

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

TUESDAY, October 16, 2018

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

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

3. **CONSENT CALENDAR**

Vice Mayor Shuey requested Item 3(c) be pulled from the Consent Calendar for separate discussion.

It was moved by Vice Mayor Shuey, seconded by Councilmember Pierce, to approve the Consent Calendar Items 3(a), 3(b) and 3(d). (Passed; 4-0 vote).

- (a) Approved the minutes of the City Council’s regular meeting of October 2, 2018.
- (b) Approved the Financial Demands and Obligations of the City.
- (d) Approved the proposed schedule for the ten (10) Saturday “Concerts in The Grove” series in calendar year 2019 and use of The Grove Park for said purpose.

Consent Calendar Pulled

3(c) Adopt a Resolution delegating authority to the City Manager (under Government Code Section 21152(C), 21156, and 21173) to make and certify determinations of City employee disability to the California Public Employees’ Retirement System (CalPERS).

Vice Mayor Shuey expressed concerns with the lack of oversight and inability of City Council to have involvement in these decisions. He provided a suggestion the mayor having the ability to designate two (2) Councilmembers as a sub-committee to review and take action; in this manner HIPPA privacy requirements would be satisfied and at least a few elected officials would have a role in the decision. He asked if this would be allowable by CalPERS, and subject to review by staff and the City Attorney.

City Manager Napper advised an exhaustive research was not conducted but largely most cities are delegating this authority to its city manager. Staff would need to see if a Council sub-committee process would be acceptable to CalPERS. If the Council sub-committee is still subject to a public meeting, there remains potential conflict with HIPPA laws and individual privacy rights. City Manager Napper advised the Resolution would need to be re-vamped indicating the City Council delegates its authority to an ad-hoc Council committee to be appointed each time the City receives a disability application or industrial disability retirement application. City Manager Napper added these are significant decisions as it impacts CalPERS’ actuarial ratings on the employer when an employee has been hurt and enters retirement earlier than normal mortality rate schedules.

Councilmember Catalano inquired if there are any timing concerns inherent in calling an ad-hoc committee? City Manager Napper responded if a disability retirement or industrial disability retirement application is received, he would inform the City Council in a communication addressed to the mayor requesting the appointment of two (2) council members to sit on the ad-hoc committee to determine the application. Once an application arrives for an industrial disability retirement, a city has about six months in which to act, as indicated in the recent CalPERS communication received by the City. City Manager Napper noted there is an industrial disability application that has been filed and the deadline is arriving soon.

Vice Mayor Shuey clarified HIPPA is a law that protects every person's medical records with stringent requirements. At this time the City Council is faced with delegating the authority to a sub-committee or its city manager as it faces the inability to deal with such matters in a public forum because of HIPPA restraints.

Councilmember Pierce emphasized there is a requirement to have this local function in place by a certain time to act on the pending industrial disability application.

No Action Taken.

The matter was referred back to staff to inquire of CalPERS whether it would accept an alternate delegation option of an elected official ad-hoc committee, and then report back to the City Council.

4. RECOGNITIONS AND PRESENTATIONS – None.

5. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff

City Manager Napper indicated that since the recently-completed street repaving project was done there have been several citizen phone calls to City Hall upset about the slurry seal application and its perceived poor quality. It has created some impressions and misunderstandings from people in town that are not familiar with this type of repaving; in the past the City has done more oil overlays yet the slurry seal provides a layer of additional surface upon each street. He thought it would be useful to have the City Engineer explain the difference.

City Engineer Alman advised he consulted a third party for a second opinion from an expert in the repaving field, unattached to our project. They examined several streets; they contend the City's project met the specifications and the work done is to the required specifications. What would help in future projects of this nature is outreach communication include a small piece about slurry seal applications, how it works and what to expect. It could discuss that some "shedding" of slurry seal is expected, can last 2-3 months and it may take up to six months for the full completion of the hardening and curing of the oil of the slurry seal.

Visually, the repaved streets are as they should be. There were a couple of very minor issues that can be dealt with through a punch list. One of the things unique to this project was it specified slurry seal with fine aggregate; many times it is silica sand which is

white. But in order to preserve the finished color of the streets, in this project a crushed black rock was specified so as the repaving “ages” the streets will remain dark and not turn gray in color. As the aggregate sheds the underlying black color sheen is more visible and it is to be expected. City Engineer Alman added this is the first time the City used rubber in its street rehabilitation project; it is new and there was some learning curve in getting used to it but the repaving condition will last longer.

