

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

**TUESDAY, June 21, 2016**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 5:50 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 and Pierce. Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Clerk/HR Manager Janet Brown, and Community Development Director Mindy Gentry.

2. **COUNCIL INTERVIEW OF PLANNING COMMISSION APPLICANTS**

The City Council interviewed the following three (3) candidates whom had applied for appointment to the City Planning Commission (starting at 6:06 p.m.):

Jerry Waitrovich, Amy Hines-Shaikh, and Dale Davis

**RECESS:** The City Council took a short recess from 6:48 p.m. – 7:00 p.m.

**7:00 P.M.**

**REGULAR PUBLIC MEETING**

3. **RECALL TO ORDER THE CITY COUNCIL** – The meeting was recalled to order at 7:01 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 (arrived at 8:09 p.m.). Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Clerk/HR Manager Janet Brown, Community Development Director Mindy Gentry, City Engineer Rick Angrisani, Assistant to the City Manager Laura Hoffmeister, and Finance Manager Kevin Mizuno.

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

5. **CONSENT CALENDAR**

Mayor Geller made reference to Item 5(h) and expressed concerns over the excessive final cost to handle the repairs on the Cardinet Trail; he felt the Maintenance Department should regularly patrol the trails and repair such erosions before the expense gets to be of this \$77,000 magnitude.

Councilmember Haydon commented he thought the contractor did an excellent job with the reinforcement of the bank located along the Cardinet Trail.

Councilmember Pierce noted the City Maintenance Department is not allowed by state laws to perform such work on the creek banks of the trail system, and would be unable to make the extent of repairs performed by the contractor.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).**

- (a) Approved the minutes of the regular meeting of June 7, 2016.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 30-2016 authorizing the levy of annual real property tax assessments for Community Facility District No. 2006-1 (Downtown Park O & M; Fund No. 211) in Fiscal Year 2016-2017.
- (d) Adopted Resolution No. 31-2016 authorizing the levy of annual real property tax assessments for Community Facility District No. 2007-1 (Citywide Landscape Maintenance District; Fund No. 210) in Fiscal Year 2016-2017.
- (e) Adopted Resolution No. 32-2016 authorizing the levy of annual real property tax assessments for the Middle School Community Facilities District (CFD 1990-1R; Fund No. 420) in Fiscal Year 2016-2017.
- (f) Approved the initiation of process for the biennial review of the City's Conflict of Interest Code.
- (g) Adopted Resolution No. 33-2016 approving a 3-month Addendum 1 to the base Memorandum of Agreement with the Clayton Undesignated Miscellaneous Employees Group effective July 1, 2016 through September 30, 2016, unless replaced sooner by mutual agreement.
- (h) Adopted Resolution No. 34-2016 approving the Notice of Completion of the local emergency Cardinet Trail Repair Project (CIP No. 10421) performed by G.N. Henley, Inc., in the final amount of \$77,439.53 (Trails and Landscape Maintenance District) repairing significant damages to a portion of the Cardinet Trail, authorize the appropriation of \$2,439.53 from the Landscape Maintenance District's reserves (Fund No. 210) to fund unexpected project cost overruns, and authorize the City Clerk to record the Project's Notice of Completion.
- (i) Adopted Resolution No. 35-2016 approving a First Amendment to General Counsel Legal Services Agreement between the City of Clayton/Clayton Successor Agency and the law firm of Best Best & Krieger, LLP, for adjustments in legal counsel rates and services.

## **6. RECOGNITIONS AND PRESENTATIONS**

- (a) Recognition of outgoing Planning Commissioners Dave Bruzzone, Sandra Johnson and Gregg Manning for their civic services to the City of Clayton.

Mayor Geller presented Sandra Johnson, Dave Bruzzone, and Gregg Manning each a plaque recognizing their dedicated civic services on the City Planning Commission.

## 7. REPORTS

- (a) Planning Commission – Commissioner Tuija Catalano summarized the Commission’s meeting of June 14, 2016. She noted its agenda included a Site Plan Review Permit at 226 Bigelow Street to allow construction of a second-story balcony on an existing two-story single-family residence. There were some neighbor concerns expressed regarding view obstruction, however the addition was approved.

