



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

* * *

TUESDAY, March 4, 2014

7:00 P.M.

*Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517*

Mayor: Hank Stratford

Vice Mayor: David T. Shuey

Council Members

Jim Diaz

Howard Geller

Julie K. Pierce

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

*** CITY COUNCIL ***

March 4, 2014

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Stratford.

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

3. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.

(a) Approve the minutes of the regular meeting of February 18, 2014. ([View Here](#))

(b) Approve Financial Demands and Obligations of the City. ([View Here](#))

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Certificates of Recognition to “Do The Right Thing” public school students chosen for exemplifying the character trait of “Self Discipline.” ([View Here](#))

5. **REPORTS**

(a) Planning Commission – No meeting held.

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

(c) City Manager/Staff

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

(e) Other

6. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Members of the public may address the City Council on items within the Council’s jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor’s discretion. When one’s name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

7. **PUBLIC HEARINGS**

- (a) Public Hearing on the proposed Second Reading to consider a City-initiated Ordinance No. 454 that amends a portion of the *Clayton Municipal Code*, Title 17, Chapter 17.28 Planned Development (PD) District to establish the Site Plan Review permit to be used for processing of Multiple-Family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map (ZOA-08-13). ([View Here](#))
(Community Development Director)

Staff recommendations: **1.)** Receive the staff report; **2.)** Open the Public Hearing and receive public comments; **3.)** Close the Public Hearing; **4.)** Following Council consideration of any public comment and its discussion, approve a motion to have the City Clerk conduct the second reading of Ordinance No. 454 by title and number only and waive further reading; and **5.)** On completion of the City Clerk's reading, approve a motion to adopt Ordinance No. 454 with findings that its adoption will not have a significant adverse effect on the environment and is therefore exempt under CEQA.

8. **ACTION ITEMS**

- (a) Adopt a Resolution setting the City's Equivalent Runoff Unit (ERU) real property parcel assessment rates in FY 2014-15 at current rates to fund local storm water/clean water programs and services required by the federal and state-mandated National Pollution Discharge Elimination System (NPDES) Program (storm water pollution prevention). ([View Here](#))
(Assistant to the City Manager)

Staff recommendation: Following presentation of the staff report and opportunity for receipt of public comments, that the Council adopt by motion the Resolution setting Stormwater ERUs rate for FY 2014-15.

- (b) Authorize Mayor to send letter to Board of Supervisors/ Fire Board requesting new approved grant funding be directed to fully operating (24/7) Clayton Station #11 with three (3) man crew. ([View Here](#))
(Councilmember Diaz)

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

10. **CLOSED SESSION**

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

1. Employee Organization: Clayton Police Officers' Association (CPOA).

Reports out from Closed Session: Mayor Stratford.

11. **ADJOURNMENT**– the next regularly scheduled City Council meeting is March 18, 2014.

#

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

Agenda Date: 3-4-2014

Agenda Item: 3a

TUESDAY, February 18, 2014

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:05 p.m. by Mayor Stratford in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Stratford, Vice Mayor Shuey, Councilmembers Diaz, Geller and Pierce. Councilmembers absent: None. Staff present: Assistant to the City Manager Laura Hoffmeister, City Attorney Mala Subramanian, Interim City Clerk Janet Brown, Community Development Director Charlie Mullen and Finance Manager Kevin Mizuno.

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

3. **CONSENT CALENDAR-** It was moved by Councilmember Pierce, seconded by Councilmember Geller, to approve the Consent Calendar as submitted (Passed; 5-0).
 - (a) Approved the minutes of the regular meeting of February 4, 2014.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Adopted a Resolution 02-2014 finding the construction of improvements in Subdivision 8719 (Diablo Pointe aka Diablo Estates at Clayton) has been completed and accepted the dedicated public easements within said Subdivision as public easements.

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

5. **REPORTS**
 - (a) Planning Commission – Commissioner Keith Haydon reported on the Planning Commission meeting of February 11th. He stated the Commission approved with conditions a lot line adjustment between an existing un-buildable 1,951 square foot parcel and an existing 2.41 acre parcel to create a 1.34 acre parcel and a 1.12 acre parcel as pursuant to California Environmental Quality Act (CEQA) Guideline 15305 (a) is categorically exempt.
 - (b) Trails and Landscaping Committee – None.
 - (c) City Manager/Staff – In response to Council question Assistant to the City Manager Laura Hoffmeister reported the interviews for the permanent City Clerk/HR Manager recruitment are complete and an announcement will be made in March.
 - (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Diaz attended the swearing in of Clayton's new officer David Payne

Mayor Stratford would like the Council be invited to future swearing in of new police officers.

Councilmember Pierce attended the Regional Planning ABAG Economic Prosperity, Contra Costa Transportation Authority and Clayton Historical Society meetings.

Councilmember Geller attended the 37th annual Camellia Tea hosted by the Clayton Historical Society. He was also invited to Judge the 14th Annual Chili Cook Off on March 2nd hosted by Clayton Club and if any community members are interested in entering the competition Councilmember Geller directed they contact Clayton Club.

Vice Mayor Shuey announced on Sunday, February 23rd Clayton Valley Charter High School will have a meeting with Western Association Accreditation of Schools/ Colleges. Clayton Valley Little League will be using Field 1 of the Community Park, improvements scheduled for completion on Friday, February 21st.

Mayor Stratford attended the Mayor's Conference hosted by San Pablo along with Councilmember Pierce, Tom Barnridge was the speaker. Mayor Stratford advised he is still waiting for confirmation from the Mt. Diablo Unified School District Board to hold a Joint Meeting on Wednesday, March 5th. He announced the "Do the Right Thing" monthly trait for "Self-Discipline" is coming to a close and the March character trait is "Integrity".

- (e) Other- None.

6. **PUBLIC COMMENT ON NON-AGENDA ITEMS**

Mr. John Manzeck is dissatisfied with the internet service speeds provided by AT&T. He was advised by AT&T that Clayton did not approve the fiber optics to be installed throughout the City. Mr. Manzeck asked if there could be some competition for internet services as he did not want to switch back to his previous provider.

Councilmember Pierce suggested Mr. Manzeck contact AT&T regarding is dissatisfaction and Assistant to the City Manager may have some additional information regarding the fiber optic installation.

Assistant to the City Manager Laura Hoffmeister advised Mr. Manzeck that AT&T's Customer Service Center representative response was incorrect. The City is not prohibiting them and Clayton is ready for AT&T to service the community. However, she was advised by AT&T that their own internal budget and scheduling issues have delayed the fiber optic installation project has been postponed until further notice. They re-evaluate annually and this process has been to date delayed 5 years. Competition is welcomed and advised Mr. Manzeck letter writing to AT&T is the best way to start.

7. **PUBLIC HEARINGS**

- (a) Public Hearing to consider a City-initiated Ordinance No. 454 that amends a portion of the *Clayton Municipal Code*, Title 17, Chapter 17.28 Planned Development (PD) District to establish the Site Plan Review permit to be used for processing of Multiple-Family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map (ZOA-08-13).
(Community Development Director)

The Community Development Director presented the staff report and noted at the November 5, 2013 joint Planning Commission/City Council workshop for the City of Clayton 2014-2022 Housing Element Update, the City's consultant Pacific Municipal Consultants (PMC) identified one remaining implementation action that needed to occur in order to satisfy the State Department of Housing and Community Development (HCD). The required action is necessary to meet the City's required commitment to the Regional Housing Needs Allocation (RHNA) and requires the subject Zoning Code text amendment to the Planned Development District to facilitate allowing multi-family housing projects to accommodate the RHNA. The proposed text amendments will establish the Site Plan review Permit as the process to be used and the Multiple Family Residential (M-R-H) District as the default standards to be used for the processing of multiple family development projects with a Multifamily High Density (MHD) General Plan Land use Map designation. Alternatively, applicants could choose to process a Development Plan under the Planned Development (PD) provisions if desired.

Mayor Stratford opened the Public Hearing and asked for Public Comments. No public comments were received. Mayor Stratford closed the Public Hearing.

It was moved by Vice Mayor Shuey, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 454 by title and number only and waive further reading (Passed; 5-0 vote).

The Interim City Clerk read Ordinance No. 454 by title and number only.

It was moved by Vice Mayor Shuey, seconded by Councilmember Pierce, to approve Ordinance No. 454 for Introduction with findings its adoption will not have a significant adverse effect on the environment and is therefore exempt under CEQA. (Passed; 5-0 vote).

8. ACTION ITEMS

- (a) Presentation of the City's Mid-Year Budget status report for Fiscal Year 2013-2014. (Finance Manager; Council Budget Sub-Committee)

The Finance Manager presented the staff report and noted to date, three prior City Council amendments have been made to the FY 2013-14 adopted General Fund budget the award of a contract to Pacific Municipal Consultants (PMC) to prepare the 2014 – 2022 Housing Element Update, Appropriation of FY 2011-12 General Fund surplus and roll over of prior year (FY 2012-13) encumbrances into the FY 2013-14 budget. As identified previously, in the current year, unusual circumstances resulting in significant unexpected increases in expenditures include: (1) essential temporary salaries for an accounting consultant, (2) an unavoidable increase in audit fees resulting from internal delays, (3) a police dispatch services claim for an unbilled month in 2012 billed to the City in the Fall of 2013 by the City of Concord, and (4) the transfer of a portion of the FY 2011-12 General Fund surplus to the Self-Insurance and Capital Equipment Replacement Funds. At this point, no budget amendments to the General Fund are deemed necessary due to the one time expenditure increases described above and as it is reasonably possible other expenditure line items will come in under budget. Any necessity to amend the General Fund budget will be re-addressed towards the end of the fiscal year.