Mayor Haydon added the feedback he received was some of the streets were damaged as vehicles were on them prior to the street being cured. City Engineer Alman responded yes and those streets are part of the punch list items. He confirmed in some cases the streets were opened too soon to vehicle traffic; the oil and slurry seal must cure for about 3 hours, once the emulsion breaks, then the street can be re-opened. The surface is still subject to scuffing, which is to be expected and also a part of the process. Scuffing does not damage the street. The repaving process first lays out a rubber chip seal and then crews come back and apply the slurry to finish and give a wearing course. The project did experience a delay between those applications because of contractor scheduling issues. Still, some of the aggregate of the chip seal is expected to break loose and become free and that’s taken care of by sweeping before the slurry seal is applied.

Mayor Haydon noted he was referring to more of the visual damage done by vehicles after driving on the streets very quickly after the process. City Engineer Alman advised there were some unauthorized vehicle breakthroughs of the barricades but those were actually touched up by the contractor before they demobilized.

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

Councilmember Catalano attended the Clayton Business and Community Association’s Oktoberfest event and was reminded on how wonderful of an event it is for the community but how amazing it is that it is powered by volunteers only. After the event a survey is mailed out to those who volunteer; one of the questions is “Why do people volunteer” and the number one answer is they like to be a part of the community event.

Vice Mayor Shuey attended the Clayton Business and Community Association’s Oktoberfest event and thanked the CBCA for putting on the event. He reminded the community all of the money raised goes back into the Clayton community through student scholarships, payment for various projects throughout the City, and other things.

Councilmember Pierce attended the Regional Planning Committee (a subcommittee of the Association of Bay Area Governments), the Clayton Business and Community Association’s Oktoberfest event, the Metropolitan Transportation Commission meeting, the Association of Bay Area Governments meeting, and the Contra Costa County Mayors Conference in Hercules.

Mayor Haydon attended the operating/scheduling sub-committee meeting of County Connection, and the Clayton Business and Community Association’s Oktoberfest event. Mayor Haydon also acknowledged Councilmember Catalano in her role as the volunteer coordinator for the Clayton Business and Community Association events, noting it is one of the toughest assignments as each event requires a lot of community volunteers.

(e) Other – Introduction of City Council candidates (present at the meeting).

Mayor Haydon noted that during City elections it is City Council Policy that candidates for City Council are allowed 3 minutes to introduce themselves and share a few remarks at each City Council meeting if they are in attendance and wish to do so.

Carl Wolfe noted he is a candidate for City Council, a recently retired creative director, a Clayton Planning Commissioner, a thirty year resident, a proud member of the CBCA, community volunteer and announcer for the annual 4th of July Parade. His campaign has been largely funded by himself, however there has been some donations gratefully accepted from private citizens totaling \$185.00. No institutional donations have been received for his campaign. Mr. Wolfe's candidacy is to champion all Claytonians; the future of Clayton depends on the community coming together to make solid decisions to become an even better community. Our future will take vision, great planning, great leadership and citizen input. In his thirty years in Clayton, he has seen it evolve and grown in a positive way. We now have more goods and services, restaurants and recreation than ever before and these things fit into Clayton seamlessly, such as The Grove Park, the Library, Fire Station 11, the CVS pharmacy, Clayton Station Shopping Center, the Downtown Bocce. These things have all come to Clayton within the past two decades and now we cannot imagine living our lives without them. This responsible growth requires us to engage in conversation and to talk with each other, not at each other, and to examine all of the facts, make educated decisions to benefit all of Clayton. Mr. Wolfe takes Clayton very seriously; he is retired now and intends to serve all Claytonians listening to their needs and concerns and to protect our small town way of life and always with an eye on fiscal responsibility. Mr. Shuey and himself have an ice-cream social scheduled at Cup O' Joe next Friday at 2:15 p.m. and invite the community to come down as they are available to answer any questions. Clayton is his new full-time job and he is just getting started.

Brian Buddell stated when he decided to run for City Council back in July, he did so for two primary reasons: one was for a lack of communication, and also a lack of representation. If elected as a councilmember, he will always be open to communication and reach out through town hall meetings by virtual online meetings and in-person meetings. Mr. Buddell also advised the community will get representation by not denigrating anyone who has an opinion different than his by calling them a "vocal minority," especially when they are concerned with safety, safety of their children or home values. Mr. Buddell will also provide respect; if a citizen has taken time to present to him, he will pay attention to them and give them the respect they deserve and act accordingly. Mr. Buddell will also provide transparency and not hide behind terms like "responsible growth" or "vision" as he has very specific ideas when it comes to Clayton and does not believe downtown Clayton should be for sale. Mr. Buddell will never support three-story buildings downtown. Basically with him, the citizens of Clayton will always have a voice, even if it is one vote.

