

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, November 3, 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, Finance Manager Kevin Mizuno, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

(a) Information Only – No Action requested.

1. Contra Costa County Library System scheduled closures of County-operated local libraries in calendar year 2016.

(b) Approved the minutes of the regular meeting of October 20, 2015.

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

(d) Approved the City's Investment Portfolio Report for the 1st Quarter of FY 2015-16 ending September 30, 2015.

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Administration of the Oath of Office by City Clerk to the City's new Chief of Police, Chris Wenzel.

The City Clerk administered the Oath of Office to Clayton's new Chief of Police, Chris Wenzel. Chief Wenzel's wife, Karen, pinned his badge to his uniform.

Chief Wenzel stated it is a great honor to be Clayton's next Chief of Police. Mr. Wenzel provided a brief career background including his term as Chief of Police with the Town of Danville and his recent retirement from the Contra Costa County Sheriffs' Office as a Commander. He also thanked his family and many friends in attendance this evening and looks forward to his partnership with the Clayton community for many years to come.

Members of the Clayton City Council also welcomed Chief Wenzel.

- (b) Certificates of Recognition to public school students for exemplifying the “Do The Right Thing” character trait of “Respect” for the month of October 2015.

Mayor Shuey and Mt. Diablo Elementary School second grade teachers Jennifer Blazer and Alexandra Pike presented Certificates to students Aaralyn Clark and Christopher Dent.

Mayor Shuey and Diablo View Middle School Principal Patti Bannister and 8th grade teacher Mrs. Ploetz presented Certificates to students Joe Course and Felipe Ognian.

Mayor Shuey and Clayton Valley Charter High School Director of Operations, Gregory Hile, presented Certificates to students Lynette Cox, Julian Rike and Anthony Vines.

- (c) Proclamation declaring November 4th, 2015 as “Shelter In Place Education Day”.

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

**7:26 p.m. The Council took a short recess.
7:43 p.m. The Council reconvened its meeting.**

5. 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.

Councilmember Diaz participated in a telephone conference “Funding our Future” conducted by the Contra Costa Transportation Authority; attended a Clayton Business and Community Association General Membership meeting, Interim Clayton Chief of Police Doug Koford’s farewell luncheon, and a Community Emergency Response Team (CERT) meeting. He announced the 1st Annual Joan Culver Bocce Ball Tournament will be held this weekend.

Vice Mayor Geller attended the general membership meeting of the Clayton Business and Community Association, Interim Clayton Chief of Police Doug Koford’s farewell luncheon, and a City of Clayton Budget/Audit Committee Meeting to review the FY 2014-15 Audited Financial Statements of the City.

Councilmember Haydon attended the City of Clayton Budget/Audit Committee Meeting to review the FY 2014-15 Audited Financial Statements, a general membership meeting of the Clayton Business and Community Association, and

he met with Ted Sudderth, formal member of the City's Trails and Landscaping Committee, to update the Black Diamond Plaza trail kiosk with current trail maps and current Clayton information. He also noted the upcoming 1st Annual Joan Culver Bocce Ball Tournament.

Councilmember Pierce attended several meetings of the Contra Costa Transportation Authority, the Metropolitan Transportation Commission, and the Association of Bay Area Governments. She also met with District III Supervisor Piepho regarding plans to expand the Marsh Creek Road Trail system, and attended Interim Clayton Chief of Police Doug Koford's farewell luncheon

Mayor Shuey attended several meetings with the Clayton Valley Charter High School.

(e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Mr. David Sorenson advised the City Council that he and his son, Dallin, are in attendance this evening as his son is working on his Boy Scout merit badge of communication.

7. PUBLIC HEARINGS – None.

8. ACTION ITEMS

(a) Presentation and approval of the City's Audited Financial Statement for Fiscal Year 2014-2015 prepared by Cropper Accountancy Corporation, independent Certified Public Accountant Firm.