Mayor Stratford asked for Public Comments.

Pete Laurence with the Taxpayers Association wanted to clarify where the 2011-12 General Fund surplus funds were allocated?

Mayor Stratford advised the surplus funds were used to Replenish Self Insurance, Capital Equipment Replacement and Labor Relations Contingency Funds.

It was moved by Councilmember Diaz, seconded by Councilmember Pierce, to approve the City's Mid-year Budget Report for FY 2013-14 without any mid-year adjustments. (Passed; 5-0 vote).

- (b) Consideration of a Resolution regarding the City's Annual Report on its levy, collection and disposition of development impact mitigation fees during Fiscal Year 2012-2013, in compliance with the California Government Code (AB 1600).
(Assistant to the City Manager)

The Assistant to the City Manager presented the staff report and noted there are funds in some accounts from previous year's development fee collections. These developer fees are Childcare Facilities; Parkland Dedication; Offsite Arterial improvements; Fire Protection; and Community Facilities. The Marsh Creek Road Sewer Fees; Police Mitigation Fees and Open Space In-Lieu Fees are not subject to AB1600 report but included for tracking purposes. Of the aforementioned five reportable developer fees, one currently complies with the provision of AB1600 that funds be expended within five years of their collection – the Parkland Dedication fee. Collections of Childcare Facility, Offsite Arterial Improvement, the Fire protection and the Community Facilities fees have not been used to fund expenditures in excess of 5 years, however are still needed to be collected as adopted CIP projects eligible for use of these funds are greater than the current amounts available thus finding of continued need is included in the recommended resolution in accordance with State Law for the continued collection of these fees.

Mayor Stratford asked for Public Comments. No public comments were received.

It was moved by Councilmember Diaz, seconded by Councilmember Geller, to adopt Resolution 03-2014 finding there is a reasonable relationship between current needs for the development impact mitigation fees and the purposes for which they were originally levied and collected by the City. (Passed; 5-0 vote).

9. COUNCIL ITEMS

Councilmember Diaz announced a 7:00 pm meeting of the Fire Services Ad-Hoc Committee Thursday, February 20th at Endeavor hall taking place at 7pm to go over the findings of the Fitch and Associates Report; and he would be attending the upcoming February 27th Board of Supervisors/Fire Board meeting regarding this report and plans to address the Board with comments advocating returning Clayton Station #11 from its part time hours of operation to full time 24/7 operation.

10. ADJOURNMENT– on call by Mayor Stratford the meeting adjourned at 7:58 p.m.

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Respectfully submitted,

Janet Brown, Interim City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Hank Stratford, Mayor

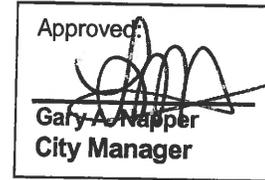
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Agenda Date 3/4/2014

Agenda Item: 3b

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 3/4/2014

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

2/28/2014 Cash Requirements Report	\$ 195,880.65
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Total:	\$ 195,880.65
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Attachments:
Cash Requirements Report dated 2/28/2014 (2 pages)

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
All City Management Services, Inc.								
All City Management Services, Inc.	3/4/2014	2/11/2014	34034	School Crossing Guard Services 1/19/14-2/1/14	\$374.16	\$0.00		\$374.16
				<i>Totals for All City Management Services, Inc.:</i>	<u>\$374.16</u>	<u>\$0.00</u>		<u>\$374.16</u>
American Fidelity Assurance Company								
American Fidelity Assurance Company	3/4/2014	2/14/2014	B113872	March 2014 Misc	\$156.64	\$0.00		\$156.64
				<i>Totals for American Fidelity Assurance Company:</i>	<u>\$156.64</u>	<u>\$0.00</u>		<u>\$156.64</u>
Sean Boyle								
Sean Boyle	3/4/2014	2/20/2014	83910	EH Deposit Refund 2/8/14	\$500.00	\$0.00		\$500.00
				<i>Totals for Sean Boyle:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
CalPERS Health								
CalPERS Health	3/4/2014	2/14/2014	1344	Health Benefits March 2014	\$30,783.45	\$0.00		\$30,783.45
				<i>Totals for CalPERS Health:</i>	<u>\$30,783.45</u>	<u>\$0.00</u>		<u>\$30,783.45</u>
CalPERS Retirement								
CalPERS Retirement	3/4/2014	2/20/2014	PPE 2/16/14	Retirement PPE 2/16/14	\$19,764.70	\$0.00		\$19,764.70
				<i>Totals for CalPERS Retirement:</i>	<u>\$19,764.70</u>	<u>\$0.00</u>		<u>\$19,764.70</u>
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	3/4/2014	2/18/2014	1486279	Konica Contract 1/17/14-2/16/14	\$296.46	\$0.00		\$296.46
Caltronics Business Systems, Inc	3/4/2014	2/19/2014	1487221	KONS Staples	\$182.22	\$0.00		\$182.22
				<i>Totals for Caltronics Business Systems, Inc.:</i>	<u>\$478.68</u>	<u>\$0.00</u>		<u>\$478.68</u>
City of Walnut Creek								
City of Walnut Creek	3/4/2014	2/12/2014	14-CPD0206	New employee evaluations	\$891.00	\$0.00		\$891.00
				<i>Totals for City of Walnut Creek:</i>	<u>\$891.00</u>	<u>\$0.00</u>		<u>\$891.00</u>
Contra Costa County Department of Agriculture								
Contra Costa County Department of Ag	3/4/2014	2/4/2014	11227	Pest Control Advisor Registration Fee 2014	\$10.00	\$0.00		\$10.00
				<i>Totals for Contra Costa County Department of Agriculture:</i>	<u>\$10.00</u>	<u>\$0.00</u>		<u>\$10.00</u>
Leroy Galvin								
Leroy Galvin	3/4/2014	2/20/2014	26587	EH Deposit Refund 2/14/14	\$500.00	\$0.00		\$500.00
				<i>Totals for Leroy Galvin:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
J & R Floor Services								
J & R Floor Services	3/4/2014	2/26/2014	two	February Billing	\$4,940.00	\$0.00		\$4,940.00
				<i>Totals for J & R Floor Services:</i>	<u>\$4,940.00</u>	<u>\$0.00</u>		<u>\$4,940.00</u>
Jarvis Fay Doportto & Gibson, LLP								
Jarvis Fay Doportto & Gibson, LLP	3/4/2014	2/13/2014	6009	Chevron Property Tax Dispute for January 20	\$10.18	\$0.00		\$10.18
				<i>Totals for Jarvis Fay Doportto & Gibson, LLP:</i>	<u>\$10.18</u>	<u>\$0.00</u>		<u>\$10.18</u>
Muir/ Diablo Occupation Medicine								
Muir/ Diablo Occupation Medicine	3/4/2014	2/3/2014	219520M	New employee health screening	\$441.00	\$0.00		\$441.00

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount Expires On	Net Amount Due
MuniTemps - Government Staffing Services, Inc							
MuniTemps - Government Staffing Ser	3/4/2014	2/28/2014	124363	Interim City Clerk ending 2/23/14	\$2,393.74	\$0.00	\$2,393.74
NBS Govt. Finance Group							
NBS Govt. Finance Group	3/4/2014	2/25/2014	1140256	Delinquency Mgmt Svcs	\$204.32	\$0.00	\$204.32
Pacific Telemanagement Svc							
Pacific Telemanagement Svc	3/4/2014	2/26/2014	622416	courtyard pay phone March 2014	\$73.00	\$0.00	\$73.00
PERMCO, Inc.							
PERMCO, Inc.	3/4/2014	2/24/2014	10158	retainer - general services	\$2,191.50	\$0.00	\$2,191.50
PERMCO, Inc.	3/4/2014	2/24/2014	10159	Oak Creek Canyon - review plan submittal	\$375.00	\$0.00	\$375.00
PERMCO, Inc.	3/4/2014	2/24/2014	10161	Skipolini's review COA's, begin plan check	\$825.00	\$0.00	\$825.00
PG&E							
PG&E	3/4/2014	2/14/2014	2/14/14	Electric/Gas 1/15/14-2/13/14	\$17,355.97	\$0.00	\$17,355.97
PG&E	3/4/2014	2/18/2014	2/18/14	Electricity 1/16/14-2/17/14	\$2,926.65	\$0.00	\$2,926.65
PMC (Planning)							
PMC (Planning)	3/4/2014	2/14/2014	39438	Project 13-0061 - Clayton Housing Element -	\$3,313.75	\$0.00	\$3,313.75
TTI Polygraph							
TTI Polygraph	3/4/2014	2/17/2014	14-002	Pre-employment polygraph exam	\$300.00	\$0.00	\$300.00
US Bank Trust National Assoc							
US Bank Trust National Assoc	3/4/2014	2/15/2014	95442900	Debt Service Pmt through 9/2/2022 series 19	\$107,071.91	\$0.00	\$107,071.91
GRAND TOTALS:							
					\$195,880.65	\$0.00	\$195,880.65

