

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

TUESDAY, September 18, 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, Diaz, and Catalano. Councilmembers absent: None. Staff present: City Manager Gary Napper, Assistant City Attorney Heather Lee, City Engineer Scott Alman, and City Clerk/HR Manager Janet Calderon.

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

3. **CONSENT CALENDAR**

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

- (a) Information Only – No Action Requested.
1. 2018 Conflict of Interest Code – No changes recommended by City Clerk.
- (b) Approved the minutes of the City Council’s regular meeting of September 4, 2018.
- (c) Approved the Financial Demands and Obligations of the City.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Proclamation declaring September 25, 2018 as “Russ Eddy Day” upon his announcement of concluding his volunteer service after 18 years as a Clayton Level 1 Reserve Police Officer.

Mayor Haydon read and presented Russ Eddy, Clayton Level 1 Reserve Police Officer, with a City Proclamation declaring his last work day, September 25, 2018, as “Russ Eddy Day” and a plaque in appreciation for his valued civic service, without compensation, to the Clayton community over the last 18 years. Officer Eddy remarked coming to Clayton was one of the best decisions he has made, other than marrying his wife. Officer Eddy enjoyed the experiences he had in Clayton and thanked the community for the opportunity. He then advised there was one last thing he wanted to accomplish before his last day: catch one of the City Council members speeding through town; since he has nothing to lose, he will give them a ticket after hearing their excuse.

- (b) Presentation by the Contra Costa County Animal Control Services Department regarding its scope of contract services provided to the city of Clayton.
(Steve Burdo, Community & Media Relations Manager, County Animal Control)

Steve Burdo, Community & Media Relations Manager, Contra Costa County Animal Services, presented a Power Point presentation noting the services provided by Contra Costa Animal Control and the services provided to the city of Clayton through its

contract. Mr. Burdo highlighted services provided to Clayton in calendar year 2017 including 52 deceased animal incidents, 48 stray animal impounds, 29 Noise/Animal/Inhumane Ordinance investigations, 7 local agency assists and 2 animal rescues. Mr. Burdo noted that Contra Costa County Animal Services, pursuant to changes in the Consumer Price Index, did implement a 0.17 cent per capita rate increase in FY 2018-19 (from \$5.94 to \$6.11) per the County's contract. He added this per capita rate is still significantly lower than most Bay Area municipalities performing their own animal control services.

Mr. Burdo provided a summary of the types of intake animals arising from Clayton and if they were alive or deceased. He explained the different priority level of calls and the target response times provided by Animal Services; the County has been able to comply with its service goals which were implemented in March 2018. Mr. Burdo referenced Clayton's recently adopted Noisy Animal Ordinance which helps Contra Costa County Animal Services better serve the community regarding this particular animal complaint. Mr. Burdo also noted the overall number of 87.73% in 2017 for release of live animals through the two Contra Costa County Animal Control facilities located in Martinez and Pinole.

Countywide in 2017, Contra Costa County Animal Services performed many services including approximately 20% on intake animals reunited with their owners, 3,511 public adoptions, 2,664 adoptions to transfer partners, 911 feral cats were returned to the field helping with the rodent population, over 2,000 low-cost vaccinations occurred, over 5,000 spay/neuter surgeries, and 571 assists to police, fire and code enforcement. Mr. Burdo also mentioned since 2016, County Animal Services has partnered with ARF to assist owners in pet behavioral training and intervention to reduce owner surrenders of their pets. Mr. Burdo concluded his presentation by providing easy tips to support the local shelter, including adoption, licensing and microchipping, volunteerism, taking a tour of either the Martinez or Pinole facility, and "Like" them on Facebook.

Councilmember Diaz inquired if wild turkeys were classified as birds in the type of animals serviced in Clayton. Mr. Burdo replied "No," wild turkeys fall under the jurisdiction of the State Department of Fish and Wildlife. Councilmember Diaz then inquired if Contra Costa County Animal Services is in charge of wild boar calls? Mr. Burdo responded wild boars are also under the jurisdiction of the State Department of Fish and Wildlife.

