

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

**TUESDAY, January 19, 2016**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, and Councilmembers Haydon, Pierce, and Shuey (arrived at 7:06 p.m.). Councilmembers absent: Vice Mayor Diaz. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Assistant to the City Manager Laura Hoffmeister, Community Development Director Mindy Gentry, 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; 3-0 vote).**

(a) Approved the minutes of the regular meeting of December 15, 2015.

(b) Approved Financial Demands and Obligations of the City.

(c) Approved a Second Addendum to the Exclusive Sales Listing Agreement with Transwestern Property Company west, Inc. to extend the existing terms and conditions to January 2, 2017 for the list and market for sale and development certain City-owned real properties in the Clayton Town Center (APN 118-560-010, vacant 1.67 acre parcel off Main Street; and APNs 119-050-034, 119-050-008, and 119-050-009 located at 1005 and 1007 Oak Street).

(d) Adopted Resolution 01-2016 authorizing the City Manager to submit an application to CalRecycle for any and all payment programs and related authorizations available for fiscal year 2015-16 funding cycle.

(e) Adopted Resolution 02-2016 re-appointing Anthony Chippero and Alyse Smith to the citizens advisory Trails and Landscaping Committee for the terms of office to expire December 31, 2017.

(f) Approved Mayoral revision to the City Councilmember assignments for the City's delegate and alternate delegate to the monthly meetings of the East Bay Division, League of California Cities.

(g) Adopted the following three (3) Resolutions regarding the City's past and present implementation of California Government Code Section 20691 pertaining to Employer Paid Member Contributions to the California Public Employees Retirement System (CalPERS):

1. Resolution 03-2016 regarding Employer Paid Member Contributions on behalf of eligible miscellaneous City employees hired prior to July 1, 2010 (7%); and

2. Resolution 04-2016 regarding Employer Paid Member Contribution rates on behalf of eligible public safety employees hired prior to July 1, 2010, by payment of a 7% benefit rate from July 1, 1975 until June 1, 1997, and a 9% benefit rate from June 2, 1997; and

3. Resolution 05-2016 regarding Employer Paid Member Contribution rates on behalf of eligible public safety employees hired prior to July 1, 2010 with varying benefit rates commencing July 6, 2015 (6%), July 4, 2016 (3%), and July 3, 2017 (0%).

#### **4. RECOGNITIONS AND PRESENTATIONS**

- (a) Certificates of Recognition to public school students selected for exemplifying the “Do The Right Thing” character trait of “Kindness”.

Mayor Geller and Mt. Diablo Elementary School teacher’s Mrs. Shelly and Ms. Lovejoy presented Certificates to students Emma Del Bianco and Ryan Bernal.

(Councilmember Shuey arrived)

Mayor Geller and Diablo View Middle School Principal Patti Bannister presented Certificates to students Michael Drolette and Chloe Wigton.

Mayor Geller and Clayton Valley Charter High School Director of Operations Gregory Hile presented Certificates to students Nicholas Grant, Kyle Lehman and Zachary Fine.

#### **5. REPORTS**

- (a) Planning Commission – No meeting held.

(b) Trails and Landscaping Committee – Member Christopher Garcia reported on the Trails and Landscaping Committee meeting held on January 11<sup>th</sup>. The Committee received an update from Maintenance Supervisor Mark Janney regarding the status of various Landscape Maintenance District projects. The Committee also discussed: its Adopt a Trail program and progress; providing articles to the *Clayton Pioneer* to educate the public on how and what its Landscape District funds have been used for; the fact Measure B’s reauthorization must be prepared for voter consideration by the November 2016 election; reviewed the Landscape Maintenance District Budget FY 15/16 budget as the Citizens’ Oversight Committee for Measure B; reviewed conceptual redesign of drought tolerant plants for subdivision entryways. The Committee reviewed a written request with photos by a citizen wanting the City to install and maintain “No Smoking” signs along city trails and trail heads. It was determined the Committee will draft a response indicating regulations already prohibit smoking on trails and in parks and open space, and adding more signage would not likely achieve the desired outcome.

