

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL
TUESDAY, June 7, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:01 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz and Councilmember Pierce. Councilmembers absent: Councilmember Haydon and Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Finance Manager Kevin Mizuno and City Clerk/HR Manager Janet Brown.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.

3. **CONSENT CALENDAR**

It was moved by Vice Mayor Diaz, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted. (Passed; 3-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of May 17, 2016.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 26-2016 accepting grant funds in the amount of \$34,206 from the California Department of Alcoholic Beverage Control for a City of Clayton 2016-2017 Grant Assistant Program to conduct a local law enforcement "Teaching and Enforcing Alcohol-related Matters" project ("TEAM").
- (d) Accepted with regret the voluntary resignation of Ms. April Winship from the City Council appointed citizens advisory Trails and Landscaping Committee.
- (e) Adopted Resolution No. 27-2016 authorizing City participation in and approving a Memorandum of Understanding with the County of Contra Costa and other participating Contra Costa cities regarding its preparation of a technical study of electrical load data for the potential formation of a Community Choice Energy Program for alternative energy supplies.
- (f) Approved the denial of a liability claim filed against the City by Mr. Mike Laughlin and authorize the City Clerk to send the notice of rejection.
- (g) Approved Amendment No. 1 to the Master Use [Permit] Agreement between the City and the Clayton Business and Community Association (CBCA) to incorporate the addition of the CBCA-sponsored Rib Cook-Off event in August each year.

4. RECOGNITIONS AND PRESENTATIONS

- (a) Certificates of Recognition to “Do the Right Thing” public school students selected for exemplifying the character trait of “Integrity” for March and April 2016.

Mayor Geller and Mt. Diablo Elementary School fourth grade teacher Mrs. Carcamo presented Certificates to students Jake Berger and Katerina Pavlovich.

Mayor Geller and Diablo View Middle School Principal Patti Bannister presented Certificates to students John Parker and Jesse Reyes.

Mayor Geller and Clayton Valley Charter High School Director of Operations, Gregory Hile, presented Certificates to students Hosna Opeyany and requested Mr. Hile to forward Benjamin Schoffstall his certificate.

- (b) Certificates of Recognition to “Do the Right Thing” public school students selected for exemplifying the character trait of “Courage” for May and June 2016.

Mayor Geller and Mt. Diablo Elementary School fifth grade teacher Ms. Baker presented Certificates to students Leilani Barnes, Elaura Wakefield and Sofia Carmichael.

Mayor Geller and Diablo View Middle School Principal Patti Bannister presented Certificates to students Alison Ewing and Gunner Oakley.

Mayor Geller and Clayton Valley Charter High School Director of Operations, Gregory Hile, presented Certificates to students Destiny Rinehart and requested Mr. Hile to forward Shabnum Saleh his certificate.

Mayor Geller then invited Ron Musch, 14th Assembly District Senior Field Representative from Assemblywoman Susan Bonilla’s Office to say a few words. Mr. Musch expressed, on behalf of Assemblywoman Susan Bonilla, how pleased she is with the Clayton City Council and the schools taking the time to recognize Clayton students for various Do The Right Thing character traits. Truly a community pulling together.

- (c) Certificates of Recognition to Clayton Valley Charter High School students Sarah Louis and Miya Adolphson, and Visual Arts teacher Evan Hughes, for their design and development of Clayton Police Officer “baseball trading cards” for use in the Department’s community policing program.

Police Chief Chris Wenzel thanked Visual Arts teacher Evan Hughes and students Sarah Louis and Miya Adolphson for the development of the Clayton Police Officer “baseball trading cards”, and presented Mr. Evans with the certificates. Mr. Evans advised Sarah and Miya were unable to attend this evening, however he will be sure to forward the certificates.

5. REPORTS

- (a) Planning Commission – No meeting held.

- (b) Trails and Landscaping Committee – Public meeting held May 17, 2016.
No Committee Member available to report.

- (c) City Manager/Staff – No Report.

- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Diaz attended the Contra Costa Fire Protection District's 49th Academy Graduation, the Contra Costa Water District Board meeting, the Clayton Business and Community Association's Art and Wine Festival wrap-up meeting, the Trails and Landscaping Committee meeting, the League of California Cities East Bay Division meeting, the Contra Costa County Mayors' Conference, and the League of California Cities Public Safety Policy Committee meeting. Mr. Diaz also attended the Clayton Valley Charter High School graduation, Saturday Concerts in The Grove, and he voted at City Hall using the Absentee Ballot box which was very convenient.

Councilmember Pierce represented the Contra Costa Transportation Authority in meetings at Washington D.C., the Association of Bay Area Governments and Metropolitan Transportation Commission merger meetings, the City's 4th of July Committee meeting, Regional Planning Bay Area Governments, a Marsh Creek Trail meeting, and the Memorial Day Ceremony. Ms. Pierce also requested that at the next regular City Council meeting that an item be placed on the agenda to adopt a resolution of support of the concept of the Marsh Creek Trails system.

Mayor Geller attended a Clayton Valley Village meeting, the Contra Costa Mayors' Conference, a Clayton Business and Community Association general membership meeting, the Memorial Day event, the Clayton Farmers' Market, assisted the Police Chief in passing out ice cream at Mt. Diablo Elementary School, the Saturday Concerts in The Grove featuring Garratt Wilkin and The Parrotheads which raised \$1,645.00 in patron donations, and he voted in the June 7 Election.

- (e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Cindy Gilmore, 1874 Eagle Peak Avenue, advised this is her third time speaking about the machines that were installed in the City Parks that make high-pitched sounds which target young ears in an effort to reduce vandalism. Although they are no longer running 24/7, they are still on at night. The City Manager has also said when school is out they may turn it back on at the gazebo at 3:30 p.m. My first area of concern is children are reporting to their parents that the noise machines are painful, "Mommy it's too painful to stay at the park", one mother reported. Secondly, children are reporting to their parents they hear this painful tone in the grassy areas and other areas of the park, not just the targeted areas of the gazebo and play structure. She believes continuing to run a painful noise machine which is designed to be audible only to young ears, constitutes illegal age discrimination. The 8th Amendment of the Constitution forbids the use of cruel and unusual punishment; inflicting high frequency tones on the ears of children at a public park falls under this category, in the minds of most people. Article 5 of the UN Declaration of Human Rights also prohibits punishments for cruel criminal activity involves pain or torture. Although the City Manager stated that no studies exist on the potential side effects of exposure to painful high frequency tones, Sarah Reeve has cited several studies which found a connection to harmful side effects. From a Wikipedia article on directed energy weapons, researchers have concluded that generating pain through the auditory system using high intensity sounds risks permanent hearing damage. There were many other side effects including vertigo, nausea and damage to other body tissues including the brain, heart and lung tissue damage. She feels that our city government is labeling all children as vandals simply because a few children are vandals; and it may be patrons from one of the local bars committing the vandalism.

While she is sympathetic to the issue of vandalism occurring in the City parks, it is unreasonable to employ a high pitched sonar weapon against all children in our city. The act of trying to keep children out of our parks is not consistent with the type of city we want to be. These painful noise producing machines should be immediately removed from all city parks in the City of Clayton. She urged the City to please refrain from turning them on at 3:30 p.m.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider the Second Reading and adoption of a proposed City-initiated Ordinance No. 462 extending the existing time extension waiver of certain on-site parking relief in Clayton Town Center area for an additional three years through June 30, 2019.

Community Development Director Mindy Gentry presented the staff report noting this is the second reading of the parking waiver extension at Clayton Town Center through June 30, 2019.

Mayor Geller opened the matter for public comments; no comments were offered.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to have the City Clerk read Ordinance No. 462, by title and number and waive further reading. (Passed; 3-0 vote).

The City Clerk read Ordinance No. 462 by title and number only.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to approve Ordinance No. 462 as for adoption, with findings the action does not constitute a project under CEQA. (Passed; 3-0 vote).

- (b) Consider the Introduction/Presentation of the proposed City of Clayton Budgets for Fiscal Year 2016-17 and set the date of Tuesday, June 21, 2016 as a Public Hearing for review and adoption of the proposed City Budget.

