

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL
TUESDAY, August 1, 2017

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:17 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, Vice Mayor Haydon and Councilmembers Catalano, Pierce and Shuey. Councilmembers absent: None. Staff present: City Manager Gary Napper, and City Clerk/HR Manager Janet Brown.

2. **CLOSED SESSION**

Mayor Diaz announced the City Council will adjourn into Closed Session (6:18 pm) for the following noticed items:

California Government Code Section 54957
Public Employment
Title: City Engineer

* The City Council took a short recess from 7:04 p.m. – 7:09 p.m. *

Mayor Diaz called the City Council meeting back to order (7:09 p.m.).

Report out of Closed Session

Mayor Diaz reported City Council gave direction to its City Manager and there was no public action to report.

REGULAR PUBLIC MEETING

City Attorney Mala Subramanian, Community Development Director Mindy Gentry, and City Engineer Rick Angrisani joined the public meeting.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Diaz.

4. **CONSENT CALENDAR**

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).

- (a) Approved the minutes of the City Council’s regular meeting of July 18, 2017 and its special meeting of July 25, 2017.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Approved the City’s response letter to FY 2016-17 Contra Costa County Civil Grand Jury Report No. 1707, “Homelessness in the Cities.”

- (d) Adopted Resolution No. 32-2017 approving the Notice of Completion on the Arterial Street Micro-Resurfacing Project (CIP No. 10437) and the Oak Street Rehabilitation Project (private road portion) performed by Intermountain Slurry Seal, Inc., and authorizing the City Clerk to record the Projects.
- (e) Adopted Resolution No. 33-2017 authorizing the filing of a City application for OBAG 2 funds from the Metropolitan Transportation Commission for Clayton's 2018 Neighborhood Street Repavement Project (CIP No. 10436), and committing to the necessary matching funds and stating assurances to complete the project.
- (f) Adopted Resolution No. 34-2017 rejecting all bids received for the Collector Street Rehabilitation Project, CIP No. 10425 (i.e. Keller Ridge Drive).

5. RECOGNITIONS AND PRESENTATIONS – None.

6. REPORTS

- (a) Planning Commission – No meeting held.
- (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.

Vice Mayor Haydon attended a Concert in The Grove, the July 25th special meeting of the Clayton City Council, the Incident Command System (ICS) course for Executives/Senior Officials 402, and the Clayton Business and Community Association's General Membership meeting.

Councilmember Catalano attended the July 25th special meeting of the Clayton City Council.

Councilmember Shuey had no report.

Councilmember Pierce attended the Contra Costa Transportation Authority meeting, the Association of Bay Area Governments' Associated Committee meeting, the joint meeting between Association of Bay Area Governments and Metropolitan Transportation Committee, the Association of Bay Area Governments' Building Sustainable Home and Resilient Communities meeting, and the Clayton Business and Community Association's General Membership meeting.

Mayor Diaz attended a County Connection Board meeting, the Concerts in The Grove series, the July 25th special meeting of the Clayton City Council, the Classic Car Show and DJ series, the Contra Costa County Mayors' Healthy Cook-off Challenge, the East Bay League of California Cities meeting, the 30th Annual Contra Costa County Sheriffs' Posse BBQ, and the 19th Annual Ed's Mudville Grill Charity Golf Tournament.

- (e) Other – None.

7. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Brenda Sandler, 1774 Indian Wells Way, shared her concerns about high-density housing changing the character of Clayton. Mayor Diaz advised her concerns would also be allowed during the next item on the agenda.

8. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 476 adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to Title 17 Zoning of the Clayton Municipal Code describing and establishing how General Plan densities are calculated for proposed residential projects with sensitive land areas.