- (c) City Manager/Staff

City Manager Gary Napper indicated the Trails and Landscaping District recently completed a repair on Cardinet Trail to fill a hole/hazard next to one of the bridges reported by a citizen. Mr. Napper encouraged the community to please report any findings to the City Staff or Councilmembers so repairs can be made in a timely fashion. Mr. Napper also noted the City’s “fill-your-own” Sandbag Station advising bags are available at the City Maintenance Corporation Yard and the sand is available near the Keller Ranch House.

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

Councilmember Haydon attended the Contra Costa Mayors' Conference hosted by San Ramon and the Clayton Business and Community Association kick-off event for planning of the Annual Art and Wine Festival taking place on April 30<sup>th</sup> and May 1<sup>st</sup>, 2016.

Councilmember Pierce thanked City Staff for the quick repair on Cardinet Trail. Ms. Pierce also attended several meetings of the Contra Costa Transportation Authority, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG), the Contra Costa Mayors' Conference hosted by the San Ramon, the Bay Area Economic Institute, and the California Councils of Government.

Councilmember Shuey attended meetings of the Clayton Valley Charter High School (CVCHS) noting success in defending the recent claim by a former administrator. He also indicated the investigation by the Contra Costa County Office of Education of allegations against CVCHS has been closed in favor of CVCHS. Mr. Shuey thanked the City Council and community for its support during this difficult time for Clayton Valley Charter High School.

Mayor Geller attended the Contra Costa Mayors' Conference hosted by San Ramon, and meetings of the Clayton Valley Charter High School. He also announced Katie Grace Groebner recently lost her battle with pulmonary hypertension and over 500 people attended a recent celebration of life in her honor held at Diablo View Middle School.

- (e) Other – None.

6. **PUBLIC COMMENT ON NON - AGENDA ITEMS** – None.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Presentation and acceptance of the citizens' Trails and Landscaping Committee's FY 2014-15 Annual Report on activities and performance of the Citywide Landscape Maintenance District.

Trails and Landscaping Committee Member Christopher Garcia provided a brief report requesting the City Council's acceptance of the Trails and Landscaping Committee Annual Report, noting the District's ending fund balance of the 2014-15 adopted Budget is \$133,520. The Committee is very pleased with the success and progress of the Landscape Maintenance District.

Councilmember Haydon commented the Trails and Landscaping Committee Annual Report was very impressive and a lot of projects were completed. He thanked the Committee members for the hard work and keeping focused on constant improvements.

Mayor Geller encouraged the community, especially trail walkers, to apply for openings on the Trails and Landscaping Committee, advising applications are available on the City's

website. Applicants are appointed by the City Council following an interview with its Sub-Committee.

Councilmember Pierce thanked the Trails and Landscaping Committee members for its hard work and efforts.

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

**It was moved by Councilmember Haydon, seconded by Councilmember Shuey, to accept and approve the Trails and Landscaping Committee's Annual Report for FY 2014-15. (Passed; 4-0 vote).**

(b) Discuss and consider adoption of Resolution 06-2016 indicating City interest in exploring Community Choice Aggregation (CCA) energy for the city of Clayton in partnership with the County of Contra Costa and other public agency partners.

Community Development Director Mindy Gentry provided a brief overview and then introduced Jason Crapo, Deputy Director for the Contra Costa Department of Conservation and Development and Tom Kelly from LEAN Energy US who presented a slideshow regarding Community Choice Energy (CCE) options for Contra Costa County.

Mr. Crapo explained Community Choice Energy enables local governments to procure and/or develop power on behalf of their public facilities, residents and businesses from "green" or renewable energy sources. Mr. Crapo introduced Tom Kelly to continue with the presentation.