5. REPORTS

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

City Manager Gary Napper introduced Heather Lee, legal counsel with Best, Best and Kreiger law firm, the City's attorney, who is attending the meeting this evening. He also provided an update of the final phase of the City's 2018 Neighborhood Streets Repaving Project which is the slurry seal component. He noted a final punch list will be produced noting problems reported such as tire tracks on uncured surfaces, which condition is unacceptable to the City. City Engineer Scott Alman will be working with the contractor to take care of the discovered repaving issues. Mr. Napper encouraged the community to report any street repaving concern to be addressed to City Hall.

Councilmember Diaz inquired when the street restriping will occur in the downtown as he has received some complaints. City Engineer Scott Alman responded the street restriping should occur within the next two weeks; however he has not received a commitment yet from the contractor. Mr. Alman assured the parking areas will be striped to standard parking stall sizes and the handicapped parking areas will also be renewed.

Councilmember Pierce asked if the City parking lot located off Main Street could be restriped as well since the previous markings have disappeared over time. City Engineer Alman advised he will work with the contractor in addressing that issue but that would be an added expense. Councilmember Diaz noted there are ten parking spaces on each side of that parking lot.

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

Councilmember Catalano attended the Contra Costa County Mayors' Conference hosted by Clayton, announced the Clayton Business and Community Association's Oktoberfest event still needs volunteers, and complimented the Clayton Police Department on its work regarding a very recent social media event that occurred at Diablo View Middle School.

Vice Mayor Shuey attended the Contra Costa County Mayors' Conference hosted by Clayton, and attended a re-appointment meeting at Clayton Valley Charter High School and he noted the charter school's successes since its opening.

Councilmember Julie Pierce attended the Administration Projects Committee meeting through Contra Costa Transportation Authority, the Contra Costa County Mayors' Conference hosted by Clayton, the year's final Concert in The Grove, two ribbon cutting ceremonies for Bay Area Trails located in Hercules and in Pinole hosted by Metropolitan Transportation Commission and Association of Bay Area Governments, a meeting of TRANSPAC, four Metropolitan Transportation Committee meetings, and a Press Conference of Senator Glazer and Assemblywoman Baker concerning Prop 6.

Councilmember Diaz attended the Classic Car Show and DJ event in downtown Clayton, the Concerts in The Grove final concert, and also attended the Press Conference of Senator Glazer and Assemblywoman Baker.

Mayor Haydon attended the East Contra Costa Habitat Conservancy meeting, the Clayton Business and Community Association's General Membership meeting, the Contra Costa County Mayors' Conference hosted by Clayton, the Moonlight on the Mountain event hosted by Save Mt. Diablo, the County Connection Finance Sub-Committee meeting, and the final Concert in The Grove. Mayor Haydon thanked all the volunteers who assist with the Concerts set-up and break-down of this event for the season, giving special recognition to Councilmember Diaz and Councilmember Pierce.

(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.

Brian Buddell remarked as a candidate for City Council he promises honesty, integrity and effective two way communication if elected. Mr. Buddell noted he will provide effective communication to the community through town hall meetings, email newsletters, and other ways to find out what the community wants and needs by

representing the voice of the community. His vision for Clayton is to keep it as it is without three-story buildings and parolee housing threatening the safety of our children and residents. Mr. Buddell wants to preserve the downtown for the festivals the community enjoys so much. As a city council member he will ensure those things stay; he is not doing this to change Clayton, he is doing this to keep Clayton the way it is; that is why he moved here, and that is a pledge he makes to every citizen in this community. Mr. Buddell advised if elected he will listen, vote the majority community voice while keeping Clayton as it is.

