of this Closed Session. Mr. Buddell provided two options: 1. Open this session as Government Code states before it may be closed; or 2. Place it on a future agenda after an open and public hearing is held. Mr. Buddell expressed he does not write the laws, the City is supposed to follow them.

Mayor Haydon then read the listed Closed Session title and description.

Mr. Buddell, advised his objection remains on the record and reserves his rights to pursue legal action on behalf of himself and other residents of Clayton should the sale go forward; without prior public knowledge of what this is about, it may be a great thing, if in Closed Session it is not known.

Ms. Subramanian clarified the Government Code Section that was cited does not require a public hearing, it just requires the Council in an open and public session to identify the negotiators, the real property and the persons with whom the negotiations will occur with. Mr. Napper added the City Council in Closed Session can discuss the item but the City Council cannot bind itself or the City in Closed Session. If the Council were to instruct its negotiators as to a certain price or a certain payment, that instruction would

then have to come back at a subsequent public meeting that is noticed to the public in open session.

City Attorney Subramanian advised the purpose of a closed session is to direct its negotiators on the price and terms of payment without notifying the other party what interests or your caps or thresholds are. Since you are not negotiating publicly with the other party present, again it is limited to price and terms of payment in closed session. Any subsequent action to potentially sell the property would have to be done in a noticed open session setting.

Mayor Haydon announced the City Council will adjourn into Closed Session for the following noticed items (9:43 p.m.):

- (a) Government Code Section 54956.8, Conference with Real Property Negotiator.
 - Real Properties: 1005 and 1007 Oak Street, Clayton, CA
 (APNs 119-050-034, 119-050-008, and 119-050-009)

 Instructions to City Negotiators: City Manager Gary Napper and Mr. Edward Del Beccaro, Managing Director, Transwestern, regarding price and terms of payment.
 Negotiating Parties: Mr. Michael Paez, The Kase Group (Investment Real Estate.

Report Out From Closed Session (10:20 p.m.)

Mayor Haydon stated there is no reportable action.

Lafavette) representing Luis Munoz.

 ADJOURNMENT – on call by Mayor Haydon, the City Council adjourned its meeting at 10:21 p.m.

The City Council of August 7, 2018 has been canceled.

The next regularly scheduled meeting of the City Council will be August 21, 2018.

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Respectfully submitted,	
Janet Brown, City Clerk	
	APPROVED BY THE CLAYTON CITY COUNCIL
	Keith Haydon, Mayor

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Agenda Date: 08/21/18

Agenda Item: 3b

Approve

Gary A. Napper City Manager

STAFF REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

Kevin Mizuno, FINANCE MANAGER

DATE:

08/21/18

SUBJECT:

INVOICE SUMMARY

RECOMMENDATION:

Approve the following:

Cash Requirements Report dated 7/13/18	\$731,546.90
ADP Payroll, week 29, PPE 07/15/18	\$83,363.26
Paychex Payroll week 31, PPE 07/29/18	\$82,102.68
Paychex Payroll week 33, PPE 08/12/18	\$81,459.59
Deposit refund for project processed prior to City Council Meeting	\$2,000.00
Total	\$980,472.43

Cash Requirements reports, dated 8/17/18 (10 pages)
ADP Payroll report, week 29 (1 page)
Paychex Cash Requirements, weeks 31 & 33 (4 pages)
Deposit refund for Hawkins Pools, check # 34051 (3 pages)

City of Gayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance		Discount Expires On	Net Amount Due
ADP, LLC								
ADP, LLC	8/21/2018	8/21/2018	518056721	Payroll fees PPE 7/15/18	\$152.93	\$0.00		\$152.93
				Totals for ADP, LLC:	\$152.93	\$0.00		\$152.93
All-Guard Systems, Inc.								
All-Guard Systems, Inc.	8/21/2018	8/21/2018	A189361	Annual fire monitoring	\$624.00	\$0.00		\$624.00
				Totals for All-Guard Systems, Inc.:	\$624.00	\$0.00		\$624.00
Sheryll Asantor				Service of Court of Court of Service of				
Sheryll Asantor	8/21/2018	8/21/2018	072818	Hoyer Hall security deposit refund	\$200.00	\$0.00		\$200.00
sheryu Asamoi	0/21/2010	OLLILLATO	072010	Totals for Sheryll Asantor:	\$200.00	\$0.00		\$200.00
Substitution.				Totals for Sheryii Asantor.	\$200.00	\$0.00		\$200,00
AT&T (CalNet3)	no riche	offeria.	1103231	ene - inchedica:	2, 11212	427		407-1407-1
AT&T (CalNet3)	8/21/2018	8/21/2018	11665761	Phones 6/22/18-7/21/18	\$1,645.12	\$0.00		\$1,645.12
				Totals for AT&T (CalNet3):	\$1,645.12	\$0.00		\$1,645.12
Vison Bacigalupo								
Alison Bacigalupo	8/21/2018	8/21/2018	052118	Hoyer Hall security deposit refund	\$200.00	\$0.00		\$200.00
				Totals for Alison Bacigalupo:	\$200.00	\$0.00		\$200.00
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	8/21/2018	8/21/2018	0356077-IN	Safety glasses, masks, ear plugs	\$116.14	\$0.00		\$116.14
Bay Area Barricade Serv.	8/21/2018	8/21/2018	0356078-IN	"School" signs, HIP metal signs	\$572.57	\$0.00		\$572.57
.,				Totals for Bay Area Barricade Serv.:	\$688.71	\$0.00		\$688.71
San Area Name Craus				and the same of th				
Bay Area News Group Bay Area News Group	8/21/2018	8/21/2018	1139294	Legal ads for July - Parolee, Animal Control	\$645.00	\$0.00		\$645.00
say Area News Group	B/21/2010	0/21/2010	1137274		\$645.00	\$0.00		\$645.00
				Totals for Bay Area News Group;	3043.00	\$0.00		3043.00
Best Best & Kreiger LLP				And an artist of	0.000	Virial I		EG TELCHA
Sest Best & Kreiger LLP	8/21/2018	8/21/2018	826850	Legal services for June	\$8,500.00	\$0.00		\$8,500.00
lest Best & Kreiger LLP	8/21/2018	8/21/2018	826851	Legal services for June	\$59.00	\$0.00		\$59.00
lest Best & Kreiger LLP	8/21/2018 8/21/2018	8/21/2018 8/21/2018	826852 826853	Legal services for June Legal services for June	\$1,150.50 \$1,250.00	\$0.00 \$0.00		\$1,150.50
lest Best & Kreiger LLP lest Best & Kreiger LLP	8/21/2018	8/21/2018	828130	Legal services for July	\$8,500.00	\$0.00		\$1,250.00 \$8,500.00
est Best & Kreiger LLP	8/21/2018	8/21/2018	828132	Legal services for July	\$59.00	\$0.00		\$59.00
est Best & Kreiger LLP	8/21/2018	8/21/2018	828133	Legal services for July	\$88.50	\$0.00		\$88.50
				Totals for Best Best & Kreiger LLP:	\$19,607.00	\$0.00		\$19,607.00
alifornia Narcotic Officers Associa	ation				212/00/100	80.00		\$15,007.00
California Narcotic Officers Association		8/21/2018	091118	Training class 9/11/18	\$90.00	\$0.00		\$90.00
The state of the s		ALTON MANAGEMENT		or California Narcotic Officers Association:	\$90.00	\$0.00		\$90.00
aIPERS Health			10.00		w.zir.00	p0.00		\$90.00
alPERS Health	8/21/2018	8/21/2018	15367595	Medical for August	\$20 606 D4	60.00		man The Section
alPERS Health	8/21/2018	8/21/2018	15400195	Medical for September	\$30,606.04 \$30,606.04	\$0.00		\$30,606.04 \$30,606.04
				Control and to Manager	WAY WOUNTY	30.00		330,000.04

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for CalPERS Health:	\$61,212.08	\$0.00		\$61,212.08
CalPERS Retirement								
CalPERS Retirement	8/21/2018	8/21/2018	071518	Retirement PPE 7/15/18	\$16,187.26	\$0.00		\$16,187.26
alPERS Retirement	8/21/2018	8/21/2018	CC072418	City Council retirement ending 7/24/18	\$151.24	\$0.00		\$151.24
alPERS Retirement	8/21/2018	8/21/2018	072918	Retirement PPE 7/29/18	\$15,655.40	\$0.00		\$15,655.40
alPERS Retirement	8/21/2018	8/21/2018	CC082418	City council retirement ending 8/24/18	\$151.24	\$0.00		\$151.24
alPERS Retirement	8/21/2018	8/21/2018	081218	Retirement PPE 8/12/18	\$15,674.87	\$0.00		\$15,674.87
				Totals for CalPERS Retirement:	\$47,820.01	\$0.00		\$47,820.01
altronics Business Systems, Inc.								
Caltronics Business Systems, Inc	8/21/2018	8/21/2018	2568474	Copier contract overage for July	\$395.53	\$0.00		\$395.53
			To	otals for Caltronics Business Systems, Inc.	\$395.53	\$0.00		\$395.53
CWD								
CCWD	8/21/2018	8/21/2018	A931201	Water 5/8/18-7/10/18	\$575.90	\$0.00		\$575.90
CCWD	8/21/2018	8/21/2018	A929866	Water 5/15/18-7/11/18	\$194.66	\$0.00		\$194.66
CWD	8/21/2018	8/21/2018	B Series	Water 6/8/18-8/7/18	\$37,294.92	\$0.00		\$37,294.92
				Totals for CCWD:	\$38,065.48	\$0.00		\$38,065.48
ity of Concord								
ity of Concord	8/21/2018	8/21/2018	67510	Vehicle maintenance for June	\$724.92	\$0.00		\$724.92
				Totals for City of Concord:	\$724.92	\$0.00		\$724.92
hristian Colline								
Christian Colline	8/21/2018	8/21/2018	062318	Hoyer Hall security deposit refund	\$200.00	\$0.00		\$200.00
				Totals for Christian Colline:	\$200,00	\$0.00		\$200.00
Comcast								
omcast	8/21/2018	8/21/2018	070518	Internet 7/10/18-8/9/18	\$386.08	\$0.00		\$386.08
omcast	8/21/2018	8/21/2018	080118	Internet 8/10/18-9/9/18	\$386.08	\$0.00		\$386.08
				Totals for Comcast:	\$772.16	\$0.00		\$772.16
ontra Costa County - Office of the	Sheriff							
Contra Costa County - Office of the She	8/21/2018	8/21/2018	CLPD-1806	Forensics for June	\$500.00	\$0.00		\$500.00
ontra Costa County - Office of the She	8/21/2018	8/21/2018	CLPD-218	Blood withdrawals Q4 FY 18	\$399.00	\$0.00		\$399.00
			Totals for C	ontra Costa County - Office of the Sheriff:	\$899.00	\$0.00		\$899.00
ontra Costa County Animal Svcs I	Dept							
ontra Costa County Animal Svcs Dept	8/21/2018	8/21/2018	ASD M6042	Animal control services Q1 FY 19	\$17,236.31	\$0.00		\$17,236.31
			Totals for	r Contra Costa County Animal Svcs Dept:	\$17,236.31	\$0.00		\$17,236.31
ontra Costa County Department o	f Conservati	on & Develo	pment					
ontra Costa County Department of Co	6/30/2018	6/30/2018	FY18-Q4	CASp fees for Q4 FY 18	\$909.72	\$0.00		\$909.72
		Title K. A.	A Court Court De	partment of Conservation & Development:	\$909.72	\$0.00	-	\$909.72

City of Cayton Cash Requirements Report

Vendor Name	Due Date	Involce Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Contra Costa County Law & Justice Sys	8/21/2018	8/21/2018	LJIS 18-Cly	ACCJIN Shared Costs FY 18	\$2,210.45	\$0.00		\$2,210.45
		T	otals for Contra Costa	County Law & Justice Systems (ACCJIN):	\$2,210.45	\$0.00		\$2,210.45
Contra Costa County Library Admir	nistration							
Contra Costa County Library Administr		8/21/2018	Q4-FY18	Library additional hours Q4 FY 18	\$812.46	\$0.00		\$812.46
de la constantina de			Totals for C	ontra Costa County Library Administration:	\$812,46	\$0.00		\$812.46
Contra Costa County Public Works	Dept			The second second second second				
Contra Costa County Public Works Dept		8/21/2018	701860	Traffic signal maintenance for June	\$1,941.21	\$0.00		\$1,941.21
Name and street street (A)				r Contra Costa County Public Works Dept:	\$1,941.21	\$0.00		\$1,941.21
CR Fireline, Inc			, 2,3,2,2					V-12- 11-14-1
CR Fireline, Inc	8/21/2018	8/21/2018	112009	CH Fire sprinkler inspection	\$375.00	\$0.00		\$375.00
CR Fireline, Inc	8/21/2018	8/21/2018	112008	Library Fire sprinkler test	\$375.00	\$0.00		\$375.00
CR Fireline, Inc	8/21/2018	8/21/2018	112007	EH Fire sprinkler inspection	\$375.00	\$0.00		\$375.00
CR Fireline, Inc	8/21/2018	8/21/2018	112170	Fire alarm battery replacement	\$775.00	\$0.00		\$775.00
	111111111			Totals for CR Fireline, Inc.	\$1,900.00	\$0.00		\$1,900.00
				Table 191 Stiff Hamily Hist	Q-12-00100	20100		\$1,200.00
Cropper Accountancy Corp	8/21/2018	8/21/2018	1528	1st Process billing, Audit for FY 18	\$5,150.00	\$0.00		\$5,150.00
Cropper Accountancy Corp	0/21/2010	0/21/2010	1320					
				Totals for Cropper Accountancy Corp:	\$5,150.00	\$0.00		\$5,150.00
De Lage Landen Financial Services	, Inc.							
De Lage Landen Financial Services, Inc.		8/21/2018	60098023	Copier contract 8/15/18-9/14/18	\$304.59	\$0.00		\$304.59
De Lage Landen Financial Services, Inc.	8/21/2018	8/21/2018	59744672	Copier contract 7/15/18-8/14/18	\$304.59	\$0.00		\$304.59
De Lage Landen Financial Services, Inc.	8/21/2018	8/21/2018	59384547	Copier contract 6/15/18-7/14/18	\$304.59	\$0.00		\$304.59
			Totals for	De Lage Landen Financial Services, Inc.:	\$913.77	\$0.00		\$913.77
Dell Marketing LP								
Dell Marketing LP	8/21/2018	8/21/2018	10255544767	Computers for PD (10)	\$7,863.67	\$0.00		\$7,863.67
				Totals for Dell Marketing LP:	\$7,863.67	\$0.00		\$7,863.67
Lenette Dewitt								
Lenette Dewitt	8/21/2018	8/21/2018	070718	Endeavor Hall security deposit refund	\$500.00	\$0.00		\$500.00
				Totals for Lenette Dewitt:	\$500.00	\$0.00		\$500,00
Dieble Wess Classics				Totale 107 Editions Borning		80.00		\$500,00
Diablo View Cleaning	a 151 /2010	out base	22/80		January	200		
Diablo View Cleaning	8/21/2018	8/21/2018	23689	Hoyer Hall carpet cleaning	\$225.00	\$0.00		\$225.00
				Totals for Diablo View Cleaning:	\$225.00	\$0.00		\$225.00
Digital Services								
Digital Services	8/21/2018	8/21/2018	11197	IT services 6/15/18-7/25/18	\$2,410.48	\$0.00		\$2,410.48
				Totals for Digital Services:	\$2,410.48	\$0.00		\$2,410.48
Dillon Electric Inc								
Dillon Electric Inc	8/21/2018	8/21/2018	3725	Install 2 light poles @ Center/MCR	\$1,127.70	\$0.00		\$1,127.70
Dillon Electric Inc	8/21/2018	8/21/2018	3719	Concrete for light poles, match sidewalk	\$2,118.00	\$0.00		\$2,118.00

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Involce Date	Invoice Number	Invoice Description	Invoice Balance		Discount Expires On	Net Amount Due
Dillon Electric Inc Dillon Electric Inc Dillon Electric Inc Dillon Electric Inc	8/21/2018 8/21/2018 8/21/2018 8/21/2018	8/21/2018 8/21/2018 8/21/2018 8/21/2018	3717 3718 3710 3716	Remove old pole bases @ Center/MCR Prep locations for new light poles Street light repairs 7/6/18 Street light repair 7/13/18	\$4,530.00 \$1,588.48 \$733.01 \$335.40	\$0.00 \$0.00 \$0.00 \$0.00		\$4,530.00 \$1,588.48 \$733.01 \$335.40
				Totals for Dillon Electric Inc:	\$10,432.59	\$0.00		\$10,432.59
Division of the State Architect								
Division of the State Architect	6/30/2018	6/30/2018	Q4-FY18	CASp fees for Q4 FY 18	\$106.40	\$0.00		\$106.40
				Totals for Division of the State Architect:	\$106,40	\$0.00		\$106.40
Economic & Planning Systems, I	nc							
Economic & Planning Systems, Inc.	8/21/2018	8/21/2018	181082-1	Affordable Housing/Open Space Studies, June	\$2,990.02	\$0.00		\$2,990.02
Economic & Planning Systems, Inc	8/21/2018	8/21/2018	181082-2	Affordable Housing/Open Space Studies, July	\$7,845.00	\$0.00		\$7,845.00
				Totals for Economic & Planning Systems, Inc.	\$10,835.02	\$0.00		\$10,835.02
Floorscapes								
Floorscapes	8/21/2018	8/21/2018	EH	Refinish floor @ EH (tenant damage)	\$4,036.00	\$0.00		\$4,036.00
				Totals for Floorscapes:	\$4,036.00	\$0.00		\$4,036.00
Globalstar LLC								
Globalstar LLC	8/21/2018	8/21/2018	9516407	Sat phone 6/16/18-7/15/18	\$86.70	\$0.00		\$86.70
				Totals for Globalstar LLC:	\$86.70	\$0.00		\$86.70
Suniqua Graham								
Suniqua Graham	8/21/2018	8/21/2018	PC	Petty cash reimbursement	\$443.59	\$0.00		\$443.59
				Totals for Suniqua Graham:	\$443,59	\$0.00		\$443.59
Mark Graham								
Mark Graham	8/21/2018	8/21/2018	18-30	Polygraph exam	\$300.00	\$0.00		\$300.00
				Totals for Mark Graham:	\$300.00	\$0.00		\$300.00
Hammons Supply Company								
Hammons Supply Company	8/21/2018	8/21/2018	103094	EH Janitorial supplies	\$153.13	\$0.00		\$153.13
Hammons Supply Company	8/21/2018	8/21/2018	103092	The Grove Janitorial supplies	\$299.64	\$0.00		\$299.64
Hammons Supply Company	8/21/2018	8/21/2018	103093	CH Janitorial supplies	\$137.56	\$0.00		\$137.56
				Totals for Hammons Supply Company:	\$590.33	\$0.00		\$590.33
Harris & Associates, Inc.								
Harris & Associates, Inc.	8/21/2018	8/21/2018	38304	GHAD engineering services	\$760.00	\$0.00		\$760.00
Harris & Associates, Inc.	8/21/2018	8/21/2018	38303	Engineering services for June	\$9,588.83	\$0.00		\$9,588.83
Harris & Associates, Inc.	8/21/2018	8/21/2018	38562	Engineering services for July	\$9,581.17	\$0.00		\$9,581.17
				Totals for Harris & Associates, Inc.:	\$19,930.00	\$0.00		\$19,930,00
HdL Software, LLC								
HdL Software, LLC	8/21/2018	8/21/2018	0012628-IN	Business license software training	\$833.79	\$0.00		\$833.79
				Totals for HdL Software, LLC;	\$833.79	\$0.00		\$833.79

City of Cayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	7.45.25.40.35.40.	Discount Expires On	Net Amount Due
Health Care Dental Trust								
Health Care Dental Trust	8/21/2018	8/21/2018	246902	Dental for August	\$2,191.01	\$0.00		\$2,191.01
				Totals for Health Care Dental Trust:	\$2,191.01	\$0.00		\$2,191.01
HUB Inter of CA Ins Svc								
HUB Inter of CA Ins Svc	8/21/2018	8/21/2018	06 18	Insurance for June	\$117.72	\$0.00		\$117.72
				Totals for HUB Inter of CA Ins Svc:	\$117.72	\$0.00		\$117.72
iPayment								
iPayment	8/21/2018	8/21/2018	June 2018	Bankcard fees for June	\$291.62	\$0.00		\$291.62
iPayment	8/21/2018	8/21/2018	June 2018	Online bankcard fees for June	\$267.94	\$0.00		\$267.94
iPayment	8/21/2018	8/21/2018	July 2018	Bankcard fees for July	\$146.73	\$0.00		\$146.73
Payment	8/21/2018	8/21/2018	July 2018	Online bankcard fees for July	\$155.56	\$0.00		\$155.56
				Totals for iPayment:	\$861.85	\$0.00		\$861.85
J&R Floor Services								
J&R Floor Services	8/21/2018	8/21/2018	Seven 2018	Janitorial services for July 2018	\$4,940.00	\$0.00		\$4,940.00
				Totals for J&R Floor Services:	\$4,940.00	\$0.00		\$4,940.00
Sandy Johnson						2.00		
Sandy Johnson	8/21/2018	8/21/2018	PC 8/10/18	CLEARS registration fees	\$75.00	\$0.00		\$75.00
				Totals for Sandy Johnson:	\$75.00	\$0.00		\$75.00
Janeen M Kissinger								
Janeen M Kissinger	8/21/2018	8/21/2018	120118	Hoyer Hall refund, cancellation	\$173.00	\$0.00		\$173.00
				Totals for Janeen M Kissinger:	\$173.00	\$0.00		\$173.00
Brittney LaBrie								
Brittney LaBrie	8/21/2018	8/21/2018	072818	Endeavor Hall security deposit refund	\$500.00	\$0.00		\$500.00
				Totals for Brittney LaBrie:	\$500.00	\$0.00		\$500.00
LarryLogic Productions								
LarryLogic Productions	8/21/2018	8/21/2018	1743	City council meeting production 7/17/18	\$450.00	\$0.00		\$450.00
				Totals for LarryLogic Productions:	\$450.00	\$0.00		\$450.00
LEHR								
LEHR	8/21/2018	8/21/2018	SI18470	Repair siren/lights controller, car # 1737	\$75.00	\$0.00		\$75.00
LEHR	8/21/2018	8/21/2018	SI17542	Replace battery, car 1735	\$296.22	\$0.00		\$296.22
				Totals for LEHR:	\$371.22	\$0.00		\$371.22
Local Government Consultants								
Local Government Consultants	8/21/2018	8/21/2018	506	SB 90 Claims prep, FY 19	\$1,100.00	\$0.00		\$1,100.00
				Totals for Local Government Consultants:	\$1,100.00	\$0.00		\$1,100.00
Jeremy Lovell	100							
eremy Lovell	8/21/2018	8/21/2018	CAP0301	Deposit refund for 202 Bigelow	\$2,000.00	\$0.00		\$2,000.00

Pacific Telema nement Svc

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for Jeremy Lovell:	\$2,000.00	\$0.00		\$2,000.00
Main Fire Protection Inc.								
Main Fire Protection Inc.	8/21/2018	8/21/2018	92616	EH kitchen hood service	\$195.69	\$0.00		\$195.69
				Totals for Main Fire Protection Inc.:	\$195.69	\$0.00		\$195.69
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	8/21/2018	8/21/2018	6362	EH HVAC maintenance for July	\$259.50	\$0.00		\$259.50
Marken Mechanical Services Inc	8/21/2018	8/21/2018	6502	Library HVAC maintenance for July	\$527.17	\$0.00		\$527.17
				Totals for Marken Mechanical Services Inc:	\$786.67	\$0.00		\$786.67
Matrix Association Management								
Matrix Association Management	8/21/2018	8/21/2018	7027	Diablo Estates management for August	\$4,532.50	\$0.00		\$4,532.50
The second second second				Totals for Matrix Association Management:	84,532,50	\$0.00		\$4,532.50
Menard Consulting, Inc				The same of the sa				5,425,014,2
Menard Consulting, Inc	8/21/2018	8/21/2018	1217	GASB 75 actuarial valuation fof FY18	\$1,800,00	\$0.00		\$1,800.00
g,	VEZY, 0.14		e che.	Totals for Menard Consulting, Inc.	\$1,800,00	\$0.00		\$1,800.00
Mortensen Roofing And Gutters, I				rotato to morate obticating, mo	21,000.00	40,00		\$7,000.00
Mortensen Roofing And Gutters, Inc	8/21/2018	8/21/2018	CAP0306	Deposit refund for 127 Mt Everest Ct	\$2,000.00	\$0.00		\$2,000.00
Wolfersen Rooming And Outless, the	0/21/2010	0/21/2010	30.77.4.2	그리아 중에 가는 아름다면 아니는 것이 하는 것이다.				
ALCO TO ALCO			10	lals for Mortensen Roofing And Gutters, Inc.	\$2,000.00	\$0.00		\$2,000.00
Motorola	(Substitution)	2000000	. TuocatocVVI		6) 500 00-	2000		California -
Motorola	8/21/2018	8/21/2018	3200709409	Multi unit charger	\$1,082.36	\$0.00		\$1,082.36
Motorola	8/21/2018	8/21/2018	16006675	Digital smartzones, upgrade to TDMA	\$10,201.48	\$0.00		\$10,201.48
				Totals for Motorola:	\$11,283.84	\$0.00		\$11,283.84
MPA								
MPA	8/21/2018	8/21/2018	July 2018	Life/LTD/STD for July	\$2,223.88	\$0.00		\$2,223.88
MPA	8/21/2018 8/21/2018	8/21/2018 8/21/2018	August 2018 September 2018	Life/LTD/STD for August Life/LTD/STD for September	\$2,223.88	\$0.00		\$2,223.88
MPA	8/21/2018	8/21/2018	September 2018		\$2,227.55	\$0.00		\$2,227.55
(Astronomy Brown)				Totals for MPA:	36,675.31	\$0.00		\$6,675,31
Kristine Nebeker								
Kristine Nebeker	8/21/2018	8/21/2018	081118	Hoyer Hall security deposit refund	\$200.00	\$0.00		\$200.00
				Totals for Kristine Nebeker:	\$200.00	\$0.00		\$200.00
Neopost Northwest								
Neopost Northwest	8/21/2018	8/21/2018	N7242280	Postage meter lease 5/16/18-8/15/18	\$510.81	\$0.00		\$510.81
				Totals for Neopost Northwest:	\$510.81	\$0.00		\$510.81
Orange County Sheriff								
Orange County Sheriff	8/21/2018	8/21/2018	2060-31715-001	Field Officer Training Update	\$130.00	\$0.00		\$130.00
72.7				Totals for Orange County Sheriff:	\$130.00	\$0.00		\$130.00
London and Committee of the Committee of				and the control of th				W.50.00

City of Crayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Numb	per Invoice Description	Involce Balance		Discount Expires On	Net Amount Due
Pacific Telemanagement Svc	8/21/2018	8/21/2018	1000084	Courtyard payphone for August	\$73.00	\$0.00		\$73.00
				Totals for Pacific Telemanagement Svc:	\$73.00	\$0.00		\$73.00
Paychex								
Paychex	8/21/2018	8/21/2018	2018073001	Payroll fees PPE 7/29/18, Setup fees	\$664.24	\$0.00		\$664.24
				Totals for Paychex:	\$664.24	\$0.00		\$664.24
Oliver Perreras								
Oliver Perreras	8/21/2018	8/21/2018	081418	CCP refund, cancelled event	\$177.00	\$0.00		\$177.00
				Totals for Oliver Perreras:	\$177.00	\$0.00		\$177.00
PG&E								
PG&E	8/21/2018	8/21/2018	072218	Energy 6/15/18-7/21/18	\$5,807.96	\$0.00		\$5,807.96
PG&E	8/21/2018	8/21/2018	081318	Energy 6/14/18-7/15/18	\$20,278.25	\$0.00		\$20,278.25
				Totals for PG&E:	\$26,086.21	\$0.00		\$26,086.21
Pond M Solutions								
Pond M Solutions	8/21/2018	8/21/2018	368	Fountain maintenance	\$650.00	\$0.00		\$650.00
Pond M Solutions	8/21/2018	8/21/2018	383	Fountain maintenance	\$650.00	\$0.00		\$650.00
				Totals for Pond M Solutions:	\$1,300.00	\$0.00		\$1,300.00
Adam M Pound								
Adam M Pound	8/21/2018	8/21/2018	CAP0270	Deposit refund for 1378 Yosemite Cir	\$2,000.00	\$0.00		\$2,000.00
				Totals for Adam M Pound:	\$2,000.00	\$0.00		\$2,000.00
Raney Planning & Management, In	nc.							
Raney Planning & Management, Inc.	8/21/2018	8/21/2018	1836E-1	Clayton Sr Housing, air qual & peer rev - July	\$907.50	\$0.00		\$907.50
Raney Planning & Management, Inc.	8/21/2018	8/21/2018	1752E-6	Oak Creek Canyon, Proj Mgmt - July	\$3,538.50	\$0.00		\$3,538.50
				Totals for Raney Planning & Management, Inc.:	\$4,446.00	\$0.00		84,446.00
Riso Products of Sacramento								
Riso Products of Sacramento	8/21/2018	8/21/2018	185775	Copier contract usage 6/20/18-7/19/18	\$65.99	\$0.00		\$65.99
				Totals for Riso Products of Sacramento:	\$65.99	\$0.00		\$65.99
Roto-Rooter Sewer/Drain Service								
Roto-Rooter Sewer/Drain Service	8/21/2018	8/21/2018	G-622-18	Repair to men's restroom in PD	\$656.75	\$0.00		\$656.75
				Totals for Roto-Rooter Sewer/Drain Service:	\$656.75	\$0.00		\$656.75
Site One Landscape Supply, LLC								
Site One Landscape Supply, LLC	8/21/2018	8/21/2018	87300876	Repair to irrigation panel at Lydia Lu Park	\$489.09	\$0.00		\$489.09
Site One Landscape Supply, LLC	8/21/2018	8/21/2018	87332770	Irrigation supplies	\$44.11	\$0.00		\$44.11
Site One Landscape Supply, LLC	8/21/2018	8/21/2018	87106147	Itrigation supplies	\$20.51	\$0.00		\$20.51
				Totals for Site One Landscape Supply, LLC:	\$553.71	\$0.00		\$553.71
Ramon Solorio								
Ramon Solorio	8/21/2018	8/21/2018	063018	Endeavor Hall security deposit refund	\$500.00	\$0.00		\$500,00
				Totals for Ramon Solorio:	\$500.00	\$0.00	(-	\$500.00

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance		Discount Expires On	Net Amount Due
Sprint Comm (PD)								
Sprint Comm (PD)	8/21/2018	8/21/2018	703335311-200	Cell phones 6/26/18-7/25/18	\$648.45	\$0.00		\$648.45
				Totals for Sprint Comm (PD):	\$648.45	\$0.00		\$648.45
Staples Business Credit								
Staples Business Credit	8/21/2018	8/21/2018	1620560153	Office supplies for July	\$274.52	\$0.00		\$274.52
				Totals for Staples Business Credit:	\$274.52	\$0.00		\$274.52
Stericycle Inc								
Stericycle Inc	8/21/2018	8/21/2018	3004341195	Medical waste disposal	\$106.18	\$0.00		\$106.18
Stericycle Inc	8/21/2018	8/21/2018	186019	Copier lease pmt 17 of 60	\$106.09	\$0.00		\$106.09
				Totals for Stericycle Inc:	\$212.27	\$0.00		\$212.27
The Radar Shop								
The Radar Shop	8/21/2018	8/21/2018	11699	Recertification of Radar Units	\$227.00	\$0.00		\$227.00
				Totals for The Radar Shop:	\$227.00	\$0.00		\$227.00
Underground Service Alert								
Underground Service Alert	8/21/2018	8/21/2018	18070161	Annual fee	\$509.33	\$0.00		\$509.33
				Totals for Underground Service Alert:	\$509.33	\$0.00		\$509.33
United Site Services Inc								
United Site Services Inc	8/21/2018	8/21/2018	114-7024530	Porta-potties for 4th of July Parade	\$256.57	\$0.00		\$256,57
				Totals for United Site Services Inc.	\$256.57	\$0.00		\$256.57
US Bank - Corp Pmt System CalC	ard							
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Storage unit rent	\$139.00	\$0.00		\$139.00
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	USPS	\$25.82	\$0.00		\$25.82
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Quill, Office supplies, paper	\$209,28	\$0.00		\$209.28
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$278,00	\$0.00		\$278.00
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$545,93	\$0.00		\$545.93
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$477.44	\$0.00		\$477.44
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$189.51	\$0.00		\$189.51
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$297.92	\$0.00		\$297.92
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Trimmer blades, sharpen/repair blades	\$680.13	\$0.00		\$680.13
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Amazon Prime Membership, Supplies, Tools	\$286.07	\$0.00		\$286.07
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Printer ink	\$158.75	\$0.00		\$158.75
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Redwood for benches	\$1,199.69	\$0.00		\$1,199.69
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Fuel	\$762.83	\$0.00		\$762.83
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$356.41	\$0.00		\$356.41
US Bank - Corp Pint System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$224.91	\$0.00		\$224.91
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$381.00	\$0.00		\$381.00
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$193.73	\$0.00		\$193.73
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	CNOA, training	\$450.00	\$0.00		\$450.00
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Transunion - Search Engine	\$33.90	\$0.00		\$33.90
US Bank - Corr System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Southwest, fli training	\$244.96	\$0.00		\$244.96

City of Crayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Involce Description	Invoice Balance		Discount Expires On	Net Amount Due
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Start end 7/22/18	Wiper Fluid	\$3.25	\$0,00		\$3.25
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	DVDs for dash cams	\$65.23	\$0.00		\$65,23
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Food/snacks for BBQ Event	\$53.50	\$0.00		\$53.50
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Strnt end 7/22/18	Vehicle Gas	\$532.12	\$0.00		\$532,12
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$471.20	\$0.00		\$471.20
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Radio holder, disinfectant	\$88,67	\$0.00		\$88.67
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$353,60	\$0.00		\$353,60
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$517.80	\$0.00		\$517.80
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Strnt end 7/22/18	Office supplies	\$58.75	\$0.00		\$58.75
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$239.88	\$0.00		\$239.88
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Bladetech Holster for tasers	\$119.97	\$0.00		\$119.97
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Office supplies	\$23.91	\$0.00		\$23.91
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$67.12	\$0.00		\$67.12
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Vehicle Gas	\$215.57	\$0.00		\$215.57
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Car washes	\$38.97	\$0.00		\$38.97
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Strnt end 7/22/18	Vehicle Gas	\$414.00	\$0.00		\$414.00
US Bank - Corp Pmt System CalCard	8/21/2018	8/21/2018	Stmt end 7/22/18	Proforce Law Enforcement, taser supplies	\$4,607.17	\$0.00		\$4,607.17
			Total	s for US Bank - Corp Pmt System CalCard;	\$15,005.99	\$0.00		\$15,005.99
US Bank Ops Center								
US Bank Ops Center	8/21/2018	8/21/2018	CLAYCFD90197	Bond principal/interest pmt less cash on hand	\$346,915,88	\$0.00		\$346,915.88
				Totals for US Bank Ops Center:	\$346,915.88	\$0.00		\$346,915.88
Verizon Wireless								
Verizon Wireless	8/21/2018	8/21/2018	9811922159	Cell phones 7/2/18-8/1/18	\$125,65	\$0.00		\$125.65
				Totals for Verizon Wireless:	\$125.65	\$0.00		\$125.65
Wells Fargo Bank (Trustee Fees)				Control Structure and Control	4000			
Wells Fargo Bank (Trustee Fees)	8/21/2018	8/21/2018	1593995	Clayton LOI 2002 paying agent fee	\$500.00	\$0.00		\$500,00
			7	otals for Wells Fargo Bank (Trustee Fees);	\$500.00	\$0.00		\$500.00
Wells Fargo Bank Bank (Bond Deb	t Service)							
Wells Fargo Bank Bank (Bond Debt Se	8/21/2018	8/21/2018	CLAY02092018	Bond principal/interest payment	\$9,749.75	\$0.00		\$9,749.75
			Totals for Wi	ells Fargo Bank Bank (Bond Debt Service):	\$9,749.75	\$0.00		\$9,749.75
Western Exterminator								
Western Exterminator	8/21/2018	8/21/2018	6155951	Pest control for June	\$409.50	\$0.00		\$409.50
Western Exterminator	8/21/2018	8/21/2018	6233991	Pest control for July	\$409.50	\$0.00		\$409.50
242-7-6-				Totals for Western Exterminator:	\$819.00	\$0.00		\$819.00
Workers.com								
Workers.com	8/21/2018	8/21/2018	122617	Seasonal workers week end 7/29/18	\$3,763.20	\$0.00		\$3,763.20
Workers.com	8/21/2018	8/21/2018	122569	Seasonal workers week end 7/22/18	\$4,279.80	\$0.00		\$4,279.80
Workers.com	8/21/2018	8/21/2018	122517	Seasonal workers week end 7/15/18	\$4,029.48	\$0.00		\$4,029.48
Workers.com	8/21/2018	8/21/2018	122666	Seasonal workers week end 8/5/18	\$3,026.80	\$0.00		\$3,026.80
				Totals for Workers.com:	\$15,099.28	\$0.00		\$15,099.28

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance		Discount Expires On	Net Amount Due
Zee Medical Company								
Zee Medical Company	8/21/2018	8/21/2018	B724603688	Sunscreen lotion, PW	\$44.56	\$0.00		\$44.56
Zee Medical Company	8/21/2018	8/21/2018	724603687	Clean, restock first-aid cabinet, PW	\$82.67	\$0.00		\$82.67
Zee Medical Company	8/21/2018	8/21/2018	724603689	Clean, organize, restock first aid cabinet PD	\$49.03	\$0.00		\$49.03
				Totals for Zee Medical Company:	\$176.26	\$0.00		\$176.26
				GRAND TOTALS:	\$731,546,90	\$0.00		\$731,546.90

UU4866 Seq. No.:

004837 004866

WEEK 29 BATCH 2503

28 PAYS

0 Employees With Overflow Statement

0 Overflow Statement 1 Total Statement

Tot Cks/Vchrs:00000000028 Tot Docs in all: 00000000031

First No.

Last No.

Total

Checks:

ADPCHECK ADPCHECK 0000000001 Vouchers: 00000290001 00000290027 00000000027

Earnings Statement

TOTAL DOCUMENT CITY OF CLAYTON LOCATION 0001

CHECK STUFFING, RECONCILIATION



93363.26 GROSS

66122.58 NET PAY (INCLUDING ALL DEPOSITS)

9915.31 FEDERAL TAX

66.97 SOCIAL SECURITY

1303.87 MEDICARE

.00 MEDICARE SURTAX

.00 SUI/DI/FLI TAX

3885.81 STATE TAX

.00 LOCAL TAX

77609.50 DEDUCTIONS

581.80 NET CHECK

COMPANY CODE Z7L CITY OF CLAYTON



- VOID - NON-N

0088 1307-5283 City of Clayton

CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 08/01/18: \$82,102.68

TRANSACTION SUMMARY

SUMMARY BY TRANSACTION TYPE -

TOTAL ELECTRONIC FUNDS TRANSFER (EFT)

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR EFT

TOTAL MANUAL CHECKS/UPDATES

CASH REQUIRED BEFORE REMAINING D / W / L

TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES

CASH REQUIRED FOR CHECK DATE 08/01/18

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TRANSACTION DETAIL

ELECTRONIC FUNDS TRANSFER - Your financial institution will initiate transfer to Paychex at or after 12:01 A.M. on transaction date.

BANK DRAFT AMOUNTS & OTHER TOTALS		DESCRIPTION	PRODUCT	ACCOUNT NUMBER	BANK NAME	TRANS. DATE
	64,048.59	Net Pay Allocations	Direct Deposit	хххххх4799	BANK OF AMERICA, NA	07/31/18
64,712.09	663.50	Deductions with Direct Deposit	Direct Deposit	xxxxxx4799	BANK OF AMERICA, NA	07/31/18
360.00	360.00	Check Amounts	Readychex®	хххххх4799	BANK OF AMERICA, NA	07/31/18
65,072.09	EFT FOR 07/31/18					
	40.92 1,343.92 9,888.10 3,692.08 14,965.02	Employee Withholdings Social Security Medicare Fed Income Tax CA Income Tax Total Withholdings Employer Liabilities Social Security	Taxpay®	xxxxxx4799	BANK OF AMERICA, NA	08/01/18
	1,343.99 9.51 74.49 1.58 1,470.49	Medicare Fed Unemploy CA Unemploy CA Emp Train Total Liabilities				
		Liabilities from prior payrolls (for new Fed Unemploy ER CA Unemploy ER				
	7.35	CA Emp Train ER				
17,030.59	595.08	Additional Liabilities				
17,030.59	EFT FOR 08/01/18	E				
82,102.68	TOTAL EFT	**********	~~~~			

0088 1307-5283 City of Clayton

CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 08/01/18: \$82,102.68

MANUAL CHECKS/UPDATES - These amounts are for previously calculated checks that were issued by you. You may have already deducted these funds from your account.

08/01/18	Refer to your records for account	ACCOUNT NUMBER	Payroll Payroll	Check Amounts	4,786.49	TOTAL
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,				TOTAL MANUAL (HECKS/UPDATES	4,786.49
EMAINING DEDUC	TIONS / WITHHOLDINGS / LIAB	LITIES - Paychex does	not remit these funds.	You must ensure accurate and timely pay	ment of applicable items.	
TRANS. DATE 08/01/18	BANK NAME Refer to your records for account	ACCOUNT NUMBER	PRODUCT Payroll	DESCRIPTION Employee Deductions 1959 Surv. Ben. 414h2 414h2 EE PD ER Cont. 457b EE Pretax DC ICMA FSA Dependent Care Health Premium Nationwide Supp Ins Post Tax Supplemental Ins Total Deductions	10.23 5,514.97 67.23 103.85 1,954.80 411.14 2,920.81 720.00 89.57 106.51 11,899.11	TOTAL

TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES	11,899.11

PAYCHEX WILL MAKE THESE TAX DEPOSIT(S) ON YOUR BEHALF - This information serves as a record of payment.

DUE DATE	PRODUCT	DESCRIPTION	
08/08/18	Taxpay®	FED IT PMT Group	12,657.85
08/08/18	Taxpay®	CA IT PMT Group	3,692.08

0088 1307-5283 City of Clayton

CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 08/15/18: \$81,459.59

TRANSACTION SUMMARY

SUMMARY BY TRANSACTION TYPE -

TOTAL ELECTRONIC FUNDS TRANSFER (EFT)
CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR EFT
TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES
CASH REQUIRED FOR CHECK DATE 08/15/18

81,459.59 81,459.59 12,092.11 93,551.70

TRANSACTION DETAIL

ELECTRONIC FUNDS TRANSFER - Your financial institution will initiate transfer to Paychex at or after 12:01 A.M. on transaction date.

& OTHER TOTALS	64,550.15	DESCRIPTION Net Pay Allocations	PRODUCT Direct Deposit	ACCOUNT NUMBER	BANK NAME BANK OF AMERICA, NA	TRANS. DATE 08/14/18
65,213.65	663.50	Deductions with Direct Deposit	Direct Deposit	xxxxxx4799	BANK OF AMERICA, NA	08/14/18
417.88	417.88	Check Amounts	Readychex®	xxxxxx4799	BANK OF AMERICA, NA	08/14/18
36.40	36.40	Employee Deductions	Gamishment	30000004799	BANK OF AMERICA, NA	08/14/18
65,667.93	EFT FOR 08/14/18					
	141.36 1,281.06 9,235.75 3,584.11 14,242.28	Employee Withholdings Social Security Medicare Fed Income Tax CA Income Tax Total Withholdings	Taxpay®	0000004799	BANK OF AMERICA, NA	D8/15/18
15,791.66	141.36 1,281.12 14.10 110.45 2.35 1,549.38	Employer Liabilities Social Security Medicare Fed Unemploy CA Unemploy CA Emp Train Total Liabilities				
15,791.66	EFT FOR 08/15/18					
81,459.59	TOTAL EFT			+++++++++++++++++++++++++++++++++++++++		

BANK DRAFT AMOUNTS

0088 1307-5263 City of Clayton

CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 08/15/18: \$81,459.59

REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES - Paychex does not remit these funds. You must ensure accurate and timely payment of applicable items.

TOTAL	10,23 69,73 5,705.47 103,85 1,954.80 411.14 2,920.81 720.00 89.57 106.51	Employee Deductions 1959 Surv. Ben. 414h2 EP DER Cont. 414h2 Pretax 457b EE Pretax DC ICMA Pretax FSA Dep Care Pretax Health Prem Pretax Nationwide Pretax Supp Ins Post Tax Supplemental Ins Total Deductions	PRODUCT Payroll	Refer to your records for account Information	08/15/18
12,092,11	S / LIABILITIES	INING DEDUCTIONS / WITHHOLDING	TOTAL REMA		

PAYCHEX WILL MAKE THESE TAX DEPOSIT(S) ON YOUR BEHALF - This information serves as a record of payment.

DUE DATE	PRODUCT	DESCRIPTION	
08/22/18	Taxpay®	FED IT PMT Group	12,080.65
08/22/18	Taxpay®	CA IT PMT Group	3,584.11

To: Hawkins Pools

6 Crow Canyon Ct, Ste 110 San Ramon, CA 94583

CAP0267

8/21/2018

Deposit refund for 5927 Herriman Dr

Totals:

\$2,000.00 \$2,000.00

\$0.00 \$0.00 \$2,000.00 \$2,000.00

Deposit refund for 5927 Herriman Dr

7/18/2018

34051

Two thousand and 00/100 Dollars

\$** 2,000.00

Hawkins Pools 6 Crow Canyon Ct, Ste 110 San Ramon, CA 94583

CITY OF CLAYTON CHECK REQUEST

Vendor Number: 899	Name: Howkins Enterprises
Invoice Number(s): CAO 0267	Vendor Address: 6 Crow Canyon Ct
Invoice Date:	San Ramon CA 94583

Description	Inv.#	Inv. Date	Amount	Charge to acct:
Refund CAP deposit				
Petund CAP deposit for 5927 Herriman				
New poor +BBQ			*2000-	601-2744-00
				CAP 0267
-f	ENTER	EN		
	FILE	FU		1 1
			1	
		Total	2000 -	

Comments: BP 158-17 CAP 267 ALL Complete No Issues.

Department Approval: Paura Hyjameistes	Date: 7-17-18
City Manager Approval:	Date: 18 July 2018

City of Clayton 601 Fund Project Detail (All Dates) Specified Project

Date	Batch	Source	Reference		Balance
D/E0/2014 15	rat Merrievan Or. I	old poor outloor BBC.	AND ALWARDS	N STATE OF THE A	
601-2740-00	- Planning Service	es Deposit			
11/14/2017	3782 - 242	Curk Bearings	Handing Francisco 1022 12216	Beginning Balance	\$0.00
		Cash Receipts	Hawkins Enterprises-1923-12215		(\$2,000.00)
11/30/2017	3778 - 10	Journal Entry	Re-allocate funds per Planning		\$2,000.00
				Net Change	\$0.00
				Ending Balance	\$0.00
601-2744-00	- Stormwater Insp	ection Deposits			
				Beginning Balance	\$0.00
11/30/2017	3778 - 11	Journal Entry	Re-allocate funds per Planning		(\$2,000.00)
				Net Change	(\$2,000.00)
				Ending Balance	(\$2,000.00)
601-2745-00	- Construction an	d Demolition			
				Beginning Balance	\$0.00
11/14/2017	3782 - 243	Cash Receipts	Hawkins Enterprises-1923-12215		(\$2,000.00)
				Net Change	(\$2,000.00)
				Ending Balance	(\$2,000.00)
				Assets and Liabilities	(\$4,000.00)

Agenda Date: 8-21-2018

Agenda Item: 30



Approved

Gary A. Napper
City Manager

AGENDA REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

CITY MANAGER

DATE:

21 AUGUST 2018

SUBJECT:

CITY RESPONSE TO CIVIL GRAND JURY REPORT NO. 1808

RECOMMENDATION

It is recommended the City Council consider the prepared City response regarding Civil Grand Jury Report No. 1808, "Joint Powers Authorities"; and subject to any Council modifications to the proposed response, by Consent Calendar minute motion approve the Exhibit as the City's official response and authorize Mayor Haydon to sign the official cover letter.

BACKGROUND

A Civil Grand Jury is commissioned annually in Contra Costa County to investigate city and county governments, special districts and certain non-profit corporations to ensure functions are performed in a lawful, economical and efficient manner. Pursuant to California Government Code Section 933.5(a), whenever a civil grand jury issues a report that involves matters within a particular municipality's jurisdiction or area of responsibility, the respective city is required to respond in writing and in accord with a specific response format.

On 06 June 2018, the FY 2017-18 Civil Grand Jury of Contra Costa County released a Report directed to all nineteen cities within the county. Report No. 1808 researched and examined the existence of a variety of joint powers authorities (JPAs) operating and serving the public needs of cities and towns.

Civil Grand Jury Report No. 1808 concluded with six (6) Findings and six (6) Recommendations requiring structured responses by each of the listed respondents.

Attached are staff's recommended responses and a draft letter for the City Council to consider and approve constituting our City's official response to Civil Grand Jury Report No. 1808. The City's response to this particular Report is due by 11 September 2018 but given the timing of regular meeting cancellations during the summer, the matter has been placed on this agenda for official review and approval. As noted on page 10 of the Report, our City's response is limited to Finding No. 1 and coupled with replies to Recommendations No. 1 and No. 5.

Subject: City Response to Civil Grand Jury Report No. 1808 Date: 21 August 2018 Page 2 of 2

FISCAL IMPACT

There is no direct impact in responding as recommended. However, there are certainly indirect staff costs and direct time incurred in responding to Civil Grand Jury Reports, Findings and Recommendations.

Exhibits: A. Proposed City Response and Cover Letter [3 pp.]

B. Civil Grand Jury Report No. 1808, with accompanying Cover Letter [13 pp.]



Community
Development (925) 673-7340
Engineering (925) 969-8181

6000 Heritage Trail • Clayton, California 94517-1250 Telephone (925) 673-7300 Fax (925) 672-4917

IRAF

EXHIBIT A

City Council

KEITH HAYDON, MAYOR

DAVID T. SHUEY, VICE MAYOR

TUIJA CATALANO, COUNCILMEMBER

JIM DIAZ, COUNCILMEMBER

JULIE K. PIERCE, COUNCILMEMBER



VIA U.S. REGULAR MAIL AND REQUESTED EMAIL TO: ctadmin@contracosta.courts.ca.gov

Mario Gutierrez, Foreperson Civil Grand Jury 2017-18, County of Contra Costa 725 Court Street P O Box 431 Martinez, CA 94553-0091

Re: City Response to Civil Grand Jury Report No. 1808

Dear Mr. Gutierrez:

Pursuant to a cover letter dated June 6, 2018 addressed to members of the Clayton City Council that transmitted of a copy of the Civil Grand Jury's Report No. 1808, "Joint Powers Authorities," attached as required by applicable law is the City of Clayton's official response. This response was reviewed and authorized by the Clayton City Council at its public meeting held on August 21, 2018.

We appreciate the Civil Grand Jury's efforts in examining this subject.

Sincerely,

Keith Haydon Mayor

Attachment: 1. City Reply to Civil Grand Jury Report No. 1808 [2 pp.]

cc: Honorable Clayton City Council Members Honorable Anita Santos, Judge of the Superior Court

ATTACHMENT 1



CITY OF CLAYTON RESPONSE TO CIVIL GRAND JURY REPORT NO. 1808 "Joint Powers Authorities"

2017-18 CONTRA COSTA COUNTY CIVIL GRAND JURY

The City of Clayton, California provides the following response to Civil Grand Jury Report No. 1808, "Joint Powers Authorities", issued by the 2017-18 Civil Grand Jury of Contra Costa County, California, on 06 June 2018. Pursuant to page 10 of the Report, this City is required to respond to Finding No. 1 and Recommendations Nos. 1 and 5, adhering to format guidelines prescribed by the California Penal Code (Section 933.05).

FINDING

 In the Direct JPA model, each member delegates to the JPA a function that each member has the legal authority to provide. This shared approach results in cost savings and better efficiency on behalf of taxpayers.

City Response

The City of Clayton agrees with this Finding.

#

RECOMMENDATIONS

 All cities with JPAs in the County should confirm their compliance with Gov. Codes Sections 6505 by submitting the required audit report to the County Auditor by December 31, 2018.

City Response

The recommendation has not yet [partially] been implemented, but will be implemented in the future within the timeframe described in the Report [by December 31, 2018].

This City already files an annual financial transaction report for its Clayton Financing Authority ("CFA") JPA with the California State Controller's Office (SCO), in accordance with California Government Code section 53891. Furthermore, on an annual basis the CFA publishes independently-audited financial statements on the City's website, provides a copy of the audited statements to the CFA's Board of Directors at a public meeting thereof before December 31st of each year, and emails it to the SCO for review and publication pursuant to California Government Code section 26909. The CFA's audited financial statement for FY 2017-2018 will also be mailed to the County Auditor by December 31, 2018.

With respect to this City's membership in other JPAs, this Recommendation will not be implemented as it is the responsibility of each JPA, not its member agencies (some but not all who may be cities), to submit any required audit reports to the County Auditor. Under state law, JPAs are distinct and separate public entities. The City of Clayton is a reported member of ten (10) JPAs, several of which cross multiple county jurisdictions, have its own full-time staff, and include over 20 member agencies. It is unfeasible, unreasonable and duplicative for JPA member agencies to fulfill the duties of other governmental public entities, including JPAs.

All cities with JPAs should consider making special efforts, such as special mailings to taxpayers, website postings and announcements in local media, to communicate JPA debt decisions and audit reports to the public beyond simple notifications by December 31, 2018.

City Response

The recommendation will not be implemented because it is not warranted or is not reasonable.

As noted above, JPAs are distinct and separate public entities. It is the responsibility of each JPA and not its member agencies to communicate its debt decisions and audit reports to the public on its particular website. As the Civil Grand Jury's Finding No. 1 clearly notes, "... each member delegates to the JPA a function that each member has the legal authority to provide." Having cities with JPAs communicate JPA debt decisions and audit reports on their city websites, when the information should be available on each JPA's website, is counter to this Report's stated Finding that JPAs result "... in cost savings and better efficiency on behalf of taxpayers."

#

Grand Jury

Contra Costa County

EXHIBIT B

725 Court Street P.O. Box 431 Martinez, CA 94553-0091

June 6, 2018

1000 C

RECEIVED

JUN 08 2018

City of Clayton

City of Clayton 6000 Heritage Trail Clayton, CA 94517

Dear City of Clayton:

Attached is a copy of Grand Jury Report No. 1808, "Joint Powers Authorities" by the 2017-2018 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933 et seq., we are submitting this report to you as the officer, agency or department responsible for responding to the report. As the responding person or person responding on behalf of an entity, you shall report one of the following actions in respect to each <u>finding</u>:

- You agree with the finding.
- (2) You disagree with the finding.
- (3) You partially disagree with the finding.

(Pen. Code, § 933.05(a).) In the cases of both (2) and (3) above, you shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons thereof.

In addition, Section 933.05(b) requires you to reply to <u>each</u> recommendation by stating one of the following actions:

- The recommendation has been implemented, with a summary describing the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- 3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

After reviewing your response to ensure that it includes the above-noted mandated items, please send (1) a hard copy of the response to the Grand Jury at P.O. Box 431, Martinez, CA 94553; and (2) a copy in Word by e-mail to ctadmin@contracosta.courts.ca.gov. Your response must be submitted to the Grand Jury, in the form described by the above-quoted Government Code, no later than September 11, 2018.

Finally, please note that this report is being provided to you at least two working days before it is released publicly. Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release.

Please immediately confirm receipt of this letter and the attached report by responding via e-mail to ctadmin@contracosta.courts.ca.gov.

Sincerely,

Mario Gutierrez, Foreperson 2017-2018 Contra Costa County Civil Grand Jury

cc: Garry A. Napper, City Manager

RECEIVED

JUN 0 8 2018

City of Clayton

A REPORT BY THE 2017-2018 CONTRA COSTA COUNTY GRAND JURY

725 Court Street Martinez, California 94553

Report 1808

Joint Powers Authorities

Transparency and Accountability

APPROVED BY THE GRAND JURY

Date MAY 31, 2018

MARIO GUTIERREZ GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date June 5, 2018

UDGE OF THE SUPERIOR COURT

Contact: Mario Gutierrez Foreperson 925-389-1556

Contra Costa County Grand Jury Report 1808

Joint Powers Authorities

Transparency and Accountability

TO: Contra Costa County Auditor-Controller;
Local Agency Formation Commission;
City Councils of the following cities: Antioch, Brentwood,
Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette,
Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill,
Richmond, San Pablo, San Ramon, and Walnut Creek

SUMMARY

When you review your property tax bill, have you ever questioned why there was a particular assessment? Was this on a ballot? Was there public disclosure? The majority of tax assessments are approved by the voters. However, assessments can also be made without voter approval by cities that are members of Joint Powers Authorities.

Local governments have used Joint Powers Authorities (JPA) as a flexible, easy to form, cost-effective means to carry out specific functions. JPAs have been used to cover a wide range of functions, such as: fire protection, recreational programs, construction projects, and transportation.

As of December 2017, the 19 incorporated cities in Contra Costa County (County) reported to the Contra Costa Civil Grand Jury (Grand Jury) that they were members of at least one of 157 JPAs established in the County. The Grand Jury could not confirm that this was the total number of JPAs established. The Grand Jury also found that the 19 cities in the County have issued bonds, with an estimated cumulative value that exceeds \$1.5 billion. (www.standardandpoors.com, Dec 2017)

The Grand Jury investigated the use of JPAs by the cities. Due to the level of debt generated, the Grand Jury focused on financial type JPAs and specifically on their oversight, transparency, and financial accountability.

Based on our findings, the Grand Jury recommends the County Auditor post on their website all documents received from all JPAs associated with Redevelopment Agencies

(RDA) and their Successor Agencies. All cities should confirm their compliance with Gov. Codes 6500, and 33400 et seq. To demonstrate full transparency, cities should consider reporting all JPA financial information separate from their city budgets. The cities should also consider submitting periodic financial reports directly to the County Auditor, and increasing their efforts to provide the public an opportunity to understand and comment on planned debt actions pertaining to JPAs.