Mr. Kelly advised Marin and Sonoma Counties are currently operational with CCAs while the City and County of San Francisco is launching one soon. He also noted there are only three programs currently operational in California. Mr. Kelly continued his presentation comparing Marin and Sonoma County's programs financial conditions for FY 2015-16 showing a 3.5% - 4% increase to revenues and similar consumer rate reductions from PG&E. He explained the basic program mechanics involving the formation or joining of a Joint Powers Agency begins with the passage of a local Ordinance to enter into the Joint Powers Agreement; he advised when operational, all community consumers are automatically subscribed to the CCA JPA and customers must "opt-out" to remain with PG&E, an action that can be done by phone, on-line or mail. Mr. Kelly also advised of some of the risks involved including rate competition/ market fluctuation, customer "opt-outs" can negatively impact rates offered, political local policy objectives, and regulatory/legislative.

Councilmember Pierce asked if the Joint Powers Agreement indicates a maximum fee for the administrative costs of the program? Mr. Crapo advised that matter would be clarified during the formation and drafting of the Joint Powers Agreement.

Councilmember Shuey inquired on recurring complaints from participants of existing Community Aggregation Energy programs. Mr. Kelly advised when a CCE program has been implemented, most consumers do not realize they are participants in the program although all PG&E customers receive a minimum of 4 "opt-out" notices over 120 days period per statute.

Councilmember Pierce asked how a consumer's PG&E imposed fee is collected when staying with the CCE? Is it a one- time fee or monthly fee? Mr. Kelly advised the PG&E residential fee currently imposed is collected and billed monthly at a rate of \$12.00. He also advised the Joint Powers Agreement protects the member city from lawsuits or having to pay for a failed CCE program.

Councilmember Shuey asked for a sample of a CCE Joint Powers Agreement to review prior to City Council making a decision to join.

Councilmember Haydon is interested in the results of the study and inquired if after an initial Joint Powers Agreement has been established, can cities join into that agreement at a later date and still have voting capability? Mr. Kelly advised initially Marin Clean Energy became the first certified Community Choice Aggregation in California; initial costs were very expensive but subsequent members still have voting rights but weighted by subscribers participating.

Councilmember Haydon asked how the energy rates are determined? Mr. Kelly advised rates are regulated and controlled by California Public Utilities Commission.

Mayor Geller inquired if PG&E has expressed an interest to build or join a Community Choice Aggregation Energy program? Mr. Kelly advised PG&E and Community Choice Aggregation have established a business relationship with PG&E still providing billing and energy service to its customers. He also included there are no stockholders in the Community Choice Aggregation energy program.

City Manager Napper had a few inquiries regarding feasibility costs? Are there any foreseeable member cities in Contra Costa County? Is Contra Costa County considering joining an existing Community Choice Aggregation energy program? Mr. Kelly advised the feasibility study will cost approximately \$175,000, although the preferred term to use is a "technical" study since we know Community Choice Aggregation is now feasible. If a city decides to join, a representative from each joining city will have a voting member, likely with "weighted" voting on certain matters. Mr. Crapo added at this time Contra Costa County has not indicated if it would consider joining an existing Community Choice Aggregation Energy program.

Mayor Geller asked if there are any public comments to be offered on this item.

Carol Weed, member of the Contra Costa Energy Alliance, indicated she preferred Council consider giving its residents a choice in using green/clean energy alternatives. Ms. Weed also prefers keeping energy revenues in Contra Costa County and looks forward to the increase of green employment opportunities for its residents.

Wendy Lack, resident in Dana Hills, has been following the Contra Costa Board of Supervisors' meetings regarding the Community Choice Aggregation energy and has found that it carries enormous risks; electricity is a commodity heavily regulated. Ms. Lack conducted her own independent research finding that the feasibility study will cost \$1.5 to \$3 million dollars. She would like the City Council to carefully review the Joint Powers Agreement before making a commitment. Ms. Lack provided the City Clerk with a couple of news articles regarding Clean/renewable energy.

Dan Hummer, 282 Stranahan Circle, inquired if the Clayton City Council decides to join a Joint Powers Agreement, what would the requirements be and costs to back-out or join another Joint Powers Agreement?

