MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, June 21, 2011

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 3:50 p.m. by Mayor Shuey in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Shuey, Vice Mayor Geller, Councilmembers Medrano, Pierce and Stratford. Staff present: City Manager Gary Napper, Community Development Director David Woltering, and City Clerk Laci Jackson.

2. **INTERVIEW OF PLANNING COMMISSION APPLICANTS**

   The following six applicants were interviewed for two appointed positions on the Planning Commission (term of office ends 30 June 2013): Janise Trezise, Dan Richardson, Ted Meriam, Jake Pauline, Bob Stahle, and Keith Haydon.

3. **CLOSED SESSION**- Mayor Shuey announced the following purpose for Closed Session and then adjourned into Closed Session at 5:35 p.m.

(a) Conference with Labor Negotiator
Government Code Section 54957.6.
Instructions to City-designated negotiator: City Manager

(1) Employee Organization: Clayton Police Officers Association (CPOA)

(2) Employee Organization: Undesignated City Employees Unit

7:00 p.m. Report Out from Closed Session: Mayor Shuey reported the Council gave direction to its City-designated negotiator.

Additional staff members present: City Attorney Dan Adams and Finance Manager Merry Pelletier.

Patrick Gillespie, student "Mayor for the Day" re-opened the Council meeting and noted all Councilmembers were present.

4. **PLEDGE OF ALLEGIANCE** – led by Dylan Gillespie, also student "Mayor for the Day."

   Mayor Shuey presented Patrick and Dylan Gillespie with certificates stating they both served as Mayor for the Day and declared Wednesday, June 22, 2011 as Patrick Gillespie Day and Thursday, June 23, 2011 as Dylan Gillespie Day in the City of Clayton.

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

(a) Approved the minutes of the regular meeting of June 7, 2011.

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

(c) Approved a one (1) year time extension to the City's Agreement with All Out Sports League (AOSL) for development and operation of community recreation services at the joint use Clayton Community Gymnasium (through June 2012).

(d) Adopted Resolution 15-2011 authorizing the City to join other Contra Costa County cities and special districts in filing litigation to challenge the County Auditor-Controller's determination to charge all taxing entities in the County for the ordered refund of property taxes to Chevron Corporation for its refinery in the city of Richmond.

(e) Accepted with regret the resignation of Tuija I. Catalano from her appointed office as a City Planning Commissioner, effective 01 August 2011.

6. RECOGNITIONS AND PRESENTATIONS

(a) Mayor Shuey presented an Appreciation Plaque to Jim Webb for 5 years of sponsorship donations to the City's 4th of July Parade and for his nearly 200 hours of volunteer service to the City of Clayton.

(b) Certificates of Recognition: "Do The Right Thing" school students (22).

Irene Keenan, Principal, Mt. Diablo Elementary School, stated she talked with teachers about recognizing students who had displayed this month's trait of courage during the school year. Katie Grace Groebner and Kate Amos were both recognized for showing "Courage" by their teachers, Kelly Morry and Tami Welcer.

Patti Bannister, Principal at the Diablo View Middle School, stated they were recognizing the nominees for the Spirit Award at their school. These students demonstrate the traits we want to see in all students by being a positive influence and doing the right thing in and out of the classroom. Principal Bannister recognized the following students: Daisy Agers, Mykelle D'Tiole, Rachel DeLong, Shane Mann; Emma Keneipp, Connor McMurdo, Katie Lewis, Robbie Parker, Casey Mitchell, and Jared Vance.

Mayor Shuey recognized the "Do The Right Thing" students from Clayton Valley High School: Mary Madera, J.P. DeSouza, Ariana Alvarez, Aamena Alloo, Kyle Metz, Sara Kommer, Jason Fernandez, Lauren Valory, Ted Hall, and Jacquelyn Svoboda

7. REPORTS

(a) Planning Commission –Commission Chair Sandra Johnson reported on the Commission meeting of June 14th. She stated the Commission reviewed the Diablo Estates project and Toll Brothers presented their report. The Commission asked for more information on the varying architecture of the homes. She stated the Commission did not take action on the project, but did approve a temporary sales trailer on the site. On a separate note, she stated the 4th of July is coming up and volunteers are needed.

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

(c) The City Manager stated he would give his report during the budget presentation.

(d) City Council

Councilmember Stratford attended the Clayton Valley High school arts academy project day, a budget sub-committee meeting, and represented the City at an Eagle Court of Honor.

Councilmember Pierce attended two ABAG meetings, a League of California Cities policy task force meeting, a Transportation Authority meeting, and a CalCOG conference, and represented the City at several Eagle Courts of Honor.

(e) Other – None.

8. PUBLIC COMMENTS

Mary Spryer, representing the Clayton Historical Society, stated they have great concerns and would like to respond to the DEIR for the Clayton Community Church project. She stated this is a formal response limited to issues regarding historical preservation. She noted Ted Meriam, the Historical Society's current President but also a City Planning Commissioner knows nothing about the Board's decision and was not part of the discussions. She stated there are several significant historical and archeological sites of significance on the property (Keller Ranch and Pioneer Inn). She submitted written comments which will be forwarded to LSA Associates for inclusion with the final EIR.