METHODOLOGY

In the course of its investigation, the Grand Jury:

- Interviewed Contra Costa Auditor-Controller senior staff
- Interviewed Contra Costa Tax Collector senior staff
- Interviewed Local Area Formation Commission (LAFCO) senior staff
- Interviewed Finance Directors of three representative cities within the County
- Submitted two Requests for Information to the 19 cities in the County
- · Researched financial data published by Standard and Poor's

BACKGROUND

The California State Legislature passed the Joint Powers Authority Act in 1921. California Government Code (Gov. Code) statues for JPA laws are set forth in Sections 6500 - 6599. A JPA is formed when two or more public agencies agree on creating a function/service that benefits all JPA members. JPAs are not formed by voter initiative or voted on by the electorate, but by the action of the agencies' governing bodies.

To form a JPA, the organization members post a formal notice, hold a public meeting, and solicit comments from the public and stakeholders. The members formalize the agreement and appoint a Board of Directors. The JPA can then enter into contracts and incur debt to finance projects.

The intent of a JPA is to provide services efficiently, resulting in financial benefit to the taxpayers. By sharing resources and combining services, the member agencies save time, create efficiencies, and reduce overlapping functions and costs. JPAs allow governments to conduct selected public projects without voter approval of financial commitments or key operational decisions. JPAs can be formed for many reasons: acquisition of land, construction and maintenance projects, financing, insurance pooling, and operations of facilities.

When multiple jurisdictions decide a new project is needed, they can form a JPA. Otherwise they would have to take the lengthy approach to get a measure on the ballot, secure majority-voter approval, and sell revenue bonds to private investors to raise capital to fund the project. Gov. Code, Section 6547 allows JPAs to issue revenue bonds without voter approval provided each of the member agencies adopts a separate local ordinance to issue such bonds. Voters have a 30-day period to call for a referendum election on the local ordinances, but this rarely occurs.

JPAs and Special Districts

JPAs are sometimes confused with Special Districts, which are another legal entity established to provide specific functions. The difference is that a Special District is an independent entity with its own governing body that delivers services to a dedicated community. Special Districts rely on different State laws for their legal authority and are governed by elected boards.

While counties and cities must provide basic services in accordance with federal and state law, Special Districts provide specific services and must be approved by the Local Agency Formation Commission (LAFCO) and the voters. Some examples include fire districts, water districts, and pest abatement. LAFCOs are responsible for "... overseeing the establishment, expansion and organization of cities and special districts and their municipal services in meeting current and future community needs" Gov. Code Section 56000 et seq.

In 2017, SB 1266 created a formal reporting process connecting JPAs and LAFCOs.

Types of Joint Powers Authorities

JPAs can be categorized into five broad groups based on the type of services they provide ("Governments Working Together: A Citizens Guide to Joint Powers Agreements," Cypher & Grinnell, 2007):

- Financial services: financing construction of public works such as city halls, bridges, and flood control projects
- · Public services: transportation, police and fire protection
- Insurance pooling and purchasing discounts: pooling for lower insurance rates
- Planning Services: addressing and planning for topics of regional importance that go beyond city and county limits
- Regulatory enforcement: ensuring that member agencies adhere to state and federal laws and procedures by conducting educational seminars, formulating enforcement procedures, and maintaining an oversight role

DISCUSSION

The Grand Jury requested a list of all JPAs in Contra Costa County from the County Auditor-Controller and the State Controller's offices. Neither the County nor the State could provide a consolidated list of all the JPAs operating in the County. The State

Controller publishes an annual report on its website combining all relevant financial JPA information with Special Districts. The Grand Jury's attempts to identify JPA-specific data was not possible because the data was mixed in with Special Districts' data.

To secure JPA-specific data, the Grand Jury submitted a Request for Information to each of the 19 incorporated cities in the County to which all responded.

A total of 157 JPAs were reported. Because multiple cities participate in the same JPA (e.g., State Route 4 Bypass Authority), the number of individual JPAs is 66.

JPAs in Contra Costa County

Antioch	JP/ 8	Oakley	- 5
Brentwood	10	Orinda	5
Clayton	10	Pinole	8
Concord	9	Pittsburg	9
Danville	10	Pleasant Hill	10
El Cerrito	7	Richmond	11
Hercules	. 9	San Pablo	5
Lafayette	4	San Ramon	18
Martinez	4	Walnut Creek	8
Moraga	7		
		TOTAL	157

JPA TYP	PES
Public	35
Financial	23
Insurance	4
Regulatory	3
Planning	1
TOTAL	66

Source: RFI responses from 19 cities

The Grand Jury determined that due to the number of JPAs in the County and the amount of bonds issued, the investigation would focus on Financial JPAs (see chart above). The investigation addressed three areas of transparency and accountability: organization, reporting, and oversight.

Organization

RDAs were originally formed by California cities to fund their urban renewal programs. The California Community Redevelopment Law and Redevelopment Agencies were dissolved by Assembly Bill (ABx1.26) effective October 1, 2011. This was done to support the state's budget deficit and address issues with RDAs. After losing an appeal, California RDAs were officially dissolved on February 1, 2012. Their assets and liabilities transferred to Successor Agencies and Successor Housing Agencies. The Government Codes addressing RDAs and their Successor Agencies as a result of ABx1.26 are set forth in Gov. Codes Sections 33500, 33600, 34161, and 34170 et seq.

Numerous Successor Agencies now operate under a JPA. The Grand Jury identified 23 financial JPAs: nine with multiple cities, two without RDA, and 12 formed between a city and its RDA, creating the RDA's Successor Agency. Three JPAs that have been labeled

"Defunct" by the respective cities have ongoing financial obligations (such as repayment of bonds). The 12 Financial JPAs with RDA are:

- Antioch Public Finance Authority between the City of Antioch and its RDA
- Antioch Public Facilities Financing between the City of Antioch and its RDA
- Brentwood Infrastructure Finance Authority between the City of Brentwood and its RDA
- Concord Financing Authority between the City of Concord and its RDA
- . El Cerrito Public Financing Authority between the City of El Cerrito and its RDA
- Hercules Public Financing Authority between the City of Hercules and its RDA
- Lafayette Public Facilities Financing Authority between the City of Lafayette and its Successor Agency to the RDA (Defunct)
- · Pinole Financing Authority between the City of Pinole and its RDA
- Pleasant Hill Financing Authority between the City of Pleasant Hill and its RDA (Defunct)
- Richmond Financing Authority between the City of Richmond and its RDA
- San Pablo Financing Authority between the City of San Pablo and its Successor Agency to the RDA
 - San Ramon Public Financing between the City of San Ramon and its Successor Agency to the RDA (Defunct)

The Gov. Codes Sections 34161, and 34170 et seq. required the closing of RDAs and the formation of Successor Agencies. The Successor Agencies were prohibited from taking on new redevelopment or debt and were required to dissolve and pay off their existing debt under a conservator's guidance and State oversight. The Successor Agency was to terminate once the debt is fully paid off.

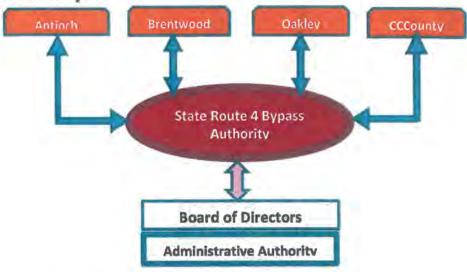
Numerous city councils elected themselves to be the Successor Agency conducting their own oversight. Eleven cities, listed above, formed JPAs consisting of the city council and the Successor Agency. These new JPAs may be invalid if they take on new debt (Gov. Codes Sections 34161, and 34170 et seq.).

The Grand Jury determined that, based on their characteristics, JPAs can be divided into two distinct organizational models: Direct and Circular.

Direct Organizational Model

The Direct model supports shared services: insurance pools, transportation, communications systems, worker's compensation and flood protection. The JPA members are composed of similar entities that share a mutual challenge or opportunity.

Each member delegates a function of their authority to a JPA to either improve the service that is provided or to reduce the cost through a joint effort. If the JPA does not provide positive results or improvements, any member can withdraw from the JPA. This structure has checks and balances and allows for self-correction and accountability. In addition to each member providing inputs, the public has access to the JPA at the City Council member and JPA's Board levels. The majority of JPAs maintain this organizational structure and comply with the intent of the statute (Gov. Codes, Sections 6505, 6547 et seq.). The following is a simplified model of one JPA, The State Route 4 Bypass Authority.



Circular Organizational Model

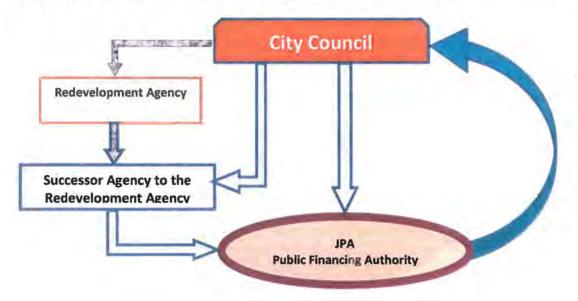
The Circular model is not made up of independent entities like the Direct model but is one entity using internal staff or departments. The members of this JPA are controlled by a single authority, such as the city council. Because JPAs can issue revenue bonds without voter approval, there is no public access or independent party to review financial accountability.

The 12 Financial JPAs with RDA use this Circular model. The city council now has authority over the city, its RDA, and the financing JPA. The reporting structure is circular as shown in the diagram below. The Grand Jury reviewed several Financial JPAs' charters and noted that the City Manager and City Clerk were signatories for both the city and the RDA. In one case, the same individual signed for both the city and its RDA. Since all its members are from a single entity, the Circular model does not have the same checks and balances and accountability as the Direct JPAs.

The circular model presents a potential risk to the public due to the absence of checks and balances resulting in a loss of transparency and accountability to its citizens.

In the event that a JPA falls short of its ability to repay debt, a member could utilize its General Fund or other internal sources to avoid the risk of defaulting on the bond. JPA protocols allow such actions by the city council without voters' approval. If the debt

increase is unchecked, a negative outcome can be damaging to the reputation of the city and its credit rating, and may result in higher costs to taxpayers.



Reporting

State Law SB 282 requires the State Controller to annually publish financial information of Special Districts, JPAs and public benefit corporations, excluding school districts. The Grand Jury was not able to accurately document JPA finances because the State Controller's report did not separate JPA data from Special District data. The Grand Jury also requested JPA information from the County Auditor-Controller's Office. They provided information only on JPAs with which the County was directly involved.

Health and Safety Code Sections 34182-34188.8 requires the Auditor-Controller to review JPAs' compliance with ABx1.26 (dissolution of redevelopment agencies and the designation of Successor Agencies) to determine any violation.

In 2017, SB1266 was amended to require JPAs to send a copy of their agreement to LAFCO. LAFCO was designated only to be a repository of filings with no authority over JPAs, they focus on municipal ground services and not JPAs formed for the purpose of financing.

Without a consolidated and useful way to track JPA financial reporting, there is a loss of transparency and accountability to the public.

Oversight

No State or County agency directly oversees the use and operation of JPAs in Contra Costa County. The Secretary of State, State Controller, the California Debt and Investment Commission and LAFCO serve only as a repository of JPA reports.

JPAs that fail to report their financial information to the State or county violate Gov. Codes Section 6505(a), which requires that "...an annual audit of the accounts and records of every agency or entity." Gov. Codes Section 6505(c) requires that when an audit is made, "...a report thereof shall be filed as public record with each of the contracting parties to the agreement and also with the county auditor of the county where the home office of the joint powers is located."

Because JPAs are easy to create, they facilitate the sharing of services and financing. If they are mismanaged, JPAs may present a burden for taxpayers. The estimated \$1.5 billion bonds issued by cities in the County may provide needed services and financial benefit to the taxpayers. However, the latitude allowed by State statutes creates the potential for JPAs to acquire debt that exceeds the ceiling imposed on government entities.

JPA's provide a legal process that gives cities the ability to remain compliant with California Constitution Article XVI, Section 18 "Debt." Article XVI prohibits cities, counties and school districts form borrowing an amount that exceeds the income and revenue for each year, unless approval is obtained from at least two-thirds of the voters. Since JPAs are separate legal entities formed by two members, such as the City Council and a Successor JPA, they are not bound by this prohibition on city, county and school debt. Gov. Codes Sections 6547 et seq, does not require voter approval on a JPA ordinance to issue revenue bonds, unless voters initiate a referendum to contest the action during the 30-day referendum period. If there is no referendum, the JPA can then issue revenue bonds that can exceed a cities' annual debt limit imposed by Article XVI, Section 18.

JPAs have no direct State or County oversight and minimal reporting requirements. As a result, Some JPAs, such as those defined as circular, are a mechanism whereby cities may take on debt that is not independently monitored.

FINDINGS

- F1. In the Direct JPA model, each member delegates to the JPA a function that each member has the legal authority to provide. This shared approach results in cost savings and better efficiency on behalf of taxpayers.
- F2. The Circular JPAs with a single controlling entity, such as a city council, have the potential to avoid legal debt limits and provide limited disclosures to taxpayer.
- F3. In Contra Costa County, there are 12 Circular JPAs created by cities with RDAs that no longer exist. These JPAs may no longer be valid because each is a member of another Financial JPA which may take on new debt without the prohibition (Gov. Codes Sections 6505 3416/34170 et seq.) placed on Successor Agencies.

- F4. Cities that have created the 12 Financial JPAs do not provide JPA-specific financial information in their budget document. As a result, the public may have difficulty evaluating JPA's financial performance.
- F5. The Contra Costa Auditor-Controller's office maintains information only on JPAs of which the County is a member. The County Auditor could not verify that all JPAs in the County have filed an audit in accordance with Gov. Codes Sections 6505 et seq.
- F6. LAFCO has no JPA oversight and acts as a repository only for municipal services JPAs that choose to voluntarily file. This limits LAFCO's ability to review Financial JPAs.

RECOMMENDATIONS

- R1. All cities with JPAs in the County should confirm their compliance with Gov. Codes Sections 6505 by submitting the required audit report to the County Auditor by December 31, 2018.
- R2. The Auditor-Controller under Health and Safety Code Sections 34182-34188.8, should consider a review of JPAs under ABx1.26 (dissolution of redevelopment agencies and the designation of Successor Agencies) by June 30, 2019 to determine any violation of the prohibition on taking on new redevelopment or debt.
- R3. The Auditor-Controller should consider posting on its website all financial and organizational data received from JPAs associated with an RDA or their Successor Agency in a manner readily available to the public by September 30, 2018.
- R4. The 11 cities that are members of a JPA associated with an RDA or their Successor Agencies should consider confirming their compliance with the provisions of Abx1.26 (Gov. Codes Sections 34177 et seq.) and report their findings and any corrective actions to the Auditor-Controller's office by December 31, 2018.
- R5. All cities with JPAs should consider making special efforts, such as special mailings to taxpayers, website postings and announcements in local media, to communicate JPA debt decisions and audit reports to the public beyond simple notifications by December 31, 2018.
- R6. Contra Costa County LAFCO should consider seeking funds to expand their focus to include County Financial JPAs by September 1, 2019.

REQUIRED RESPONSES

	Findings	Recommendations
Cities of Antioch, Brentwood, Clayton, Concord, Town of Danville, El Cerrito, Hercules, Lafayette, Martinez, Town of Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, Walnut Creek	F1	R1, R5
Contra Costa County Auditor-Controller	F2, F3, F4, and F5	R2 and R3
Cities of Antioch, Brentwood, Concord, El Cerrito, Hercules, Lafayette, Pinole, Pleasant Hill, Richmond, San Pablo, San Ramon	F2, F3, and F4	R4
Local Agency Formation Commission (LAFCO)	F6	R6

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson 725 Court Street P.O. Box 431 Martinez, CA 94553-0091



Agenda Date: 8-21-2018
Agenda Item: 5d

Approved:

Gary A. Napper
City Manage

STAFF REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

ELISE WARREN, CHIEF OF POLICE

DATE:

AUGUST 21, 2018

SUBJECT:

A RESOLUTION APPROVING CERTAIN CONTRACTS RELATED TO THE PURCHASE AND OUTFITTING OF A NEW REPLACEMENT POLICE VEHICLE AND AUTHORIZING DISPOSAL OF A POLICE VEHICLE (UNIT 1729) AND A MAINTENANCE VEHICLE AS

PROPERTY SURPLUS TO THE NEEDS OF THE CITY

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution awarding various contracts for the purchase and outfitting of a new 2018 Ford F-150 Police Responder Supercrew replacement vehicle as follows:

1	 Purchase of a 2018 Ford F-150 Police Responder Supercrew, from Walnut Creek Ford, matching the National Joint Powers Alliance contract #120716-NAF; 	\$41,361.00
2	. Purchase of emergency equipment from and labor to outfit the new vehicle by LEHR; and	\$14,877.78
3	Decals, striping and associated lettering from FASTSIGNS	\$ 777.50
4	. Tonneau Cover	\$ 2,011.88

The total proposed expenditure is to be \$59,028.16 from the Capital Equipment Replacement Fund (CERF)

BACKGROUND

The City of Clayton's Police Department currently has a fleet of seven (7) patrol vehicles. In recent years the police department typically replaces one (1) vehicle each year with a new police "interceptor" vehicle specifically designed to serve as a patrol vehicle.

The newest vehicle usually replaces the most unserviceable vehicle in the police department's fleet. On this occasion, that unserviceable vehicle is a 2005 Ford Crown Victoria (unit number 1729), which has 49,711 miles on it. Additionally, the Police Department's 2006 Ford Ranger Pickup is being repurposed for use by the Maintenance Department with the acquisition of this F-150 Ford Police Responder. This transfer of assets will replace their aging Ford Ranger Pickup (vin# 1FTYR44U85PA99825), which will be designated as surplus and sold at auction.

Typically when a new patrol vehicle is placed into service, all available equipment from the outgoing vehicle is reused to help control costs. The 2005 Crown Victoria is unmarked and primarily used by the Police Chief and has very little transferable equipment.

DISCUSSION

The Ford F-150 Police Responder is replacing our older Ford Crown Victoria and allowing the repurposing of a 2006 Ford Ranger Pickup. The Police Department currently has no vehicle which can tow and place the Department's Command Trailer, having to rely on Maintenance personnel to move the Command Trailer using a heavier truck. In times of local emergencies or civil disasters, Maintenance trucks will be engaged in other emergency operations and will likely be unavailable to mobilize the Police Department's Command Trailer.

The Police Department was recently awarded a grant to build and equip a Community Emergency Response Team (CERT) trailer, which the department has no vehicle capable of towing. Purchase of this new Ford F-150 Police Responder Pickup will provide the Police Department with a vehicle capable of towing both the Command Trailer and the new CERT Trailer, eliminating the need to use Maintenance personnel and vehicles.

Additionally, the new Ford F-150 Police Responder is pursuit rated and will be available for use as a patrol vehicle, giving it multiple use capabilities.

The Police Department has a 2006 Ford Ranger (Unit 1728), which is being repurposed for use by the Maintenance Department and the existing 2005 Ford Ranger operated by the Maintenance Department is being deemed surplus.

After a competitive bid process, Walnut Creek Ford was selected as the low-bid supplier over quotes by Downtown Ford (City of Sacramento Contract) and National Auto Fleet Group (National Powers Alliance Contract 120716-NAF)

FISCAL IMPACT

The City routinely purchases one patrol vehicle per budget year. The purchase of this patrol replacement vehicle was incorporated into the 2018/2019 adopted City Budget which allocated \$60,000 for the acquisition. Monies for the purchase are set aside annually in the Capital Equipment Replacement Fund (CERF). The Finance Manager has confirmed the CERF's undesignated cash balance is approximately \$142,000 prior to the expenditure of these monies.

The purchase will require the expenditure of monies as follows:

Parts and labor to outfit the new car \$14,877.78
 Graphics, striping and decals \$ 777.50
 Tonneau Cover \$ 2,011.88

Total: \$59,028.16

Surplus patrol vehicles are typically disposed of at auction. Many factors impact what a vehicle will sell for. The Ford Crown Victoria is expected to sell for \$1,500-\$2,000 and the 2005 Ford Ranger is expected to sell for \$2,000-\$2,500.

All proceeds from the sale of these surplus vehicles belong to the taxpayers (City) and will be placed into the City's Capital Equipment Replacement Fund (CERF).

RESOLUTION NO. ____- 2018

A RESOLUTION APPROVING FOUR CONTRACTS FOR THE PURCHASE AND OUTFITTING OF A NEW 2018 FORD F-150 POLICE RESPONDER SUPERCREW TO REPLACE AN EXISTING FORD PATROL VEHICLE, AND DECLARING A 2005 FORD PATROL VEHICLE (UNIT NUMBER 1729) AND A 2005 FORD RANGER PICKUP AS SURPLUS TO CITY'S NEEDS

THE CITY COUNCIL City of Clayton, California

WHEREAS, the City of Clayton Police Department uses patrol vehicles to perform the patrol function and provide law enforcement services to the community; and

WHEREAS, patrol vehicles need to be replaced on a regular basis to assure each is in operable and dependable condition for public safety and first responder services; and

WHEREAS, patrol vehicles are equipped with specific emergency lights, sirens, radios; and

WHEREAS, by necessity the City contracts with various service providers for the purchase and installation of emergency equipment and decal/signage on its police patrol vehicles; and

WHEREAS, monies were budgeted by the City Council in the City's FY 2018-2019 Capital Equipment Replacement Fund (CERF) for the replacement of one patrol vehicle used by the City of Clayton Police Department; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California does hereby formally approve as follows:

Section 1.

Approves and authorizes the competitive bid purchase of a new 2018 Ford F-150 Police Responder Supercrew vehicle from Walnut Creek Ford (besting the National Joint Powers Alliance competitive bid price, contract #120716-NAF) in the amount of \$41,361.00 including sales tax and fees.

Section 2.

Approves and authorizes a contract in the amount of \$14,877.78 with Lehr's Emergency Vehicle Installations for the purchase of law enforcement emergency equipment and the outfitting of the new patrol vehicle to Clayton Police Vehicle Specifications.

Section 3.

Approves and authorizes the expenditure of \$777.50 to FASTSIGNS for the official police vehicle striping, lettering and decals.

Section 4.

Approves and authorizes the expenditure of \$2,011.88 to Mobile Living Truck Tops for a tonneau cover for the truck's bed.

Section 5.

Approves and authorizes the allocation of \$59,028.16 from the FY 2018-2019 Capital Equipment Replacement Fund (CERF) for the above-noted four (4) purchase and installation contracts related to the acquisition of a new 2018 Ford F-150 Police Responder Supercrew for the use by the Clayton Police Department.

ATTEST:	
	Keith Haydon, Mayor
ABSENT:	THE CITY COUNCIL OF CLAYTON, CA
ABSTAIN:	
NOES:	
AYES:	
	ND ADOPTED by the City Council of Clayton, California at a regular d the 21st day of August, 2018 by the following vote:

Does herewith declare an existing 2005 Ford Crown Victoria (vehicle unit number 1729) and a 2005 Ford Ranger Pickup (vin#1FTYR44U85PA99825) as surplus to the City's need and authorizes the City Manager to dispose of said vehicle by public auction.

Section 6.

England, Daryl (Clayton PD)

To:

daryl.england.@claytonpd.com

Tim,

For the truck I have attached an updated copy of the order with the changes you requested. Here is the updated pricing with the additional items.

2018 F-150 Police Responder Super Crew Cab FX4 4X4 W1P Custom Order G1 Shadow Black 595 fog lamps 924/57Q rear privacy glass w/ defroster 53A trailer tow package 76R reverse sensing system 96W spray in bedliner 67T trailer brake controller 94R red/blue LED warning lights

The extra 2 keys add \$ 174 to the total of the vehicle.

Price:

\$ 37857.33

18B black platform running boards 63T tailgate step w/ tailgate lift assist

Two additional coded keys:

\$ 174.00

Doc fee:

\$ 80.00

Tax:

\$ 3211.92

DMV: CA Tire Fee: \$ 8.75

\$ 29.00

Total:

\$ 41361.00

Please let me know if you have any questions.

Thanks, Jamie

Walnut Creek Ford Fleet 1800 N. Main St. Walnut Creek, Ca. 94596 (925) 932-2900 Ext. 106 (925) 385-8309 ssomers007@yahoo.com



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dd: 79V	422	185	53A	570	595	63T	57T	768	924	948	HO (Trial
96X				TOTAL TRACE		Witness Sch		at a residence			

PARTURN=Edit/Price F1=Help F3/F12=Veh Ord Menu F4=Submit/No Price F5=Add to Library F6=Clear F9=Targeted Veh F11=Sng Alter/Cancel F13=Mult Alter/Cancel U311 - ORDER NO. C100 HAS BEEN ADDED TO THE ORDER BANK.

V1DP0010

THIS IS YOUR QUOTE

RJM050120181224

DOWNTOWN FORD SALES 525 N16th Street, Sacramento, CA. 95811 916-442-6931 fax 916-491-3138

QUOTATION :

Customer

CITY OF CLAYTON Name

Address

Clty

F150 POLICE RESPONDER Phone

ATTN: TIM MARCHUT

Date 5/1/2018 REP MILLOY Phone RJM FOB SACRAMENTO

Qty	Description	Unit Price	TOTAL
×	STATE OF CALIFORNIA CONTRACT 1-18-23-20A		
	CLIN 14		
1	NEW FORD F-150 CREWCAB PICKUP, 4X4, 145" WB	\$26,572.00	\$26,572.0
	4X4, 3.3L FFV Engine, 6 Speed Auto Trans with Tow	1.00,000	3-1,0
	Haul Mode, 5.5' Bed / 145" WB, Black front and Rear Step		
	Bumper, Rubber Flooring, Manual Windows, A/C, AM/FM Radio, Vinyl Seats, XL Trim.	1	
1	Upgrade To Police Responder (W1P)	\$7,712.00	\$7,712.0
	Includes 3.5L V6 EcoBoost Engine, Electronic Shift on-the-		
	fly (ESOF), Power Windows, Locks, Police Grade Heavy		
	Duty Cloth 40/blank/40 with 8 Way Power Driver Seat,	1	
	Rear Seat is Vinyl 60/40 Flip Up Seat Cushion, SYNC		
	(factory bluetooth), FX4 Off Road Package (Skid Plates		
	3.55 Electronic Locking Rear Differential, Hill Descent Control)		
1	G1 / Shadow Black Exterior Paint	\$0.00	\$0.0
1	Fog Lamps	\$141.00	\$141.0
1	Trailer Towing Power Mirrors with Signals	\$401.00	\$401.0
1	Rear Privacy Glass w/ Defroster	\$326.00	\$326.0
1	Trailer Tow Package	\$1,008.00	\$1,008.0
1	Reverse Sensing System	\$279.00	\$279.0
1	Spray In Bed Liner	\$502.00	\$502.0
1	Tonneau Cover Hard	\$1,008.00	\$1,008.0
1	Trailer Brake Controller	\$279.00	\$279.0
1	Red/Blue LED Warning Lights	\$734.00	\$734.0
1	Foldable Pick Up Box Extender	\$255.00	\$255.0
1	LED (Mirror) Spotlights	\$178.00	\$178.0
2	LED Piller Mounted Spotlight (LED), Dealer Installed)	∠\$1,074.00	-\$2,148.C
1	DOCUMENT FEE	\$80.00	\$80.0
	NO. E. WHALE PORD HOTODOTAGE	Subtotal	\$41,623.0
	HICLE WILL HAVE FORD "STOP/START"	DELIVERY Sales Tax	\$250.0
HINC	LOGY	CA Tire Tax	\$3,433.8
		TOTAL DUE	\$8,7 \$45,315.6
	\$500 DISCOUNT FOR PROMPT	. O INC DOL	₩J,313.0

\$500 DISCOUNT FOR PROMPT PAYMENT IN 20 DAYS

FOLSOM LAKE FORD

THE FORD SOURCE

12755 FOLSOM BLVD. • FOLSOM, CA 95630 • (916) 353-2000

DANIEL A. RAIMONDI Fleet Director

2018 ORDER-12-14 WEEKS

CURRENTLY SCHEDULING 3rd WEEK OF JULY

(916) 353-2000, Ext. 376 Toli Free 1-800-655-0555 Cell. (916) 825-1622 Fox (916) 353-2078 5/2/2018

W1P F150 4X4 CREW 145" WHEELBASE SHADOW BLACK G1 POLICE SEAT P G MED EARTH GRAY 150A EQUIP GRP .XL SERIES .18" MACH WHEEL 3.5L V6 GTDI 99G 44G **ELEC 10-SPDAUTO** .LT275/65R18C .3.55 ELEC LOCK LT CAPABILITY 7000# GVWR FRT LICENSE BKT 423 CAL EM NOT REQD TRAILER TOW PKG 53A .PRO TRAILER AST MIR MAN TEL/FLD 54Y REAR DEFROSTER 57Q LED SPOTLIGHTS 595 63E BED EXTENDER 67T TRL BRAKE CONTR **REV SENSING SYS** 76R 924 PRIVACY GLASS 936 CAL SER VEH EXP LED WARNING RED 94R

SPRAY- IN LINER

TONNEAU - HARD

96W 96X \$38,111.00 PLUS TAX

PLUS \$8.75 CA TIRE FEE

LESS \$500.00 DISCOUNT 20 DAY PAYMENT-DELIVERED



490 Auto Center Drive, Watsonville, CA 95076 (855) 289-6572 · (855) BUY-NJPA · (831) 480-8497 Fax Fleet@NationalAutoFleetGroup.com

6/19/2018

QuoteID: 13971 Order Cut Off Date: TBA

Tim Marchut City of Clayton Clayton Police Department Sgt. Tim Marchut Clayton Police Department Clayton, California, 94517

Dear Tim Marchut,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration. One (1) New/Unused (2018 Ford F-150 Police Responder (W1P) XL 4WD SuperCrew 5.5' Box,) and delivered to your specified location, each for

One Unit

Contract Price

\$42,413.40 \$3,711.17

Tax (8.7500 %)

\$8.75

Tire fee

Total

per the attached specifications. Price includes 2 additional key(s).

This vehicle(s) is available under the National Joint Powers Alliance Contract 120716-NAF. Please reference this Contract number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Clarke Cooper

Account Manager

Email: lidia@wondries.com Office: (626) 380-1175 Fax: (831) 480-8497













GWE

2018 F-150 POLICE RESPONDER SUPERCREW®

STANDARD EQUIPMENT

MODEL/SERIES/AVAILABILITY

- 1 Available Pursuit Rated Model
- 3.5L V6 EcoBoost® 4x4 145" WB

- 4x4 Electronic-Shift-On-the-Fly (ESOF) with Neutral Towing
- Atternator 240 amp
- Avde, Front Independent Front Suspension (IFS) Brakes 4-Wheel Disc with ABS
- Class IV Trailer Hitch (Incl. Smart Trailer Tow Connector, 4-pin/7pin wiring, Class IV trailer hitch receiver) Electric Parking Brake
- Electronic Ten-Speed Automatic Transmission with Selectable Drive Modes: Normal/Tow-Haul/Snow-Wet/EcoSelect/Sport
- Engine Hour Meter Engine Idle-Hour Meter Fail-Safe Cooling
- Jack
- SelectShift® Automatic Transmission with Progressive Range
- Shock Absorbers, Gas Heavy-Duty, Front
- Shock Absorbers, Gas Heavy-Duty, Outboard Mounted, Rear Springs, Front Coll Springs, Rear Leaf, Two-Stage Variable Rate Upgraded Stabilizer Bar, Front Steering Power, Rack-and-Pinlon

- Bumper and Fascia, Front Black Bumper, Rear Black
- Cargo Lamp integrated with Center High-mounted Stop Lamp (CHMSL)
- Dayline Running Lamps (DRL) (On/Off Cluster Controllable)
 Easy Fuel® Capless Fuel-Filler
 Exhaust Single Rear

- F-150 Fender Badge
- Fuel Tank Standard Range 26 Gallon
- Fully Boxed Steel Frame
- Grille Black Two Bar Style with Black Nostrils and Black Surround

- Handles, Black Door and Tailgate with Black Bezel
 Hooks Pickup Box, Tie-Down, four (4)
 Hooks Front Tow 4x4, two (2)
 Mirrors, Sideview Manual-folding, Power Glass with Black Skull Caps
- Power Tailgate Lock
- Spare Tire Carrier Rear Under Frame
- Spare Tire/Wheel Lock
- Stone Cuffs, Front & Rear
- Tailgate removable with key lock Tires LT275/65R 18 OWL (A/T)

- Trailer Sway Control
 Wheels 18" Six-Spoke Machined-Aluminum with Magnetic Painted Pockets
- Wipers Intermittent speed

INTERIOR/COMFORT

- 1st Row Power Windows
- 2nd Row Power Windows
- 2.3" Productivity Screen in Instrument Cluster
- 4.2" Center-stack Screen w/Audio Controls
- Air Conditioning Registers Black Vanes with Chrome Knob
- Black Vinyl Floor Covering
- Cruise Control
- Dome Light
- Fade-to-Off Interior Lighting
 Gauges and Meters Fuel, Oll Pressure, Transmission
 Temperature and Engine Coolant Temperature Gauges; Speedometer, Odometer and Tachometer
- Pursuit rating to be tested in official evaluations conducted by the Michigan State Police and Los Angeles County Sheriff's Department scheduled for Fall 2017.

INTERIOR/COMFORT (continued)

- Grab Handles
 - Front A-Pillar, Driver and Passenger Side Rear B-Pillar
- Hom Dusl-Note
- Illuminated Entry
- Manual Air Conditioning, Single Zone Outside Temperature Display
- Power Door Locks

- Power bolit (2) 12V Front Rear-window with Fixed Glass and Solar Tint Rearvlew Mirror, Day/Night Scuff Plate, Driver and Front-Passenger Doors
- Seat, Front
- .Police-grade heavy-duty cloth 40/blank/40
- 8-Way power driver/manual passenger

- B-Way power driver/manual passenger
 Built-in steel intrusion plates in both front-seatbacks
 Seat, Rear Vinyl, 60/40 flip-up split seat with elongated cushion
 Speedometer Calibrated (includes digital readout)
 Steering Wheel, Black Urethane Manual Tilt/Telescoping and
 Manual Locking
 Visor, Driver Side; Visor with Mirror, Passenger-Side

SAFETY/SECURITY

- AdvanceTrac® w/RSC® (Roll Stability ControlTM)
- Airbags

 - Driver and Passenger Front Airbags Driver and Passenger Seat-Mounted Side Airbags Safety Canopy® Side-Curtain Airbags (1st and 2std row coverage)
- Autolock
- Curve Control
- Flip Key and Integrated Key Transmitter kelyess-entry
- Halogen Headlamps Illuminated Entry
- MyKey®
- Perimeter Alarm
- Rainlamp Wiper Activated Headlamps
- Rear View Camera with Dynamic Hitch Assist
 Seat Belts, Active Restraint System (ARS). Three-point Manual
 Lap/Shoulder Belts with Height Adjusters, Pretensioners &
 Energy Mgmt Retractors on Outside Front Positions. Includes
 Autolock Features for Child Seats
- SecuriLock® Passive Anti-Theft System (PATS) SOS Post-Crash Alert System™
- Tire Pressure Monitoring System (TPMS)
 - Note: F150 Police Responder was designed and developed to meet the same federal fuel system crash standards as retail vehicles and other manufacturers' police vehicles. Ford Police Interceptors are the only vehicles on the market designed for the 75 mph rearimpact crash test.

DRIVER ASSIST TECHNOLOGY

- Autolamp Auto On/Off Headlamps
- SYNC®
 - Enhanced Voice Recognition Communications and **Entertainment System**
 - 911 Assist®
 - 4.2" LCD Display in Center Stack

 - Applink® Smart Charging USB Port one (1)

FUNCTIONAL

- 4.2" Productivity Screen with compass in instrument cluster AM/FM Stereo with single-CD -- 6 speakers
- Hill Start Assist

FX4 OFF-ROAD PACKAGE

- 3.55 Electronic-locking rear-axle
- 4x4 "FX4 Off-Road" bodyside decal
- Hill Descent Control TA
- Off-Road tuned front shock absorbers
- Skid plates: fuel tank, transfer case and front differential

2018 F-150 POLICE RESPONDER SUPERCREW® EQUIPMENT GROUP

PROPRIETARY

S, nivs	Option Conc .	F-150 XI.
SuperCrew® 4x4 - 5.6' Box	145"	W1P
3.5L V6 EcoBoost®	996	S
Electronic Ten-Speed Autometic Transmission with Selectable Drive Modes: Normal/Tow-Haul/Snow- Wet/EcoSelect/Sport	44G	s
Equipment Group	Ontion Code	# 150A
ncluded in Equipment Group		
None		
Free Standing Options		
Trailer Tow Package Incl. Pro Trailer Backup Assist (47E) Note: Ordering the Trailer Tow Package does not include Trailer Tow Mirrors, Trailer Tow Mirrors are a standalone option and must be ordered separately. (Option Code: 54Y/59S) Note: Ordering the Trailer Tow Package does not include integrated Brake Controller (67T). Integrated Brake Controller (67T) is a standalone option and must be ordered separately.	63A	0
Backup Alarm System .	86H	0
Black Platform Running Boards	18B	0
Box Side Steps	638	0
BoxLink® (includes four (4) premium locking cleats)	55B	0
Chrome front and rear bumpers (requires 595 Fog Lamps)	17C	0
Daytime Running Lamps (DRL) Note: The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL) (On/Off Cluster Controllable)	842	0
Engine Block Heater	41H	0 .
Fog Lamps - For C3 L6	595	0
Foldable Pickup Box Bed Extender	63E	0
Front License Plate Bracket (standard in states where required by law, opt. to all others)	153	0
Integrated Trailer Brake Controller	67T	0
Manual-folding, Power Glass Sideview Mirrors with Heat, Turn Signal, Auto-Dimming Feature (Driver's Side), High-Intensity LED Security Approach Lamps, LED Sideview mirror lights and Black Skull Caps (Incl. Interior auto-dimming rearview mirror) (req. Rear-Window, Fixed Privacy Glass with Defroater 924/57Q)	64R/598	o
Manual-folding, Manually Telescoping, Power Glass Trailer Tow Mirrors with Heat, Turn Signal, High- Intensity LED Security Approach Lamps, LED Sideview mirror lights and Black Skufl Caps (Req. 53A Trailer Tow Pkg. and Rear-Window, Fixed Privacy Glass with Defroster 924/57Q)	54Y/58S	. 0
Power Passenger Seat 10-way	61P	0
Power-Silding Rear-Window with Privacy Gless and Defroster Note: N/A with option 54R or 54Y	436/57Q	0
Rear-Window, Fixed Privacy Glass with Defroster	924/57Q	0
Revense Bensing System.	76R	0
Single-CD WSiriusXMe Radio System Mooke Note: Includes a 6-month prepaid subscription, Service is not available in Alaske and Hawali.	58C	0
Taligate Step (with Tailgate Lift Assist)	637	0
scrory involced Accessories (FIA) - Shipped separately from the vehicle for dealer installation	新疆域中的2 位	
Bed Divider (req. 55B BoxLink™; NA with 90R Stowable Loading Ramps)	900	0
Smoker's Pack with Ash/Coln Cup (Dealer-installed Accessory)	91A	0
Tormeau Pickup Box Cover - Hard (NA with 90R Stowable Loading Ramps). Note: Tonneau cover does not provide a premanent seal from dust and moleture intrusion	96X	0
Tonneau Pickup Box Cover - Soft Folding (NA with 90R Stowable Loading Ramps) Note: Tonneau cover does not provide a premanent seal from dust and moisture intrusion	96T	0
Custom Accessories Pre-Installed		
Orop-in Bedliner	96P	0

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I = Included in Equipment Group, S = Standard, O = Optional,
P = Packaged Option, F = Fleet Only Option

2018 F-150 POLICE RESPONDER **SUPERCREW®**

PROPRIETARY

EQUIPMENT GROUP

Equipment Group	Option Cade	150A					
Custom Accessories Pre-Installed (continued)							
Red / Blue LED Warning Strobes — custom accessory, pre-installed; includes two (2) LED warning lights visible on either side of stop light bar and two (2) LED lights visible between lower windshield and hood (Driver side — Red / Passenger side — Blue) Note: Not available with Amber LED Warning Strobes 94S	94R	0					
Amber LED Warning Strobes – custom accessory, pre-installed; includes two (2) LED Amber warning lights visible on either side of stop light bar and two (2) LED Amber lights visible between lower windshield and hood Note: Not available with Red/Blue LED Warning Strobes 94R	94S	0					
Spray-in Bedliner	96W	0					
Stowable Loading Ramps (req. 55B BoxLink™; NA with 90D Bed Divider, 96X Tonneau Pickup Box Cover – Hard or 96T Tonneau Pickup Box Cover – Soft Folding)	90R	0					

2018 F-150 POLICE RESPONDER PRICE LIST

PROPRIETARY

(PRICE LEVEL CODE 820)

	MODEL SERIES BASE VEHICLE PRICE		DEALER INVOICE W/HOLDBACK	SUGGESTED		
SUPER CREW	XL	4x4 W1P 145 in. Wheelbase		\$ 40,389	\$ 42,515	
			-		1,295	1,295
TRIM SERIES DR		DRIVE		ORDER CODE EQUIPMENT GROUPS		SUGGESTED
XL		4x4	160	A Equipment Group 150A	Std	Std
	DRI		OPTION	POWERTRAINS	DEALER INVOICE W/HOLDBACK	SUGGESTEE RETAIL
ENGINE	43	4	99G	3.5L EcoBoost	Std	Std Std
	430	4	44G	Electronic 10 speed automatic transmission	Std	
AXLE	4)	4	XL9	E-locking 3.55 axie	Std	
				OTHER OPTIONS	DEALER INVOICE W/HOLDBACK	SUGGESTED RETAIL
MODELS UNLE	COTTON		N/C \$ 415 128 92 Incl. 41 161 231 83 916 280 364 73 203 Incl. 161 272 231 299 345 253 253 253 253 253 253 253 253 253 25	N/C \$ 450 140 100 Incl. 45 175 250 90 995 305 395 395 220 Incl. 175 295 275 275 275 275 275 275 275 275 275 27		



INVOICE:

PH 96538

PLEASANT HILL FASTSIGNS 2835 Contra Costa Blvd Ste. D

Pleasant Hill, CA 94523

Phone (925) 686-0771 Fax. (925) 933-2679 Email: 16@fastsigns.com Page 1 of 1 Date Ordered: Due Date: 7/20/2018

7/17/2018 10:50:22AM 8 Time: 4:30:00PM

Sales Person: Clerk: Date Printed: Christer Holm Christer Holm 7/19/2018

Project Description: INSTALLED - POLICE CAR GRAPHICS F-150

Customer: Ordered by:

Phone:

CLAYTON POLICE TIM MARCHUT (925) 437-2103 6000 HERITAGE TRAIL CLAYTON, CA 94517

Email: TIM.MARCHUT@CLAYTONPD.COM

PRODUCT	DESCRIPTION	QTY	SIDES	HxW	UNIT COST	TOTALS
RTA	*RTA Lettering (Based on Total Area, Height by Width)	1	1	1 x 1	\$375.00	\$375.00

Color: SAPPHIRE/WHITE

Text: POLICE EMBLEM ON BOTH SIDES OF CAR SPANNING ACROSS FRONT & REAR DOORS

LETTERING ON TRUNK LIP, #1742

SMALL VEHICLE IDENTIFICATION #'S (4-SETS)

X1) 1742 (ROOF) RTA

MISC	*3M Scotchgard Clear Paint Protection for rear doors	1	1	30 × 6	\$125.00	\$125.00
MISC	*NON-TAXED LABOR	1	1	0 x 0	\$225.00	\$225.00

Text: INSTALLATION

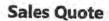
Other Payments: TERMS: Payment	Form of Payment tube to the total due upon completion of order.			Line Item Total: Tax Exempt Amt: Subtotal: Taxes:	\$725.00 \$125.00 \$725.00 \$52.50
		1	/	Total:	\$777.50
RECEIVED/A	ACCEPTED BY	DATE		Total Payments: Balance Due:	\$0.00 \$777.50

Bill To: CLAYTON POLICE

Attention: TIM MARCHUT 6000 HERITAGE TRAIL CLAYTON, CA 94517

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661 Garcia Avenue Pittsburg, CA 94565 Phone: 925-370-2144 Fax: 925-370-2087 Quote Number: Document Date:

13004

Terms:

7/23/2018 Net 30

Payment Method:

Clayton Police Department

To: Tim Marchut

6000 Heritage Trail Clayton, CA 94517

Phone: 925-437-2103

Ship Clayton Police Department

To: Attention Tim Marchut 6000 Heritage Trail

Clayton, CA 94517

Phone:

Ship Via

Sell

Ship from Warehouse

Customer ID

1656

Location:

Lehr - Pittsburg

Blanket PO:

SalesPerson

Mike McGee

Vehicle Information:

2019 FORD F150 PPV, Color: B/W

Item No.	Description	Category	Quantity	Unit Price	Total Price
Z3	SIREN CONTROLLER	CODE 3	1	795.00	795.00
C3100F15015	100 WATT SPEAKER & BRACKET F-150 (2015+)	CODE 3	1	191.66	191.66
C3100F15015-2	100 WATT SPEAKER & BRACKET F-150 (2015+) 2 BKT	CODE 3	1	191.66	191.66
3450	SIREN AMP	CODE 3	1	290.80	290.80
MDASHCPE	DASH MOUNT PREEMPTION EMITTER	CODE 3	1	189,23	189.23
SVFSD-TD	FLEX SUPERVIOSR, single-color, 2 white takedowns-a	CODE 3	1	735.00	735.00
SFMTG-F150	MOUNT KIT F150	CODE 3	3	94.50	94.50
GF1092FDT15F150	T-RAIL FREE STANDING MOUNT KIT 15-19 F-150	SETINA	1	152.15	152,15
GK11191B1SSSCA	DUAL T-RAIL GUN MT 1 BLAC-RAC LOCK/1 SHOTGUN LOCK	SETINA	1	740.05	740.05
189	MOUNT KIT	UNITY	1	45.50	45,50
189RH	MOUNT KIT	UNITY	1	45.50	45.50
X335PL-0002	LED BLK SPOTLIG	UNITY	2	379.165	758.33
	INSTALLATION CHARGES	LABOR	2	750.00	1,500.00
425-6500	Contour Console, JD, F150 SSV 2018+	JOTTODES	4	577.50	577.50
425-6038	BEVERAGE HOLDER	JOTTODES	1	48.75	48.75
425-6260	UPPER ARM REST	JOTTODES	1	51.00	51.00
425-6651	(3) 12v Outlets, 2" Faceplate	JOTTODES	1	38.59	38.59
MMSU-1	MAGNETIC MIC KIT	MAGMIC	1	24.83	24.83
TM-5502-SMP	HINT MOUNT	HINT	1	373.27	373.27
DH-D911-12	DISPLAY HOLDER FOR DATA911 M6/M7 DISPLAY	HINT	1	89.55	89.55
SI340U	SECURE IDLE	SECUREIDL	1	141.79	141.79
ECVDMLTAL00	LED DOME LIGHT	SOUNDOF	1	60.75	60,75
C-STIK-ARB	6-TRS3 AMBER, 1T R/B ENDS	CODE 3	1	617.18	617.18
M180S-R	180 LIGHT RED DS Mirror	CODE 3	1	96.68	96.68
M180S-B	180 LIGHT BLUE PS Mirror	CODE 3	1	96.68	96.68
BSM-BKT-F150	F150 Under Mirror Bracket, Pair	CODE 3	1	31.14	31.14
M180S-B	180 LIGHT BLUE L/R Running Board Center	CODE 3	2	96.685	193.37
M180S-R	180 LIGHT RED L/R Running Board Center	CODE 3	2	96.685	193.37
RBKT18	MNT KIT F-150	WHELEN	1	44.10	44,10
LINV2R	LINZ V RED DS Tail	WHELEN	1	164.50	164.50
LINV2B	LINZ V BLUE Ps Tail	WHELEN	1	164.50	164.50
RBKT19	MNT KIT F-150	WHELEN	1	44.10	44.10
RSB03ZCR	TIR3 HORIZ.BLUE DS	WHELEN	1	68.60	68.60



Sales Quote

Page: 2

661 Garcia Avenue Pittsburg, CA 94565 Phone: 925-370-2144 Fax: 925-370-2087 Quote Number: Document Date: 13004 7/23/2018

Terms:

Net 30

Payment Method:

Sell Clayton Police Department

To: 'Tim Marchut

6000 Heritage Trail Clayton, CA 94517 Phone: 925-437-2103 Ship Clayton Police Department

To: Attention Tim Marchut 6000 Heritage Trail

Clayton, CA 94517

Phone:

Ship Via

Ship from Warehouse

Lehr - Pittsburg

Customer ID SalesPerson 1656 Mike McGee

Location: Blanket PO:

Vehicle Information:

2019 FORD F150 PPV, Color: B/W

2019 FUND FISUFFY,		was trained	Character	ACCOUNTS.	and constant
Item No.	Description	Category	Quantity	Unit Price	Total Price
RSB03ZCR	TIR3 HORIZ.BLUE PS	WHELEN	1	68.60	68.60
XTP6WW	XT6 Single Color, White Rear Bumper R	CODE 3	2	59.355	118.71
VR	HIDE-A-LED RED DS Low Headlight	CODE 3	1	60.23	50.23
VB	HIDE-A-LED BLUE PS Low Headlight	WHELEN	1	60.23	60.23
GMB-F150	Grill Bracket F150	CODE 3	2	35.695	71,39
CD3766RW	Chase Light R/W	CODE 3	1	89.24	89.24
CD3766BW	Chase Light Blue/White	CODE 3	1	89.24	89.24
INSTALL	INSTALL MATERIALS	OTHER	1	95.00	95.00
MB8U	CABLE 17' RG58U	RADIO	1	16.50	16.50
03-0115	WIRING HARNESS	PATROLPO	1	595.00	595.00
l'i	INSTALLATION CHARGES	LABOR	1	3,450.00	3,450.00
F	Shipping Charges	OTHER.	-1	195,00	195.00

Mobile Living Truck Tops and More 1420 Concord Ave Concord, CA 94520 925-691-4902 925-689-5454

Invoice 100005

Order

Date: 07/14/18

Page: 1

Customer:

Ship To:

TIM MARCHUT CLAYTON POLICE DEPT. 6000 HERITAGE TRAIL CLAYTON, CA 94517 TIM MARCHUT
CLAYTON POLICE DEPT.
6000 HERITAGE TRAIL
CLAYTON, CA 94517

Phone: 925-437-2103

Order:

Item	Description	Quantity	Price	Amount
	ATTN:SGT TIM MARCHUT	1	0.00	0.00
	2018 FORD F150 CREW CAB 5.	1	0.00	0.00
	LEER 750 SPORT	1	1850.00	1850.00 7
	LESS DISCOUNT	1	-100.00	-100.00 N
LABOR	LABOR	1	100.00	100.00 N
77777	UNIT IS 3 WEEKS OUT FROM O	1	0.00	0.00

15% RESTOCKING FEE ON STORE ITEMS NO RETURNS ON SPECIAL ORDER ITEMS THANK YOU FOR YOUR PAYMENT! Sub-Total: 1850.00 Tax:[8.75%]: 161.88 * Total: 2011.88

Amount Due: 2011.88

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KEEP IN A SAFE PLACE - VOID IF ALTERED

MUNICIPAL POOLING AUTHORITY - 2017-18 VEHICLE DAMAGE PROGRAM

CITY OF CLAYTON

Vehicle Inventory as of 2/4/2017 3/1/2018

Department Clayton as of October 5, 2017	City ID	Use	Year	Make	Model	Lic#/Vin #	ACV
Maintenante			1987	VERME	Chipper	2114	\$2,22
Well-the state of the state of	200	Striper	1999	LASER II	5900	BA499	\$3,130
		Trailer	2008	CARSON	Carrier	1286057	\$3,37
		Utility Trailer	2005	CARSON	Carrier	1188480	\$4,18
			2000	POLARIS	All Terrain 6 Wheeler	VIN119223	\$4,600
		Mower	1995	TORO	325D	50122	\$5,46
vehicles to Surplus			2005	FORD -	- Ranger Pick up -	1195335 -	\$9,12
Jehrodus		Mower	2011	TORO	EM-360	311000167	\$15,87
to Druce			1992	FORD	DS Tractor	E376864	\$16,01
			2000	FORD	F-350 4dr crew cab	VIN06898	\$16,790
		Irrigation	2005	CHEVROLET	Van	1270029	\$18,80
		2	1999	FORD	F-450 Utility 2dr		\$19,26
			2006	FORD	Dump Truck	1213135	\$21,89
			2011	FORD	F-250	137334	\$21,98
		Crew cab	2007	FORD	F-450	VIN26245	\$24,41
		Tractor	2015	HOLLAND	U80C	NFC727048	\$69,99
	0298		1999	FORD	450 4x2 Bucket Truck	E022633	\$34,12
6 E	100		1998	SMART	Radar Trailer	1048823	\$6,19
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	1735	Patrol	2011	FORD	Crown Victoria	VIN182691	\$30,86
~	1736	Patrol	2011	FORD	Crown Victoria	VIN185894	\$30,71
	1737	Patrol	2015	FORD	Patrol	VIN88315	\$37,90
	1738	Patrol	2016	FORD	SUV Utility	VIN28213	\$39,90
	1739	Motorcycle	2016	Zero	DSP	B06252	\$21,58
	1740	Patrol - Sgt	2017	FORD	SUV	VINC86302	\$54,00
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KEEP IN A SAFE PLACE - VOID IF ALTERED

Agenda Date: 8-21-201 Agenda Item:

Approve Gary A. Napper City Manager

AGENDA REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

JANET BROWN, CITY CLERK

DATE:

August 21, 2018

SUBJECT: Accept the resignation of Nancy Morgan on the Trails and Landscaping

Committee (TLC)

RECOMMENDATION

Accept the resignation of Ms. Nancy Morgan as a resident member on the Trails and Landscaping Committee (TLC) Citizen Advisory Committee.

DISCUSSION

On July 24, 2018, Ms. Nancy Morgan submitted her written resignation from the citizens advisory Trails and Landscaping Committee.

This resignation results in six (6) seats filled on the up-to-eleven (11) membered Trails and Landscaping Committee. Ms. Morgan served on the Trails and Landscaping Committee since February 2016.

Attachments:

Resignation letter from Ms. Morgan (1 page)

Laura Hoffmeister

Subject:

FW: Trails committee

----Original Message-----

From: Nancy Morgan [mailto:nancy-morgan@comcast.net]

Sent: Tuesday, July 24, 2018 3:46 PM

To: Laura Hoffmeister Subject: Trails committee

Laura

I am moving to Lodi in August so I am resigning from the Trails and Landscape Committee. It has been a pleasure working with you and I wish you the best in the future.

Nancy Morgan

Sent from my iPhone



Agenda Date: 8.21-2018 Agenda Item: 3F

Gary A. Napper City Manager

Approved

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 21 AUGUST 2018

SUBJECT: APPROVE FIRST AMENDMENT TO PROFESSIONAL ENGINEERING

SERVICES AGREEMENT FOR CONTINUATION OF CONTRACT

CITY ENGINEERING SERVICES

RECOMMENDATION

It is recommended the City Council, by Consent Calendar minute motion, adopt the attached Resolution approving a First Amendment to the Professional Engineering Services Agreement with Harris & Associates, Inc., a California corporation, for the continuation of contract city engineering services with the proposed two modifications.

BACKGROUND

Ever since November 1993 the City of Clayton has provided its necessary city engineering services through the provision of a qualified and licensed engineering firm to perform the specified services. In August 2017 following the vetting of several licensed engineering firms, the City Council approved a Professional Engineering Services Agreement with the firm of Harris & Associates, Inc., having a regional office located in the adjacent city of Concord. From within that company, Mr. Scott Alman, PE, and its Director of Engineering Services, was appointed by the City Council to be the Clayton City Engineer.

The Agreement stipulates a host of engineering service rates depending on the scope of services being provided, and approved a monthly engineering retainer for basic services charged to the City General Fund at \$9,585.00. That sum was recognized at the time as an amount higher than the former city engineer's contract rate yet lower than the increase being sought by Permco as well as less than that of other engineering firms also interested in contracting with the City.

The duration of the Agreement was purposefully set at one (1) year to allow both parties to evaluate expectations and satisfaction with the contractual arrangement following an initial year of performance. The Agreement expired on 15 August 2018.

Page 2 of 3

DISCUSSION

On August 7th the City Engineer and the City Manager met to discuss performance evaluation during the last year and to converse on arrangements going forward. Each party was very satisfied with the elevated city engineering quality and perspectives, responsiveness, and team involvement achieved by this changeover, yet both parties acknowledged the transition and amounts of workload were more challenging than originally expected. It was estimated the length of time to become fully productive due to ramping up on the City's history and past/current engineering service needs was approximately 5-6 months. However, having now completed one year of contract city engineering services for and to the City, each party is convinced performance and production levels going forward will be readily increased and attained.

Bearing on those evaluations, it is mutually proposed the City continue to retain the contract city engineering services of Harris & Associates (and Mr. Alman as Clayton City Engineer) with the following adjustments to the underlying Professional Engineering Services:

- Retain the existing city engineering service rates, as listed in Exhibit A of the Agreement, for an additional one (1) year period through 31 August 2019;
- 2. Starting in September 2019, allow the monthly retainer service rate to increase by a factor of 90% of the corresponding annual percentage increase in the Consumer Price Index (CPI) for the period of June June using the CPI issued by the Bureau of Labor Statistics, United States Department of Labor, for All Urban Consumers (Base Period 1982-84 = 100) for the San Francisco Oakland Hayward, CA metropolitan statistical area;
- Starting in September 2019, allow all other engineering services rates to increase by a factor of 100% of the corresponding CPI increase noted in section 2 above; and
- Modify the <u>Term</u> and the <u>Termination</u> sections of the Agreement to an on-going contractual arrangement substituting a ninety (90) days written notification requirement by either party for termination.
- Modify the language in Section 12, <u>Indemnification</u>, for compliance with new state law regarding design services indemnifications, as of 01 January 2018.