Mayor Geller asked Mr. Crapo how is the upfront funding source acquired? Mr. Crapo advised start-up costs are a considerable amount and could range from \$1 to \$2 million. Contra Costa County would provide the initial funding and then recoup its expense through a financing plan to be shared among the Joint Powers Agreement members.

Councilmember Pierce noted the provided staff report indicates an estimated cost of \$100,000.00 to \$150,000.00 to conduct the study however it does not identify the City's share.

Mr. Crapo advised upon completion of the technical study and load data obtained the consultant hired by Contra Costa County will provide an analysis of the amount of energy being used, likely energy rates, and legal costs to establish a Joint Powers Agreement for management of the

program. Mr. Crapo included this process can take 18 to 24 months to complete resulting in significant start-up costs; Contra Costa County has agreed to provide upfront monies with eventual reimbursement from participating cities.

Councilmember Pierce indicated she would like to consider the results of the feasibility study to provide the Clayton community a possible option of participation in the Contra Costa Community Choice Aggregation energy.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt the Resolution authorizing Contra Costa County to collect the PG&E electrical load usage data for all customer classes and customers within the City of Clayton, and by letter affirm the City of Clayton's openness to participating in the costs of a feasibility /technical study to form a community choice aggregation in partnership with Contra Costa County but the City makes no funding commitment at this time until the number of interested cities is known and an expense allocation is proposed. (Passed; 4-0 vote).**

(c) Consider ECORP's initial findings regarding historic significance and future of the three (3) deteriorating historic outbuildings on City-owned Keller Ranch House property, north of the Clayton Community Library.

Community Development Director Mindy Gentry summarized the staff report briefly noting the updated integrity assessment of the historical Keller Ranch outbuildings determined the outbuildings no longer are historically significant; and pursuant to the California Environmental Quality Act Guideline 15301 (I) – Existing Facilities, a demolition project decided at the local level would be “categorically exempt” under CEQA. Ms. Gentry indicated the Clayton Historical Society would likely wish to salvage some portions of the Keller Ranch outbuildings to keep for historical purposes or use for a future fundraiser.

City Manager Mr. Napper added the location of the three buildings is directly north of the Keller Ranch House, and the Keller Ranch home is not a subject for demolition.

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

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to instruct staff to seek three proposals for the demolition of the outbuildings, with staff returning with three demolition proposals for City Council review and consideration for approval and funding. (Passed; 4-0 vote).**

(d) Consider a summary report on the City of Pittsburg's Tuscany Meadows Residential Subdivision project for up to 917 single-family homes, 365 multi-family apartments, and three parks totaling approximately 18.6 acres and possible implications to Clayton community.

Community Development Director Mindy Gentry presented the staff report noting project overview of the City of Pittsburg's Tuscany Meadows project and its Montreux residential subdivision project impacts to Clayton. Ms. Gentry provided forecasted traffic counts and potential traffic delays in both the AM and PM peak travel times at intersections along Kirker Pass Road and Ygnacio Valley Road used by Clayton residents. She also noted the project is scheduled to be heard at the February 9, 2016 meeting of the Pittsburg Planning Commission. If approved the project will go before the Pittsburg City Council for a hearing then precede to LAFCO for review of the proposed boundary changes.

Mayor Geller expressed concerns over the degradation in Level of Service (LOS) for signalized intersections as being characterized by Pittsburg as not having significant impact to the citizens of Clayton. Of course Clayton residents will be negatively impacted.

Councilmember Pierce recalls agreements Clayton made on the Oakhurst Development for developer monies contributed to upgrade signalized intersections on these same roads. She further noted certain East County developments conditions were to install a metering light at Nortonville Road that has not been enforced. Ms. Pierce suggested Clayton should advise Pittsburg of working with CCTA now and in the future to implement advances in technology which could incorporate adaptive traffic smoothing and signal synchronization as solutions to move traffic along these routes and to also study the corridor to Highway 680.