Agenda Date: 3-4-2014

Agenda Item: 4a

ELLA HABERMEYER

for

"Doing the Right Thing"

at

Mt. Diablo Elementary School

by exemplifying great "Self-Discipline"

January and February 2014

JARED RICKARD

for

"Doing the Right Thing"

at

Mt. Diablo Elementary School

by exemplifying great "Self-Discipline"

January and February 2014

PAYTON MANNIE

for

"Doing the Right Thing"

at

Diablo View Middle School

by exemplifying great "Self-Discipline"

January and February 2014

MADISON WEBSTER

for

"Doing the Right Thing"

at

Diablo View Middle School

by exemplifying great "Self-Discipline"

January and February 2014

MIGUEL HERNANDEZ

for

"Doing the Right Thing"

at

**Clayton Valley Charter High School
by exemplifying great "Self-Discipline"
January and February 2014**

MEGAN LOBSINGER

for

"Doing the Right Thing"

at

**Clayton Valley Charter High School
by exemplifying great "Self-Discipline"
January and February 2014**

ARIANA RAHBARI

for

"Doing the Right Thing"

at

**Clayton Valley Charter High School
by exemplifying great "Self-Discipline"
January and February 2014**

SHANE REARDON

for

"Doing the Right Thing"

at

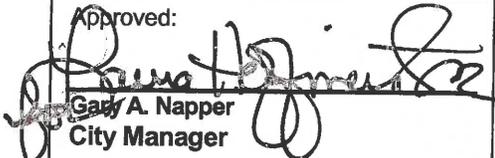
**Clayton Valley Charter High School
by exemplifying great "Self-Discipline"
January and February 2014**



Agenda Date: 3-4-2014

Agenda Item: 7a

STAFF REPORT

Approved:

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: MARCH 4, 2014

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 454 TO AMEND A PORTION OF THE CLAYTON MUNICIPAL CODE, TITLE 17, CHAPTER 17.28 PLANNED DEVELOPMENT (PD) DISTRICT, TO ESTABLISH THE SITE PLAN REVIEW PERMIT TO BE USED FOR PROCESSING OF MULTIPLE-FAMILY DEVELOPMENT PROJECTS LOCATED ON PROPERTY DESIGNATED AS MULTIFAMILY HIGH DENSITY (MHD) ON THE GENERAL PLAN LAND USE MAP (ZOA-08-13).

RECOMMENDATION

Staff recommends that the City Council receive any public comment; have the City Clerk read the Ordinance by title and number only and waive further reading; following the City Clerks reading the City Council may adopt Ordinance No. 454 (Attachment 1).

BACKGROUND

At its February 18, 2014, City Council meeting the Council approved the introduction and first reading (by title only) of Ordinance No. 454 (see report Attachment 2). No members of the public spoke on the proposed ordinance.

DISCUSSION

The purpose of the proposed Ordinance is to establish the Site Plan Review Permit as the process to be used and the Multiple Family Residential (M-R-H) District as the default standards to be used for the processing of multiple family development projects with a Multifamily High Density (MHD) General Plan Land Use Map designation. The reason for this approach is to satisfy State Department of Housing and Community Development (HCD) direction to eliminate the more discretionary Development Plan review process contained in the PD provisions, and provide a less discretionary review process.

The proposed Ordinance will also implement Goal I of the Clayton 2009-2014 Housing Element and allow the City to proceed with our 2014-2022 Housing Element Update.

ATTACHMENTS

1. Ordinance No. 454 – Amending the PD District.
2. February 18, 2014, City Council Staff Report (without attachments).

ORDINANCE NO. 454

**AN ORDINANCE AMENDING THE CLAYTON MUNICIPAL CODE
CHAPTER 17.28 PLANNED DEVELOPMENT DISTRICT
TO ESTABLISH THE SITE PLAN REVIEW PROCESS
FOR MULTIPLE FAMILY DEVELOPMENT PROJECTS
(ZOA-08-14)**

**THE CITY COUNCIL
City of Clayton, California**

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS
FOLLOWS:**

WHEREAS, on April 20, 2010 the Clayton City Council adopted Resolution No. 12-2010 approving an Initial Study and Negative Declaration prepared for the Clayton 2009-2014 Housing Element pursuant to the provisions of the California Environmental Quality Act (CEQA) and approving the Clayton 2009-2014 Housing Element; and

WHEREAS, on July 15, 2010 the State Department of Housing and Community Development (HCD) conditionally certified the Clayton 2009-2014 Housing Element based on City making a good faith effort toward enacting over 30 categories of implementation measures; and

WHEREAS, under Goal I, of the Clayton 2009-2014 Housing Element, the City committed to "Provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share of housing allocation"; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on January 28, 2014, at which they adopted Resolution No. 01-14 recommending City Council approval of the proposed Ordinance to amend the Clayton Municipal Code Title 17, Chapter 17.28 Planned Development (PD) District, to establish the Site Plan Review Permit process to be used for processing of multiple-family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map; and

WHEREAS, the Clayton City Council at a regular meeting on February 18, 2014, held a duly noticed public hearing to review and consider an Ordinance amending the Clayton Municipal Code Title 17, Chapter 17.28 Planned Development (PD) District; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) an Initial Study and Negative Declaration was prepared and approved for the Clayton 2009-2014 Housing Element, including its implementation measures; and whereas, pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that there is no possibility that the proposed amendment to the Clayton Municipal Code/Zoning Ordinance may have a significant effect on the environment, it is therefore not subject to CEQA and no further environmental review is necessary; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Section 17.28.050 of the Clayton Municipal Code is hereby amended to read in full as follows:

17.28.050 Land Use Permit Required. For all areas zoned Planned Development District, a land use permit is required as follows:

- A. For residential uses of four (4) lots or less and containing four (4) dwelling units or less, a Site Plan Review Permit is required pursuant to Chapter 17.44.
- B. For multiple family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map, the development standards for Multiple Family Residential (M-R-H) Districts shall apply pursuant to Chapter 17.20 and the Site Plan Review Permit process shall be used for processing purposes pursuant to Chapter 17.44. Alternatively, applicants may choose to process a Development Plan under the provision of this PD District Chapter if desired.
- ~~B.~~C. For residential uses of five (5) lots or more or containing five (5) dwelling units or more, a Development Plan Permit is required as specified below.
- ~~C.~~D. For commercial or mixed use development on parcels less than 15,000 square feet in area (subject Subsection E below), a Site Plan Permit and/or a Use Permit is required pursuant to Chapters 17.44 and/or 17.60, respectively.
- ~~D.~~E. For commercial or mixed use development on parcels 15,000 square feet or greater in area (subject Subsection E below), a Development Plan Permit is required as specified below.
- ~~E.~~F. The applicable parcel areas for Subsections ~~C~~D and ~~D~~E above, are those shown on the Assessor='s Maps of the Contra Costa County Assessor='s Office as of January 1, 2007 (termed Original Parcels). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 5. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Sections 2-5 of this Ordinance to be entered into the City of Clayton Municipal Code.

Section 6. CEQA. The City Council finds that pursuant to the California Environmental Quality Act (CEQA) an Initial Study/Negative Declaration was previously prepared and approved for the Clayton 2009-2014 Housing Element, including its implementation measures; and whereas, pursuant to Section 15061(b)(3) it can be seen with certainty that there is no possibility that the currently proposed amendment to the Clayton Municipal Code/Zoning Ordinance may have a significant effect on the environment, it is therefore not subject to CEQA and no further environmental review is necessary. Staff is directed to file a notice of exemption within five (5) days of the adoption of this ordinance.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on February 18, 2014.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on March 4, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Hank Stratford, Mayor

ATTEST

Janet Brown, Interim City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on February 18, 2014 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on March 4, 2014.

Janet Brown, Interim City Clerk

X:\Com Dev\Z O A\2013\ZOA-08-13 - Multifamily as SPR\City Council\Ord.No.454 amending PD District-ZOA-08-13 - CC.mtg -3-4-14.docx



Agenda Date: 2-18-2014

Agenda Item: 7a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR *CM*

DATE: FEBRUARY 18, 2014

SUBJECT: PUBLIC HEARING TO CONSIDER A CITY-INITIATED ORDINANCE NO. 454 TO AMEND A PORTION OF THE CLAYTON MUNICIPAL CODE, TITLE 17, CHAPTER 17.28 PLANNED DEVELOPMENT (PD) DISTRICT, TO ESTABLISH THE SITE PLAN REVIEW PERMIT TO BE USED FOR PROCESSING OF MULTIPLE-FAMILY DEVELOPMENT PROJECTS LOCATED ON PROPERTY DESIGNATED AS MULTIFAMILY HIGH DENSITY (MHD) ON THE GENERAL PLAN LAND USE MAP (ZOA-08-13).

RECOMMENDATION

Staff recommends the City Council receive and consider the staff report, then open and conduct a public hearing and receive any public comment; after closure of the Public Hearing and subject to any changes by the City Council, by motion have the City Clerk read the Ordinance (see Attachment 1) by title and number only and waive further reading; and following the City Clerk's reading, the City Council by motion approve the Introduction and first reading of the Ordinance.