The incorporation of these modifications to the underlying Agreement, embodied in the proposed First Amendment, will assist in stabilizing city engineering services provided to and by the City, and serve to smooth-out rate adjustments to avoid the past drought and tsunami rate issues the City and its prior contractor experienced in the past.

FISCAL IMPACT

During the initial eleven (11) months of contract services, the City paid \$318,940 for all city engineering services provided by Harris & Associates, with a recovery percentage of 16% from third party deposit accounts (note: the month of June 2018 is not yet "closed"). Over that same time period, the City operated in FY 2017-18 with an annual balanced revenue-

Subject: Adopt Resolution approving a First Amendment to the Professional Engineering Services Agm't.

Date: 21 August 2018

Page 3 of 3

expenditure budget, as did its other enterprise and special revenue funds that utilized contract city engineering services. Using the same engineering services rates in FY 2018-19 as in FY 2017-18 will cause little to no increase in financial impact unless greater engineering service volumes are necessitated.

In subsequent fiscal years, the City can manage and budget for the nominal CPI increases in the engineering services rates.

Attachments: A. City Resolution with First Amendment [6 pp.]

B. Professional Engineering Services Agreement, 2017 [15 pp.]

RESOLUTION NO. - 2018

A RESOLUTION APPROVING A FIRST AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT FOR CONTRACT CITY ENGINEERING SERVICES BETWEEN THE CITY OF CLAYTON AND HARRIS & ASSOCIATES, INC. AUTHORIZING ADJUSTMENTS IN CONTRACT ENGINEERING SERVICES RATES AND TERM OF THE AGREEMENT

THE CITY COUNCIL City of Clayton, California

WHEREAS, as a general law city of the state of California and as a municipality, the City of Clayton is authorized to procure and contract for the provision of necessary local public services, including city engineering services; and

WHEREAS, by City Resolution No. 63-93 adopted on 03 November 1993, the City of Clayton commenced its history of contracting with a qualified engineering firm to perform specified and requested city engineering services and inspection, design, and engineering management services of the City; and

WHEREAS, after vetting several prospective contract city engineering firms, on 14 August 2017 at a duly noticed Special Meeting of the Clayton City Council, the city engineering needs of the City were continued in contract form by its approval of a Professional Engineering Services Agreement ("Agreement") with Harris & Associates, Inc., a California corporation; and

WHEREAS, the duration of the Agreement was initially approved for a period of one (1) year from 15 August 2017 and therefore said Agreement will expire unless the Agreement is extended by written amendment acceptable to the parties thereto; and

WHEREAS, prior to the expiration of the Agreement the city manager met with the appointed city engineer to discuss performance and satisfaction of the city engineering services performed during the initial year of contract, and each party is desirous of continuing the contractual arrangement into subsequent years with adjustments to the engineering rates and the term of the Agreement; and

WHEREAS, it is the recommendation of the City Manager that the City's continuation of contracting for city engineering services is the preferred and most economical method for the provision of city engineering services in this small municipality, and that Harris & Associates, through City Engineer Scott Alman, has provided an enhanced level and quality of such professional engineering services during the initial year of contract;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby find, determine and approve as follows:

Section 1. The above Recitals are true and correct facts pertaining to a matter of important public policy to the City.

Section 2. That the First Amendment to the Professional Services Agreement with the professional engineering firm of Harris & Associates, Inc., attached hereto as "Attachment 1" and incorporated herein as if fully set forth in this Resolution, does therein set forth the modified terms and conditions for the continued retention of Harris & Associates, Inc., to provide contract professional city engineering services for and to the City, and therefore said First Amendment to the Agreement is hereby approved and adopted.

Section 3. The City Manager is hereby authorized and directed to execute the First Amendment to the Agreement for and on behalf of the City of Clayton, a true and correct copy of the First Amendment attached hereto as "Attachment 1."

Section 4. This Resolution shall and does take immediate effect from and after its passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 21st day of August 2018 by the following recorded vote:

Janet Brown, City Clerk	
ATTEST:	Keith Haydon, Mayor
ABSENT:	THE CITY COUNCIL OF CLAYTON, CA
ABSTAIN:	
NOES:	
AYES:	

FIRST AMENDMENT TO PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN CITY OF CLAYTON, CALIFORNIA, AND HARRIS & ASSOCIATES, INC.

This First Amendment to the Professional Engineering Services Agreement ("First Amendment") is entered into on 21 August 2018 by and amongst the City of Clayton, California ("City"), a municipal corporation, and Harris & Associates, Inc., a California Corporation ("Consultant").

RECITALS

- A. WHEREAS, in August 2017 the City and Consultant entered into that certain Professional Engineering Services Agreement to perform all necessary professional engineering services for the City ("Agreement").
- B. WHEREAS, the express term of the Agreement (Section 5) was for a period of one (1) year (twelve consecutive months) from the date of 15 August 2017 and therefore shall automatically expire unless extended by written amendment.
- C. WHEREAS, the City and the Consultant mutually desire to amend certain provisions of the Agreement for good and valued consideration to incorporate modifications in the Term and Compensation sections of which the parties hereby acknowledge and agree as follows:

AGREEMENT

Now therefore, in exchange for goods and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

- Subdivisions a. and b. of Section 2. <u>Compensation</u> of the Agreement are hereby amended to read as follows:
 - "a. From 01 September 2018 through 31 August 2019, the City shall continue to pay for services satisfactorily rendered by Consultant under the Agreement in accordance with the initial rates in the Schedule of Charges first approved in August 2017, as set forth in Exhibit "A."
 - b. Commencing 01 September 2019 and every one (1) year thereafter (twelve consecutive months), the Schedule of Rates listed in Exhibit "A" will be increased as follows by the corresponding annual percentage increase in the June June Consumer Price Index (CPI) issued by the Bureau of Labor Statistics, United States Department of Labor, CPI All Urban Consumers (Base Period 1982-84 = 100) for the San Francisco Oakland Hayward, CA metropolitan statistical area:

1

- Administrative (Funded By General Fund) Monthly Rate
 Monthly Rate is annually adjusted by 90% of the corresponding CPI increase, rounded up or down to the nearest whole dollar.
- All Remaining Schedules of Hourly Rates (as contained in Exhibit "A")
 Hourly rates are annually adjusted by 100% of the corresponding CPI increase."

Subdivision c. of Section 2 shall remain in full force and effect.

 Section 5. <u>Term</u> of the Agreement is hereby amended in its entirety to read as follows:

"Consultant shall perform its services in a prompt and timely manner and as directed and authorized by the City Manager. The term of this Agreement shall continue each year hereafter so long as the City or the Consultant is satisfied with its terms, conditions, and performance.

Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines. Consultant's performance may be evaluated and reviewed by City on a periodic basis, as determined by the City in its sole discretion. A copy of the evaluation will be sent to Consultant for comments. If performed, the evaluation, together with the comments may be retained as part of the Agreement record."

- Section 12. <u>Indemnification</u> of the Agreement is hereby amended in its entirety to read as follows:
 - "a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

- b. To the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's obligations under the above indemnity shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, but shall not otherwise be reduced. If Consultant's obligations to defend, indemnify, and/or hold harmless arise out of Consultant's performance of "design professional services" (as that term is defined under Civil Code section 2782.8), then upon Consultant obtaining a final adjudication that liability under a claim is caused by the comparative active negligence or willful misconduct of the City, Consultant's obligations shall be reduced in proportion to the established comparative liability of the City and shall not exceed the Consultant's proportionate percentage of fault."
- Section 15. <u>Termination or Abandonment</u> of the Agreement is hereby amended in its entirety to read as follows:

"Should the City or the Consultant wish to terminate the Agreement, each party has the right to do so by filing with the other a Notice of Termination with said notice having an effective termination date of ninety (90) days from the date of service of the notice. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports, design works, City-procured software, electronic files and records, and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work."

Except as otherwise specifically set forth in this Agreement, the remaining provisions of the Agreement shall remain in full force and effect. IN WITNESS WHEREOF, the parties have executed this First Amendment to the Professional Engineering Services Agreement on the date above written.

CITY OF CLAYTON, CALIFORNIA	HARRIS & ASSOCIATES, INC.
Ву:	Ву:
Gary A. Napper	Printed Name:
City Manager	Its (title):
	Ву:
	Printed Name:
	Its (title):
ATTEST:	
Janet Brown City Clerk	

CITY OF CLAYTON PROFESSIONAL ENGINEERING SERVICES AGREEMENT

This Agreement is made and entered into as of August 14, 2017 by and between the City of Clayton, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 6000 Heritage Trail, Clayton, California 94517 ("City"), and Harris & Associates, Inc., a California Corporation, with its principal place of business at 1401 Willow Pass Road, Suite 500, Concord, CA 94520 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

City Engineer and Engineering Services (hereinafter referred to as "the Project").

- B. Consultant desires to perform and assume responsibility for the provision of certain professional engineering services required by the City on the terms and conditions set forth in this Agreement. Consultant is duly licensed and has the necessary qualifications to provide such range and scope of services.
- C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

Services.

Consultant shall provide the City with the professional engineering services described in the Scope of Services attached hereto as Exhibit "A."

For the purposes of the services provided by this Agreement, the Consultant shall report directly to and take assignments from the City Manager. The Consultant and the City Manager will meet on a weekly basis, at the discretion of the City, to discuss and review the progress of services provided under this Agreement.

With respect to claims that may be asserted by third parties arising from the Consultant's actions as City Engineer, the Consultant shall be entitled to assert any immunities or similar defenses that would be available to the City in defense of such actions against a City employee or official provided such immunities or similar defenses are legally extendable to Consultant. The City shall use commercially reasonable efforts to include language in third party contracts requiring third party contractors and consultants to provide insurance and indemnification protection to City's agents, including Consultant, to the same extent the City is provided insurance and indemnification protection. Notwithstanding anything to the contrary, nothing herein shall be construed or interpreted to be a guarantee that such insurance and indemnification protection shall be afforded to Consultant by third party contractors and consultants and their insurers.

Compensation.

- a. The City shall pay for services satisfactorily rendered by Consultant under this Agreement in accordance with the Schedule of Charges set forth in Exhibit "A."
- The Schedule of Charges may be adjusted by mutual agreement of the City and the Consultant once annually, any changes to be effective on September 1st of the next year.
- c. Consultant shall submit to City monthly itemized statement(s) which identifies the specific project(s) worked on, indicates the work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services provided since the effective date of this Agreement through the date of the statement. City shall, within thirty (30) days of receiving such statement, review the statement and pay all approved and undisputed charges thereon. Consultant shall not be reimbursed for any expenses unless it received prior written authorization from the City or such expenses are otherwise authorized herein.

Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred and services rendered under this Agreement shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City. Upon termination or expiration of this Agreement, all such records shall be delivered to the custody of the City within thirty (30) calendar days of the effective date of such termination or expiration.

Term.

Consultant shall perform its services in a prompt and timely manner and as directed and authorized by the City Manager. The term of this Agreement is one (1) year (twelve consecutive months) from its effective date and shall go into effect on 15 August 2017. The Agreement may be extended by written amendment. Consultant shall complete the services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual written consent, extend the term of this Agreement. Consultant's performance may be evaluated and reviewed by City on a periodic basis, as determined by the City in its sole discretion. A copy of the evaluation will be sent to Consultant for comments. If performed, the evaluation, together with the comments shall be retained as part of the Agreement record.

Delays in Performance.

- a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.
- b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

Compliance with Law.

 a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the prior written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant is nor shall become an employee of City by virtue of this Agreement. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. <u>Insurance</u>. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

Commercial General Liability

- (i) The Consultant shall procure and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.
- (ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:
- Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.
- (iii) Commercial General Liability Insurance must include coverage for the following:
 - (1) Bodily Injury and Property Damage
 - (2) Personal Injury/Advertising Injury
 - (3) Premises/Operations Liability
 - (4) Products/Completed Operations Liability
 - (5) Aggregate Limits that Apply per Project
 - (6) Explosion, Collapse and Underground (UCX) exclusion deleted
 - (7) Contractual Liability with respect to this Contract
 - (8) Broad Form Property Damage
 - (9) Independent Consultants Coverage
- (iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.
- (v) The policy shall give City, the City Council and each member of the City Council, its officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.
- (vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability

- (i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.
- (ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

- (iii) The policy shall give City, the City Council and each member of the City Council, its officers, employees, agents and City designated volunteers additional insured status.
- Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

C. Workers' Compensation/Employer's Liability

- Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.
- To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Professional Liability (Errors and Omissions) d.

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall include or be endorsed to include limited contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability \$1,000,000 per occurrence/\$2,000,000 aggregate for bodily injury, personal injury, and property damage

\$1,000,000 per occurrence for bodily injury and Automobile Liability

property damage

Employer's Liability \$1,000,000 per occurrence Professional Liability

\$2,000,000 per claim and aggregate (errors and omissions)

- (ii) Defense costs shall be payable in addition to the limits under General Liability and Automobile Liability.
- (iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

- (i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.
- (ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.
- (iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.
- (iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and

shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein under General Liability and Automobile Liability shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

- (i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:
 - (1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

Additional Insurance Provisions

- (i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.
- (ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.
- (iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.
- (iv) Neither the City nor the City Council, nor any member of the City Council, nor any of the officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.
- j. <u>Subconsultant Insurance Requirements</u>. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

Indemnification.

To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by the City), indemnify and hold the City, the City Council. members of the City Council, its employees, and authorized volunteers free and harmless from claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to any negligent acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness. or willful misconduct of the Consultant. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, the City Council, members of the City Council, its employees, or authorized volunteers.

13. California Labor Code Requirements.

- a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.
- b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and subsubconsultants to comply with the same.

15. RESERVED.

Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Contra Costa, State of California.

17. Termination or Abandonment

- a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports, design works, City-procured software, electronic files and records, and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.
- b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.
- Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, design works, electronic files and records, City-procured software, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City. Any modifications made by the City or any agents of the City to any of the Consultant's documents or any partial use or reuse of the documents without the express written consent of the Consultant will be at the City's sole risk and without liability to the Consultant.

Organization

Consultant shall assign Scott Alman, PE, as City Engineer. The City Engineer shall not be removed from the Project or reassigned without the prior written consent of the City.

Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described herein.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

CONSULTANT:

City of Clayton

Harris & Associates

6000 Heritage Trail

1401 Willow Pass Road, Suite 500

Clayton, CA 94517

Concord, CA 94520

Attn: City Manager

Attn: Scott Alman, P.E.

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights.

burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

Prohibited Interests

Consultant maintains and agrees that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF CLAYTON AND HARRIS & ASSOCIATES

IN WITNESS WHEREOF, authorized officials of the Parties have duly executed this Agreement as of the date first written above.

EXHIBIT A

Scope of Services and Schedule of Charges (attach Exhibit A hereto)



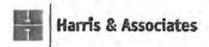
CITY OF CLAYTON RATES:

Effective Contract NTP Date 2017 - August 31, 2018

Administrative (Funded by General Fund (G.F.)) Monthly Lump Sum Retainer Scope: CLAYTON MONTHLY RATE \$9,585.00/mo.

- Day-to-Day engineering related questions and calls from staff and public;
- Attendance at City Council meetings as requested by the City Manager;
- Attendance at weekly staff meetings;
- Compilation of the City's Capital Improvement Program (CIP) Budget;
- Administration of the City's encroachment permit program;
- Coordination with the Maintenance Department regarding maintenance, operations and the repair of public facilities;
- Enforcement and continuous update of the City's Standard Plans and Specifications for design and construction;
- Enforcement of City's Stormwater Management Program;
- Representation of the City's interests in regional transportation and funding issues;
- Flood plain administration including responses to flood zone information requests.

	D Administration (Hourly, Non-G.F.)	
Scott Alman		\$190
Alison Bouley		\$190
Brian Brown		\$180
Dennis Klingelhofer		\$230
Ka Chow		\$105
Teddy Alicante		\$105
Capital Improvement Pr	ogram (Hourly, Non-G.F.)	
Scott Alman		\$190
Jasmine Cuffee		\$190
Vijay Pulijal		\$180
Siva Natarajan		\$165
Kyle Carbert		\$165
Daniel Wilkins		\$140
Alvin Armstrong		\$140
Ka Chow		\$105
Teddy Alicante		\$105
Land Development (Hou	urly, Non-G.F.)	
Scott Alman		\$220
Siva Natarajan		\$175
Kyle Carbert		\$175
Daniel Wilkins		\$150
Ka Chow		\$110
Teddy Alicante		\$110



GENERAL ENGINEERING SERVICES (Hourly, Non-G.F.)	STANDARD HOURLY RATE
Project Directors	\$230
Senior Project Managers	\$200
Project Managers	\$170
Senior Project Engineers	\$140
Project Engineers	\$90
Senior Technical Support	\$130
Technical Support	\$90
GENERAL ENVIRONMENTAL SERVICES (Hourly, Non-G.F.)	STANDARD HOURLY BATE
Project Director	\$230
Sr. Project Manager	\$190
Project Manager	\$150
Sr. Project Analyst	\$120
Project Analyst	\$90
Technical Support	\$90

Notes: Rates are subject to adjustment based on staff promotions during the effective period of the schedule.

Specific Scope of Services covered by the monthly lump sum retainer rate is detailed in the Scope of Services section of the contract between City of Clayton and Harris & Assoc. Those duties are the Day-to-Day operational duties that are funded through the City's General Fund.

Unless otherwise indicated in the cost proposal, hourly rates include most direct costs such as travel, equipment, computers, communications and reproduction (except large quantities such as construction documents for bidding purposes).

*Inspectors working in the State of California are subject to the Prevailing Wage Rates established for that area.

All sub-consultant charges are subject to a 10% markup.

Agenda Date: 8-21-2018

Agenda Itam: Oa

Approved

Gary A. Nappe City Manager

AGENDA REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE:

August 21, 2018

SUBJECT:

Reaffirm approval to submit a grant application to FEMA-CalOES to prepare an updated City of Clayton Local Hazard Mitigation Plan (LHMP) with

authorization for the City Manager to execute and approve, by signature, all

required grant related documents.

RECOMMENDATION

It is recommended the City Council adopt a Resolution to authorize submission of a FEMA-CalOES full subapplication for consideration of HMGP funding (per Governor's Office of Emergency Services invitation DR-4344-0379) to develop a current LHMP (Local Hazard Mitigation Plan) and reassertion of authorization for the City Manager to execute all required documents relative to this grant and proposed project.

Reimbursements and other documents that require two signatures would add the Finance Manager as a second signatory with the City Manager.

BACKGROUND

FY 2000 - DMA; Public Law 106-390 federal disaster response and recovery legislation was expanded to add mitigation activities to pre-existing response and recovery programs. Emphasis on planning in order to minimize damage and loss before disaster strikes became a goal.

2005 - 2010 - City of Clayton participated in an ABAG (Association of Bay Area Governments) sponsored Multi-jurisdictional - Local Hazard Mitigation Plan (LHMP) which resulted in FEMA approval of a City of Clayton LHMP annex. The 2010 ABAG Plan covered more than 100 counties, cities, special districts, and utilities in the Association's nine (9) counties greater Bay Area jurisdiction.

Subject: Resolution Approving submission of FEMA-CalOES LHMP grant application and authorizing the City Manager to sign grant related documents per grant regulations.

Date: August 21, 2018

Page 2 of 2

<u>2015 – 2017</u> - Contra Costa County received a FEMA grant to prepare a county-wide LHMP, in an effort to focus planning and assessments on a less expansive footprint than a nine (9) county area. Clayton intends to complete a Local Hazard Mitigation Plan as a single-jurisdiction LHMP, rather than an annex to a multi-jurisdictional plan. The City has been qualified to apply for this funding, and is preparing an application to be submitted by September 4, 2018.

Legislative body approval to submit applications and pre-approve signature authorities is typically required for federal grant applications.

DISCUSSION

Federal funds typically require City Council authorization to submit funding applications and approve signatories by Resolution and Roll Call Vote of record. This grant application will request an amount not-to-exceed \$150,000, broken down as a maximum of \$112,500.00 in federal monies; plus a combination of city hard and soft match equal to the remainder of \$37,500. Match cannot be monies originating from a federal source.

Should this request for City Council approvals be denied, the application would not be able to meet submission requirements for this grant.

FISCAL IMPACT

Federal funds come with requirements that must be complied with in order to apply for grants. Should this request for approvals fail, the application process will be cancelled. In addition, should a disaster take place involving Clayton, applicants for FEMA disaster aid and assistance must have an approved LHMP in place to be qualified to apply for funds. The LHMP Clayton prepared with ABAG has expired. It is, therefore, important for the City to proceed with this opportunity. Monies for the match purpose (\$45,000) were previously approved by City Council action from the FY 2017 General Fund excess.

CONCLUSION

Based on the information provided above, staff recommends the approval of this Resolution authorizing:

- Submission of a not-to-exceed \$150,000 grant application to FEMA-CalOES for the purpose of completing a single-jurisdiction Local Hazard Mitigation Plan; and
- The City Manager to sign all required documents related to the grant process to include forms requiring signature by the City Manager together with the Finance Manager.

Attachments: Resolution [2 pp.]

RESOLUTION NO. xx - 2018

A RESOLUTION AUTHORIZING ITS CITY MANAGER TO SUBMIT A GRANT APPLICATION TO FEMA-CaIOES TO PREPARE AN UPDATED CITY OF CLAYTON LOCAL HAZARD MITIGATION PLAN (LHMP) WITH AUTHORIZATION TO THE CITY MANAGER TO EXECUTE AND APPROVE, BY SIGNATURE, ALL REQUIRED GRANT RELATED DOCUMENTS.

THE CITY COUNCIL City of Clayton, California

WHEREAS, the City of Clayton has been invited to and wishes to submit an application to FEMA-CalOES for grant funds not-to-exceed \$150,000 (including a \$37,500 local match) for the purpose of preparing a single-jurisdiction Local Hazard Mitigation Plan (LHMP); and

WHEREAS, the City of Clayton cannot qualify to apply for any FEMA disaster assistance or financial aid unless it has a FEMA-approved LHMP in place; and

WHEREAS, by grant requirement the Clayton City Manager must expressly receive City Council authorization to sign said grant documents; and

WHEREAS, such authorization would also acknowledge certain grant documents requiring signatures from both the City Manager and the Finance Manager; and

WHEREAS, the primary purpose is preparing an LHMP is to identify ways to reduce or eliminate loss of life and property damage before disaster strikes.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Clayton, California does hereby adopt this Resolution authorizing its City Manager to sign any documents related to this grant program, as well as, to submit a grant request to prepare a single-jurisdictional Local Hazard Mitigation Plan (LHMP), as described in this Resolution and Agenda Report, on behalf of the City of Clayton, CA.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 21st day of August 2018 by the following vote:

AYES:	
NOES:	
ABSENT:	
ABSTAIN:	THE CITY COUNCIL OF CLAYTON, CA
	Keith Haydon, Mayor

ATTEST:		
Janet Brow	vn. City Clerk	

DANA HILLS SWIM TEAM

(DHST - The Otters)

for

Undertaking Extraordinary and Selfless
Community Spirit

by

Raising Funds for "Team Up for Tucker"

At the Clayton Cup Swim Meet

Dana Hills, Clayton, CA

28 July 2018

OAKHURST COUNTRY CLUB SWIM TEAM

(OCC - The Orcas)

for

Undertaking Extraordinary and Selfless
Community Spirit

by

Raising Funds for "Team Up for Tucker"
At the Clayton Cup Swim Meet
Dana Hills, Clayton, CA
28 July 2018

CITY OF CLAYTON
Pended 1851 . Increpand and 1954

Agenda Date: 8-21-2018

la

Agenda Item:

Approved

Gary A Napper City Manager

AGENDA REPORT

TO:

HONORABLE MAYOR AND COUNCIL MEMBERS

FROM:

MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR W

DATE:

AUGUST 21, 2018

SUBJECT:

AN ORDINANCE AMENDING CHAPTER 17 - "ZONING" OF THE CLAYTON

MUNICIPAL CODE TO RESTRICT AND REGULATE PAROLEE HOMES

(ZOA-08-16)

RECOMMENDATION

It is recommended the City Council consider all information provided and submitted, open the noticed Public Hearing and allow and consider all public testimony, close the Public Hearing, and if determined to be appropriate, take one of the following actions:

 Motion to have a second reading of Ordinance No. 483 by title and number only and waive further reading; and

Following the City Clerk's reading, by motion adopt Ordinance No. 483 to amend the Clayton Municipal Code Chapter 17 – "Zoning" to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit (ZOA-08-16) (Attachment 1).

Alternatively, if the Council wishes to make any significant changes to the Ordinance, such as amending the buffer distance from designated sensitive-use sites, then it is recommended the Council take the following actions:

B. Following closure of the Public Hearing, subject to any changes by the City Council, adopt a motion to have the City Clerk read the amended Ordinance No. 483 by title and number only and waive further reading; and

Following the City Clerk's reading, by motion approve Ordinance No. 483, as amended, for Introduction to amend the Clayton Municipal Code Chapter 17 – "Zoning" to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit (ZOA-08-16), subject to any changes by the City Council.

BACKGROUND

At its meeting on July 17, 2018, the City Council introduced the subject Ordinance, which proposes to limit locations and regulate City-permitted parolee homes to sites only within the multifamily General Plan land use designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), as identified on the General Plan Map (Attachment 2), subject to a conditional use permit (Attachment 3). At the meeting, the City Council changed the language in the Ordinance to require a notification distance for any public hearing relating to a parolee home to match the 500 foot sensitive-use buffer, which is now reflected in Section 17.36.086.F.

Buffer Distances

In addition to the increased public notification distance, the Council also requested additional maps showing a buffer distance around sensitive uses at 750 feet and 1,000 feet at its next meeting during consideration whether to adopt the Ordinance (**Attachment 4**). The attached map shows: a 500 foot buffer (in green), a 750 foot buffer (in yellow), and a 1,000 foot buffer (in red) along with the multifamily designated areas, as identified in the proposed Ordinance. The map specifically focuses on the Town Center area because this is the area where the different buffer distances will have a discernable impact.

It is noted the public park in the Stranahan neighborhood was inadvertently left off the sensitive-use 500 foot buffer map presented at the City Council's July 17, 2018 hearing. Since this public park is not shown on the City's land use maps nor is a park designation identified on the planning maps, it was overlooked by staff. By adding the Stranahan Park into the 500-foot buffer map, it removes the majority of the six parcels located south of the Town Center as an acceptable location, subject to approval of a use permit, for parolee housing, including fully removing the three parcels involved in the proposed 81-unit Clayton Senior Housing project (The Olivia on Marsh Creek) as an acceptable location.

With the larger 750 and 1,000 foot buffers, four of the six multifamily areas identified on the General Map become automatically excluded due to the restrictions of the proposed Ordinance: 1) the multifamily area adjacent to Kirker Pass Road, 2) the old Fire Station site on Clayton Road, 3) Chaparral Springs II (smaller area off of Indianhead Way), and 4) the area south of the Town Center. Regardless of the discussed buffer distances, the area around Keller Ridge Drive remains a location due to the lack of known sensitive uses in the surrounding area. Therefore, the area around the Town Center is the focus of the buffer

map due to the concentration of sensitive uses in the Town Center and the location of the remaining multifamily areas (two off Indianhead Way, and one south of the U.S. Post Office).

As shown on the map, the 1,000 foot buffer excluded all multifamily designated areas except for the location adjacent to Keller Ridge Drive and a limited portion of a residential complex on Indianhead Way (Chaparral Springs I). With application of the 750 foot buffer, more of the complex on Indianhead Way becomes available, creating a larger pool of units for the location of a parolee home. Conversely, the application of a 1,000 foot buffer produces a greater risk exposure to the City because locating a parolee home in Clayton may be challenging, given the limited number of possible units on Indianhead Way as well as the possible existence of a sensitive use such as a licensed daycare locating in either the Keller Ridge area or in Chaparral Springs I or its surrounding neighborhood.

With these newly-plotted buffer maps and the calculation of buffer distances using enhanced County software, the proposed 500-foot buffer does not differ much from the 750-foot buffer. However, the newly-plotted 750-foot and 1,000-foot buffers remain incrementally more risky than the 500-foot buffer; the 1,000-foot buffer might not leave a realistic possibility of locating a parolee home.

1,000-Foot or Larger Buffer with Additional Permitted Zoning Designations

If the Council wishes to consider a 1,000 foot or larger buffer and provide for more sites for enhanced legally-defensible purposes than as shown in the attachment, the Ordinance must be further amended. This directive would necessitate a change in the recommended General Plan land use designations from the sole selection of the multifamily land use designations to add the selection of a single-family residential district. This action would result in tradeoffs that could be considered less favorable to the City Council and the community.

Staff specifically chose the various "multifamily" General Plan land use designations for the following reasons: 1) limited variety of land use choices (e.g. Clayton does not contain industrial areas); 2) the multifamily designated areas represent the smallest geographic area of any residential land use, while still providing a minimum, reasonable number of acceptable locations to withstand a legal challenge; and 3) multifamily residential designations are more intensive in its land uses than single-family land use districts.

If the City Council were to select this latter option, this change would require the redrafting of the Ordinance because it is significant in nature, and the redrafted Ordinance must be sent back to the Planning Commission for consideration. Furthermore, this change to the Ordinance would also result in a short term gap whereby <u>all</u> residential areas of the city once again become available to the opening a parolee home as the City would not have any regulations or restrictions in place once the moratorium expires on October 3, 2018.

Additional Information

After the Ordinance was introduced at the City Council meeting on July 17, 2018, staff received a number of questions from the public, which are addressed in **Attachment 5** – **Questions Answered**. Attachment 5 also provides insight by illustrating policy and legal considerations that were explored by staff during the drafting of the proposed Ordinance, demonstrating why certain issues were or were not addressed within the proposed Ordinance or were reserved for a project-specific use permit.

ENVIRONMENTAL

This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

FISCAL IMPACTS

There will be no direct fiscal impacts to the City with the adoption of this Ordinance.

ATTACHMENTS

- 1. Ordinance 483 [pp. 7]
- 2. General Plan Land Use Map [pp. 1]
- 3. Excerpt of the Staff Report and Minutes from the July 17, 2018 City Council Meeting [pp. 109]
- 4. 500-, 750-, and 1000-Foot Buffer Map [pp. 1]
- 5. Questions Answered [pp. 10]

ATTACHMENT 1

ORDINANCE NO. 483

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON ADOPTING AMENDMENTS TO CLAYTON MUNICIPAL CODE, TITLE 17 - ZONING IN ORDER TO RESTRICT AND REGULATE PAROLEE HOMES IN THE FOLLOWING GENERAL PLAN DESIGNATIONS: MULTIFAMILY LOW DENSITY, MULTIFAMILY MEDIUM DENSITY, AND MULTIFAMILY HIGH DENSITY, SUBJECT TO A CONDITIONAL USE PERMIT

THE CITY COUNCIL City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City and surrounding communities have seen an increased interest in the establishment of group homes for parolees and probationers. This interest is due, in part, to AB 109 and the increase number of parolees, probationers and others subject to post-release supervision. These uses may concentrate in residential zoning districts; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, increased crime, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, the City adopted an interim zoning ordinance to establish a temporary moratorium on the establishment and operation of parolee and probationer homes in order to study appropriate regulations for these uses; and

WHEREAS, California experiences high recidivism rates, with approximately 60-70% of parolees being re-arrested within three years of release; and

WHEREAS, crime and nuisance-related concerns may be alleviated through public review of the facility's operational and management plans, house rules, services and staffing plans, as well as buffers from sensitive children-oriented uses, including schools, daycares, parks, youth centers, and libraries, and from businesses selling alcohol; and

¹ Cal. Dept. of Corrections, CALIFORNIA PRISONERS AND PAROLEES 2010: Summary Statistics On Adult Felon Prisoners and Parolees, Civil Narcotic Addicts and Outpatients and Other Populations (2011) p. 90, at: https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd201 0.pdf_see also, Public Policy Institute of California, Realignment and Recidivism in California (December 2017), p.3, at: http://www.ppic.org/wp-content/uploads/r_1217mbr.pdf

WHEREAS, in response to concerns that residential neighborhoods not become institutionalized with parolee homes and that residents of parolee homes fail to integrate into the community, the ordinance would ensure that parolee homes are separated from other parolee homes as well as other quasi-institutional uses, including hospitals, group homes, emergency shelters, and supportive or transitional housing, to avoid an overconcentration of such uses in residential neighborhoods; and

WHEREAS, other public health, safety, and welfare concerns may be alleviated through enforcement of existing regulations and discretionary review of proposed land use applications; and

WHEREAS, following the results of this planning and research process, the City now desires to adopt permanent regulations to restrict parolee and probationer housing to Clayton's multi-family residential General Plan designations subject to the granting of a conditional use permit and the conditions, regulations and limitations stated herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

<u>Section 1.</u> <u>Incorporation of Recitals</u>. The above recitals are true and correct and are hereby incorporated into this Ordinance.

<u>Section 2.</u> <u>Amendment to Clayton Municipal Code – Zoning Definitions.</u> Section 17.04.155 entitled "Parolee Home" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.155 Parolee Home.

"Parolee Home" means any residential or commercial building, structure, unit or use, including a hotel or motel, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses two or more parolees, that is not operated as a single housekeeping unit, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee."

<u>Section 3.</u> <u>Amendment to Clayton Municipal Code - Zoning Definitions.</u> Section 17.04.156 entitled "Parolee" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.156 Parolee.

"Parolee" shall include probationer, and shall mean any of the following: (1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as

defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term "parolee" includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

<u>Section 4.</u> <u>Amendment to Clayton Municipal Code – Zoning Definitions.</u> Section 17.04.186 entitled "Single Housekeeping Unit" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.186 Single Housekeeping Unit.

"Single housekeeping unit" means that the use of the dwelling unit satisfies each of the following criteria:

- The residents have established ties and familiarity and interact with each other.
- Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
- Residents share meals, household activities, expenses, and responsibilities.
- 4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
- If the dwelling unit is rented, each adult resident is named on and is a
 party to a single written lease that gives each resident joint use and
 responsibility for the premises.
- 6. Membership of the household is determined by the residents, not by a landlord, property manager, or other third party.
- The residential activities of the household are conducted on a nonprofit basis.

- Residents do not have separate entrances or separate food-storage facilities, such as separate refrigerators, food-prep areas, or equipment."
- <u>Section 5.</u> <u>Amendment to Clayton Municipal Code Multiple Family Residential District Regulations.</u> Clayton Municipal Code Section 17.20.030, entitled "Permitted Uses-Principal" is hereby amended and restated (new text in underline) as follows:

"17.20.030 - Permitted Uses-Principal.

The principal permitted uses in the multiple family residential districts shall be as follows:

- A. Duplex, triplex, townhouses, apartments and other multifamily structures meeting and not exceeding the density limits set by the applicable General Plan Land Use Designation;
- B. Supportive housing and transitional housing;
- C. Single family dwelling units only with a Conditional Use Permit (See Section 17.60.030.B.5).
- D. Employee housing providing accommodations for six (6) or fewer employees, provided that a conditional use permit is obtained. Such permit shall be reviewed and issued under the same procedures and in the same manner as that permit issued for single family dwelling units (See Section 17.60.030.B.5).
- E. Parolee homes only with a Conditional Use Permit (See Section 17.60.030.B.7)."
- <u>Section 6.</u> <u>Amendment to Clayton Municipal Code Use Permits.</u> Clayton Municipal Code Section 17.60.030, Subdivision (B), related to Residential Related Uses requiring a use permit, is hereby amended to add subdivision (7) to read as follows:
 - "7. Parolee homes on land designated as Multifamily Low Density (MLD). Multifamily Medium Density (MMD) and Multifamily High Density (MHD) on the General Plan Land Use Map. (See Section 17.36.086)."

All other provisions contained in Section 17.60.030 of the Clayton Municipal Code shall remain in full force and effect.

<u>Section 7.</u> <u>Amendment to Clayton Municipal Code – General Regulations.</u> Clayton Municipal Code, Section 17.36.086 entitled "Standards for Parolee Homes" is hereby adopted to read as follows:

"17.36.086 - Standards for Parolee Homes.

Parolee homes are only permitted with a conditional use permit on land designated Multifamily Low Density (MLD). Multifamily Medium Density (MMD) or Multifamily High Density (MHD) on the General Plan Land Use Map and in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H), subject to the development standards of the zone. Parolee homes must also meet the following objective development standards:

A. Location requirements:

- A parolee home shall be located a minimum distance of at least five hundred (500) feet from any public or private school (preschool through 12th grade). licensed daycare, library, public park, hospital, group home, business licensed for on- or off-sale of alcoholic beverages, youth center, emergency shelter, supportive or transitional housing when measured from the exterior building walls of the parolee home to the property line of the sensitive use.
- A parolee home shall be located a minimum distance of 1.000 feet from any other parolee home.
- B. The application for a discretionary use permit for a parolee home shall include the following additional information:
 - Client profile (the subgroup of the population of the facility is intended to serve such as single men, families, etc.):
 - Maximum number of occupants and hours of facility operation;
 - 3. Term of client stay;
 - 4. Support services to be provided on-site and projected staffing levels; and
 - 5. Rules of conduct and/or management plan.
- C. Multifamily housing projects with 25 units or less shall be limited to one parolee home unit. Multifamily housing projects with more than 25 units shall be limited to two parolee home units. For purposes of this subsection, "multifamily housing project" means a building designed or used for more than two (2) dwelling units sharing common walls on one lot, including apartments and condominiums, but not including attached single-family homes or townhomes.
- D. On-site staff supervision shall be required during all hours of the parolee home operation and the supervision shall not be provided by an active parolee.
- E. Any change in operating conditions that were approved in the conditional use permit shall require the immediate submittal of an application to modify the conditional use permit."

Ordinance. No. 483 Page 6

F. Notice Requirement. In addition to any other requirements of Chapter 17.64, all property owners within 500 feet of the proposed parolee home, as measured from the subject property lines, shall be notified of any public hearing regarding a parolee home.

Section 8. CEOA. This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment as the Ordinance relates to permit procedures for parolee housing in existing multi-family residential land use designations.

Section 9. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 10. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Sections 2 through 7 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on July 17, 2018.

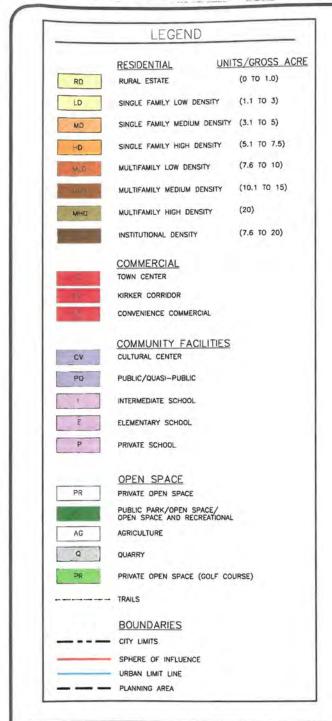
Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on September 18, 2018 by the following vote:

AYES:	
NOES:	
ABSENT:	
ABSTAIN:	

	THE CITY COUNCIL OF CLAYTON, CA
	Keith Haydon, Mayor
ATTEST	
Janet Brown, City Clerk	
APPROVED AS TO FORM	APPROVED BY ADMINISTRATION
Malathy Subramanian, City Attorney	Gary A. Napper, City Manager
I hereby certify that the foregoing posted at a regular meeting of the City Coun	Ordinance was duly adopted, passed, and ordered cil held on September 18, 2018.
	Janet Brown, City Clerk

GENERAL PLAN DIAGRAM Founded 1857 ... Incorporated 1984 JANUARY 2017 Community Bevelopment Department - 6000 Heritage Trail - Clayton, California 94517 Telephone 925/872-7340 - FAX 923/872-4917 - www.ci.clayton.ca.us GRAPHIC SCALE

ATTACHMENT 2



DATE	RESOLUTION NUMBER	AMENDMENT
7/17/85	22-85	ADOPTION OF CLAYTON 2000 GENERAL PLAN
5/6/87	21-87	KELLER RANCH
3/2/88	13-88	GREYSTONE ESTATES
4/17/90	25-90	OAKWOOD SUBDIVISION
6/15/93	43-93	DOUGLAS ROAD
2/21/95	06-95	MARSH CREEK CIRCLE
6/28/95	43-95	MARSH CREEK ROAD SPECIFIC PLAN
12/1/98	64-98	DIABLO VILLAGE
7/18/00	49-2000	MARSH CREEK ROAD/CLAYTON ROAD
6/1/04	23-2004	DOWNTOWN PARK
7/19/05	03-05	CITY HALL / COMMUNITY LIBRARY
4/5/05	13-2005	OAK CREEK CANYON
12/21/04	63-2004	DIABLO POINTE
2/6/07	05-2007	TOWN CENTER AND VICINITY
4/3/12	11-2012	OLD MARSH CREEK ROAD/CLAYTON ROAD

ATTACHMENT 3

GITY OF CLAYTON

Agenda Date: 7-17-2018 Agenda Item: 7 b

Appro

Gary A Namper City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR WAR

DATE: JULY 17, 2018

SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN

ORDINANCE AMENDING CHAPTER 17 - "ZONING" OF THE CLAYTON MUNICIPAL CODE TO RESTRICT AND REGULATE PAROLEE HOMES

(ZOA-08-16)

RECOMMENDATION

It is recommended the City Council consider all information provided and submitted, open the Public Hearing to take and consider all public testimony, and, if determined to be appropriate, take the following actions:

- Following closure of the Public Hearing, subject to any changes by the City Council, adopt a motion to have the City Clerk read Ordinance No. 483 by title and number only and waive further reading; and
- 2) Following the City Clerk's reading, by motion approve Ordinance No. 483 for Introduction to amend the Clayton Municipal Code Chapter 17 "Zoning" to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit (ZOA-08-16) (Attachment 1).

BACKGROUND

Issues with overcrowding and high rates of recidivism within the State of California's corrections and prison system have been percolating for over a decade. In 2006, Governor Schwarzenegger issued Proclamation 4278 declaring a state of emergency with regards to its prisons. During this time, the total inmate population was at an all-time high of more than 170,000 inmates and due to prison overcrowding more than 15,000 inmates were being housed in camps, hallways, gymnasiums, classrooms, and other common areas as well as out-of-state contract prisons. Further, in 2007, a report, Solving California's Correction Crisis: Time is Running Out, issued by the Little Hoover Commission, an independent state oversight agency, determined the failing correctional system to be the largest and most immediate crisis facing policy-makers (Attachment 2). The report's notable recommendations included shifting the responsibility and accountability for offender reintegration to the communities as well as to expand local capacity within the county jail system, amongst others.

In May 2011, the United States Supreme Court determined California's overcrowded prisons were a violation of the Eighth Amendment's ban on cruel and unusual punishment (*Brown*, et al. v. Plata, et al) (Attachment 3). The Supreme Court upheld the decision by the lower court, which found that "an inmate in one of California's prisons needlessly dies every six or seven days due to constitutional deficiencies." This decision by the Supreme Court mandated California to reduce its prison population in the State's prisons by more than 30,000 inmates, or 137.5% of design capacity, within two years.

ASSEMBLY BILL 109

The State of California had several options to comply with the court-mandated reduction of its prison population such as new construction, transfers out of state, and/or using county facilities; however, the State legislature chose the latter, to relocate a portion of its prison population to county facilities. More specifically, the State legislature, in response to the Supreme Court's decision, passed Assembly Bill 109, the Public Safety Realignment Act, which went into effect on October 1, 2011 (Attachment 4).

The passage of AB 109 represented a significant and massive change to the California criminal justice system. AB 109 prospectively transferred the responsibilities for supervising and housing specified inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to each of the counties with a goal to reduce recidivism. Under AB 109 (or Realignment), it allows newly-convicted low-level offenders (non-violent, non-serious, non-sex offenders) to serve one's sentence in county jails instead of state prisons or to receive an alternative sanction such as electronic monitoring. AB 109 also expanded the role for post-release supervision (also known as parole) of these offenders by transferring the supervision responsibility from the state to the counties, known as Post-Release Community Supervision (PRCS). PRCS enacted a larger reliance on "community-based punishment", to reduce recidivism. These programs include community-based residential programs, mandatory community service, home detention with electronic monitoring, day

reporting, work in lieu of confinement, mandatory residential or nonresidential substance abuse treatment programs, amongst others.

County-level supervision does not include:

- Inmates paroled from life terms to include third-strike offenders;
- Offenders whose current commitment offense is violent or serious, as defined by California Penal Code Section 667.5(c) and 1192.7(c);
- High-risk sex offenders, as defined by CDCR;
- · Mentally disordered offenders; nor
- Offenders on parole prior to October 1, 2011.

STATE INCARCERATION PROGRAMS

It should be noted: California has one of the most expensive prison systems in the entire world with the current average cost, according to the California Legislative Analyst's Office, of about \$71,000 per year to incarcerate an inmate in prison, and those costs are going up to approximately \$80,000 per inmate under the FY 2018-19 budget (Attachment 5). Over 75 percent of those costs are for security and inmate health care. In addition, the average annual cost has increased about 45 percent due to employee compensation, increased cost of health care, and operational costs related to additional prison capacity to reduce prison overcrowding.

Due to these exorbitant costs associated with housing inmates and those costs rapidly increasing, the State of California is steadily moving away from incarceration as its public policy. For example, Propositions 47 and 57 reduced the penalties for some crimes from felonies to misdemeanors and increased the use of parole and good behavior opportunities for felons convicted of nonviolent crimes, respectively. These two propositions have decreased the number of inmates being incarcerated by the State and the County through the reclassification of crimes as well as the use of alternative custody options in lieu of serving time in jail. Both at the federal and state levels, the trend and the push has been to decrease the country's incarceration rate, which is the highest of any nation worldwide. There has also been a shift from incarceration to parole, which redirection results in more community based supervision. This paradigm shift from mass incarceration places a greater burden at the local level, and this City must be better prepared for anticipating these individuals within the community.

The State of California has several programs to assist pre- and post-release offenders in successfully returning to his/her original community. These programs and services are delivered through alternative custody arrangements such as residential services, outpatient, and drop-in centers. These alternative custody programs allow those eligible to serve the remainder of one's sentence or be paroled into the community rather than serve additional time in state prison. Given the State of California's reposition from incarceration due to its high associated costs as well as failure of the correctional system with high rates of recidivism, it is anticipated and expected the use of community residential programs is

bound to increase both at the state and the county level as the outcome of trickle-down court mandates and state policy implementations.

CONTRA COSTA COUNTY'S IMPLEMENTATION OF AB 109

In response to AB 109, the Contra Costa County Board of Supervisors initially adopted the Contra Costa County Realignment Implementation Plan (Attachment 6). The Implementation Plan indicates that it is a work in progress with continued discussions regarding strategies to minimize incarceration of the AB 109 population such as remodeling the County's bail process, holding early disposition hearings, and increasing the use of electronic monitoring. The Plan acknowledges its attempt to meet the stated legislative objectives within its limited funding allocation, but admits it falls short and cannot provide a full complement of incarceration, supervision, and rehabilitative/re-entry services contemplated by AB 109 due insufficient funds. Further, the County has indicated the current levels of funds from the State are inadequate to manage the Community Corrections Partnership budget, which is the group charged with implementing AB 109, and the County is having to continue to withdraw from its reserves to fund the difference and will continue to do so for the foreseeable future.

One of the outcomes of the Implementation Plan is to provide a system of alternatives to post-conviction incarceration, where appropriate, to not overburden the County's detention facilities; therefore, these individuals will be "realigned" to living in a community rather than serving time in jail. One of the County's Implementation Plan strategies indicates additional bed space will be reserved for AB 109 clients provided in partnership with local community-based organizations; it acknowledges the Sheriff has the ability to offer home detention with an electronic monitoring program for inmates being held in lieu of bail in the County Jail or another County correctional facility. AB 109 also required the County to utilize AB 109 funds to build partnerships with local health and social service agencies and community based services to provide supportive services designed to facilitate successful reentry and to decrease the rates of recidivism.

According to the County's Public Safety Realignment Report for FY 16/17, the County, over the past several years has focused on formalizing partnerships between different law enforcement agencies, health and social service agencies, and AB 109-contracted community based organizations (Attachment 7). These partnerships have resulted in a higher number of referrals to reentry support services. More specifically, in FY 2016-17 there were key changes and refinements to the County's approach to AB 109, which increased investments in housing services and supports to address the high cost of housing. The Annual Report also illustrates there is an increase in the number of AB 109 clients doing residential substance abuse treatment programs as well as an increased need in acute residential detoxification services.

The Annual Report further acknowledges the County will need to undertake a comprehensive planning process to guide the County's parole reentry system as a whole, not just those individuals limited to AB 109, which will be studied under the Reentry Strategic

Plan for 2018-2023. This five-year Strategic Plan, which has yet to be adopted by the Board of Supervisors, will address not only those under AB 109, but will include all individuals regardless of AB 109 status because the County identified a need for an inclusive reentry system. Further, the County granted approval to expand access to AB 109-funded services to any returning resident; therefore there will be an increase in demand for housing and services beyond the requirements of AB 109 for these individuals within the communities of Contra Costa.

Clayton city staff reached out to the Contra Costa County Sheriff's Office and to the Office of Reentry and Justice (ORJ). ORJ was created in 2017 as a 2.5 year pilot program to align and advance the County's public safety realignment, reentry, and justice programs and is mainly funded by AB 109 (Attachment 8) to further determine how the County was implementing AB 109 as well as to compile additional Information for the Council to consider regarding this matter.

The ORJ has indicated there is a lack of compiled information regarding parolees and probationers. Staff was able to receive some information regarding the number of parolees by jurisdiction, which is provided in the table below; but ORJ staff has indicated there is no information by jurisdiction for individuals on probation. The table below clearly demonstrates the existing momentum and the shift in public policy is achieving reduction in incarceration rates; it also shows there are far more parolees in other communities within in Contra Costa County than within Clayton. The dramatic decrease in parolees between 2014 and 2017 is largely due to the passage of Proposition 47, which reclassified certain felonies to misdemeanors.

Jurisdiction	# of Active Parolees 11/3/14	# of Active Parolees 12/1/17
Alamo	1	1
Antioch	142	77
Bay Point	21	15
Bethel Island	7	6
Brentwood	10	13
Byron	1	1
Clayton	19	5
Concord	45	54
Crockett	4	1
Danville	3	1
Discovery Bay	1	1
El Cerrito	4	3
El Sobrante	17	7
Hercules	12	2
Knightsen	.1.	0
Lafayette	1	1
Martinez	83	46
Oakley	19	14

Pacheco	2	3
Pinole	12	5
Pittsburg	98	33
Pleasant Hill	4	3
Richmond	190	84
Rodeo	7	4
San Pablo	47	22
San Ramon	9	2
Walnut Creek	10	5
Totals	775	410

In addition, ORJ staff did indicate there were no individuals under AB 109 supervision reporting a Clayton address at this time; however there were individuals under juvenile supervision, court supervision, and traditional probation.

Additionally, ORJ staff provided that the County does not directly operate any residential homes for parolees; the County is relying on community based programs for the provision of services and housing, as indicated above. In reviewing the budget for AB 109, Contra Costa County is currently housing some inmates under alternative custody scenarios, such as placement in shelters, recovery residences, and residential treatment facilities (Attachment 9). For example, the County has 30 clients at a day reporting center in Richmond and that program has relationships with providers to house to some of the participants. Also, under AB 109, the County rents beds from different residential treatment providers that may have all or a portion of their clientele made up of formerly incarcerated individuals as well as rents beds at homeless shelters.

The County currently houses individuals at five locations in Concord, three in Antloch, two in Pittsburg, one in Bay Point, and one in Martinez. These facilities are typically operated by a community based non-profit organization, and staff from the Contra Costa County Sheriff's Office has indicated these types of alternative custody placements will only be more prevalent due to the increasing costs of housing inmates in the County jail, the shift of lower level offenders not being incarcerated, and AB 109 services being expanded to all parolees/probationers that are Contra Costa County residents. Therefore, it is anticipated there will be an increase in these types of residential uses catering to parolees, which could conceivably locate in all communities, including Clayton. This will also more than likely lead to the expansion of existing non-profits and the creation of new non-profits due to availability of grant funding from programs associated with the implementation of AB 109 and the expansion of those services County-wide.

ORJ staff also indicated there are several private organizations that run homes for the parolee/probationer population and they "... are under the radar since communal housing is not required to report its existence to anyone." The proposed City Ordinance's objective is to prevent these private organizations from "flying under the radar" within the City of Clayton

and would geographically restrict their location and regulate how they operate as well as require these private organizations to apply for a City use permit.

PLANNING COMMISSION HEARING

On May 22, 2018, the Planning Commission held a public hearing and recommended the City Council deny the proposed Ordinance which would result in the City Council not taking action on the proposed Ordinance and maintaining the status quo (Attachment 10 and 11). During the public hearing there were over 20 speakers with such comments as: the City should ban parolee housing outright, slow the implementation of the regulation of parolee homes, consideration should be given to increasing the buffers contained in the Ordinance, and the adoption of the proposed Ordinance would be inviting parolees to locate in Clayton. The Planning Commission indicated it had concerns with parolee homes being able to locate anywhere in Clayton and not subject to regulations, which statement is the current state of law in Clayton; however, it expressed the Ordinance should be refined yet the Commission did not provide any direction to staff regarding those refinements.

DISCUSSION

The Clayton Municipal Code is currently silent and does not address parolee homes. Therefore, under present conditions, if an organization, individual, and/or State or Contra Costa County grantee sought to locate a parolee home in the City of Clayton, the use would be permitted by right. "Permitted by right" means a parolee home would be able to locate in any residential district without a buffer between it and a sensitive use and would not be subject to any regulations or controls beyond those of a typical residential use. Further, if the organization were a non-profit, even a City business license would not be required, leaving our community exposed and without any type of notification or control regarding a parolee home.

On August 5, 2016, the City of Clayton received an inquiry from a non-profit County contractor/grantee (Mz. Shirlez). The query was searching for a community to house a facility where a use permit would not be required in order to operate what it described as a transitional housing program to assist individuals, many that have been previously incarcerated (Attachment 12). Given the Clayton Municipal Code was silent on parolee housing, this prompted City staff and the City Council, in compliance with State law (Government Code Section 65858), on October 16, 2016 to immediately adopt an urgency ordinance placing an interim moratorium on the establishment, construction, and operation of parolee homes and community supervision programs. As allowed for by State law, the moratorium was continued twice by the City Council with the last and final moratorium set to expire on October 3, 2018 (Attachment 13). After having the opportunity to research this Issue, City staff is now returning to the City Council with a proposed Ordinance for consideration to appropriately restrict and regulate these types of land uses.

IMPACTS OF AB 109 AND THE DECLINE OF INCARCERATION RATES TO CLAYTON

A city, including Clayton, does not have control over how the State or Contra Costa County manages, directs, and supervises correctional and rehabilitation services; however a city does retain control over its land uses. The shift at the national and state level to decrease mass incarceration, the flux and fluidity regarding correctional services both at the State and at the County level due to the mandated reduction of the State prison population along with the County's implementation of AB 109 coupled with an inquiry from a County grantee for housing services has each raised a concern about the City's vulnerability regarding the placement of parolee homes within this city.

Please note: even though staff received the above inquiry in August of 2016, there are currently <u>no</u> requests or applications for parolee homes that have been submitted for consideration or are pending upon the expiration of the moratorium. The operator that inquired (Mz. Shirlez) regarding the placement of a home for parolees in Clayton subsequently opened a facility in Pittsburg. Therefore, there is no current interest from that particular organization. Should the moratorium expire without a regulatory ordinance in place, there is no foreseen immediate risk that staff is currently aware of; however, there could be long term risk if the City Council does not take action restricting and regulating this land use.

But when our interim moratorium automatically expires, if an ordinance is not adopted City staff has no formal process to be notified or know if a parolee home is established within any of our residential districts, since there would not be any local regulations in place. These factors result in Clayton having fewer regulations than other neighboring communities, which could then make our city more attractive to operators. Further consideration is referenced to County Supervisor Federal Glover's comments, in which he indicated, "...most nonprofits operate on very meager financial resources. The fee for a land use permit may be too burdensome for agencies and prevent them from providing services to the formerly incarcerated..." Alternatively, if local regulations are in place and then should a situation arise where a private organization catering to parolees establishes a home without City approval, the enactment now of the proposed Ordinance provides the City with a regulatory mechanism in order to take the necessary action to abate.

Clayton does have several inherent factors which highly decrease the likelihood of parolee homes wishing to be located within our city:

- Low number of parolees originating from the community (state law requires the formerly incarcerated return to the communities of their last legal address);
- Lack of convenient access to public transit;
- Lack of rehabilitation services and programs to assist those that have been previously incarcerated (these services and programs tend to be established in communities with a higher number of parolees such as Richmond, Concord, and Antioch);
- 4) High cost of housing and land in Clayton; and

 High rates of owner-occupied homes, which drastically reduces the possibility of a property owner renting a residential unit to such programs.

Even with all of these factors that decrease the likelihood of parolee homes locating in Clayton, City staff has highlighted vulnerability in the City's existing Municipal Code. Clayton does not have some of the protections regarding a larger breadth of land use classifications, such as group housing, to rely upon to regulate these uses. The proposed Ordinance is a legally defensible approach, which would help to close the vulnerability gap pertaining to this type of land use. If a regulatory ordinance is not established, parolee homes can locate anywhere in the city, without any regulations, and without a public hearing process. Given the Information presented above, the state's and county's reliance on community based supervision and on rehabilitative programs in the local community is only going to increase, and Clayton should be aptly prepared.

OTHER JURISDICTIONS

As part of this process, staff contacted other jurisdictions within the County regarding how this land use would be classified and handled.

Pleasant Hill: The Pleasant Hill Municipal Code classifies parolee homes as an unlicensed "care facility" and requires a use permit in all zoning designations, both residential and commercial. Pleasant Hill does not have established buffers or other regulations contained within its Municipal Code to further restriction such operations. Regulations of these facilities would be likely addressed during the use permit process; however there are no buffers prohibiting these uses adjacent to sensitive uses.

