

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, October 6, 2015

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Shuey in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Shuey, Vice Mayor Geller and Councilmembers Diaz, Haydon and Pierce. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

- (a) Approved the minutes of the regular meeting of September 15, 2015.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 40-2015 accepting as complete the 2015-16 Neighborhood Street Pavement Rehabilitation Project performed by MCK Services, Inc. (CIP No. 10424) in the final amount of \$847,777.09, ordering the filing of a Notice of Completion, and authorizing the additional allocation of \$41,802.06 from the Gas Tax Fund to this Capital Improvement Project to pay for additional field work and related services.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Proclamation declaring October 2015 as “Domestic Violence Awareness Month”.

Mayor Shuey read the Proclamation and requested staff send it to the requestor as no one was present to receive the Proclamation in person.

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

Mayor Shuey and Mt. Diablo Elementary School first grade teacher Katrina Reyes presented Certificates to students Abigail Keller and Ada Jeffress.

Mayor Shuey and Diablo View Middle School Principal Patti Bannister presented Certificates to students Juliana Ward and Lauren Utne.

Mayor Shuey and Clayton Valley Charter High School Principal Jeff Eben presented Certificates to students Odeli Hernandez and Hosna Opeyany.

5. REPORTS

- (a) Planning Commission – Commissioner Gregg Manning reported the Planning Commission held a meeting on September 22nd. He noted there was a Site Plan Review for a reasonable accommodation request for construction of a 520 square-foot garage addition and a 539 square-foot second-story addition located at 964 Oak Street. The reasonable accommodation is for an encroachment in the rear setback in order to enlarge the master bathroom for increased mobility and access due to a disability.

Mr. Manning also provided a brief report to the City Council regarding County Connection's recent election of officers, advising Rob Storer was elected as Chair, Laura Hoffmeister as Vice Chair and Rob Schroder as Secretary. Mr. Manning also thanked Clayton Councilmember Diaz as the City's Alternate for his attendance at County Connection meetings. He further advised County Connection recently released a Ride-on-Time transit app providing real time arrival predications for use by smartphones.

- (b) Trails and Landscaping Committee – No meeting held.

- (c) City Manager/Staff

City Manager Napper advised Police Office Coordinator Wendy Roden has accepted employment with the City of Pittsburg as a Police Records Clerk. Sandy Johnson, the City's current Community Services Officer, applied for, was interviewed and subsequently accepted a promotion to the position of Police Office Coordinator. The City will now begin its recruitment for Community Services Officer; however, after reviewing the job duties, it is determined to add the title of Police Administrative Clerk to the City's Job Classification Plan and recruitment for that position more reflective of the actual duties performed in that job. The City Council will need to approve, probably by Consent Calendar, the title addition at its October 20th regular City Council meeting. The entry-level opening will be advertised on the City's website, the *Clayton Pioneer*, in the regional paper and at local public agencies and colleges.

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

Councilmember Haydon assisted with the planning and attended the Clayton Business and Community Association's 12th Annual Oktoberfest Celebration. He also met with Chief Koford regarding security concerns and issues he had regarding this year's Oktoberfest Celebration.

Councilmember Pierce attended meetings of the Contra Costa Transportation Authority, Metropolitan Transportation Commission, and Associated Bay Area Governments. She also traveled to Boston on behalf of the Contra Costa Transportation Authority where refinancing of fixed rate notes occurred with significant savings at a new rate of 2.586%, based on the AAA Bond rating from the recent Fitch rating.

Councilmember Diaz attended meetings of the Clayton Business and Community Association general membership, Contra Costa Association of Realtors, and the Clayton Morgan Territory Fire Safe Council. He also attended the Clayton Business and Community Association's 12th Annual Oktoberfest Celebration and the memorial service of former Trails and Landscaping Committee member Don Fitzgerald.

Vice Mayor Geller attended meetings of Clayton Business and Community Association and Contra Costa Association of Realtors. He also attended the Clayton Business and Community Association's 12th Annual Oktoberfest Celebration, and the memorial service of former Trails and Landscaping Committee member Don Fitzgerald.