10. ACTION ITEMS

Mayor Shuey asked that Item 10(b) be moved up on the Agenda.

(b) Request for the City Council to fully endorse the charter petition and application for a Clayton Valley Charter High School as presented to the Board of Education of the Mount Diablo Unified School District on June 8, 2011.

Mayor Shuey invited Neil McChessney, Co-Petitioner Leader, forward to discuss the status of the Charter application.

Neil McChessney, teacher at Clayton Valley High School, stated the Charter application was officially submitted to the school district on June 8th. He stated in the end 80% of the certificated teachers signed the Charter application. The District has 30 days to hold a public hearing. The first Public Hearing will be held at the August 9th Board meeting and the second meeting will be held at the September 13th Board meeting.

Mayor Shuey stated previously the Council voted to support the Charter idean in "concept" but now that the actual Charter is drafted and available for public review, he is seeking Council's full support.

No Public Comments were received.

Councilmember Pierce stated the all of the Council endorsed it in concept previously, and stated she hopes the school district will endorse the Charter.

Councilmember Stratford stated it will be great for the community and our youth.

Vice Mayor Geller stated it took hard work to bring the Charter together in a short time frame and it is commendable.

Mayor Shuey stated he received close to 500 emails supporting the High School Charter.

It was moved by Councilmember Medrano, seconded by Vice Mayor Geller, to support the Clayton Valley High School Charter petition and application as submitted to the MDUSD Board of Education (Passed; 5-0 vote).

9. PUBLIC HEARINGS

(a) Public Hearing on the proposed City of Clayton Budget for Fiscal Year 2011-2012 and its 5-Year Capital Improvement Project Budget (CIP) for Fiscal Years 2011-2016.

The City Manager presented a balanced budget that is $20,189 (.14%) less than last year. He noted that number changed nominally because of increased fees to Transpac of $1,191. He stated the General Fund Budget is balanced at $3.65 million with the City's allocation of Property Taxes at 4.2%. He stated there is no draw on General Fund Reserves. He stated he has some concerns for the COPS Grant funding since the State has not yet approved the tax extension and this is $100,000 per year expenses for the City. This budget proposes a one time use of monies for COPS grant officer funding to fill the gap until mid-year and then decide whether or not to fund the position if money from the State does not arrive. He stated the budget has a $172k Capital Equipment Upgrade for computers and software in City Hall. He noted labor negotiations have not concluded and the General Fund Reserve will stay at $5.1 million (140% of Operating Budget).

He noted the dollar amount staff has made in labor concessions over the last two years.

He stated in the Landscape Maintenance District Budget includes median and roadway re-landscaping projects, trail resurfacing, master remote computer controller for irrigation, trail crack-sealing and minor repairs, tree replacement and trimming.

He stated the CIP Budget includes the Community Park parking lot expansion, the 2011 Neighborhood Street paving project, the El Molino Drive sanitary sewer improvement, the Oak Street school bridge area improvement project, and the Cardinet Trail restoration.

He stated Clayton's GANN Taxation Limit $12,323,379 and we have revenues of $3,916,126 which creates an available tax gap of $8,407,253.

He stated the Council sub-committee met and believes this is a sound budget strategy.

The Council thanked the City Manager and the Finance Manager for balancing the budget.

Mayor Shuey opened the Public Hearing at 8:17 p.m. Janise Tresize stated the City Manager had answered her questions regarding the Cardinet Trail restoration dollar amount, and no other comments were received. Mayor Shuey closed the Public Hearing at 8:18 p.m.

It was moved by Vice Mayor Geller, seconded by Councilmember Pierce to adopt Resolution 16-2011 approving a City Budget for FY 2011-2012 and a 5-Year CIP for FY 2011-2016 (Passed; 5-0 vote).

10. ACTION ITEMS

(a) Public Meeting on the proposed levy of annual assessments on real property in the Street Lighting Assessment District (residential street lights) for FY 2011-2012, pursuant to Streets and Highways Code 18070 and Government Code 54954.6.

The City Engineer stated the street light assessments have been unchanged since 1996. The staff recommendation is to leave the assessments unchanged. He stated no written objections or protests to the assessments have been received to date.

Mayor Shuey opened the Public Meeting.

No public comment was offered. No Council action was necessary or taken.

(c) Consideration of the various redistricting map options for Contra Costa County supervisorial districts and determination of City preference(s).

Councilmember Pierce stated the Supervisors will be considering many map options for redistricting. She stated they have to draw new districts to account for the change in populations. She stated splitting Concord doesn't appeal to Clayton and she stated the goal of redistricting is to keep communities of interest together. She stated personally she feels it is important that Clayton stay part of Central County. She stated someone from the City should attend the Board of Supervisors meeting to express Clayton's opinion. She also suggested a letter be written.

The Council discussed the various merits of the different maps.