Walnut Creek: The Walnut Creek Municipal Code (WCMC) Identifies parolee homes, depending on how they are operated, either as "Congregate Living Facility" or "Group Residential". "Congregate Living Facilities" (services are provided in the home) are prohibited in single-family and duplex residential districts but require a conditional use permit within the multifamily zoning designations. "Group Residential" (services are not provided in the home) uses are prohibited in the single-family and duplex residential districts, but are permitted by right in the multifamily zoning designations. Walnut Creek does not have buffers prohibiting these uses adjacent to sensitive land uses or to further restriction operations.

<u>Danville</u>: These facilities would be classified as "Group Homes" within Danville's Municipal Code. Group Homes with six or fewer residents would be permitted by right and those with seven or more would require a conditional use permit. Danville does not have buffers prohibiting these uses adjacent to sensitive land uses or to further restriction operations.

Concord: These facilities would be classified as "group housing". Group housing is not allowed in the zoning districts that are predominately single-family residential and

would require a use permit in Concord's Residential Medium (11 to 33 units per acre) and Residential High (33 to 100 units per acre) districts. The Concord Municipal Code does not have established buffers or other regulations contained within its Municipal Code to further restrict such operations. Regulations of these facilities would be likely addressed during the use permit process; however there are no buffers prohibiting these uses adjacent to sensitive uses.

Oakley: Following a training attended by a councilmember regarding the regulation of parolee homes, the City of Oakley adopted an ordinance in 2014. The adopted ordinance regulates and restricts parolee housing to two multifamily zoning districts, subject to a use permit. Its ordinance also contains operational restrictions, development standards as well as buffers around sensitive uses, similar to the proposed Clayton Ordinance. City staff has indicated no inquiries have been made to establish a parolee home in Oakley since the adoption of its ordinance. Oakley's ordinance is based on Riverside's, which has become a "model ordinance" for cities choosing to regulate this land use.

<u>Pittsburg</u>: This type of land use would be considered a "group home" and would be allowed in the multifamily zoning districts, subject to the approval of a conditional use permit. The Planning staff indicated the City of Pittsburg has not taken any action specific to parolee homes, but revisions to its Code to manage these type of uses is on their radar for consideration. The group home land use classification does not have a required buffer between sensitive land uses or operational or development standards as proposed in the subject Ordinance. Specifically regarding Mz. Shirlez's parole housing establishment, Pittsburg's planning staff was unsure if or how it was permitted to operate and would be looking into it.

Antioch: Restrictions and regulations for parolee homes, along with the County's community supervision programs pertaining to the transition of the reentry of incarcerated persons, were adopted in June of 2014 to respond and to control land uses pertaining to the implementation of AB 109. Parolee homes are allowable in the industrial zoning districts subject to a use permit and also require a buffer around sensitive land uses.

In summary, each jurisdiction classifies and deals with parolee homes differently; however the majority of jurisdictions have some type of land use classification that addresses communal living situations. Most of the surveyed cities require a use permit, which is greater regulation than what currently exists in Clayton. Presently these uses would be permitted by right in Clayton and not subject to any regulations beyond a typical residential use. Even fewer jurisdictions have codified buffers around sensitive uses, additional operational regulations, or development standards in order to maintain land use control.

PROPOSED ORDINANCE

The proposed Ordinance would restrict parolee homes to only be allowed to locate within the multifamily General Plan land use designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), as identified on the General Plan Map, subject to a conditional use permit as well as additional regulations identified in the Ordinance. These land uses are located in various places throughout the City, which are more specifically identified on the General Plan Land Use Map, which is contained in Attachment 14 to this staff report.

In addition to the General Plan designation locations, parolee homes would only be permitted with a conditional use permit in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H). The conditional use permit process would require a public hearing, whereby property owners within a 300-foot radius would be individually notified. A notice would also be placed in a newspaper of general circulation and a notice would be posted on the City's community posting boards. The use permit application would be reviewed and analyzed by staff and then be subject to a discretionary review and public hearing by the City's Planning Commission.

The proposed Ordinance provides clear definitions of what constitutes a parolee home and a parolee. Further, single housekeeping units would not be subjected to the regulations and there are eight criteria as to what constitutes a single housekeeping unit. Namely, the residents need to have established ties and interact with each other; membership of the household is determined by the residents and not the landlord; each adult resident is named on the lease; and residents do not have separate entrances or food-prep and storage areas, amongst others.

Not only have locational requirements been proposed, but also numerous objective standards have also been incorporated into the Ordinance to mitigate or minimize any impacts, such as requiring onsite supervision 24 hours a day seven days a week. A parolee home cannot be located within 500 feet from any school, daycare, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelter, amongst others. It also must not be located within 1,000 feet of another parolee home to minimize geographic overconcentration. As part of the use permit application process, the proposed Ordinance requires additional information such as the client profile, maximum number of occupants, and a management plan.

Lastly, multifamily housing projects with 25 units or less are limited to one parolee housing unit and housing projects with 25 units or more are limited to two parolee housing units. These thresholds would be applicable in apartment and condominium style buildings.

It should be noted, as part of the use permit process additional conditions of approval, beyond what is contained in the proposed Ordinance could be added to mitigate any possible impacts associated with the specific application. These conditions would be

considered on a case-by-case basis, which would be determined by the applicant's proposal and the location of the facility.

MODIFICATIONS TO THE DRAFT ORDINANCE

Following the May 22, 2018 Planning Commission meeting, staff conducted additional studies and in consultation with the City Attorney's office, refined its proposal to increase the buffer from sensitive uses from the originally contemplated 300 feet (Attachment 15) to a recommended distance of 500 feet (Attachment 16). Staff originally suggested 300 feet based on existing Municipal Code buffers for other uses such as emergency shelters. In response to the community input at the Planning Commission hearing, staff reviewed the differences in the maps between a 300-foot buffer and a 500-foot buffer. In light of the high recidivism rates in the parolee population, staff feels the larger 500-foot buffer is justified. The City Attorney's office indicated this approach would be legally defensible given there are still two to three feasible locations wherein parolee homes could possibly locate, as opposed to the three to four that was previously recommended. By expanding the buffer to 500 feet, this eliminates the multifamily designated area closest to the elementary school and further separates parolee homes from locating near the library and The Grove Park. However, any increase beyond a 500-foot buffer starts to become increasingly difficult to accommodate the two to three feasible locations for a parolee home.

Added to the proposed Ordinance is a requirement to provide onsite supervision 24 hours a day seven days a week. A modification to the definition of parolee home was made which was the deletion of the requirement that the definition did not apply to any state licensed care facility or residential treatment facility serving six or fewer persons.

ALTERNATIVES

OPTION 1: Regulate the Land Use (Approve the proposed regulatory Ordinance as it is currently drafted).

This is the most legally defensible option while still providing the community with a level of protection for public safety by regulating these types of uses. The adoption of the proposed Ordinance would also remove a gap and vulnerability in the City's existing Municipal Code pertaining to parolee homes. Most jurisdictions already have mechanisms and land use categories in place to classify and manage these land uses, whereas Clayton does not.

In addition, the City Council could also direct staff to make modifications to the proposed Ordinance regarding the various proposed regulations or to change the allowable General Plan or zoning designations from the proposed multifamily districts to another district. For example, relocating this use to the single-family zoning districts could accommodate larger buffer zones around sensitive uses, but would open the location of parolee homes to a much larger geographic region in Clayton.

OPTION 2: Maintain the status quo (Take no action).

In the absence of regulatory action, this inaction would allow any organization, County or State grantee/operator, or program to establish a parolee home in any residentially zoned location within the Clayton city limits, without any land use regulations or development standards, located adjacent to sensitive uses, and without a public hearing process. The City would only become aware of the existence of a parolee home after it had already been established and operational, likely by neighborhood inquiries or complaints. If the City were then to rush and quickly enact local regulations after a parolee home had been established, the existing use would be considered legal non-conforming or "grandfathered-in" and the City would have no legal grounds to remove the parolee housing use from its established location.

OPTION 3: Prohibit Parolee Housing (Direct staff to draft an ordinance banning parolee homes from operating within the City of Clayton).

Some cities, which are the exception, have taken a more aggressive approach regarding parolee homes. The City of Newport Beach (in 2008) and the City of Colton (in 2010) each banned parolee homes or have limited the number of parolees to one in a Boarding, Lodging, or Rooming House, respectively. Most cities that have decided to directly confront the issue of parolee homes have decided to regulate it, as is proposed for Clayton (Riverside, Oakley, Desert Hot Springs, Norco, Fontana, amongst others).

The selection of Option 3 could result in legal exposure for the City. There is no law specifically prohibiting a ban on parolee housing, no bright-line rule, or legal precedence; however, given the fact the United States Supreme Court has mandated the State of California reduce its prison population and the State summarily enacted AB 109 as law, City staff and legal counsel have serious concerns whether a decision to ban parolee housing would prevail in the courts. Doing so would result in a costly expense for Clayton to undertake a legal challenge (hundreds of thousands to over a million dollars in legal costs, and Clayton could also be responsible for the other party's legal fees if the City did not prevail). Due to there being no legal precedence, City staff has concerns regarding the selection of this Option because Clayton's ban could become the legal test case for this issue, which would incur large legal costs associated with the challenge.

In terms of public policy: if more cities start to ban parolee housing it then would make it difficult for the State and subsequently the counties to fulfill its mandated obligation under AB 109 to manage the incarcerated populations, thereby placing the State in a position to either pass legislation forcing cities to allow for parolee housing and/or result in a lawsuit challenging those cities that have prevented the placement of parolees.

Further, such local prohibition would not preclude civil rights organizations from filing a lawsuit, such as the ACLU (which is well aware of the Realignment in California and has

even produced a report, *Public Safety Realignment: California at a Crossroads*, on an indepth review of all 53 available county realignment implementation plans). As a harbinger to staff's warning the ACLU sent a letter to the City of Antioch when it was drafting its regulations regarding the implementation of AB 109 asserting the adoption would likely result in a disproportionate impact to African Americans (**Attachment 16**) and therefore is discriminatory and may violate State law, which prohibits those public entities receiving state funds from racial discrimination. While Antioch and Clayton are seemingly very different communities in regards to this issue, the point is that civil rights groups are paying attention to local government actions in this regard and the ACLU is not at all reticent about filing lawsuits. As a small city with limited financial resources, Clayton, if it adopts a ban, could become the favored guinea pig by such groups, a legal test case or made an example (set case law) if our local ban were to be challenged and not prevail in the courts.

ENVIRONMENTAL

This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

FISCAL IMPACTS

There will be no direct fiscal impacts to the City with the adoption of this Ordinance or the selection of any of the proposed alternatives. However, Option 3 does pose a risk to the financial capacity of the City.

ATTACHMENTS

- Ordinance No. 483 [pp. 7]
- Executive Summary Solving California's Correction Crisis: Time is Running Out [pp. 4]
- 3. U.S. Supreme Court Syllabus for Brown, et al. v. Plata, et al. [pp. 6]
- California Department of Corrections and Rehabilitation Assembly Bill 109 Fact Sheet [pp.4]
- 5. Legislative Analyst's Office Annual Cost to Incarcerate an Inmate in Prison [pp. 2]
- Contra Costa County 2011/12 Public Safety Realignment Implementation Plan [pp. 19]
- Excerpt from Public Safety Realignment Report for FY 16/17 [pp. 8]
- 8. Overview of the Office of Reentry and Justice [pp.1]
- Excerpt from AB 109 Budgets [pp. 4]
- 10. Excerpt from the May 22, 2018 Planning Commission Staff Report [pp. 3]
- 11. Excerpt from the May 22, 2018 Planning Commission Minutes [pp. 10]
- 12. August 5, 2016 Email Inquiry from Mz. Shirlez [pp. 2]
- 13. Excerpt from the October 3, 2017 City Council Staff Report and Minutes [pp. 10]
- General Plan Land Use Map [pp. 1]
- 15. 300' Radius Map [pp. 1]
- 16. 500' Radius Map [pp. 1]
- 17. Letter from the ACLU to Antioch [pp. 4]

ATTACHMENT 1

ORDINANCE NO. 483

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON ADOPTING
AMENDMENTS TO CLAYTON MUNICIPAL CODE, TITLE 17 - ZONING IN ORDER
TO RESTRICT AND REGULATE PAROLEE HOMES IN THE FOLLOWING
GENERAL PLAN DESIGNATIONS: MULTIFAMILY LOW DENSITY,
MULTIFAMILY MEDIUM DENSITY, AND MULTIFAMILY HIGH DENSITY,
SUBJECT TO A CONDITIONAL USE PERMIT

THE CITY COUNCIL City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City and surrounding communities have seen an increased interest in the establishment of group homes for parolees and probationers. This interest is due, in part, to AB 109 and the increase number of parolees, probationers and others subject to post-release supervision. These uses may concentrate in residential zoning districts; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, increased crime, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, the City adopted an interim zoning ordinance to establish a temporary moratorium on the establishment and operation of parolee and probationer homes in order to study appropriate regulations for these uses; and

WHEREAS, California experiences high recidivism rates, with approximately 60-70% of parolees being re-arrested within three years of release; and

WHEREAS, crime and nuisance-related concerns may be alleviated through public review of the facility's operational and management plans, house rules, services and staffing plans, as well as buffers from sensitive children-oriented uses, including schools, daycares, parks, youth centers, and libraries, and from businesses selling alcohol; and

¹ Cal. Dept. of Corrections, CALIFORNIA PRISONERS AND PAROLEES 2010: Summary Statistics On Adult Felon Prisoners and Parolees, Civil Narcotic Addicts and Outpatients and Other Populations (2011) p. 90, at: https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd201 0.pdf; see also, Public Policy Institute of California, Realignment and Recidivism in California (December 2017), p.3, at: http://www.ppic.org/wp-content/uploads/r_1217mbr.pdf

WHEREAS, in response to concerns that residential neighborhoods not become institutionalized with parolee homes and that residents of parolee homes fail to integrate into the community, the ordinance would ensure that parolee homes are separated from other parolee homes as well as other quasi-institutional uses, including hospitals, group homes, emergency shelters, and supportive or transitional housing, to avoid an overconcentration of such uses in residential neighborhoods; and

WHEREAS, other public health, safety, and welfare concerns may be alleviated through enforcement of existing regulations and discretionary review of proposed land use applications; and

WHEREAS, following the results of this planning and research process, the City now desires to adopt permanent regulations to restrict parolee and probationer housing to Clayton's multi-family residential General Plan designations subject to the granting of a conditional use permit and the conditions, regulations and limitations stated herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

<u>Section 1.</u> <u>Incorporation of Recitals</u>. The above recitals are true and correct and are hereby incorporated into this Ordinance.

<u>Section 2.</u> <u>Amendment to Clayton Municipal Code – Zoning Definitions.</u> Section 17.04.155 entitled "Parolee Home" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.155 Parolee Home.

"Parolee Home" means any residential or commercial building, structure, unit or use, including a hotel or motel, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses two or more parolees, that is not operated as a single housekeeping unit, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee."

Section 3. Amendment to Clayton Municipal Code - Zoning Definitions. Section 17.04.156 entitled "Parolee" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.156 Parolee.

"Parolee" shall include probationer, and shall mean any of the following: (1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as

defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term "parolee" includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

Section 4. Amendment to Clayton Municipal Code – Zoning Definitions. Section 17.04.186 entitled "Single Housekeeping Unit" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.186 Single Housekeeping Unit.

"Single housekeeping unit" means that the use of the dwelling unit satisfies each of the following criteria:

- The residents have established ties and familiarity and interact with each other.
- Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
- Residents share meals, household activities, expenses, and responsibilities.
- All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
- If the dwelling unit is rented, each adult resident is named on and is a
 party to a single written lease that gives each resident joint use and
 responsibility for the premises.
- Membership of the household is determined by the residents, not by a landlord, property manager, or other third party.
- The residential activities of the household are conducted on a nonprofit basis.

- Residents do not have separate entrances or separate food-storage facilities, such as separate refrigerators, food-prep areas, or equipment."
- <u>Section 5.</u> <u>Amendment to Clayton Municipal Code Multiple Family Residential District Regulations.</u> Clayton Municipal Code Section 17.20.030, entitled "Permitted Uses-Principal" is hereby amended and restated (new text in underline) as follows:

"17.20.030 - Permitted Uses-Principal.

The principal permitted uses in the multiple family residential districts shall be as follows:

- A. Duplex, triplex, townhouses, apartments and other multifamily structures meeting and not exceeding the density limits set by the applicable General Plan Land Use Designation;
- B. Supportive housing and transitional housing;
- C. Single family dwelling units only with a Conditional Use Permit (See Section 17.60.030.B.5).
- D. Employee housing providing accommodations for six (6) or fewer employees, provided that a conditional use permit is obtained. Such permit shall be reviewed and issued under the same procedures and in the same manner as that permit issued for single family dwelling units (See Section 17.60.030.B.5).
- E. Parolee homes only with a Conditional Use Permit (See Section 17.60.030.B.7)."
- <u>Section 6.</u> <u>Amendment to Clayton Municipal Code Use Permits.</u> Clayton Municipal Code Section 17.60.030, Subdivision (B), related to Residential Related Uses requiring a use permit, is hereby amended to add subdivision (7) to read as follows:
 - "7. Parolee homes on land designated as Multifamily Low Density (MLD), Multifamily Medium Density (MMD) and Multifamily High Density (MHD) on the General Plan Land Use Map. (See Section 17.36.086)."

All other provisions contained in Section 17.60.030 of the Clayton Municipal Code shall remain in full force and effect.

<u>Section 7.</u> <u>Amendment to Clayton Municipal Code – General Regulations.</u> Clayton Municipal Code, Section 17.36.086 entitled "Standards for Parolee Homes" is hereby adopted to read as follows:

"17.36.086 - Standards for Parolee Homes.

Parolee homes are only permitted with a conditional use permit on land designated Multifamily Low Density (MLD), Multifamily Medium Density (MMD) or Multifamily High Density (MHD) on the General Plan Land Use Map and in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H), subject to the development standards of the zone. Parolee homes must also meet the following objective development standards:

A. Location requirements:

- 1. A parolee home shall be located a minimum distance of at least five hundred (500) feet from any public or private school (preschool through 12th grade), daycare, library, public park, hospital, group home, business licensed for on-or off-sale of alcoholic beverages, youth center, emergency shelter, supportive or transitional housing when measured from the exterior building walls of the parolee home to the property line of the sensitive use.
- A parolee home shall be located a minimum distance of 1,000 feet from any
 other parolee home.
- B. The application for a discretionary use permit for a parolee home shall include the following additional information:
 - 1. Client profile (the subgroup of the population of the facility is intended to serve such as single men, families, etc.);
 - 2. Maximum number of occupants and hours of facility operation;
 - 3. Term of client stay:
 - 4. Support services to be provided on-site and projected staffing levels; and
 - 5. Rules of conduct and/or management plan.
- C. Multifamily housing projects with 25 units or less shall be limited to one parolee home unit. Multifamily housing projects with more than 25 units shall be limited to two parolee home units. For purposes of this subsection, "multifamily housing project" means a building designed or used for more than two (2) dwelling units sharing common walls on one lot, including apartments and condominiums, but not including attached single-family homes or townhomes.
- On-site staff supervision shall be required during all hours of the parolee home operation.
- E. Any change in operating conditions that were approved in the conditional use permit shall require the immediate submittal of an application to modify the conditional use permit."

Ordinance, No. 483 Page 6

CEOA. This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14. Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment as the Ordinance relates to permit procedures for parolee housing in existing multi-family residential land use designations.

Section 9. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 10. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance. the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Sections 2 through 7 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on July 17, 2018.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a

egular public meeting thereof held on Septemb	per 18, 2018 by the following vote:
AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
	THE CITY COUNCIL OF CLAYTON, CA
	Keith Haydon, Mayor

Ordinance. No. 483 Page 7	
ATTEST	
Janet Brown, City Clerk	
APPROVED AS TO FORM	APPROVED BY ADMINISTRATION
Malathy Subramanian, City Attorney	Gary A. Napper, City Manager
I hereby certify that the foregoing posted at a regular meeting of the City Cou	g Ordinance was duly adopted, passed, and ord ncil held on September 18, 2018.

Executive Summary

California's correctional system is in a tailspin that threatens public safety and raises the risk of fiscal disaster. The failing correctional system is the largest and most immediate crisis facing policy-makers. For decades, governors and lawmakers fearful of appearing soft on crime have failed to muster the political will to address the looming crisis. And now their time has run out.

State prisons are packed beyond capacity. Inmates sleep in classrooms, gyms and hallways. Federal judges control inmate medical care and oversee mental health, use of force, disabilities act compliance, dental care, parolee due process rights and most aspects of the juvenile justice system. Thousands of local jail inmates are let out early every week as a result of overcrowding and court-ordered population caps. The State may soon face the same fate.

The Governor declared a state of emergency. But even that didn't bring action, only more reports to federal judges that underscore the fact that the State's corrections policy is politically bankrupt. As a result, a federal judge has given the State six months to make progress on overcrowding or face the appointment of a panel of federal judges who will manage the prison population.

For years, lawmakers and government officials have failed to do their jobs. This failure has robbed the State of fiscal control of the correctional system and placed it in the hands of federal courts.

The court-appointed receiver for inmate medical care has threatened to "back up the truck to raid the state treasury" – if that is what it will take to bring the system into constitutional compliance.1

The receivership has set up a parallel management structure between the courts and the California Department of Corrections and Rehabilitation (CDCR) that impedes the State's ability to attract and retain the exceptional leadership required to guide the State out of the quagmire. In 2006, the department saw two secretaries resign abruptly before the current secretary was appointed in November. In testimony before a federal judge, both former secretaries stated that politics trumped good policy in correctional reform efforts. A nationally recognized correctional administrator told the Commission that no one

with the competency and leadership skills required to succeed as secretary would be willing to take the job under these circumstances.

Unlike other states, California relies almost completely on CDCR to improve correctional outcomes. It fails to tap the resources of other agencies that could assist in reducing crime and improving chances for offenders to improve themselves before they are released.

Despite the rhetoric, thirty years of "tough on crime" politics has not made the state safer. Quite the opposite: today thousands of hardened, violent criminals are released without regard to the danger they present to an unsuspecting public.

Years of political posturing have taken a good idea — determinate sentencing — and warped it beyond recognition with a series of laws passed with no thought to their cumulative impact. And these laws stripped away incentives for offenders to change or improve themselves while incarcerated.

Inmates who are willing to improve their education, learn a job skill or kick a drug habit find that programs are few and far between, a result of budget choices and overcrowding. Consequently, offenders are released into California communities with the criminal tendencies and addictions that first led to their incarceration. They are ill-prepared to do more than commit new crimes and create new victims.

Not surprisingly, California has one of the highest recidivism rates in the nation. Approximately 70 percent of all offenders released from prison are back within three years – mostly due to parole violations, many of which are technical in nature. California's parole system remains a billion dollar failure.

If the problems are not fixed, the consequences will be severe. While many Californians and their policy-makers have heard or read about the corrections crisis, few are aware of how serious the crisis has become and what the consequences will be. The fiscal ramifications will affect funding for virtually every other government program – from education to health care.

Governor Schwarzenegger proposed an ambitious plan in December 2006 to increase the number of prison cells, expand space in county jails and establish a sentencing commission. That is an encouraging start, but insufficient given the seriousness of the situation that requires immediate action and demonstrable results.

Once, policy-makers had ample opportunities to make choices that could have put the State on a different path. Now, policy-makers are down to just two:

- The Governor and the Legislature can summon the political will to immediately implement reforms to improve the corrections system to ensure public safety and eliminate federal involvement.
- Or, they must turn over the task to an independent commission free from political interference – with the authority to fix this broken system.

It will not be easy and change will not happen overnight. It will require cooperation and courage on the part of the Governor and the Legislature. And the solutions will require skillful and determined implementation.

The top priority should be to take back control of the prison medical system, by developing a plan to work with an organization such as Kaiser Permanente or a university that can run the system for the State. This is a critical step in restoring confidence that the State can run the entire system and demonstrate the professional competence needed to attract top managers.

The State must immediately take action to improve its management of the correctional population and implement the recommendations made by this and other commissions, including expanding in-prison programs, improving prisoner reentry, and reallocating resources to communitybased alternatives. The State must use all of its human resources, not just the personnel of the Department of Corrections and Rehabilitation.

The State must re-invent parole, moving to a system of post-release supervision for certain prisoners to ensure public safety.

At the same time, the State should begin a comprehensive evaluation of its sentencing system by establishing an independent sentencing commission to develop guidelines for coherent and equitable sentencing guided by overarching criminal justice policy goals. This is not a short-term solution, but a way to create rational long-term policy. Critics who suggest that a sentencing commission is code for shorter sentences are misinformed. Other states have used sentencing commissions to lengthen sentences for the most dangerous criminals, develop community-based punishment for nonviolent offenders and bring fiscal responsibility to criminal justice policies.

As they start the process, the Governor and Legislature should set goals and targets and insist on performance management to meet them. These reforms must not be allowed to fail in implementation, as they have before. From start to finish, policy-makers must provide consistent support and oversight. In doing so, they can demonstrate progress to the public and the courts and begin to rebuild confidence in the State's ability to manage this critical responsibility.

Each of these proposals presents opportunities to fix a portion of California's corrections system. But they must be undertaken together, guided by a comprehensive strategy. Each reinforces the others as California embarks on changing the culture of its corrections system and restoring its status as a national model of success.

Recommendation 1: The Governor and Legislature should immediately implement a comprehensive strategy to reduce prison overcrowding and improve public safety in California communities. Specifically, the Governor and the Legislature should:

- □ Implement prior reform recommendations. Policy-makers do not need to further research solutions. They must immediately implement the evidence-based recommendations made by this Commission and others over the past two decades in order to regain control of major areas of prison operations where court intervention exists and avoid additional court intervention. To improve the performance of the correctional system, policymakers must re-invent parole; expand educational, vocational and substance abuse treatment programs in prisons; reallocate resources to expand local punishment alternatives; and, expand judicial discretion.
 - □ Establish a corrections inter-agency task force. The State should establish an inter-agency task force to develop partnerships with CDCR to bolster in-prison and reentry programs with a goal of reducing recidivism and improving public safety. The interagency task force should include all government entities that currently or potentially could assist offenders in improving their education, getting a job, finding housing, getting photo identification or a driver's license or treating an addiction or mental health problem.

Alternative Recommendation: If the Governor and Legislature are unwilling or unable to advance these critical correctional reforms, they should turn the job over to a board of directors with the power and authority to enact reforms. Specifically:

The	board	should	be	an	independent	entity	modeled	after	the
feder	al Bas	e Realig	nm	ent	and Closure C	ommis	sion with	mem	bers
appo	inted b	by the G	ove	rnoi	and legislativ	re leade	ers.		

ATTACHMENT 3

(Slip Opinion)

OCTOBER TERM, 2010

1

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BROWN, GOVERNOR OF CALIFORNIA, ET AL. v. PLATA ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURTS FOR THE EASTERN AND NORTHERN DISTRICTS OF CALIFORNIA

No. 09-1233. Argued November 30, 2010-Decided May 28, 2011

California's prisons are designed to house a population just under 80,000, but at the time of the decision under review the population was almost double that. The resulting conditions are the subject of two federal class actions. In Coleman v. Brown, filed in 1990, the District Court found that prisoners with serious mental illness do not receive minimal, adequate care. A Special Master appointed to oversee remedial efforts reported 12 years later that the state of mental health care in California's prisons was deteriorating due to increased overcrowding. In Plata v. Brown, filed in 2001, the State conceded that deficiencies in prison medical care violated prisoners' Eighth Amendment rights and stipulated to a remedial injunction. But when the State had not complied with the injunction by 2005, the court appointed a Receiver to oversee remedial efforts. Three years later, the Receiver described continuing deficiencies caused by overcrowding. Believing that a remedy for unconstitutional medical and mental health care could not be achieved without reducing overcrowding, the Coleman and Plata plaintiffs moved their respective District Courts to convene a three-judge court empowered by the Prison Litigation Reform Act of 1995 (PLRA) to order reductions in the prison population. The judges in both actions granted the request, and the cases were consolidated before a single three-judge court. After hearing testimony and making extensive findings of fact, the court ordered California to reduce its prison population to 137.5% of design capacity within two years. Finding that the prison population would have to be reduced if capacity could not be increased through new construction, the court ordered the State to formulate a compliance plan and submit it for court approval.

Held:

1. The court-mandated population limit is necessary to remedy the violation of prisoners' constitutional rights and is authorized by the

PLRA. Pp. 12-41.

(a) If a prison deprives prisoners of basic sustenance, including adequate medical care, the courts have a responsibility to remedy the resulting Eighth Amendment violation. See Hutto v. Finney, 487 U. S. 678, 687, n. 9. They must consider a range of options, including the appointment of special masters or receivers, the possibility of consent decrees, and orders limiting a prison's population. Under the PLRA, only a three-judge court may limit a prison population. 18 U. S. C. §8626(a)(8). Before convening such a court, a district court must have entered an order for less intrusive relief that failed to remedy the constitutional violation and must have given the defendant a reasonable time to comply with its prior orders. §3626(a)(8)(A). Once convened, the three-judge court must find by clear and convincing evidence that "crowding is the primary cause of the violation" and "no other relief will remedy [the] violation." \$3626(a)(3)(E); and that the relief is "narrowly drawn, extends no further than necessary..., and is the least intrusive means necessary to correct the violation," §3626(a)(1)(A). The court must give "substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief." Ibid. Its legal determinations are reviewed de novo, but its factual findings are reviewed for clear error. Pp. 12-15.

(b) The Coleman and Plata courts acted reasonably in convening

a three-judge court. Pp. 15-19.

(1) The merits of the decision to convene are properly before this Court, which has exercised its 28 U. S. C. §1253 jurisdiction to determine the authority of a court below, including whether a threejudge court was properly constituted. Gonzalez v. Automatic Employees Credit Union, 419 U. S. 90, 95, n. 12. Pp. 15-16.

(2) Section 3626(a)(3)(A)(i)'s previous order requirement was satisfied in Coleman by the Special Master's 1995 appointment and in Plata by the 2002 approval of a consent decree and stipulated injunction. Both orders were intended to remedy constitutional violations and were given ample time to succeed—12 years in Coleman, and 5 years in Plata. Contrary to the State's claim, §3626(a)(3)(A)(ii)'s reasonable time requirement did not require the District Courts to give more time for subsequent remedial efforts to succeed. Such a reading would in effect require courts to impose a moratorium on new remedial orders before issuing a population limit, which would delay an eventual remedy, prolong the courts' involvement, and serve neither the State nor the prisoners. The Coleman

and Plata courts had a solid basis to doubt that additional efforts to build new facilities and hire new staff would achieve a remedy, given the ongoing deficiencies recently reported by both the Special Master and the Receiver. Pp. 16-19.

(c) The three-judge court did not err in finding that "crowding [was] the primary cause of the violation," §3626(a)(3)(E)(i). Pp. 19-

29.

(1) The trial record documents the severe impact of burgeoning demand on the provision of care. The evidence showed that there were high vacancy rates for medical and mental health staff, e.g., 20% for surgeons and 54.1% for psychiatrists; that these numbers understated the severity of the crisis because the State has not budgeted sufficient staff to meet demand; and that even if vacant positions could be filled, there would be insufficient space for the additional staff. Such a shortfall contributes to significant delays in treating mentally ill prisoners, who are housed in administrative segregation for extended periods while awaiting transfer to scarce mental health treatment beds. There are also backlogs of up to 700 prisoners waiting to see a doctor for physical care. Crowding creates unsafe and unsanitary conditions that hamper effective delivery of medical and mental health care. It also promotes unrest and violence and can cause prisoners with latent mental illnesses to worsen and develop overt symptoms. Increased violence requires increased reliance on lockdowns to keep order, and lockdowns further impede the effective delivery of care. Overcrowding's effects are particularly acute in prison reception centers, which process 140,000 new or returning prisoners annually, and which house some prisoners for their entire incarceration period. Numerous experts testified that crowding is the primary cause of the constitutional violations. Pp. 19-24.

(2) Contrary to the State's claim, the three-judge court properly admitted, cited, and considered evidence of current prison conditions as relevant to the issues before it. Expert witnesses based their conclusions on recent observations of prison conditions; the court admitted recent reports on prison conditions by the Receiver and Special Master; and both parties presented testimony related to current conditions. The court's orders cutting off discovery a few months before trial and excluding evidence not pertinent to the issue whether a population limit is appropriate under the PLRA were within the court's sound discretion. Orderly trial management may require discovery deadlines and a clean distinction between litigation of the merits and the remedy. The State points to no significant evidence that it was unable to present and that would have changed the out-

come here. Pp. 24-26.

(3) It was permissible for the three-judge court to conclude that

overcrowding was the "primary," but not the only, cause of the violations, and that reducing crowding would not entirely cure the violations. This understanding of the primary cause requirement is consistent with the PLRA. Had Congress intended to require that crowding be the only cause, the PLRA would have said so. Pp. 26–29.

(d) The evidence supports the three-judge court's finding that "no other relief [would] remedy the violation," §3626(a)(3)(E)(ii). The State's claim that out-of-state transfers provide a less restrictive alternative to a population limit must fail because requiring transfers is a population limit under the PLRA. Even if they could be regarded as a less restrictive alternative, the three-judge court found no evidence of plans for transfers in numbers sufficient to relieve overcrowding. The court also found no realistic possibility that California could build itself out of this crisis, particularly given the State's ongoing fiscal problems. Further, it rejected additional hiring as a realistic alternative, since the prison system was chronically understaffed and would have insufficient space were adequate personnel retained. The court also did not err when it concluded that, absent a population reduction, the Receiver's and Special Master's continued efforts would not achieve a remedy. Their reports are persuasive evidence that, with no reduction, any remedy might prove unattainable and would at the very least require vast expenditures by the State. The State asserts that these measures would succeed if combined, but a long history of failed remedial orders, together with substantial evidence of overcrowding's deleterious effects on the provision of care. compels a different conclusion here. Pp. 29-33.

(e) The prospective relief ordered here was narrowly drawn, extended no further than necessary to correct the violation, and was the least intrusive means necessary to correct the violation. Pp. 38-41.

(1) The population limit does not fail narrow tailoring simply because prisoners beyond the plaintiff class will have to be released through parole or sentencing reform in order to meet the required reduction. While narrow tailoring requires a "'aft" between the [remedy's] ends and the means chosen to accomplish those ends,' "Board of Trustees of State Univ. of N. Y. v. Fox, 492 U. S. 469, 480, a narrow and otherwise proper remedy for a constitutional violation is not invalid simply because it will have collateral effects. Nor does the PLRA require that result. The order gives the State flexibility to determine who should be released, and the State could move the three-judge court to modify its terms. The order also is not overbroad because it encompasses the entire prison system, rather than separately assessing each institution's need for a population limit. The Coleman court found a systemwide violation, and the State stipulated to systemwide relief in Plata. Assuming no constitutional violation

results, some facilities may retain populations in excess of the 137.5% limit provided others fall sufficiently below it so the system as a whole remains in compliance with the order. This will afford the State flexibility to accommodate differences between institutions. The order may shape or control the State's authority in the realm of prison administration, but it leaves much to the State's discretion. The order's limited scope is necessary to remedy a constitutional violation. The State may move the three-judge court to modify its order, but it has proposed no realistic alternative remedy at this time. Pp. 33–36.

(2) The three-judge court gave "substantial weight" to any potential adverse impact on public safety from its order. The PLRA's "substantial weight" requirement does not require the court to certify that its order has no possible adverse impact on the public. Here, statistical evidence showed that prison populations had been lowered without adversely affecting public safety in some California counties, several States, and Canada. The court found that various available methods of reducing overcrowding-good time credits and diverting low-risk offenders to community programs-would have little or no impact on public safety, and its order took account of such concerns by giving the State substantial flexibility to select among the means of reducing overcrowding. The State complains that the court approved the State's population reduction plan without considering whether its specific measures would substantially threaten public safety. But the court left state officials the choice of how best to comply and was not required to second-guess their exercise of discretion. Developments during the pendency of this appeal, when the State has begun to reduce the prison population, support the conclusion that a reduction can be accomplished without an undue negative effect on public safety. Pp. 37-41.

 The three-judge court's order, subject to the State's right to seek its modification in appropriate circumstances, must be affirmed. Pp. 41-48.

(a) To comply with the PLRA, a court must set a population limit at the highest level consistent with an efficacious remedy, and it must order the population reduction to be schieved in the shortest period of time reasonably consistent with public safety. Pp. 41—42.

(b) The three-judge court's conclusion that the prison population should be capped at 137.5% of design capacity was not clearly erroneous. The court concluded that the evidence supported a limit between the 130% limit supported by expert testimony and the Federal Bureau of Prisons and the 145% limit recommended by the State Corrections Independent Review Panel. The PLRA's narrow tailoring requirement is satisfied so long as such equitable, remedial judg-

ments are made with the objective of releasing the fewest possible prisoners consistent with an afficacious remedy. Pp. 42-44.

(c) The three-judge court did not err in providing a 2-year deadline for relief, especially in light of the State's failure to contest the issue at trial. The State has not asked this Court to extend the deadline, but the three-judge court has the authority, and responsibility, to amend its order as warranted by the exercise of sound discretion. Proper respect for the State and for its governmental processes require that court to exercise its jurisdiction to accord the State considerable latitude to find mechanisms and make plans that will promptly and effectively correct the violations consistent with public safety. The court may, e.g., grant a motion to extend the deadline if the State meets appropriate preconditions designed to ensure that the plan will be implemented without undue delay. Such observations reflect the fact that the existing order, like all ongoing equitable relief, must remain open to appropriate modification, and are not intended to cast doubt on the validity of the order's basic premise. Pp. 44-48.

Affirmed.

KENNEDY, J., delivered the opinion of the Court, in which GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. SCALIA, J., filed a discenting opinion, in which THOMAS, J., joined. ALITO, J., filed a discenting opinion, in which ROBERTS, C. J., joined.

ATTACHMENT 4

California Department of Corrections and Rehabilitation



fact sheet

For Informational Purposes December 19, 2013 (916) 445-4950

2011 Public Safety Realignment

The cornerstone of California's solution to reduce prison overcrowding, costs, and recidivism

In 2011, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 109 and AB 117, historic legislation to enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California's solution to the U.S. Supreme Court order to reduce the number of inmates in the state's 33 prisons to 137.5 percent of original design capacity.

All provisions of Assembly Bill (AB) 109 and AB 117 were prospective and implementation of the 2011 Realignment Legislation began October 1, 2011. No inmates currently in state prison were or are transferred to county jails or released early.

Prior to Realignment, more than 60,000 felon parole violators returned to state prison annually, with an average length of stay of 90 days. On September 30, 2011, the felon parole violator population was 13,285; by the end of November 2013, that population was down to 25 due to the fact that most felon parole violators now serve revocation time in county jail.

Under Realignment, newly-convicted low-level offenders without current or prior serious or violent offenses stay in county jail to serve their sentence; this has reduced the annual admissions to less than 36,000 a year. Prior to Realignment, there were approximately 55,000 to 65,000 new admissions from county courts to state prison.

Overall, the diversion of low-level offenders and parole violators to county jall instead of state prison since October 2011 has resulted in a population decrease of about 25,000.

Funding of Realignment

AB 109 provides a <u>dedicated and permanent</u> revenue stream to the counties through Vehicle License Fees and a portion of the State sales tax outlined in trailer bills AB 118 and Senate Bill 89. The latter provides revenue to counties for local public safety programs and the former establishes the Local Revenue Fund 2011 (Fund) for counties to receive the revenues and appropriate funding for 2011 Public Safety Realignment.

This funding became constitutionally guaranteed by California voters under the passage of Proposition 30 in 2012.

\$400 million was provided to the counties in the first partial fiscal year of Realignment, growing to more than \$850 million last year and more than \$1 billion in 2013-2014.

The following trailer bills were signed to secure sufficient funding for counties:

- AB 111
 - Gives counties additional flexibility to access funding to increase local jail capacity for the purpose of implementing Realignment.

- AB 94 (2011 Realignment Legislation Addressing Public Safety)
 - o Came into effect upon the passage of AB 111.
 - Authorizes counties that have received a conditional award under a specified jail facilities financing program to relinquish that award and reapply for a conditional award under a separate financing program.
 - Lowers the county's required contribution from 25 percent to 10 percent and additionally requires CDCR and the Corrections Standard Authority to give funding preference to those counties that relinquish local jail construction conditional awards and agree to continue to assist the state in siting re-entry facilities.

AB 118

- Outlines the financial structure for allocating funds to a variety of accounts for realignment.
- Establishes the Local Revenue Fund 2011 for receiving revenue and appropriates from that account to the counties.
- Directs the deposit of revenues associated with 1.0625 percent of the state sales tex rate to be deposited in the Fund.
- Establishes a reserve account should revenues come in higher than anticipated.
- The reallocation formulas will be developed more permanently using appropriate data and information for the 2012-13 fiscal year and each fiscal year thereafter.
- Implements sufficient protections to provide ongoing funding and mandated protection for the state and local government.
- The smallest of counties that benefitted from the minimum grant each received approximately \$77,000 in 2011-12.

. SB 89

- o Dedicates a portion (\$12) of the Vehicle License Fee to the Fund.
- Revenue comes from two sources: freed up VLF previously dedicated to DMV administration and VLF that was previously dedicated to cities for general purpose use.
- Estimated total amount of VLF revenue dedicated to realignment was \$354.3
 million in 2011-2012.

SB 87

 Provided counties with a one-time appropriation of \$25 million to cover costs associated with hiring, retention, training, data improvements, contracting costs, and capacity planning pursuant to each county's AB 109 implementation plan.

Local Planning Process

The Community Corrections Partnership (CCP), which was previously established in Penal Code § 1230, developed an implementation plan for their respective county. The Executive Committee from the CCP members is comprised of the following:

- o Chief probation officer
- o Chief of police
- o Sheriff
- District Attorney
- o Public Defender
- o Presiding judge of the superior court (or his/her designee)
- A representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors.

Community, Local Custody

AB 109 allows non-violent, non-serious, and non-sex offenders to serve their sentence in county jalls instead of state prisons. However, counties can contract back with the State to house local offenders.

Under AB 109:

- No inmates are transferred from state prisons to county jails.
- No state prison inmates are released early.
- All felons sent to state prison prior to the implementation of Realignment will continue to serve their entire sentence in state prison.
- All felons convicted of current or prior serious or violent offenses, sex offenses, and sex offenses against children will go to state prison.
- There are nearly 70 additional crimes that are not defined in the Penal Code as serious
 or violent offenses but at the request of law enforcement and district attorneys were
 added as offenses that would be served in state prison rather than in local custody.

Post-Release (County-Level) Community Supervision

CDCR continues to have jurisdiction over all offenders who were on state parole prior to the implementation date of October 1, 2011. County-level supervision for offenders upon release from prison includes current non-violent, current non-serious (irrespective of priors), and some sex offenders. County-level supervision does <u>not</u> include:

- Inmates paroled from life terms to include third-strike offenders;
- Offenders whose current commitment offense is violent or serious, as defined by California's Penal Code §§ 667.5(c) and 1192.7(c);
- High-risk sex offenders, as defined by CDCR;
- Mentally Disordered Offenders; nor
- Offenders on parole prior to October 1, 2011.

Offenders who meet the above-stated conditions continue to be under state parole supervision.

In all 58 countles, the Probation Department is the designated agency responsible for postrelease supervision.

CDCR must notify counties of an Individual's release at least one month prior, if possible. Once the individual has been released, CDCR no longer has jurisdiction over any person who is under post-release community supervision. Currently, CDCR is working to ensure counties receive inmate packets 120 days prior to the ordered release date.

No person shall be returned to prison on a parole revocation except for those life-term offenders who paroled pursuant to Penal Code § 3000.1 (Penal Code § 3056 states that only these offenders may be returned to state prison).

Parole Revocations

As of October 1, 2011, all parole revocations are served in county jail instead of state prison and can only be up to 180 days.

As of July 1, 2013 the parole revocation process is now a local court-based process. Local courts, rather than the Board of Parole Hearings, are the designated authority for determining parole revocations.

Contracting back to the state for offenders to complete a custody parole revocation is not an option.

Only offenders previously sentenced to a life term can be revoked to prison.

The Board of Parole Hearings continues to conduct:

- · Parole consideration for lifers;
- Medical parole hearings;
- Mentally disordered offender cases; and
- Sexually Violent Predator cases.

AB 109 also provides the following under parole:

- Allows local parole revocations up to 180 days
- Authorizes flash incarceration at the local level for up to 10 days

Inmates released to parole after serving a life-term (e.g., murderers, violent sex offenders, and third-strikers) will be eligible for parole revocation back to state prison if ordered by the Board.

Effects on Conservation Camps

- Conservation camps are currently at capacity
- CDCR is currently working with CAL FIRE and the counties to use county inmates to help fill the vacancies.

Effects on Female Population

As a substantial portion of female offenders fall under the definition of non-serious, non-violent, and non sex-offenders, the female inmate population at CDCR has dropped by a third, approximately 3,100 inmates.

The California Prisoner Mother Program (CPMP) in Pomona will remain open. CPMP was designed for pregnant or parenting women, convicted of a low-level offense, with children under the age of six, who could participate in a community substance abuse treatment program while caring for their children.

The Female Rehabilitative Community Correctional Center in Bakersfield will stay open until its contract expires in 2018. The facility currently has 75 beds available for women who were convicted of a non-serious, non-violent, and non-sex offense and who have 36 months or less to serve of their sentence. However, as that population diminishes based upon AB109, the FRCCC will begin housing Civil Addicts for the duration of the contract.

The Division of Juvenile Justice

There were no changes to DJJ during the 2011 realignment.

CDCR Adult Programs

As CDCR's population changes due to Realignment, the Division of Adult Programs will utilize projection information to review appropriate programming to address offender needs. While exact dates for program adjustments are still under evaluation, Adult Programs is dedicated to serving as many offenders as possible by maximizing existing resources.

Skip to main content

REPORTS BY POLICY AREA

Capital Outlay, Infrastructure

Criminal Justice

Economy and Taxes

Education

Environment and Natural Resources

Health and Human Services

Local Government

State Budget Condition

Transportation

Other Government Areas

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How much does it cost to incarcerate an inmate?

California's Annual Cost to incarcerate an Inmate in Prison

2016-17

Type of Expenditure	Per Inmate Costs		
Security	\$32,019		
Inmate Health Care	\$21,582		
Medical care	14,834		
Psychiatric services	3,359		

6/11/2018	Legislative Analyst's Office
Pharmaceuticals	2,143
Dental care	1,246
Facility Operations and Records	\$7,025
Facility operations (maintenance and utilities)	4,334
Classification services	1,798
Maintenance of Inmate records	723
Reception, testing, assignment	145
Transportation	24
Administration	\$4,171
Inmete Food and Activities	\$3,484
Food	2,082
Inmate employment	823
Clothing	354
Inmate activities	102
Religious activities	123
Rehabilitation Programs	\$2,437
Academic education	1,237
Cognitive Behavioral Therapy	823
Vocational training	377
Miscellaneous	\$93
Total	\$70,812

- It costs an average of about \$71,000 per year to incarcerate an inmate in prison in California.
- Over three-quarters of these costs are for security and inmate health care.
- . Since 2010-11, the average annual cost has increased by about \$22,000 or about 45 percent. This includes an increase of \$7,900 for security and \$7,200 for inmate health care. This increase has been driven by various factors, including (1) employee compensation, (2) increased inmate health care costs, and (3) operational costs related to additional prison capacity to reduce prison overcrowding.

Last Updated: March 2017









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ATTACHMENT 6

Contra Costa County 2011/12 Public Safety Realignment

Contra Costa County 2011/12 Public Safety Realignment Implementation Plan

Executive Committee
Diana Becton, Presiding Judge
Cynthia Belon, Health Services
Philip Kader, Chief Probation Officer (Chair)
Robin Lipetzky, Public Defender
David Livingston, Sheriff-Coroner
Chris Magnus, Chief, Richmond Police Department
Mark A. Peterson, District Attorney

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Introduction

The Community Corrections Partnership (CCP) has been developing and refining this document since Assembly Bill 109 became law in late June 2011. This responsibility has not been taken lightly. We have spent many hours of meeting virtually every week since early July and many additional hours developing this CCP Plan. We have had excellent attendance of the voting members. We have attended training seminars, held several community forums and invited anyone interested to attend our weekly meetings.

It has become abundantly clear that the only plan that should be offered is one that continues as a work in progress. There are ongoing discussions involving interventions that could impact the State projections, and service opportunities that may decrease the number of incarceration beds and probation supervision cases. There is continued discussion regarding strategies to minimize incarceration of the AB 109 population, such as remodeling the County's bail-process, holding early disposition hearings, and increasing the use of electronic monitoring, to name but a few. The CCP will convene a community advisory group of members who will review data on outcomes, provide input on community needs and assessments of implementation, and advise on community engagement strategies. The CCP will meet with this group periodically to receive and discuss the group's input and advice. The CCP supports the implementation of County Re-Entry Strategic Plan and will participate in meetings to implement the strategic plan while gathering input on strategies to integrate realignment with broader reentry policies and programs.

There is simply no way to know at this time if our planning assumptions will bear out. We have completed this Plan by carefully weighing all the possibilities and coming to a reasoned conclusion with the initial information we have studied. We offer this Plan fully understanding that it will be reviewed and likely modified during monthly meetings of the CCP. We expect that the careful collection of relevant data will inform our proposals to reallocate resources, if necessary, as well as provide early indications of the effectiveness of our case management.

There are several things we do know unequivocally. The prior funding from the State to offset the cost of incarcerating those pending state parole revocation hearings (\$777,000 a year) will no longer exist beginning October 1, 2011. We know that the 20 to 30 parolees previously transferred from our jail to prison every week will remain in County custody. We know that 20 to 30 people released from prison every month will be placed on Post-Release Community Supervision provided by our Probation Department rather than on State Parole.

Criminal Justice Realignment is a paradigm shift for California counties. No longer will it be enough for each criminal justice partner to focus on its own distinct mission within the justice system. Achievement of realignment goals will depend on the commitment and collaboration of all justice partners towards a combined mission, while recognizing the critical role that each justice partner plays in achieving positive outcomes.

The CCP is committed to doing the best job we can with the resources we have been provided. We are also prepared to adjust our Plan to ensure the best utilization of the limited revenue forwarded to us from State. Finally, we remain committed to vigorously search for the

very best alternatives and aggressively engage our communities in our effort to best serve our county.

Executive Summary

Overview.

The California Legislature passed the Public Safety Realignment Act (Assembly Bills 109), which transfers responsibility for supervising specific low-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB 109) takes effect October 1, 2011 and realigns three major areas of the criminal justice system. On a prospective basis, the legislation:

- Transfers the location of incarceration for lower-level offenders (specified non-violent, non-serious, non-sex offenders) from state prison to local county jail and provides for an expanded role for post-release supervision for these offenders;
- Transfers responsibility for post-release supervision of lower-level offenders (those
 released from prison after having served a sentence for a non-violent, non-serious, and
 non-sex offense) from the state to the county level by creating a new category of
 supervision called Post-Release Community Supervision (PRCS);
- Transfers the housing responsibility for parole and PRCS revocations to local jail custody

AB 109 also tasked the local Community Corrections Partnership (CCP)¹ with recommending to the County Board of Supervisors a plan for implementing the criminal justice realignment, which shall be deemed accepted by the Board unless rejected by a 4/5th vote. The Executive Committee of the CCP is composed of the County Probation Officer (Chair), Sheriff-Coroner, a Chief of Police (represented by the Richmond Police Chief), District Attorney, Public Defender, Presiding Judge of the Superior Court or designee, and Health Director as agreed by the County Administrative Officer.

This document is the criminal justice realignment implementation plan developed and recommended by the CCP Executive Committee. The Executive Committee has met almost every week since early July. The plan attempts to meet the stated legislative objectives within a very limited funding allocation, as described below, under "Assumptions". While we would like to be able to say that this is a comprehensive plan to deliver the full complement of incarceration, supervision, and rehabilitative/re-entry services contemplated by AB 109, the limited state allocation simply does not provide sufficient funds for everything we would like to include in this plan. Consideration was also given to provide supportive social and rehabilitation services to those offenders released from prison as well as those sentenced by the local courts and those spending custody time in the local jail.

Planning Assumptions.

As this dramatic and multi-dimensional criminal justice realignment (being an initiative that would have, under normal circumstances, required years of collaborative planning) was

¹ The Community Corrections Parmership was previously established under SB 678.

literally developed in a matter of months, the Executive Committee had to make a number of assumptions where definitive answers are currently unavailable:

State Funding Formula. The funding amount allocated to each California County is based upon the number of non-violent, non-serious, non-ser offenders sentenced to state prison by each county, rather than on the number of arrests or other countributing factors. Historically, Contra Costa County has sentenced fewer offenders to state prison per capita than many other counties and, consequently, finds itself "under-funded" compared with other counties that have historically sentenced proportionally more offenders to state prison. While making no value judgment on the sentencing practices of other counties, the state funding formula for 2011/12 realignment ironically rewards those counties that contributed most to state prison crowding. As a result of concerns expressed by this County and other disadvantaged counties, the state has agreed to reconsider the funding formula for future years. Therefore, we must emphasize that this plan is only relevant for the period October 1, 2011 through June 30, 2012. Any planning beyond June 2012 must be contingent on a yet to be determined funding formula.

Length of Confinement. Although the State Department of Finance has projected that the terms of confinement for parole revocations will be on average 30 days, the Sheriff's Office anticipates that a more realistic average term of confinement for planning purposes should be 90 days (the maximum term). Contra Costa County currently has unutilized and unstaffed bed space within its detention facilities. In anticipation of the coming new offender population, pods within the West County Detention Facility and the Marsh Creek Detention Facility will be reopened and staffed, adding considerably to the costs of the Implementation Plan.

Budget.

The amount allocated to the County is \$4,572,950. The following is a breakdown of the recommended allocations, which are described in greater detail in the AB 109 Criminal Justice Realignment Budget for 2011/12, which is being transmitted to the Board in a separate item today:

Table 1. Contra Costa County AB 109 Spending Plan, FY2011-2012

Agency	FY2011-2012 (9-Month) Budget	Percent of Total FY2011-2012 (9-Month) Budget	
Sheriff's Office	\$2,489,750	54.4%	
Probation Department	\$1,000,000	21.9%	
Health Services	\$895,109	19.6%	
Office of the Public Defender	\$120,591	2.5%	
District Attorney Office	\$67,500	1.5%	
Total	\$4,572,950	100%	

New Population Estimates.

AB 109 will place newly released non-violent, non-serious, non-sex offenders under County supervision and will keep new lower-level offenders in local custody rather than state prison. For Contra Costa County, the new population estimates are:

Post-Release Community Supervision (PRCS) population. Between October 2011 and June 2012, it is estimated that 215 offenders will be released from prison and returned to the County at a rate of approximately 24 offenders per month.

Lower-level offenders serving county jail sentences. It is expected that over 60 new offenders will be added to the county jail population during the nine-month implementation period. The average length of sentences that will be served by these newly sentenced offenders is unknown and unpredictable at this time.

New mandatory probation supervision population. It is expected that a large number of the local sentenced AB 109 population will also be sentenced to a period of mandatory probation supervision to follow their county jail sentence. The size of this population and the average length of the term of probation supervision are as yet unknown.

New county jail population of parole/PRCS/probation violators. Beginning November 1, 2011, large numbers of parolees will be serving their sentences in local jail facilities rather than in state prison. In FY 2010-2011 1,276 new parolees were sent to state prison on parole revocations from Contra Costa County. These offenders will now remain in local custody. The actual rates of incarceration and the average length of the sentences to be served remain unknown at this time.

Implementation Strategies.

The Community Corrections Partnership has crafted strategies to protect the community and provide services to AB 109 offenders.

- The Sheriff's Office will open housing units within two of its three detention facilities to accommodate the increasing number of offenders that must be incarcerated, and expand its electronic monitoring program to supervise offenders within the community.
- The Probation Department will create a specialized unit to supervise and case manage the offender population, developing an individualized treatment plan for each offender and providing or referring probationers to a full range of community supervision services.
- For those AB 109 offenders who require assistance, Health Services will provide substance abuse treatment, mental health services, and homelessness prevention services through its Behavioral Mental Health Clinic, Behavioral Health Homeless Program, and community-based residential and outpatient drug programs. Additional bed space will be reserved for AB 109 clients provided in partnership with local community-based organizations.

- The District Attorney's Office will provide victim advocably services, helping connect victims with relevant services. They will also gather information about the impact of the prime for the purposes of setting bail and release conditions (when appropriate) to assist in reducing local incarceration rates.
- V The Office of the Public Defender will conduct a social history and needs assessment of clients pre-disposition and, pursuant to PC 1203.4 (clean slate), will assist in the filing of probation when eligible and in conjunction with the other justice partners. petitions for probationers to have their records cleared at the end of their terms of
- V PRCS offenders as they return to the community from state prison. During these meetings, CCP agencies and community-based organizations will provide information on service availability and the possible consequences of law violations. Staff members from each of the CCP agencies will participate in required orientations for
- V The CCP will meet monthly between October 2011 and June 2012 to monitor and programs provided, and outcomes for AB 109 offenders. It is the Committee's intent to receptiveness of offenders to offered services, identified gaps in the services and client population estimates and costs, management information system development, evaluate the implementation Plan. Particular emphasis will be placed on accuracy of continue to refine the plan and reallocate resources as appropriate in the coming months

Proposed Outcomes.

life outcomes for AB 109 offenders. feedback from the partners on the effectiveness of the plan along with recidivism and quality of To gauge the effectiveness of AB 109 realignment in the county, the CCP will gather

Recommendations

Supervisors, Contra Costa County: The Executive Committee submits the following recommendations to the Board of

- that the plan recommended for adoption today may have to be adjusted in accordance ACKNOWLEDGE that State Criminal Justice Realignment is a work in progress, and with changing circumstances.
- N RECOGNIZE that the funding formula selected by the state to allocate realignment entry services contemplated under realignment. funding to local government provides insufficient funding to Contra Costa County for providing the expected continuum of incarceration, supervision, and rehabilitative/re-

.