Mayor Shuey attended Clayton Business and Community Association's 12th Annual Oktoberfest Celebration, Clayton Community Church's recognition of Ben Ross for his 15 years of service as a crossing guard whereat he presented Mr. Ross with a City Proclamation declaring October 5, 2015 as "Ben Ross Day" in the City of Clayton, and a Clayton Valley Charter High School governing board meeting.

(e) Other – None.

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

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

(a) Consider staff's recommendation for consultant services to research and prepare disposition options concerning the condition 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 and noted, based on the current condition of the Keller House Ranch outbuildings, it was determined to research options for the future of the three structures and understand the process with each possible situation. Ms. Gentry provided a brief history of the property which was built in 1912 by Harry and Elodia Keller who operated a 1300-acre cattle ranch up until his death in 1940. The ranching

operations continued until 1972; the land was sold to Presley of Northern California in 1987.

The City of Clayton acquired the small parcel in 1991 that now contains the Keller Ranch House and associated outbuildings. In 2001, the Keller Ranch House complex, including the outbuildings was determined to be significant as a rare example, in the Clayton area, of Mission-style architecture with Craftsman elements. It was selected to the California Register of Historical Resources for the complex's association with cattle ranching, an industry important in local and regional history.

Recently staff has received commentary and complaints of the Keller House outbuildings due to the fact they have become an attractive nuisance because of their deteriorated state and ease of accessibility. The buildings have not been maintained over the years, often resulting in graffiti, vandalism, damage, and missing boards. The first step is to determine if the outbuildings still have historical significance; and then step two would identify options and finally determine the process the City must follow prior to formal City Council direction to staff. The City received four proposals regarding the aforementioned scope of study from Architectural Resources Group (ARG), ECORP, ESA, and Chris VerPlanck. Of the four proposals received, ECORP provided the most comprehensive services. For outreach purposes, staff provided a copy of this staff report to the Clayton Historical Society and Clayton Planning Commission. Staff is seeking general direction from the Council as to its preliminary inclinations regarding the outbuildings, and then staff will offer the recommended consultant based on those objectives.

Mayor Shuey opened the matter to receive public comments; no public comments were offered.

Councilmember Diaz inquired on the Fund 601 Unassigned Capital Improvement Program fund balance of \$119,550, noting the four proposals are significantly less than the funds available. Ms. Gentry advised the proposals are to determine the current condition of the Keller Ranch outbuildings, which then leads to analyses on the options to proceed.

Vice Mayor Geller suggested utilizing volunteers with a craftsman or woodworking background to assist with the Keller Ranch outbuildings. Mr. Napper advised, depending on the Council intentions for the outbuildings, recommendations will flow on how the City will proceed. For example, does the City invest in restoration, mothballing or demolition expenses the buildings? Once that decision has been determined, the option of using volunteers could be explored; however, a scope of restoration work would need to be determined first. Presently, portions of the outbuildings have become significantly worse with graffiti, vandalism, and kids generally hanging out there. Ms. Gentry added if the Keller Ranch outbuildings are remain historic, additional parameters may be required adhering to the Secretary of the Interior's Standards for the Treatment of Historic Properties. Vice Mayor Geller commented he felt efforts should be made to restore the historic outbuildings.

Councilmember Haydon noted the ESA Cultural Resources consultant did not provide a proper level of the scope of work to be performed. Ms. Gentry advised

its scope of work had a quick overview of the three options and lacked necessary details.

Councilmember Pierce mentioned the Clayton Historical Society is aware of the conditions of the Keller Ranch outbuildings and understands it may not be able to be restored to the condition they once were. She inquired if there was a firm that was preferred from the proposals to perform the analysis of the existing condition of the Keller Ranch outbuildings, since no matter which course, the City must first determine if the outbuildings remain historically significant in present condition.

Ms. Gentry responded in her previous employment she had used ECORP out of Rocklin, CA and found they have a larger organization and technical staff available to assist. ESA did not provide any details of its facility and capacity. Ms. Gentry advised the first step is to determine if the Keller Ranch outbuildings still hold a historic significance prior to proceeding to identifying the options available.

Councilmember Pierce commented she is not sure if there is anything left to save as the outbuildings have become more of a public nuisance and may have come to the end of historical value. She also noted the addition of fencing around the buildings to minimize access would make the outbuildings more of an attractive nuisance.