Finance Manager Kevin Mizuno presented the staff report with a slideshow highlighting the proposed 2016-17 City of Clayton City Budget. Mr. Mizuno advised that Fiscal Year 2016 was very successful and conformed with the City's Mission Statement. The 2016-17 Budget put together a budget plan to meet the needs of the community with ongoing limited resources. Mr. Mizuno outlined a 5-Year Budget trend displaying the General Fund, Other Funds, Capital Improvement Program, and the Successor Agencies. Mr. Mizuno advised "Other Funds" include the City's Special Revenue (9), Internal Service (2), enterprise (1), and Fiduciary Funds (7), excluding the Redevelopment Agency, Successor and Successor Housing Agencies.

The annual increase results from a rise to non-recurring appropriations in the Capital Improvement Project (CIP) and Successor Agency budgets. The Successor Agency's increase in expenditures is attributable to the California Department of Finance finally authorizing repayment of the 1999 Fire Station Note (\$475,000) to the City General Fund in FY 2016-17. The increased CIP Budget was a result of planned project expenditures for the grant-funded 2016 Arterial Street Rehab Project. The Citywide Landscape Maintenance District annual tax is restricted to costs associated with arterial and

specified roadway medians and parkways, the trails system, the annual open space non-native invasive weed abatement in City-owned open space of the area hills, the annual open space and trails weed abatement for fire and public safety, landscape and turf irrigation, and the monthly maintenance and special occasion/holiday operation of the "Clayton Fountain". Maintenance of City Parks is not included as an authorized expense under the Citywide Landscape Maintenance District; those obligations fall to the City's General Fund. To continue this sole funding a special parcel tax (Measure H) has been placed before the voter and must receive two-thirds voter approval for its continuance.

Mr. Mizuno continued to the proposed Total Budget Expenditures noting the top three expenditure categories, as they should be, are the General Fund at 47.37%, Measure J at 22.46%, and the Landscape Maintenance District at 13.70%. The General Fund is the primary funding source of obligations and operations for the City; and Measure J is for a large street rehabilitation project occurring in Fiscal Year 2016-17. Mr. Mizuno provided a chart indicating a General Fund Revenue 16-year trend of budgeted revenues verses a hypothetical revenue gain corresponding to Consumer Price Index increases. This comparison found the difference of anticipated revenues next fiscal year was \$925,629 less than if revenues matched Consumer Price Index increases. This chart summarizes the City's ongoing challenge to meet the needs of the community and growing needs with limited resources.

Mr. Mizuno discussed the second largest General Fund revenue source, next to the Vehicle License Fees (VLF) marking the end of the state's "Triple Flip", which makes up 20.0% of General Fund budgeted revenues, reflects the City's share of the allocation of 1% Ad Valorem Property Tax local, regional and state run agencies. The amount of the tax is based on an annually-determined assessed valuation calculated by the county assessor's office and is paid to the county tax collector. The City of Clayton has ten tax rate areas by current assessed value returning on 6.63% of the full one percent tax back to the General Fund; in this regard, Clayton is categorized as a "Low Property Tax City." For Fiscal Year 2016-17, the City's portion of secured and unsecured property tax revenues are projected at \$882,340, which is an increase of 2.0 % over Fiscal Year 2015-16 projected actuals.

Mr. Mizuno continued to the third largest General Fund revenue source which is the City's allocation of sales and use taxes, making up 11.8% of General Fund revenues. This is a tax imposed on the total retail price of any tangible personal property and the use of storage of such property when the sales tax is not paid. In the City of Clayton the applicable sales tax rate is 8.50% resulting in a 1% return based on the approved local Bradley-Burns rate.

Mr. Mizuno further outlined the General Fund Expenditures by Department. The largest is 52.7% for Police, followed by 21.9% for Administration, Finance and Legal, then 7.0% for Community Development. In other words, out of all General Fund Revenues received next year by the City, the Clayton Police Department operations will take 52.7¢ of every \$1.

