

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

**TUESDAY, July 18, 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, Community Development Director Mindy Gentry, Maintenance Supervisor Mark Janney, City Engineer Rick Angrisani, and City Clerk/HR Manager Janet Brown.
  
2. **PLEDGE OF ALLEGIANCE** – led by Mayor Diaz.
  
3. **CONSENT CALENDAR**  

**It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to approve the Consent Calendar as submitted. (Passed, 4-0 vote; Haydon abstained on Item 3b, vote 3-0-1).**

  - (a) Information Only – No Action Requested.
    1. Status Report on prior Ordinance No. 476 amending Title 17, “Zoning”, by adding Chapter 17.22 to the Clayton Municipal Code regarding Residential Density Calculations for Residential Parcels with Sensitive Land Areas.
  - (b) Approved the minutes for the City Council regular meeting of June 20, 2017, and for its special meeting held on June 26, 2017.
  - (c) Approved the Financial Demands and Obligations of the City.
  - (d) Adopted Resolution No. 23-2017 setting and levying real property tax assessments in FY 2017-18 for the Oak Street Permanent Road Division.
  - (e) Adopted Resolution No. 24-2017 setting and levying real property tax assessments in FY 2017-18 for the High Street Permanent Road Division.
  - (f) Adopted Resolution No. 25-2017 setting and levying real property tax assessments in FY 2017-18 for the Oak Street Sewer Assessment District.
  - (g) Adopted Resolution No. 26-2017 setting and levying real property tax assessments in FY 2017-18 for the Lydia Lane Sewer Assessment District.
  - (h) Adopted Resolution No. 27-2017 rejecting all bids received for construction of the “El Portal Drive Restoration Project,” CIP No. 10439 [street rehabilitation and sidewalk repairs].
  - (i) Adopted Resolution No. 28-2017 approving the City Master Fee Schedule for FY 2017-18 regarding certain fees for user-benefit municipal services and rental of City facilities.

- (j) Adopted Resolution No. 29-2017 approving a contract amendment with CleanStreet authorizing an increase in current monthly billing rates of \$0.25 for monthly residential streets sweeping services and an equivalent pro-rata monthly rate increase on commercial trash/recycling billing accounts for monthly public street sweeping services, required by the City's NPDES Permit issued by the California Regional Water Quality Control Board.
- (k) Approved a Cooperative Agreement between the City of Clayton and the City of Concord concerning construction costs and reimbursable expenses on the El Molino Drive Sanitary Sewer Improvements (City CIP No. 10422).
- (l) Accepted the written resignation of Mr. Rick Angrisani and Permco Engineering and Management under professional consultant contract as City Engineer for associated engineering services to and for the City of Clayton.
- (m) Adopted Resolution No. 30-2017 approving the Engineer's Report and levying the annual assessments in FY 2017-18 on real properties for the operation and maintenance of residential street lights in the Street Lighting Assessment District, pursuant to Streets and Highways Code 18070 and CA Government Code 54954.6.

#### **4. RECOGNITIONS AND PRESENTATIONS**

- (a) Recognitions to former Trails and Landscape Committee Members Bob Steiner, A.J. Chippero, Clayton Smith, and Christopher Garcia in appreciation for their valued civic services to the Clayton community.

Mayor Diaz presented A.J. Chippero, Clayton Smith, and Christopher Garcia with appreciation plaques recognizing their civic service on the Trails and Landscaping Committee. Mr. Steiner was not present and his plaque will be given to him later.

#### **5. REPORTS**

- (a) Planning Commission – Commissioner Peter Cloven indicated its meeting of June 27, 2017 included a Variance and Site Plan Review Permit for the property located on Verna Way at Lydia Lane. The Variance passed by a 4-1 vote and the Site Plan Review passed on a 5-0 vote. There was a statutory review of the City's Fiscal Year 2017-2023 Capital Improvement Program budget, which received a 5-0 vote for compliance with the City's General Plan, and the Commission has recommended to the City Council the suggested revision to Chapter 15.08 – Sign Provisions of the City of Clayton Municipal Code.

Commissioner Cloven also reported the Commission met on July 11, 2017 to consider the City-initiated ordinance review zoning and residential density calculations for residential parcels with sensitive land areas, which has been recommended to the City Council with a supportive vote of 5-0.

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

(c) City Manager/Staff

City Manager Napper provided an update on the health of the City's Christmas tree in the downtown area that has turned brown due to an infection with spider mites. He advised the tree has been treated with a pesticide injection and hopefully will make a full recovery.

City Manager Napper also announced several citizen volunteer opportunities for interested citizens to represent their community on the Clayton Trails and Landscaping Committee, the County Connection Citizens Advisory Committee, and Contra Costa Transportation Authority Citizens Advisory Committee. He directed citizens to visit the City's website or contact City Hall for more information and an application.

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

Vice Mayor Haydon attended a meeting of the East Contra Costa Habitat Conservancy, the Clayton Business and Community Association General Membership's meeting, the Annual Clayton 4<sup>th</sup> of July Parade, and a Contra Costa Water District Board meeting.

