

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

**TUESDAY, February 4, 2020**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 5:34 p.m. by Mayor Pierce in City Hall, 6000 Heritage Trail, First Floor Conference Room, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Wan, and Councilmembers Catalano, Diaz, and Wolfe. Councilmembers absent: None. Staff present: City Manager Ikani Taumoepeau, City Attorney Mala Subramanian.

2. **CLOSED SESSION**

(a) Conference with Legal Counsel – Anticipated Litigation  
Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2) (1 case)

Report out of Closed Session: Mayor Pierce.

Mayor Pierce reported the City Council received information. There is no reportable action.

**7:00 P.M.                      REGULAR PUBLIC MEETING**

The meeting was called to order at 7:00 p.m. by Mayor Pierce in Hoyer Hall, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Wan, and Councilmembers Catalano, Diaz, and Wolfe. Councilmembers absent: None. Staff present: City Manager Ikani Taumoepeau, City Attorney Mala Subramanian, Interim Community Development Director Dana Ayers, Police Chief Elise Warren, and City Clerk/HR Manager Janet Calderon.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.

4. **CONSENT CALENDAR**

**It was moved by Councilmember Diaz, seconded by Councilmember Catalano, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).**

(a) Approved the minutes of the regular meeting of January 21, 2020.

(b) Approved Financial Demands and Obligations of the City.

(c) Rejected Liability Claim Filed by Valentina Jones for the Alleged Wrongful Death of her spouse Maayan Jones.

**5. RECOGNITIONS AND PRESENTATIONS – None.**

**6. REPORTS**

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

Mayor Pierce announced the arrival of a baby boy for City Manager Ikani Taumoepeau.

City Manager Taumoepeau announced the City of Clayton has a new Facebook page, four applications were received for the Trails and Landscaping Committee, and announced Chief Warren was here this evening to provide a brief report.

Chief Warren provided a highlights of Police activity in January 2020; further advising the public it is very important to lock their vehicles and residential doors to help prevent theft.

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

Councilmember Catalano indicated no report.

Vice Mayor Wan announced today is his son's 11<sup>th</sup> birthday.

Councilmember Wolfe attended the all City staff meeting, met with constituents, the Library 25<sup>th</sup> Birthday Party meeting, met with the Clayton Business and Community Association Chair for the upcoming BBQ in July, and attended the Closed Session earlier this evening.

Councilmember Diaz attended the all City staff meeting, the League of California Cities East Bay division meeting, met with the City Manager, and the Clayton Business and Community Association Art and Wine Committee meeting.

Mayor Pierce attended the all City staff meeting, the Bay Area Regional Collaborative meeting, the Housing Methodology Committee meeting, the Association of Bay Area Governments and Metropolitan Transportation Commission Workshop, and an Eagle Court of Honor for four young men.

- (e) Other – None.

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

**8. PUBLIC HEARINGS**

- (a) City Council to consider Appeals of the Planning Commission's Decisions Regarding the Olivia at Marsh Creek Project pursuant to Clayton Municipal Code section 17.68.030.

Mayor Pierce asked the City Council to disclose any Ex Parte conversations they may have had regarding this item.

Councilmember Catalano asked the applicant if he had ever engaged herself or law firm to work on this particular project? Mr. Jordan answered no.; Have you ever had a client relationship with herself or her law firm? Mr. Jordan answered no; Have you ever paid herself or anyone at her law firm for any legal advice? Mr. Jordan answered no; Have you or I ever had a conversation? Mr. Jordan answered no. Councilmember Catalano further advised the Council is subject to Conflict of Interest Laws that focus primarily on whether any particular governmental decision could have a financial benefit to any of the decision makers. She noted she does not have financial interest in this project.

Vice Mayor Wan believes he and Mr. Jordan had a conversation back in August 2018 at a campaign event and a phone conversation with one of the appellants.

Councilmember Wolfe has not had a conversation with either the applicant or appellants.

Councilmember Diaz advised he called each appellant and applicant discuss their specific appeal for personal understanding of each.

Mayor Pierce stated she read social media posts and has not met with the developer or appellants. She further advised of the meeting process for this evening.

Interim Community Development Director Dana Ayers presented the staff report.

Kent Ipsen expressed his concerns regarding inconsistent answers he has received from temporary City staff. Mr. Ipsen is extremely concerned that the overall project does not meet the Class 32 exemption and is being "Piecemealed".

Dan Hummer Stranahan Circle, would have preferred to have information presented this evening prior to this evenings meeting to prepare a better response. Mr. Hummer expressed several concerns on this project: not meeting CEQA requirements, condo conversion, inadequate parking and pedestrian safety.

Irina Liskovich felt the staff presentation did not address her concerns stated in her appeal. Ms. Liskovich advised her issue is regarding overall safety on Stranahan Circle concerning traffic, safety of children, and fire danger.

Bill Jordan advised he has brought his CEQA and Land Use Attorney who will be speaking about the appeals Mr. Steve Velyvis with Burke, Williams, and Sorensen, LLP.

