

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, May 3, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:01 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz and Councilmembers Haydon, Pierce, and Shuey. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

- (a) Approved the minutes of the City Council's regular meeting of April 19, 2016.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 21-2016 directing the preparation of an Engineer's report for calculation of the annual real property tax assessments in FY 2016-17 for the Diablo Estates at Clayton Benefit Assessment District (BAD).
- (d) Adopted Resolution No. 22-2016 finding and declaring that a continuing local emergency condition remains arising from damage to a portion of the Cardinet Trail while undertaking the City Council previously-authorized emergency repairs on the Cardinet Trail.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Certificates of Recognition to public school students selected for exemplifying the "Do the Right Thing" character trait of "Integrity" in March - April 2016.

This item was deferred to the regular City Council meeting of May 17, 2016.

5. **REPORTS**

- (a) Planning Commission – Commissioner Gregg Manning summarized the Commission's meeting of April 26, 2016. He noted its agenda included a Use Permit (UP) for a dentist office to be located in Village Oaks, 6200 Center Street, Suites I and J, which face the rear on-site parking lot. The UP was approved by the Planning Commission.

The Commission also considered an Ordinance extending the Town Center Parking Waiver for an additional three years from June 30, 2016 to June 30, 2019. The purpose of the extension is to continue the promotion of downtown development activity for retail and restaurant land uses. This item was approved for recommendation by the Planning Commission to the City Council for its approval.

Commissioner Manning also advised there is a Silver Oaks Project environmental scoping meeting taking place on Monday, May 9th at 6:00 p.m. in Hoyer Hall. He then concluded his report noting his Planning Commission term is expiring in June and he is unable to re-apply as he has reached his maximum term limit. Commissioner Manning further advised the City Council-appointed Alternate for the County Connection bus system, Vice Mayor Diaz, has frequently been in attendance at the Central Contra Costa Transit Authority meetings and could take his place as the Delegate when he moves soon.

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

(c) City Manager/Staff

City Manager Gary Napper announced the VFW will hold its 25th Annual Memorial Day Observance at the Veterans' Memorial Flagpole Monument at Oak and Main Streets in downtown Clayton on Monday, May 30th at 10:00 a.m.

Mr. Napper also advised the City is now accepting applications until June 15, 2016 for 3 offices on the City Planning Commission, noting 2 of the incumbents (Commissioners Manning and Johnson) have termed out and are unable to re-apply. Interviews and appointments are expected to take place at the regular second meeting of the City Council in June.

Vice Mayor Diaz added the 25th Annual Memorial Day Observance is in conjunction with the City of Concord. He also inquired if the third Planning Commissioner is eligible for reappointment. Mr. Napper confirmed Planning Commissioner Dave Bruzzone is eligible to re-apply for another term of the Planning Commission; however, there is no indication yet if he intends to do so.

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

Vice Mayor Diaz attended the Clayton Business and Committee Association's Rib Cook-off Committee meeting, the Clayton Business and Committee Association's Annual Art and Wine event, the Clayton Cleans Up! event, and a League of California Cities event at Campo di Bocce in Livermore.

Councilmember Pierce attended several meetings of the Contra Costa Transportation Authority, the Metropolitan Transportation Commission, the Association of Bay Area Governments, helped coordinate the Clayton Historical Society's Gardens Tour, the Clayton Business and Committee Association's Art and Wine vendor breakfast, and attended the annual Clayton Cleans Up! event and the HNTB Corporation's "Thought Leaders" Board meeting.

Councilmember Shuey indicated "no report".

Councilmember Haydon attended a Clayton Library Foundation Board meeting, the Clayton Business and Committee Association's Rib Cook-Off Committee meeting, the Clayton Cleans Up! event, a East Contra Costa Habitat Conservancy meeting, the Clayton American Association of University Women's (AAUW) Annual Spaghetti Feed, the Clayton Business and Committee Association's General Membership meeting, and

the Annual Clayton Business and Committee Association's Art and Wine Festival. At the Festival, it was wonderful Don Fitzgerald, who recently passed away, was recognized by posters throughout the event for his contributions to the Clayton community and founding that event.

Mayor Geller attended the annual Clayton Cleans Up! event, the Walnut Creek Library Foundation Authors Gala where he sat with author Adonal Foyle, the Clayton Business and Committee Association's General Membership meeting, and the Annual Clayton Business and Committee Association's Art and Wine Festival. Mayor Geller also announced Clayton's Farmers' Market will return this weekend along with the first 2016 Saturday Concerts in The Grove featuring "The Retromaniac".

(e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Sara Reeve, 1170 Easley Drive, expressed her opposition to the Mosquito High Frequency Transmitters that are being used in The Grove Park to deter littering. She had indicated the one of the 3 transmitters in that park has been on 24 hours a day for over a year, and they are located in the gazebo and on top of the playground structure. Ms. Reeve considers these transmitters are unfairly targeting teenagers; how does anyone know that group is solely responsible for the litter and vandalism, there are restaurants and businesses surrounding the park. She considers the use of these high-pitch frequency transmitters is abuse, it punishes everyone, and if she were in charge she would have them turned off permanently or removed immediately as adults and children are not the target group for recent vandalism.