Councilmember Tuija Catalano attended the special meeting of the Clayton City Council on June 26<sup>th</sup>, the Clayton Business and Community Association's Annual Rib Cook-Off, and the 23<sup>rd</sup> Annual Dana Hill Swim Club pentathlon.

Councilmember Pierce attended the special meeting of the Clayton City Council, two Contra Costa Transportation Authority meetings, three Metropolitan Transportation Commission meetings, several Associated Bay Area Governments meetings, two Concerts in The Grove events, the Annual Clayton 4<sup>th</sup> of July Parade, a TRANSPAC meeting, the Contra Costa County Mayors' Conference, and an Economic Development Sub-Committee meeting.

Mayor Diaz attended an East Bay Regional Communication Authority meeting, the Contra Costa County Mayors' Conference, the County Connection Board meeting, two Concert in The Grove events, the special meeting of the Clayton City Council, two Wednesday Classic Car Show and D.J. events, the Clayton Business and Community Association General Membership meeting, the Annual Clayton 4<sup>th</sup> of July Parade, the Contra Costa Water District Board meeting, the Economic Development Sub-Committee meeting, and the Clayton Business and Community Association's Annual Rib Cook-Off.

(e) Other – None.

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

7. **PUBLIC HEARINGS**

- (a) Public Hearing on the proposed real property tax assessments in FY 2017-18 for the Diablo Estates at Clayton Benefit Assessment District (BAD), and consider the adoption of the Resolution setting, ordering and levying the annual assessments.  
(City Engineer)

City Engineer Rick Angrisani presented the staff report noting at its public meeting on May 16<sup>th</sup> the City Council was presented with the proposed assessments incorporating the allowable CPI 3.78% annual increase over Fiscal Year 2016-17 levy. As required by law, a notice regarding this evening's public hearing was mailed to the real property

owners along with the Engineer's Report; for the benefit of the residents, the mailing included the detailed expenditures of the District for last year along with an accounting of its reserve funds. Mr. Angrisani advised the Benefit Assessment District's Fund balance will cover the District's costs through the property management contract with no impact to the City's General Fund.

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

**It was moved by Councilmember Catalano, seconded by Vice Mayor Haydon, to adopt Resolution No. 31-2017 confirming assessments for the operation and maintenance of improvements within the Diablo Estates at Clayton Benefit Assessment District for Fiscal Year 2017-18. (Passed; 4-0 vote).**

- (b) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices.  
(Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting at its public meeting of May 16<sup>th</sup> the City Council expressed concern to any increase in the proposed allowable square footage for "temporary noncommercial signs," which signage would be allowed up to 30 square feet. The City Council's historical discussion of that item and its subsequent direction was to restrict the size of campaign signs to three (3) square feet. The Council expressed a lack of interest in allowing thirty (30) square feet for temporary noncommercial signs due to campaign signs falling into that designation and because of the community's concerns regarding visual clutter during political campaign seasons. The U.S. Supreme Court's ruling in the case of *Reed vs. Town of Gilbert, Arizona* determined the provisions of a municipality's sign code must be content-neutral; therefore, this distinction resulted in placing campaign signs, nonprofit organization signs, and community event signs, amongst others, under the same umbrella called "temporary noncommercial signs."

An unintended consequence of the desired three (3) square-foot restriction under the current provisions of our Sign Code would prohibit all of the City's community event banners (e.g. Oktoberfest, Library Book Sale, 4<sup>th</sup> of July Parade, etc.) from being displayed at the City Council-approved site locations due to the size of the banners exceeding three (3) square feet. Therefore staff has added new provisions regarding community event signs as being allowable up to twenty-four (24) square feet in those City-approved display areas to address the City Council's concerns. The case law of *Reed vs Town of Gilbert, Arizona* did not have any restriction regarding government speech; therefore, the City is allowed to create different parameters governing community events signage separate from temporary noncommercial signs.

Councilmember Pierce inquired about the new language specifically focusing on noncommercial temporary signs; is very strict in its language as it seems to now limit only one campaign sign per property. In the past the City allowed no more than one sign per campaign issue per property, only one sign per candidate per office yet multiple signs not to exceed the number of political offices available. As an example: if there is more than one candidate running for a seat on the City Council a property owner may display up to the number of open seats, limited to one sign though for a particular candidate. Are we able to restore that provision to the adopted Code for Campaign Sign Regulations?

Ms. Gentry advised as proposed and consistent with new case law, the ordinance reads the amount of signage allowed is a maximum of three (3) square feet per property. City Attorney Subramanian noted the Supreme Court's ruling is clear that local laws cannot regulate differences in signage regulations when related to the content of the sign. Therefore, the City could not allow more political signs per property yet restrict other types of signage to a total of 3 square feet. City Manager Napper added it is problematic under this case law because the past practice on political campaign signs would constitute the City giving greater preference to those types of signage over others, which results in the City regulating content. He indicated multiple signs would be allowed but limited to an aggregate signage total of 3 square feet.

Councilmember Catalano requested clarification if the community events provision is limited to events organized by the City or events taking place in the City. Ms. Gentry responded Community Event signs are essentially the banners the City of Clayton has allowed at specific City-owned property sites and as further defined by City Council policies that were passed some years ago.

