

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

TUESDAY, July 5, 2011

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:17 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 and Pierce. Councilmembers absent: Councilmember Stratford. Staff present: City Manager Gary Napper, Assistant City Attorney Maury Huguet Jr. (7:00 p.m.), Community Development Director David Woltering, and City Clerk Laci Jackson.

2. **CLOSED SESSION**- Mayor Shuey announced the following purpose for Closed Session and then adjourned into Closed Session at 6:17 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)

7:02 p.m. **Report Out from Closed Session:** Mayor Shuey reported the Council gave direction to its City-designated negotiator.

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

4. **CONSENT CALENDAR**- It was moved by Councilmember Pierce, seconded by Vice Mayor Geller, to approve the Consent Calendar as submitted (Passed; 4-0 vote).

- (a) Approved the minutes of the regular meeting of June 7, 2011.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution 19-2011 approving an agreement with Contra Costa County for the continuance of contract Building Plan Check and Inspection Services.
- (d) Adopted Resolution 20-2011 authorizing the levy of annual tax assessments for CFD 2007-1 (Landscape Maintenance District; Fund No. 210) in FY 2011-2012.
- (e) Adopted Resolution 21-2011 authorizing the levy of annual tax assessments for CFD 2006-1 (Downtown Park O & M; Fund No. 211) in FY 2011-2012.
- (f) Adopted Resolution 22-2011 approving a one (1) year Addendum to the Agreement with the Clayton Undesignated Miscellaneous City Employees Group effective the Fiscal Year 2011-12.
- (g) Adopted Resolution 23-2011 authorizing the levy of annual tax assessments for the Clayton Station Community Facilities District (1990-2R; Fund No. 421) for the 2011-2012 Tax Year.

5. RECOGNITIONS AND PRESENTATIONS

- (a) Mayor Shuey presented a Certificate declaring July 18th as "Hannah Johnson Day" in Clayton in recognition of her 100th birthday.
- (b) Mayor Shuey presented a Certificate of Recognition to Trevor J. Murphy, BSA Troop 363, for his Eagle Scout project installing a trail stile on Blue Oak Trail.

Mr. Murphy thanked the City Maintenance Department and the City Manager for their assistance with his project.

6. REPORTS

- (a) Planning Commission –Commissioner Bob Armstrong reported on the June 28th Planning Commission meeting. The Commission postponed the discussion on the Diablo Estates project at the old Seminary property, and reviewed the CIP Budget and found it in conformity with the City's General Plan.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager noted the Eagle Scout project was a difficult task and was very well done. The City Manager stated there are more State Budget impacts that will affect Clayton. There were three significant bills passed that flat out eliminated 400 redevelopment agencies in California. This will have an impact to Clayton's General Fund of \$425,000, though it will not involve the layoff of any employees. ABx1 27 tried to get around Prop. 22 by restoring the redevelopment agencies which were eliminated only if the agency pays a certain amount of money per year to the state. He stated there is a risk for an agency to stay in business, because each city has to adopt an Ordinance to say the city will pay the agency's donation to the State if the agency cannot afford it. The League of California Cities will be filing a lawsuit. On a brighter note, the State passed SB 89 which restored the funding for the COPS grant, however the State Legislature took local vehicle license fees from cities to help fund it. In total Clayton loses \$463,500 of the General Fund Budget, a 12.7% loss. Lastly, he stated the deadline closed to file for the City Attorney position and 21 responses were received.
- (d) City Council

Councilmember Pierce attended a joint ABAG and MTC meeting, a Housing Methodology Committee meeting, a party celebrating the 100th anniversary of women's right to vote, and met with Assemblywoman Nancy Skinner. She stated the Concert in The Grove with Diamond Dave was fabulous and citizens are continuing to donate. She thanked the volunteers at the 4th of July Parade for their hard work.

Councilmember Geller stated the Concert was a huge success with 2,000 people in attendance. He stated he had a goal to collect \$2,000 at the Concert and received \$1,992. He stated to date the Concerts have brought in \$5,738. He asked citizens to obey the 4 p.m. rule for setting their chairs and blankets out.

Mayor Shuey attended the Concert and the 4th of July Parade and thanked all the volunteers.

- (e) Other – None.

7. PUBLIC COMMENTS

Glenn Miller stated he was disappointed to read in the minutes that Ted Meriam was not re-appointed to the City Planning Commission. He stated Mr. Meriam is only guilty of having a house within 500 feet of a parking lot for a project that may come up before the Commission. He thanked Ted for his service.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

- (a) Discussion and approval of the City's official responses to recent Contra Costa Civil Grand Jury Reports concerning matters within the City's municipal jurisdiction and responsibility:

1. Civil Grand Jury Report No. 1103 – "County and City Vehicle Maintenance and Usage".

The City Manager stated there is a Civil Grand Jury in every County which periodically issues public reports to point out concerns. The City of Clayton has been the recipient of 3 grand jury reports this year. The City's response is really the City Council's response. He stated Report 1103 had to do with County and City vehicle maintenance and usage. He stated one finding was that the City of Richmond uses a maintenance management system to track their vehicle maintenance and usage. He stated for Clayton's small fleet of 11 vehicles, an expensive computerized system is not necessary because other than Police vehicles which are maintained through the City of Concord, the remaining vehicles' information is available and monitored through binders in the Maintenance Department. Further, the City does not have the staffing levels or resources to maintain a computer program.

He stated City's reply to the recommendation should be "not implemented because it is not necessary for the City of Clayton. "

No public comment.

It was moved by Mayor Shuey, seconded by Vice Mayor Geller to send the response to the Grand Jury as outlined in the draft response letter prepared by the City Manager (Passed; 4-0 vote).