- RECOGNIZE that there is an ongoing need to secure funding for the County's Strategic Reentry Plan separate and spart from the funding allocated for criminal justice realignment.
- RECOGNIZE that the plan recommended for adoption today is an implementation plan only and cannot be sustained on an annualized basis without increased state funding.
- 5. ACKNOWLEDGE that the Sheriff has the ability to offer a home detention program, as specified in section 1203.016 of the California Penal Code, in which immates committed to the County Jail may voluntarily participate or involuntarily be placed in a home detention program during their sentence in lieu of confinement in the County Jail or other County correctional facility.
- ACKNOWLEDGE that the Sheriff has the ability to offer an electronic monitoring
 program as specified in section 1203.018 of the California Penal Code, for immates being
 held in lieu of bail in the County Jail or other County correctional facility.
- ADOPT the Implementation Plan recommended herein as the Contra Costa County 2011/12 Public Safety Realignment Implementation Plan as required by PC1230.1 and the Post-Release Community Supervision strategy as required by PC3451 (as added by the Post-Release Community Supervision Act of 2011 contained in AB 109).

Overview of 2011 Public Safety Realignment Act (AB 109)

The goals of The Public Safety Realignment Act are to restructure supervision and incarceration, address the overcrowding problem in California's prisons, axid reduce the cost of the centralized state prison system. AB 109 transfers responsibility for supervising low-level immates and parolees (those convicted of non-serious, non-violent, or non-sex offenses) from the California Department of Corrections and Rehabilitation to counties. Implementation of AB 109 is scheduled to begin October 1, 2011.

AB 109 amends Section 1230.1 of the California Penal Code to read: "Each county local Community Corrections Partnership established pursuant to subdivision (b) of Section 1230 shall recommend a local plan to the County Board of Supervisors for the implementation of the 2011 public safety realignment. (b) The plan shall be voted on by an executive committee of each county's Community Corrections Partnership consisting of the Chief Probation Officer of the county as chair, a Chief of Police, the Sheriff, the District Attorney, the Public Defender, a presiding judge or his or her designee, and the department representative listed in either section 1230 (b) (2) (G), 1230 (b) (2) (H), or 1230 (b) (2) (J) as designated by the county board of supervisors for purposes related to the development and presentation of the plan. (c) The plan shall be deemed accepted by the County Board of Supervisors unless rejected by a vote of 4/5ths in which case the plan goes back to the Community Corrections Partnership for further consideration. (d) Consistent with local needs and resources, the plan may include recommendations to maximize the effective investment of criminal justice resources in evidencebased correctional sanctions and programs, including but not limited to, day reporting centers. drug courts, residential multi-service centers, mental health treatment programs, electronic and GPS monitoring programs, victims restitution programs, counseling programs, community service programs, educational programs, and work training programs.**

Target Population: The post-release community supervision population, released from prison to community supervision, is the responsibility of local probation departments. This population includes non-violent, non-serious, non-sex offenders with or without a prior conviction for a serious or violent offense or a sex-offender registration requirement. The population that will serve their prison sentences locally includes the non-violent, non-serious, non-sex offender group. Upon full implementation of AB 109 in Contra Costa County it is estimated that the annual average daily population of AB 109 offenders will be approximately 450. These offenders will require a range of supervision, sanctions, and service resources. These offenders become a local responsibility on October 1, 2011 when AB 109 is implemented.

- Local Post-Release Community Supervision: Offenders released from state prison on or after October 1, 2011 after a sentence for an eligible offense shall be subject to, for a period not to exceed 3 years, post-release community supervision provided by a county agency designated by that county's Board of Supervisors. The Probation Department is the designated community supervision agency in Contra Costa County.
- Revocations Heard and Served Locally: Post-Release Community Supervision and parole revocations will be served in local jails (by law the maximum revocation sentence is up to 180 days). The Courts will hear revocations of Post-Release Community

Supervision offenders. The Board of Parole Hearings will conduct parole violation hearings until July of 2013 when this responsibility shifts to local courts.

- Changes to Custody Credits: Most jail inmates will now earn custody credits that equal
 the amount of custody days served (day for day credit).
- O Alternative Custody: Penal Code Section 1203.018 authorizes electronic monitoring for inmates being held in the county jail in lieu of bail. Eligible felony inmates must first be held in custody for 60 days post-arraignment, or 30 days for those charged with misdemeanor offenses. Any program implemented under this penal code section will be in collaboration with the District Attorney's Office and the Superior Court of Contra Costa County.
- Community-Based Accountability: Emphasizes the use of a range of community-based consequences other than jail incarceration.
- Evidence-Based Practices: Emphasizes the use of supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post-release supervision.

Local Planning and Oversight

COMMUNITY CORRECTIONS PARTNERSHIP

In the last two years, there have been statewide efforts to expand the use of evidence-based practices in sentencing and probation practices, and to reduce the state prison population. SB 678 (2009) established a Community Corrections Partnership (CCP) in each county, chaired by the Chief of Adult Probation, charged with advising on the implementation of SB 678 funded initiatives. AB 109 (2011) established an Executive Committee of the CCP charged with the development of a 2011 Realignment Plan that will recommend a countywide programming plan for the realigned population, for consideration and adoption by the Board of Supervisors.

The CCP Executive Committee will advise on the progress of the Implementation Plan. Chaired by the Chief Probation Officer, the CCP Executive Committee will oversee the realignment process and advise the Board of Supervisors in determining funding and programming for the various components of the plan. Voting members of the Executive Committee include: a Judge (appointed by the Presiding Judge); Chief Probation Officer; County Sheriff-Coroner; District Attorney; Chief of Police; Public Defender; and Direct of County Social Services/Mental/Public Health (as determined by the Board of Supervisors).

Budget

Contra Costa County's share of the block grant dollars is \$4,572,950 million over FY2011-2012 beginning October 2011. The planning process has revealed that this amount is inadequate to comprehensively provide for the needs of the AB 109 offender population. The

protection of the community and case management of the clients rely on effective and swift responses to the needs of the clients while being mindful of the needs of the victims and our neighborhoods. Realignment also recognizes that delivery of evidence-based services and sanctions is most effective at reducing recidivism and improving public safety. However, there is a significant gap between this proposal and budget, and the best opportunities to provide a meaningful and comprehensive approach to Realignment. Facing these constraints, the partners have developed a budget based on the State's distribution pursuant to the established allocation. There is also an added projected annual budget that suggests the actual costs for a full fiscal year as noted below. These figures will exceed the expected annual budget for the next fiscal year. There is significant concern that adjustments to the FY2011-2012 Budget will adversely affect this plan. Among the Community Corrections Partnership, the funding will be divided as follows:

Table 2. Contra Costa County AB 109 Spending Plan: One-Time Costs, FY2011-2012, and

Projected Annual Budget.

Agency	One- Time Costs	Percent of Total One- Time Costs	FY2011- 2012 (9-Month) Budget	Percent of Total FY2011- 2012 Budget	Projected Annual Budget	Percent of Projected Annual Budget
Sheriff's Office	\$252,500	78.3%	\$2,489,750	54.4%	\$5.224.717	64.7%
Probation Department	\$70,175	21.7%	\$1,000,000	21.9%	\$1,436,162	17.8%
Health Services	\$0	0%	\$895,109	19.6%	\$1,169,626	14.5%
Office of the Public Defender	\$0	0%	\$120,591	2.6%	\$160,788	2.0%
District Attenuey Office	\$0	.0%	\$67,500	1.5%	\$90,000	1.1%
Total	\$322,675	100%	\$4,572,950	100%	\$8,081,293	100.0%

(Detailed budgets for each Agency have been presented to the Board of Supervisors.)

Proposed Implementation Strategies

AB 109 offenders will come from one of two sources: (1) Individuals released from state prison that would have normally been placed on parole and (2) offenders who will no longer be eligible to be incarcerated in state prison, but who may do time in county jail. These offenders may also have their jail sentences followed by a period of probation supervision. Even with the fiscal challenges noted above, the Contra Costa County original justice stakeholders will address the needs of criminal offenders returning to the community from state prison and those diverted away from state prison. The proposal stresses the use of enhanced resources that include but are not limited to the Sheriff's Office, Probation, Health Services, District Attorney, Public Defender, Superior Court, and community partners.

SHERIFF'S OFFICE

The Sheriff's Office expects impacts to its facilities and programs to be greater than projected by the State of California. During the fiscal year 2010-2011, the Sheriff's Office had 1,276 immates transfer to the State to serve parole violations. In addition, the Sheriff's Office sent 505 immates to the State for new prison commitments.

The State has projected that the terms of continement for parole violations will go from an average of four months to an average term of 30 days. All parole violations that would have been served back in prison will now be served in local custody (with the exception of those offenders on parole for "life" terms). Furthermore, the Board of Parole Hearings maintains jurisdiction over the pre-October 1, 2011 parolees until 2013. Thus, the impacts of local control of the offenders and their related consequences and opportunities will not fully be realized until after July 1, 2013.

The Sheriff's Office will assume the term of confinement for offenders at 90 days. With this assumption the Sheriffs Office will see an impact of 106 inmates per month for the first three months, or 318 inmates. In addition, the impacts of local sentencing and local violations are assumed at 12 per month (the three year ramp up average expected by the State). After 90 days, the Sheriff's Office expects an immate population increase of 354 inmates.

The Sheriff's Office manages the three county jail facilities – Martinez Detention Facility, Marsh Creek Detention Facility, and the West County Detention Facility. In anticipation of the increase in the inmate population, the Sheriff's Office will open a new housing unit within the Marsh Creek Detention Facility. This unit will have a 60 bed capacity and will be used to house AB 109 (non-serious, non-violent, and non-sex) offenders locally. Additionally, the Sheriff's Office anticipates an increase the population of the West County Detention Facility by an estimated 200 immates.

In collaboration with the Community Corrections Partnership and prior jail operational practices there are many service opportunities for those incarcerated locally. The Sheriff's Office, various County Departments (Office of Education, Probation, Health and Human Services), and several community-based organizations have provided opportunities for offenders in custody. These services are transitional in focus and help provide for successful re-entry. These include but are not limited to:

- · GED preparation and testing
- High school diploma completion
- English as a Second Language training
- Computer application and design
- · Parenting classes
- · Re-entry / transitional services
- Woodshop / woodworking skills
- Engraving/sign/vehicle detailing shop
- Landscaping
- Library services

- Legal Research Services
- Proud Pather Classes
- Alcoholics' and Nercotics' Amonymous classes
- Domestic Violence Prevention classes
- Veteran Affairs
- SSA/SSI Homeless Cutresch Collaborative
- U.C. Davis Immigration Law Center

The Sheriff's Office will also enhance it electronic monitoring (EM) program currently provided through it Custody Alternative Facility (CAF) program. The Sheriff's Office will hite additional staff to monitor AB 109 offenders. It is expected that the number of monitored EM 41.50 per day for supervision. Fees are waived or reduced for immakes unable to pay. impates will increase by about 100 (a 50% increase in inmate counts). Offenders in EM pay 50

unit, which is a trans-dermal blood alcohol monitor that is typically used with 2nd and 3nd time monitor that allows the tracking of whereabouts (location and time) or an enhanced SCRAM required scheduled appointments, review the geographic areas that are "off limits" to them, and submit samples for urinalysis. Monitored offenders may be outfitted with a standard GPS DUI offenders, and includes RF (bouse arrest) monitoring. Electronically monitored offenders meet with program staff weekly to review their

can apply for County Parole after the sentencing judge has approved County Parole as an option.

The cost and program implementation are similar to the EM program if placed into County Parole by the County Parole Board. After offenders have been convicted and remain in custody to serve their sentence, they

A small number of AB 109 offenders may be given county parole. This option is reserved for immates that are serving custody time in County Jail. After approval from the sentencing Judge for this option, the case will be forwarded to the County Parole Board which consists of the Deputy Probation Officer, a Sheriff's Office Manager, and a member of the public approved for appointment by the Presiding Judge.

offenders pay \$16/day for supervision, and work off their sentences while they are out of CHISTORY. If a sentence is less than 30 days, inmates will be assigned Work Alternative where

PROBATION

The Probation Department estimates there will be 250 prison released offenders during the first year of the Realignment and is projected to grow to 350 during the second year of the post-release community supervision population. The Department will provide or tefer Realignment. The Department will be responsible for administering programs directed to the probationers to a full range of community supervision services including:

Pre-release "reach-in" services (assessments and supervision planning pending release from county jail)

- Case management
- . Intensive community supervision (with routine home visits)
- Cognitive behavioral interventions (both pre-release and after released from jail)
- Restorative justice programs (both pre-release and after release from jail).
- Urinalysis testing
- · Residential substance abuse treatment
- · Outpatient behavioral health treatment
- · Community service
- Family strengthening strategies
- · Referral to education vocational training/employment services and housing resources
- Imposition of up to 10 days jail ("flash incarceration") as a sanction for violating supervision conditions

Post-release community supervision will not exceed three years, and individuals may be discharged following as little as 6 months of successful community supervision. Probationers may be revoked for up to 180 days; all revocations will be served in the local jail. Post-release community supervision will be consistent with evidence-based practices demonstrated to reduce recidivism. The Department may impose appropriate terms and conditions, appropriate incentives, treatment and services, and graduated sanctions.

Probation has and continues to invest heavily in establishing evidence-based supervision and intervention practices proven effective in reducing recidivism and improving outcomes. Central to evidence-based practice are the concepts of risk, need and responsivity (the practice of assessing and identifying criminogenic risk factors contributing to ongoing criminal behavior, which can be changed through application of culturally, developmentally, and gender appropriate interventions, teaching new skills and building on offender strengths to mitigate criminality). The Department uses the National Council on Crime and Delinquency's (NCCD) Criminal Assessment & Intervention System (CAIS) to guide the level of supervision provided to each probationer.

Probation will create a specialized unit that will provide intensive probation supervision to the AB 109 population. Each probationer will be administered the CAIS and will have an individualized treatment plan. Probation anticipates gradually deploying seven (7) deputy probation officers (DPOs) to provide services to the AB 109 population. The Department anticipates having DPOs based in West County, Central County, and East County to ensure contact is community based. The number of DPOs assigned to the unit will increase as appropriate.

A system of rewards and responses is being developed for use with the post-release community supervision population, and ultimately will drive intervention decisions with all offenders under supervision. The use of rewards and response decisions will guide the DPO regarding the type of intermediate sanction to impose in responding to violations. Successfully implementing AB 109 will require developing an effective violation hearing process combined with consistent imposition of graduated sanctions in response to violations of supervision conditions.

As AB 109 probationers are initially likely to be high-risk as evidenced by their Correctional Assessment and Intervention System (CAIS) scores. The Department will require DPOs to provide intensive probation supervision at a ratio of clients to DPO of 50:1.

Collaborative case planning is the focal point of this active engagement approach involving the offender, his/her family, the DPO, law enforcement and multiple service providers (such as housing, employment, vocational training, education, physical health, behavioral health, and pro-social activities). Individual factors such as strengths, risk factors, needs, learning style, culture, language, and ethnicity are integral to determination of appropriate interventions and services. The individualized treatment plan will determine the level of supervision and identify the types of evidence-based treatment and services the probationer needs to successfully avoid re-offending and increase pro-social functioning and self-sufficiency.

HEALTH SERVICES

Some AB109 offenders will have substance abuse problems, mental health problems, and/or will be homeless. These conditions will require intervention to facilitate the offender's re-integration into the community and prevent recidivism. Health Services will provide services to AB109 offenders through its Behavioral Health Division, which includes homeless, mental health, and alcohol and other drug services.

Health Services estimates that during the first nine months of AB109's implementation in Contra Costa County, approximately 50 offenders will require mental health services. With its share of the funding Health Services will fund a registered nurse (0.5 FTE), a licensed clinical specialist (1.0 FTE), a portion of a psychiatrist's time (0.25 FTE), and a clerk (0.5 FTE) within the mental health outpatient clinics. These staff members will provide mental health treatment and medication management services to AB109 offenders with mental health needs. Additionally, Health Services will provide psychotropic medication and laboratory services to the offenders.

Health Services will also fund an SSI Coordinator (.5 FTE), fund shelter beds (8 beds per night, per year), and transitional housing (2 spaces per night, per year) within the Behavioral Health Homeless Program. Health Services estimates that seventy (70) offenders will be provided housing services during the first nine months and estimates that eighty-five (85) offenders will be provided housing services during the second year.

The total number of AB 109 offenders requiring drug treatment services in Residential Drug Facility is unknown at this time. A total of 46, 90-day episodes in residential alcohol and other drug treatment will be made available for clients requiring alcohol and other drug treatment through Behavioral Health Alcohol and Drug Services.

During the first 9-months of AB 109 Implementation in Contra Costa County approximately \$396,000 (or 9% of the total allocation) will be paid to community-based organizations providing housing, residential alcohol and drug treatment services within Contra Costa County.

DISTRICT ATTORNEY OFFICE

Realignment will significantly impact the workload of the Contra Costa County District Attorney Office (DAO) and the sentencing options available to resolve cases. First, the DAO will be responsible for reviewing, charging, and prosecuting violations of post-release community supervision.

Second, DAO prosecutors will need to make more court appearances and engage with cases for longer periods. The number of appearances per case will likely increase before sentencing as getting agreement on appropriate sentences may be protracted.

Third, the DAO must develop expertise in alternative sentences and work closely with criminal justice partners to ensure effective sentencing without reliance on incarceration. As prison will not be available as a sentence option for many offenses, relying on jail sentences will overburden the jail system. DAO will need to develop creative and effective sentencing options based on the offender's risks and needs.

To address these challenges, DAO will add a Criminal Justice System Victim Advocate who will assist victims of crime as part of the Public Safety Realignment. In compliance with Marsy's Law, the Victim Advocate will: (1) assist the victim to obtain a criminal protective order; (2) contact the victim to gather input for setting bail and release conditions during the case; (3) be a liaison with the prosecutor for the duration of the case and disposition; (4) keep the victim informed of court dates, and sentencing hearings; (5) provide court support during court proceedings; (6) provide information concerning the disposition of the case including assisting the victim to register with the Contra Costa County Sheriff's Office's VINE program; (7) assist the victim with gathering information concerning restitution determination, obtaining a restitution order, assisting Probation with restitution information, and collection of restitution order and restitution fines; (8) assist the victim with understanding the process of incarceration in the county jail to serve prison sentences, release of immates to community-based programs, and alternative post sentencing options; and (9) work with the victim, the prosecutor, and supervising probation efficer to assure victim's safety concerns are heard and addressed.

OFFICE OF THE PUBLIC DEFENDER.

The Office of the Public Defender also anticipates a significant impact on its practice due to the new AB 109 sentencing scheme. To assist in the provision of evidence-based rehabilitation in Contra Costa County, the Office will provide (1) pre-sentence needs assessments for AB 109 offenders and (2) Clean Slate services.

Many public defender clients will fall into the category of AB 109 offenders. These clients will now be eligible for sentences that can include a period of probation supervision following a period of incarceration. With the addition of a licensed social worker to the staff, the Office of the Public Defender will prepare needs-assessments for these clients that will facilitate appropriate case resolutions that address the specific reentry needs of the individual client. Identifying these needs at the pre-disposition stage will increase the chances that the individual

will succeed on probation and avoid re-offending. This information will be provided to Probation as appropriate to assist with post-release planning.

A related component of successful reentry for AB 109 offenders is Clean Slate assistance. Clean Slate is recognized as an important and effective step in removing barriers to employment for former offenders who have completed their probation terms and are acciding to reenter society. Under the new sentencing scheme, it is anticipated that more clients will be eligible for clean slate expungements pursuant to Penal Code section 1203.4. Beginning February 1, 2012 the Office will help AB 109 offenders prepare and file the appropriate paperwork in court to have their records cleared. This assistance is expected to facilitate former offenders' efforts to find employment and housing, reduce recidivism, and improve public safety.

SUPERIOR COURT

Under AB 117, a budget trailer bill accompanying the 2011 Budget Act, the Superior Court's role in criminal realignment previously outlined under AB 109 has been substantially narrowed to handle only the final revocation process for offenders who violate their terms or conditions or post-release community supervision or parole. The Court will assume responsibility for post-release community supervision revocation hearings beginning October 1, 2011. AB 117 also delays the Court's role in revocation proceedings for persons under state parole supervision and serious violent parole violations until July 1, 2013.

COMMUNITY CORRECTIONS PARTNERSHIP COLLABORATIVE OFFENDER ORIENTATION MEETINGS

Staff members from each of the CCP agencies will participate in required orientations for AB 109 offenders as they return to the community from state prisons or county jail. These presentations will allow CCP agencies and community-based organizations to share information on the array of housing, mental health, substance use prevention, employment development, transportation, and other services available within Contra Costa County to offenders. The orientations will also provide an opportunity for District Attendey, Probation, Public Defender, Sheriff's Office, and local police, to share the possible consequences for law violations.

PERIODIC COMMUNITY CORRECTIONS PARTNERSHIP MEETINGS

The Contra Costs County CCP will meet monthly throughout the first nine months of the AB 109 Implementation to make adjustments to this Implementation Plan and allocation of funding based upon unfolding circumstances and conditions. The Committee is particularly concerned about the accuracy of initial estimates regarding client populations, the accuracy of the initial costs estimates, management information system development, receptiveness to offered services, over-all outcomes, and quality of life for AB 109 offenders.

Proposed Outcomes

Contra Costa County justice stakeholders – the community, Sheriff's Office, Probation, the Superior Court, the Public Defender, District Attorney's Office, and Health Services – are committed to reducing recidivism and increasing public safety. This Realignment Plan seeks to further these goals by:

- Managing the additional responsibilities resulting from AB 109.
- Implementing a system that protects public safety and utilizes best practices in recidivism reduction.
- Developing a system that uses alternatives to pre-trial and post-conviction incarceration where appropriate.

To gauge effectiveness, the Community Corrections Partnership will gather outcome data likely to include:

- · Feedback from CCP partners on the effectiveness of the Realignment Plan
 - Strengths of the local realignment
 - . Challenges to the local realignment
 - Recommendations to enhance local realignment
- Recidivism outcomes for AB 109 clients
 - Number of arrests for technical violations
 - Number of arrests for new law violations
 - Number of convictions for technical violations
 - Number of convictions for new law violations
 - Number of flash incarcerations
 - Number of days detained in jail for flash incarcerations
 - Number of county jail sentences for new law violations
 - Number of days sentenced in county jail for new law violations
 - Number of probation revocations
 - Number of clients completing probation
 - Number of clients sentenced to state prison
- Quality of life outcomes for AB 109 clients
 - Number and percent of clients maintaining sobriety as evidenced by urinalysis test results
 - Number and percent of clients with appropriate housing
 - Number and percent of clients working (full-time)
 - Number and percent of clients working (part-time)
 - Number and percent of clients enrolled in MediCal
 - Number and percent of clients completing Clean Slate

ATTACHMENT 7



County Department, Division, and Program Impacts (FY 16/17)

Public Safety Realignment shifted the responsibility of housing and supervising certain individuals incarcerated for lower-level offenses from the state to the County, and also required that the County use AB 109 funding towards building partnerships between County departments, divisions, and programs to provide coordinated and evidence-based supervision of, and services for, the AB 109 reentry population. The sections below summarize how AB 109 has impacted County departments, divisions, and programs by highlighting the volume and types of supervision and services provided to the AB 109 population across the County.

Behavioral Health Services

Table 1: Funding Allocation for BHS

Program Expenditure	FY 15/16	FY 16/17
Staff	\$ 1,011,070	\$ 1,092,651
Operating	\$ 903,646	\$ 1,150,781
Total	\$ 1,914,716	\$ 2,243,433

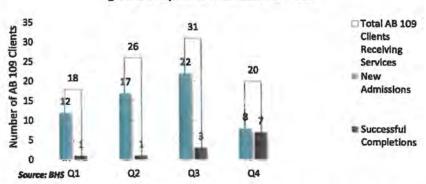
The BHS Division combines Alcohol and Other Drugs Services ("AODS"), the Homeless Program, Forensic Mental Health Services, and Public Benefits into an integrated system of care. BHS partners with clients, families, and community-based organizations to provide services to the AB 109 population. While BHS provided services for the reentry population prior to the start of AB 109, Realignment resulted in an increased focus on and funding for serving these clients. The sections below demonstrate the number of AB 109 individuals receiving services from each department, division, and program over the course of the 2016/17 fiscal year.

Alcohol and Other Drugs Division

The AODS division of BHS operates a community-based continuum of substance abuse treatment services to meet the level of care needs for each AB 109 client referred. As shown in Figure 1, AODS provided outpatient services to an increasing number of AB 109 clients throughout the first three quarters of FY 16/17. During the entire FY, 59 clients were admitted to outpatient treatment and 12 successfully completed outpatient treatment services.

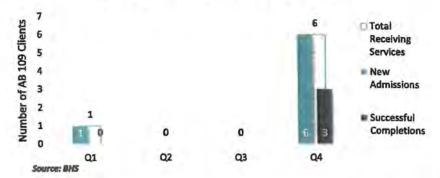


Figure 1: Outpatient Treatment Services



For AB 109 clients in need of acute withdrawal services, AODS provides residential detoxification treatment. During FY 16/17. AODS providers admitted 7 AB 109 clients to residential detox. As shown in Figure 2, 3 clients successfully completed residential detox during that year.

Figure 2: Residential Detoxification Services



AODS also provides residential substance abuse treatment to clients on AB 109 supervision. As shown in Figure 3, AODS provided residential treatment services to an increasing number of AB 109 clients for the first three quarters of the year. During FY 16/17 the County admitted 84 AB 109 clients to residential treatment, and 34 clients successfully completed residential services. Additionally, the number of clients completing services increased in the fourth quarter.



Q1

Total
Receiving
Services

New
Admissions

Successful
Completions

Q3

Figure 3: Residential Treatment Services

Homeless Program

In FY 16/17, the County's Homeless Program² served 15 AB 109 individuals in the first quarter, 10 in the second, 9 in the third, and 10 in the fourth, as shown in Figure 4.

Q2

Figure 4: AB 109 Individuals provided Homeless Services

The total number of bed-nights utilized by the AB 109 population are provided in Figure 5 below, which shows 1,615 bed-nights were utilized both in and out of the county during the fiscal year.

² Although the County's Homeless Program is listed in the Behavioral Health Services section of this report, please note that Homeless Services are actually provided through the Homeless Program's association with the Health, Housing, and Homeless Services Division.



500 441 Number of bed-nights 416 391 **Outside County** 367 ■ West 250 Central ■ East 0 Q1 Q2 Q3 Source: BHS

Figure 5: Total bed-nights utilized by AB 109 population

Mental Health Division

Forensics Mental Health collaborates with Probation to support successful community reintegration of individuals with co-occurring mental health and substance related disorders. Services include assessment, groups and community case management. As indicated in Figure 6, Probation referred 189 AB 109 clients to Fornesic Mental Health services, of whom 116 received mental health screenings, and from which 78 opened services.

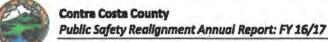
Number of AB 109 Clients 67 □ Service 70 Referrals 60 29 44 50 2338 40 Screenings 30 20 10 Services Opened Q1 Source: BHS

Figure 6: Clients referred to, screened for, and received Forensic Mental Health services

Public Benefits

BHS also assists AB 109 clients with applying for public benefits, including Medi-Cal, General Assistance, CalFresh, and Social Security Disability Income/Supplemental Security Income ("SSDI/SSI"). Figure 7 displays the number of AB 109 clients assisted with applications for Medi-Cal in FY 16-17, and the number of applications approved by the State.





Participated in 2 modules	10	11	17	
Participated in 3 modules	. 4	11	15	
Participated in 0 modules	0	12	2	
Completed 1 module	6	10	16	
Completed 2 modules	6	9	15	
Completed 3 modules	4	9	13	
Completed Auto Training Program		14	4	
Completions				
Total participants no longer in program due to court or criminal involvement	1	1	2	
Total participants no longer in program due to lack of engagement	2	1	3	
Other reasons:			12	
Needs could not be met	0	12	2	
Death	0	1	1	

Mz. Shirliz Transitional

Mz. Shiriiz Transitional provides clean and sober transitional housing and support services to formerly incarcerated individuals. Support services include mentoring, weekly house meetings, and connections to local organizations for other needed services. Clients are required to attend NA/AA meetings through NA and AA a minimum of 3 times per week. Most clients arrive at Mz. Shiriiz employed or working with partner agencies to find employment. Mz. Shiriiz received \$150,000 out of the Network's \$820,000 budget to provide these services.

Table 18: Mz. Shirliz Transitional: Program-Specific Outcomes

Mz. Shirliz Transitional	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Referred to services	25	16	41
Enrolled in services	6	8	14
Assessed pre-release for post-release service needs	0	0	0
Provided a service provision plan	0	0	O
Received housing counseling	4	3	7
Received rent payment assistance	0	0	0
Received rental deposit assistance	0	0	0
Received utility payment assistance	O	0	0
Moved in to transitional housing	6	10	16
Received transportation assistance	0	0	0
Received credit counseling	0	0	0
Received legal services	0	0	0
Received job finding assistance	0	0	0
Received case/care management	0	0	4 - 4 - 1
Received clothing support	1	0	1
Received court support	0	0	Ō
Attended recovery meetings	6	8	14





Contra Costa County Public Safety Realignment Annual Report: FY 16/17

Total participants no longer in program due to failure to meet program requirements Total participants no longer in program due to court or criminal involvement Total participants no longer in program due to lack of engagement Total participants no longer in program due to absconding Total participants no longer in program due to relocation or case		
Involvement Total participants no longer in program due to lack of engagement Total participants no longer in program due to absconding 0	3	4
Total participants no longer in program due to absconding 0	0	0
	0	0
Total particlements as langua in program due to relegation or see	0	0
transfer	0	0
Successfully completed the program 1	0	1
Other reasons:		
Probation revoked 0	0	0
Needs could not be met 0	0	0
Disagreement with rules/persons 0	0	0
Death 0	0	0
Other 0		

Men and Women of Purpose

Men and Women of Purpose ("MWP") provides employment and education lialson services for the County jail facilities, for which the program facilitates employment and education workshops every month at the County's jails and works with Mentor/Navigators to assist the workshop participants with the documentation required to apply for employment, education, and other post-release activities. MWP also provides pre- and post-release mentoring services for West County using the organization's evidence-based program Jail to Community model. The program provides one-on-one mentoring, as well as weekly mentoring groups that focus on employment and recovery. Men and Women of Purpose received \$50,000 out of the Network's \$820,000 budget to provide these services.

Table 19. Men and Women of Purpose: Program-Specific Outcomes

MWP	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Referred to Men and Women of Purpose (Employment and Placement Services)	35	80	115
Participated in workshops	34	49	83
Enrolled pre-release	36	27	63
Enrolled post-release	27	38	65
Learned of program through pre-release workshop attendance	32	60	92
Assessed pre-release for post-release service needs	65	54	119
Provided Service Provision Plan	45	53	98
Obtained documents successfully:	59	98	157
Birth certificate	13	5	18
California ID	28	69	97
Social Security Card	22	30	52
California Driver's License	51	108	159





SHELTER Inc.

SHELTER, Inc. operates the County's AB 109 Short and Long-term Housing Access Program. This program assists incarcerated and formerly incarcerated persons who are referred to them under the AB 109 Community Programs to secure and maintain stabilized residential accommodations. Shelter, Inc. provides a two-phased approach to clients seeking housing assistance. Before the program refers clients to the Housing Services section, the staff conducts social service assessments/intake procedures to ensure that clients will have success. The program places the majority of their clients into transitional housing situations (such as room or apartment shares) to allow them time to develop the resources for stable housing.

Table 25: SHELTER, Inc.: Program-Specific Outcomes

SHELTER, Inc.	Number of AB 109 Clients
Referred to services	277
Enrolled in services	104
Provided a service provision plan	104
Completions	
Total participants no longer in program due to fallure to meet program requirements	10
Total participants no longer in program due to court or criminal involvement	1
Total participants no longer in program due to lack of engagement	4
Total participants no longer in program due to absconding	0
Total participants no longer in program due to relocation or case transfer	0
Successfully completed the program	8

Reach - Housing

REACH Housing provides housing placement services to formerly incarcerated women at their Naomi House facility. Additional services include support groups, employing training, anger management, and parenting classes. REACH Housing also partners with other local county homeless agencies to provide additional housing opportunities to their cliental. REACH housing provided no services to AB 109 clients in FY 16/17.

Table 26: Reach Fellowship: Program-Specific Outcomes (Housing Services)

Reach Fellowship	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Reach Fellowship Referred to services Enrolled in services Participated in workshops Enrolled pre-release	0	10	10
Enrolled in services	0	7	7
Participated in workshops	0	6	6
Enrolled pre-release	0	5	5





Looking Ahead

Contra Costa County has responded to Public Safety Realignment in a manner that has allowed the County to provide supervision and services to the AB 109 population, while building a collaborative reentry infrastructure to support the reentry population's successful reintegration into the community. The County has followed best practice models in establishing access to services through the West County Reentry Success Center's "one-stop" model and the Central & East Network Reentry System's "no wrong door" approach. The launch of the Office of Reentry and Justice (ORJ) in January 2017 is evidence that the County sees its Public Safety Realignment, reentry, and Justice work as a high priority.

In FY 17/18, the County will undertake a comprehensive planning process to develop a Reentry Strategic Plan to guide the County's reentry system as a whole, including but not limited to AB 109-funded services. As the County has continued to implement Public Safety Realignment, the need for an inclusive reentry system that provides access to individuals regardless of their AB 109 status has become apparent, with the County granting approval to expand access to AB 109-funded services to any returning resident. The five-year strategic plan will begin with a needs assessment to identify key strengths and needs in the reentry system. This needs assessment will build on recommendations born from AB 109 evaluations over previous years. The County will then engage stakeholders in defining priority areas, goals, and strategies to address gaps and needs in the reentry system. The Reentry Strategic Plan will serve as the County's guiding document for reentry programs and services for 2018-2023.



ATTACHMENT 8

Office of Reentry and Justice

The Office of Reentry and Justice was officially launched in January 2017 as a 2.5 year pilot project of the County Administrator's Office to align and advance the County's public safety realignment, reentry, and justice programs and initiatives; it is primarily funded by AB 109 Public Safety Realignment revenues from the state. It has oversigh of the Youth Justice Initiative, the development of the countywide Ceasefire Program, the Racial Justice Task Force and the AB 109 Community Programs.

The scope and responsibilities of the ORJ include:

- · coordinating a broad array of reentry, public safety realignment, and justice-related services;
- facilitating collaborative efforts around policy development, operational practices and supportive services;
- advancing knowledge of relevant issues, research and best-practices in the fields of reentry, public safety realignment, and justice;
- · fostering capacity-building and partnership development;
- · leading the procurement process and contract management for community-based reentry service providers;
- . Identifying and developing new initiatives and funding opportunities to support the work;
- supporting legislative advocacy;
- · managing data and evaluation of funded services; and
- · conducting public outreach, information sharing and community engagement.

Contact Us

Sr. Deputy County Administrator, Director of ORJ Email

1122 Escobar Stree Martinez, CA 9455:

Ph: 925-335-1097

Hours 8 a.m. - 5 p.m. Monday - Friday

ORJ Calendar

Mon, Jul 9 CCP
Community
Advisory Board Outreach and
Community
Engagement
Committee Read
On

Thu, Jul 12 <u>CCP</u> <u>Community</u> <u>Advisory Board</u> -

Contra Costa County Community Corrections Partnership 2018/19 AB109 Budget Proposal Form

Department: Behavioral Health Division

Description of Item	Sprougesto / Saymettings		What I set 1		2018/19 Deseline Request ²		2018/19 Progress Modification Request		2018/19 Total Funding Request	
	, rugi any rujiman	Item #	Ourrent Allocation	FIES:	Funding Request	FIES	Funding Request	FIES	Total Funding Request	FTE
SALARY AND BENEFITS			400 000	4.00	****	4.50				
Patient Financial Specialist			133,396	2.00	137,398	1.50			137,398	1.5
Case Managers Horrieless			101,754 185,683	1.00	104,807 190,325	1.00			104,807 190,325	1.0
Registered Nurse Mental Health Clinical Specialists			423,125	3.00	435,819	3.00			435,819	3.0
Community Support Workers			133,185	2.00	137,181	2.00			137,181	2.0
Psychiatrist			58,240	0.20	59,696	0.20			59,696	0.2
Jerk			80,591	1.00	83,009	1.00			83,009	1.0
Evaluators/Planners			43,166	0.30	44,461	0.30			44,461	0.3
Program Supervisors		110	40,200	0.30	41,406	0.30			41,406	0.3
Substance Abuse Counselor			103,994	2.00	107,114	2.00			107,114	2.0
ġ .		Subtotal	1,303,334	13.30	1,343,214	13.30		· 100	\$ 1,341,214	13,3
OPERATING COSTS			3						- 9	
Apmeless Shelter Beds			100,000		100,000 :		1		100,000	
transitional Housing (AODS)			133,488 : 446,996 :		133,488 446,996 :				133,488 446,996	
tesidential Drug Facility (AODS) Dutpatient (AODS)			130,071		130.071		3		130,071	
ab & Pharmacy			127,379		127,379		3		127,379	
Viental Health Services							3		- 3	
Deputy Sheriff			47,000		49,350		1		49,350	
/ehide Operating (ISF Fee)			22,448		22,448		1		22,448	
ravel Expenses			10,200		10,200		3	******	10,200	
Decupancy Costs			58,752		58,752		3		58,752	
	1	Subtotal	1,076,334	*****	1,074,684	*****			\$ 1,078,634	
CAPITAL COSTS (ONE-TIME)		1.00	3		3		3		1.3	
e.g. Vehicle Purchases (2)					3		4		18	
		Subtotal		80000	1-0	20000000				000000

^{1.} FY 2018/19 Status Quo Request reflects the FY 2017/18 Funding Allocation.

^{2.} FY 2018/19 Baseline Request should reflect the cost of continuing programs in the FY 2018/19 Status Quo column in 2018/19 dollars.

^{3.} FY 2018/19 Program Modification Request should reflect proposals for the cancellation of existing programs and/or funding of new programs for FY2018/19.

OPERATING COSTS - \$1,029,934

Shelter beds

Ten beds are dedicated for homeless AB109 clients on a first come, first served basis. Shelter services include meals, laundry, case management, healthcare, and other support services.

Recovery Residences (Sober Living Environment)

Four beds are dedicated to AB109 clients who are homeless and have recently graduated from residential or outpatient substance use disorders treatment programs at Uilkema House. Residents may stay for up to 24 months and will receive a variety of self-sufficiency services and recovery supports.

Residential Treatment

Residential Substance Use Disorders (SUD) treatment will be provided for up to 95 clients with an estimated number of 6550 bed days. These services will be provided in the community by Discovery House a county operated program, and through other community-based SUD providers under a contract with Behavioral Health's Alcohol and Other Drug Services. With the Implementation of the Drug Medi-Cal (DMC) Walver, AOD anticipates an increase on the number of clients projected to be served as we transition from current length of stays which are typically 90-days, to a client-centered treatment approach in alignment with the American Society of Addition Medicine (ASAM) Criteria. The ASAM Criteria determines client placement in SUD treatment across levels of care based on individual needs and client's readiness for treatment.

Outpatient Treatment

Outpatient treatment will be available for up to 48 clients. Outpatient services will be provided through community-based SUD providers under a contract with Behavioral Health's Alcohol and Other Drug Services. Outpatient services consist of individual and group counseling sessions. Similar to residential treatment, under the provisions of the DMC Waiver client placement in outpatient services is determined by the ASAM Criteria based on individual needs and client's readiness for treatment. Accordingly, the duration of treatment is driven by medical necessity rather than a fixed length of stay. Outpatient treatment accompanied by Recovery Residences, promote client self-sufficiency, health and recovery.

Contra Costa County Community Corrections Partnership 2018/19 AB109 Budget Proposal Form

Department: Community Advisory Board

Description of Item	CONTRACTED PROVIDER	Ops. Plan	2018/19 Status Quo Allocation ¹		2018/19 Baseline Request ²		2018/19 Program Modification Request ³		2018/19 Total Funding Request		
	SATINGET AND THE REAL PROPERTY.	Item #	Current Allocation	FTES	Funding Request	FTEs	Funding Request	FTEs	1000	al Funding lequest	FTEs
COUNTYWIDE SERVICES											
Employment (West/East)	Rubicon Programs	5.3b	1,100,000	9.30	1,100,000	9.30				1,100,000	9.30
Employment (Central/East)	Goodwill Industries	5.3b	900,000	7.20	900,000	7.20				900,000	7.20
Housing	Shelter Inc.	5.3c	980,000	6.85	980,000	6.85				980,000	6.85
Female Housing (West)	Reach Fellowship International	5.3c	50,000	1.00	50,000	1.00				50,000	1.00
Peer Mentoring	Men and Women of Purpose	5.4a	110,000	2.25	110,000	2.25				110,000	2.25
Family Reunification	Center for Human Development	5.4b	90,000	1.40	90,000	1.40				90,000	1,40
Legal Services	Bay Area Legal Aid	5.4c	150,000	1.80	150,000	1,80				150,000	1.80
One Stops	see below	5.2b	see below	12.13	see below	12.13			se	e below	12,13
CAB Support	Via Office of Reentry & Justice	3.3	7,201		7,201					7,201	
		Subtotal	3,387,201	41.93	3,387,201	41.93			\$	3,387,201	41.93
NETWORK SYSTEM OF SERVICES		5.2b		3//							
Network Management Contracted Services	HealthRIGHT360	3.3, 4.1, 5.1	605,000	6.10	605,000	6.10				605,000	6.10
Sober Living Homes	Mz. Shirliz		150,000	1.80	150,000	1.80		- 1		150,000	1.80
Auto Repair Training	Fast Eddle's Auto Services		65,000	1.20	65,000	1,20				65,000	1.20
Emp. & Ed. Liason (women)	Reach Fellowship International	1 0	15,000	0.25	F. E. IE.	0.25		- 1			0.25
Emp. & Ed. Liason (men)	Men and Women of Purpose		60,000	2.60	60,000	2.60		- 1		60,000	2.60
Transition Planning (women)	Centerforce		45,000	0.75	60,000	0.75				60,000	0.75
		Subtotal	940,000.0	12.70	940,000	12.70	-		\$	940,000	12.70
REENTRY SUCCESS CENTER		5.2b								-	
Operation and Management	Rubicon Programs	3.3, 4.1, 5.1	525,000	2.50	525,000	2.50				525,000	2.50
Connections to Resources	Rubicon Programs		15,000		15,000			\$		15,000	
		Subtotal	540,000	2.50	540,000	2.5	-		-	540,000	2.5
Cost of Living Adjustment					5.70					K- 41	
4% COLA Increase					194,688					194,688	
		Total	\$ 4,867,201	57.13	\$ 5,061,889	57.13	\$ -	-	\$	5,061,889	57.13

^{1.} FY 2018/19 Status Quo Request reflects the FY 2017/18 Funding Allocation.

^{2.} FY 2018/19 Baseline Request should reflect the cost of continuing programs in the FY 2018/19 Status Quo column in 2018/19 dollars.

^{3.} FY 2018/19 Program Modification Request should reflect proposals for the cancellation of existing programs and/or funding of new programs for FY2018/19.

Please provide a narrative describing the Status Quo programming that will be provided with the budget requests identified above.

DEPARTMENT: Community Advisory Board

PROGRAM MARRATIVE:

2018/19 Status Quo Request

CAB continues to recommend that CCP Invest significant funds in community programs to continue development of the local non-profit services sector. The CCP should therefore continue to support community based programs. Funding these programs is consistent with the nationwide effort of justice reinvestment. Staying this course will ensure our communities gain the capacity to provide reentry services with high levels of quality and fidelity, and is the best way to achieve lasting reductions in recidivism and long term enhanced public safety

As CAB submits this 2018/2019 AB109 Budget Request, we have considered the previous budget increase and acknowledge that the funded agencies have only completed a year of programming under their most recent contracts. As part of this status quo budget request, CAB recommends that the CCP Executive Committee fund each of the funded reentry service areas at an amount that is no less than what was allocated for each program during the current fiscal year.

CAB is also aware that last year marked a shift in the recommendation on how to best spend money that was previously spent to develop and support the Reentry Resource Guide. With much consideration, CAB esked that the Network and Center work together to develop a communications strategy that would inform the public about the reentry services available in the community, and direct people to the Center and Network to ensure they are "Conneted to the Resources" they need. Jointly, the two entities pledged to:

- 1) create and circulate quarterly newsletters for the people incarcerated in Contra Costa Detention facilities,
- 2) facilitate countywide community events to inform the reentry population and their families of the services available, and
- 3) recruit voluntaers to engage the public in the reentry work being done in the community.

To date, this collaboration has led to the release of the first edition of the Contra Costa Reentry Voice in August 2017. The second edition is currently in the works, as are efforts to accomplish the other two communications strategies mentioned above. Because this effort is still in its infancy, CAB is recommending continued funding for the joint communications effort between the Network and Center.

The recommended status quo funding amounts are as follows:

Employment Support and Placement Services: \$2,000,000
Housing Services: \$1,030,000
Peer Mentoring: \$110,000
Family Reunification: \$90,000
Civil Legal Services: \$150,000
Network System of Services: \$940,000
Reentry Success Center: \$525,000

Center/Network Joint Communications Strategy \$15,000

2018/19 New Funding Requests

Additional Funding Increase of 4%

The Community Advisory Board (CAB) continues to recommend that CCP invest significant funds in community programs to continue development of the local non-profit services sector. CAB therefore requests a 4% COLA increase in funding for community programs that amounts to \$194,688. Funding these programs is consistent with the netowinde effort of justice reinvestment. Saying this course will ensure our communities gain the capacity to provide reentry services with high levels of quality and fidelity, and is the best way to achieve leading reductions in reciding mental long term enhanced public safety outcomes.

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ATTACHMENT D

ATTACHMENT 10

PLANNING COMMISSION STAFF REPORT

Meeting Date:

May 22, 2018

Item Number:

5.b.

From:

Mindy Gentry

Community Development Director

Subject:

Ordinance to Conditionally Allow Parolee Homes in Multifamily

General Plan Land Use Designations (ZOA-08-16)

Applicant:

City of Clayton

REQUEST

The City of Clayton is requesting a public hearing for the Planning Commission to consider and make a recommendation to the City Council on a City-initiated Ordinance, amending Title 17 - "Zoning" of the Clayton Municipal Code (CMC) for the purpose of conditionally allowing parolee homes in the Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD) General Plan designations (ZOA-02-18) (Attachment A).

PROJECT INFORMATION

Location:

Citywide

Environmental:

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

Public Notice:

On May 10, 2018, a public hearing notice was published in the Contra Costa Times and on May 11, 2018 a public hearing notice was posted at

designated locations in the City.

BACKGROUND

On October 1, 2011, the Public Safety Realignment Act (Assembly Bill 109) went into effect transferring responsibility for supervising specified inmates and parolees from the California Department of Correction and Rehabilitation to counties. The Contra Costa County Board of Supervisors adopted the Contra Costa County Realignment Plan on October 4, 2011. The County's Realignment Plan called for the establishment of community programs for employment support and placement services, mentoring and family reunification services, short and long-term housing access, and civil legal services. Due to the passage and implementation of AB 109, there are concerns regarding the possible increased use of parolee homes for offenders to be released from prison to serve the remainder of their sentence within the community, which could result in a higher number of these facilities within the community.

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The California Department of Correction and Rehabilitation in its 2015 Outcome Evaluation Report — An Examination of Offenders Released in Fiscal Year 2011-2012 (Attachment B) indicates the recidivism rate in Contra Costa County for years one, two, and three following release is 43.4 percent, 46.7 percent, and 48.8 percent respectively. These rates raise public safety concerns regarding the operation or establishment of parolee homes within the City of Clayton and without further review of the facility's operational and management plans and services and staffing plans as well as the establishment of buffers from sensitive uses, it could result in impacts to the community.

On August 5, 2016, the City of Clayton received an email from a non-profit County contractor/grantee searching for a facility where a use permit would not be required in order to operate what they described as a stable living environment/transitional housing program to assist individuals that have been previously incarcerated as part of the Contra Costa Reentry program. Given the Clayton Municipal Code was silent on parolee housing, this prompted the City Council, in compliance with State law (Government Code Section 65858), on October 16, 2016 to adopt an urgency ordinance placing an Interim moratorium on the establishment, construction, and operation of parolee homes. As allowed for by State law, the moratorium was continued twice by the City Council with the last and final moratorium set to expire on October 3, 2018. After having the opportunity to research this issue, City staff is now returning to the Planning Commission with a proposed Ordinance for consideration to appropriately regulate these types of land uses.

DISCUSSION

The proposed Ordinance would allow parolee homes to locate within the multifamily General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density, as identified on the General Plan Map, subject to a conditional use permit as well as the regulations identified in the Ordinance. These land uses are located in various places throughout the City, which are more specifically identified on the General Plan Land Use Map, which is contained in Attachment C to this staff report. In addition to the General Plan designation locations, the parolee homes are only permitted with a conditional use permit in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H). The use permit process is a public hearing process, whereby property owners within a 300-foot radius would be individually notified; a notice would also be placed in a newspaper of general circulation; and a notice would be posted on the City's community posting boards. The use permit application would then be subject to a discretionary review by the City's Planning Commission.

The Ordinance provides clear definitions of what constitutes a parolee home and a parolee. Further, single housekeeping units would not be subjected to the regulations and there are eight criteria as to what constitutes a single housekeeping unit. Namely, the residents need to have established ties and interact with each other; membership of the household is determined by the residents and not the landlord; each adult resident is named on the lease; and residents do not have separate entrances or food-prep and storage areas, amongst others.

Not only have locational requirements been proposed, but also numerous objective standards have also been incorporated into the Ordinance to mitigate or minimize any impacts. A parolee home cannot be located within 300 feet from any school, daycare, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelter, amongst others. It also must not be located within 1,000 feet of another parolee home. As part of the use permit application process, the Ordinance requires additional information such as the client profile, maximum number of occupants, and a management plan.

Lastly, multifamily housing projects with 25 units or less are limited to one parolee housing unit and housing projects with 25 units or more are limited to two parolee housing units. These thresholds would be applicable in apartment and condominium style buildings.

It should be noted, as part of the use permit process, that additional conditions of approval, beyond what is contained in the proposed Ordinance, could be added to mitigate any possible impacts associated with the specific application. These conditions would be considered on a case-by-case basis, which would be determined by the applicant's proposal and the location of the facility.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 03-18, recommending City Council approval of the proposed Ordinance to amend the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density (Attachment A).

ATTACHMENTS

- Planning Commission Resolution No. 03-18, with attachment:
 Exhibit 1 Draft Ordinance Amending Title 17 "Zoning" to Conditionally Allow Parolee Homes in General Plan Multifamily Land Use Designations
- B. 2015 Outcome Evaluation Report An Examination of Offenders Released in Fiscal Year 2011-2012
- C. General Plan Map with Highlighted Multifamily Land Use Designations

ATTACHMENT 11

James Gamble Indicated the following:

- This ordinance is part of Agenda 21.
- Look at other communities in the area where high density housing is being developed around heavy transit areas.

James Jacques indicated that he disagreed with the representative of the Grand Oaks project asking for RCFEs to be exempt from the requirements of AB 1505.

The public hearing was closed.

Commissioner Cloven moved and Vice Chair Altwal seconded a motion to adopt Resolution No. 02-18, recommending City Council approval of an Ordinance amending the City's inclusionary Housing Requirements. The motion passed 4-0.

5.b. ZOA-08-16, Municipal Code Amendment, City of Clayton. A request by the City for the Planning Commission to consider and make a recommendation to the City Council regarding amendments to the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density.

Director Gentry presented the staff report.

Commissioner Gall inquired what would happen after the City's parolee home moratorium expires on October 3, 2018?

Director Gentry responded that, after the parolee home moratorium expires on October 3, 2018, there would be no codified requirements established in the City's Municipal Code to regulate parolee homes which would allow parolee homes to potentially be located anywhere in Clayton.

Commissioner Cloven had the following questions:

- So the City could possibly be in legal Jeopardy if we established a ban on parolee homes? Director Gentry responded "yes."
- So it is in our best interest to establish codified provisions which regulate parolee homes? Director Gentry responded "yes" and added that the City cannot establish regulations that are so prohibitive that, by default, it prevents these types of uses from locating Clayton.
- is my understanding correct that the parolee homes would still have to be reviewed individually before the Planning Commission on a case-by-case basis under the guise of a use permit? Director Gentry responded "yes."
- In the instance that we were to review a use permit for a parolee home, what latitude do we have to require certain thing like a management plan? A management plan is one of the requirements in the draft Ordinance.
- Could we require that there be a person living at the parolee home for supervisory purposes who is not a parolee? That is one possibility that could be considered on a case-by-case basis and included as a condition of approval.

- Are there a maximum number of parolees that can live in a parolee home based on the number bedrooms in that home? Due to a court case out of Southern California, the number of parolees would be dictated by the California Building Code which may include, but not be limited to, such calculations as number of occupants per bedroom and number of occupants on a square footage basis in the rest of the home.
- According to the provisions of the draft Ordinance, in a three-bedroom townhouse theoretically six parolees could live there? Director Gentry responded that was correct.
- If a use permit were conditionally approved for a parolee home, is there a way
 the City could review the parolee home on an annual basis? Director Gentry
 responded that could be included as a condition of approval.
- Is there a fee the City could charge to cover the cost of policing and annual reviews? Director Gentry responded that, beyond costs for staff time in the processing of the use permit and follow-up annual inspections as directed by the use permit conditions of approval, the City would not be able to charge for additional calls for service or strain on the police department because those types of things are already assumed in the property taxes.
- What are single housekeeping units? Director Gentry responded that an
 example of single housekeeping units would be where a parolee owns a living
 unit and invites a friend who is a parolee to live in the home. The regulation of
 these types of households could tread into questionable legal territory in
 regards to what defines a housing unit and how the government wants to define
 family.
- So, theoretically, a single family dwelling unit could be considered as a single housekeeping unit? Director Gentry indicated that was correct and, in addition, a multifamily dwelling unit could also be considered as a single housekeeping unit.
- Of the rules and criteria related to parolee housing, one item was that
 membership is determined by the residents of the parolee home and not by a
 management company so, if the residents were all parolees, they could choose
 which parolee could live with them in the parolee home, correct? Director
 Gentry responded that was correct.

Vice Chair Altwal had the following questions:

- Is the City being required by the State to pass this Ordinance? Director Gentry
 responded that the City is not being required by the State to pass this
 Ordinance. Rather, this is a preemptive recommendation of staff and in
 response to AB 109 in order to prevent parolee homes from locating anywhere
 in Clayton and to allow the City some control over where they are located.
- If the City does not pass this Ordinance, the parolee home could locate anywhere in the Clayton that they want to and we would not have any control over the parolee home? Director Gentry indicated that was correct as the parolee home would then be considered as a typical residential unit and the parolee home could locate anywhere in Clayton without any regulations and without any public hearings process, resulting in the City relinquishing all control over parolee homes.

- Only federal crime parolees can live in the parolee home? Director Gentry
 responded that all parolees would be allowed to live in the parolee home, based
 on the definition of a parolee as contained in the draft Ordinance that has a
 large umbrella definition that encompasses essentially anyone that is on parole.
- Can the City limit the type of parolees living in the parolee home, for instance
 prohibiting sex offender parolees as opposed to petty theft parolees? Director
 Gentry responded that she would defer to legal counsel, Heather Lee, a
 representative from the City Attorney's Office.

Ms. Lee responded that the City prohibiting a particular class of people would run the risk of legal challenge and could result in the ensuing court case being a test case for this issue.

Director Gentry indicated that this draft Ordinance is an attempt by staff to be proactive as a result of the City receiving an inquiry regarding this issue. So, rather than allowing parolee homes to locate within Clayton without the community's consideration, the intent of the draft Ordinance is that, in the instance that there is a County program seeking to locate a parole home in Clayton, then at least the City would have a say in where the parolee home is located, how the parolee home can operate, and ensuring that the parolee home is subject to a public hearing process. Staff is hoping that the draft Ordinance will be preemptive and will enable the City to have control over where parolees get housed and how they get housed.

Vice Chair Altwal had the following questions:

- How would this Ordinance stop a parolee home from being located anywhere in Clayton? Director Gentry responded that the Ordinance would prevent a County re-entry program contractor from renting a home without a public hearing and without being subject to location controls; however, the Ordinance would not prevent a situation where someone owns a home and invites family members or friends who are parolees to move into the home.
- Regarding the radius area around a parolee home, can we increase the unit of radius area measurement from a foot to a yard? Director Gentry indicated that, increasing the buffer area from feet to yards would raise the legal questionability of the Ordinance as this would affect the numbers of possible parolee home locations available in Clayton. Legal counsel has indicated a minimum of three to four available locations would be legally defensible and increasing the unit of measurement would reduce the number of locations available and would, by exclusion, essentially be a Citywide ban of parolee homes.
- So a ban on parolee homes constitutes discrimination? Director Gentry said that was correct.

Chair Wolfe Inquired what would happen if the City established a ban on parolee homes? Director Gentry responded that, if the City banned parolee homes, it would open the City up to discrimination lawsuits.

Commissioner Gall inquired that, if a parolee has family living in Clayton, could they just move into the family home? Director Gentry explained that this Ordinance would address parolee homes that would be established as part of the County's re-entry program.

The public hearing was opened.

Mike Clifton indicated the following:

- Clayton is too small to manage parolee homes.
- Catering to parolees is not in the City's best interest.
- Allowing them to use multifamily units, which, are more affordable, make Clayton more attractive to parolees.
- We should only allow them to use single-family residential housing units, which are more expensive, and may be a way to discourage parolee homes from locating within Clayton.
- This Ordinance makes it appear to the County that we are inviting parolees to move to Clayton.

Chair Wolfe had the following comment and question:

- It would appear that if the City does not pass some sort of regulations, we would be in a difficult situation.
- What do we know about the number of parolees in Clayton? Director Gentry
 indicated that, according to County statistics which take into consideration the
 entire zip code of 94517 which is a much larger area than the City of Clayton,
 there are 20 parolees who consist of 9 adults and 11 juveniles.

Sarah Riley indicated the following:

- I have been a police officer in Oakland for 16 years.
- I moved out to Brentwood to avoid running into parolees who were people I arrested in a grocery store.
- I then moved to Clayton to get out of Brentwood and after Brentwood allowed parolees to move in, then my home was burglarized.
- These parolees are arrested for violent offenses and then, when they moved into parolee homes, their offenses are represented as something more benign than they actually area.