Carl Wolfe, a recently retired creative director of marketing for a major corporation, is running as a Planning Commissioner he has served for a couple of terms. Mr. Wolfe is proud of his work on the planning commission, including one year as its Chair. He votes with the people a majority of the time, is not afraid to vote his conscience or take a leadership position whenever that is necessary. He believes there has to be a vision for Clayton that includes every section of the voting population. At this point he feels the community is divided and does not have that vision right now. Mr. Wolfe has tried to preserve the way of life in Clayton, understanding there will be a future coming. There is going to be future development coming, and what is that responsible growth going to be? He believes we can and will have responsible growth in Clayton like we have done in the thirty years he has lived here, noting the gas station proposal, The Grove Park, Clayton Station; these are all things of contention issue at one time but the citizens have come together and created one voice to create a vision. Win or lose, he intends to serve Clayton as Clayton will be his life's work and he is just getting started.

Jeff Wan stated is an active CPA in private industry, treasurer for his HOA, and 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 wants to preserve all the wonderful qualities that Clayton has brought himself and many other families here. Mr. Wan believes Clayton is at risk of losing its charm based on recent events such as parolee housing; he feels the City Council is not fulfilling its duty to protect the safety of Clayton. Currently, City Code Enforcement threatened supporters of himself and Mr. Buddell by saying the number of their candidate signs on certain properties are in violation of the Clayton Municipal Code. In May 2017, a new ordinance was passed placing a restriction on yard signs including political yard signs, by limiting political speech. Both scenarios are driven by external factors: parolee housing by AB 109 political speech, and political speech banning ruling by *Reed vs. Town of Gilbert*. He pointed out the way the current Council delayed the parolee housing matter for two years but acted very quickly to ban political speech by signs. Both scenarios provided some risk of litigation: parolee housing as a matter of first impression and unknown outcome, and political speech ban based on a long history of judicial precedent. The City sign code ordinance passed recently violates the First Amendment. Perhaps the City Council will be successful; Mr. Wan hopes not, and that is why he is a candidate for City Council.

Vice Mayor David Shuey advised he has been serving faithfully with pleasure for sixteen years on the City Council and 4 years before that on the Clayton Community Services Commission. He is a large part of why Clayton is the city that attracted the other candidates to locate to this safe community. Vice Mayor Shuey noted achievements of a balanced budget, fiscal responsibility, successful labor negotiations with the Police Officers Association and Miscellaneous staff, served on the Downtown Park Design Committee, and was on the original steering committee for the Clayton Valley Charter conversion. He was instrumental in bringing Bocce downtown, the Annual Labor Day Derby, the Concerts in The Grove, and playground installation at North Valley Park. Over the years he has been involved in many and numerous decisions in planning to try and figure out what to do in downtown. He has to determine whether the City keeps the downtown parcel vacant, which it has been for quite a while, or whether we explore other

options because you never know what you are going to get until you explore and look - and then you can make a decision and that's what the Council will continue to do. He thinks he has listened to the community and has done what is right for the city, and he hopes to receive your vote in November.

(e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

John Kranci, Coyote Circle, read a statement from Marci Longchamps: *"It appears that things have settled down in the city of Clayton, it's back to business as usual and the biggest news on Nextdoor is the coming of an era of the usual missing dogs and cats. However, we on Coyote Circle are not all feeling this proposed peace and quiet. Our concern today is regarding our park, which is directly across the street from her home although our focus is on the park situation, please make no mistake - she is equally as struggled and shocked by the fact that the ordinance regarding parolee housing is also affecting the children and elderly on Shell Ridge. It is beyond her comprehension by the Council's actions of putting children at risk; these areas have been targeted. Ms. Longchamps believes it was the state that made a definition of parks being public, private or pocket; it was the Clayton City Council who chose such a delineation to avoid a lawsuit. Shame on you! By the Council's actions, under no uncertain terms, the safety of our children does not matter. Coyote Circle has a park that should be protected exactly the same way as other parks are being protected in Clayton. The passage of this ordinance is unconscionable. Ms. Longchamps does not know how the Council can sleep at night."*