2. Civil Grand Jury Report No. 1104 – "Elected Board Membership".

The City Manager stated the grand jury's initial finding is that 16 cities and 18 special districts pay salary, meeting fees, pension, cell phone usage, etc. for their elected boardmembers or councilmembers. He stated the City agrees with the finding our City does provide certain benefits to councilmembers. He stated the Council does recognize this creates a financial obligation, particularly for CalPERS enrollement. He stated the Report refers to a time frame for implementation on the transparency of this information and the City Manager stated the information can be found in the Budget under Department 01 which accounts for the actual expenses of the Council's CalPERS membership and monthly Council stipend. He stated to further enhance transparency he suggested combining this information into a single document to review during next year's budget.

Glenn Miller stated in order to facilitate transparency to the public the names and amounts of projected liabilities should be listed somewhere easy to access. He stated he hopes the Council takes the position to change or get ride of the policy of providing pensions to Councilmembers because he believes it is wrong.

The City Manager noted of the amount the City pays each year to CalPERS for pension obligations, about 2% is for the City Council's enrollment.

Glenn Miller responded the City is putting money into a pension system that is making promises that can't be kept.

The City Manager noted the City has previously reported there is \$1.5 million unfunded liability of the City to CalPERS for all of its City employees but the current rates reflect paying down that obligation.

Councilmember Medrano stated the Grand Jury report asked if the Council should get pensions and he stated the Council should not be giving retirement plans to the Council on the taxpayers dime. He stated he has no problem with the City's reply letter however.

Councilmember Pierce noted several members on the Council are paying the employee portion of the PERS.

It was moved by Councilmember Pierce, seconded by Vice Mayor Geller to approve the letter as presented (Passed; 5-0 vote).

Councilmember Medrano requested the Council put the question on eliminating its membership in CalPERS on an upcoming agenda when all members are present.

- (b) Consideration and approval of the negotiated Deal Points with Republic Services, Inc. (dba Allied Waste Services) for a 10-year extension to its Franchise Agreement with the City for Solid Waste Management and Recyclable Materials collection and disposal services.

The City Manager stated cities that do not have their own collection services internally are authorized to enter into franchise agreements with disposal vendors. He stated the City Council could go to a process of competitive bidding but if the Council wants to go that route they probably should start that process soon. He stated if one has a solid waste collector who has been working with their city well then in many cases one can negotiate a better deal with your current franchise holder. He stated the Council sub-committee and he met with Allied Waste Services to draft deal points for a franchise extension.

The City Manager stated they looked at volume rates but the formulas did not work out since Clayton's rates are among the lowest in the County. As part of the negotiation the CPI will only no longer be calculated by a combination rate, but will be calculated by the Bay Area CPI. Also, after 2012 the vendor will be allowed a 1% increase as the CPI floor with a 5% cap. He stated the vendor has not ever asked for price increases for special circumstances such as soaring fuel costs.

He stated the vendor has their own landfill and guarantees there will be a permanent place for disposal through the term of the extended agreement, a significant factor in managing solid waste disposal.

He stated citizens will be able to trade their 64 gallon recycling and yard waste carts for similar 96 gallon carts at no increased cost. The vendor will also start curbside collection of batteries, cfl bulbs, and will have an e-waste and unlimited curbside collection of recyclable materials.

He stated Allied Waste is willing to provide \$100,000 to enhance the community, and that Allied Waste has been a great company to deal with for the last 10 years. He stated the 5% Franchise Fee is the lowest in the County right now and the sub-committee recommends raising it to 10%; by doing so, Clayton's overall rates remain 2nd lowest.

Councilmember Pierce asked about picking up bulky items like refrigerators. Tim Argenti, Allied Waste's General Manager, stated they would pick up tv's and screens at no charge. He stated the fluorescent bulbs would need to be put in a clear bag next to the garbage carts.

Councilmember Medrano thanked Tim Argenti and Susan Hurl from Allied Waste for putting these deal points together. He stated he really appreciated all of the new things in this contract and stated this company is a tremendous asset to the community. He also thanked them for the support of all of the community events over the years.

Mayor Shuey wanted to add he and Councilmember Medrano wanted to make sure they were doing their due diligence when looking at this contract renewal. He stated they looked at other cities and had multiple discussions with Allied Waste. He stated the community is getting a great deal and Allied Waste is a huge contributor to this community.

Vice Mayor Geller thanked Allied Waste for being so supportive to Clayton, and thanked Susan Hurl for personally giving her time at community events.

No public comments were received.

Tim Argenti, stated one thing not mentioned is the mandatory commercial recycling component would be available at no charge. He thanked the Council for their support and kind words.

Councilmember Pierce stated she has had the opportunity of working with Allied Waste and their company has a wonderful community service attitude and really understands what customer service is all about.

Mayor Shuey stated recycling is a big deal and Allied Waste has been taking a lead.

It was moved by Councilmember Medrano, seconded by Councilmember Pierce to accept the Franchise Agreement Extension Deal Points and authorize staff to prepare an amended and revised Franchise Agreement for public hearing and adoption at a future meeting (Passed; 4-0 vote).

10. COUNCIL ITEMS-

Councilmember Medrano raised a question whether Councilmember Pierce will be seeking an FPPC ruling on her eligibility to vote on the Clayton Community Church project, since her residency is just about as close to the project as Ted Meriam's?

Councilmember Pierce responded that she intends to seek a FPPC written ruling and will be asking the City Attorney to assist in drafting the facts and questions to ensure an unqualified response.

11. **ADJOURNMENT**– On call by Mayor Shuey the meeting adjourned at 8:48 p.m.

Respectfully submitted,



Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



David T. Shuey, Mayor