Mr. Mizuno concluded his presentation noting the unrestricted General Fund Reserve is \$5,217,969 to start Fiscal Year 2016-17; when subtracting the City Council Policy of an "untouchable" \$250,000 reserve, it lowers the City's net cash position to a reserve equity position of \$4,967,969. This is a truly remarkable feat demonstrating the effectiveness of the City's fiscal policies, as it also means the City has over 1 year of operations in reserve.

Mayor Geller opened the floor to receive public comments; no public comments were offered.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to set Tuesday, June 21, 2016 at 7:00 pm in Hoyer Hall as the date, time and location of a Public Hearing on the proposed FY 2016-17 City Budget. (Passed; 3-0 vote).

- (c) Consideration of two Resolutions related to the regularly-scheduled General Municipal Election to be held this year on November 8, 2016 to elect three (3) City Council Members to public office for 4-year terms ending December 2020.

- 1). A Resolution calling the General Municipal Election of November 8, 2016, requesting and consenting to consolidation and handling of the election by the Contra Costa County Elections Office, and setting specifications of the election order; and
- 2). A Resolution adopting a policy for voluntary Candidates' Statements to be printed in the November 8, 2016 Voters' Information Pamphlet.

City Clerk Janet Brown presented the staff report noting there are three seats up for election on November 8, 2016 with 4 year terms to expire in 2020. In order for these seats to be included in the Municipal Election during the November General Election, two (2) Resolutions need to be adopted: one calling for the election to take place, and the second allowing the publication of the optional Candidate Statements. A key change to the Candidate Statement is the final cost including English and Spanish translation with a 250-word limit is \$127.00. The Contra Costa County Elections Department estimates the cost of the election at \$2.00 per voter with an estimated cost of \$15,000.00 which expense has been budgeted for Fiscal Year 2016-17.

Mayor Geller opened the floor to receive public comments; no public comments were offered.

It was moved by Councilmember Pierce, seconded by Mayor Geller, to adopt a Resolution calling the General Municipal Election of November 8, 2016, requesting and consenting to consolidation and handling of the election by the Contra Costa County Elections Office, and setting specification of the election order. (Passed; 3-0 vote).

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to adopt a Resolution setting and adopting a policy of a 250 word cap limit for voluntary Candidates' Statements printed in the November 8, 2016 Voters' Information Pamphlet. (Passed; 3-0 vote).

- (d) City Council discussion of canceling any regularly scheduled Council meetings in August and/or September 2016 relative to quorum availability and summer vacation plans.

City Manager Gary Napper advised due to pending City business items there is a need for both of the City Council's regular meetings to take place in July. Mr. Napper indicated he had heard from Councilmember Shuey prior to this evening's meeting that he is unavailable on August 2nd. He had not heard from Councilmember Haydon prior to this evening on his availability but noted he previously indicated no conflicts for this summer.

Councilmember Pierce advised she would like to have August 16th off, if possible.

Mayor Geller inquired on the necessity of approving financial obligations of the City if meetings are canceled. Mr. Napper responded past practice has been to bring the financial obligations processed during that time period back to City Council for affirmation.

Mayor Geller opened the floor to receive public comments; no public comments were offered.

**It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to cancel the regularly scheduled City Council meetings of August 2, 2016 and September 6, 2016.
(Passed; 3-0 vote).**

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION**

Mayor Geller announced the City Council would adjourn into a closed session to discuss the subject matters listed below (8:42 p.m.):

- (a) *Government Code Section 54956.8, Conference with Real Property Negotiator*
Real Properties: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).
Instructions to City Negotiators: Mayor Geller, Council Member Pierce, City Manager Napper, and Ed Del Beccaro, Managing Director, Transwestern, regarding price and terms of payment.
Negotiating Party: Pacific Union Land Investors, LLC
(Joshua Reed, Director of Real Estate).

Report out from Closed Session (9:09 p.m.)

Mayor Geller reported the City Council received a briefing from its Negotiation Team regarding these matters and no reportable action was taken.

11. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 9:10 p.m.

The next regularly scheduled meeting of the City Council will be June 21, 2016.

#####

Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Howard Geller, Mayor

#####