BACKGROUND

On April 20, 2010 the Clayton City Council adopted Resolution No. 12-2010 approving an Initial Study/Negative Declaration prepared for the Clayton 2009-2014 Housing Element pursuant to the provisions of the California Environmental Quality Act (CEQA) and approving the Clayton 2009-2014 Housing Element.

On July 15, 2010 the State Department of Housing and Community Development (HCD) conditionally certified the state-mandated Clayton 2009-2014 Housing Element based on the City enacting over 30 categories of implementation measures.

Some of the implementation measures require on-going voluntary City actions and commitments while other implementation measures are mandatory and require actual Zoning and General Plan amendments. Over the past several years City staff has brought forth most of the mandatory Zoning and General Plan amendments to the Planning Commission and City Council for consideration and approval.

However, at the November 5, 2013, joint Planning Commission/City Council workshop for the City of Clayton 2014-2022 Housing Element Update, the City's consultant, Pacific Municipal Consultants (PMC) identified one remaining implementation action that needed to occur in order to satisfy the State Department of Housing and Community Development (HCD). The required action is necessary to meet the City's required commitment to the Regional Housing Needs Allocation (RHNA) and requires the subject Zoning Code text amendment to the Planned Development (PD) District to facilitate allowing multi-family housing projects to accommodate the RHNA.

The need for this text amendment is further founded in our 2009-2014 Housing Element under Goal I, to "Provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share of housing allocation" (see attached excerpt).

Planning Commission Action

On January 28, 2014, the Planning Commission conducted a noticed public hearing and after considering the proposed Ordinance, adopted Resolution No. 02-14, recommending City Council approval of the subject Ordinance. No members of the public spoke on this matter. The City Council is also referred to the attached January 28, 2014, Planning Commission meeting minutes and staff report for more detail.

DISCUSSION

In order to address this outstanding Housing Element implementation issue, staff identified an amendment to the text of the PD District as a potential efficient solution. Staff then submitted this approach to our consultant PMC who then received preliminary support from HCD on this approach. It should be noted that former staff did partially implement this requirement by completing some General Plan Land Use Map amendments and thereby designating certain identified properties as Multifamily High Density (MHD) to allow for 15.1 to 20 units per acre. At that time the City choose to leave the subject properties with their PD Zoning District designation rather than rezone them to Multiple Family High Density (M-R-H), which could have also be done. Staff believes the proposed text amendments are the most efficient solution available at this time.

The proposed text amendments will establish the Site Plan Review Permit as the process to be used and the Multiple Family Residential (M-R-H) District as the default standards to be used for the processing of multiple family development projects with a MHD General Plan Land Use Map designation. Alternatively, applicants could choose to process a Development Plan under the PD provisions if desired. The reason for this approach is to satisfy HCD's direction to eliminate the more discretionary Development Plan review process contained in the PD provisions, and provide a less discretionary review process.

The following are the proposed redlined amendments to the PD District.

PROPOSED ORDINANCE

The Clayton Municipal Code is hereby amended to read in full as follows:

17.28.050 Land Use Permit Required. For all areas zoned Planned Development District, a land use permit is required as follows:

- A. For residential uses of four (4) lots or less and containing four (4) dwelling units or less, a Site Plan Review Permit is required pursuant to Chapter 17.44.
- B. For multiple family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map, the development standards for Multiple Family Residential (M-R-H) Districts shall apply pursuant to Chapter 17.20 and the Site Plan Review Permit process shall be used for processing purposes pursuant to Chapter 17.44. Alternatively, applicants may choose to process a Development Plan under the provision of this PD District Chapter if desired.
- B.C. For residential uses of five (5) lots or more or containing five (5) dwelling units or more, a Development Plan Permit is required as specified below.
- C.D. For commercial or mixed use development on parcels less than 15,000 square feet in area (subject Subsection E below), a Site Plan Permit and/or a Use Permit is required pursuant to Chapters 17.44 and/or 17.60, respectively.
- D.E. For commercial or mixed use development on parcels 15,000 square feet or greater in area (subject Subsection E below), a Development Plan Permit is required as specified below.
- E.F. The applicable parcel areas for Subsections GD and DE above, are those shown on the Assessor's Maps of the Contra Costa County Assessor's Office as of January 1, 2007 (termed Original Parcels). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels.

The City Council may notice that per existing subsection A. above that the Site Plan Review Permit process is already in place for residential uses of four (4) or less and containing four (4) dwelling units or less, and therefore, we have an existing precedent for using this processing approach.

It is the opinion of staff and the City Attorney the proposed Ordinance language will achieve compliance with State mandates.

PUBLIC NOTICE

On February 7, 2014, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the city.

CEQA

Pursuant to the California Environmental Quality Act (CEQA) an Initial Study/Negative Declaration was previously prepared and approved for the Clayton 2009-2014 Housing Element, including its implementation measures; and whereas, pursuant to Section 15061(b)(3) it can be seen with certainty that there is no possibility that the currently proposed amendment to the Clayton Municipal Code/Zoning Ordinance may have a significant effect on the environment, it is therefore not subject to CEQA and no further environmental review is necessary.

FISCAL IMPACT

Negligible. Some staff time as well as printing cost have and will be associated with this Ordinance.

ATTACHMENTS

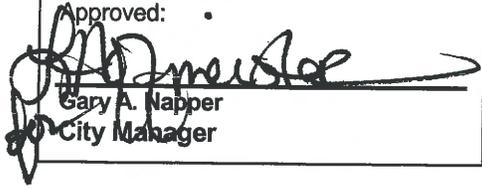
1. Draft Ordinance No. 454 – Amending PD District.
2. Planning Commission Resolution No. 02-14 (without attachment).
3. January 28, 2014, Planning Commission Meeting Minutes (excerpts)
4. January 28, 2014, Planning Commission Staff Report (without attachments).
5. Pages 109 and 110 of Clayton 2009-2014 Housing Element.

Agenda Date: 3-4-2014

Agenda Item: 8a



STAFF REPORT

Approved: 
Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Assist. to the City Manager 

DATE: March 4, 2014

SUBJECT: Establishing 2014-2015 ERU Assessment Rate for Federal and State Mandated National Pollution Discharge Elimination System (NPDES) Program (Storm Water Pollution Prevention)

RECOMMENDATION

Staff recommends the City Council adopt the attached Resolution, Establishing the Rate Per Equivalent Run off Unit (ERU) for FY 2014-15 and requesting the Contra Costa County Flood Control and Water Conservation District to adopt an Annual Parcel Assessment for Drainage and Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program, maintaining the current ERU Rate at \$29.00 per single-family parcel.

BACKGROUND

The 1987 Reauthorization of the Federal Clean Water Act, as well as similar State legislation, required local agencies to obtain a NPDES Permit for discharging the contents of municipal storm drainage water conveyance systems. As implemented and enforced by the State through the Regional Water Quality Control Board (San Francisco Bay Area Region), this permitting effort is intended to improve water quality in the Delta and San Francisco Bay Estuary System, protect endangered species, and safeguard public waters and waterways for continued economic, recreation and health purposes. Stormwater runoff pollution has been identified as a significant impact on water quality and wildlife in the Bay Area by the State and Federal Government. During wet weather, large amounts of pollutants, such as oil and grease from automobiles, heavy metals from vehicle exhaust and brake pads, such as copper and lead, pesticides, herbicides and fertilizers from lawns and gardens, soil erosion, and biological material enter the storm drain system and ultimately empty, untreated, into creeks, waterways, the Delta and Bay.

The City participates and obtained its joint NPDES permit from the SF Regional Water Quality Control Board via the Contra Costa Clean Water Program whose participants include the cities within the County, the County and the Flood Control District. The City of Clayton has participated since its inception fourteen years ago (September 1993). The SF Regional Water Quality Control Board issued the third five-year permit in December 2009 for 2009/10-2013/14. This permit is called the Municipal Regional Permit (MRP), which covers many counties and cities in the bay area (rather than individual county by county and the cities within). The process to issue the MRP took five years. *(City staffs are currently in the process of working on a new 5 year permit with the Water Board staff to cover FY 14/15 – FY 18/19;*

if a new MRP is not issued timely then it is likely the current MRP will be extended until a new one is issued). The MRP permit allows the city and other jurisdictions to utilize the storm water drainage system for the discharges into creeks that ultimately drain into the bay. This joint participation allows for the program management and permit process costs to be kept to a minimum through economies of scale and local and regional collaboration, at a fraction of the cost of doing it alone. The program provides for a regional approach to Stormwater pollution control, regional monitoring, public education and outreach, technical support and training, special studies and NPDES permit administration requirements.

As part of its permit conditions, Clayton is required to implement a comprehensive Stormwater Management Plan (SWMP). The SWMP includes public participation and inter-governmental coordination designed to reduce the discharge of pollutants into the storm drainage system to the maximum extent practicable through the required implementation of 500 plus Best Management Practices (about 400 pages in long with an annual checklist that is 100 pages in length), or BMP's as they are commonly referred. (For comparison in FY 03-04 amendments were added to our permit by the Regional Board, commonly referred to C-3, which increased regulation and monitoring activities for development/construction controls, municipal maintenance, public education and outreach, illicit discharge and inspection, and documentation and reporting. These amendments increased our current permit requirements to about 75 pages. In 1997 there were 257 BMP's covering 40 pages; in 1993 the first permit time frame there were 12 BMP's, about 5 pages in length, all related to municipal maintenance activities such as drainage inlet cleaning and v-ditch cleaning).