The Planning Commission also reviewed the proposed Fiscal Year 2016-2017 Capital Improvement Program Projects for conformity with the Clayton General Plan and has made its findings of conformity to the City Council.

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

- (c) City Manager/Staff

The City Manager reported the newly updated water play feature or splash pad at The Grove Park has now been turned on and is operational daily from 8:00 a.m. to 9:00 p.m.; this action was cleared through the Contra Costa Water District following the state’s declaration the 4-year drought has ended. The water play feature will only be available until 5:00 p.m. on the evenings of the Saturday Concerts in The Grove to accommodate audience seating capacity, and for now the water feature will remain open until 9:00 p.m. during the Wednesday Classic Car Show and Concert series.

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

Vice Mayor Diaz attended the Wednesday Night Classic Car Show, the Clayton Business and Community Association’s 30<sup>th</sup> Annual (and Final) Clayton Classic Golf Tournament, the Clayton Business and Community Association’s Rib Cook-Off meeting, a County Connection meeting, and the Saturday Concert in The Grove Park.

Councilmember Pierce attended several Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) meetings, the Bay Area Council’s Bay Area Institute meeting, a TRANSPAC meeting, a Boy Scouts’ National Eagle Court of Honor for Benjamin Schoffstall and Jonathan Sullivan from Troop 484, a Bay Area Regional Collaborative meeting, and the Saturday Concert in The Grove Park.

Councilmember Haydon attended the Round-Up Relay for Life Fundraiser, a Clayton Community Library Foundation meeting, the Saturday Concert in The Grove Park, and met with the City Manager to review this evening’s Agenda packet.

Mayor Geller attended the Round-Up Relay for Life Fundraiser and concluded it will likely become an annual event, the Clayton Business and Community Association 30<sup>th</sup> Annual (and Final) Clayton Classic Golf Tournament, the Saturday Concert in The Grove park featuring Dave Martin House Party which raised \$1,759 in audience donations, and announced the next Saturday Concert in The Grove taking place on July 2<sup>nd</sup> will feature a well-known Motown band, Pride and Joy.

- (e) Other – None.

## **8. PUBLIC COMMENT ON NON - AGENDA ITEMS**

Emily Wood, a Program Consultant with Contra Costa County Climate Leaders, provided the City Council an update on various East Bay Energy Savings Programs funded by PG&E serving Alameda and Contra Costa Counties, and she encouraged the City of Clayton to consider joining the East Bay Energy Watch Strategic Advisory Committee to be able to offer these programs to its residents.

Charles Thomas, a Battalion Chief with Contra Costa County Fire Protection District, provided the City Council an update on various fire-related events that recently occurred in Contra Costa County. Mr. Thomas also advised the District continues to work with the Cities of Pinole and Hercules, along with Rodeo, on a proposal to provide administration oversight to those agencies which would provide safer and more efficient operations. The District has provided 6 mechanical compression devices to provide assistance with CPR and to increase the number of lives saved. The Fire District is also feeling the effects of the summer as call volume and complexity has increased; some calls resulting in a second alarm or greater. The new partnership with AMR for ambulance transport services has been going well, and has met or exceeded projections along with personnel working well together. Fire Season is here, the rain we received this winter has helped, however the drought restrictions and ongoing fire danger has produced thick tall fuels which have already began to dry out and burn. Chief Thomas then reminded the public to please enjoy the public displays of upcoming 4<sup>th</sup> of July firework shows as fireworks are illegal in Contra Costa County.

Councilmember Pierce thanked the Contra Costa County Fire Protection District on its efforts of containing the recent fire that occurred in Clayton. Many residents were very concerned about the fire and were very happy with the quick outcome to extinguish it.

Vice Mayor Diaz inquired on how the fire had started as many residents at the time were away from their homes attending the Clayton Business and Community Association 30<sup>th</sup> Annual Clayton Classic at Oakhurst Country Club. Chief Thomas advised the source of the Clayton fire is still under investigation. Vice Mayor Diaz also asked how many units were dispatched to assist with the fire? Chief Thomas advised there were two alarms from Contra Costa Fire and wonderful assistance from CalFire.