Mayor Shuey remarked he would like to see the Keller Ranch outbuildings demolished as they have become more of an attraction to vandals and he does not want the public liability exposure if the buildings are left as they are.

It was moved by Councilmember Diaz, seconded by Councilmember Pierce, to award a consultant services contract to ECORP for its determination of historical significance of the Keller House outbuildings using monies from Fund 610; and to bring the consultant's conclusions back to the City Council for discussion at a future regular City Council meeting to determine next steps. (Passed; 5-0 vote).

- (b) Consider and discuss the private-party operation of short-term residential vacation rentals/occupancies occurring within Clayton (e.g., Airbnb, VRBO), and City Council policy determination whether City regulation, restriction or prohibition is warranted by local ordinance.

City Attorney Subramanian presented the staff report noting it has been discovered that several residents are leasing their homes as short-term vacation rentals within the city. Staff has brought the presence of these operations to the City Council for discussion of any concerns for possible reduction of the quality of neighborhoods, excessive noise, and/or parking problems. The current Clayton Municipal Code does not directly address short-term rentals however the Code generally prohibits commercial uses in residential zones, and vice versa. The City could require residents engaging in short-term rentals to pay a 4% TOT tax (Transient Occupancy Tax) to the City. Another approach is wait and see if SB 593 (proposed state legislation regarding residential units for tourist or transient

use: transient residential hosting platforms) moves forward as its passage will require Airbnb and VRBO statewide to provide quarterly reports to each city and county on how often real properties are being used for this purpose. This reporting requirement would then create the platform to collect the local TOT for the City, noting enforcement is always a problem and an issue.

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

Councilmember Pierce commented she has not heard of any short-term rental complaints and prefers to wait and see if SB 593 moves forward; if so, the City can take action at that time.

Vice Mayor Geller did not know that short-term rentals were occurring in Clayton and inquired if the City's 4% Transient Occupancy Tax rate could be adjusted? Ms. Subramanian advised the procedure to change the existing Transient Occupancy Tax would require an affirmative vote of the Clayton electorate.

Councilmember Diaz preferred to wait and see if any complaints are brought up to the City and then determine if a policy would need to be considered.

Mayor Shuey remarked he would also prefer to wait and see if problems occur with the current short-term rentals, addressing them on a case by case basis. At this time, the City does not have enough staff time to go through the process of chasing the Transient Occupancy Tax for collection.

City Manager Napper advised this matter was brought to the City Council for general awareness and any policy direction concerning short-term rentals occurring in residential properties. It could be happening more than the City or its citizens know in their neighborhoods as perhaps residents merely concluded that home always has so many vehicles coming and going.

No City Council action was taken on this item.

9. COUNCIL ITEMS

Vice Mayor Geller requested the 2016 Saturday Concerts in The Grove dates be placed on the October 20th regular City Council meeting agenda.

10. CLOSED SESSIONS

8:12 p.m.

Mayor Shuey announced the City Council will adjourn to Closed Session for the following stated purposes:

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiators. Real Property: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6). Instructions to City Negotiators (Mayor David Shuey and Council Member Julie Pierce; and Ed Del Becarro, Managing Director, Transwestern) concerning price and terms of payment.
Negotiating Parties: 1. Pacific Union Land Company (Joshua Reed).
2. Avesta Development Group, LLC (Mohammad Javanbakht)
- (b) *Government Code Section 54956.9 (d)(4)*, Conference with Legal Counsel
To Consider Initiation of Litigation: 1 case.

Report Out from Closed Session (9:51 p.m.): Mayor Shuey reported the City Council received reports and information from its real estate agent and its legal counsel, and gave general direction to staff.

11. **ADJOURNMENT**– on call by Mayor Shuey, the City Council adjourned its meeting at 9:52 p.m. in memory of Joan Culver and Don Fitzgerald, Clayton community members who recently passed away.

The next regularly scheduled meeting of the City Council will be October 20, 2015.

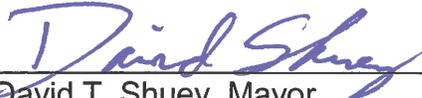
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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



David T. Shuey, Mayor

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