Pete Laurence offered comments regarding the Morgan Territory Road area remaining together in one district and not be split.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to have Councilmember Pierce attended the Board of Supervisors' meeting and convey Clayton's strongly desire to remain in central county; and, recommend the including Morgan Territory Road area, up to the East Bay Parks District stay in Clayton's district, and stay with whatever District Concord is put in. (Passed; 5-0 vote).

(d) City Council discussion and determination of citizen appointments to three (3) vacancies on the Clayton Planning Commission: two (2) full terms of appointed office from 01 July 2011 through 30 June 2013, and one (1) unexpired term of appointed office effective 01 August 2011 through 30 June 2012.

The City Manager stated after the Agenda was set, the City Attorney informed staff the CA Government Code prevents the Council from filling the 3rd upcoming Commission vacancy due to advertising requirements. Therefore, staff has benched an amended resolution for approval tonight with two Planning Commissioners to be named and appointed.

Councilmember Stratford started the discussion and stated he would like to re-appoint Dan Richardson, but was not inclined to have Ted Meriam be re-appointment mainly for his residence geographical reasons of proximity to the Downtown area and its projects presenting potential conflicts of interest. He stated he would rather have someone on the

Commission who can who can serve and vote on all projects in the Downtown. He stated he would also like to appoint Keith Haydon.

Councilmember Pierce stated that during the interviews the Council talked about the potential conflict Ted Meriam may have. She stated she is concerned about a section of the FPPC letter provided to Mr. Meriam which outlines the potential conflict on the church project. She stated she believes Mr. Meriam does have a conflict, and with all of the projects coming up in the Downtown many would fall within a 500 foot radius of his home. She stated if a Planning Commissioner who has to withdraw due to a conflict there is the potential for a tie vote. She stated she would like to have a team of five members can all participate actively on items that come before them. She commended Mr. Meriam for the work he has done on the Commission the past two years. She stated Dan Richardson should be re-appointed. She believes Bob Staehle has a conflict with the Creekside Terrace project so her choice is for Keith Haydon to fill the other seat.

Councilmember Medrano stated six great candidates applied for the Commission. He stated the answers Mr. Meriam provided were far above the other candidates in his opinion. He stated as far as the Church project and the FPPC letter go, he questioned why the issue was not brought up months back when Mr. Meriam received his letter from the FPPC?

The City Attorney stated he had not seen any materials on this matter before this day and he reviewed the 8 step FPPC conflict process. He stated after his review his opinion is that it clearly states that Mr. Meriam has a conflict. Whether the facts provided to the FPPC were inaccurate or not the appropriate thing for Mr. Meriam to do is go back to the FPPC to obtain additional written opinion as whether Mr. Meriam's conclusion is correct.

Councilmember Pierce stated the part of the letter she believes shows the conflict of interest is in Step 5. She stated that is the materiality standard that basically states whether the project will have effects on traffic and could potentially change the character of his neighborhood. She also stated the Conclusion section on Page 1 states there is a conflict.

Councilmember Medrano stated Dan Richardson should be re-appointed, but he would still recommend Ted Meriam for re-appointment. He also questioned whether or not Keith Haydon's name had been put on a political flyer circulated years ago regarding the church project.

Since Mr. Haydon was in the audience, Mayor Shuey asked if eh would respond to that question. Keith Haydon stated his name was not on the flyer, and Pete Laurence further noted no city planning commissioner or city councilmember had their names on the flyer.

The City Manager reminded every that a Conflict of Interest does not bar someone from public appointed office, though on projects with a conflict they are required to step down.

Mayor Shuey stated after reading the FPPC letter it seems as though Mr. Meriam does indeed have a conflict on the upcoming church land use project.

Councilmember Medrano stated the Council should have looked at this before today.

Vice Mayor Geller recommended Dan Richardson for re-appointment. He stated Mr. Meriam did a great job as a Planning Commissioner and he hopes he stays involved a citizen who can have input on future projects. He recommended Keith Haydon for the second appointment.

Mayor Shuey stated there is no conflict with Dan Richardson. He stated Mr. Meriam has served the Commission well and was well prepared for the interview. He stated he is concerned about the timing and not being able to flush out the conflict but Mr. Meriam should have made sure the accuracy was there with more diligence. He stated perhaps Mr. Meriam can get clarification from the FPPC and he can be considered in the future for a Planning Commission position. He stated he would recommend Keith Haydon for the second position.

No further public comments were received. Councilmember Medrano requested a separate vote on each appointment.

It was moved by Councilmember Pierce, seconded by Stratford, to adopt Resolution 17-2011 appointing Dan Richardson to the Planning Commission (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Vice Mayor Geller, to adopt Resolution 18-2011 appointing Keith Haydon to the Planning Commission (Passed; 4-1- No- Medrano).

(e) City Council discussion of holding regularly scheduled Council meetings in July, August and/or September 2011 relative to quorum availability and summer vacation plans.

Councilmembers discussed its summer plans and upcoming City business items requiring attention.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to cancel the City Council meetings of August 2 and September 6, 2011 (Passed; 5-0 vote).

11. **COUNCIL ITEMS**- None.

12. **ADJOURNMENT**– On call by the meeting adjourned at 9:22 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

David T. Shuey, Mayor