Councilmember Haydon also thanked the ConFire for its speed and control of the fire and thought one of the most impressive resources was the effective use of a helicopter for water drops. Chief Thomas advised this fire also had the assistance from one of the Sheriff's helicopters with a paramedic captain onboard able to reach inaccessible places to get people out of danger.

Mayor Geller also advised he was in attendance at the Clayton Business and Community Association's 30<sup>th</sup> Annual Clayton Classic when the fire started. He noted the City Maintenance Department's recent fire break cuts greatly helped with this particular occurrence.

## **9. PUBLIC HEARINGS**

- (a) Public Hearing on the proposed City of Clayton Budget for Fiscal Year 2016-17 and its 5-Year Capital Improvement Project Budget (CIP) for Fiscal Years 2016-2021.

Finance Manager Kevin Mizuno provided a brief overview of the proposed Clayton City Budget for Fiscal Year 2016-17 that was introduced on June 7, 2016. Since that June 7, 2016 meeting there have been no revisions required to be incorporated into the Budget.



One correction did occur on the 5-Year Consolidated Budget Trend analytical table, which is part of the Budget Narrative. Mr. Mizuno advised the total budget for FY 2016-17 is \$13,997,205 including budget areas of the General Fund, Other Funds, Capital Improvement Project (CIP) and Successor Agency budgets. The correction occurred in the Other Funds as an Excel formula did not calculate the correct amount of \$5,689,924.

The largest revenue source continues to be the General Fund at 55.23% of the total City Budget, which is also the driver for general City operations and public services. The second largest revenue source is Measure J sales tax monies at 19.38%, which increased this year due to the large allocation for the arterial street rehabilitation project occurring in Fiscal Year 2016-17. The third largest revenue source is the Landscape Maintenance District which is actually a special community district with its restricted special parcel taxes. Clayton's Ballot Measure H, which just passed at the June 2016 election, extended this special parcel tax for an additional 10 years to fund the special landscape and trails maintenance and improvement projects.

The expenditures comparison follows suit with its revenues with largest expenditure being the General Fund at 47.37%, followed by Measure J at 22.46% and the Landscape Maintenance District at 13.70%.

Mr. Mizuno provided a pie chart for the distribution of the secured and unsecured property taxes showing the City's share of the allocation of 1% ad valorem property tax local, regional and state run agencies. The amount of the tax is based on an annually-determined assessed valuation calculated by the county assessor's office and is paid to the county tax collector; under currently assessed property values, Clayton's return is 6.63% of the full one percent tax back to the General Fund.

Mr. Mizuno continued his presentation with the General Fund revenue source by type with: Property Tax in lieu of Vehicle License Fees (VLF) at 20.6%, followed by Secured and Unsecured Property Taxes at 20.0%, and Sales & Use Taxes at 11.8%. These three categories make up about 50% of General Fund revenues. Mr. Mizuno also noted that of the current sales tax rate of 8.5% imposed in Clayton, this City only receives about 1% of that revenue source.

Mr. Mizuno further outlined the General Fund Expenditures by Department. The largest is 52.7% for Police, followed by 21.9% for Administration-Finance-Legal, then 7.0% for Community Development. In other words, out of all General Fund Revenues received next year by the City, the Clayton Police Department operations will take 52.7¢ of every \$1.

Mr. Mizuno summarized his presentation noting the unrestricted General Fund Reserve is \$5,217,969 to start Fiscal Year 2016-17; when subtracting the Total Projected Revenue from the Total Proposed Expenditures there is a difference of \$38,900 resulting in the projected General Fund Balance of \$5,256,869.

Mr. Mizuno concluded his presentation by outlining the Appropriations (GANN) Limit of the City which is required under Proposition 4. On an annual basis, the calculation this year results in the Fiscal Year 2016-17 Appropriations Limit [tax limit] of \$9,999,169. When compared to estimated appropriations subject to the Limit next Fiscal Year, Clayton is at 44.1%; which means the available annual tax gap is \$5,587,519.