Staff is aware the cost of meeting the obligations of the increased requirements contained in the MRP will begin to exceed our revenues received from the ERU. The shortfall for FY14-15 is expected to be \$30,000 which will be able to be covered by the Stormwater Reserve Fund balance. Although difficult to fully identify all future additional costs at this point, staff has identified the minimum estimated cost impacts by the new regulations to the City could outpace revenues by up to \$113,225 in future years (some might be able to be covered by the remaining special fund reserve use).

When the program was originally established in 1993, the rate cap for the current parcel fee in Clayton was set by the City Council at \$29/ERU. Because other members of the Clean Water Program also have the same issues (costs exceeding available revenue available from the ERU rate) a cost/revenue analysis was undertaken by the Contra Costa Clean Water Program to evaluate possible additional funding mechanisms for the added requirements of the MRP. The Clean Water Program attempted three times the pursuit of legislation to add stormwater to the definitions of other utilities such as sewer and water and was not successful in receiving needed legislative support, or getting out of committee, and there is not any support by the governor and his staff. It was after these state wide attempts were fruitless, our staining local funding and the continuing increased requirements by state regulating agencies that led to the recent Prop 218 property owner vote for a new parcel fee. The new second revenue measure did not pass. However, in order to continue to receive our existing the current ERU rate of \$29 per single family parcel (the same amount that we have levied since FY1999/2000), must be levied. Failure to levy this fee would result in the City having to use its General Fund to pay for these unfunded state mandates.

DISCUSSION

Staff currently participates, at least monthly as is required by the program agreement and state permit, on the Clean Water Program's New Development Construction Controls Committee, MRP Implementation sub-committee, and Management Committee; and as needed –usually quarterly in the Administrative and Finance Committee and the Monitoring and Inspection Committee. City staff typically attends and participates in 4-5 meetings per month.

The new MRP added many new requirements including further reduction of the development, threshold of significance from the current 10,000 sq. feet five (effective February 2006), to the 2,500 sq. feet which became effective December 2012. This threshold also applies to widening of roads (including adding of turn lanes); additions of hardscape in medians; new sidewalk/asphalt path installation; bike lane additions and additions to existing developments, including single family homes. Other permit changes result in more staff time to review and modify environmental review, mitigation, monitoring, reporting, development conditions, general plan and municipal ordinances. One of the largest components of the new permit is the trash load analysis and reduction program that cities must undertake. The cities completed their draft documents and filed them electronically with the SF Regional Water Board in March. This provision requires cities to reduce their trash pollution load by 40% by 2014, and completely eliminate (100% reduction) by 2020. There are annual studies and documentation showing its progress that the cities must file as part of its Annual Report to the State. They include mandatory maintenance items such as cleaning of trash along specific areas of creeks and drainage inlets; the quantification of the materials collected; and enforcement action (issuance of citations) to individuals for pollution runoff. The permit also increases the number of items the creeks and waterways testing needs to cover, requires establishment of local ordinances to prohibit the use of plastic grocery type bags, or other litter materials, mapping, monitoring and of all creeks and all outfalls to creeks, and specific on-going litter removal down to the size of a cigarette butt of litter on certain distance of creek segments and the cleaning of private drainage inlets (we currently do public inlets only). The reporting format requires cities to either use its own or contract for computer data base of mapping, reporting and monitoring information and making and transmitting electronically to the SF Regional Water Board where they will post to a public accessible web site. Another focus of the permit is increased and/or enhanced inspections to commercial businesses. The City contracts with Central Sans to perform these inspections, as they have the special training needed to undertake and most of the businesses are restaurant businesses which they already periodically inspect. The new permit also requires all maintenance staff and city contractors that apply herbicides or pesticides to be certified in Integrated Pest Management Practices (IPM), and Bay Friendly Certified, and for cities to have local IMP management plans and/or ordinances.

These additional unfunded mandates has already, and will continue to, increase staff time spent on NPDES program. Only a small portion of the permit costs are recovered through deposit accounts where they relate to new development projects.

Another on-going issue is the establishment of legislation via litigation. Certain third-party interest groups have repeatedly brought successful legal action against the EPA, State and Regional Agencies, the cities, county, and our Clean Water Program. These court actions have in the past increased costs for legal defense and added to the program requirements standards issued by the State, or as a result of judicial decisions. In addition if the current permit issued by the SF Regional Board is determined to be to burdensome the Group or the Region we have filed an appeal and have currently placed the appeal on a up to two year suspense. This was also done to allow time to seek new revenue to meet the unfunded mandates. Activating the appeal will require expenditure of legal costs, thus increasing overall group costs, and further reducing our return to source funds. Thereafter depending on the State decision there could be additional legal costs if the permit issuance is contested legally through the courts. The Environmental organizations have also filed an appeal with the State and placed it on a two year suspense as well. The Environmental organizations intend to monitor the permit conditions effectiveness and our compliance and then will determine if appeal is needed. To minimize the potential future appeal and related legal costs the group program costs have included encumbrances of some group Program funds for this purpose. To date Save the Bay has been closely monitoring the recent draft Baseline Trash Load Analysis and Action Plans. Based upon some recent email received from them it appears they are concerned that cities plans may not be aggressive enough to reduce trash pollution to meet the permit requirement time frames.

Overall the City's total costs are comprised of two components, one consisting of the pro rata share of group costs based upon population. The other is the management and maintenance activities undertaken by the City and its contracts with others for required activity implementation and monitoring and reporting. All program staff and permittees (cities and county) have been and continue to make strong efforts to control costs at the program level. However, funds for the new permit technical and legal work, education and outreach, implementation of programs to address recent pollutants of concerns (mercury, PCB, etc.), and future TMDL's, trash, enforcement, have increased these State unfunded mandate costs.

ASSESSMENT AND PROGRAM BUDGET

The Group Clean Water Program Budget for FY 2013-14 is \$2.5 million, is about the same as last year (only \$70,000 increase). However future budget years will see Group Program increase more to address some of the new permit requirements. Increased costs for 2013-14 are being addressed by carry over or encumbrances of this year's funds to help reduce or smooth out increases, thus minimizing the impact (reduction) in return to source funds.

For FY 14-15 the City of Clayton's pro rata share of the Program's Costs of 1.03%, is apx. \$25,265 an increase of \$577 over last year. Future costs increases and lack of Program carry over funding in future years will result in ongoing Programs Costs budget increases, this will result in less return to source funds to undertake the added local city permit requirements.

It is currently estimated that for FY 14-15 the gross revenues from our assessment would total approximately \$127,014. Of this \$25,842 is allocated to the Clean Water Program administration and group expenses; \$3,800 to the County Auditor for costs related to assessment collection; \$8,000 to the Sanitary District for commercial inspection, monitoring and municipal requested call out inspections; \$3,000 to the District for fiscal and assessment area management, \$3,000 for program reserve, and \$9,529 for our annual state discharge permit fee. Thus, the remaining funds available to the City, for all other activities are approximately \$73,843 a decrease of \$5,772 over this fiscal year 2013-14 budget. Approximately fifty-five percent of the City's funds are directly spent on labor costs of maintenance activities required by the program, such as storm drain inspection and cleaning, creek clearing; responding to spill calls; the remaining is divided between equipment and materials; monitoring and inspection; and management and reporting. For fiscal year 13-14 (this fiscal year) it is anticipated that \$68,756 will be needed from the Stormwater Reserve Fund. It is expected that about \$40,000 may be needed from the \$107,256 Stormwater Fund Reserve use in FY 14/15 (mostly to comply with the MRP permit trash management and monitoring requirements). Any future FY shortfalls are anticipated to be covered by the City's Stormwater Fund reserves. Thereafter, if additional revenues are needed, the City would need to consider use of its General Fund, and/or a local city specific revenue measure since the regional Prop 218 measure did not receive enough support for passage.

To continue the local revenue source necessary to fund the unfunded mandates by federal and State government regulations, the City annually authorizes the Contra Costa Board of Supervisors to direct the Contra Costa Flood Control and Water Conservation District to establish a storm water utility area for the City and to impose benefit assessments on all applicable parcels within the City of Clayton. This is the annual consideration to request the local assessment levy which provides funding to the Federal and State Clean Water program mandates which the City must undertake and participate in according to Federal and State law. **Staff recommends no increase to the rate for FY 2014-15; it will be the same rate as last fifteen fiscal years, which is \$29.00 per ERU.**

Since we are not exceeding the current rate cap and not increasing the rate above that already levied the current language of Prop. 218 process does not apply. A single family detached dwelling is typically one ERU; homes on lots 20,000 sq. ft. or larger are allocated 1.7 ERU's; attached homes (e.g., townhomes

and duets) are 0.7 ERU. This formula is the same throughout all Contra Costa communities and all cities and the County funds their NPDES costs through the ERU assessments.

FISCAL IMPACT

Although a Federal and State Mandated program, cities do not receive any revenues from the Federal and State Government to offset or cover the mandated requirements. Consequently, the Stormwater Utility Rate and Assessment areas were established in 1993 by the County and the Cities to develop a funding source to cover the costs of the Federal and State mandates.

