

**MINUTES**  
**OF THE**  
**REGULAR MEETING**  
**CLAYTON CITY COUNCIL**  
**TUESDAY, March 7, 2017**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, Vice Mayor Haydon and Councilmembers Catalano and Pierce. Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Chief of Police Chris Wenzel, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

- (a) Approved the minutes of the regular meeting of February 21, 2017.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Approved a new Exclusive Negotiation Agreement (ENA) with Pacific Union Land Investors, LLC, for the continued preparation of a Disposition and Development Agreement (DDA) leading to the sale/purchase, private development and management of certain City-owned vacant real property in the Clayton Town Center, generally located at 6005 Main Street (APN 118-560-010-1), with land use options for limited commercial retail and a senior care/memory care facility or multiple-family residential units.
- (d) Adopted Resolution No. 06-2017 approving the Notice of Completion for Uretex USA, Inc.'s use of a polymer fill injection to stabilize portions of the arterial roadways in the 2016-17 Arterial Street Rehabilitation Project (CIP No. 10437) and a segment on El Portal Drive (CIP No. 10439) in the final amount of \$350,849.82, and authorize the City Clerk to record the Project's Notice of Completion.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Certificates of Recognition to public school students for exemplifying the "Do The Right Thing" character trait of "Self-Discipline" during the months of January and February 2017.

Mayor Diaz and Mt. Diablo Elementary School Principal Dawn Edwards and third grade teachers Ms. Van Outrive and Ms. Grispo presented Certificates to students Dominic Celentano and Evan Lynch.

Mayor Diaz and Diablo View Middle School Principal Patti Bannister presented Certificates to students Megan Gherlone and James Brinkley.

- (b) A Proclamation declaring March 2017 as “American Red Cross Month” in the City of Clayton.

Mayor Diaz read a Proclamation declaring March 2017 as “American Red Cross Month” in the City of Clayton and presented it to Nick LaSpada, Clayton External Relations Liaison for the American Red Cross.

Mr. LaSpada thanked the City Council for its support in making Clayton a better prepared City during emergencies and the Red Cross looks forward to the continued relationship.

## **5. REPORTS**

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff – No report.
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Haydon attended the Mt. Diablo Elementary School “Field of Dreams” committee meeting, he was an umpire in the Bocce Fall Finals, attended the Network of Care Crab Feed fundraiser, an East Contra Costa Habitat Conservancy meeting, and the joint special meeting of the Clayton City Council and Mt. Diablo School District Board.

Councilmember Catalano attended the joint special meeting of the Clayton City Council and Mt. Diablo School District Board, and a California League of Cities webinar regarding the state’s 2017 housing legislation and in particular, Senate Bill 35..

Councilmember Pierce attended the Metropolitan Transportation Commission Board meeting, a joint meeting of the Associated Bay Area Governments and Metropolitan Transportation Commission, the East Bay Leadership Council “State of the East Bay” event, a Community Choice Energy community outreach meeting, the Mayors’ Conference hosted in Hercules, a joint special meeting of the Clayton City Council and Mt. Diablo School District Board, and the Network of Care Crab Feed fundraiser.

Mayor Diaz attended the Clayton Business and Community Association’s General Membership meeting, the Clayton Business and Community Association 8<sup>th</sup> Annual BBQ committee meeting and he announced that event will take place on July 15<sup>th</sup>, the Contra Costa County Mayors’ Conference, the Network of Care Crab Feed Fundraiser, was a judge at the 7<sup>th</sup> Annual Chili Cook-off at the Clayton Club Saloon, and the joint special meeting of the Clayton City Council and Mt. Diablo School District Board.

- (e) Other – None.

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

Drina Rubiales addressed a recent letter that Mayor Diaz sent to U.S. Representative Mark DeSaulnier wherein he expressed his disagreement with the congressman not attending the most recent Presidential Inauguration. Referencing the aforementioned letter, she was disappointed in Mayor Diaz’s actions; as an elected non-partisan official it is her belief that he took advantage of his position as mayor by sending the letter on

official City letterhead. Furthermore, he indicated he was speaking “on behalf of a great many Clayton residents”, perhaps that is true; however, he did not speak on her behalf or of many other Clayton residents that he represents. Although he is the only one that signed the letter, other Clayton Councilmembers’ names are also on the letterhead and others could perceive they have the same opinion as Mayor Diaz expressed. While we each have our own personal opinions that we are entitled to, it was her strong suggestion that in the future should Mayor Diaz have such a political opinion and feel the need to express it, please send it as a private citizen and do not utilize the City of Clayton as a platform. It is inappropriate, unethical and does not fully represent all of his constituents.

Ernie DeTrinidad read a citizens letter signed by 50 residents in response to the letter Mayor Diaz wrote questioning the appropriateness of the letter sent to Congressional Representative Mark DeSaulnier. As reported on Claycord.com there is a disagreement in Representative DeSaulniers’ decision to not attend President Trump’s inauguration. If the City Council wishes to pass a resolution in support of a particular political position, as was recently done in Richmond, the matter must be placed on an agenda and discussed in a public forum, with residents having the opportunity to express its views on the subject. Many signers of this letter were present with Representative DeSaulnier at the Women’s March in Walnut Creek the day following the inauguration. Mayor Diaz has the right to disagree with our U.S. Representative; however, he should not express his disagreement in his capacity as Mayor on official City letterhead. They ask Mayor Diaz to retract his letter with an apology to Representative DeSaulnier and an additional apology to his constituents as Mayor of this City.