Community Development Director Mindy Gentry presented the staff report noting on May 16, 2017 the City Council held a public hearing to consider the subject Ordinance and associated General Plan amendment. That item was approved incorporating the proposed modification on how residential densities are calculated when sensitive land areas are present and to remove minimum density requirements on residentially-designated parcels. The Ordinance's second reading and adoption was scheduled on June 6th; however, during the interim the City received an email identifying concerns with the Ordinance with regards to compliance with state housing law and the City's Housing Element. Consequently, the second reading was continued to provide time for additional staff research; following research of these concerns, staff concluded even though state law always takes precedence over local municipal codes, it is a better practice for the City to be transparent and fully demonstrate its compliance with the state law on this matter.

Therefore, staff is returning this item to City Council in a re-noticed public hearing with revised language exempting certain land parcels where its General Plan designations were amended to comply with state law to fulfill the City's 2007-2014 Regional Housing Needs Allocation obligation. Specifically, the City previously amended the General Plan designation for certain real properties in and adjacent to the Town Center (i.e., off High Street and old Marsh Creek Road), the Old Firehouse Site and an adjacent site, to the Multifamily High Density residential land use designation to be at least 20 units per acre and the high density use to be permitted by right. These areas must be exempted from this Ordinance and do not qualify to have the proposed sensitive land area net density calculation apply to them because the state, through the City's Housing Element 2015-2023, has mandated a density of 20 units to the acre; the application of the proposed Ordinance to those real properties could cause a result of less than 20 units per acre, which would make them non-compliant with state and local housing laws..

Councilmember Pierce requested Ms. Gentry provide a simple example of this net density proposal using 10 acres having 3 of those acres as sensitive land areas. Ms. Gentry responded if a parcel is 10 acres and 3 of those acres qualify as sensitive land areas, then those 3 acres would be deducted from the calculation for the overall housing density, thereby reducing the buildable density; the overall net calculation would result in less units per remaining acre than allowed under current City law.

Vice Mayor Haydon compared the example to how current regulations would apply if the City Council did not approve the Ordinance; one would look at the same 10 acres and see the numbers of homes required but if the developer was unable to build over all of the land due to sensitive or highly sloped land areas, that developer would still build the same number of units yet in a smaller usable area. It results in higher density units.

Mayor Diaz opened the Public Hearing.

Deborah Wittneben, expressed concern on how this ruling affects Lydia Lane vacant land as it is next to a creek. After hearing the staff report, it appears this proposal would actually reduce the number of homes that could go onto that property? The City Council confirmed her understanding is correct. Ms. Wittneben then asked if the developer's plans would be re-submitted to build on that land. Councilmember Pierce advised the City Council has not seen that developer's submittal and is therefore unable to answer that question.

With no other public members wishing to comment, Mayor Diaz then closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to have the City Clerk read Ordinance No. 476, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 476 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve Ordinance No. 476 for Introduction with the finding adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to the Clayton Municipal Code describing and determining how General Plan residential densities are calculated for proposed residential projects on parcels with sensitive land areas will result in activities less intense than those analyzed in the General Plan Environmental Impact Report (EIR) and the Housing Element Initial Study/Negative Declaration (IS/ND). (Passed; 5-0 vote).

- (b) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 477 adding Section 15.96 – Electric Vehicle Charging Stations to Title 15 Building & Construction of the Clayton Municipal Code to establish an expedited and streamlined permitting process in compliance with State law.

Community Development Director Mindy Gentry presented the staff report noting on October 8, 2015, AB 1236 was signed into law which ordered the implementation of consistent statewide standards to achieve the timely and cost-effective installation for the electrical vehicle charging stations to be a matter of statewide concern. State law now requires cities with a population of less than 200,000 to enact an expedited and streamlined permitting process for electric vehicle charging stations and for it to be adopted by September 30, 2017. As part of this process, cities are required to adopt a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review. The checklist referenced within the state law is the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero Emissions Vehicles in California: Community Readiness Guidebook" published by the State Office of Planning and Research. After reviewing that guidebook, staff is not recommending any changes to the checklist due to lack of unique conditions within Clayton.