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

**It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to adopt Resolution No. 36-2016, adopting the Annual Budget for the City of Clayton for the 2016-2017 Fiscal Year commencing July 1, 2016 and ending June 30, 2017, and adopting the 2016-2017 appropriations limit and employee compensation schedule. (Passed; 4-0 vote).**

- (b) Public Meeting to consider a Resolution setting, adjusting and approving the City Master Fee Schedule for FY 2016-17 regarding certain user-benefit municipal services and rental of City facilities.

Finance Manager Kevin Mizuno advised the City's Master Fee Schedule is reviewed annually to ensure its user-benefit fees are up-to-date, the costs are appropriate, and include new fees if necessary. Examples of City user-benefit fees include City facility/park rentals, service fees, permit fees, and engineering fees, to name a few. The last fee schedule was adopted in September 2015 for the current Fiscal Year. According to law the costs cannot exceed the San Francisco-Oakland-San Jose April 2015 -2016 Consumer Price Index (CPI) growth rate of 2.7% as published by the United States Bureau of Labor and Statistics. It has been the practice of the City to only adopt fee increases in whole dollar amounts. In circumstances where prior year CPI adjustments did not result in an increase, a two-year CPI rate was applied in the current year to ascertain whether a fee increase should be recommended. Most fees included in the proposed Master Fee Schedule will become effective upon adoption of the Resolution, while certain fees pertaining to developers in the proposed Master Fee Schedule require, under state law, a 60-day period prior to the effective date of the rate increase (August 20, 2016).

Mayor Geller opened the Public Meeting for public comments; no comments were offered. Mayor Geller then closed the Public Meeting.

Mayor Geller inquired if there is a line item in the proposed Fee Schedule to rent tables at The Grove Park during the Concert Series? Mr. Mizuno advised that recent City administrative policy prohibits the rental or reservation of the tables at The Grove Park during the Concert Series in fairness and access to all wishing to attend.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Resolution No. 37-2016, amending the City Master Fee Schedule for certain user-benefit City services and rental of public facilities and parks. (Passed; 4-0 vote).**

- Councilmember Shuey arrived (8:09 p.m.) -

## 10. ACTION ITEMS

- (a) City Council discussion and determination of citizen appointments to three (3) vacancies on the Clayton Planning Commission for two 2-year terms of appointed office from July 1, 2016 through June 30, 2018.  
(Mayor Geller)

Mayor Geller announced one of the four applicants originally scheduled for interview tonight was unable to at the last moment as he had a family medical emergency. The City Council interviewed earlier this evening interviewed the remaining 3 candidates for the 3 openings on the City Planning Commission. He noted a fifth applicant was unable to attend the interview on this particular night.

Councilmember Pierce thanked all of the applicants who applied and interviewed. She would like the two candidates that applied and were unable to interview this evening to have the opportunity to still interview, perhaps before the next City Council meeting. Further, since that deferral would take place, it is also reasonable to extend the application deadline as some citizens expressed interest to her but thought the deadline was at the end of this month (June 30<sup>th</sup>).

Councilmember Haydon would also like the opportunity to interview the two applicants that applied and could not make the interview. Councilmember Haydon did express a concern of the Planning Commission not having a quorum after June 30<sup>th</sup> without the Council making at least one appointment tonight.

When inquired, Community Development Director Mindy Gentry advised the Planning Commission has one more meeting with the full Commission on June 28<sup>th</sup> with the next meeting not to occur until July 12<sup>th</sup>. The City Council's next meeting is on July 5<sup>th</sup> so there would be adequate time to make appointments to constitute a quorum for July 12<sup>th</sup>.

Councilmember Pierce inquired if the Planning Commission ordinance allows seated commissioners to remain in office until their replacements have been appointed by the City Council? City Attorney Mala Subramanian, attempted to pull up the Clayton Municipal Code online to verify, however, was unable to confirm a "sitting commissioner" option as described.

