

**MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL**

TUESDAY, December 6, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:03 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz and Councilmembers Haydon, Pierce and Shuey, and Council Member-elect Catalano. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Assistant Planner Milan Sikela, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

 - (a) Information Only – No Action Requested.
 1. Notification of a Public Hearing on Wednesday, January 4, 2017 by the Contra Costa Water District Board of Directors (CCWD) to consider a treated water rate revenue increase of up to 6.0% to become effective February 1, 2017.
 2. Notification by Republic Services that residential and commercial solid waste/recycling collection and disposal services rates in Clayton will increase by 3.2% effective January 1, 2017 (ref. 90% of the annual October-October Consumer Price Index (CPI) change of 3.56%, per the City's Franchise Agreement).
 - (b) Approved the minutes of the regular meeting of November 15, 2016.
 - (c) Approved Financial Demands and Obligations of the City.
 - (d) Adopted Resolution No. 54-2016 awarding a lowest competitively-bid contract to Intermountain Slurry Company, Inc. in the amount of \$556,203.97 for the 2016-17 Arterial Streets and Oak Street Rehabilitation Projects (micro-surfacing), and transferring \$12,000 from the Oak Street Permanent Road Division Fund to CIP No. 10437.
 - (e) Adopted Resolution No. 55-2016 certifying the results of canvass of returns in the November 2016 General Municipal Election and declaring Julie Pierce, Jim Diaz, and Tuija Catalano elected to 4-year terms of public office on the City Council of the City of Clayton, California.

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REMARKS BY OUTGOING CITY COUNCIL MEMBER**

Mayor Howard Geller thanked the City Council for giving him the chance to being a part of a super team; it was one of the best experiences of his life, where he learned about things that he would never have learned before. He also thanked his wife, Debbie, stating she was the true Mayor where she helped him proofread his Mayor's Column. He also thanked City Manager Gary Napper who is a wordsmith and for being his final editor before his Mayor's Columns would go out. He also thanked City Attorney Mala Subramanian for keeping him out of jail. He also thanked Janet Brown for looking after him and taking care of his needs whenever he called; and finally he thanked the rest of the City staff noting the City Council makes policy but the City employees run the City and they have done a fabulous job. With this is not his final "Good-bye," he will still be in charge of the Saturday Concerts in The Grove and stay very active as to what is happening in the City, he will just be on the other side of the dais and will be able to speak his peace.

Vice Mayor Diaz presented Mayor Geller with a personalized clock as a small token of appreciation for his years of service on the Council and as Mayor.

Former Mayor Howard Geller then stepped down from the Council dais and sat in the audience. City Manager Gary Napper turned the meeting over to the City Clerk to perform the Oath of Office to the newly-elected City Council members.

6. **OATHS OF OFFICE BY NEWLY-ELECTED CITY COUNCIL MEMBERS**

The Oaths of Office by the November 2016 elected Councilmembers Julie Pierce, Jim Diaz and Tuija Catalano were administered by City Clerk Janet Brown. Each of the newly-elected Councilmembers took their seats at the Council dais and were provided signed Certificates of Election.

7. **ANNUAL REORGANIZATION OF CLAYTON CITY COUNCIL**

- (a) Election of Mayor by the City Council [Vice Mayor Diaz to conduct the election].

Vice Mayor Diaz opened nominations. Councilmember Pierce nominated Jim Diaz for the office of Mayor. Councilmember Shuey seconded the nomination. There were no other nominations and Vice Mayor Diaz closed the nominations.

On call by Vice Mayor Diaz, the election of Jim Diaz as Mayor passed by acclamation (Passed; 5-0 vote).

- (b) Election of Vice Mayor by the City Council [Newly-elected Mayor to conduct the election].

Mayor Diaz opened nominations for Vice Mayor. Councilmember Pierce nominated Keith Haydon for the position of Vice Mayor. Councilmember Shuey seconded the nomination. There were no other nominations and Mayor Diaz closed the nominations.

On call by Mayor Diaz, the election of Keith Haydon as Vice Mayor passed by acclamation (Passed; 5-0 vote).

(c) Recognitions and comments by Mayor and Council Members.