Finance Manager Kevin Mizuno provided a quick overview of the staff report noting the staff objective to issue timely, relevant and reliable financial statements. Mr. Mizuno noted this year's financial statements also include the newly-required Governmental Accounting Standards Board Statement (GASB) No. 68, which revised and established new financial reporting requirements for governments which provide their employees with public pension benefits.

The City's independent auditor, Cropper Accountancy Corporation, has issued an "unmodified opinion" on the City of Clayton's financial statements for the fiscal year 2014-2015. This "clean" audit opinion is based on the Generally Accepted Accounting Principles (GAAP), a source of the Governmental Accounting Standards Board. The government-wide aggregated financial statements report the long-term assets and liabilities in the Statement of Net Position.

The City-wide net position increased by a positive balance of \$488,237.00 as a result of Fiscal Year 2014-15 activities. The audited financial statements now

reveal an actual annual surplus of \$389,895 in the City's General Fund. The positive outcome arose primarily as a result of spikes in both normal operating and non-recurring revenue sources offset by an extraordinary loss arising from the State of California's "clawback" of RDA monies lawfully expended as part of the CA Department of Finance's (DOF's) AB1484 "RDA Dissolution" Due Diligence Reviews.

Ultimately, the General Fund surplus resulted in 7.57% increase to City's overall General Fund balance, bringing the total amount to \$5,538,632 as of June 30, 2015. Mr. Mizuno then turned the presentation over to Mr. John Cropper, partner of the Cropper Accountancy Corporation.

Mr. Cropper thanked the City Council and the Audit Sub-Committee members. He briefly went through a slideshow presentation entitled the "State of City" confirming its Unmodified (Clean) Audit Opinion of the City's fiscal year activities. He highlighted the new Governmental Accounting Standards Board (GASB 68) Pronouncement, declaring and stating for the first time a \$3,693,394 GASB 68 Unfunded Liability for the City of Clayton in terms of its public employee pension system (CalPERS). He also referenced the deferred outflows of resources, deferred pensions amount of \$471,130, and deferred inflows of resources deferred pension amount of \$845,472. Mr. Cropper highlighted the General Fund balance being strong with a favorable annual variance from the final budget of \$562,609. It was the DOF clawback of former RDA monies in the City's General Fund from 2011 that caused the net gain to decline to \$389,895. Overall, he stated the City of Clayton's financial status is in great shape.

Vice Mayor Geller referred to the Governmental Fund noting the City of Clayton has a positive figure. Mr. Cropper noted the revenues and other financing sources over (under) expenditures and other financing uses started with a general fund balance of \$589,895; then there was an extraordinary loss on the AB 1484 dissolution in the amount of \$200,000 resulting in a change of fund balance to \$389,895.

Vice Mayor Geller inquired on the status of the California Department of Finance "claw back" regarding the AB 1484 dissolution. Mr. Cropper advised the management of the City disagrees with certain conclusions reached by the Department of Finance and intends to file a Meet and Confer pursuant to AB 1484 to dispute some of the findings. The final obligation owed from the Clayton Successor Agency to Contra Costa County will be determined after the Meet and Confer process with final payment to be remitted sometime this fiscal year.

Mr. Napper added the City already filed its appeal to the decision of the Department of Finance and we believe there is a good chance for some relief of the clawback amount requested. Vice Mayor Geller expressed his doubts when dealing with the DOF.

Mr. Mizuno advised the unfunded pension liability of GASB 68's accounting standards are just now catching up with PEPRA (Public Employees' Pension Reform Act) law that became effective January 1, 2013. This is the first year it has been calculated and placed on a city's books, and it is not a current or single year event. The City Council previously addressed its CalPERS' situation by creating Tier II pension plans well in advance of the PEPRA state law; this action

eased some of the City's liabilities. Despite being surcharged this year by CalPERS, as all public agencies have been as well, the City Council and staff still managed to adopt a balanced budget in Fiscal Year 2016. Unfortunately, CalPERS' contribution rates and pension methodologies are constantly being altered and become moving targets for cities to address.