Max Kohn referenced his visit to a Council meeting a few months ago as part of an assignment in his Civics class, whereat he was told that part of the primary responsibility as a member of the City Council is to serve as an ambassador to our community. That statement is why he is extremely disappointed to see the Mayor unilaterally wrote a letter on our City’s letterhead to a distinguished member of the U.S. House of Representatives condemning his decision to not attend Presidential Inauguration activities. It is his clear opinion that attending the inauguration of Donald Trump would be normalizing Donald Trump, so he was disappointed in Mayor Diaz’s letter because Congressman DeSaulnier by his action is as an ambassador for our community. He thought Mayor Diaz could learn a lot from Mark Desaulnier by taking a stand to adhere to one’s convictions, which is far more important than normalizing a man pretending it is business as usual when it clearly is not. Mr. Kohn quoted Human Right Icon Desmond Tutu, “If you are neutral in situations of injustice, you have chosen to side with the oppressor.”

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider the adoption of Resolution No. 07-2017 authorizing the City Manager to enter into multiple contracts for the purchase and installation of roadway cameras and automated license plate readers (ALPRs) at entrances/exits to the City of Clayton to enhance local law enforcement effectiveness and public safety.

Police Chief Wenzel presented his staff report noting since the Council’s last meeting some changes were made to save project costs. It was found to be more efficient to have one person install the cameras and financially that worked to the City’s benefit. Lastly, to obtain the information from both cameras, a SIM card is required which will enable the Police Department to obtain the information using Sprint Wireless technology.

Vice Mayor Haydon indicated the Council's interest in this project is to provide the Clayton community with additional protection by providing a strong deterrent as in other communities; Clayton, having the advantage of not many community entrance/exit points, is better situated to identify vehicles after an incident has been reported.

Chief Wenzel reiterated the proposed surveillance cameras will not be used to write traffic citations and are not under 24/7 monitoring by personnel; the system will be used after a criminal event is reported. This proposed project is a tool for law enforcement to safeguard the community.

City Manager Napper added this system is something that most cities are moving towards. One of the hottest topics in government right now is unfunded pension liabilities and public safety operations have the highest costs impacting retirement pensions. In that regard, if the City were to add one (1) police officer per shift as the way to try and combat some of the local crime or as a deterrent to crime, that approach would require the City to hire at least five (5) more police officers at a complete salary package, including benefits, of an estimated cost of over \$100,000 per year/per officer. By comparison, this capital project is a good investment to keep Clayton safe. As noted at the previous Council meeting on this matter, the criminal element has its own network and they know which cities have these types of cameras, which knowledge makes them move away from those communities and towards those which do not have such systems. This is a good cost-effective measure to enhancement local law enforcement efforts and to provide the protection services the community expects.

Councilmember Catalano inquired about the annual recurring costs; do we have contractually, through the companies, some guarantee that ongoing rates are not going to double or triple in the future? Chief Wenzel advised the amount of annual rates could increase and are not indicated within the contracts as to future costs beyond the 2-3 year time period. He did note the City was able to lock into a 2-year contract that is no longer offered by Vigilant Services regarding licensing fees.

Councilmember Pierce commented that based on where Clayton is located, there have been some recent incidents of mail-theft and vehicle break-ins, and our city is a backdoor to and from the East Contra Costa County areas. Councilmember Pierce suggested that by having this capability to catch some of the bad guys on their way through Clayton can be very helpful; she noted the incredible success with the proof of cameras that were installed on Highway 4 and the new ability to catch a large number of stolen vehicles.

Mayor Diaz opened the item to public comment.

Candace Bass, a Neighborhood Watch Coordinator, spoke on behalf of other neighborhood watch coordinators and groups, and indicated their voice of support on the City's effort to purchase and implement the installation of this camera system. They find it will be helpful in reducing crime and keeping Clayton a safe community.

Max Kohn suggested the City spend the taxpayers' dollars to invest in the underlining factors that contribute to crime and not expanding to a police state.

Dylan Kupsh thought the City would be using its resources more effectively researching the underlining causes of crime rather than going to try and enforce it; at this time the proposed system is not in a competitive market and it is likely the costs will increase due to required patents.

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to adopt Resolution No. 07-2017 approving four contracts for the purchase and installation of law enforcement situational cameras and automated license plate readers at four designated areas in the City of Clayton. (Passed; 4-0 vote).

9. **COUNCIL ITEMS**

Councilmember Catalano clarified she had not seen the letter Mayor Diaz sent to Representative DeSaulnier prior to its mailing. As an official on the City Council it is a non-partisan position representing all of Clayton and its residents. If she were asked to write or sign such a letter, she would not as she would like to be able to represent all of the citizens of Clayton.

Vice Mayor Haydon, was contacted by some concerned citizens after the letter was mailed out. It is perhaps incumbent of the Council to review its policy of Councilmembers issuing position letters on City letterhead. The appearance indeed is that the City Council and the City of Clayton agrees to the content of that letter.

Councilmember Pierce noted it was the prerogative of the Mayor to send the letter as past councilmembers have used City letterhead for scholarship recommendations and any number of things including positions on legislation to Sacramento. That said, she would not have sent that letter and did not see the letter until after it was sent. Similarly, when invited she also did not attend the Women's March the following day. It really is a split community here of about 50-50 Democratic to Republican and there is a larger group of Independent members who do not declare one party over another. She also would like to review the Council policies on how this is done in the future. She concluded by adding the Mayor was legally allowed to write the letter yet it did not mean it was written on behalf of the remaining councilmembers.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 7:53 p.m.

The next regularly scheduled meeting of the City Council will be March 21, 2017.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

  
Jim Diaz, Mayor

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