City Manager Mr. Napper suggested with Councilmember Pierce's regional transportation knowledge and assistance, staff draft a letter for Mayor Geller to send to the mayor of Pittsburg expressing Clayton's grave concerns about the developments' impacts to traffic needs of Clayton's residents and visitors and to include the noted suggestions.

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

City Council general direction was provided to staff to prepare a Mayoral letter to the mayor of Pittsburg noting the City's concerns regarding traffic impacts from the proposed Tuscan Meadows and Montreux subdivisions in the city of Pittsburg, and send an additional letter to the mayor of Concord inviting them to join in sharing similar concerns over traffic impacts.

(e) Discussion of Ballot Measure variables for renewal/extension of the Citywide Landscape Maintenance District's existing real property special tax and rate methodologies for voter consideration at a June 7, 2016 local special election to maintain funds for the annual operation and maintenance of Citywide Landscape Maintenance District over a proposed time period of ten (10) years commencing , Fiscal Year 2017-2018; and adopt a Resolution of Consideration to set a public hearing for March 1, 2016 regarding the potential time extension thereof.

Assistant to the City Manager Laura Hoffmeister presented the staff report noting Measure B funds for the Citywide Landscape Maintenance District are dedicated and restricted to the maintenance, repair, replacement landscape, trees, and irrigation systems located within the public roadway landscaped areas and medians, on City trails, and in City open space including annual fire breaks, weed abatement and exotic weed control. City parks are not maintained by this special tax. Prior to 1997 there were two special tax districts that covered certain neighborhoods and the Oakhurst Development; the districts were eventually merged by voter approval into a singular maintenance district funded by a special parcel tax. In 2007, a uniform special tax rate of the general benefit areas was passed by voters at an 82% affirmative vote for a ten year period. That special parcel tax is set to expire at the end of FY 2016-17.

The Trails and Landscaping Committee reviewed and considered the extension of this tax and unanimously recommends its extension for an additional 10 years using the same methodology as currently exists. The collection of the tax will continue to be done by Contra Costa County. The ballot measure to extend the special tax must be submitted to the voters and will still require two-thirds voter support to be approved. Staff and the Trails and Landscaping Committee each support the submittal of this ballot measure to the voters in June 2016.

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

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Resolution No. 07-2016, a Resolution of Consideration to extend for ten years the existing special tax subject to the same methodology for Community Facilities District 2007-1, and setting the noticed Public Hearing for March 1, 2016. (Passed; 4-0 vote).**

(f) City Council discussion to determine the date, time and location for the City Council's annual Goals and Objectives Setting Session with its City Manager.

The City Manager indicated the Staff Report contained monthly calendars of January and February 2016 to assist the City Council in its selection of a date for its annual Goals and Objectives Setting Session.

Councilmember Pierce suggested Monday, January 25<sup>th</sup> at 4:30 p.m.

City Councilmembers reviewed their calendars and discussed options and availability.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to call a City Council special meeting on Monday, January 25<sup>th</sup>, at 4:30 in the 3<sup>rd</sup> Floor Conference Room at City Hall for this purpose. (Passed; 4-0 vote).**

## **9. COUNCIL ITEMS**

Mayor Geller requested a future agenda item to consider impacts to Clayton regarding proposed developments in the Deer Valley/Lone Tree area of East County.

## **10. CLOSED SESSIONS – None.**

**11. ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 9:43 p.m.

The next regularly scheduled meeting of the City Council will be February 2, 2016.

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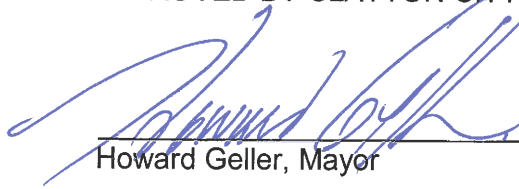
Respectfully submitted,

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Janet Brown, City Clerk



APPROVED BY CLAYTON CITY COUNCIL



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Howard Geller, Mayor

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