State law requires any application made for an electric vehicle charging station must be approved administratively through the issuance of a building permit, and review by the building official is limited to health and safety requirement of local, state and federal law. The City's proposed checklist and expedited process must be implemented in coordination and consultation with Contra Costa County Building Division, Clayton's

contract provider for building permit and inspection services. The County has not yet passed its own ordinance in compliance with state law and does not expect to address this issue until the fall or winter. The City's proposed Ordinance was provided to the County for review and it did not identify a concern in regards to our intended implementation. City staff will work with the County for procedures and protocols for the review system and ensure the building permit, applications, and checklist are available electronically as required by state law.

Mayor Diaz opened the Public Hearing; no comments were offered. Mayor Diaz then closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to have the City Clerk read Ordinance No. 477, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 477 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Ordinance No. 477 for Introduction with the finding adding Chapter 15.96 – Electric Vehicle Charging Stations, is exempt from the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3 Categorical Exemption for construction of new small facilities or structures. (Passed; 5-0 vote).

9. ACTION ITEMS

- (a) Consider the Second Reading and Adoption of Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices.

Community Development Director Mindy Gentry presented the staff report noting on July 18th the City Council introduced the subject ordinance which proposes to amend the Sign Provisions in the Clayton Municipal Code in order to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ* allowing cities to prohibit mobile billboards and to incorporate other best signage practices. While there was discussion pertaining to the allowable size of temporary noncommercial signs, the City Council ended up not making any changes to the Ordinance.

Mayor Diaz opened matter for public comments; no comments were offered.

It was moved by Councilmember Catalano, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 475, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 475 by title and number only.

It was moved by Councilmember Catalano, seconded by Councilmember Pierce, to adopt Ordinance No. 475 amending Chapter 15.08 of the Clayton Municipal Code regarding Sign Provisions to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices. (Passed; 5-0 vote).

- (b) Consider the option to designate a City Council Voting Delegate and Alternate Delegate to the League of California Cities 2017 Annual Conference to be held September 13th – 15th in Sacramento, and determine a City voting position, if any, on the two League Conference General Resolutions
(City Clerk)

City Clerk Janet Brown presented the staff report and noted the registration fee for this year's Annual League of Cities Conference is \$575, which does not include additional expenses of transportation or lodging accommodations. At this year's conference there are two (2) League Conference General Resolutions for consideration at the Business Session. Ms. Brown noted the adopted City Budget for FY 2017-18 has \$1,000 allocated for any council member attendance and related expenses.

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

By general consensus, the City Council indicated no need to send a delegate to this year's annual conference but requested a City letter of support be sent regarding the two (2) League Conference General Resolutions.

10. **COUNCIL ITEMS** – None.

11. **RECESS THE CITY COUNCIL MEETING**

7:41 p.m. Mayor Diaz recessed the City Council meeting until after the conclusion of the Clayton Finance Authority and GHAD meetings.

12. **RECONVENE THE CITY COUNCIL MEETING**

7:43 p.m. Mayor Diaz reconvened the City Council meeting.

13. **CLOSED SESSION**

Mayor Diaz announced the City Council will adjourn into Closed Session (7:44 pm) for the following noticed items:

- (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: Council Members Pierce and Shuey, and Ed Del Beccaro, Managing Director, Transwestern, concerning price and terms of payment.
Negotiating Parties:
1. Avesta Development Group (Mohammad Javanbakht, Managing Partner);
 2. Fulcrum Development (Steven Ring, Sr. Executive Vice President)

8:45 p.m. Report out of Closed Session

Mayor Diaz reported City Council received information from staff and its property negotiators and gave directions. However, there is no public action to report.

14. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 8:46 p.m.

The City Council of August 15 and September 5, 2017 were canceled.
The next regularly scheduled meeting of the City Council will be September 19, 2017.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Jim Diaz, Mayor

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