Councilmember Pierce advised she is deeply honored to be re-elected to the Clayton City Council by the citizens of Clayton for yet another term and will do everything she can to support that trust. She also expressed a "Thank you" to Howard Geller because he has done a splendid job for the last eight years, worked really hard and he is extremely diligent and took copious notes at Council meetings. Howard has been a tireless volunteer in the city of Clayton and he will continue to be a volunteer, he just won't have to spend every other Tuesday up here and have the long agenda packets to read. Julie wished both Howard and Debbie all the best and will not be letting him off the hook on the Concerts in The Grove.

Vice Mayor Haydon congratulated Tuija Catalano on her election to the City Council and Julie and Jim on their re-election to City Council. He also wanted to reinforce the recognition to Howard Geller and his wife Debbie; they are a strong team. Howard has really worked hard for Clayton and Vice Mayor Haydon doesn't think people realize what is expected when you are the Mayor. Not only does he lead and attend the City Council meetings, but he is also out representing the City at a number of different functions, meetings, and was always prepared, provided excellent comments, and represented our City well. He thanked Howard for his efforts and the efforts he provided to the Clayton Business and Community Association (CBCA), and for always being a great citizen and participant in the community.

Councilmember Shuey congratulated Tuija, Julie and Jim to the City Council noting the city has chosen wisely. Congratulations to Jim Diaz as Mayor. He added without any hesitation that throughout the time he has served on the City Council and Community Services Commission there is probably less than five people that could come close to doing what Howard has done for this City, both as a Councilmember and a Clayton Business and Community Association member, and as a citizen, and for him to come and give us eight years we have been truly blessed; he is very proud to have served with Howard as he did a fantastic job. Most people will never understand the depths of the commitment and work that Howard did for the City and it was a pleasure working with him. "Thank you, Howard."

Councilmember Catalano also expressed her "thank you", as it is a very humbling experience to run for City Council. You think you've done a few things in the city and you think you know a lot of people and then you campaign and realize that you do not know as many people as you need votes. First and foremost she expressed "thanks" to the people that voted for her, and thanked everyone who in some way helped her with this campaign by signing her Nomination Papers or by taking a yard sign or to distribute flyers. She also acknowledged her husband and kids; she's not certain that they know they "volunteered" for this task yet they did walk the streets and distribute flyers. The one person that she really wished could have been here tonight is her dad that passed away a few years ago. When she was a child, he served on a number of different county boards, so the apple doesn't fall too far in that respect. Council Member Catalano remarked she is very happy to be here today and many know that she is a native of Finland; today also happens to be Independence Day in Finland, which makes this quite an awesome day to end it here today with the swearing into elected office ceremony. She is looking forward to serving the community and wanted to thank everyone for the trust and support.

Mayor Diaz also expressed his "thank you" to the citizens of Clayton for his re-election. He looked back over the number of years that he sought public office, noting it took a little while but with perseverance and tenacity he was able to succeed. He also thanked his wife Dana who has always been extremely supportive of his endeavors. Mayor Diaz reflected back on the first time he met Howard in his role as the brand new chair of

CBCA's "Clayton Classic" Golf Tournament; he received a call from Howard one day and he was very supportive and helpful in making that event very successful. The call was out of the blue, but Howard offered his full support and effort through the Clayton Business and Community Association, including its Art and Wine Festival, the Concerts in The Grove with that truly being one of Howard's legacies he leaves behind to this town. Mayor Diaz thanked Howard and looks forward to continue working with him on the Concerts in The Grove.

Mayor Diaz also wished to thank the people that showed up tonight to support him, one being one of his oldest friends, Nick Montana, whom he met when they served together in the Clayton Police Department in the mid-1970s. He also recognized a number of police employees he has associated with over the years: Sergeant Tim Marchut, Rich Enea, Sr., Police Officer Rich Enea, Jr., and Police Office Coordinator Sandy Johnson. He also recognized Gary Hood in the audience, who was one of the biggest opponents to the Ipsen Bocce Court development; however, he now sees Gary Hood with his bocce team on a regular basis on Court One downtown.

At this time, Mayor Diaz invited people forward from the audience that wished to acknowledge former Mayor Geller for his service to the City. Elizabeth Patton, Field Representative from Senator Glazer's office, presented Howard Geller with a Proclamation highlighting his many accomplishments while serving on the Clayton City Council. Dominic Aliano, from Supervisor Mitchoff's office, presented Mr. Geller with a certificate thanking him for his service to the Clayton community.

8. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff

City Manager Napper added on behalf of City staff he expressed its gratitude this evening to Howard Geller for all he has done to support its effort. As City Manager he gets to see first-hand more of the things Mr. Geller did as the Mayor and can tell you that he refers to Howard as "Citizen Mayor", he was truly an integral part of the community and had a presence at City Hall. Staff appreciates when City checks are signed in timely fashion, resolutions and ordinances were in need of signature; and when in City Hall Mayor Geller would also just chat with staff, keeping a pulse on the community. Personally, we "thank you" for your dedication and we will all miss you.

7:28 p.m. Social Break

Mayor Diaz called for a short break in the Council proceedings so attendees in the audience and members of the City Council could socialize with the newly-installed members of the City Council and former Mayor Geller.

7: 45 p.m.

Mayor Diaz called the Clayton City Council meeting back to order.

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

Vice Mayor Haydon attended the Clayton Library Foundation committee meeting and thanked the Library Foundation for its recent monetary contribution to the City to help with the staffing costs paid by the City for extra weekly operation hours; he attended the

Marsh Creek Multi-Use Trail meeting was cancelled and rescheduled to next week, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg and the Clayton Business and Community Association's Annual Tree Lighting event in downtown Clayton.

Councilmember Shuey did not share a report.

Councilmember Catalano attended the Clayton Business and Community Association's Annual Tree Lighting event in downtown Clayton.

Councilmember Pierce attended the San Jose Registry Forecast Group consisting of representatives from area realtors, the Bay Area Growth and Plan Bay Area meetings, the Metropolitan Transportation Commission meeting, the Contra Costa Transportation Authority Board meeting, the Associated Bay Area Governments Executive Board meeting, a joint meeting of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, the Bay Area Regional Collaborative meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and she reminded the community of the upcoming Annual Christmas Homes Tour taking place on December 11, 2016 sponsored by the Clayton Historical Society.

Mayor Diaz attended a County Connection meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and the Clayton Business and Community Association's Tree Lighting and Holiday event.

(e) Other – None.

9. PUBLIC COMMENT ON NON - AGENDA ITEMS

Steven Cross, 901 Sunvalley Blvd, Suite 220, Concord, representing the Center of Human Development, shared information about its low-cost or free mediation services offered to the Elderly, Family and/or Neighbor for disputes; available time can be for up to three hours. The Center of Human Development has found this dispute resolution service to have a 90% success rate. Mr. Cross wanted to get the word out about this community resources service.

10. PUBLIC HEARINGS

- (a) Continued Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
 - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
 - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and

- 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).
(Assistant Planner)

Councilmember Catalano stated for the record she was in attendance at the Planning Commission meeting of October 25th on this matter but not at the City Council's initial hearing on November 15th meeting. She reviewed the November 15th City Council materials in advance of this meeting and as such stated she will participate in the discussion this evening regarding this item.

Assistant Planner Milan Sikela presented the staff report indicating this is a continued item from the November 15th regular City Council meeting. Mr. Sikela advised the City Council reviewed the item and provided three issues requiring additional staff research. Those items were a second story window located on the side elevation of the proposed home; the need for a 6' fence on the north property line located at the rear of the lot adjoining the Church parking lot; and the evaluation of a "No Parking" area in the shared driveway.

He indicated the applicant and the concerned neighbor have come to an agreement on a smaller window installed 6' from the finished floor on that elevation. The existing fence on the north end of the property line is a short somewhat see-through fence and the City Council requested the applicant construct a 6' solid good-neighbor fence. Staff worked with the applicant requiring this fence to be at least 3 feet above the retaining wall as required by the *Clayton Municipal Code* section 17.36 - General Regulations. Lastly, staff evaluated requiring a "No Parking" area in the shared driveway either in front of the garages or at the southern terminus of the driveway; the applicant worked with the Contra Costa County Fire Protection District reviewing its response access and water availability, and he noted the Fire District approved the site plans along with a submitted document that the shared driveway is not needed for fire safety purposes. The properties can be accessed for fire suppression purpose from Southbrook Drive and its fire hose length can wrap around the homes at least two times from that response location. The applicant also indicated one of the benefits of this project is to leave the shared driveway available for various private vehicles that are associated with these homes.