Mayor Geller announced it is the desire of the City Council to postpone the Planning Commissioner appointments until all applicants can be interviewed. City Manager Napper confirmed the City Council's instruction to hold further Planning Commission interviews prior to its July 5<sup>th</sup> City Council meeting and accept additional candidates for interview if applications filed before that date.

No action was taken on this item.

- (b) Consider a request by the Pacific Coast Farmers' Market Association to relocate the existing Clayton Farmers' Market from its present location on Diablo Street (between Main and Center Streets) to the private parking lot of KinderCare off Main Street for enhanced market visibility from Clayton Road, effective Saturday, July 2, 2016.

Assistant to the City Manager Laura Hoffmeister provided a brief history of the Clayton Certified Farmers' Market, managed by Pacific Coast Farmers Market Association (PCFMA), noting its drop in attendance the last few years resulting in the decreased participation by market vendors. The PCFMA has adjusted the ending date of the market to correspond to the end of the summer-fall fruit and vegetable season, and before in climate weather. Area competition has increased in the last few years with the establishment of a Saturday morning farmers market held at Shadelands off Ygnacio Valley Road. Vendors prefer the Shadelands market to Clayton's as it is more visible to the public from a main thoroughfare and draws customers in off the heavily-traveled roadway. The PCFMA managers walked around the downtown area of Clayton and determined the KinderCare parking lot would be more visible from Clayton Road than at its present location on Diablo Street. This relocation idea has been well received and

KinderCare has approved the use of its off-street private parking lot for the new location of the Clayton Certified Farmers Market on Saturdays. Staff has contacted neighboring businesses to advise of this request and received no objections.

Lynette Miscione, Manager of Clayton's Certified Farmers' Market, provided input that the KinderCare parking lot location will be highly visible from Clayton Road and hopes that it will draw more business to this farmers' market.

Mayor Geller inquired if the Farmers' Market is planning to bring in any bakery or pastry vendors? Ms. Miscione advised she has Cobblestone Bakery on the schedule along with a Coffee Roaster who sells beans and provides samples. She also advised she has a tamale vendor and Filipino burger vendor booked to provide the patrons an option of purchasing something to eat as they shop the market.

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

**It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to approve the relocation of the Clayton Farmers' Market to the private parking lot of Clayton KinderCare located at 6095 Main Street, Clayton. (Passed; 5-0 vote).**

## 11. COUNCIL ITEMS

Mayor Geller requested the consideration of a Centenarian Award to be presented to Clayton community members of 100 years of age or greater on the next agenda.

## 12. RECESS THE CITY COUNCIL MEETING

Mayor Geller recessed the City Council meeting [at 8:21 p.m.] until after the conclusion of the Oakhurst Hazard Abatement District meeting.

## 13. RECONVENE THE CITY COUNCIL MEETING

Mayor Geller reconvened the City Council meeting [at 8:35 p.m.].

## 14. CLOSED SESSION

Mayor Geller announced the City Council will adjourn into Closed Session to handle the matters disclosed and declared below [at 8:36 p.m.]:

- (a) Conference with Labor Negotiator  
*Government Code Section 54957.6*  
Instructions to City-designated labor negotiator: City Manager

1. Employee Organization: Miscellaneous City Employees (Undesignated Group)

9:07 p.m. Report out from Closed Session

Mayor Geller announced the City Council discussed the matter above, took no reportable action, and gave instructions to its labor negotiator.



15. ADJOURNMENT– on call by Mayor Geller, the City Council adjourned its meeting at 9:08 p.m.

The next regularly scheduled City Council meeting is July 5, 2016.

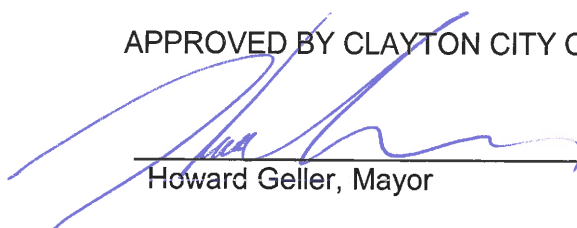
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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor

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