James Jacques indicated the following:

- I am also a police officer.
- Clayton is very attractive since it is a safe community.
- Children in Clayton commonly walk home from school. As a result, the 300-foot radius is not a large enough distance to provide safety for our children.
- We should not only be concerned with one parolee, but instead we should be concerned with a whole group of parolees living together. Birds of a feather flock together, so we want to avoid inviting a criminal element into Clayton where whole groups of parolees are living together.
- The City should do nothing right now, and wait for the lawsuit to come.

Vice Chair Altwal confirmed that, if the City does nothing, it is not the lawsuit that concerns us but rather the fact that parolee homes could be potentially located anywhere in Clayton, correct? Director Gentry indicated that was correct.

Colleen Van Outrive Indicated the following:

- What has stopped parolee homes from coming into Clayton thus far?
- Clayton is only 5 square miles in area. Allowing 6 parolee homes in Clayton would be an average of more than one parolee home per square mile.
- I ask that the Planning Commission make it as difficult as possible for parolee homes to move into Clayton.

Chair Wolfe inquired if the email the City received regarding parolee homes was sent just to the City of Clayton. Director Gentry responded that the email was sent out to many more jurisdictions than just Clayton. As a result of the email, staff thought it prudent to establish some sort of regulations in order to make it more restrictive for parolee homes to locate within Clayton. This arose from the County re-entry program, which was established by the County in October 2011 due to the United States Supreme Court upholding the State of California Court ruling mandating that California reduce its prison population.

Chair Altwal inquired If the City can extend the moratorium beyond the expiration date in October 2018? Director Gentry responded that, no the City cannot extend the moratorium more than three times, and the City's third extension will expire in October 2018.

Commissioner Cloven asked if any other cities in the County have parolee home regulations? Director Gentry responded that Pleasant Hill, Antioch, and Oakley have established regulations for parolee homes.

Chair Wolfe Inquired if there is a legal notification system for a parolee being released into our community? Director Gentry responded that there currently is no legal notification system.

Kathy Benge indicated the following:

- She is opposed to the draft Ordinance.
- Her neighbor could not make it to the meeting tonight and her neighbor wanted to pass along her concerns related to an increase in crime that may occur as a result of parolee homes being established in Clayton.
- Could we locate a parolee home out on Marsh Creek Road?

Director Gentry Indicated that the Marsh Creek Road area is located in the unincorporated Contra Costa County area, outside of Clayton, and would be under the County's jurisdiction.

Matt Foley indicated the following:

- Been in law enforcement for 15 years.
- To respond to Commissioner Cloven's comment about school teachers living in affordable housing units, I have met many occupants of Section 8 houses and, not once, have I met a school teacher living in them.
- The City is not being exclusionary since parolees can already locate within the City.

- Governor Jerry Brown has a parolee release rate of 87% for parolees that have committed serious crimes, in some case these parolees are lifers. In the past these criminals would not have been released. To compare, former Governor Arnold Schwarzenegger only had a parolee release rate of 27%.
- These parolee are cloaked are lesser offenders when in fact they are animals that have committed serious crimes.
- The City should establish another level of approval so the County cannot so easily establish these types of homes within Clayton.
- Would a business license be required for a parolee homes.

Director Gentry responded with the following comments:

- The radius distances for buffering purposes were proposed by City staff to prevent parolee homes from establishing near schools, parks, and other sensitive-use areas.
- The purpose of this Ordinance is to establish another level of approval that
 would give the community the opportunity to review parolee homes and
 provide feedback to the Planning Commission regarding whether or not the use
 is acceptable in the location it is proposed.
- Yes, the parolee home would be required to obtain a City business license.

Chair Wolfe asked what the City Attorney's office thinks of possible legal challenges staff's proposed buffer zones? Ms. Lee responded that staff has worked with legal counsel to develop a defensible way of identifying buffers and an appropriate number of locations to provide a reasonable set of regulations that could be legally defensible.

Maria Arvizu Indicated the following:

- This is our community and we should be able to dictate what does and does not happen here.
- We should establish something like Megan's Law.
- We should be able to list parolees in a database who are moving to Clayton and have their pictures and the crimes they committed.
- Parolee homes should not be located in Clayton.
- A curfew should be placed on parolees living in Clayton.

Vice Chair Altwal inquired if there is a way to establish a curfew for parolees living in Clayton? Ms. Lee responded that, as with any land use regulation, we have to have a rational, legal basis for establishing a curfew which we may not have the authority to do given the State's laws superseding our own. We are talking about land use regulations and restrictions on property use. Some of these parolee home-related concerns are a police matter and do not fall under the purview of the Planning Commission.

Brain Fitzgerald Indicated that the City should have each parolee home apply on a caseby-case basis which would allow us to deny the parolee home. Commissioner Cloven Inquired what are the Planning Commission's options regarding the requirements of a land use permit? Director Gentry responded that the Planning Commission would review any possible impacts to the surrounding community as it pertains to public health and safety and, based on that analysis, the Planning Commission would have make certain findings in order to deny a use permit. The Planning Commission would, as part of the use permit process, have the ability to regulate hours of operation, parking, traffic, and other such typical land use consideration that would be associated with a proposed development.

Commissioner Cloven Indicated that is it incumbent upon us to be as restrictive as possible in order to protect the safety of our community.

Director Gentry Indicated that staff's discussion with legal counsel included creating a set of regulations in the Municipal Code that would be as restrictive as possible but still be within the confines of the law.

Fiona Hughes Indicated the following:

- Since the email was sent to other jurisdictions, it would seem like the sender of the email is fishing for easy communities to establish parolee homes in.
- We should respond to the sender of the email that Clayton is not a viable location for parolee homes.
- We do not want to end up flagging our City as a parolee destination.

Director Gentry indicated that the sender of the email has not expressed further interest in locating parolee homes in Clayton.

Vice Chair Altwal inquired if the City's business license process would be another way to regulate parolee homes? Director Gentry indicated that the City's business license process is merely a taxation mechanism and would not be an option for regulating parolee homes.

Kristin Moore indicated the following:

- Only three communities in Contra Costa County have mandated zones for parolees.
- All the other communities in Contra Costa County have not taken a stance on parolee homes, so why should we?
- There are four locations identified for parolee homes in Clayton that are in close proximity to our schools.
- It is as if we are putting a target on our back and our children's backs to invite parolees into town.
- It is mind boggling that we are even considering this.

David Thys indicated the following:

- I have spent a career in law enforcement.
- I understand where the City is coming from regarding legal challenges.
- I think the citizens of Clayton would welcome a challenge.

Chair Wolfe asked what the City of Antioch has established as a buffer zone for parolee homes? Director Gentry responded that the City of Antioch would not be applicable in this case since they have required that parolee homes be located in industrial districts and there are no industrial districts in Clayton.

Paul Henshaw expressed concerns that the buffer zone around a parolee home could prohibit the establishment of a pre-school.

Catherine Harrell indicated the following:

- Part of why we live in Clayton is because we have a safe community.
- I disagree with parolee homes being located within 300 feet of schools. We should increase the buffer distance.
- We should not put parolee rights above the safety of our children. Our children should come first.

Marci Longchamps indicated that we should not be one of the first cities to participate in this program.

John Kranci Indicated the following:

- I am a retired police officer.
- I support increasing the buffer distance.

Chair Wolfe inquired what would a legal challenge cost the City? Director Gentry said, depending on the nature of the lawsuit, the fiscal impact could range from the tens of thousands to the hundreds of thousands.

James Gamble indicated the following:

- This item should not be on the agenda.
- What is attractive about establishing parolee homes in Clayton when Concord has many other zoning options such as industrial districts.
- This is a social justice entity pushing for parolee homes.

Wendy Laughlin indicated the following:

- Parolee homes would impact in-home day cares which are needed.
- It is a privilege to live in Clayton.
- It is not fair that parents have to work hard to afford their homes in Clayton while parolees can just move in easily.

Alisa Bowron Indicated that she is in opposition to the draft Ordinance since the City Council will not have a level of control over parolee homes.

Director Gentry indicated that, without the establishment of an Ordinance, parolee homes could potentially locate anywhere whereas, with the establishment of an Ordinance, the City would have control over the location of parolee homes, have the ability to regulate them, and subject them to a public hearing process.

Maria Arvizu, representing her husband Victor Arvizu, indicated that parolees moving to Clayton should be subject to some sort of registration process.

Director Gentry Indicated that, currently, an individual who is a parolee could theoretically be located anywhere in Clayton. Alternatively, the Ordinance would specifically address the County's re-entry program.

Chuck Blazer indicated the following:

- Staff is way off base with this Ordinance.
- I have seen parolee homes destroy neighborhoods.
- I have concerns with parolee homes contributing to prostitution, drugs, theft, and other crimes.
- We do not want parolees looking at Clayton as an option for moving into.
- Parolee homes increase violence, blight, and crime in general.
- You have heard from your citizens tonight and you should not be making a decision tonight.

Tom Finnegan Indicated the following:

- I think the City should not reply to the email.
- I am in favor of an Ordinance that would double or triple the buffer zone distances and make it next to impossible for parolee homes to move to Clayton.
- We should analyze the impacts parolee homes have as a public nuisance that could lower property values and make them build-only proposals.

Vice Chair Altwal inquired about requiring parolee homes being allowed as build-only projects? Director Gentry responded that requiring parolee homes to be build-only projects would make the parolee homes so cost prohibitive that the City would legally default to being too restrictive.

Frank Gavidia indicated the following:

- We live in a State that ignores the Federal government; why should we cater to the State?
- I do not understand how one email triggered all this staff time and work in preparing the draft Ordinance.
- We should have input from our Police Department.

Ryan (no last name given) indicated the following:

- I love this community.
- I am a police officer and have seen parolee homes destroy communities.
- I would like to know who sent the email.
- We should table this item until we have more information.

Director Gentry indicated that the email is public record and was sent from a program manager representing a transitional housing/stable living environment for persons previously incarcerated and the program manager was looking for jurisdictions to locate in that did not have a use permit process already established.

The public hearing was closed.

Vice Chair Altwal indicated the following:

- I want to thank staff for all their hard work and brining this item to our attention.
- My home in Clayton was burglarized 6 years ago.

- We should not make a decision tonight.
- We should not regulate it until a parolee home attempts to move into Clayton and then we are forced to regulate it.

Commissioner Gall indicated the following:

- I want to thank everyone for being here this evening and would like to express
 to the audience that their concerns are Planning Commission concerns as we
 are also members of this community and we have children and grandchildren.
- We have an obligation to the City Council to make a recommendation.
- We have some time so we should take a closer look at this issue.
- I do not think we should recommend approval right now.

Commissioner Cloven indicated the following:

- I see a need to do something.
- I would not want a parolee home locating next door to my residence and not be able to do anything about it.
- I think it would be good for the City to able to review a land use permit for a
 parolee home and have codified regulations that would require the submittal of
 plans and a management plan.
- I am concerned that we are inviting parolee homes to Clayton but I am also concerned that, without regulations, parolee homes can locate anywhere in our community.
- I think the draft Ordinance needs to be refined and we should take more time to review this issue.

Chair Carl Wolfe Indicated the following:

- My concern is that, if we do not do something today or not do something today, we open the City up to legal challenges.
- I can see there is a definite level of discomfort from the community regarding the draft Ordinance.
- I am not sure we have enough information to make an educated decision on the draft Ordinance.

Vice Chair Altwal moved and Commissioner Cloven seconded a motion to adopt Resolution No. 03-18, recommending City Council denial of an Ordinance amending the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density. The motion passed 4-0.

6. OLD BUSINESS

None.

NEW BUSINESS

None.

ATTACHMENT 12

Mindy Gentry

Subject:

FW: Zoning Inquiry

From: Mz Shirleyz Transitional [mailto:mzshirleyz@gmail.com]
Sent: Friday, August 05, 2016 12:09 PM
To: msikela@ci.clavton.ca.us
Subject: Zoning Inquiry

Good afternoon,

We are a 501 (c) (3) non-profit who operates a SLE/Transitional home and we are looking at re-locating from San Mateo County to your city. We have been awarded a grant from Contra Costa County to assist with the Re-entry Network in helping reduce recidivism. We are writing you to find out the zoning laws around where in your city we would be able to operate our program without having to go through a use permit process.

We are including pertinent information that should help you determine where we would fit into your community and if additional information is needed we are more than happy to provide what you need to make this determination.

Our non-profit has been in business since 2009 and has operated in San Mateo and Santa Clara Counties in both residential and residential/commercial without the requirement of a use permit. We assist people who are in recovery from alcohol and drug use, many that have been previously incarcerated.

- The lessee is usually the non-profit or the Director, Shirley Lamarr (Are the codes different for renting a property versus owning the property?)
- Residents are not listed on the lease due to confidentiality Issues.
- Depending on the size of the property we wish to operate with 6-8 residents of which
 1-2 senior members will be House Managers.
- · Staff is present 24/7 to monitor the house
- Residents share household chores but do not share household expenses.

- Residents are not allowed to bring any personal vehicles with them. Only staff will have vehicles on site.
- We are involved in the communities we reside in and we live together as an extended family.
- The average stay of a resident is 3-6 months. This allows them time to be grounded, obtain a job and move to permanent housing.
- Residents are referred by the Contra Costa County Re-entry Network
- We do not accept pedophiles or persons with previous sex crimes
- · We do not do any AOD services on-site. All services are referred to outside agencies.
- We have always developed and maintained great working relationships with all city and county departments. We have always developed great relationships with our neighbors and our landlords and we have reference letters at our disposal.

We would appreciate an answer as soon as possible as we would like to make this transition as quickly as possible.

If you have any questions please feel free to contact Ann Baldetta, Executive Assistant to the Director at (650) 669-5420 or the Director, Shirley Lamarr at (650) 218-8256.

Thank you for your help

Ann

ATTACHMENT 13

Agenda Date: 10-05-7017

Approved A

Gary A. Name City Manager



STAFF REPORT

TO:

HONORABLE MAYOR AND COUNCIL MEMBERS

FROM:

MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR YOLK

DATE:

OCTOBER 3, 2017

SUBJECT:

ADOPTION OF AN INTERIM URGENCY ORDINANCE EXTENDING

THE PROHIBITION OF THE ESTABLISHMENT, CONSTRUCTION, AND OPERATION OF COMMUNITY SUPERVISION PROGRAMS AND

PAROLEE HOMES (ZOA-08-16)

RECOMMENDATIONS

it is recommended the City Council consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, take the following actions:

- Hold a Public Hearing to consider public comments regarding the proposal to adopt Interim Urgency Ordinance No. 479.
- Motion to have the City Clerk read the interim Urgency Ordinance No. 479 by title and number only and waive further reading; and
- Following the City Clerk's reading, by motion adopt the Interim Urgency Ordinance No. 479 by 4/5ths affirmative vote of the full City Council to continue the prohibition on the establishment, construction, and operation of Community Supervision Programs and parolee homes for an additional one year period (ZOA-08-16) (Attachment 1).

BACKGROUND/DISCUSSION

On November 1, 2016, following a public hearing and pursuant to Government Code Section 65858, the City Council adopted an Interim urgency ordinance (Ordinance No. 469) prohibiting the establishment, construction, and operation of Community

Supervision Programs and parolee homes for a period of forty-five (45) days (Attachment 2).

On December 6, 2016, following a public hearing, the City Council extended the moratorium (Ordinance No. 472) of these uses for a period of ten (10) months and fifteen (15) days to provide staff with additional time to research, analyze, and draft regulations regarding these issues (Attachment 3). Due to the uses associated with the County's Community Supervision Program, including parolee homes, and these uses not being defined within the Clayton Municipal Code, the Council had concerns regarding the potential for negative impacts to public health, safety, and welfare, particularly if there were a dense concentration of parolee homes or service providers or these uses were to be located near sensitive uses such as parks, schools, or day care centers.

DISCUSSION

Ordinance No. 472 is an interim ordinance, which is in effect for ten (10) months and fifteen (15) days and will expire on October 21, 2017. California Government Code Section 65858(a) allows the City of Clayton to adopt an interim urgency ordinance for forty-five (45) days and then may extend the urgency ordinance for ten (10) months and fifteen (15) days with a third extension of up to one year. The additional time, one year, provided by the subject Ordinance, allows the extra time for City staff to research, study, and draft regulations. This is the last extension allowed by State statute and during this final one-year timeframe, staff must conclude its research and analysis, and then draft proposed regulations for both the Planning Commission's and City Council's consideration.

ENVIRONMENTAL

Adoption of the urgency Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the necessary ordinance to address recent state law regarding the Community Supervision Program and parolee homes.

- ATTACHMENTS

 1. Ordinance No. 479 [5 pp.]

 2. Excerpt of the Staff Report and Minutes from the November 1, 2016 City Council Meeting [4]
 - pp.]
 3. Excerpt of the Staff Report and Minutes from the December 6, 2016 City Council Meeting [89]

ORDINANCE NO. 479

AN URGENCY ORDINANCE MAKING FINDINGS AND EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, CONSTRUCTION, AND OPERATION OF PAROLEE HOMES AND COMMUNITY SUPERVISION PROGRAMS FOR A PERIOD OF ONE YEAR

THE CITY COUNCIL City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, Government Code Section 65858 provides that for the purpose of protecting the public safety, health and welfare, a City Council may adopt, without following the procedures otherwise required prior to the adoption of a zoning ordinance, as an urgency measure, an interim ordinance, by a vote of four-fifths (4/5) majority, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City of Clayton ("City") and surrounding communities have seen and experienced an increased interest in the establishment of group homes and community supervision programs for parolees and probationers; and

WHEREAS, this interest is due, in part, to AB 109 and the increased number of parolees, probationers and others subject to post-release supervision. Specifically, the 2015 Outlook Evaluation Report — An Examination of Offenders Released in Fiscal Year 2010-11 Report by the California Department of Corrections and Rehabilitation (CDCR), Indicates the statewide recidivism rate of offenders is 44.6 percent with 80 percent of those offenders returning to prison within the first year of release. The CDCR report indicates the percentage of recidivism after one, two, and three-year periods within Contra Costa County are 43.4, 46.7, and 48.8 respectively; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, due in part to AB 109, the City anticipates receiving requests for the construction, establishment and operation of Community Supervision Programs (as defined below) within the City. However, this use is not defined in the Clayton Municipal Code and applying current commercial zoning regulations may not take into account potential impacts of Community Supervision Programs on the surrounding community such as loitering and

Urgency Ordinance No. 479 Page 2 of 5

increased calls for service and particularly impacts on sensitive uses such as schools and parks; and

WHEREAS, the City has commenced a study of appropriate regulations for these uses, but additional planning and research are necessary before the City can adopt any permanent regulation; and

WHEREAS, any parolee/probationer homes or community supervision programs established prior to the adoption of comprehensive regulations may do so in areas that would be inconsistent with surrounding uses and would be immediately detrimental to the public peace, health, safety, and welfare; and

WHEREAS, should those uses be allowed to proceed, such uses could conflict with, and defeat the purpose of, the proposal to study and adopt new regulations regarding these uses; and

WHEREAS, the City Council at its regularly scheduled meeting on November 1, 2016 adopted Ordinance No. 469, pursuant to California Government Code 65858, establishing a forty-five (45) day moratorium on the establishment and operation of Parolee Homes and Community Supervision Programs; and

WHEREAS, the circumstances and conditions that led to the adoption of Ordinance No. 469 have not been alleviated and continue to create concerns; and

WHEREAS, the City Council at its regularly scheduled meeting on December 6, 2016 adopted Ordinance No. 472, pursuant to California Government Code Section 65858(a), extending the interim urgency moratorium for ten (10) months and fifteen (15) days after meeting the notice requirements pursuant to Government Code Section 65090 and a public hearing has compiled with the public hearing noticing requirements of Government Code Section 65858(a); and

WHEREAS, the circumstances and conditions that led to the adoption of Ordinance No. 469 and 472 have not been alleviated and continue to create concerns; and

WHEREAS, the City has complied with the public hearing noticing requirements of Government Code Section 65858(a) to consider and adopt the time extension of the current moratorium by enactment of Urgency Ordinance No. 479; and

WHEREAS, Government Code Section 65858(a) allows an Interim urgency ordinance to be extended for one year after meeting the notice requirements pursuant to Government Code Section 65090 and a public hearing. NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

<u>Section 1.</u> Recitals and Findings. The above recitals are true and correct and are hereby incorporated into this Ordinance. The Council further finds and determines the staff report for this Ordinance describes the measures taken to alieviate the conditions that led to the adoption of the Ordinance No. 479. This staff report is hereby adopted and approved by the Council as required by Government Code section 65858(d).

Section 2. Moratorium. In accordance with the authority granted to the City Council of Clayton, California, under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use or expansion of an existing use shall be approved or issued by the City for the establishment or operation of a Parolee Home or Community Supervision Program for a period of one year. For purposes of this ordinance, Parolee Home shall be defined as "any residential or commercial building, structure, unit or use, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses between two or more parolees, unrelated by blood, marriage, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee. Parolee Home shall not mean any state-licensed residential care facility."

For purposes herein, Community Supervision Program shall be defined as "any facility, building, structure or location, where an organization, whether private, public, institutions of education, not for-profit, or for-profit, provide re-entry services, excepting housing, to previously incarcerated persons or persons who are attending programs in-lieu of incarceration including, but not limited to: employment support and placement services, peer and mentoring services, and resource centers. Included in this definition are services provided to Parolees."

Parolee shall include probationer, and shall mean any of the following: "(1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term parolee includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be

Urgency Ordinance No. 479 Page 4 of 5

unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be Implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

The City Council finds, under CEQA Guidelines section Section 4. 15061(b)(3), that this Ordinance is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa in accordance with the CEQA Guidelines.

Effective Date and Publication. This Ordinance shall become effective Section 5. immediately upon adoption if adopted by at least a four-fifths vote of the City Council and shall be in effect for one year from the date of adoption. This Ordinance shall be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on the 3rd day of October, 2017, by the following fourfifths affirmative vote:

AYES:

Mayor Diaz, Vice Mayor Haydon, Councilmembers Catalano, Pierce and Shuev.

NOES:

None. None.

ABSENT:

ABSTAIN:

None.

THE CITY COUNCIL OF CLAYTON, CA

ATTEST

Urgency Ordinance No. 479 Page 5 of 5

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

ary A. Napper, City-Manager

I hereby certify that the foregoing Ordinance was duly adopted and passed at a regular public meeting of the City Council held on October 3, 2017.

Jamet Brown, City Clerk

7. PUBLIC HEARINGS

(a) Consider the Introduction and First Reading of Ordinance No. 478 amending Chapter 15.09 of the Clayton Municipal Code to adopt the 2016 California Fire Code with changes, additions and deletions as allowed by State law. (Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting the Contra Costa County Fire Protection District provides fire protection services to the city of Clayton with staff recommending ratification of the District's Fire Code Ordinance providing consistency in the application and enforcement of building and housing standards. Ms. Gentry noted the changes to the fire code included amendments for when automatic sprinkler systems are required for private and charter schools; updated requirements for standby EMS personnel for large events; additions to include the Fire Districts weed abatement program; and updated requirement for fire access roads. Ms. Gentry introduced Mr. Robert Marshall from the Fire District to answer any questions the city council may have.

Mayor Diaz opened the Public Hearing.

Robert Marshall, Fire Marshall, Contra Costa County Fire Protection District, advised a majority of changes made to the 2016 Fire Code have been carried forward from the last update. The standby EMS requirement was made due to the fire department was not an ambulance provider at the time and the language needed to be updated to reflect this change. The automatic sprinkler system requirements were added to private and charter schools greater than 2,000 square feet.

Mayor Diaz then closed the Public Hearing.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 478, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 478 by title and number only.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to approve Ordinance No. 478 for Introduction with findings the adoption will not have a significant adverse effect on the environment and is therefore exempt under CEQA. (Passed; 5-0 vote).

(b) Consider the adoption of Urgency Ordinance No. 479 placing an interim local moratorium on the operation or establishment of parolee homes and community supervision programs within the city of Clayton. (Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting this would extend the moratorium for one (1) year. This would be the last extension allowed by State statute, and would allow staff time to conclude its research and analysis, then draft regulations for both the Planning Commission and City Council to consider. The Ordinance is in repose to AB109 transferring the parolee responsibility from State to local jurisdictions. Staff concerns include the potential for negative impacts to public health, safety and welfare, particularly if there were a dense concentration of parolee

homes or service providers or if these uses were to be located near sensitive uses such as parks or schools. The County's Community Supervision Program, including paroles homes are not defined in the Clayton Municipal Code.

Councilmember Catalano inquired on when it is anticipated for this item to be brought back to City Council?

Ms. Gentry advised this item will be brought back in spring 2018 for City Council consideration.

Mayor Diaz asked if there has been any Interest in anyone wanting to open up a Parolee residence?

Ms. Gentry advised there was one inquiry back in November 2016, however there has not been any other interest or follow up from that provider or any other providers.

Mayor Diaz opened the Public Hearing; no comments were offered. Mayor Diaz then closed the Public Hearing.

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 479, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 479 by title and number only.

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to approve Ordinance No. 479 for introduction with findings the Ordinance is not subject to the California Environmental Quality Act because this activity is not considered to be a project and it can be seen with certainty that it will not have a significant effect or physical change to the environment. (Passed; 5-0 vote).

8. ACTION ITEMS

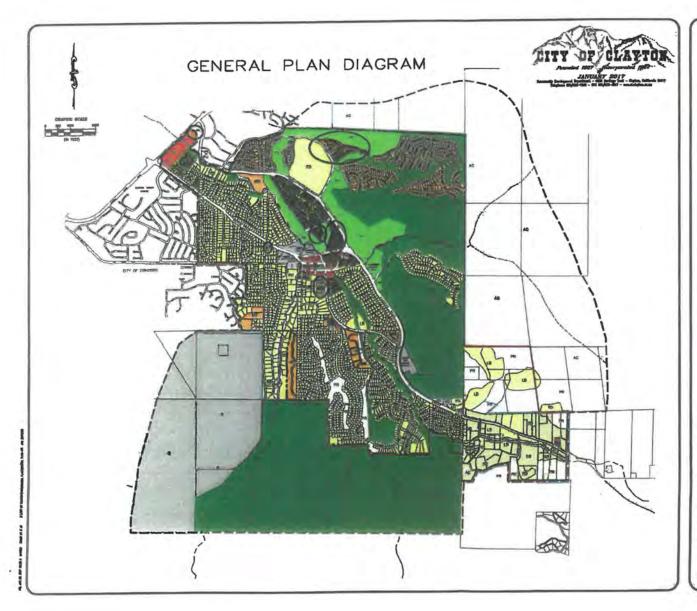
 (a) Policy discussion of encroachments into the public right-of-way and fence locations for exterior side setbacks.
 (Community Development Director)

Community Development Director Mindy Gentry noted in the month of September city staff initiated two code enforcement cases regarding the construction of retaining walls and fencing in the public right-of-way and were constructed without building permits. The right-of-way at 199 Mountaire Parkway is approximately 5 feet 6 inches from the back of the sidewalk; the unpermitted retaining wall that was constructed is approximately 2 feet from the back of the sidewalk and exceeds 36 inches in height, requiring a building permit. A wooden fence was also placed on top of the retaining wall, exceeding the six foot total height requirement, wall plus fence, and the fence does not comply with the setback requirement of 5 feet from the property line.

Ms. Gentry noted the second code enforcement case is located at 401 Wright Court with a violation of a fence located on top of a retaining wall with total height exceeding the six foot height requirement; violation of setback location requirements; the wall and fence are located within the public right-of-way; and was constructed without building permits.

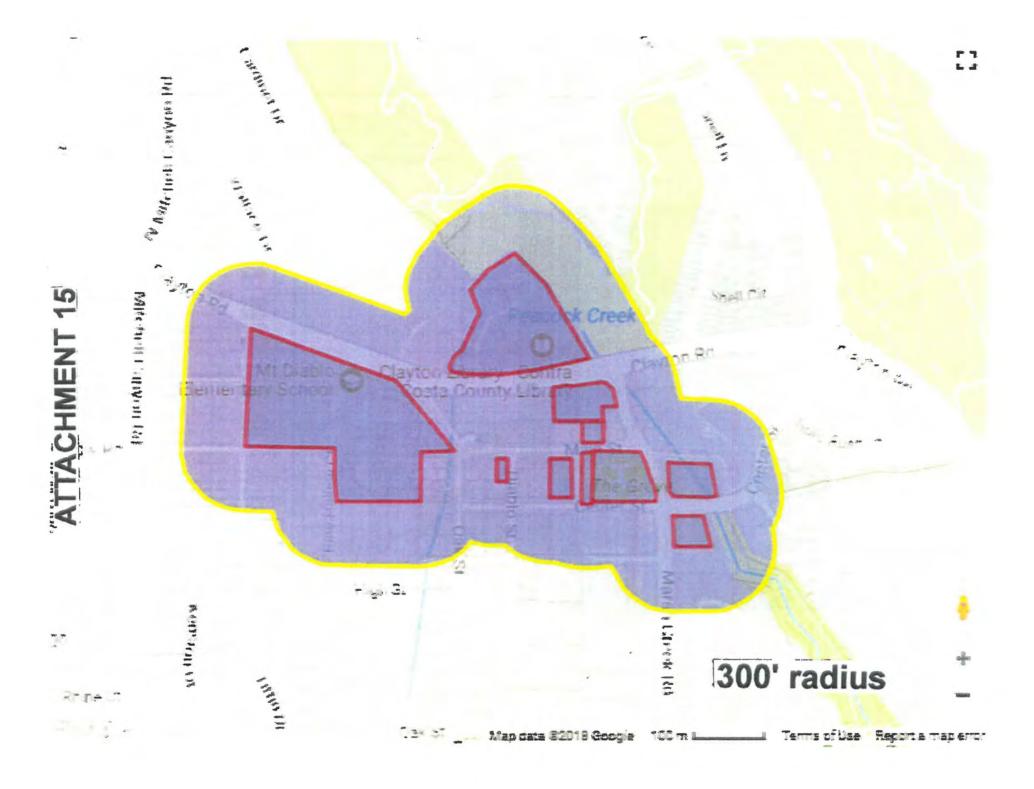
Ms. Gentry noted the components of these two cases have brought to light violations occurring citywide with discussion needed to address encroachments into the public

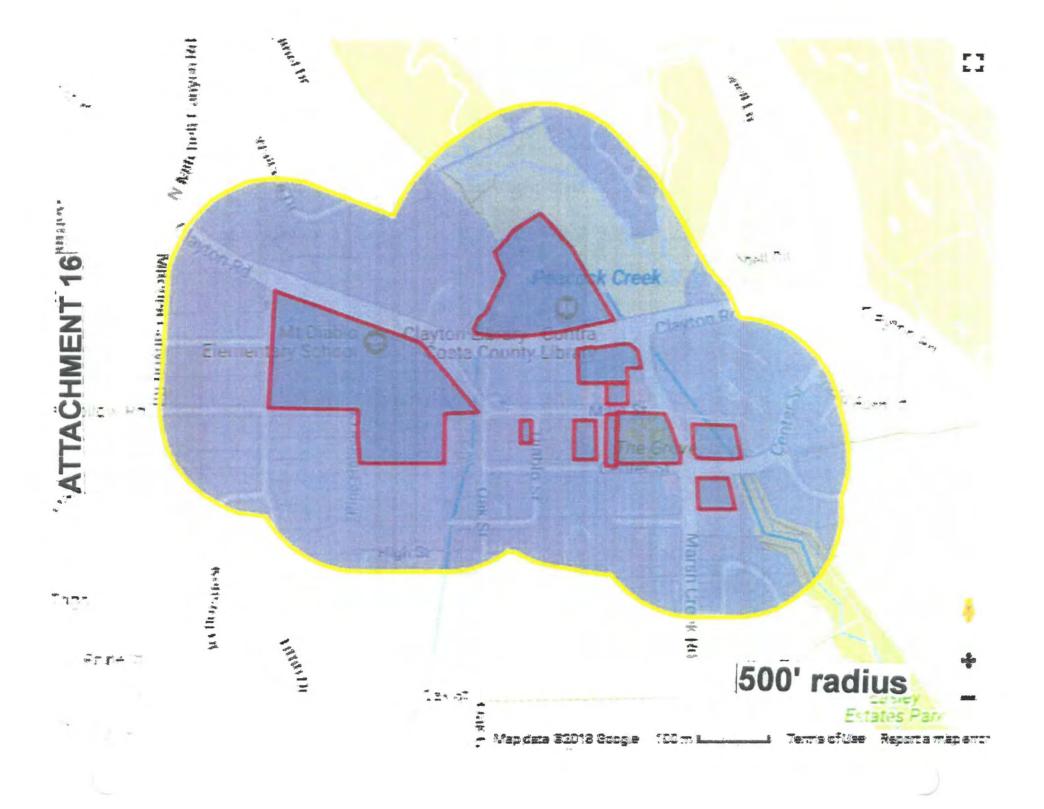
ATTACHMENT 14



	LEGEND	
PD	RESIDENTIAL LINE	TS/GROSS ACRE
0	SHOLE FRIELY LOW BENERY	(1.1 10 3)
90	SMOLE FRANKY MICHIAN DEPOSITY	(3.1 to 8)
-0	SHIELE HARLY HIGH DENSITY	(3.1 10 7.5)
	MAZEFARLY LOW DESIGN	(7.6 10 10)
	MULTIPANTLY MEDIUM DEPOSITY	(10.0 TO 15)
MIL.	PETALWAY HOW DENSILA	(20)
	MEMORIAL DESILA	(7.0 10 20)
_	COMMERCIAL TOWN CONTER	
	HERCER CORRECTOR	
	COMPRESENCE COMMERCIAL	
DV	COMMUNITY FACILITIES	
70	PUBLIC/GLASI-PUBLIG	
	PITTERIEDATE SCHOOL	
2	ELEMENTARY SCHOOL	
P	PHONETE SCHOOL	
m	OPEN SPACE PRINTE OFFIN SPACE	
-	PUBLIC PARK/OPEN SPACE/ OPEN SPACE AND RECRESIONA	
AG	AGRICULTURE	7.
0	QUINT	
	PRIMATE OPEN SPACE (GOLF CO	RUICSE)
	THRE	
	BOUNDARIES	
	CITY WATS	
	SPHERE OF MINLUTENCE	
	CHOICH CHIE CHE	
	PLANSON AREA	

DATE	RESOLUTION	AMENDMENT
7/17/65	22-86	ADDPTION OF CLATTON 2000 CENTER, PLAN
1/1/17	21-07	RELIER RANGE
3/2/00	13-66	DEYSTONE EINES
4/17/30	20-40	OWNERS SUBDIVISION
1/15/93	43-93	DUNGUE ROM
1/21/03	. (89-65	STAND NEEDS DECINE
6/28/85	43-40	MATERIAL CHESIC ROAD SPACEFIC PLAN
12/1/90	64-98	OMBLO VILLAGE
7/18/00	48-2000	MARSH CHEEK MOND/CLAYTON BOND
6/1/04	23-2004	BOUNTONIA PROFIL
7/19/00	03-05	DITY WALL / COMMANDERY LYRROCT
1/5/03	13-2006	DAK DIESK DIRBON
12/21/04	63-2004	OMBLO POINTS
1/8/117	03-2007	TOTAL CENTER AND MEMORY
1/3/12	11-0012	CALD MARCH CHEEK ROND/CLAYTER MOND





ATTACHMENT 17



April 17, 2013

Planning Commission City of Antioch P.O. Box 5007 Antioch, CA 94531

Dear Commissioners:

We urge you to reject the resolution adopting the proposed Zoning Ordinance amendments that would restrict the operation of the Community Supervision Programs in the City of Antioch. The proposed zoning restrictions are contrary to the legislative intent of AB 109 and in possible violation of state and federal law.

The proposed ordinance is contrary to the goals of the 2011 Realignment legislation, which mandates the use of community-based alternatives to incarceration that have been demonstrated to reduce recidivism. This legislative intent is codified in the language of the Realignment legislation:

California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices . . . Realigning low-level felony offenders who do not have prior convictions for serious, violent, or sex offenses to locally run community-based corrections programs, which are strengthened through community-based punishment, evidence-based practices, improved supervision strategies, and enhanced secured capacity, will improve public safety outcomes among adult felons and facilitate their reintegration back into society.

See Cal. Penal Code § 17.5(a).

Proposed Restrictions Constitute a De Facto Ban on Service Provision

The zoning restrictions placed on re-entry service providers under the proposed amendments are so onerous as to constitute a near de facto ban on necessary reentry service provision in the City of Antioch. First, the prohibition on siting within 1500 feet of any public or private school, park, or recreation center, Section 9-5.3836(D), greatly restricts the ability of service providers to locate in populated parts of the city given Antioch's approximately 31 parks, more than 20 schools and numerous recreation centers. Pushing programs to the outskirts of the city barriers to avoid proximity to these "sensitive services" will erect barriers to access and will reduce the programs' effectiveness. Further, the prohibition on siting within 1500 feet of any other service provider, Section 9-5.3836(D), will eliminate participants' opportunity to access multiple types of services in one location, which can be crucial given some of the participants' likely lack of personal transportation options.

Second, the operational use requirements set forth in Section 9-5.3836(C) that are applicable to all service providers regardless of where they are located, are vague, burdensome and run the risk of rendering the prospective programs ineffective. The daytime hour restrictions on the services create barriers to participation for those who work during the day, the mandate that no congregation be permitted outside the premises is overly vague, and the requirement for screened-off outdoor smoking areas may prove overly burdensome for a service provider to construct. Nor is there anything in the ordinance specifying how purported non-compliance with these requirements would be determined, how the provider could appeal such determination, nor the process by which a permit would be revoked upon a final determination of non-compliance. Such vagueness will create difficulties both in compliance with and enforcement of the smended code.

Third, the use permitting process required for a provider to locate in any zone where Business and Professional Office set forth at Section 9-5.3836(B), particularly the \$2,000 permit fee, is likely to prove prohibitive to many prospective service providers who are non-profits and community-based organizations with limited funds and limited capacity to navigate the lengthy process.

Finally, the non-use-permit-requiring locations set forth in Section 9-5.3836(A) fail to provide sufficient or viable options for service providers to locate. The East 18th Street area specified in (A)(3) is on the outskirts of the City and not easily accessible by public transportation (multiple bus transfers would be required), which will create barriers to participation by those without their own transportation. Further, the East 18th Street is largely undeveloped, with little available office space. Absent a service provider constructing its own facility, for which it is not likely to have the funds, there is therefore little in the way of viable siting opportunity. The potential of siting in the one available office complex in the area is made all the more difficult given the fact that no service provider will be permitted within 1500 feet of any other provider. Section 9-5.3836(D). Finally, the County service building described in (A)(1) is currently in use and does not contain additional space for new providers to locate.

The proposed zoning restrictions do not appear to be driven by any rational justification by the Planning Commission or City Council. Instead it appears that the intent of the code amendments is to severely restrict the ability of providers to provide crucial recidivism-reducing services to the people of Antioch. This is contrary to the intent of Realignment and will do nothing to decrease the rate of recidivism in the City or the County.

Flawed Justification

Recidivism rates in Antioch will not be reduced unless formerly incarcerated individuals reentering the community have access to evidence-based reentry services and programs. However, rather than focusing attention on increasing evidence-based services in the community, the City appears to be doing the opposite and is using inaccurate information to justify its opposition to such programs.

City councilmembers point to the supposed influx of formerly incarcerated people to Antioch and inaccurate accounts of increased recidivism rates to justify the creation of barriers to these necessary services, through the implementation of this ordinance.

First, there is no mass influx of criminals to Antioch; moreover, the AB 109 population is not migrating to the City. As under the parole system prior to the implementation of AB 109, individuals under Post-Release Community Supervision (PRCS) are returning to their home communities after release from prison. The only difference is that PRCS individuals are now supervised by the county probation department instead of by the state parole department.

Second, City Councilmembers are relying on false and inaccurate recidivism rates in their analysis of this population. It is too soon to accurately estimate recidivism rates under Realignment. Moreover, the newspaper accounts upon which the councilmembers rely are merely anecdotal. The fact is that under AB 109 recidivism rates are no worse than they were under the old system. The state prison and parole systems were doing a terrible job of preventing lower-level offenders from reoffending. Under Realignment, communities now have the opportunity to reduce recidivism rates by using the various evidence-based programs that this ordinance seeks to block.

Racially Disparate Impact

If implemented, this ordinance will likely disproportionately impact African Americans. Over the duration of Realignment African Americans have made up 40% (60 out of 149 individuals) of the AB 109 population in Antioch, despite making up only 17% of the total Antioch population. Though the situations are not identical, the facts related to this proposed ordinance raise some similar concerns to those that prompted the ACLU of Northern California and other

¹ See Census Bureau data for 2010 (reporting 17,667 African Americans out of a total of 102,372 city residents).

public interest law firms to file Williams v. City of Antioch. As in Williams, where we believed that the targeting of Section 8 voucher holders by the Antioch Police Community Action Team adversely impacted African Americans, restricting access to Community Supervision Programs will similarly disparately affect African Americans. This is because African Americans are overrepresented in the City's AB 109 population. Under this theory, first developed in Title VII cases, statistical evidence that a policy, neutral on its face, has an adverse impact on a protected class will establish a prima facis case. No proof of discriminatory intent is required to prevail on this claim. Pfaff v. HUD, 88 F.3d 739, 745-46 (9th Cir. 1996). Moreover, this zoning ordinance may violate Cal. Gov't Code § 11135, which prohibits racial discrimination by recipients of state funding. That statute's implementing regulations include a proscription against adverse impact, for which parties may state a claim. Cal Gov't Code § 11139; 22 Cal. Admin Code 98101(i)(1); Darensburg v. Metro Transp. Comm'n, 611 F. Supp. 2d 994, 1041-42 (N.D. Cal. 2009).

Given the myriad legal, policy and factual issues discussed above, we urge you to reject the proposed resolution to recommend the ordinance to the city council. Alternatively we request that you delay the vote on the resolution in order to allow time for meaningful research on the topic.

Sincerely,

Micaela Davis

Criminal Justice and Drug Policy Attorney

mdavis@aclunc.org

Jolene Forman, Esq.

Criminal Justice and Drug Policy Fellow

jforman@aclunc.org

² If plaintiffs establish adverse impact, the burden shifts to defendant to rebut the impact by showing that its policy or practice was justified by a legally sufficient, nondiscriminatory reason. *Pfaff*, 88 F.3d at 746–47.

control services contracted by the City through Contra Costa County Animal Control Services.

Mayor Haydon clarified animal control services in the city are provided by Contra Costa County; the intent of this Ordinance is to have local ordinances and enforcement that can be applied consistently throughout the region.

Mayor Haydon opened the Public Hearing for public comments.

Ann Stanaway, 1553 Haviland Place, applauds the City's consideration of amendments to Contra Costa County Animal Control Act. If adopted she finds anonymous reporting of code infractions can be abused by persons filing meritless claims by hiding malicious practices or hidden agendas. Ms. Stanaway prefers County Child Services reporting requirements as they collect confidential information for all complainants upon first contact; without such information criminal cases cannot be prosecuted; worse, law abiding citizens and their pets can be victimized for purely private gain, at the public's expense. The City must not support private gain from public resources. A member of the council found support for frivolous usage of certain services provided under the adoption of the Contra Costa County Animal Control Act would be in violation of their oath as the City's responsible manager of public resources.

Having no further public comments offered, Mayor Haydon closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to have the City Clerk read Ordinance No. 482, by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 482 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Ordinance No. 482 with the finding the adoption does not constitute a project under CEQA this activity will not have a significant effect or physical change to the environment. (Passed; 4-0 vote).

(b) Public Hearing to consider the Introduction and First Reading of Ordinance No. 483 amending Title 17 – Zoning of the Clayton Municipal Code to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medlum Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit.

Community Development Director Mindy Gentry provided background regarding issues with overcrowding and inmate recidivism which has been percolating for over a decade in the California prison system. In 2006, Governor Schwarzenegger declared a state of emergency regarding prisons as the inmate population was at an all-time high of more than 170,000 inmates. In May 2011, the United States Supreme Court determined California's overcrowded prisons were in violation of the Eighth Amendment's ban on cruel and unusual punishment. The decision mandated California to reduce its prison populations by more than 30,000 inmates within two years. The State Legislature chose to relocate a portion of its prison population to county facilities through the passage of Assembly Bill 109 that went into effect on October 1, 2011. AB 109 expands the role for post-release supervision of these offenders by enacting a larger reliance on "community-based punishment" to reduce recidivism. California has one of the most expensive prison systems in the entire world with a cost of \$71,000 per year per inmate, expected to increase to \$80,000 per inmate per year beginning FY 2018-19. This paradigm shift

from mass incarceration places a greater burden at the local level, and Clayton must be better prepared for anticipating these individuals within the community.

In response to AB 109, the County Board of Supervisors adopted the Contra Costa County Realignment Implementation Plan; to provide a system of alternatives to postconviction incarceration, to not overburden the County's detention facilities. According to the County's Public Safety Realignment Report for FY 16/17 the County has focused on formalizing partnerships between law enforcement agencies, health and social service agencies, and AB 109-contracted community based organizations. Clayton staff reached out to Contra Costa County Sheriff's Office and to its Office of Reentry and Justice for additional information where currently there are five (5) active parolees reporting addresses in Clayton under juvenile supervision, court supervision and traditional probation. No individuals under AB 109 are reporting an address in Clayton. The Office of Reentry and Justice reported the County does not directly operate any residential homes for parolees and are relying on community-based program operators for the provision of services and housing; advising there are several private organizations that run homes for the parolee/probationer population "under the radar since communal housing is not required to report its existence to anyone." The proposed Ordinance would prevent these private organizations from being established undetected while simultaneously restricting their location and regulating conditions for operation as well as require these private organizations to apply for a City use permit.

On May 22, 2018 the Planning Commission held a Public Hearing recommending the City Council deny the proposed Ordinance which accepting such action would result in the City Council not adopting the proposed Ordinance and maintaining the status quo of allowing such homes in any residential district. Over twenty (20) speakers addressed the Planning Commission with comments such as: the City should ban parolee housing outright, slow the implementation of the regulation of parolee homes, consideration should be given to increasing buffers, and adoption of the proposed Ordinance would be inviting parolees to locate in Clayton.

The current Municipal Code is silent and does not address parolee homes; under present conditions if an organization, individual, and/or State grantee sought to locate a parolee home in the city of Clayton, the use would be permitted by right, meaning it would be able to locate in any residential area of Clayton without a buffer between it and sensitive uses and would not be subject to any regulations or controls beyond those of a typical residential use. On August 5, 2016 the City received an email inquiry from a non-profit County contractor/grantee searching for a community to house a facility where a use permit would not be required to operate a transitional housing program to assist individuals that have been previously incarcerated as part of the Contra Costa County Reentry Program. This inquiry prompted City staff and the City Council to adopt a temporary moratorium, allowed by state law, to prevent any parolee homes from establishing within Clayton; this moratorium is set to expire on October 3, 2018 and cannot be extended under state law. The proposed Ordinance for consideration appropriately restricts and regulates these types of land uses.

Ms. Gentry noted that even though staff received and inquiry in August 2016, currently there are no requests or applications for parolee homes that have been submitted for consideration or are pending upon the expiration of the moratorium. The operator that originally inquired on the parolee homes subsequently opened such a facility in Pittsburg. Should the moratorium expire without a regulatory ordinance in place, there is no foreseen immediate risk that staff is currently aware of; however, there could be long term risk if the City Council does not take action restricting and regulating this land use. Clayton does not have any inherent control over how the State and County manages correctional and rehabilitative services; however it does control and maintains its land use authority. The shift to decrease incarceration, the flux and fluidity regarding correctional services raised concerns about the City's vulnerability for the possible placement of parolee homes. Inherently in Clayton, there are a low number of parolees

with a Clayton address, lack of convenient access to public transit, lack of rehabilitative services and programs to assist with reentry, high cost of housing, and high rates of owner-occupied housing. Ms. Gentry briefly compared the neighboring jurisdictions of Pleasant Hill, Walnut Creek, Danville, Lafayette, Concord, Oakley, Pittsburg, and Antioch noting how each has addressed parolee homes. In most cases, the City's proposed Ordinance would be more restrictive than currently found in those cities.

Ms. Gentry noted the proposed City ordinance would allow parolee housing in the six designated areas of Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density, subject to a City use permit, requiring a public hearing with review and consideration by the Planning Commission. Multifamily housing projects with 25 units or less would be limited to one parolee housing unit, whereas multifamily housing projects with more than 25 units would be limited to two parolee homes. Parolee homes would be prohibited from locating within 500' of a daycare, school, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelters. Additionally, parolee homes could not locate within 1,000' of another parolee home and requires 24-hour onsite supervision.

Ms. Gentry presented three alternatives for the Councils consideration: 1. regulate parolee housing as proposed in the Ordinance: 2. take no action allowing parolee homes to locate in any residential district without any regulation; 3. outright ban parolee housing in Clayton. Staff has recommended the first alternative to restrict and regulate parolee housing to specific land use designations and subject to a City conditional use permit. Ms. Gentry noted Ms. Patty Grant from the Contra Costa County Sheriff's Office is available for specific questions the Council may have regarding the County's custody program and its implementation of AB 109.

Councilmember Catalano stated the City is currently and effectively regulating parolee housing by having enacted a moratorium Ordinance by the Government Code noted in the staff report. Councilmember Catalano noted the code establishes time limits and asked why we cannot just adopt another moratorium Ordinance or have we exhausted the time limits? Ms. Gentry advised the moratorium time limits have been exhausted and will automatically expire on October 3, 2018.

Councilmember Catalano referred to the staff report that at this time staff does not have any pending applications or requests that would be waiting for the expiration of the moratorium ordinance. Absent any action by the City Council this evening after October 3rd, an application would not be required for parolee housing and the use would be permitted in Clayton? Ms. Gentry responded yes, essentially it could be permitted as the Municipal Code does not address parolee housing as it is considered any other type of residential use and not reviewed any differently.

Councilmember Catalano inquired if the City decided to ban parolee housing in Clayton would it put the City at risk of a lawsuit and if so what is the likelihood the City would prevail? City Attorney Mala Subramanian advised it would be a case of first impression; as noted in the written and verbal staff report there is a real reason why most cities dealing with this issue are regulating it and not banning it. Ms. Subramanian stated it is strongly defensible to regulate parolee housing as proposed in the Ordinance regarding public health, safety, and welfare issues and secondary impacts of parolee housing; however banning it would put the City of Clayton in a very difficult positon to defend it.

Councilmember Catalano noted in 2016 the voters were able to vote on this issue in Proposition 57 - allowing certain types of felons to be considered parolees, and she was curious how Clayton as a city voted on this particular matter. As a city we voted in favor of Prop 57 with 3,740 "yes" votes and 2,607 "no" votes. Is there any possibility on the horizon that would reverse this trend in the State by it building more prisons, or is this becoming more of an issue? Ms. Gentry advised the research that has been conducted and through conversations with the Contra Costa County Sheriff's Office, the trend is

going toward decreasing mass incarceration and going towards community-based supervision. There is a Senate bill currently in committee at the State legislature to eliminate any bail requirements; if they meet the criteria they will be awaiting pre-trial in the community rather than in county jail.

Councilmember Catalano stated the proposed Ordinance is to require any parolee home considering locating to Clayton must first obtain a conditional use permit and she inquired on the notification aspect of the process. Ms. Gentry advised if a community based organization submitted an application to the City for consideration of a parolee home and this proposed ordinance was in effect, City staff would analyze if the application could meet the findings located in the Municipal Code; if so, notification to all of the property owners within a 300' radius that surround the target property would occur; the proposed use would then be considered before the Planning Commission with notification in a newspaper of general circulation, and posting on the City's three posting boards. The Planning Commission has the ability to add additional conditions of approval and hear public comment; however its decision is always appealable to the City Council.

City Manager Napper added in addition to regulating the front end of a conditional use permit, those conditions have to stay in place and the operator must meet those conditions or a conditional use permit is subject to revocation due to violations.

Councilmember Diaz noted as a member of the League of California Cities Public Safety Policy Committee, every quarter legislators continually bring bills forward to increase the Realignment Act, and each time the Public Safety Policy Committee recommends the League and its cities vote against it. Councilmember Diaz requested clarification specifically to Clayton regarding the five (5) active parolees currently in Clayton: it was also stated there a number of them who have not listed their address in Clayton? Ms. Gentry clarified there are currently five (5) parolees who live within the city of Clayton; however none of them fall under the umbrella of AB 109. The Sheriff's Office of Reentry and Justice has stated they do not have numbers for those who are on probation by jurisdiction.

Councilmember Pierce commented if the Council chooses to take no action, there could be a home established next door to any one of us and we would never know it until there is a problem. Councilmember Pierce would rather know about it in advance and discourage the use through transparency by providing lots of notice about a process going forward so any prospective home operator can hear from the public when it wants to make its application. This community wants to protect itself by knowing what is going on in the community.

Mayor Haydon clarified currently the City is protected per the adopted moratorium Ordinance however it is due to expire on October 3. If the City Council chooses to take no action, then parolee homes can establish in Clayton with no required notification to the City. The second option would be to prohibit parolee homes all together. Mayor Haydon clarified that no city in Contra Costa County has decided to prohibit parolee homes all together. Mayor Haydon stated those are the two extremes. The remaining option would be to adopt restrictions to maintain control. Since the Planning Commission's review, the buffer zone for public notification increased from 300' to 500'; Mayor Haydon asked why wasn't a larger buffer zone been considered to 800' or 1,000'? Ms. Gentry advised the further expansion of the buffer could result in a ban through exclusion; there could be limited or no possibilities of a location, effectively constituting a ban.

City Attorney Mala Subramanian added if the buffer zone was expanded it would become a de facto ban, creating no options for an operator to have a location in Clayton.

Councilmember Pierce inquired if a 300' notice distance is standard? Ms. Gentry advised the 300' notice is a standard part of the Municipal Code's land use noticing.

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Councilmember Pierce inquired on the ramifications if the public notification zone was expanded for this use, or would that be discriminatory? City Attorney Mala Subramanian advised the City could choose to provide notice beyond the 300' distance. Councilmember Pierce advised notices would also appear on the City's website through agenda posting, with the option of additional noticing through a page on the website if we wanted to.

Mayor Haydon inquired if the City Council chooses not to take action, and it was discovered that a parolee home was established, would the Council be allowed after the fact take action on that house and restrict or prohibit it after they have moved into the community? Ms. Gentry advised if the parolee home is established, it would be grandfathered in; the City would have no recourse or legal grounds to remove it from the community.

Mayor Haydon opened the Public Hearing for public comments.

Nancy Ahern, expressed many questions including is this a building being constructed or is the City buying someone's property to house parolees? She wondered the effect of property values on properties located around a parolee home; if this action is State or County mandated; and does the Marsh Creek Detention Center count for something?

Ms. Gentry responded the likelihood of a community organization or non-profit building something from the ground up is highly unlikely to occur as limited funds are granted by the county or state to a nonprofit; more than likely, they would probably try to locate in an existing structure. Ms. Gentry advised the Marsh Creek Detention Center is located in unincorporated Contra Costa County and not within the boundaries of the City. Mayor Haydon commented we are trying to protect what is within the city limits of Clayton. Ms. Ahern advised she is getting a lot of inaccurate information, and was told the Council was voting to have parolee housing in Slayton. Ms. Ahern noted we already have parolees in Clayton; if we safeguard ourselves then we cannot pull them out. Ms. Gentry added the City cannot regulate how the County or the State manages correctional rehabilitation services; parolees will always be a part of the community; however the City does retain control over its land uses and can prevent parolee homes from establishing anywhere without any controls. Ms. Ahern asked for confirmation the only way a parolee home would come to Clayton then would be through a rental or to build? Ms. Gentry advised if someone purchases a home in the proposed district or rents out a house or ground-up development in those designated areas would be the only way a parolee home could come to Clayton, and then by submitting a use permit application for review by the City Planning Commission.

Glenn Miller, inquired on the number of units allowed and asked how many areas are zoned with 25 units in Clayton? Ms. Gentry advised there are two locations; one would be prohibited because of the 500' buffer, and the other location is behind the U.S. Post Office, limited to two parolee homes as they cannot be located within 1,000' of one another. Mr. Miller also inquired in regards to money it would be prohibitive for someone to come in as an organization to build a parolee home, and if that person decided to sell that home, would the house in perpetuity become a parolee housing unit or does the conditional use permit go away with the sale of the property? Ms. Gentry advised if such a house was not backfilled with another parolee home operation and someone from the community purchased that home, then it would be 6 months the use permit would be applicable to that piece of property. If it were to lapse beyond the six months then it would no longer operate as a parolee home and must go through the public application and review process again. Mayor Haydon advised it is not a proposal; it is to address someone coming forth and asking for approval.

City Manager Gary Napper added all the concerns Mr. Miller just shared would be in place and spread throughout the entire city in any residential district if we do nothing.

Mr. Miller referred back to his time on the City Planning Commission and found it virtually impossible to approve these types of units. He suggested go back to the drawing board and see if you can come up with a larger buffer zone or use 65 units before a development could be considered.

John Kramci, 3001 Coyote Circle, personally has not seen anything positive come out of parolee housing or to reduce recidivism; they usually go back, there is no control of who comes to the property to visit regardless of what their parole states even when they can't associate with other convicted felons. Please remember: a parolee by definition is a convicted felon. Mr. Kramci's partner, Marci Longchamps, wanted to be here tonight but was unable due to a medical procedure. Mr. Kramci then read her note: "I wanted to speak so badly tonight, unfortunately my health prevented me from being here. I am a retired school teacher and a nana to my 2 year old grandson. I strongly oppose any proposal that allows parolee housing into our community and I will stand firm in opposing any measures or proposals that encourage passage of this kind of thing. Our children, the elderly, all of us need to be protected and feel safe in our precious town of Clayton and especially in our own homes. As I sat in the doctor's office today, I read one of the sayings posted on the wall. I found it to be somewhat relevant tonight. It said 'The purpose of life is to be useful, to be responsible, to be compassionate, it is above all to matter to count and stand for something to have made some difference'. It is my hope that I have made a difference to you tonight. Please do the right thing and listen to your constituents and hear what we have to say. And let me shout out to everyone that has written to me in support and kindness. This is what our Clayton is all about, and it goes on to say I will see you all at the next Planning Commission meeting as well as the next City Council meeting."