Councilmember Haydon commented this is his first run through of the Clayton Budget and Audit process and he thought it was explained well and very understandable and transparent.

Councilmember Pierce thanked staff for walking her through some of the CalPERS items and advised of other public agency budgets she has reviewed on GASB 68, this one is definitely clearer.

Councilmember Diaz inquired on several notes on page 55 C. Note payable: didn't we get some relief with the help of one of our state senators? What is the impact of that? Was it this year or a prior year? What was the amount?

Mr. Mizuno responded the City Manager did contact State Senator Glazer and we did receive some positive help on one of the big controversies facing the City with former RDA activities. The Department of Finance was intent on wiping out all of the formal RDA loans due the City General Fund, applying very strict interpretations and requirements. Ultimately, staff was able to receive confirmation that 2 of our disputed transactions between the former RDA and the City will be honored. Those are: 1. the 2% Election monies due the City but omitted in payment since 1987 and amounting to approximately \$501,000; and 2. the Fire Station land note in the amount due of \$475,000.00. DOF now understands the 2% Election monies was not a loan but a correction of an error involving a statutory obligation due the City. And, the Promissory Note on the Fire Station land was not a movement of cash; it was deeding of City-owned land through the RDA for gifting to the Contra Costa County Fire Protection District to construct a new better-located fire station, which is considered a redevelopment activity. These financial declarations are considered a subsequent audit event and will not be seen until the Fiscal Year 2016 audit.

Councilmember Diaz inquired about the Potential One-Time Expenditures list submitted in the staff report to provide additional services or make one-time expenditures.

Mr. Napper advised this list was put together to explore different opportunities to use some of the annual General Fund surplus funds as one time expenditures for unmet needs of the City, should the Council desire. Our obligation as staff is to provide unmet needs of the City for Council review and policy decision for the unassigned funds. Action is unable to occur this evening; however, this can be placed on a future agenda and discussed at that time including other ideas for use of the funds.

Councilmember Pierce would prefer not using General Fund reserves in case of a natural disaster such as a landslide; we are not able to rely on emergency or disaster funds to be provided by the State of California.

Mayor Shuey opened the floor to receive public comments on the fiscal year 2014-15 Audited Financial Statement of the City of Clayton; no public comments were offered.

It was moved by Vice Mayor Geller, seconded by Councilmember Haydon, to accept as submitted the FY 2014-15 Audited Financial Statement of the City of Clayton. (Passed; 5-0 vote).

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.

Mayor Shuey advised he will not be in attendance at the regular City Council meeting of December 1st and requested that the vote for Mayor and Vice Mayor take place at the City Council's next regular meeting of November 17th. He noted the newly selected officers will not take effect until the December 1st.

Councilmember Haydon requested the Potential One-Time Expenditures to provide additional services or make one-time expenditures be placed on a future City Council agenda for consideration.

10. **RECESS THE CITY COUNCIL MEETING** – Mayor Shuey recessed the City Council meeting at 8:39 p.m.

(until after the conclusion of the Clayton Financing Authority Board meeting)

11. **RECONVENE THE CITY COUNCIL MEETING** – Mayor Shuey reconvened the City Council meeting at 8:41 p.m.

12. **CLOSED SESSIONS**

Mayor Shuey announced the City Council will adjourn into Closed Session to handle the matters disclosed and declared below (at 8:41 p.m.):

- (a) *Government Code section 54957*
Public Employee Annual Performance Evaluation
Position Title: City Manager.
- (b) Government Code Section 54957.6, Conference with Labor Negotiators
Agency designated representatives: Mayor Shuey, Vice Mayor Geller
Unrepresented employee: Mayor Shuey.

10:20 p.m. Report out from Closed Session: Mayor Shuey announced the City Council discussed matters above and gave instructions to its labor negotiators.

11. **ADJOURNMENT**– on call by Mayor Shuey, the City Council adjourned its meeting at 10:21 p.m.

The next regularly scheduled meeting of the City Council will be November 17, 2015.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



David T. Shuey, Mayor

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