The recommended assessment for FY 2014-15 is the same rate that is currently in place. Should the City not authorize the Flood Control District to establish and collect the annual assessments, the City would not receive the apx. \$127,014 generated by the annual assessment and mandated activities would need funding from another source, such as the General Fund. Given the high level of commitment of the General Fund to other City programs and projects, prior state "takes" of local funds, loss of redevelopment funds, the overall economic downturn, and potential impacts to the General Fund from yet to be known potential state budget impacts, these NPDES costs if paid for by the General Fund, would adversely impact other services and operations the City currently provides to the community.

Additional implementation measures such as that needed for monitoring and maintenance of new Stormwater facilities required under our mandated permit and installed as part of new construction within Clayton (C-3), have been addressed by the City Council to provide for methods that are self supported by the new development such as Benefit Assessment Districts or Homeowners Associations or combination thereof, or other approach that would not financially impact the city and its general funds. This Council-directed policy minimizes potential impacts to the under-funded Stormwater fund or the City's General Fund for the permanent new development installed specific requirements to meet the new state regulations. However not covered by these are the general overall reporting, enforcement action and trash reduction action plans, commercial inspections, monitoring enhancements required by the regional board are reasons that the current assessment fee should be continued.

CONCLUSION

To continue the revenue source required to fund the state mandated activities the City annually authorizes the Contra Costa Board of Supervisors to direct the Contra Costa Flood Control and Water Conservation District to impose annual benefit assessments on all applicable parcels within the City of Clayton. The attached Resolution would maintain the current Stormwater Utility Rate assessment of \$29.00 per ERU for FY 2014-15.

Attachments:

- Proposed ERU Resolution for FY 2014-2015
- Clean Water Program Budget costs and cost sharing formula FY 2014-15
- Adopted City Budget Stormwater Fund 216 for FY 13/14

RESOLUTION NO. __-2014

A RESOLUTION ESTABLISHING THE RATE PER EQUIVILANT RUN-OFF UNIT (ERU) FOR FY 2014-2015 AND REQUESTING THE CONTRA COSTA FLOOD CONTROL AND WATER CONSERVATION DISTRICT TO ADOPT AN ANNUAL PARCEL ASSESSMENT FOR DRAINAGE MAINTENANCE AND THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, under the Federal Water Quality Act [33 U.S.C. Section 1342 (p)], certain municipal stormwater discharges require a permit from the appropriate federal or state authorities pursuant to the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of Clayton, in conjunction with other affected jurisdictions within Contra Costa County, applied to the State Regional Water Quality Control Board and received a Joint NPDES Permit which requires the implementation of a Storm Water Management Plan and Best Management Practices to minimize or eliminate pollutants from entering stormwaters; and

WHEREAS, Assembly Bill 2768 (West's Water Code Appendix, Section 63-12 and 63-12.9) authorizes the Contra Costa County Flood Control and Water Conservation District (District) to establish Stormwater Utility Areas (SUA) and to levy annual benefit assessments for the purpose of carrying our activities required under the NPDES program; and

WHEREAS, it is the intent of the City to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and local drainage maintenance activities; and

WHEREAS, at the request of the City, the Contra Costa County Flood Control District and Water Conservation District (District) has completed the process for the formation of a SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs payment agreement between the City and the District requires that the City of Clayton annually, by May 1, determine the rate to be assigned to a single ERU for the forthcoming fiscal year.

WHEREAS, the City Council adopted Resolution 9-93, which established the range of the annual assessment to be imposed by the District within the storm water utility area not to exceed \$29 per ERU.

WHEREAS, the City of Clayton has been at its maximum \$29 per ERU rate since FY 1999-2000 (the last fifteen fiscal years) and the same rate is proposed for FY 2014-2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby determine that the rate to be assigned to a single ERU for FY 2014-2015 shall be set and assessed at \$29.00

BE IT FURTHER RESOLVED, that the City Council of Clayton, California, does hereby request the Contra Costa Flood Control and Water Conservation District to adopt the SUA levies based on the above established rate.

Adopted by the City Council of the City of Clayton, California at a regular meeting of thereof held on March 4, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Hank Stratford, Mayor

Janet Brown, Interim City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on March 4, 2014.

Janet Brown, Interim, City Clerk

Reso erurate14-15

**CONTRA COSTA CLEAN WATER PROGRAM
GROUP COSTS METHODOLOGY & ALLOCATION
FOR FISCAL YEAR 2014/15**

City/County/State	January 1, 2012	January 1, 2013 ⁽¹⁾	Percent Change	Prorata % of Program ⁽²⁾	Budget Allocation ⁽³⁾
CONTRA COSTA COUNTY					2,503,621
ANTIOCH	103,393	105,117	1.24%	9.78%	244,860
BRENTWOOD	52,575	53,278	1.34%	4.96%	124,116
CLAYTON	10,996	11,093	0.88%	1.03%	25,342
CONCORD	123,206	123,812	0.49%	11.52%	288,432
DANVILLE	42,460	42,720	0.64%	3.98%	99,520
EL CERRITO	23,774	23,910	0.57%	2.22%	55,701
HERCULES	24,272	24,403	0.54%	2.27%	56,849
LAFAYETTE	24,159	24,312	0.63%	2.26%	56,637
MARTINEZ	25	36,578	0.97%	3.40%	85,212
MORAGA	16,152	16,238	0.53%	1.51%	37,828
OAKLEY	36,532	37,252	1.97%	3.47%	86,782
ORINDA	17,819	17,925	0.59%	1.67%	41,758
PINOLE	18,560	18,664	0.56%	1.74%	43,260
PITTSBURG	64,706	65,339	0.98%	6.08%	152,213
PLEASANT HILL	32,440	33,633	0.58%	3.13%	78,351
RICHMOND	104,887	105,562	0.64%	9.82%	245,917
SAN PABLO	29,705	29,266	0.55%	2.72%	68,178
SAN RAMON	74,378	76,154	2.39%	7.09%	177,408
WALNUT CREEK	65,233	65,684	0.69%	6.11%	153,017
UNINCORP. COUNTY	162,815	163,762	0.58%	15.24%	381,499
				100.00%	2,503,621

1. Population estimate based on State of California Department of Finance (E-1) City/County projections- January 1, 2013. Figures are updated in May of each year.
2. Percentages based on prorata of population.
3. Budget Allocation amount is the Stormwater Utility Assessment (SUA) budget, which includes contingency.

City of Clayton
Stormwater Fund 216
Adopted Budget 2013/14

Account Number	Account Name	2011-12 Actual	2012-13 Adopted Budget	2012-13 Actual 6/25/2013	2012-13 Projected 6/30/2013	2013-14 Adopted Budget
7111	Salaries/Regular	14,488	23,626	20,700	23,626	23,626
7112	Temporary Help	10,078	8,339	9,618	9,618	9,618
7218	LTD Insurance	65	158	127	127	187
7220	PERS Retirement	2,380	4,951	4,122	4,951	5,539
7231	Workers Comp Insurance		800	535	535	1,146
7232	Unemployment Insurance	550	550	550	550	543
7233	FICA and Medicare	801	966	765	966	1,020
7246	Benefit Insurance	2,312	4,526	3,485	3,485	3,724
7311	General Supplies	1,177	3,000	940	940	6,800
7373	Education and Training	165	250	-	-	5,000
7389	Misc. Expenses	-	-	444	444	5,000
7409	Street Sweeping Services	38,500	42,000	42,000	42,000	43,000
7412	Engineering Services	2,211	7,000	9,157	9,157	10,000
7419	Other Prof. Services	449	4,193	2,588	2,588	37,649
7481	State Regional Annual Discharge Fee	7,279	7,279	7,279	7,279	9,529
8101	Transfer to General Fund	32,500	33,183	32,500	33,183	33,183
	Total Expenses	112,954	140,822	134,811	139,449	195,562
4602	Stormwater Assessment ERU Gross	98,194	126,626	90,895	90,895	127,014
	NPDES Group Program costs		(26,203)			(25,265)
	Commercial Insp by Central San		(8,000)	-		(8,000)
	Flood Control Dist Fiscal Mgmt Cost		(3,000)	-		(3,000)
	County Auditor/Controller Costs		(3,800)	-		(3,800)
	Adjusted Fund Balance		(3,000)	-		(3,000)
	Less Reserve					
	Net Revenue	98,194	82,623	90,895	90,895	83,949
4603	Stormwater O & M Annual Fee	2,225	2,225	1,824	1,824	2,225
5601	Interest	3,761	1,000	3,160	3,160	1,000
5606	Unrealized Inv. Gain/Loss		-	-	-	-
5324	Street Sweeping Fees	48,306	38,720	29,180	38,720	38,720
5790	Other Revenues			1,836	1,836	-
6007	Transfer from Landscape Maint (O&M Annual Fee)			456	456	456
6028	Transfer from Diablo Estates BA Fund (O&M AF)			456	456	456
	Less Stormwater Utility Assessment					
	Total Revenue	152,486	124,568	127,807	137,347	126,806
	Annual Balance (Shortfall)	39,531	(16,254)	(7,004)	(2,102)	(68,756)
	Beginning Fund Balance	138,584	178,115	178,115	178,115	176,013
	Ending Fund Balance	178,115	161,861	171,111	176,013	107,256



Agenda Date: 3-4-2014

Agenda Item: 8b

Memo

To: Mayor and City Council

From: Jim Diaz, City Councilmember

Date: February 28, 2014

Re: Request to Authorize the Mayor to send letter to the Board of Supervisors/Fire District Board to return the Clayton Fire Station #11 to full operational hours staffing

On February 20th the Clayton City Council Ad- hoc Fire Services Committee met to review the final Fitch Associates Fires Service Study. This report was presented at the Board of Supervisors/Fire District Board at their February 25th meeting (attached is the power point summary presented at that meeting). I attended this meeting and shared the below points to the Board. On February 21st it was announced, that the Fire District was successful in being approved by FEMA for the SAFER grant funds of an amount of \$9.6 million over a two year period and the new Fire Chief was interested in using these funds to add back additional front line services within the District. At the Board meeting the Fire Chief was directed to return with a plan for the use of the SAFER grant funds.