Jeff Wan advised Clayton should not be "For Sale;" if you look around downtown that is the impression with the dilapidated building on Oak Street, the large lot where festivals are held displaying "For Sale" signs. With Clayton's current reserve position of approximately one year of operating expenses; it does not need the influx in cash. The City needs to utilize its resources in a responsible way to shape the future of our downtown. Once these properties are sold, the City loses its ability to decide with discretion on how the property is used and the type of building or structure that may go in there, needing to remain consistent with the existing Town Center Specific Plan. If instead the city would retain ownership of these properties the City could take action to ensure the types of businesses and development that occurs is consistent with the downtown, offering a variety of creative incentives like longer terms, significantly reduce the lease amounts, taxes, payments or other actions that encourage certain businesses to participate. While retaining some measure of control we can even incentivize businesses that are already here by updating their properties and repairs that may have fallen to the wayside. Instead, the Council seems content on installing a senior care facility in the downtown open lot. When he looks at the future, Clayton could have a vibrant downtown full of small retail and locally owned businesses that benefit all the residents of Clayton. That future is only possible if the Council shares that vision and doesn't sell our city to outside developers. If the current Council does not share that vision, three-story three separate building senior rental projects could locate downtown. Clayton should not be For Sale.

Brian Buddell spoke about Mr. Kranci's and Ms. Longchamps comments of how the City Council turned its back on its friends and neighbors in Keller Ridge and Shell Lane; however, it still has the opportunity to fix the Parolee Housing Ordinance. Councilmember Diaz requested this, it can still be looked at and changed, and he urged the City Council to do that. Mr. Buddell also expressed his concern of government censorship as there is a systematic process going on right now to quash Mr. Wan and

his candidacy through direct actions of the City and through subordinates of the City. Mr. Buddell advised the first form of trying to ban people on Nextdoor by removing threads, as Mayor Haydon's wife was instrumental in their removal. She abused her position as a lead on Nextdoor to systemically report and try to get his threads and posts removed. Mr. Buddell has contacted the Fair Political Practices Commission, the County Election Board, and the Contra Costa District Attorney to open an investigation into election tampering. The second occurrence was at the last City Council meeting when his three minutes during the live-feed was removed. Not surprisingly, Councilmember Shuey was presiding over that meeting. The last thing is in regards to the sign ordinance Mr. Wan referenced. He has received multiple reports from his supporters that they have received notices of violation that their signs don't comply and threatened by the City; if they do not remove their signs a fine of \$500.00 per day levied on them. The ordinance the Council is relying on is unconstitutional. Mr. Buddell noted he resides at 1118 Peacock Creek Drive and he is currently displaying three signs in violation of that ordinance. He dares the City to send him a notice of violation as he will take it to court and file an injunction on that ordinance.

James Gamble noted two candidates running for office have not held positions on Council or any other political office he is aware of; however, Councilmember Pierce has been on the Clayton City Council for twenty six plus years and Vice Mayor Shuey sixteen years and if reelected he could make that twenty years. Mr. Gamble understands all the great things that have happened during their tenure, the park and multiple parks, festivals, but what is so perplexing is that you would want to let an exclusive deal come in here like the Fulcrum Development and let them propose a three-story assisted care unit right in front our major showcase area where all the festivals are held, including the BBQ cook-off, car shows, Art & Wine festival where the band performs and people sit on hay bales. Where will those events be relocated? Mr. Gamble suggested term limits for City Council. As far as volunteerism, he can't match Officer Eddy; with all the things he has heard about Vice Mayor Shuey volunteer wise, it has not been noticed that members of the community are volunteering hundreds of hours into investigating what the City Council has been doing in keeping up on politics in this town. Mr. Gamble indicated he has Mayor Haydon's wife's complaint in form of a screen shot from one of the leads: he read, *"Nextdoor is not the place for campaigning! These posts are not factual! This man is verbally abusing people on Nextdoor! This man is verbally abusing people on Nextdoor; political ranting is not what Nextdoor is all about. Voted removed. Cindy Haydon."* This is his volunteerism by trying to protect those festivals, by doing his civic duty, watching over what everybody else is doing here that is supposed to be a public servant.