Frank Gavidia, 104 Gold Rush Court, indicated the City could still end up in court by the ACLU; if they think the City is being discriminatory they are going to challenge the Ordinance. Mr. Gavidia had a Form 990 4(e) by the nonprofit that contacted the City; it does not have a large budget or the resources to come out here and rent a property. Mr. Gavidia does not of know of anyone willing to rent their house to a bunch of parolees or an organization who will have a bunch of parolees. The email received by the City from the nonprofit specifically stated they wanted to come to Clayton without a use permit, so they want to operate under the radar. Clayton is a small town that does not have the resources or the space to have to deal with this problem. Mr. Gavidia suggested an outright ban like the two cities that were listed in the staff report.

Mayor Haydon inquired of staff on which two cities outright banned parolee housing? Ms. Gentry advised the two cities were Newport Beach in 2008, and the City of Colton limited it to one parolee in the room and boarding requirements. No city in Contra Costa County has outright banned parolee housing. City Manager Napper added those cities banned them before the Realignment Act.

Brian Buddell, expressed his concerns with the City Council trying to take the easy way out, at the expense of the safety and concerns of citizens of Clayton. Mr. Buddell recently read in the Clayton Pioneer the City of Clayton has enough reserves to operate 4 years without collecting any taxes. Mr. Buddell referred to Council Member Diaz's recommendation of 1,000' buffer; why isn't that being considered? Mr. Buddell expects the safety of the city he resides in to be paramount; whether that's putting a senior center downtown, parolee housing, or anything else.

James Gamble, Prospector Place, inquired if costs were included for added police protection that is going to be needed or additional calls to these properties potentially and what is the clerical cost overhead that is going to be added to the City for this? Ms. Gentry responded there will be no direct fiscal impacts; it would be implementation of the Ordinance and as of right now they can locate anywhere without any notification to the City.

Mr. Gamble then asked if Ms. Gentry personally worked on the Antioch regulations while employed there? Ms. Gentry advised a different staff member worked on the regulations in Antioch. Mr. Gamble asked if Ms. Gentry called the police on people who showed up for the Fulcrum informational meeting when there were no chairs in the room? Ms. Gentry advised the police officers were asked to be in attendance due to a creditable threat that was given to the developers so the police were not called by her or anyone except they were in attendance to ensure safety. Mr. Gamble inquired if he came come down to City Hall can he obtain that information? Ms. Gentry advised if it is a matter of public record, then yes.

Ms. Subramanian advised Mayor Haydon she didn't feel this discussion is on the agenda and encouraged him to move on.

Bob Scrosati, 5181 Keller Ridge Drive, advised he used to live across the street from a local nonprofit state facility that housed four people who were incapable of handling their own lives. Although there were some regulations placed on that property by the state, inspections occurred on both the inside and outside of the home. Mr. Scrosati questioned the frequency of the County to perform inspections on these types of properties and on the education or training requirements a supervisor has on the regulation of a parolee? Mr. Scrosati prefers Option 1, but would like to know who has been trained to control these parolees and has consideration been made to duplexes and condos as they are occupied by young families with children.

Linda Cruz, 359 Chardonnay Circle, expressed her opposition to parolees coming to Clayton and she like the community as is. Ms. Cruz asked for a definition of multifamily low density, multifamily medium density; are those choices we want to put in the regulations? Ms. Gentry advised those are the General Plan designations that would be allowable subject to a use permit, and the rest of the city would be a prohibition.

Steve White, Morgan Territory Road, worked with parolees and as a retired police officer, the change of certain housing definitions caught his attention. Changes made to the General Plan could get Clayton in line with potential restrictive parolee realignment. Contra Costa County recently backed out of housing ICE inmates, so more parolees will be housed in the county.

Dena Stephens, Morningside Drive, resides next to a house that had someone living there with an ankle bracelet, a known drug dealer, known to the City, known to the police. Ms. Stephens expressed concerns of parolees having multiple friends that are probably not nice people. Clayton already has a limited police force of three (3) at the most on duty? Mr. Napper confirmed the deployment of the Police Department is three (3) per shift. Ms. Stephens thinks this is inadequate.

Rick Martin, 93 El Portal Place, indicated the reason he relocated to Clayton was because of similar problems in Walnut Creek where care homes located into neighborhoods; by state law, they are considered private homes. Mr. Martin inquired if a parolee has one of these homes is it considered a private home and not a business and how many would be allowed in a home? Ms. Gentry advised they would be located in a residential unit; two (2) per bedroom, based on the California Building Code allowance for occupancy. Mr. Martin stated the idea of no one able to afford these houses will come as a surprise as they can divide up a house by creating more bedrooms and bathrooms depending on how many parolees they want to house. This is why he moved to Clayton.

(Unidentified speaker). His family relocated to Clayton from Antioch because it got so bad there. The speaker indicated if the government is imposing this the City should outright ban it and if challenged, fight it. If the other two cities in California outright ban it and got under it, then Clayton can too.

Ann Stanaway suggested an outright ban for now and if challenged and too costly for the City to defend, revoke the ban and put in regulations.

Councilmember Catalano went over the proposed options: Option 2, to do nothing, we have a moratorium expiring October 3rd; we do nothing, parolee housing would be allowed anywhere, without any notice or process. Option 3 to ban it: she personally thinks that would be an invitation for a lawsuit risking City monies and resources, our budget is not that large. Option 1 to regulate: there are ways regulations can be very permissive, or they can be very restrictive as the staff is proposing by the requirement of a conditional use permit limited to only certain zoning districts.

Councilmember Diaz stated he believes in second chances, however not in this instance. His primary responsibility to represent the community is public safety for the community and all of the residents in Clayton, and he will not suggest wasting resources to challenge the state or the federal governments with their unlimited resources to come after Clayton if we choose to ban it, not regulate it or do nothing. Councilmember Diaz also confirmed our Police Department operates three people per day per shift; he noted recently around the corner of Kirker Pass and Oakhurst Drive there were ten (10) police cars due to a recent armed robbery at the Togos Restaurant in Concord. Guess who caught the robber? It wasn't the Concord Police Department; it was our eyes and diligent Clayton police officers who were on duty; they not only recovered the money, they took in custody of that individual, his rifle, and his bullets. If we do allow parolees, most likely other parolees will visit, increasing the probability that something negative can happen in this City. Councilmember Diaz would like to take some action on the buffer zone, whether it is 300', 500', 1,000' or 1,500'; he supports revamping of this characteristic to make it a little more challenging, protecting the Clayton community.

Brian Buddell said he does not feel Councilmember Diaz is representing Clayton's values, needs or safety, and his position as a public official is to do what the public tells him to do; the people want a ban, test a ban.

Councilmember Pierce advised parolee housing can be a lucrative business for somebody, understanding there is a subsidiary of \$1,200.00 per person housed in these homes. When this moratorium expires a parolee home can establish in Clayton without any notification to the City. She also wanted to correct a couple of statements; one was the City has four (4) years of budget reserves; that is incorrect, the City has one (1) year of budget reserve which is a little over \$5 million, which goes nowhere when one is fighting a lawsuit. In speaking with a great number of people regarding these proposed regulations, it was understood such regulations would protect Clayton, AB 109 is now state law, the County is implementing it, and they are contracting with non-profit and forprofit agencies looking for locations. City staff was alerted two (2) years ago before our temporary moratorium went into place, many of these groups want to avoid any type of public permitting process so they can fly under the radar to locate their facilities. Currently our Clayton Municipal Code does not define parolee homes at all. The Clayton Municipal Code allows group homes of six (6) or less anywhere in the community without a permit or notice; including senior care homes and small daycare homes. The City does not even know they exist unless there is a complaint. Without a specific definition in our code, parolee homes would be considered a generic group home, a generic residential use. Councilmember Pierce advised by passing this Ordinance, we get regulation of where these types of homes can be located with a very public transparent process including a use permit, and a broad public notice to the entire community published in the newspaper, mailed directly to neighbors, requirement of a public hearing, the ability to add appropriate conditions for community safety and the opportunity for residents to comment at those hearings.

Mayor Haydon addressed concerns many have shared as there is a community-wide interest in banning or limiting parolee housing in Clayton. The proposed ordinance

addresses a control on parolee housing in Clayton. With no regulation Clayton would likely become a place for parolee homes to locate. He thinks regulation is the best protection of Clayton.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to modify Ordinance No. 483 to amend the notice requirements from 300' to 500', and to have the City Clerk read Ordinance No 483 by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 483 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve for Introduction the amended Ordinance No. 483 with the finding its adoption is not a project under CEQA and it will not have a significant adverse effect on the environment and therefore is exempt under CEQA. (Passed; 4-0 vote).

The City Council further requested City staff provide maps at its next public meeting to illustrate additional buffer distances of 750' and 1,000' from designated sensitive use sites.

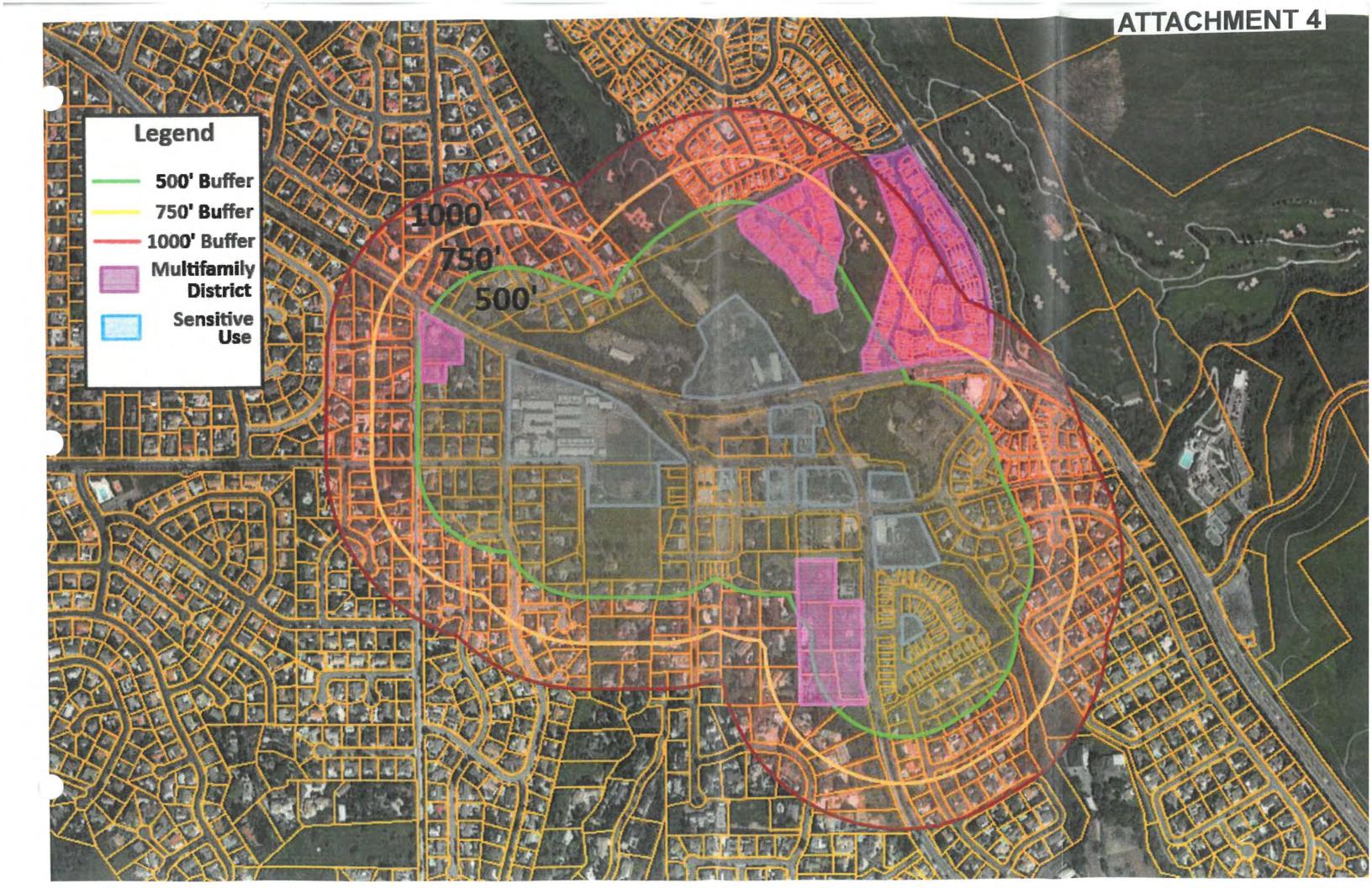
8. ACTION ITEMS

 (a) City Council discussion of its vacant opportunities for Clayton citizens to serve on various regional advisory committees/commissions.

City Manager Napper noted Mayor Haydon requested this agenda item and he advised there are several positions on regional boards to which the City is entitled to have representation. Mr. Napper remarked here seems to be some chronic difficulty with citizens applying for those volunteer positions. In the Staff Report it is indicated there is a vacancy on the Central Contra Costa Transit Advisory Committee County Connection (CCCTA); vacant since 2011, this position prefers someone interested in public transportation, preferably one that has used public transportation or has been rider. The second position is to represent Clayton on the Contra Costa Transportation Authority (CCTA) Advisory Committee; vacant since 2013, this position allows representation from every city in the county, including the County. This particular position receives reimbursement for mileage to and from its meeting. The final vacancy just occurred due to the recent resignation of Joyce Atkinson as the City's long-time representative on the County Library Commission; the Commission is requesting a replacement from Clayton to serve. The requirements for each position are that a person be at least 18 years old, and a resident of City from where the appointment is made. He noted volunteerism is always a difficult matter, especially without a stipend or compensation.

Mayor Haydon advised he wanted to address this need in an upcoming Mayor's Column in the local newspaper as a reminder of these types of opportunities. Currently, opportunities are posted on bulletin boards and announced at City Council meetings. Mayor Haydon would like to expand outreach efforts to generate more interest so we can have Clayton represented on these regional committees and he would like to continue mentioning these opportunities at City Council meetings.

Councilmember Pierce suggested reaching out to any of the groups the Council is a member of who have volunteers that do things. It doesn't seem like merely advertising the opportunities in the newspaper is generating interest.



ATTACHMENT 5

QUESTIONS ANSWERED ON PAROLEE HOUSING

THROUGH AUGUST 16, 2018

IS A 500-FOOT BUFFER A GUARANTEED DISTANCE THAT CANNOT BE CHALLENGED?

Nothing is guaranteed regarding a legal challenge; however the City Attorney believes that 500 feet is more defensible than 1,000 feet in Clayton due to the elimination and reduction of viable locations at the higher end of the buffer.

2. WHAT RESOURCES ARE USED TO DETERMINE A BUFFER DISTANCE?

When determining a buffer distance, there are several considerations that take place. The first consideration would be what has already been established within the municipal code and if a buffer distance were to be different, then there would have to be justification as to the disparate treatment. Secondly, a buffer distance does have ramifications dependent on the size of the city; other cities may take advantage of bigger buffers given their larger geographic area and variety of land use designations.

3. ARE SINGLE-FAMILY HOMES OUTSIDE OF THE MULTIFAMILY DISTRICTS ACCEPTABLE LOCATIONS FOR PAROLEE HOUSING UNDER THE PROPOSED ORDINANCE?

No. The multifamily land use designations as shown on the General Plan map and those locations in compliance with the parameters of the proposed Ordinance are the <u>ONLY</u> areas that would be an acceptable location for a parolee home to be considered, subject to approval of a use permit. In all other locations in the city, a parolee home would be prohibited.

4. CAN PAROLEES BE AROUND OTHER PAROLEES?

That question is determined by the courts and/or probation, over which the City of Clayton has no control. The courts and/or probation set the parameters and conditions of parole. The City only has the authority to address the land use issue component or through law enforcement if a parolee is in violation of his/her parole.

DOES AB 109 CONSIDER PRIOR ARREST HISTORY?

No. State law AB 109, passed by the legislature, does not consider prior arrest history nor does it take into consideration whether the parolee did a plea deal to decrease the severity of the charges. According to the State, AB 109 specifically deals with non-violent, non-serious, non-high risk sex offenders, which only makes up about 5% of the inmate population for Contra Costa County. AB 109 is only one component of this issue because private organizations catering to parolees could open a home as well as the State, through a non-profit organization. Also, the County is creating a strategic plan for all County residents (inmates), regardless of AB 109 status, to access AB 109 programs and services and is utilizing funds from AB 109 to facilitate that access.

Cities do not have control regarding the type of parolees released to the communities, this is under the authority of the courts and parole/probation; however Clayton does have the authority to regulate and restrict parolee housing to the maximum extent possible within the confines of the law.

CAN ONSITE SUPERVISION BE REQUIRED 24/7?

This requirement is included in the proposed Ordinance under Section 17.36.086.D (Attachment 1).

7. CAN A CURFEW BE IMPOSED ON THE PAROLEES?

The establishment of a curfew for parolees falls under the authority of the courts and/or parole, not with the City. There are times that curfews are enacted by local jurisdictions, such as for juveniles or during an emergency; however, establishing a curfew by the City to address land use issues with parolee housing is legally questionable. For example, a District Attorney tried to establish gang injunctions and enforce a curfew for known gang members in the City of Oxnard; however, the Court of Appeal determined the curfew was unconstitutional (*People ex rel. Totten vs Colonia Chiques*). Given the decisions by the courts finding curfews to be unconstitutional, this requirement is not recommended by staff.

8. WILL THE CITIES (NEWPORT BEACH AND COLTON) THAT BANNED PAROLEE HOUSING NEED TO COMPLY WITH AB 109?

The City of Newport Beach and the City of Colton are the only two cities in California, out of 482, that staff could locate, completely banning parolee housing (2008) and those cities are not exempt from this issue and could be challenged with a lawsuit. The prohibitions were implemented well before the advent of the SCOTUS ruling and the subsequent enactment of state law AB 109. There is no mandate or legal precedence that cities must allow parolee housing within their communities; however, given the public policy shift to decrease mass incarceration, all communities in California will likely be faced, on some level, with this very issue whether the cities are prepared or not.

If more cities decide to ban parolee housing and it became prohibitive or difficult for the intended placement of parolees, it could result in a lawsuit from the counties charged with implementing these changes, from the State, and/or from civil rights groups. If the State legislature has concerns about meeting the U.S. Supreme Court's mandate to reduce the prison population because cities are making it too difficult to place parolees, it could easily legislate and require all cities in California permit parolee housing under its terms and conditions.

As further evidence the shift in public policy is occurring, the State set aside an additional \$50 million in this year's budget (FY 2018-19), which was adopted in June, for additional community-based reentry and housing support for parolees. Further, in discussions with the Sheriff's Office, given what has transpired at the State level, they strongly believe incarceration is going to look very different in the next five to ten years. There is going to be a stronger reliance on community based supervision and programs with the stated objectives to decrease incarceration and recidivism.

9. WHY IS CLAYTON ADDRESSING THE ISSUE OF PAROLEE HOUSING?

Clayton staff is being proactive by bringing this issue forward to the City Council for consideration. It is also being reactive, due to an e-mail inquiry received in August 2016, to put an ordinance in place to regulate parolee housing by limiting the location and the operation as well as require a public notification process. After the City's 2-year moratorium automatically expires on October 3, 2018, and if an ordinance is not adopted, there is no local law to restrict parolee homes from locating anywhere in Clayton (even directly adjacent to a school), without the City's knowledge, and they will be treated just like any other residential use. Nor would there be any type of mechanism in place for removal.

Cities that have decided to address this issue directly have chosen to regulate it and have passed a version of the "model" ordinance which was originally drafted by the City of Riverside. Clayton's proposed Ordinance is based on this model ordinance.

10. HOW ARE OTHER CITIES DEALING WITH PAROLEE HOUSING IN CONTRA COSTA COUNTY?

Two cities in Contra Costa County, Oakley and Antioch, have regulated parolee housing. Other cities such as Concord, Walnut Creek and Pleasant Hill already have regulations in place to address group living situations, such as parolee housing, and their regulations require a use permit yet do not contain buffers around sensitive uses or codified operational criteria. Other cities, such as Lafayette, do not have regulations in place, effectively allowing parolee housing to occur without restriction.

The public policy shift of reducing incarceration rates coupled with the State making funds available to reduce recidivism by relying instead on community supervision is currently evolving and is in the process of being rolled out by the State. Clayton's proposed regulation of parolee housing is preemptive to this new regulatory landscape and to new circumstances of the increased reliance on community based supervision.

11. WHY IS CLAYTON INVITING PAROLEES INTO THE COMMUNITY?

This proposed Ordinance is to restrict the location and to regulate parolee homes that could potentially come into the community; the City is not inviting them or opening the community up to them. The lack of current local regulations, without the temporary moratorium, is a wide open door where parolee homes could locate in <u>ANY</u> residential zone without restrictions, without a public hearing process, and without an advance permit process.

12. WHAT INMATES FALL UNDER COUNTY SUPERVISION?

County supervision does not include the following:

- Inmates paroled from life terms to include third-strike offenders;
- Offenders whose current commitment offense is violent or serious, as defined by California penal Code Section 667.5(c) and 1192.7(c);
- High-risk sex offenders, as defined by CDCR;
- Mentally disordered offenders; nor
- Offenders on parole prior to October 1, 2011.

The above offenders and parolees are the responsibility of the state.

13. CAN CLAYTON BE SUED FOR BANNING PAROLEE HOUSING?

Yes, possibly. If more cities adopt a ban, depending on how widespread, this could possibly result in lawsuits from parolee home operators, civil rights groups, counties, or the State (although the State is more likely to legislate because it's quicker, less expensive, and more powerful).

A local prohibition would not preclude civil rights organizations from filing a lawsuit, such as the ACLU (which is well aware of the Realignment in California and has even produced a report, *Public Safety Realignment: California at a Crossroads*, on an in-depth review of all 53 available county realignment implementation plans). As a harbinger to staff's warning the ACLU sent a letter to the City of Antioch when it was drafting its regulations regarding the implementation of AB 109 asserting the adoption would likely result in a disproportionate impact to African Americans and therefore is discriminatory and may violate State law, which prohibits those public entities receiving state funds from racial discrimination. While Antioch and Clayton are seemingly very different communities in regards to this issue, the point is that civil rights groups are paying attention to local government actions in this regard and the ACLU is not at all reticent about filing lawsuits.

14. WILL VIOLENT PAROLEES BE COMING TO CLAYTON?

Cities, including Clayton, do not get to individually select who comes to live in the community; cities only have the authority to control the land use. However, the more violent and serious offenders remain under State supervision and not County supervision. The County, through a non-profit organization, would be the entity more than likely, because of AB 109 funding, to want to open additional parolee homes around the County.

All cities are in a precarious predicament dealing with this issue and some have more protections in place than others. If the proposed local Ordinance (law) is not adopted before October 3rd, 2018, Clayton would be one of the communities that does not have <u>any</u> protections in place. Staff considers that status will indeed result in Clayton being more attractive to non-profit operators so they can fly under the radar and not have to seek approval from the City or announce their presence.

15. CAN AN ADDITIONAL OR HIGHER FEE BE REQUIRED FOR PAROLEE HOMES DUE TO THE GREATER SCRUTINY REQUIRED FOR THE USE PERMIT?

No. The City can only charge for staff time that is incurred reviewing a project application.

16. CAN SEX OFFENDERS LOCATE IN A PAROLEE HOME?

Again, Clayton does not get to select who comes to live in the community. The State of California had residency restrictions in place for sex offenders, under Jessica's Law, which prohibited sex offender parolees released from prison from residing within 2,000 feet of any school. In 2015, this blanket residency restriction was determined by the State Supreme Court to be unconstitutional and sex offender parolees are

now placed on a case-by-case basis as determined by a risk assessment, which is requested either by the courts or the Parole Board.

AB 109 inmates are described by the State as non-violent, non-serious, and non-high risk sex offenders and the County will not be supervising or housing high-risk sex offenders, that responsibility still remains with the State. Therefore, the likelihood of a sex offender being placed in parolee home by the County is extremely remote.

17. CAN THE CITY REQUIRE THE USE PERMIT APPLICATION TO BE MADE BY THE OWNER?

The City cannot determine or choose who the applicant is for the use permit; however, the property owner is required to be a signatory to the application.

18. CAN THE CITY REQUIRE LIABILITY INSURANCE, NAMING THE CITY AS ADDITIONAL INSURED, WHICH WOULD ALSO BE AVAILABLE SHOULD ANY PAROLEE CAUSE PERSONAL INJURY OR PROPERTY DAMAGE?

A public entity such as the City is generally not liable for injury caused by the issuance of permits (Cal. Gov. Code §818.4), so it is unnecessary to add the City to an operator's insurance policy. Further, the City does not require this of other private facilities.

19. CAN QUARTERLY REPORTS OF PAROLEE'S TRANSITIONING IN AND OUT OF THE FACILITY BE REQUIRED?

The Police Department already has access to a law enforcement database containing residency information for individual paroled inmates or inmates placed on post-release community supervision released in the jurisdiction.

20. CAN PHOTOS OF PAROLEES BE REQUIRED TO BE ON FILE WITH THE POLICE DEPARTMENT?

The Police Department already has access to this information, as required under the Penal Code, when an inmate is released in Clayton.

21. CAN THE ORDINANCE REQUIRE THE LOCATION OF THE PAROLEE HOME, THE OWNER'S NAME, AND THE NAMES OF THE PAROLEES BE POSTED TO THE CITY'S WEBSITE?

While the location and owner of the parolee home would be a matter a public record, posting this information permanently on the website does not appear to serve a land use function. Posting individuals names on the website could be considered an invasion of privacy.

22. WHAT IS THE IMMIGRATION STATUS OF THE INMATES/PAROLEES?

The State, through its California Department of Corrections and Rehabilitation, and Contra Costa County, through its Sheriff's Office, are the entities responsible for administering the incarceration and custody of individuals that have been convicted of a crime. Therefore, Clayton does not have statistics on the incarcerated or parolee population in regards to immigration status. The Sheriff's Office and the California

Department of Corrections and Rehabilitation may have additional information pertaining to the demographics of the inmate and parolee population.

23. HOW MANY HOUSING FACILITIES WOULD CLAYON ALLOW AND HOW MANY RESIDENTS PER FACILITY?

It is hard determine how many total facilities and how many residents in each home as there are many factors to consider for an accurate representation. It depends on the size of the house (e.g. number of bedrooms), depends if there are sensitive uses in the neighborhoods, etc. There are limits in the Ordinance, for example, there cannot be another parolee home within 1,000 feet of another parolee home, so given the geographic size of each of the areas that has been identified within the City, there is probably only space for one home to locate in three out of the six identified areas given the restrictions and practicalities in the proposed Ordinance.

The occupancy restrictions are determined by the California Building Standards Code, which is also upheld by case law, preventing the City from being more restrictive regarding the number of individuals living within a home, unless the City makes expressed findings based on "local climatic, geological, or topographical conditions". (*Briseno v. City of Santa Ana*, 6 Cal.App.4th 1378, 1383 (1992)). The California Building Standards Code provides the following formula for occupancy calculations: "Every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two."

24. HOW MUCH WILL IT COST TO MAINTAIN THESE FACILITIES?

The most likely scenario envisioned is the County, because of AB 109, will be the entity to seek parolee housing sites, through a non-profit organization. Therefore, it is anticipated the non-profit County grantee would be the entity responsible for overseeing the day-to-day operations of the home. The property owner, whether the parolee home is rented or purchased by the non-profit, will be the one ultimately responsible to maintain the property. Indirectly, the County, through a grant to a non-profit from AB 109 monies, would ultimately bear the costs of the facility. The City is not involved in the funding of such houses, nor would it receive funds to facilitate or accommodate the operation of community parolee housing.

25. WHAT ARE THE ENVISIONED IMPACTS FOR SAFETY AND SECURITY?

Parolees are monitored by his/her parole officer with restrictions placed on them by the courts or probation officer, which they are required to follow. Just as with anyone coming into Clayton or who resides in Clayton, the City cannot control human behavior and law enforcement will respond appropriately to any crimes being reported or committed.

26. WHAT TYPE OF IMPACT WILL THIS HAVE ON PROPERTY VALUES?

The City Clayton has limited control over property values as these are dictated through the market; however, the City does have some control over property maintenance through the regulations contained in its Municipal Code.

27. CAN YOU PROHIBIT PAROLEE HOUSING IN AREAS WHERE THERE IS ONLY ONE ENTRANCE/EXIT POINT?

The selection of Multifamily Districts as the proposed locations was for the following reasons; 1) limited variety of land use choices (e.g. Clayton does not contain industrial areas); 2) the multifamily designated areas represent the smallest geographic area of any residential land use, while still providing a minimum, reasonable number of acceptable locations to withstand a legal challenge; and 3) multifamily residential designations are more intensive in its land uses than single-family land use districts.

To address the access issue, there would be tradeoffs that may be less favorable to the community because there would have to be additional land use designations included in the Ordinance in order to prevent a de facto ban. The other land use designations would be single-family in nature and are generally much larger geographically, thereby providing additional possibilities beyond the currently proposed minimized locations.

28. CAN THE CITY REQUIRE YEARLY RENEWAL OF THE USE PERMIT?

A use permit is granted as a land use entitlement that runs with the land in perpetuity, unless the permit is revoked due to noncompliance with the conditions of approval or is determined to be a nuisance or the use is inactive for a specific period of time. Having to reapply yearly for the continued use is not legal because the use permit is considered to be a vested right and the power of the municipality is limited to circumstances where there is noncompliance with the use permit conditions or there is a public nuisance. However, a similar mechanism would be to conduct a periodic review to determine if the conditions of approval are being complied with and this type of requirement would be more applicable as a condition of approval on the use permit for the parolee home and would not typically be folded into the Ordinance.

29. CAN THE BUFFER BETWEEN PAROLEE HOMES BE INCREASED?

This could be considered; however, this distance would have to be analyzed in relation to the sensitive usebuffer distance in order to prevent a de facto ban.

30. INCLUDE THE GOLF COURSE WITHIN THE DEFINTION OF PARK IN THE ORDINANCE?

The Ordinance currently identifies sensitive uses as public parks due to children being present. The golf course is private and children do not have unbridled access to the golf course and by including the golf course, it would further restrict the possible locations and ultimately result in a de facto ban.

31. CAN A GREATER DISTANCE BE REQUIRED FOR NOTIFICATION PERTAINING TO A PAROLEE HOME?

A larger notification requirement, matching the 500' sensitive use buffer, was added to the proposed Ordinance at the July 17, 2018 City Council meeting, see Section 17.36.086.F (Attachment 1).

32. CAN THE CITY REQUIRE INSPECTIONS FOR HEALTH, SAFETY, AND CODE ENFORCEMENT?

There are state statutory and local code provisions authorizing for inspections for health, safety and code enforcement purposes. (See e.g. CMC Chapter 8.08; Health & Safety Code 17970 et seq.) Generally, consent or an inspection warrant is required for a government inspection of private property, including business property. While parolees, as a condition of parole, may be subject to warrantless searches (Cal. Penal Code §3067(b)(3); Samson v. California (2006) 547 U.S. 843), it is not clear that this requirement could be extended to the operation of a parolee home based on the privacy interests of the property owner and operator. The courts have not looked favorably upon government permit conditions that require consent to warrantless inspections, and it is not recommended here. (City of Los Angeles v. Patel (2015) 135 S.Ct. 2443; Camara v. Municipal Court of City and County of San Francisco (1967) 387 U.S. 523.)

33. CAN THE CITY REQUIRE INCREASED TIMELINES FOR APPLICATION REVIEW, NUMBER OF HEARINGS, AND NOTICE REQUIREMENTS?

The Planning Commission or City Council may continue a public hearing to another day if reasonably necessary to complete its consideration of an item. The proposed Ordinance has already increased the notice requirements beyond the minimums required by the Planning and Zoning Law. In regards of increasing the time for review, that would depend on whether a particular application is governed by the Permit Streamlining Act, which contains time limits for application review. Where the Permit Streamlining Act does not apply, then there is no strict time limit on the City's exercise of due diligence in the application review process. The Permit Streamlining Act applies to development projects "involving the issuance of a permit for construction or reconstruction but not a permit to operate." Assuming limited project-level funding for these types of uses, we would not expect that most applications for a parolee home would involve construction or reconstruction.

34. WHAT IS THE PROCESS WHEN SOMEONE WANTS TO COME IN AND ESTABLISH PAROLEE HOUSING?

An operator of a prospective parolee home would fill out an application at City Hall indicating the location, which requires the real property owner's signature(s), assuming the operator is not the owner. City staff would examine the application as to whether the address indicated is eligible for such a land use by applying the buffer distances and other regulations in the ordinance (local law). If all buffer distances still makes the prospective site eligible and requirements of the Clayton Municipal Code are satisfied, notices would be mailed to real property owners within 500 feet of that location of a public hearing on the matter set before the City Planning Commission. The Planning Commission would be in charge of setting lawful conditions on the use permit to either approve it, or deny it with legal findings. The decision of the Planning Commission could be appealed by an aggrieved party (neighbor, or applicant).

35. WHAT IF AN HOA THROUGH ITS CC&RS PROHIBITS GROUP HOUSING?

A city does not enforce CC&Rs of private property – those are primarily a civil matter between the real property owners and/or the HOA. Because of that hierarchy of law, a city zoning law does have greater

authority over a conflicting CC&R — but the HOA and/or its real property owners could then seek civil action against the property owner of the intended parolee home to halt its planned location.

36. IS IT EVITABLE CLAYTON WILL RECEIVE SOME AMOUNT OF PAROLEE HOUSING?

Staff does not have a crystal ball and it is hard to work in absolutes without one, but it is believed that it is not inevitable that Clayton will end up with some form of parolee housing. The hope, from staff's perspective, is that this Ordinance passes and then it is put on the shelf to collect dust, but if someone does inquire, staff has a process to point to, where one did not exist before.

Clayton does have several inherent factors which highly decrease the likelihood of parolee homes wishing to be located within the city:

- 1) Low number of parolees originating from the community (state law requires the formerly incarcerated return to the communities of their last legal address);
- 2) Lack of convenient access to public transit;
- 3) Lack of rehabilitation services and programs to assist those that have been previously incarcerated (these services and programs tend to be established in communities with a higher number of parolees such as Richmond, Concord, and Antioch);
- 4) High cost of housing and land in Clayton; and
- 5) High rates of owner-occupied homes, which drastically reduces the possibility of a property owner renting a residential unit to such programs.

The proposed Ordinance would be one of the most restrictive in the County and given the above inherent factors of Clayton, these together would all act as a "belt and suspenders" approach by severely closing the door to these types of uses, but leaving the door open just enough for legal purposes. More than likely an operator would go look elsewhere because given the restrictions of the proposed Ordinance they would have to wait until a house in one the identified land use designations either came on the market or was available for rent and then would have to go through the scrutiny of a public review. Most landlords or sellers for residential uses are not going to wait around for a use permit to be acted upon by a local government (which typically take months), particularly given the current housing climate in California, which will be around for the foreseeable future. The County, through a non-profit organization, would be the entity more than likely, because of AB 109 funding, to want to open additional parolee homes around the County. These non-profit operators tend not to have large sums of cash that would be required to buy a home in Clayton and a savvy operator would not purchase a home on limited funds unless it was guaranteed they were able to operate, particularly because it would more than likely be grant funded.

37. HOW ARE OTHER CITIES, PARTICULARLY AFFLUENT ONES, SUPPRESSING PAROLEE HOUSING?

Cities like Lafayette and Danville, where this type of housing is not regulated, could have parolee housing locate there without notice or knowledge. They are effectively in the same position as Clayton, if the status quo is maintained and the moratorium expires. However, market forces do play a large role because why would an operator rent or buy a house in an affluent community when they could get a house in Concord for

much less with the same amount of grant monies? The City will be in a better position in the unlikely chance that someone is interested in putting parolee housing in Clayton.

Agenda Date: 8-21-2018



Agenda Item:

Approved:

Gary A. Napper City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Asst. to the City Manage,

MEETING DATE: August 21, 2018

SUBJECT: Request to discuss and reconsider the City Council's existing Clayton

Fountain Policy

BACKGROUND

There are currently 12 events/holidays that the fountain is operational per the City Council approved Fountain Operation Policy: Presidents Day, Garden Tour (April), Art and Wine (April/May), Memorial Day Weekend, 4th of July, Labor Day, Oktoberfest (early Oct), Halloween Parade/Ghost Walk (event no longer held), Veterans Day, Thanksgiving, Downtown Sing along/Tree lighting, New Year's Eve.

In 2002 the City Council established the Clayton Fountain Operations Policy. The Policy has been reviewed and was amended in February 2008, to add three events, Presidents Day, Thanksgiving and Garden Tours to the Fountain Operational days.

Recently a request was received to consider operating the Fountain on all Federal holidays. Staff has attached the current Fountain Operation Policy and a list of Federal Recognized Holidays.

The Clayton Fountain's operation was part of the original Oakhurst Development assessments, which merged into the single Citywide Landscape District in 1997.

Financial Impact:

The total energy costs for each added day would be apx. \$1,351, at today's PGE rates.

Attachments:

- 1. Current Fountain Operation Policy
- 2. Federal Holidays
- 3. Minutes of City Council Meeting February 19, 2008
- 4. Measure H Ballot Measure (June 2016)
- 5. Services that can be financed by Measure H
- 6. PGE bills for Fountain Operations



CLAYTON FOUNTAIN OPERATIONAL POLICY

[APPROVED BY CITY COUNCIL 16 APRIL 2002] [CONFIRMED BY CITY COUNCIL 16 JULY 2002] [AMENDED BY CITY COUNCIL 19 FEBRUARY 2008]

The Clayton Fountain [with geysers] will be operational only on selected Citysponsored events or functions, including:

Presidents' Day weekend (Feb.)
Art and Wine Festival (1st weekend in May)
Clayton Garden Club Tour weekend (May)
Memorial Day weekend (May)
4th of July
Labor Day weekend (Sept.)
Oktoberfest weekend (Sept./Oct.)
Ghost Walk/Halloween Parade Day (Oct.)
Veterans Day (Nov.)
Thanksgiving Holiday weekend (Nov.)
Christmas Tree Lighting Ceremony (Dec.)
New Year's Eve and Day (Dec./Jan.)

Private party or other organization requests for operation of the Clayton Fountain are subject to a two (2) week advance written request to the City of Clayton and payment by the requesting party at the established fee in the most-recently approved City Master Fee Schedule. The flat fee pays for direct and indirect costs incurred by the City for the operation of the Clayton Fountain over a forty-eight (48) hour event time period.

* * * * *

The following Federal holidays are established by law (5 U.S.C. 6103):

New Year's

Martin Luther King, Jr. Birthday (Third Monday in January).

- Presidents Day
- Memorial Day
- Independence Day
- Labor Day

Columbus Day (Second Monday in October).

- Veterans Day (November 11).
- Thanksgiving Day (Fourth Thursday in November).

Christmas Day (December 25)

Are dates the Fountain already operates per City Council adopted Policy

MINUTES OF THE REGULAR MEETING CLAYTON CITY COUNCIL

TUESDAY, February 19, 2008

- 1. CALL TO ORDER & ROLL CALL the meeting was called to order at 7:00 p.m. by Mayor Manning in the Library Community Meeting Room, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Manning, Vice Mayor Pierce, Councilmembers Stratford, Shuey, and Walcutt. Staff present: City Manager Gary Napper, City Attorney Dan Adams, Community Development Director Jeremy Graves, Finance Manager Merry Pelletier, and City Clerk Laci Jackson.
- CLOSED SESSION None.
- PLEDGE OF ALLEGIANCE Led by Mayor Manning.
- CONSENT CALENDAR- It was moved by Councilmember Stratford, seconded by Councilmember Shuey approve the Consent Calendar with amendments to 4(a) (5-0 vote).
- (a) Approved the minutes as amended, of the regular meeting of February 5, 2008.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution 06-2008 accepting Quitclaim Deed from the Association of Bay Area Governments (ABAG) and authorizing the recordation of said Deed regarding real property located at 1005 and 1007 Oak Street (APNs 119-050-009 & -034).
- (d) Adopted Resolution 07-2008 awarding contract to W.K. McLellan Company, Inc. in the amount of \$47,503.00 for the 2008 Sidewalk Replacement Project (restricted-use Gas Tax Funds).
- (e) Re-appointed Charles Evans as the City's representative to the Citizens Advisory Committee of the Contra Costa County Transportation Authority (CCTA) for a term of office expiring February 2011.
- (f) Approved the design and material content for replacement of deteriorated decomposed granite areas in the City Hall Courtyard using approved Deferred Maintenance Funds (\$15,000 allocation).
- (g) Approved the Trails and Landscaping Committee recommendation to amend City Council Policy on operation frequency of the Clayton Fountain to include Thanksgiving Holiday, Presidents' Day, and the Clayton Garden Tour (April) as additional operating days/weekends.
- 5. RECOGNITIONS AND PRESENTATIONS None.

ATTACHMENT 3

Minutes February 19, 2008 Page 1

June 2016 Landscape Maintenance District (Measure H) ballot measure (passed 79.23%)

CITY OF CLAYTON - MEASURE H			
Shall the existing Community Facility District 2007-1 (Trails and Landscape Maintenance District) be continued, with a Citizens Oversight Committee, for ten years	YES		
to fund on-going operations and maintenance of the trails system, roadway landscape, open space weed abatement, and related expenses at the current annual special tax's rate and methodology (presently \$234.84/year per residential and non-residential parcel or fraction thereof), for FYs 2017-2027?	NO		

EXHIBIT A

CITY OF CLAYTON Community Facilities District 2007-1 (Citywide Landscape Maintenance)

DESCRIPTION OF SERVICES TO BE FINANCED BY THE CFD

The Services to be financed by the special taxes of the City of Clayton Community Facilities District 2007-1 (Citywide Landscape Maintenance) (the "CFD") shall include the Maintenance of:

A. <u>Public Roadway Landscaping</u> – which includes but is not limited to the following improved rights-of-way:

Atchinson Stage Road - from Pine Hollow Road to Caulfield Drive

Black Point Place - center median island.

Caulfield Court - center median island.

Center Street - from Oak Street to Clayton Road.

Clayton Road - from the western city limits to the southern Marsh Creek Road intersection.

Cul-de-sacs: landscaped areas at end of Ahwanee Lane, Wawona Court, Tuyshtak Court, Antelope Court, Obsidian Court, Blue Oak Lane, Falcon Place, Windmill Canyon Place, Hummingbird Place, Raven Place, and Golden Eagle Place.

Diablo Parkway - from Marsh Creek Road to El Portal Drive.

Eagle Peak Avenue – from the east intersection with Oakhurst Drive to just west of the Ohlone Heights intersection, and including the west intersection with Oakhurst Drive.

Indianhead Way - entrance area at Oakhurst Drive

Indian Wells Way – both entrance areas with Oakhurst Drive, and center medians up to
Anizume Court and Jalalon Place.

Jeffry Ranch Court - center median island.

Keller Ridge Drive - to Golden Eagle Place intersection.

Lydia Lane - from intersection of Clayton Road to Lydia Lane Park.

Main Street - from Clayton Road to (old) Marsh Creek Road.

Marsh Creek Road - from the northern intersection of (old) Marsh Creek Road to the eastern city limits.

Oakhurst Drive - form the western city limits to Clayton Road intersection.

Peacock Creek Drive - from Clayton Road to approximately the Pebble Beach Drive intersection.

Pine Hollow Road - from Atchinson Stage Road to Panadero Way.

Regency Drive - median entrance from Marsh Creek Road.

So. Mitchell Canyon Road - from approx. Del Trigo Lane to Herriman Court intersection.

B. Open Space and Trails - which include but are not limited to:

Publicly-owned creek-side, intra-community and open space trails located within the boundaries of the CFD.

C. Clayton Fountain - which includes but is not limited to:

Maintenance to the fountain itself, rock structure and all attendant appurtenances, including the geyser and water pump system as well as the surrounding public landscaped area located at east side of the intersection of Oakhurst Drive, Center Street and Clayton Road.

Definitions

"Maintenance" means the furnishing of services and materials for the ordinary and usual operation, maintenance and care of the public landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any landscaping and appurtenant facilities providing for the life, growth, health and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid wastes; and the eradication of landscape pests, including but not limited to vermin and rodents, ground squirrels, gophers, moles and wild pigs. "Maintenance" also includes the furnishing of water for irrigation of the public landscaping, and the supply of electricity to operate the attendant irrigation systems.

The foregoing services shall be provided through and by the City of Clayton, either with its own labor forces or by contract with third parties, or any combination thereof, as determined solely by the City of Clayton.

"Costs" means the costs and expenses directly or indirectly incurred by the City in connection with the Maintenance described above. Allowable Costs payable from special taxes of the District also include the County's imposed cost to levy and collect the District's assessment through the annual property tax bill, the City's shared equipment and facilities charges, City prorated overhead charges to administer and manage the District and collect the special taxes, and District reserve funds for replacement and major repairs.

EXHIBIT B

CITY OF CLAYTON Community Facilities District 2007-1 (Citywide Landscape Maintenance)

RATE AND METHOD OF LEVY OF SPECIAL TAX

A special tax will be levied annually on each taxable parcel of land not defined below as an "Exempt Parcel" within the Community Facilities District 2007-1 (Citywide Landscape Maintenance) (the "CFD") and collected in the same manner as ordinary ad-valorem property taxes or in such manner as the City of Clayton City Council or its designee shall determine, including City-originated billing of the affected property owners.

Definitions

<u>Taxable Parcels</u>: Parcels of land within the boundaries of the CFD that are not

included in the "Exempt Parcel" category listed below.

Exempt Parcels: Parcels of land owned by a public agency, right-of-way

parcels, schools, hospitals, cemeteries, mortuaries, libraries, parks, mineral rights, private roads, pipelines, public parking

facilities and common areas.

Residential Parcels: Taxable parcels of land that are classified as either single-

family, condominium, townhouse, multi-family or rural

residential parcels.

Non-residential Parcels: Taxable parcels that are not classified as "Residential Parcels".

Special Tax: The special tax allowed to be levied on property within the

CFD, calculated pursuant to this Rate and Method of

Apportionment of Special Tax.

Special Tax Formula

A. Residential Parcels: An annual special tax will be levied on all Residential Parcels,

as defined above, at the per parcel tax rate shown below for

each fiscal year 2007-2008 through 2016-2017:

Residential Parcel Annual Special Tax Rate: \$196.77

B. Non-residential Parcels:

An annual special tax will be levied on all Non-residential Parcels at the per acre rate shown below for each fiscal year 2007-2008 through 2016-2017:

Non-residential Parcel Annual Special Tax Rate: \$196.77 per acre or fraction thereof, based on parcel size as shown on the then-current County tax roll.

Duration of Special Tax Levy

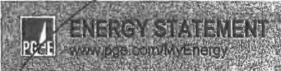
The special tax will be levied annually for a period of ten (10) years commencing in fiscal year 2007-2008 through and including fiscal year 2016-2017. After the ten (10) year duration has expired the special tax may no longer be collected unless extended pursuant to applicable laws, except that a special tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years.

Special Tax Escalator Factor

In fiscal years 2008-2009 through 2016-2017, the special tax may be increased annually by the Clayton City Council in an amount not to exceed the full annual adjustment (April to April) in the Consumer Price Index – All Urban Consumers, San Francisco-Oakland-San Jose, CA Area (Base Period 1982-84 = 100). This escalator factor is applicable if determined to be necessary due to expected increases in the operational and maintenance expenses attributable to the CFD. Such determination shall be made by action of the Clayton City Council, which must occur at a regular public meeting thereof accompanied by a prior recommendation of the citizens' Trails and Landscaping Committee established by the City Council in February 2006 (City Resolution No. 08-2006). In no event shall each annual special tax rate in any fiscal year increase by more than three percent (3%) over the previous year.

Relationship to Special Tax of Community Facilities District 1997-1

An intent of the new Community Facilities District 2007-1 is to replace the City's Community Facilities District 1997-1 that levied an annual special tax for Citywide Landscape Maintenance purposes during the last ten years and which special tax automatically expires on June 30, 2007. No further special tax can be levied by CFD 1997-1.



Account No: 7293447797-6 Statement Date: Due Date:

06/20/2018 07/09/2018

Service Information

Meter# 1008838942 Total Usage 1,604.322000 kWh Serial Rotating Outage Block 50

Details of Electric Chames

05/15/2018 - 06/13/2018 (30 billing days)

Service For. COR OAKHURST &

Service Agreement ID: 7293447288 *IRRIGN/PUMP-WATERFALL Rate Schedule: A10SX Medium General Demand-Metered Service - TOU

Enrolled Programs: Peak Day Pricing Plan

Customer Charge	30	days	@£4.59959	\$137.99
Demand Charge	3.344000	KW	@\$19.52000	65.27
Energy Charges				
Peak	374.444000	kWh	@\$0.22337	83,64
Pert Peak	457.059000	kWh	@\$0.16824	76.90
Off Peak	772.819000	kWh	@\$0.14017	108.33
PDP Program Details				
Maximum Demand Credits	3.344000	kW	@-\$3.61000	-12.07
Peak Usage Credits	374,444000	kWh	@-\$0.00261	-0.96
Part Peak Usage Credits	457.059000	kWh.	@-\$0.00261	-1.18
Off Peak Usage Credits	772.819000	kWh	@-\$0.00281	-2.02
Event Day Charges	24.578000	kWh	@\$0.90000	22.12
Energy Commission Tax				0.47

Total Electric Charges

Usage For This Period's Event Days (2PM to 6PM) 08/12/2018 12.305000 KWh 06/13/2018

12.273000 kWh

\$478.46

Average Daily Usage (kWh / day)

Les Year	List Period	Committened.
140.12	181.63	63.48

Monthly cost without waterfall & geysers. (Recirculation only)

56 S	= Average Daily Usage 53.48	Posk* Part Posk* Off Posk*	Usage 23.33% 28.50% 48.17%	Energy Charge: \$83.6 \$76.9 \$108.3
22 - 28 - 14 - 14 - 14 - 14 - 14 - 14 - 14 - 1	G 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	Peak: 5/1-10/31 12:: *Pert Peak: 5/1-10/3 (except Holidays); 11/2 *Off Peak: Year Ross Sel-Sun; Holidays	1 8:30em-12:00pm, 6: 1-4/30 8:30em-9:30pm	mept Holidays); :00pm-9:30pm, M-F n, M-F (except Holidays) M-F (except Holidays);

Visit www.pge.com/MyEnergy for a detailed bill comparison.

Page 14 of 48



Account No: 7293447797-6

Statement Date:

07/25/2018

Due Date:

08/13/2018

vetalls of Electric Charges

06/14/2018 - 07/15/2018 (32 billing days)

Service For: COR OAKHURST &

Service Agreement ID: 7293447288 *IRRIGN/PUMP-WATERFALL

Rate Schedule: A10SX Medium General Demand-Metered Service - TOU

Enrolled Programs: Peak Day Pricing Plan

05/14/2018 - 07/15/2018

Customer Charge	32	days	@\$4.59959	\$147.19	-
Demand Charge	45.584000	kW	@\$19.52000	889.80	
Energy Charges					i
Peak	421.456000	kWh	@\$0.22337	94.14	1
Part Peak	619.898000	kWh	@\$0.16824	104.29	
Off Peak	1,968.309000	kWh	@\$0.14017	275.90	0.8
PDP Program Details					4
Maximum Demand Credits	45.584000	kVV	@-\$3.61000	-164.56	*
Peak Usage Credits	421.456000	kVVh	@ -\$0.00261	-1.10	
Part Peak Usage Credits	619.898000	kWh	@ -\$0.00261	-1.62	14.4
Off Peak Usage Credits	1,968.309000	kWh	@ -\$0.00261	-5.14	Ů
Event Day Charges	12.801000	kWh	@\$0.90000	11.52	
Energy Commission Tax				0.87	

Total Electric Charges

Usage For This Period's Event Days (2PM to 6PM)

07/10/2018 12.801000 kWh

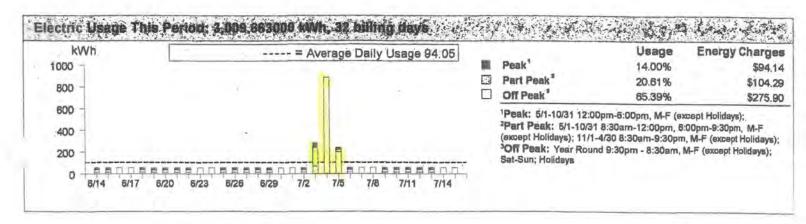
Average Daily Usage (kWh / day)

Last Year	Last Period	Current Period
182.63	53.48	94.05

Service Information

Meter #	1008838942
Total Usage	3,009.663000 kWh
Serial	Y
Rotating Outage Block	50

Cost to Run 4th of July



\$1,351.29

CITY OF CLAYFON

Founded 1851 Memperated 1965

STAFF REPORT

Agenda Date: 8-21-20/8

Agendaltem: 8b

Approved:

Gary A. Napper City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: August 21, 2018

SUBJECT: Designation of Voting Delegate and Alternate Delegate for League of

California Cities 2018 Annual Conference being held September 12 through 14, in Long Beach and the City's position on the two (2) League

Conference General Resolutions.

RECOMMENDATION

If budgetary action allows, it is recommended the City Council consider designating one of its members as the Voting Delegate and one member as the Alternate to represent the City of Clayton during the 2018 League of California Cities Annual Business Meeting.

BACKGROUND

The League of California Cities' "Annual Conference" is scheduled for Wednesday, September 12 through Friday, September 14 in Long Beach. A Business Meeting will take place on Friday, September 14, 2018 at noon. Councilmember Pierce serves on the League's Transportation, Communications and Public Works Policy Committee (13 years) and is the City's representative to the East Bay Division of the League of California Cities. Councilmember Diaz serves on the League's Public Safety Policy Committee (4 years).

League Bylaws provide that each City is entitled to one vote in matters affecting municipal or League policy. Per the attached Annual Conference Voting Procedures, a City official must have in possession the City's Voting Card and be registered with the Credentials Committee to cast that City's vote. A voting card will be issued to the City officials designated by the City Council on the attached Voting Delegate Form.

Conference registration is required for voting delegates. There are two (2) General Resolutions submitted in advance (Attachment B).

FISCAL IMPACT

During the last 9 fiscal years the vast majority of conference and training budget for all personnel of the City, including the City Council, was eliminated or significantly curtailed, except for League Division and Mayors' Conference attendance. If the Council wishes to send a delegate, funds will need to be expended.

Subject: Designation of Voting Delegate for 2018 League Annual Conference

Date: August 21, 2018

Page 2 of 2

The cost of conference registration is \$575 per person for the full event plus lodging and transportation expenses. The Fiscal Year 2018-2019 Budget, adopted on June 19, 2018, included in Legislative Department 01 account number 7372 Conferences/Meetings of \$1,600. In the past the City has not paid for lodging expenses at an Annual Conference when it is held in the northern California or Bay Area vicinity.

Attachment - A. League of California Cities Annual Conference Voting Procedures (4 pages)

- B. League of California Cities Annual Conference Resolutions (52 pages)
- C. Conference Program (2 pages)





1400 K Street, Suite 400 • Sacramento, California 95814 Phone: 916.658.8200 Fax: 916.658.8240 www.cacities.org

Council Action Advised by July 31, 2018

May 17, 2018

TO: Mayors, City Managers and City Clerks

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES

League of California Cities Annual Conference – September 12 - 14, Long Beach

The League's 2018 Annual Conference is scheduled for September 12 – 14 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 31, 2018. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- Action by Council Required. Consistent with League bylaws, a city's voting delegate
 and up to two alternates must be designated by the city council. When completing the
 attached Voting Delegate form, please attach either a copy of the council resolution that
 reflects the council action taken, or have your city clerk or mayor sign the form affirming
 that the names provided are those selected by the city council. Please note that
 designating the voting delegate and alternates must be done by city council action and
 cannot be accomplished by individual action of the mayor or city manager alone.
- Conference Registration Required. The voting delegate and alternates must be
 registered to attend the conference. They need not register for the entire conference; they
 may register for Friday only. To register for the conference, please go to our website:
 www.cacities.org. In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- Transferring Voting Card to Non-Designated Individuals Not Allowed. The voting
 delegate card may be transferred freely between the voting delegate and alternates, but
 only between the voting delegate and alternates. If the voting delegate and alternates find
 themselves unable to attend the Business Meeting, they may not transfer the voting card
 to another city official.
- Seating Protocol during General Assembly. At the Business Meeting, individuals with
 the voting card will sit in a separate area. Admission to this area will be limited to those
 individuals with a special sticker on their name badge identifying them as a voting delegate
 or alternate. If the voting delegate and alternates wish to sit together, they must sign in at
 the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 12, 8:00 a.m. – 6:00 p.m.; Thursday, September 13, 7:00 a.m. – 4:00 p.m.; and Friday, September 14, 7:30 a.m. – 11:30 a.m.. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Friday, August 31. If you have questions, please call Kayla Curry at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

Annual Conference Voting Procedures

- One City One Vote. Each member city has a right to cast one vote on matters pertaining to League policy.
- Designating a City Voting Representative. Prior to the Annual Conference, each city
 council may designate a voting delegate and up to two alternates; these individuals are
 identified on the Voting Delegate Form provided to the League Credentials Committee.
- 3. Registering with the Credentials Committee. The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
- 4. Signing Initiated Resolution Petitions. Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
- 5. Voting. To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
- 6. Voting Area at Business Meeting. At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
- Resolving Disputes. In case of dispute, the Credentials Committee will determine the
 validity of signatures on petitioned resolutions and the right of a city official to vote at the
 Business Meeting.



CITY.		
SI 1 1:		

2018 ANNUAL CONFERENCE VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, August 31, 2018. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE	
Name:	
Title:	
2. VOTING DELEGATE - ALTERNATE	3. VOTING DELEGATE - ALTERNATE
Name:	Name:
Title:	Title:
AND ALTERNATES. OR ATTEST: I affirm that the information process.	rion designating voting delegate
designate the voting delegate and alternate	e(s).
Name:	E-mail
Mayor or City Clerk	Phone:
(circle one) (signature) Date:	
Please complete and return by Friday, Au	gust 31, 2018

League of California Cities ATTN: Kayla Curry 1400 K Street, 4th Floor Sacramento, CA 95814

FAX: (916) 658-8240 E-mail: kcurry@cacities.org (916) 658-8254



Annual Conference Resolutions Packet

2018 Annual Conference Resolutions



Long Beach, California September 12 – 14, 2018

INFORMATION AND PROCEDURES

Micho.