In light of this development I would request that the City Council authorize the Mayor to send a letter to the Board requesting that some of the grant funds be used to return the Clayton Station (#11) from part time hours return back to the full operational hours of 24/7 staffing that existed prior to the reduction. (I am not requesting the letter to come back to the City Council prior to the Mayor signing as time is of the essence and staff and the Mayor with this authorization by the City Council would be sufficient).

Comments presented at the Feb 25, 2014 Board meeting by Councilmember Jim Diaz:

- I am pleased to learn of the recent SAFER Grant funding being approved
- I am pleased to learn the new Fire Chief is planning to recommend in the near future that the funds be used to add back fire fighters.
- I strongly recommend urge the Board to direct that funds be used to bring Fire Station#11 back to full strength 24/7... the Clayton Fire station- Station #11 was one of the first having cuts with a partial closure it should be the first re-staffed to full 3 person strength 24/7 –
- The City of Clayton is at the urban wild land interface and it is important to have staffing immediately nearby.

- We recently had the Morgan -Clayton Fire this past summer and we experienced first-hand the need to have full staffing at Station #11, we were all very lucky the fire did not jump and move into more populated areas that the winds were relatively calm –
- Station #11 would have been a faster response or back up Cal Fire as is closer to have been able to reach the fire over stations further out in the District, they also would have had better more local knowledge of the area and been able to more quickly assess identifying front line resource needs.
- Additionally Marsh Creek Road receives a lot of traffic, and numerous accidents – the need to have equipment with the jaws of life, and fire truck rescue equipment for when cars go over the banks etc. – fire trucks also can address spills from these accidents, there is a creek adjacent to the roadway. There are numerous residents commuting that use this roadway – thus having the ability to respond and reopen quickly is needed
- These are some of the many reasons, that there is a high and overall public safety need and uniqueness that having Station #11 returned to full staffing, and to end the partial closure.
- The use of a medical emergency two man crew as suggested by Option 2 in the Fitch Study (2 man emergency response) would not address these unique issues at Station #11.

FITCH Study:
Report to the Board of Directors

Contra Costa Fire Protection District



Jim Broman
Guillermo Fuentes

FITCH
4 ASSOCIATES

Project Charge

“Determine optimal EMS First Response and Fire Response coverage within fiscal Limitations.”

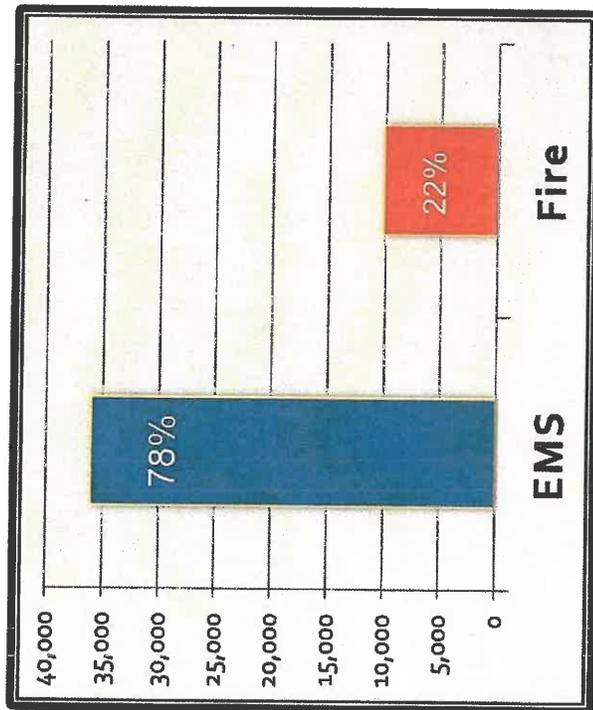
Project Challenges

- Expenses > Revenue
 - Dependent upon reserve funds
 - Fiscally unsustainable
-  Capital \$\$
 - Facilities & apparatus
- Station closures; public criticism
- Administration / Support short-staffed

ConFire Overview

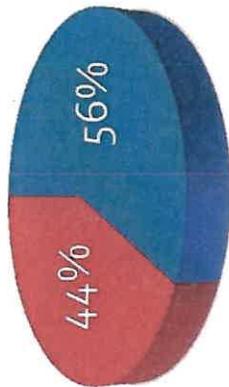


Incident Volume



Time on Task

2012



■ EMS ■ FIRE

AVERAGE TIME TO CLEARANCE

EMS 18 minutes

FIRE 30 minutes -- 18 hours

Observations: Organization

- Current, generally well organized and fairly efficient
- Under resourced (*NFPA Staffing Profile 2012*)
- Contemporary, efficient prevention system
- Marginal staffing for support services
- New leadership (*2013*)
- Grand Jury Report (*2012*)
- LAFCO MSR (*2009*)



Observations: Response

- Response time performance (2013 data; 90th percentile)
 - NFPA® 1710 6:45 | ConFire 10:42 (Total time; includes dispatch)
 - EMS 8:59 | ConFire 10:23 (Total time; includes dispatch)
- External aid = 18% of ConFire response time
 - Net provider
- Major incidents ≠ service degradation
- Station closure impacts
 - Fire response times + 18 seconds
 - EMS response times + 6 seconds



Observations: Fiscal

- Measure Q (2012) rejected
- Citizen Input
 - Improved service model and efficiencies
- Increased property value assessments (October 2013)
 - 5% annual versus previous 2%
- Need for another tax initiative (2 – 3 years)
-  Capital
 - Estimated \$4 million annual shortfall (*near term*)



Capital Concerns

- Facilities | 30 Stations
 - 17 (57%): 1950's and 1960's
 - 2 stations: 1970's
 - 6 stations: 1990's; 2 stations in 2000 (*newest*)
 - 3 stations 1930's & 1940's
 - 5 stations listed in the MSR for "replacement"
- Apparatus
 - 66 response apparatus
 - Most circa 2003 manufacture
 - \$28 million (*replacement value*)
 - 77 light fleet vehicles



Fiscal Overview

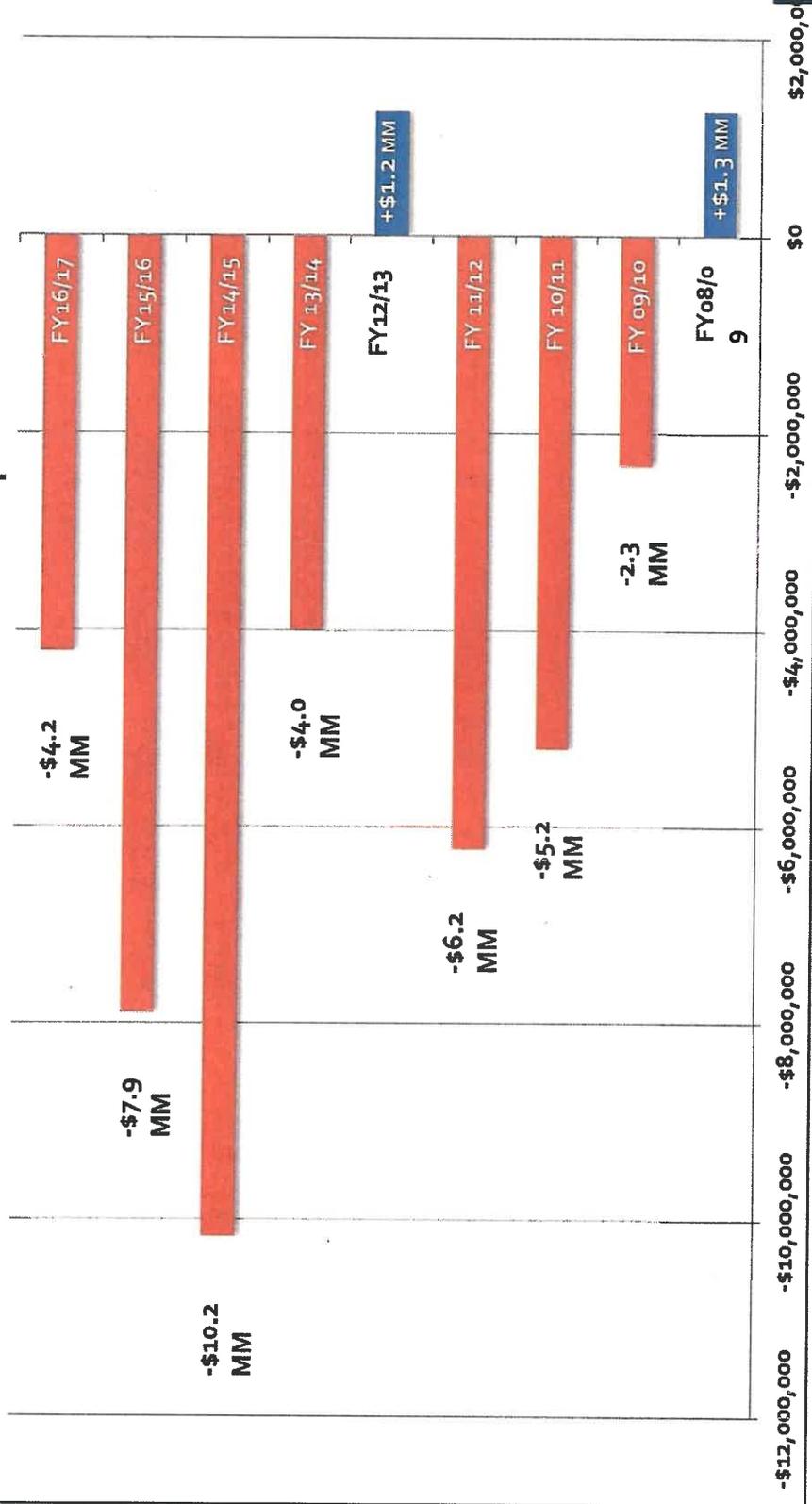
Let's talk money!