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

**It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to have the City Clerk read Ordinance No. 475, by title and number only and waive further reading. (Passed; 4-0 vote).**

The City Clerk read Ordinance No. 475 by title and number only.

**It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to approve for Introduction Ordinance No. 475 amending Chapters 15.08 of the Clayton Municipal Code regarding sign provisions with the finding the action does not constitute a project under CEQA. (Passed; 4-0 vote).**

## 8. **ACTION ITEMS**

- (a) Consider the award of competitive bid contract to Servi-Tech Controls, Inc. (Fresno, CA) in the amount of \$253,398.00 for replacement of Clayton City Hall's 20-year old HVAC units and heater/boiler unit, and authorize the allocation of additional project funds in the amount of \$170,126.06 from either the General Fund reserves or the Clayton Finance Authority's unrestricted-use funds (Fund No. 405).  
(Maintenance Supervisor)

Maintenance Supervisor Mark Janney provided a brief background noting in February 2012 the City commissioned an on-site technical study on the HVAC systems at City Hall and the Clayton Community Library. At that time, one of the most pressing concerns was the failing HVAC chiller unit at the Clayton Community Library. The study also reported the air handler at City Hall was approaching its functional life expectancy, and the boiler was showing signs of failing. Today, 3 of the 5 City Hall HVAC air compressors have now failed and the system is operating at 40% capacity; the boiler then started to fail with a leak to its heating coil and in April this year it failed completely and has been shut down resulting in no heat to the City Hall building and limited air-conditioning.

Last year an inquiry was made to our current HVAC maintenance service company for a quote to replace both the existing HVAC cooling system and the boiler with like-kind equipment; the quote came in at approximately \$85,000. Based on that representation

and dollar amount, it was determined a replacement plan would require a normal public works bid process starting with plans and specs prepared by an HVAC engineering firm. Staff retained the Diseno Group to perform this work and in doing so the firm found several electrical and building code upgrades to the HVAC system are necessary. The project was then submitted to competitive bidding with a return of seven (7) bids; Servi-Tech Controls is deemed the lowest responsive and responsible bidder. Mr. Janney noted a protest was received from one of the unsuccessful bidders pointing out a sub-contractor was not listed by the low bidder for the required crane work on this project. Staff contacted Servi-Tech regarding the protest and was informed the cost for its crane operations is below the 0.5% overall contract amount, so it is not obligated to list that item on the City's sub-contractor form.

Mr. Janney concluded by noting after the FY 2015-16 General Fund excess monies of \$84,071.94 are applied to this proposed work, Project gap funds are still required of \$170,126.06.

Councilmember Pierce inquired if there are energy efficiency options available such as solar, and could replacement of the gas furnace be powered by electricity? Mr. Brad Albi, Senior Project Engineer with Diseno Group, advised solar would not generate enough power to effectively heat/cool the facility based on the footprint of the building. Mr. Albi added gas is generally a more efficient, cost effective and cleaner energy source than electric.

Councilmember Pierce inquired as to the life expectancy and maintenance of the new HVAC equipment. Mr. Albi advised the commercial equipment specified in the proposal will have a life expectancy of 25-30 years if properly cared for. Mr. Janney added the City's current HVAC maintenance and service company, Marken Mechanical, checks the HVAC system's filters and belts, ensuring all necessary parts are greased and cleaned on a regular basis.

Councilmember Pierce asked about completion of the contract work. Mr. Janney advised once the contract is executed it is anticipated the HVAC replacement project would be completed within 120 days.

Vice Mayor Haydon asked if the other higher bidders included special components in their bids which would be a beneficial aspect to consider for the HVAC system at City Hall. City Manager Napper responded under CA Public Works bid laws every bidder is required to bid on the same specifications with no add-ons. Mr. Napper added while the lowest bid came in at \$253,000, the highest bid was \$372,000, reflecting significant savings bidding on the same specifications.

Mayor Diaz opened matter for public comments; no comments were offered.

**It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to approve the award of low-bid contract to Servi-Tech Controls, Inc. in the amount of \$253,398.00 with project gap funds in the amount of \$170,126.06 from the Clayton Finance Authority's unrestricted-use funds (Fund No. 405). (Passed; 4-0 vote).**

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.  
None.

10. CLOSED SESSION – None.

11. ADJOURNMENT

Council Member Pierce requested the City Council adjourn its meeting tonight in memory of Carolyn Bovat, the City's first female mayor, who recently passed away.

On call by Mayor Diaz, the City Council adjourned its meeting at 8:06 pm in memory of former Clayton mayor, Carolyn Bovat.

The next regularly scheduled meeting of the City Council will be August 1, 2017.

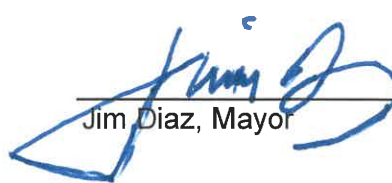
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Respectfully submitted,



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Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



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Jim Diaz, Mayor

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