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to League policy committees.

<u>POLICY COMMITTEES</u>: Five policy committees will meet at the Annual Conference to consider and take action on the resolutions referred to them. The committees are: Environmental Quality, Governance, Transparency & Labor Relations; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works. The committees will meet from 9:00 – 11:00 a.m. on Wednesday, September 12, at the Hyatt Regency Long Beach. The sponsors of the resolutions have been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 13, at the Hyatt Long Beach, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 13. Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

- Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
- The issue is not of a purely local or regional concern.
- The recommended policy should not simply restate existing League policy.
- 4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

LOCATION OF MEETINGS

Policy Committee Meetings

Wednesday, September 12, 9:00 – 11:00 a.m. Hyatt Regency Long Beach 200 South Pine Avenue, Long Beach

The following committees will be meeting:

- 1. Environmental Quality
- 2. Governance, Transparency & Labor Relations
- 3. Housing, Community & Economic Development
- 4. Revenue & Taxation
- 5. Transportation, Communication & Public Works

General Resolutions Committee

Thursday, September 13, 1:00 p.m. Hyatt Regency Long Beach 200 South Pine Avenue, Long Beach

Annual Business Meeting and General Assembly Luncheon

Friday, September 14, 12;30 p.m. Long Beach Convention Center 300 East Ocean Boulevard, Long Beach

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Reviewing Body Action				
	1	2	3	
to General	eral Re	solutions (lutions Co	Committ	ee
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KEY TO ACTIONS TAKEN ON RESOLUTIONS (Continued)

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES	KEY	TO ACTIONS TAKEN
1. Policy Committee	Α	Approve
2. General Resolutions Committee	D	Disapprove
3. General Assembly	N	No Action
A CTYON FOOTNOTES	R	Refer to appropriate policy committee for study
ACTION FOOTNOTES	а	Amend+
* Subject matter covered in another resolution	Aa	Approve as amended+
** Existing League policy	Aaa	Approve with additional amendment(s)+
*** Local authority presently exists	Ra	Refer as amended to appropriate policy committee for study+
	Raa	Additional amendments and refer+
	Da	Amend (for clarity or brevity) and Disapprove+
	Na	Amend (for clarity or brevity) and take No Action+
	W	Withdrawn by Sponsor

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: Resolution Process.

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE LEAGUE TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE AND EXPLORE THE PREPARATION OF A BALLOT MEASURE AND/OR CONSTITUTIONAL AMENDMENT THAT WOULD FURTHER STRENGTHEN LOCAL DEMOCRACY AND AUTHORITY

Source: City of Beverly Hills

Concurrence of five or more cities/city officials: Cities: Arcadia, Burbank, Cupertino; Duarte; Oceanside; Ontario; Palo Alto; Redondo Beach; Santa Cruz; Sunnyvale; Torrance; West Hollywood

Referred to: Governance, Transparency & Labor Relations; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works Policy Committees

WHEREAS, the State of California is comprised of diverse communities that are home to persons of differing backgrounds, needs, and aspirations; yet united by the vision that the most accessible, responsive, effective, and transparent form of democratic government is found at the local level and in their own communities; and

WHEREAS, subsidiarity is the principle that democratic decisions are best made at the most local level best suited to address the needs of the People, and suggests that local governments should be allowed to find solutions at the local level before the California Legislature imposes uniform and overreaching measures throughout the State; and

WHEREAS, the California Constitution recognizes that local self-government is the cornerstone of democracy by empowering cities to enact local laws and policies designed to protect the local public health, safety and welfare of their residents and govern the municipal affairs of charter cities; and

WHEREAS, over recent years there have been an increasing number of measures introduced within the Legislature or proposed for the state ballot, often sponsored by powerful interest groups and corporations, aimed at undermining the authority, control and revenue options for local governments and their residents; and

WHEREAS, powerful interest groups and corporations are willing to spend millions in political contributions to legislators to advance legislation, or to hire paid signature gatherers to qualify deceptive ballot proposals attempting to overrule or silence the voices of local residents and their democratically-elected local governments affected by their proposed policies; and

WHEREAS, powerful interest groups and corporations propose and advance such measures because they view local democracy as an obstacle that disrupts the efficiency of implementing corporate plans and increasing profits and therefore object when local residents—either through their elected city councils, boards of supervisors, special district boards, or by action of local voters—enact local ordinances and policies tailored to fit the needs of their individual communities; and

WHEREAS, public polling repeatedly demonstrates that local residents and voters have the highest levels of confidence in levels of government that are closest to the people, and thus would be likely to strongly support a ballot measure that would further strengthen the ability of communities to govern themselves without micromanagement from the state or having their authority undermined by deep-pocketed and powerful interests and corporations.

RESOLVED that the League of California Cities should assess the increasing vulnerabilities to local authority, control and revenue and explore the preparation of a ballot measure and/or constitutional amendment that would give the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy to best preserve their local quality of life.

Background Information on Resolution No. 1

Source: City of Beverly Hills

Background:

The relationship between the state and cities functions best as a partnership where major policy issues are approached by the state with careful consideration of the varied conditions among the state's 482 cities and 58 counties. There should be an appreciation of the importance of retaining local flexibility to tailor policies to reflect the needs and circumstances of the local community. Still, cities have had to respond to state legislation that undermines the principle of "local control" over important issues such as land use, housing, finance, infrastructure, elections, labor relations and other issues directly affecting cities.

Alexis de Tocqueville's "Democracy in America" examined the operation of the principle of subsidiarity in the early 19th century. Subsidiarity is an organizing principle that states matters should be handled by the smallest, lowest or least centralized competent authority. Tocqueville wrote that "Decentralization has not only an administrative value, but also a civic dimension, since it increases the opportunities for citizens to take interest in public affairs; it makes them get accustomed to using freedom." Tocqueville's works were first published in 1835 with a second volume published in 1840. The United States had a population of just 17 million people in 1840, less than 50% of the population of California today and yet there was value found in decentralization.

Another consideration is to examine how the European Union ("EU") operates. There are two prime guiding principles for the EU. The first is principle of conferral, which states that the EU should act only within the limits of the competences conferred on it by the treaties. The second, which is relevant to this resolution, is the principle of subsidiarity, which states that the EU should act only where an objective cannot be sufficiently achieved by the member states acting alone. Sacramento should operate in a similar manner and only govern when objectives need to be achieved at a much larger level than a local government.

For years, Governor Jerry Brown himself has spoken on the principle of "subsidiarity." Governor Brown has asserted for numerous years that local officials should have the flexibility to act without micromanagement from Sacramento.

Legislation introduced in both 2017 and 2018 by the state legislature has continually threatened local control in flagrant opposition to the principle of subsidiarity. This has included, but not been limited to, Senate Bill 649 (Hueso) Wireless Telecommunications Facilities ("SB 649") in 2017; AB 252 (Ridley-Thomas) Local government: taxation: prohibition: video streaming services ("AB 252") in 2017; and Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus ("SB 827") in 2018.

SB 649 would have applied to all telecommunications providers and the equipment they use, including "micro-wireless," "small cell," and "macro-towers," as well as a range of video and cable services. The bill would have allowed the use of "small cell" wireless

antennas and related equipment without a local discretionary permit in all zoning districts as a use by-right, subject only to an administrative permit. Additionally, SB 649 provided a de facto CEQA exemption for the installation of such facilities and precluded consideration by the public for the aesthetic, nuisance, and environmental impacts of these facilities. SB 649 would have also removed the ability for cities to obtain fair and reasonable compensation when authorizing the use of public property and rights of way from a "for profit" company for this type of use.

SB 649 passed out of the State Assembly by a vote of 46-16-17 and out of the State Senate by a vote of 22-10-8 despite over 300 cities and 47 counties in California providing letters of opposition. Ultimately, Governor Brown vetoed the bill as he believed "that the interest which localities have in managing rights of way requires a more balanced solution than the one achieved in this bill." It is strongly believed that the issue of wireless telecommunications facilities is not over and it is anticipated that legislation will be introduced on this topic in January 2019.

Another example of an incursion into local control was AB 252, which would have prohibited any tax on the sale or use of video streaming services, including sales and use taxes and utility user taxes. Over the last two decades, voters in 107 cities and 3 counties have adopted measures to modernize their Utility User Tax ("UUT") ordinances. Of these jurisdictions, 87 cities and 1 county approved ordinances to allow a UUT on video providers. Prior to its first Committee hearing, AB 252 received opposition letters from 37 cities, the League of California Cities, South Bay Council of Governments, California Contract Cities Association, and nine other organizations. This bill failed in the Assembly Revenue and Taxation Committee 8-0-2, which the author of the Committee chaired.

More recently, SB 827 would have overridden local control on housing development that was within ½ mile of a major transit stop or ¼ mile from a high-quality bus corridor as defined by the legislation with some limitations. On April 17, 2018, SB 827 failed in the Senate Transportation and Housing Committee 4-6-3 but was granted reconsideration. State legislators have indicated they will continue to introduce legislation that will override local zoning ordinances for the development of affordable housing in conjunction with mixed use and/or luxury condominium/apartment housing.

These are just three examples of the increasing attempts by Sacramento to supersede local control. Presently, there are discussions occurring in Sacramento to ban cities from creating their own municipal broadband or to prohibit local ordinances over the regulation of shared mobility devices such as dockless electric scooters. These decisions should remain with each individual jurisdiction to decide based on the uniqueness of their community and the constituents that live in each city.

Often fueled by the actions of special interest groups, Sacramento is continually attempting to overreach their authority with various incursions on local control. The desire in Sacramento to strip communities of their ability to make decisions over issues which should remain at the local level seems to intensify each state legislative cycle. Increasingly, legislation is being introduced with a "one-size-fits-all" approach which is detrimental in a

state with over 40 million residents that have extremely diverse communities from the desert to the sea, from the southern to the northern borders.

Loren King in the book "Cities, Subsidiarity and Federalism" states, "Decisions should be made at the lowest feasible scale possible". The proposed resolution directs the League of California Cities to assess the increasing vulnerabilities to local authority, control and revenue. It also directs the League of California Cities to explore the preparation of a ballot measure and/or constitutional amendment which would aim to ensure that decisions are made as close to home as possible.

Local government, when done right, is the best form of democracy precisely because it is closest to home. A ballot measure and/or constitutional amendment would provide the state's voters an opportunity to further strengthen local authority and maintain the role of local democracy to best preserve their local quality of life while still leaving the appropriate issues at the county, regional or state legislature depending on the topic. Any ballot measure and/or constitutional amendment should institutionalize the principle of subsidiarity, while encouraging inclusive regional cooperation that recognizes the diversity of California's many individual communities. The time has come to allow the residents of California's voters to decide if they prefer top down governance from Sacramento or bottom up governing from their own locally elected officials.

League of California Cities Staff Analysis on Resolution No. 1

Staff: Dan Carrigg, Johnnie Pina

Committees: Governance, Transparency and Labor Relations

Housing, Community & Economic Development

Revenue & Taxation

Transportation, Communication and Public Works

Summary:

This Resolution states that the League of California Cities should assess the vulnerabilities to local authority, control and revenue and explore the preparation of a ballot measure and or constitutional amendment that would give the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

Background:

The City of Beverly Hills is sponsoring this resolution in reaction to their concerns over measures coming from the Legislature and the initiative process attempting to roll back local control and hinder cities from providing optimal services to their residents.

As examples, the city cites the 2017-2018 legislative cycle, the Legislature introduced bills such as Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, and AB 252 (Ridley-Thomas) proposing to prohibit taxes on video streaming services, and more recently Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing. SB 649 was vetoed by the Governor and SB 827 died in policy committee, however if these measures had been signed into law they would have impinged on the ability of a local government to be responsive to the needs of their constituents.

The city maintains that "local government, when done right, is the best form of democracy precisely because it is closest to home. A ballot measure and/or constitutional amendment would provide the state's voters an opportunity to further strengthen local authority and maintain the role of local democracy to best preserve their local quality of life while still leaving the appropriate issues at the county, regional or state legislature depending on the topic."

Fiscal Impact:

By requesting the League to "assess" vulnerabilities and "explore" the preparation of a ballot measure that would further protect local authority, there are no proposals to be quantified. But it is presumed that the League would not pursue a measure that did not have positive impacts of further protecting local authority.

For the League as an organization, however, the fiscal impact of sponsoring a ballot measure can be very expensive. It can take several million dollars to qualify a measure via signature gathering, and much more to fund an effective campaign and overcome organized opposition.

Comments:

 Ballot measure advocacy is a settled aspect of California's political process. This year's November ballot is an example of that, with proposals ranging from dividing California into three states, restoring rent control, repealing transportation funding, to funding housing and water bonds. Three other measures are not on the November ballot after their sponsors spent millions gathering signatures to qualify measures, then leveraged last-minute legislative deals in exchange for pulling them from the ballot.

2) Most major stakeholder organizations in Sacramento have realized that they cannot rely on legislative advocacy alone to protect their interests, but must develop and maintain the capacity to protect their interests in the ballot process as well.

3) The League has been engaged in ballot advocacy for nearly 20 years. In the early 2000's, city officials were angered by repeated state raids of local revenues. These concerns led to the League —for the first time in its then 100-year history—developing a ballot advocacy infrastructure that included forming and fundraising for an issues political action committee (PAC), establishing a network of regional managers, and building a coalition with other organizations that ultimately led to the passage of Prop. 1A of 2004. Over the years, the League's successful campaigns include the passage of Proposition 1A and Proposition 99 and the defeat of Propositions 90 and 98.

a. Yes on Proposition 1A (2004)

As a result of the passage of Prop 1A, local government revenues that otherwise would have been raided by the state legislature were kept in local coffers. This resulted in increased funding for public safety, health, libraries, parks and other locally delivered services. Proposition 1A PASSED WITH 83.7% OF THE VOTE.

b. No on Proposition 90 (2006)

Prop. 90 was a well-financed special interest-backed initiative that sought to eliminate most of local governments' land use decision making authority. Led by the League, the opposition educated voters on how this measure's far reaching provisions would have cost taxpayers billions of dollars by driving up the cost of infrastructure projects, prevented voters and state and local agencies from enacting environmental protections, jeopardized public safety services and more. Proposition 90 FAILED WITH 52.4% OF THE VOTERS VOTING NO.

c. No on Proposition 98 Yes on Proposition 99 (2008)

Given the hidden agendas within Prop 98, our message was not always an easy one to communicate to the electorate. The No on 98/ Yes on 99 campaign was able to educate voters on the important differences between both measures. As a result, important eminent domain reforms were enacted and both land use decision making and rent control were preserved within our communities. Proposition 98 FAILED WITH 61.6% OF THE VOTERS VOTING NO. Proposition 99 PASSED BY 61% OF THE VOTE.

d. Yes on Proposition 22 (2010)

As a result of the passage, local governments have been able to pay for infrastructure investment, create local jobs and avoid devastating cuts in our communities. Proposition 22 APPROVED BY 60.7% OF VOTERS.

- 4) While the League has been able to recently defeat several major legislative proposals aimed and undermining local authority, and avoid a battle over the Business Roundtable's measure in November due to the "soda tax" deal, the threats to local authority and revenue remain a constant concern. Other interest groups may be emboldened by some of the recent "deals" cut by ballot proponents and seek to implement similar strategies for the 2020 ballot. The next Governor may also have different philosophies then Governor Jerry Brown on "subsidiarity."
- 5) The League's President opted to send this resolution to four policy committees for several reasons: (a) the recent major threats to local control covered broad policy areas: telecom, land use, contracting, and revenue; and (b) having this issue vetted broadly within the League policy process will provide a better assessment of the depth of concern for the vulnerability to local control within the membership
- 6) If the membership chooses to approve this measure, it is strongly advisable to retain continued flexibility for the League to "assess" vulnerabilities and "explore" options. Any ballot initiative consideration must be approached very carefully by the organization. It is a difficult and very expensive endeavor that can have additional political ramifications. For 120 years the League's core mission has been to protect local control and it has gone to the ballot successfully before to do so -- but any such effort must be approached thoughtfully, prudently and cautiously.

Existing League Policy:

Related to this Resolution, existing policy provides:

- The League of California Cities' Mission Statement is, "To expand and protect local control for cities through education and advocacy. To enhance the quality of life for all Californians"
- The League of California Cities' Summary of Existing Policy and Guidelines states,
 "We Believe
 - Local self-governance is the cornerstone of democracy.
 - Our strength lies in the unity of our diverse communities of interest.
 - In the involvement of all stakeholders in establishing goals and in solving problems.
 - In conducting the business of government with openness, respect, and civility.
 - The spirit of public service is what builds communities.
 - Open decision-making that is of the highest ethical standards honors the public trust.
 - o Cities are the economic engine of California.
 - The vitality of cities is dependent upon their fiscal stability and local autonomy.
 - o The active participation of all city officials increases the League's effectiveness.
 - Focused advocacy and lobbying is most effective through partnerships and collaboration.
 - Well-informed city officials mean responsive, visionary leadership, and effective and efficient
 - o city operations."
- Click here to view the Summary of Existing Policy and Guiding Principles 2018.

Support:

The following letters of concurrence were received: Steven Scharf, Cupertino City Council Member; Michael S. Goldman, Sunnyvale City Council; Lydia Kou, Palo Alto City Council Member; David Terrazas, Mayor of Santa Cruz; Peter Weiss, Mayor of Oceanside; Alan D. Wapner, Mayor pro Tem of Ontario; Patrick Furey, Mayor of Torrance; Lauren Meister, West Hollywood Council Member; Liz Reilly, Duarte Mayor Pro Tem; Bill Brand, Mayor of Redondo Beach; Sho Tay, Mayor of Arcadia; Emily Gabel-Luddy, Mayor of Burbank.

2. A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Source: City of Malibu

Concurrence of five or more cities/city officials: Cities: Agoura Hills; Calabasas; Davis; Menlo

Park; Moorpark; Ojai; Oxnard; Richmond; West Hollywood

Referred to: Environmental Quality

WHEREAS, anticoagulant rodenticides are poisonous bait products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals, including pets, that accidentally ingest the products. Approximately 10,000 children under the age of six are accidentally poisoned by anticoagulant rodenticides each year nationwide; and

WHEREAS, in response to these harms, the California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides; and

WHEREAS, the state of California currently only recognizes the harm posed by secondgeneration anticoagulant rodenticides, which are prohibited in state wildlife habitat areas but are still available for agricultural purposes and by certified applicators throughout the state of California; and

WHEREAS, first-generation anticoagulant rodenticides are still available to the public and used throughout California without limitation; and

WHEREAS, nonpoisonous rodent control methods, such as controlling trash, sealing buildings, setting traps, erecting raptor poles and owl boxes, and removing rodent nesting areas are also effective rodent control methods; and

WHEREAS, the state of California preempts cities from regulating pesticides; and

WHEREAS, many cities across California have passed resolutions restricting pesticide use on city property and have expressed the desire to ban the use of pesticides within their jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the General Assembly of the League of California Cities, assembled in Long Beach, California on September 14, 2018, to do as follows:

 Encourage the state of California to fund and sponsor further research into the negative impacts of anticoagulant rodenticides to determine whether the use of these products should be further restricted or banned statewide.

- Direct the League of California Cities staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impact of anticoagulant rodenticides;
- Encourage cities throughout California to eliminate use of anticoagulant rodenticides as
 part of their maintenance program in city-owned parks, lands, and facilities and to report
 on the effectiveness of other rodent control methods used in in their maintenance
 program;
- Encourage property owners throughout California to eliminate use of anticoagulant rodenticides on their properties;
 - Encourage cities throughout California to join in these advocacy efforts to mitigate the unintended negative impacts of anticoagulant rodenticides;
 - Endorse a repeal of California Food and Agriculture Code § 11501.1 to end local preemption of regulating pesticides; and
 - Call for the Governor and the Legislature to work with the League of California Cities and other stakeholders to consider and implement this reform.

Background Information on Resolution

Source: City of Malibu Background:

A. Anticoagulant rodenticides are unnecessarily destructive and dangerous

Anticoagulant rodenticides contain lethal agents that disrupt the normal blood clotting or coagulation process causing dosed rodents to die from uncontrolled bleeding or hemorrhaging. Deaths typically occur between four days and two weeks after rodents begin to feed on the bait. Animals commonly targeted by anticoagulant rodenticides include rats, mice, gophers and squirrels. Non-target predator wildlife victims, which are exposed to an 80-90% risk of poisoning, include owls, hawks, bobcats, bears, foxes, coyotes, and mountain lions. The endangered species at risk of poisoning include fishers, spotted owls, and San Joaquin foxes. The use of anticoagulant rodenticides not only harms rodents, but it commonly harms pets, such as dogs, cats, and bunnies, and other wildlife that mistakenly eat the bait through primary poisoning or that unknowingly consume animals that have ingested the anticoagulant rodenticide through secondary poisoning. Children also suffer poisoning by mistakenly ingesting anticoagulant rodenticides.

California recognizes the grave harm that can be caused by anticoagulant rodenticides and has partially restricted access to second-generation anticoagulant rodenticides by the public:

Because of documented hazards to wildlife, pets and children, the California Department of Pesticide Regulation has restricted public access to some of these materials in California. As of July 1, 2014, rodenticide products containing the active ingredients brodifacoum, bromadiolone, difethialone and difenacoum are only to be used by licensed applicators (professional exterminators).¹

California has also prohibited the use of these ingredients in any "wildlife habitat area," which is defined as "any state park, state wildlife refuge, or state conservancy."²

The United State Environmental Protection Agency³ and the California Department of Pesticide Regulation⁴ have both documented in detail the damage to wildlife from second-generation anticoagulant rodenticides in support of the 2014 consumer ban on the purchase and use of the products. While first-generation anticoagulant rodenticides are less toxic, they are far more abundant due to their continued availability to all members of public.⁴ The California Department of Fish & Wildlife was tasked with collecting data on poisoning incidents to ascertain the effectiveness of the restrictions on second-generation anticoagulant rodenticides. After almost four years of collecting data, there was no evidence supporting a reduction in the number of poisonings.

https://www.wildlife.ca.gov/living-with-wildlife/rodenticides.

² Cal. Food and Agric. Code § 12978.7.

³ https://www.epa.gov/rodenticides/restrictions-rodenticide-products

https://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/brodifacoum_final_assess.pdf

Recent studies by the University of California, Los Angeles and the National Park Service on bobcats have shown that first-generation anticoagulant rodenticide poisoning levels similar to the second-generation anticoagulant rodenticides poisoning levels.⁵ A comprehensive study of 111 mountain lions in 37 California counties found first-generation anticoagulant rodenticides in the liver tissue of 81 mountain lions (73% of those studied) across 33 of the 37 counties, and second-generation anticoagulant rodenticides in 102 mountain lions (92% of those studied) across 35 of the 37 counties.⁶ First-generation anticoagulant rodenticides were identified as contributing to the poisoning of Griffith Park mountain lion, P-22, (who was rescued), and the deaths of Newbury Park mountain lion, P-34, and Verdugo Hills mountain lion, P-41.

This data demonstrates the inadequacy of current legislative measures to ameliorate the documented problem caused by both second-generation and first-generation anticoagulant rodenticides.

B. State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides

A general law city may not enact local laws that conflict with general state law. Local legislation that conflicts with state law is void. A local law conflicts with state law if it (1) duplicates, (2) contradicts, or (3) enters a field that has been fully occupied by state law, whether expressly or by implication. A local law falling into any of these categories is "preempted" and is unenforceable.

State law expressly bars local governments from regulating or prohibiting pesticide use. This bar is codified in the California Food and Agricultural Code § 11501.1(a):

This division and Division 7... are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors, or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, transportation, or use of pesticides, and any of these ordinances, laws or regulations are void and of no force or effect.

State law also authorizes the state to take action against any local entity that promulgates an ordinance or regulation that violates § 11501.1(a). The statute was specifically adopted to overrule a 30 year old court decision in *People v. County of Mendocino*, which had held that a

⁵ L. E. K. Serieys, et al, "Anticoagulant rodenticides in urban bobcats: exposure, risk factors and potential effects based on a 16-year study," *Ecotoxicology* (2015) 24:844-862.

⁶ J. Rudd, et al, "Prevalence of First-Generation and Second-Generation Rodenticide Exposure in California Mountain Lions," Proceeding of the 28th Vertebrate Pest Conference, February 2018.

⁷ Cal. Const. art. XI § 7.

⁸ City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal. 4th 729, 743, 9 Cal. Food and Agric. Code § 11501.1, subd. (b).

¹⁰ People ex rel. Deukmejian v. County of Mendocino (1984) 36 Cal. 3d 476.

local regulation prohibiting aerial application of phenoxy herbicides was not then preempted by state or federal law. 11

The use of pesticides is broadly regulated by state law. In the language of preemption law, the state "occupies the field," leaving no room for additional local law on the subject. Accordingly, a city's ban on the use of anticoagulant rodenticides would be unenforceable.

C. California should repeal the preemption in Cal. Food and Agric. Code § 11501.1 to provide cities with the authority to decide how to regulate pesticides within their own jurisdictions based on local concerns

The state of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

Recognizing that cities' power to "make and enforce within its limits all local, police, sanitary, and other ordinances and regulations" is presently preempted by the general laws of the state, cities throughout California request that the state provide cities with the authority to decide how to deal with rodents based on their land use.

Depending on such land use, cities may decide to allow the use of nonpoisonous control methods, non-anticoagulant rodenticides, or anticoagulant rodenticides, if necessary. Nonpoisonous methods to control rodent pests, include sealing entrances to buildings, sanitizing property, removing rodent habitats, such as ivy or wood piles, setting traps, and erecting raptor poles or owl boxes. For example, a recent landmark study by Ventura County established that installing raptor poles for hawks and owls was more effective than anticoagulant rodenticides in reducing the damage to water control levees caused by ground squirrel burrows. Burrows decreased by 66% with the change. 12

The ultimate goal is to allow cities to address their local concerns with the input of community members at open and public meetings. Presently, cities are unable to adequately address local concerns; they are limited to encouraging or discouraging behavior.

D. Conclusion

The negative effects from the use of anticoagulant rodenticides across California has garnered the interest of cities and community members to remedy the problem. By presenting this resolution to the League of California Cities, the City of Malibu hopes to organize support and gain interest at the state level to repeal the preemption in Cal. Food and Agric. Code § 11501.1 to provide cities with the authority to regulate pesticides based on individual, local concerns.

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¹¹ IT Corp. v. Solano County Bd. Of Supervisors (1991) 1 Cal. 4th 81, fn. 9; Turner v. Chevron USA Inc., 2006 WL 1314013, fn. 14 (unpublished).

¹² http://vcportal.ventura.org/BOS/District2/RaptorPilotStudy.pdf

League of California Cities Staff Analysis on Resolution No. 2

Staff:

Erin Evans-Fudem

Committee: Environmental Quality

Summary:

This resolution seeks to have the state and the League study the negative impacts of anticoagulant rodenticides and address the inability of cities to regulate the use of rodenticides and pesticides.

Specifically related to anticoagulant rodenticides, the resolution would encourage the state to fund research into the negative impacts and a potential restriction or ban; direct the League to consider creating a task force to study and report on the unintended negative consequences; encourage cities and property owners to eliminate use; and encourage cities to join advocacy efforts. In addition, the resolution would direct the League to endorse repeal of a statute that preempts local regulation of pesticides.

Background:

The City of Malibu is sponsoring this resolution out of concern about the effect of a certain type of rodent control (anticoagulant rodenticides) has on other wildlife. According to the City, anticoagulant rodenticides disrupt the blood clotting process and therefore cause rodents to die from bleeding or hemorrhaging. This rodenticide is commonly used on rats, mice, gophers, and squirrels. Predator animals that eat rodents can be exposed to anticoagulant rodenticides if they consume animals that have eaten the bait. These animals include owls, hawks, bobcats, bears, foxes, coyotes, and mountain lions. Furthermore, pets can also be exposed to anticoagulant rodenticides if they eat the bait or consume animals that have eaten the bait.

Some cities have passed "ceremonial resolutions" locally. For example, the City of Malibu has two ordinances in place to discontinue use of rodenticides and traps in city-owned parks, roads, and facilities, as well as encourage businesses and property owners not to use anticoagulant rodenticides on their property.

Fiscal Impact:

Costs to cities would include using alternative methods of rodent control and studying the efficacy. Since the resolution encourages, but does not mandate action by cities, city costs would be taken on voluntarily.

Fiscal impact to the League would include costs associated with the task force, scientific research, and educating League staff and members. For the task force, the League may incur costs associated with staffing, convening, and educating a task force to study anticoagulant rodenticides, as well as the cost of writing a report. This could include a need for outside experts with knowledge of pesticides and their ecological impacts. League resources would also be utilized to support proposals to repeal the statute preempting local regulation of pesticides; however, this cost may be absorbed with existing staff resources.

Comments:

Pesticides are regulated by federal and state governments. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) reserves for the federal government authority over pesticide labeling. States can adopt stricter labeling requirements and can effectively ban sale and use of pesticides that do not meet state health or safety standards. For 51 years, California has reserved regulation of pesticides for the state only, preempting local regulation. This preemption has been ratified and confirmed in subsequent court decisions and legislation. However, County Agricultural Commissioners work to enforce the state laws. Local governments may regulate or restrict pesticide use in their own operations, including use in municipal buildings or parks. 34

Broad direction. This resolution would direct the League to take a position allowing broad local discretion over pesticide regulation in general. Because the regulation of anticoagulant rodenticides is largely based in science, additional or outside expertise may be needed to ensure full understanding of the science behind rodent control methods. The resolution itself is not limited to allowing local governments to regulate anticoagulant rodenticides, which this resolution otherwise targets.

Rodent control methods. There are numerous methods of controlling rodents, including lethal traps, live traps, and poison baits. There are two generations of rodenticide poisons because after rodents became resistant to the first generation, the second was developed. The U.S. Environmental Protection Agency (U.S. EPA) provides the following information below related to the science and use of anticoagulant rodenticides:

Most of the rodenticides used today are anticoagulant compounds that interfere with blood clotting and cause death from excessive bleeding. Deaths typically occur between four days and two weeks after rodents begin to feed on the bait.

First-generation anticoagulants include the anticoagulants that were developed as rodenticides before 1970. These compounds are much more toxic when feeding occurs on several successive days rather than on one day only. Chlorpophacinone, diphacinone and warfarin are first-generation anticoagulants that are registered to control rats and mice in the United States.

Second-generation anticoagulants were developed beginning in the 1970s to control rodents that are resistant to first-generation anticoagulants. Second-generation anticoagulants also are more likely than first-generation anticoagulants to be able to kill after a single night's feeding. These compounds kill over a similar course of time but tend to remain in animal tissues longer than do first-generation ones. These properties mean that second-generation products pose greater risks to nontarget species that might feed on bait only once or that might feed upon animals that have eaten the bait. Due to these

¹ California Department of Pesticide Regulation (CDPR), A Guide to Pesticide Regulation in California: 2017 Update, pg. 9, https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf.

² California Food and Agriculture Code § 11501.1 (1967).

³ CDPR, A Guide to Pesticide Regulation in California: 2017 Update, pg. 9, https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf.

⁴ County Agricultural Commissioners work with CDPR to enforce state laws. CDPR, A Guide to Pesticide Regulation in California: 2017 Update, pg. 13, https://www.cdpr.ca.gov/docs/pressrls/dprguide/dprguide.pdf.

risks, second-generation anticoagulant rodenticides no longer are registered for use in products geared toward consumers and are registered only for the commercial pest control and structural pest control markets. Second-generation anticoagulants registered in the United States include brodifacoum, bromadiolone, difenacoum, and difethialone.

Other rodenticides that currently are registered to control mice include bromethalin, cholecalciferol and zinc phosphide. These compounds are not anticoagulants. Each is toxic in other ways.⁵

Legislative attempts to ban. Several legislative measures have been introduced to ban the use of certain anticoagulant rodenticides (AB 1687, Bloom, 2017. AB 2596, Bloom, 2016). However, neither of these measures were heard and failed to pass key legislative deadlines.

Existing League Policy:

The League does not have policy related to pesticides or rodenticides.

Related to federal regulation, League policy states:

The League supports flexibility for state and local government to enact environmental
and other standard or mandates that are stronger than the federal standards. However, the
League reserves the right to question or oppose stronger standards on the merits. The
League also opposes legislation that prohibits state and local governments from enacting
stricter standards.

Support:

The following letters of concurrence were received: William Koehler, Mayor of Agoura Hills; Fred Gaines, Mayor of Calabasas; Brett Lee, Mayor Pro Tem of Davis; Catherine Carlton, Menlo Park City Council Member; Janice Parvin, Mayor of Moorpark; Suza Francina, Ojai City Council Member; Carmen Ramirez, Oxnard City Council Member; Tom Butt, Mayor of Richmond; Lindsey Horvath, West Hollywood City Council Member

⁵ U.S. EPA, Restrictions on Rodenticide Products, https://www.epa.gov/rodenticides/restrictions-rodentigide-products

LETTERS OF CONCURRENCE Resolution No. 1

Local Municipal Authority, Control and Revenue



Office of the City Council

Sho Tay Mayor

April A. Verlato Mayor Pro Tem

Peter M. Amundson Council Member

Tom Beck Council Member

Roger Chandler Council Member July 10, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE

Dear Committee:

As the Mayor of the City of Arcadia, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that prohibits constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons, I strongly support this resolution.

Sincerely,

Sho Tay

Mayor, City of Arcadia

CC!

City of Arcadia City Council

Vice Mayor John Mirisch, City of Beverly Hills

240 West Huntington Drive Post Office Box 60021 Arcadia, CA 91066-6021 (626) 574-5403 City Hall (626) 446-5729 Fax www.ArcadiaCA.gov



July 11, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING

VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE

Dear Committee:

As the Mayor of the City of Burbank, on my own behalf, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

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These continual incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,

Emily Gabel-Luddy

Mayor, City of Burbank

cc: Vice Mayor John Mirisch, City of Beverly Hills

ile sabel- luddy

Jennifer Quan, League Regional Public Affairs Manager (via email)

From: Steven Scharf <scharf.steven@gmail.com>

Sent: Sunday, July 08, 2018 8:34 PM

To: Cindy Owens

Subject: Letter of Support for California League of Cities Resolution

Dear Ms. Cowens,

I was forwarded your email requesting support for a resolution in support of "the preparation of a ballot measure and/or state constitutional amendment that would strengthen local authority and preserve the role of local democracy at the local level as the state legislature is continually attempting to override the local authority of cities."

Speaking only for myself, and not on behalf of the City of Cupertino or other Cupertino City Council Members, I hereby give my support for such a measure. You may use my name as a supporter.

Sincerely, Steven Scharf Cupertino City Council Member



1600 Huntington Drive | Duarte, CA 91010 | Sus. 626.857.7931 | Fax 626.958.0018 | www.accessduarte.com

July 10, 2018

John Fasana Mayor

Sacramento, CA 95814 1400 K Street, Suite 400 League of California Cities General Resolutions Committee

Mayor Pro Texa Liz Reilly

2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING AND REVIEWUE YULMERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL,

> Tzeitel Paras-Caracci Councilmembers Margaret E. Finlay Samuel Kang

Dear Committee

Darrell J. George City Manager

that would provide the State's voters an opportunity to further strengthen local authority and preserve the proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballet measure The City of Duarte supports the League of California Cities ("League") Annual Conference Resolution role of local democracy.

defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a recently introduced Senate Bill 827 (Wiener) (Planning and Zoning: Transib-Rich Housing Bonus) that was State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local local government to institute discretionary legislation that is responsive to the needs of their constituents. Whether this was Senate Bill 649 (Liueso) (Wireless Telecommunications Racilities) or the more

tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result of the passage of that Assembly Bill, the State ballot initiative was pulled from the November More recently, a State ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents in local jurisdictions from passing a soda

prohibited in areas where it is unwarranted, and does not best serve the unique communities that make up the These continual incursions into local control by the State legislature and powerful interest groups should be State of California.

authority. For these reasons, the City of Duarte strongly supports this resolution. to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League

Sincerely,

Liz Rolly

Mayor Pro Tem

Vice Mayor John Mirisoh, City of Beverly Hills

000

MAYOR PETER WEISS

July 10, 2018

COUNCIL MEMBERS
JACK FELLER
JEROME KERN
CHARLES "CHUCK" LOWERY
ESTHER SANCHEZ

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE

INCREASING VULNERABILITIES TO LOCAL MUNICIPAL

AUTHORITY, CONTROL AND REVENUE

Dear Committee:

I'm writing on behalf of the City of Oceanside to support the League of California Cities' ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents in local jurisdictions from passing a soda tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by the state legislature and powerful interest groups should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons, I strongly support this resolution.

Sincerely,

Peter Weiss

MAYOR

cc: Vice Mayor John Mirisch, City of Beverly Hills



303 EAST "B" STREET, CIVIC CENTER



ITARI

CALIFORNIA 91764-4105

(909) 395-2000 FAX (909) 395-2070

PAUL S. LEON MAYOR

ALAN D. WAPNER MAYOR PRO TEM

JIM W. BOWMAN DEBRA DORST-PORADA RUBEN VALENCIA COUNCIL MEMBERS

July 10, 2018

SCOTT OCHOA CITY MANAGER

SHEILA MAUTZ CITY CLERK

JAMES R. MILHISER THEASURER

General Resolutions Committee League of California Cities 1400 K. Street, Suite 400 Sacramento, CA 95814

Re:

2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE

Dear Committee Members,

As Mayor pro Tem for the City of Ontario, I support the Annual Conference Resolution proposed by the City of Beverly Hills calling for the League of California Cities to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

In recent years, the state legislature has aggressively ramped up its efforts to wrestle authority away from local government. In the past session alone, we saw egregious and unprecedented attacks on local control with several bills that strike at the heart of local government. These bills, including Senate Bill 649 (Hueso - Wireless Telecommunications Facilities) and Senate Bill 827 (Wiener - Planning and Zoning: Transit-Rich Housing Bonus) show a blatant contempt for the ability of local governments to meet the needs of the local community.

Unfortunately, these bills are likely only the beginning. As such, there is a need for a ballot measure and/or constitutional amendment to clearly enshrine the role of local government in regulating local issues. The passage of the proposed resolution by the City of Beverly Hills recognizes that it is local government, not the state legislature, that best understands the local community and is therefore best-situated to regulate and respond to local issues. For these reasons, I strongly support this resolution.

Sincerely

lan D. Wapner/ Mayor pro Tem - City of Ontario

Vice Mayor John Mirisch, City of Beverly Hills cc:



July 11, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

Re: EXPLORING A RESOLUTION TO RESPOND TO INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY

Dear Committee Members:

As one Councilmember of the City of Palo Alto, and in my individual capacity and not on behalf of the Council as a body, or the City, I write to support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills. This resolution asks the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide voters an opportunity to further strengthen local authority and preserve the role of local democracy. If the resolution passes, I encourage the League to ensure any potential measure includes both charter and general law cities.

State legislation introduced in both 2017 and 2018 has continually threatened to erode local control. Whether this was SB 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced SB 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned on constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continual incursions into local control by state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a belief measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I support this resolution.

Sincerely,

CC:

Budia Kon Lydia Kou Councilmember, City of Palo Alto

and the state of the state of

Palo Alto City Council Mayor John Mirisch, City of Beverly Hills James Keene, Palo Alto City Manager

> P.O. Box 10250 Palo Alto, CA 94303 650.329.2477 650.328.3631 fax



Bill Brand Mayor 415 Diamond Street, P.O. BOX 270 Redondo Beach, California 90277-0270 www.redondo.org tel 310 372-1171 ext. 2260 fax 310 374-2039

July 9, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT:

2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE

Dear Committee:

As Mayor of Redondo Beach, I support the League of California Cities Annual Conference Resolution proposed by the City of Beverly Hills calling for the LCC to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the Legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities, or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, The State Legislature is continuing to introduce proposals that impinge on the ability of local governments to institute discretionary legislation that is responsive to the needs of their communities.

These continual incursions into local control by the State Legislature, and powerful special interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the State of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely.

Bill Brand



MAYOR AND CITY COUNCIL

809 Center Street, Room 10, Santa Cruz, CA 95060 + (831) 420-5020 + Fax: (831) 420-5011 + citycouncil@cityofsantacruz.com

July 9, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

RE: 2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL, AND REVENUE

Dear General Resolutions Committee Members:

As Mayor of the City of Santa Cruz, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the State's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the Legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a State ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned constituents of local jurisdictions from passing a soda tax for twelve years, trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the State ballot initiative was pulled from the November 2018 Ballot.

These continual incursions into local control by the State Legislature and powerful interest groups should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the State of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely.

David Terrazas

Mayor

cc: Vice Mayor John Mirisch, City of Beverly Hills

From:

Michael Goldman <miklg@yahoo.com>

Sent:

Saturday, July 07, 2018 4:37 PM

To:

Cindy Owens

Subject:

Letter of Support for California League of Cities Resolution

Dear Ms. Cowens,

I was forwarded your email requesting support for a resolution in support of "the preparation of a ballot measure and/or state constitutional amendment that would strengthen local authority and preserve the role of local democracy at the local level as the state legislature is continually attempting to override the local authority of cities."

Speaking solely on my own behalf, I hereby give my whole-hearted support for such a measure. The essence of democracy is the control by the people of their community. As public servants, we elected officials serve the democratically expressed will of the public.

Sincerely,

Michael S. Goldman

Sunnyvale City Council, Seat 7



TORRANCE

PATRICK J. FUREY MAYOR July 5, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT:

2018 CONFERENCE RESOLUTION TO RESPOND TO THE INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY, CONTROL AND REVENUE

Dear Committee:

As Mayor of the City of Torrance, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beverly Hills calling for the League to explore the preparation of a ballot measure that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

State legislation introduced in both 2017 and 2018 by the legislature has continually threatened to erode local control. Whether this was Senate Bill 649 (Hueso) Wireless Telecommunications Facilities or the more recently introduced Senate Bill 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus that was defeated in Committee, legislatures are continually introducing proposals that impinge on the ability of a local government to institute discretionary legislation that is responsive to the needs of their constituents.

More recently, a state ballot initiative was introduced that would have made increasing fees and passing taxes more onerous on local jurisdictions due to the interest of powerful interest groups. This interest group successfully negotiated an Assembly Bill that banned on constituents in local jurisdictions from passing a soda tax for twelve years; trumping the will of the people should they wish to support such a measure. However, as a result the passage of that Assembly Bill, the state ballot initiative was pulled from the November 2018 ballot.

These continually incursions into local control by the state legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely

Patrick

cc: Vice Mayor John Mirisch, City of Beverly Hills



WEST HOLLYWOOD

CHY HALL 8.4K) SANTA MONE'A BLVD. West Houswood, CA 00069-6216

Tel: (323) 848-6460 Fax: (323) 848-6562

TTY For hearing impaired (323) 848-6496

CITY COUNCIL

JOHN J. DURAN Mayor

JOHN D' AMICO Mayor Pro Tempore

> JOHN HERMAN Councilmember

LINDSEY P. HORVATH Councilmember

> LAUREN MEISTER Councilmember

July 11, 2018

General Resolutions Committee League of California Cities 1400 K Street, Suite 400 Sacramento, CA 95814

SUBJECT:

2018 CONFERENCE RESOLUTION TO RESPOND TO THE

INCREASING VULNERABILITIES TO LOCAL MUNICIPAL AUTHORITY.

CONTROL AND REVENUE

Dear Committee:

As a Councilmember of the City of West Hollywood, I support the League of California Cities ("League") Annual Conference Resolution proposed by the City of Beyerly Hills calling for the League to explore the preparation of a ballot measure and/or constitutional amendment that would provide the state's voters an opportunity to further strengthen local authority and preserve the role of local democracy.

During the current 2017-2018 regular session of the California Legislature, legislators introduced several pieces of legislation that have attempted to erode local control. Whether this was Senate Bill (SB) 649 (Hueso) Wireless Telecommunications Facilities, or more recently SB 827 (Wiener) Planning and Zoning: Transit-Rich Housing Bonus, which was defeated in Committee, legislators continue to introduce proposals that impinge on the ability of local governments to self-determine.

Another good example of how the Legislature takes actions that are detrimental to local governments' control is the legislative compromise between the Legislature and beverages' manufacturers who agreed to withdraw their ballot initiative in exchange for the approval of Assembly Bill (AB) 1838 (Committee on Budget): Local government: taxation: prohibition: groceries, (Chapter 61, Statutes of 2016). As you know, AB 1838 basically prohibited the adoption of a local "soda tax" by any municipality for the next twelve years.







General Resolutions Committee League of California Cities July 11, 2018 Page two of two

These incursions into local control by the Legislature, and powerful interest groups, should be prohibited in areas where it is unwarranted and does not best serve the unique communities that make up the state of California.

The passage of the proposed resolution by the City of Beverly Hills would provide direction to the League to pursue a ballot measure and/or constitutional amendment that would strengthen local democracy and authority. For these reasons I strongly support this resolution.

Sincerely,

Lauren Meister, Councilmember

cc: Vice Mayor John Mirisch, City of Beverly Hills





LETTERS OF CONCURRENCE Resolution No. 2

Repeal Preemption of Regulating Pesticides



"Gateway to the Santa Monica Mountains National Recreation Area"

July 10, 2018

The Honorable Rich Garbarino League of California Cities 1400 K Street Sacramento, CA 95814

Re: RESOLUTION OF LEAGUE OF CALIFORNIA CITIES DECLARING ITS

CONTRACT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE §11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino:

The City of Agoura Hills supports the proposed above referenced resolution that supports the repeal of preemption in California Food and Agriculture Code §11501.1 that prevents local Governments from regulating pesticides.

Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on September 14, 2018.

As the gateway to the Santa Monica Mountains we have been witness to the harmful effects of anticoagulant rodenticides on wildlife in our community, and surrounding areas.

For this reason, the City of Agoura Hills is supportive of this resolution, and requests the league's support.

Sincerely,

WILLIAM D. KOEHLER Mayor - City of Agoura Hills

cc: Ms. Meg Desmond - mdesmond@cacities.org

Ms. Mary Linden - mlinden@mallbucity.org

Mr. Greg Ramirez - gramirez@ci.agoura-hills.ca.us



FRED GAINES Mayor

July 9, 2018

ORIGINAL BY U.S. MAIL

VIA EMAIL mdesmond@cacities.org

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, CA 95814

Re: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE §11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino:

The City of Calabasas supports the proposed resolution to support the repeal of the preemption clause in California Food and Agriculture Code Section 11501.1 regarding pesticide use and regulation so that each city in the State of California is able to decide how to regulate pesticides within their own jurisdiction to adequately address local concerns.

Accordingly, we concur in the submission by the City of Malibu of the above-referenced resolution for consideration by the League of Cities General Assembly at its annual meeting on September 14, 2018.

The City of Calabasas has identified the devastating effect of anticoagulent rodenticides on wildlife in our community and on the ecosystem in our native Santa Monica Mountains. While our City has adopted resolutions and implemented programs to discourage the use of the pesticides by our residents and businesses, we are limited by State law from taking more effective actions.

100 Civic Center Way Calabasas, CA 91302 (818) 224-1600 Fax (818) 225-7324 The Honorable Rich Garbarino, President League of California Cities July 9, 2018 Page 2

The City of Calabasas is in strong support of providing cities across the State of California with the authority to regulate pesticides based on local concerns in the communities and supports the proposed Resolution.

Sincerely,

Fred Gaines

Mayor

cc: Mary Linden (MLinden@malibucity.org)



July 13, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, California 95814

RE: A Resolution of the League of California Cities Declaring Its Commitment to Support the Repeal of Preemption in California Food and Agriculture Code § 11501.1 That Prevents Local Governments from Regulating Pesticides

Dear President Garbarino:

Anticoagulant rodenticides poison unintended targets, including predator wildlife in California and pets that ingest the products. These poisons cause painful, internal hemorrhaging in non-target animals. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Brett Lee Mayor Pro Tem July 5, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, California 95814

RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

Anticoagulant rodenticides are products that are poisoning 80% to 90% of predator wildlife in our cities and throughout California. These poisons cause painful, internal hemorrhaging in non-target animals - including pets - that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

My own mother lost a dearly loved pet dog, who was poisoned when it ate a poisoned rat!

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

State law now preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Catherine Carlton

Environmental Committee Vice Chair for the League of California Cities



CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021 Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 12, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, CA 95814

RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino:

The City of Moorpark supports the above referenced resolution being brought to a vote at the upcoming League of California Cities Conference on September 14, 2018.

As a community surrounded by the beauty of the Santa Monica Mountains and its wildlife, the City adopted a resolution in 2013 urging Moorpark residents and businesses to not use anticoagulant rodenticides in Moorpark. In 2014, the City applauded passage of AB 2657, which removed many second generation anticoagulant rodenticides from the state.

However, as we are all unfortunately aware, scientific research continues to find anticoagulant rodenticides in non-target animals, including the natural predators that help regulate rodent populations and endangered species throughout California. Accordingly, the City has supported subsequent legislative proposals to ban all anticoagulant rodenticides statewide, including AB 2422, which is currently stalled in the state legislature.

The City further believes that local governments should have the opportunity to regulate pesticide usage within their jurisdictions if the communities they represent desire to do so. Therefore, the City supports the above referenced resolution being brought to a vote.

Yours truly,

Janice Parvin

Mayor

Resolution of the League of California Cities re: Anticoagulant Rodenticides Page 2

cc: City Council

City Manager

Assistant City Manager

Assistant to the City Manager

League of California Cities, Meg Desmond (mdesmond@cacities.org)

City of Malibu, Mary Linden (MLinden@malibucity.org)

Councilmember Suza Francina City of Ojai 401 South Ventura Street, Ojai, CA 93023 Email: Suzaojaicitycouncil@gmail.com

Cell: 805 603 8635

July 9, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

Anticoagulant rodenticides are products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely, Suza Francina Councilmember, City of Ojai July 12, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES DECLARING ITS COMMITMENT TO SUPPORT THE REPEAL OF PREEMPTION IN CALIFORNIA FOOD AND AGRICULTURE CODE § 11501.1 THAT PREVENTS LOCAL GOVERNMENTS FROM REGULATING PESTICIDES

Dear President Garbarino,

I write as one council member of the City of Oxnard regarding the state law that preempts general law cities such as ours from regulating the use of pesticides. Our city is heavily impacted with environmental burdens associated with pesticide use as well as other industrial toxins, which affect the health of the people, wildlife and our environment. Oxnard residents are requesting that the use of pesticides in our public spaces be curtailed and restricted. This would include anticoagulant rodenticides, products that are poisoning 80 to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of second-generation anticoagulant rodenticides in July 2014. Despite collecting data for almost four years after this ban, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to this partial restriction of the supply.

Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides. In my official capacity as a city councilmember I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

Letter to President Garbarino July 12, 2018 Page two

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018. Thank you very much for your attention to this.

Sincerely,

Carmen Ramirez



July 6, 2018

The Honorable Rich Garbarino
President, League of California Cities
1400 K Street
Sacramento, California 95814

Re: In Support to Repeal the Preemption in California Food and Agriculture Code § 11501.1 that Prevents Local Governments from regulating pesticides

Dear President Garbarino,

Anticoagulant rodenticides poison 80% to 90% of predator wildlife in California. These poisons cause painful, internal hemorrhaging in non-target animals including pets that ingest the products either directly or from consuming poisoned rodents. In addition, approximately 10,000 children under the age of six are accidentally poisoned each year nationwide.

The California Department of Pesticide Regulation banned the consumer purchase and use of secondgeneration anticoagulant rodenticides in July 2014. Currently, State law preempts general law cities from regulating the use of pesticides, including anticoagulant rodenticides, which has minimized the impact of the State's ban. Despite collecting data for almost four years, the Department of Fish and Wildlife found no evidence supporting a decrease in poisonings by anticoagulant rodenticides due to the partial restriction of the supply.

As a member of the League of California Cities' Environmental Quality Policy Committee, I support the proposed resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 to provide cities across the state of California with the authority to regulate pesticides based on the local concerns in their communities. The State of California should provide cities with the authority to regulate the use of pesticides in their own jurisdictions based on their own individual local needs.

I concur with the submission of this resolution at the League of California Cities General Assembly at its annual meeting in Long Beach on September 14, 2018.

Sincerely,

Mayor Tom Butt Richmond, California



CITY OF West Hollywood

CITY HALL 8300 SANTA MONICA BLVD. WEST HOLLYWOOD, CA 90069-6216 TEL: (323) 848-6460 FAX: (323) 848-6562

TTY: For hearing impaired (323) 848-6496

CITY COUNCIL

JOHN J. DURAN Mayor

JOHN D'AMICO Mayor Pro Tempore

> JOHN HEILMAN Councilmember

LINDSEY P. HORVATH Councilmember

> Lauren Meister Councilmember

July 13, 2018

The Honorable Rich Garbarino, President League of California Cities 1400 K Street Sacramento, CA 95814

RE: A Resolution of the League of California Cities Declaring its Commitment to Support the Repeal of Preemption in California Food and Agriculture Code § 11501.1 that Prevents Local Governments from Regulating Pesticides

Dear President Garbarino,

I am writing to express my support for the above-mentioned resolution to repeal the preemptive clause in California Food and Agriculture Code Section 11501.1 in order to give cities across California the authority to regulate and/or prohibit the use of pesticides in their local communities. I concur with the submission of the proposed resolution to the League of California Cities General Assembly annual meeting on September 14, 2018.

Granting local governments the ability to self-regulate pesticide use better enables cities to protect the health and safety of the public, animals, and the environment. Given that no two cities are identical, local governments must have the power to take a systematic approach to pesticide use and regulation that fits the specific needs of their city. Repealing this section of the code will provide cities the opportunity to act in the best interest of their jurisdiction to set a standard of regulation that offers comprehensive protection, better formulated to protect a community's individual needs.

The City of West Hollywood is in strong support of environmentally-sensitive pest management practices that minimize risk to people, companion and wild animals, resources, and the environment. As the proposed resolution explains, anticoagulant rodenticides have devastating effects on wildlife. The City of West Hollywood has implemented an Integrated Pest Management Program that supports environmentally-sensitive pest management while protecting the health and safety of the public. This policy is in compliance with the State and Federal regulations while catering to and prioritizing the needs of the City of West Hollywood.

Lindsey Horvath

Sincere

cc: Meg Desmond, League of CA Cities

Councilmember Laura Z. Rosenthal, City of Malibu

Elizabeth Shavelson, Assistant to the City Manager, City of Malibu

Mary Linden, Executive Assistant, City of Malibu



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ATTACHMENT C

Home > Education & Events > Annual Conference > For Attendees > Tentative Schedule

For Attendees

For Presenters

Conference App

For Exhibitors

Program at a Glance

As of May 23, 2018 (subject to change)

Wednesday, September 12

8:00 a.m. - 6:00

p.m.

Registration Open

9:00 - 11:00 a.m.

Policy Committees; AB 1234 Ethics Training

9:00 - 11:00 a.m.

AB 1234 Ethics Training

8:30 a.m. - 1:00

p.m.

City Clerks Workshop (additional registration required)

11:00 a.m. - 12:00

p.m.

Department Business Meetings

12:45 - 1:15 p.m.

First Time Attendee Orientation

1:30 - 3:30 p.m.

Opening General Session

3:45 - 5:00 p.m.

Educational Sessions

5:00 - 7:00 p.m.

Grand Opening Expo Hall & Host City Reception (exhibitor

exclusive; no competing events)

7:00 - 10:00 p.m.

CitiPAC Leadership Reception

Thursday, September 13

7:00 a.m. - 4:00

p.m.

Registration Open

8:15 - 9:30 a.m.

Educational Sessions

9:00 a.m. - 4:00

p.m.

Expo Open

9:45 - 11:45 a.m.

General Session

11:30 a.m. - 1:00

p.m.

Attendee Lunch in Expo Hall

1:00 - 2:15 p.m.

General Resolutions Committee

1:00 - 5:30 p.m.

Educational Sessions

2:15 - 2:45 p.m.

Caucus Board Meetings

4:00 - 5:30 p.m. Board of Directors Meeting

Evening Caucus Events

Friday, September 14

7:30 a.m. - 12:00

Registration Open

p.m.

8:00 a.m. - 12:15

12:30 - 2:30 p.m.

Educational Sessions

p.m.

Closing Luncheon & General Assembly

NOTE: Conference Registration is required to attend all conference activities including Department and Division meetings and the General Assembly.

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Agenda Date: 8-21-2018

Agenda Item: 8C

Approved:

Gary A. Napper City Manager

AGENDA REPORT

TO:

HONORABLE MAYOR AND COUNCILMEMBERS

FROM:

CITY MANAGER

DATE:

21 AUGUST 2018

SUBJECT:

RECONSIDER HOLDING THE 04 SEPTEMBER 2018 CITY COUNCIL MEETING

RECOMMENDATION

Depending on the City Council action taken during the Public Hearing item on this Agenda involving Ordinance No. 482 (Parolee Housing), this item has been placed on the City Council's docket to re-schedule its earlier canceled 04 September 2018 public meeting, if deemed necessary.

BACKGROUND

As traditionally done during previous years, at its public meeting held on 05 June 2018 the City Council considered its summer plans pertaining to the twice-per-month regular public meeting requirements in the Clayton Municipal Code (ref: section 2.04.010). The City Council action taken at that public meeting was to cancel its 03 July, 07 August and 04 September 2018 meetings. It was acknowledged that should circumstances change necessitating restoration of those meetings to conduct City business or other urgent matters, the re-scheduling of any one or more of those meetings could take place by City Council action.

As noted above, depending on the City Council's determination(s) regarding proposed City Ordinance No. 482 (Parolee Housing), it may be necessary to re-schedule the canceled meeting of 04 September 2018. Consequently, this item has been included on the Agenda to accommodate that flexibility.

If the 04 September 2018 regular public meeting remains unnecessary, then no action is taken on this item.

FISCAL IMPACT

None, if the 04 September 2018 remains canceled. Some direct and indirect City expenses are routinely incurred for the holding of each City Council meeting (e.g., paper costs, meeting room utilities, audio/visual expenses, etc.).