Lastly, Mr. Sikela noted an issue that was not asked for further research was a comment made about the location of the stormwater detention basins by Council Member Pierce. Staff provided a revised diagram as Attachment 10 to note the location of these basins and the applicant is working with the City Engineer on a stormwater control plan including an operation and maintenance agreement.

Mayor Diaz re-opened the Public Hearing on this item; no comments were offered and Mayor Diaz then closed the Public Hearing.

Councilmember Pierce thanked the residents and applicant on working together and coming up with an agreeable solution. Councilmember Haydon added his thank you to the applicant and residents in resolving the concerns City Council had identified in a fair manner.

1. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 56-2016 adopting the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (ENV-01-15). (Passed; 5-0 vote).**

2. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 57-2016 modifying the existing land use designation from Institutional Density (ID) to Single Family Medium Density (MD) for the northern 0.41 acres of the St. John's Church/Southbrook Drive Mixed Use Planned Development Project.
(Passed; 5-0 vote).**

3. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to have the City Clerk read Ordinance No. 471, by title and number only and waive further reading.
(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 471 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Ordinance No. 471 for Introduction with finding the action will not result in a significant adverse impact on the environment.
(Passed; 5-0 vote).**

4. **It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Resolution No. 58-2016 approving the Development Plan (DP-01-15), Tentative Parcel Map (MAP-0-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project.
(Passed; 5-0 vote).**

- (b) Public Hearing to consider the adoption of Urgency Ordinance No. 472 extending the interim local moratorium for an additional ten (10) months and fifteen (15) days 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 indicated that back on November 1, 2016 the Council adopted Ordinance No. 469 placing a forty-five day moratorium on the establishment, construction and operation of Community Supervision Programs and parolee homes. Unfortunately, the forty-five days did not provide staff adequate time to draft regulations and present them to both the Planning Commission and City Council for review and consideration. Due to the uses associated with the County's Community Supervision Program including parolee housing not being defined in the *Clayton Municipal Code*, the expiration of Ordinance No. 469 will not have met Council's concerns regarding on-going potential negative impacts to public health, safety and welfare, particularly if there were a dense concentration of parolee homes located near sensitive uses such as parks, schools, or day care. The adoption of this Ordinance will provide staff the further time needed to draft regulations and present them for consideration by the Planning Commission and then enactment by City Council. It is anticipated that staff will not need an extension beyond this additional ten months and fifteen days.

Mayor Diaz opened the Public Hearing for public comment; no comments were offered. Mayor Diaz closed the Public Hearing.

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 472, by title and number only and waive further reading.
(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 472 by title and number only.

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to adopt Urgency Ordinance No. 472 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.
(Passed; 5-0 vote).**

11. ACTION ITEMS

- (a) Consider the Second Reading and Adoption of a proposed City-initiated Ordinance No. 470 updating the *Clayton Municipal Code*, Title 17 Zoning, Section 17.80 - Water Conserving Landscape Guidelines, concerning City Water Efficient Landscaping standards and regulations, per state mandate.
(Community Development Director)

Community Development Director Mindy Gentry provided a brief background indicating no changes were made to this Ordinance that was introduced at the City Council's last regular meeting. In essence this Ordinance complies with Governor Brown's Executive Order B-29-15 which was passed due to emergency conditions pertaining to the statewide drought. This Ordinance produces a local ordinance in compliance with that Order.

Councilmember Haydon clarified the City is following up on the new State requirements so we are in alignment with the new regulations? Ms. Gentry responded that is correct; essentially, the ordinance the City currently has in its Municipal Code has been superseded by the State of California's model ordinance. With passage of this particular Ordinance the action will place the City of Clayton in line with the current state mandate.

Mayor Diaz opened the item for public comment; no comments were offered.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 470, by title and number only and waive further reading.
(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 470 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Ordinance No. 470 with the finding the action does not constitute a project a under CEQA.
(Passed; 5-0 vote).**

12. **COUNCIL ITEMS** – None.

13. **CLOSED SESSION** - None.

14. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 8:22 p.m.

The next regularly scheduled meeting of the City Council will be December 20, 2016.

Councilmember Pierce announced that she will not be at the next regular City Council meeting of December 20, 2016.

#

Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Jim Diaz, Mayor

#