Mayor Haydon concluded the Public Comment Period and asked if any members of the City Council had any comments.

Councilmember Catalano wished to address a statement made regarding Parolee Housing, that *"the City Council turned its back"*. The decision was made to not expose our City even more by creating less regulation than in the proposed Ordinance and not creating a ban that exposes the City to litigation liability; if sued the City could lose its right to regulate. People don't have to agree with the Council's decision, but understand the reasons why.

Councilmember Pierce added she has not been on Nextdoor more than five times since she has been a member of that website. She has read some of the posts, without any action, and has only posted recommendations for an appliance repair person, to answer questions about the rules for the Concerts in the Park, and she tried to post the Power Point used at the parolee housing hearing in July and was unsuccessful. Councilmember Pierce does not intend to post on Nextdoor and confirmed she has not

had contact with Nextdoor management. Nextdoor is not a forum she wishes to engage in.

City Manager Gary Napper wished to address the Livestream incident that occurred as he was troubled by that comment at the last meeting because no one controls those controls up on the Council dais or at the staff table. Following that meeting he asked the City's IT consultant to investigate what might have occurred. The City's decision to livestream City Council meetings occurred a while ago and it always relied upon using the County's existing Wi-Fi system in the Library for those connections and available bandwidth. What has happened recently, and the City Councilmembers who use electronic agendas at these meetings also noticed they have no service or get bumped. Staff has been working with the IT consultant as recently, with more citizens active in attending at these meetings and using the Wi-Fi spot that is available, by doing that it has caused bumps and hiccups in the live streaming. Mr. Napper noted he went on the City's website today to view the live stream taping of that previous meeting and found Mr. Buddell's entire comments during that time period are included. However, staff is still working with its IT consultant to create a Wi-Fi hotspot here dedicated solely to the City for livestreaming purposes, and investigating the expense to move from analog to digital; he believed that City Wi-Fi hot spot was to be active this evening. Mr. Napper apologized to Mr. Buddell for that occurrence, assuring him that no one in this room controls the live streaming and he does not know what happened and staff will continue to work with its IT consultant for a solution.

Mayor Haydon addressed the issue of censorship, personally the actions of his wife engaging censorship of comments that were on Nextdoor as it was alleged the stream was removed due to her objection to the information. Mayor Haydon noted his wife is the administrator for their local neighborhood website where she applied for a lead position after reviewing the policy of the intent of Nextdoor to share information of interest to their neighbors. As it was explicitly stated it is not to be used for political purposes that go beyond common expectations for political use; she was questioning some of the comments that were appearing related to the Clayton campaign and encouraged the administrators of Nextdoor to take a look at that language to see if it still complied with the policy intent of Nextdoor, noting there are other forums available to share those types of comments. Mayor Haydon also addressed the issue of parolee housing, in particular statements the Council is ignoring two particular areas in town. He noted at the hearing it was conveyed that Council was doing just the opposite based on the legal advice obtained in conjunction with other consulting attorneys throughout the state of California as all communities are dealing with this issue initiated by the State of California by releasing parolees earlier than they used to be out into the communities and leaving it up to the communities. The City's delay in taking action occurred to see if other cities were able to come up with a solution that could withstand legal challenge and the expenses involved. When we did not see anything the City was advised not to adopt an outright ban against parolee housing because it could be challenged without prevailing. The City Council wanted to build in regulations that would result in public hearings being held and allowing its residents the opportunity to participate in that public process. The Council always has the ability to amend ordinances, that legal authority is always available; we will be monitoring what other cities are doing and if it looks like a better alternative is found then we will look at that as well.

7. PUBLIC HEARINGS – None.

8. **ACTION ITEMS** – None.

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

10. **CLOSED SESSION** - None.

11. **ADJOURNMENT**– on call by Mayor Haydon, the City Council adjourned its meeting at 8:30 p.m.

The next regularly scheduled meeting of the City Council is October 2, 2018.

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Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Keith Haydon, Mayor

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