Mr. Velyvis spoke about the density bonus law and housing accountability act which essentially limits discretion. Mr. Jordan's appeal is to overturn the Planning Commission decision as staff described as a no decision, and remove certain five conditions of approval, and requested the City Council to find the project exempt as Class 32 for infill development. Mr. Velyvis also noted the Raney Planning was hired by the City to conduct a review of the reports (noise, air, traffic and water) objectively; concluding all the criteria for the exemption could be met. Mr. Velyvis addressed Mr. Ipsens concern regarding "Piecemealing"; the Hoyer parcel is not included in the project site, or part of the application and no current development

plans for that parcel are associated with Mr. Jordan's project. He also addressed Mr. Hummers appeal regarding the need of 81 units to make the project financially feasible; if the five conditions of approval are imposed on the project, it will create a significant financial burden as it would result in a reduction in density for the project. Mr. Velyvis also addressed Ms. Liskovich's appeal was based on traffic hazards, not parking issues on Stranahan which is not a direct CEQA impact. Mr. Velyvis concluded on why the project should be approved with density bonus concessions and waivers that have been requested.

Mayor Pierce opened matter for public comments.

Susan Allen expressed her concerns regarding the safety of children, traffic congestion and overflow parking. She requested the City Council to not approve this project.

Brian Buddell expressed his concerns with the zoning of this project and urged the City Council to oppose.

John Nunes believes this project is very convenient and safe for Senior Citizens while maintaining their independence. He also added many projects have issues with parking.

Marci Longchamps, Coyote Circle, requested the City Council to "Do the Right Thing" about this project by representing a majority of the people.

Allison Snow had left the meeting and unable to provide public comment on this item.

Dee Vieira noted an error she found in the December 10 Planning Commission meeting minutes. Ms. Vieira reached out to Fire Captain George Lang; Contra Costa County Fire Protection District who advised it is a non-issue between a two or three ladder engine. Ms. Vieira submitted a copy of the email to the City Clerk.

Diane Selmer, Regency Woods, expressed her concerns with additional traffic. She suggested making the project smaller and livable.

Theresa Jordan expressed her support of this project as an improvement to the neighborhood and Clayton.

Dana Pinault, Stranahan Circle, expressed her concerns with additional traffic and inadequate parking.

Bob Hoyer supports the comments of Mr. Nunes and the need of rental apartments in Clayton. Mr. Hoyer advised Clayton incorporated to be a City to provide for the all kinds of people.

Douglas Rogers noted the staff report is not impartial, further noting the project would have 80% occupied to anyone 55 and older, and 20% could be rented out to anyone or any age. Mr. Douglas also noted the developer is not following the landscape requirements.

Marie Deplazes expressed her concerns with insufficient parking.

Jim Gamble advised he was part of the Save Clayton group that stopped the Fulcrum Development noting other projects could occur downtown creating more condos. Mr. Gamble is disappointed in the inability to show support of other speakers by clapping.

Kent Ipsen, 6061 Clayton View Lane, expressed his concern with the prior re-zoning of this parcel and parking constraints.

Karen Halleybone does not support this project due to parking constraints. She suggested a smaller project.

Alan Chan expressed support for this project as it provides housing for seniors.

Wendi Laughlin, Stranahan Circle, expressed her support of previous speakers and inquired on possible parking permits.

Dan Hummer expressed his concerns of future development on the other parcels. Mr. Hummer preferred a two-story project.

Steve Velyvis understands the emotion associated with this project. He also noted the developer is proposing to provide five additional parking spaces to handle the demand.

Bill Jordan provided a brief history of this project noting his original plans were not approved by the City due to exceeding the TCSP Zoning. Mr. Jordan requested some flexibility; it was not acceptable as it was over 150 feet long. He knows the neighbors of the property are not in favor of the three story project.

Mayor Pierce closed public comment.

The City Council provided some comments and requested the following questions be researched by staff for additional information.

Councilmembers requested clarification from staff about on- and off-site parking requirements for the proposed project, and asked the applicant to explore additional opportunities to provide parking stalls on and near the site. Councilmembers also asked questions of staff regarding CEQA, the recommended CEQA exemption, and the environmental technical studies prepared for the proposed project; the distinction between concessions and waivers under density bonus law; General Plan and Zoning consistency of the proposed project; and the City's review process and procedures for the proposed project.

The Public Hearing is continued to March 3, 2020 at 7:00 p.m. in Hoyer Hall, 6125 Clayton Road, Clayton, CA.

9. **ACTION ITEMS** – None.

10. **COUNCIL ITEMS**

Councilmember Wolfe requested a discussion on sensitive land use exemption in the downtown.

11. **CLOSED SESSION** – None.

12. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 10:02 p.m.

The next regularly scheduled meeting of the City Council will be February 18, 2020.

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Respectfully submitted,

  
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Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

  
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Julie Pierce, Mayor

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