David Shuey advised Mr. Wolfe stated almost everything that has happened in the last two decades in Clayton, noting these things happened because of the Clayton City Council and CBCA. As it is election season, a lot of promises are being made and a lot of attack advertisements; one thing that struck him is when you are qualified to run for an office, the candidates tell the voters why they are qualified and why they should vote for them. When you do not have those qualifications, what you resort to is attacking and bringing down others who pushed them down. When the citizens of Clayton look at this, there are two candidates who have a proven track record of commitment, volunteerism and service to the community: that is Mr. Wolfe and himself. He is proud to receive the support of the *Clayton Pioneer*, who for the first time endorsed candidates, both Mr. Wolfe and himself. He is proud to have the support of the entire City Council, support of former Mayors Bob Hoyer, Pete Laurence, Howard Geller, Hank Stratford and Bill

Walcutt - every single one has been a part of building this City in the way the community loves it. Mr. Wolfe mentioned the Ice Cream Social taking place Friday at 2:15 p.m. and hopes to see anybody who has any questions at Cup O' Joe, and a final meet and greet on October 27th from 4:30 to 6:30 - please email him for more information. Mr. Shuey has been a big part of this City for the last 20 years and wants to continue being a part of its future. He looks forward to your vote on the November 6th.

Jeff Wan stated he is an active CPA in private industry, treasurer for his HOA, and a Clayton resident for the past nine (9) years. His family moved to Clayton to raise their children due to the great schools, safe neighborhoods, and small town feel and charm. Mr. Wan said even though he does not have experience in local government, he has quite a bit of experience in auditing local government. He brings experienced decision making throughout his career; he started as a government auditor working for a private CPA firm with focus on local governments here in Contra Costa County. Some of his clients were Pleasanton, Napa County, Stockton, Modesto, Metropolitan Transportation Commission, among others. Throughout his career he has been a Senior Manager of Accounting, an Assistant Controller, and a Controller at various entities such as software, healthcare and insurance, always managing a team with enterprise vision in highly-regulated environments. Mr. Wan wants to preserve all the wonderful qualities of Clayton that brought himself and others to this community. When things are going well, most people are content and let them continue. It's when things are not going well when people like himself need to step-up and speak out, and that time is now. Past accomplishments do not excuse current problematic actions. With the general disinterest with those who disagree and labeling them as a "vocal minority" Mr. Shuey and Mr. Wolfe do not represent what Clayton wants. Mr. Shuey has a 30% absentee rate during his term and a consistently unanimous voting record does not represent diverse views of the residents in Clayton. Mr. Shuey's long-standing support of selling the City, including the open downtown lot where all of our events take place to put in a memory care facility, is not what the residents of Clayton want. Mr. Wolfe notes his experience on the Planning Commission but in just over two years the Planning Commission canceled over 65% of their meetings. The seventeen meetings Mr. Wolfe did attend do not indicate the executive leadership that is expected of the Council position. Mr. Wolfe also wants to sell the downtown property; this is not what the residents of Clayton want. A few key things he would like to do different is Clayton should not be for sale; if elected he will reevaluate if we should relinquish control of the land by selling our assets. Clayton should protect all of its residents; if elected he will pursue updating the Parolee Housing Ordinance that recently passed. Clayton should not have high-density three-story buildings in its downtown; if elected he would like to update the downtown specific plan to meet the changing needs of Clayton residents. Clayton should not restrict free speech; if elected he would like to review the unconstitutional sign ordinance to ensure compliance of our constitutional rights. If voters agree with these efforts, a vote for himself and Brian Buddell is to see these things come to fruition.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Ann Stanaway, 1553 Haviland Place, wanted to thank the City Council for going to the Oktoberfest and completely ignoring that Haviland Court is completely blocked by unconscionable residents who just don't care that they violate California Fire Codes, and the City doesn't care about enforcing them. She also thanked the County in allowing parolees into the City and not actually going to the County to inquire on their procedures in regulation of the parolees in the City of Clayton.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS** – None.

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

Mayor Haydon advised he received written notification from Councilmember Diaz regarding recently-passed Ordinance 483. He is requesting to expand the buffer zone to 1,000', inclusion of private parks as a sensitive buffer site, and establishment of a formal outreach program. Mayor Haydon noted Councilmember Diaz specifically indicated it is fine to bring this item back to the Council in early 2019.


10. **CLOSED SESSION** - None.

11. **ADJOURNMENT**– on call by Mayor Haydon, the City Council adjourned its meeting at 7:42 p.m.

The next regularly scheduled meeting of the City Council is November 6, 2018.


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Respectfully submitted,



Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Keith Haydon, Mayor

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