Cindy Gilmore, 1874 Eagle Peak Avenue, expressed her concerns of the effects of the painful ear-splitting sounds to young ears from the transmitters located at The Grove Park. Ms. Gilmore indicated these transmitters were previously only used between 9:00 p.m. to 6:00 a.m. and since August 2015 has been activated to 24 hours. As a retired US Airforce veteran, she associates the use of these transmitters as appropriate for Guantanamo Bay but inappropriate for the community; it constitutes psychological warfare and discourages use of the park by the public. She advised she had visited The Grove Park recently and suffered a migraine headache for 2 weeks after her visit. She also wondered if the frequency of the transmitters could have a potential impact to dogs, as her son visited the park and his dog had an unusual immediate reaction. She suggested replacing the transmitters with classical music which may help deter vandals. She is concerned for disabled vets, and vets with PTSD, who must be subjected to hearing these tones in all areas of the park.

City Manager Napper responded that City Maintenance staff contacted the manufacturer this week to inquire if there have been similar complaints reported by users of the units; no complaints to date. In fact, the manufacturer informed staff today the City of West Sacramento just placed an order for 45 units to be installed in its city, and further offered these units are very popular in Europe and California is one of its largest United States purchasers. Mr. Napper clarified the manufacturer states the high-pitch frequency emitted by these units can largely be heard only by persons aged 12-20, and adults and children are not affected. They were installed in 2012 at Lydia Lane Park and only 2 in The Grove Park: 1 at the tot lot and the other in the gazebo at The Grove Park placed in an outward facing direction to Marsh Creek Road and in a downward position to the gazebo. The transmitters were not activated to prevent littering, rather to help against recurring costs of vandalism to City property (gazebo; and tot lot at night). It has largely been effective since running the gazebo emitter 24/7 in August 2015, vandalism to the gazebo stopped altogether, except for one recent incident about 2 months ago.

The manufacturer confirmed the transmitters can be set to decibels of 94 or 106 with no effect to adults, children or dogs; Clayton's is set at the lower setting of 94 decibels. Prior to August 2015 there had been an increasing flurry of destruction to the gazebo at The Grove Park which added work load to the already short staffed City Maintenance Department. Mr. Napper noted he is personally aware of an elderly couple that daily walks the park and the gazebo with their Golden Retriever and they have never reported any problems with their dog; this couple also regularly brings to City Hall the broken wood spindle pieces from the vandalized gazebo to report the repetitive damage being caused, express their outrage, and request repair. Some adults have noted hearing a "ping" noise every 60 seconds in The Grove Park; since the high-pitch frequency cannot be heard by adults the "ping" sound is part of the unit's normal function to alert the user the system is operational.

The existence and use of the units were discovered by the City Maintenance Department while they were in the City of Fairfield observing various water spray features for replacement of The Grove Park's water play feature. Staff inquired of its effectiveness and Fairfield officials highly recommended it. When the City of Clayton first decided to try these devices, a field meeting was held with the adjacent residents of Lydia Lane Park who expressed concerns over teens hanging out after dusk in the proposed tot lot to be installed there; once the unit was described and how it would be directed outward away from their homes, the residents there were largely supportive of its installation, and since the unit's installation there have not been any neighborhood complaints.

Councilmember Shuey advised the park has a budget and the City cannot afford to fund a full-time police officer in the park to enforce the law; this decision was not made lightly. After much consideration, this use of this particular deterrent met the approval limitations of the City Manager and its use did not require approval by the City Council.

Mayor Geller advised that during the dialogue that occurred with Lydia Lane residents, some expressed hesitation to the installation of these units and the potential noise they can produce; to date there has not been a complaint and the neighborhood park has not experienced any vandalism or the park being occupied after hours. Costly on-going vandalism has occurred in The Grove Park, costing a lot of money and staff time to repair. Mayor Geller suggested when the community has a concern or question to contact the City directly or attend a City Council meeting to get the facts before posting inaccuracies on a social media site.

Councilmember Haydon inquired if nearby cities using similar devices to detract vandalism did any prior public notification or public signage indicating this type of system is in place. City Manager Napper responded the nearby cities were not asked that specific question, only if their use of the devices helped against vandalism, which the answers were "yes." He indicated if publication was made regarding the installation of these devices or even cameras were used, the announcement provokes reactions to locate the devices as additional targets of vandalism. He added replacing the wood gazebo spindles also diverts precious Maintenance staff time to work on more productive tasks rather than vandalism repairs. Mr. Napper also clarified a statement by Ms. Gilmore that voters voted to tax themselves a million dollars to pay for The Grove Park. Actually, Clayton voters did not vote to construct the park or tax themselves more to do so; voters approved a \$19 per year parcel tax in 2006 to fund the ongoing maintenance and operation of the park. In 2014, by an 81% affirmative vote effective 2016 for an additional 10 years, voters overwhelmingly approved continuance of this tax to maintain The Grove Park.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS** – None.

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION**

Mayor Geller announced the City Council would adjourn into a closed session to discuss the subject matter listed below (8:02 p.m.):

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Property: 6055 Main Street, Clayton, CA (APN 119-011-003).
Instructions to City Negotiator: City Manager Gary Napper, concerning price and terms of payment.
Negotiating Party: Clayton Community Church (Shawn Robinson).

Report out from Closed Session (8:16 p.m.)


Mayor Geller reported the City Council received a briefing from its City Manager regarding this matter and no reportable action was taken.

11. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 8:17 p.m.

The next regularly scheduled meeting of the City Council will be May 17, 2016.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor

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