Fiscal Overview



ConFire Structural Deficit: Annual Revenues Less Annual Expenses



Projections (Status Quo)



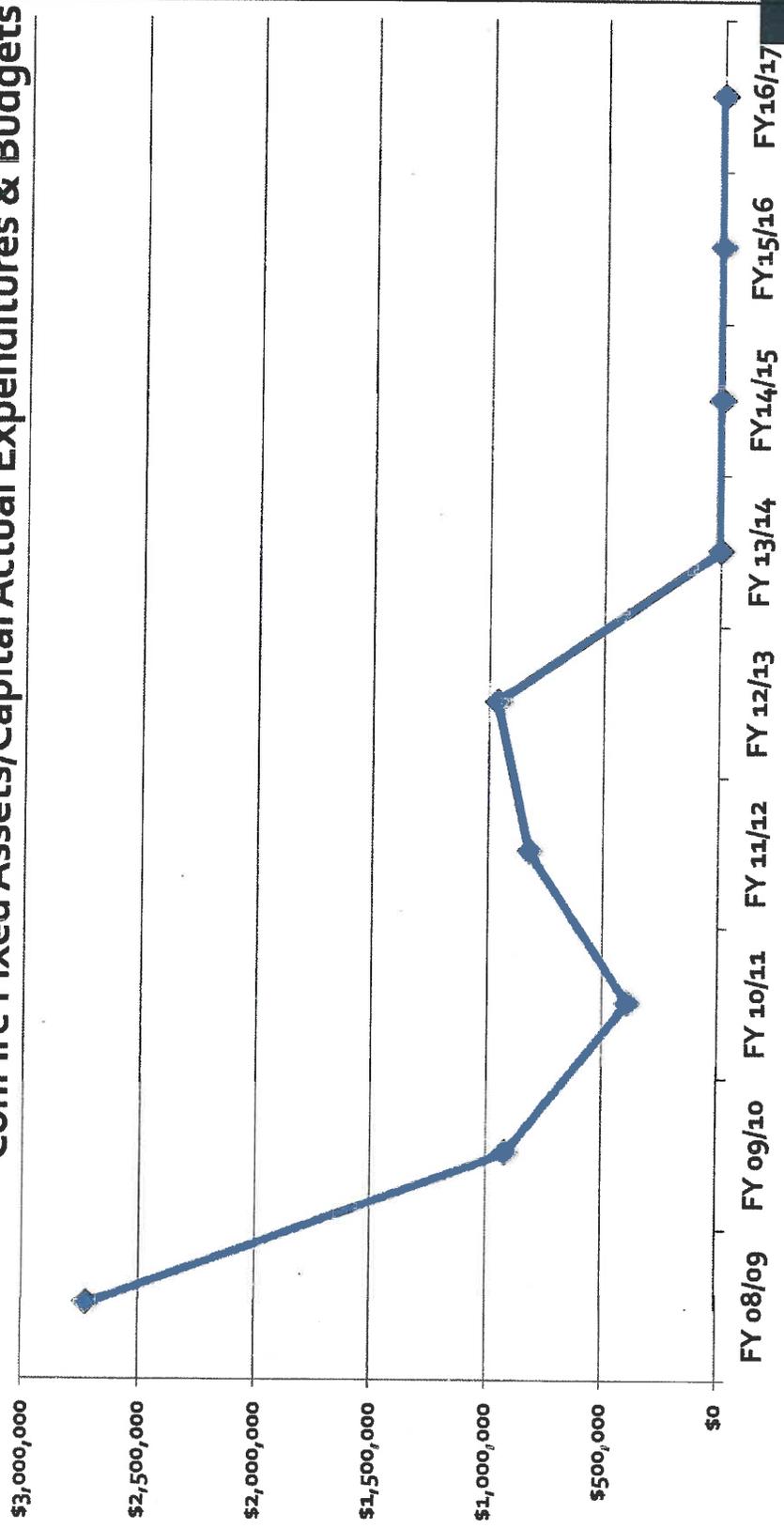
23 Companies	13/14	14/15	15/16	16/17	17/18
Revenue	\$91.3	\$95.7	\$100.2	\$105.0	\$110.2
Property Tax + Other	+ 5%	+ 5%	+ 5%	+ 5%	+ 5%
Expense	\$95.3	\$105.8	\$108.1	\$109.2	\$110.3
Expense Increase		+ 11 %	+ 2 %	+ 1 %	+ 1 %
Deficit	(\$4.0)	(\$10.2)	(\$7.9)	(\$4.2)	(\$0.1)
Beginning Reserves	\$20.7	\$19.3	\$11.7	\$6.4	\$4.8
Stabilization Reserves	\$2.6	\$2.6	\$2.6	\$2.6	\$2.6
Current Year Reserves	\$23.3	\$21.9	\$14.3	\$9.0	\$7.4

*Assumptions include 5% revenue increase and ≤ 1% expense increases.
No long term capital funding.*

Fiscal Overview



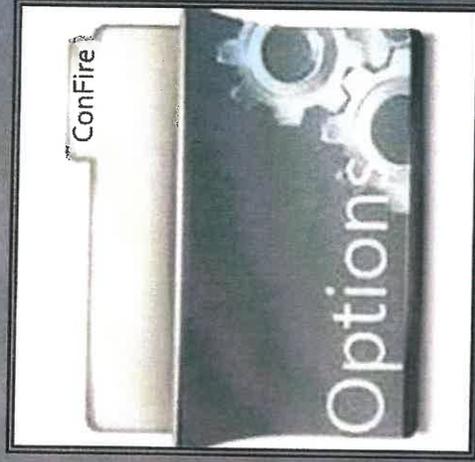
ConFire Fixed Assets/Capital Actual Expenditures & Budgets



February 2014

Moving Forward...

What are our options!



Moving Forward...

- In context of significantly improved revenue forecast, how can ConFire:
 - *Manage through to financial equilibrium*
 - *Adjust service delivery for efficiency*
 - *Address station closings (current & potential)*
 - *Avoid further loss of personnel resources*
 - *Respond to citizen interests and issues*

Options



- Option 1 – Status Quo
 - Maintain current deployment; minimal change
 - Anticipate favorable tax measure
- Option 2 – Three / Two Response Staffing
 - Convert select 3-person companies to 2-person companies
 - Quick Response Vehicles (QRVs = *capital expense*)
 - Reopen some closed stations / companies
- Option 3 – “Single Patch” EMS Personnel
 - Lower personnel expense
 - Reduces fire response capacity

Report Review & Comment

- Public Managers' Briefing
 - Thursday, January 9th
- Public Release of Draft Report
 - Monday, January 13th
 - *Three-week comment period*
- Public Town Hall Meeting
 - Wednesday, January 22nd
- Public Comment Period Closed
 - Friday, January 31st
- Final Report Presentation
 - Tuesday, February 25th

Public Comment: CHANGES

- Response Summary Tables; (*Attachment H, end of report*)
- Material Report Changes
 - Items added in; noted in table of Q & A
 - 3-person vs. 4-person staffing history
 - Auto / Mutual Aid
 - Reserve / Volunteer Resources
- Comment Themes
 - Report focus (*narrow*)
 - Report window; i.e., 3-year
 - Ⓞ wages, benefits & revenue sources
 - Responder workload

Public Comment: THEMES

- Narrow report focus
 - FITCH Scope:
 - How to maintain service (*response times*); 2 – 3-year window
- 3-year strategy versus long-term solution
 - Convergence of financial circumstances
 - Multiple scenarios; need to narrow the field

Public Comment: THEMES

- Wages, benefits & revenue sources
 - Outside **FITCH** purview
 - Matter of collective bargaining
 - Pension costs; one-year anomaly
 - Revenue: other options ⊖ substantial or reliable
- **FF Workload**
 - Disparate perceptions
 - **FITCH**: Within acceptable boundaries

Questions / Discussion

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