

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

**TUESDAY, July 19, 2011**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:16 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, Assistant City Attorney Maury Huguet (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 Legal Counsel  
*Government Code Section 54956.9 (a)*  
Pending Litigation: *Katzman, et al. v. City of Clayton, et al.* Coordinated Cases  
Master/C07-01461/C07-00707, Superior Court, Contra Costa Co.

7:02 p.m. **Report Out from Closed Session:** Mayor Shuey reported the Council gave direction to legal counsel.

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

4. **CONSENT CALENDAR**- Item 4.(i) was pulled from the Consent Calendar and will be moved to a later meeting date. Councilmember Medrano asked to amend the contract on Item 4.(j) to make sure the consultant provides professional liability insurance. It was moved by Councilmember Pierce, seconded by Vice Mayor Geller, to approve the Consent Calendar as amended on Item 4(j) (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) Adopted Resolution 24-2011 ordering the annual levy of a Special Tax within the High Street Permanent Road Division (Fund 217) for FY 2011-2012.
  - (d) Adopted Resolution 25-2011 ordering the annual levy of a Special Tax within the Oak Street Permanent Road Division (Fund 218) for FY 2011-2012.
  - (e) Adopted Resolution 26-2011 authorizing the levy of annual assessments for the Lydia Lane Sewer Assessment District in FY 2011-2012.
  - (f) Adopted Resolution 27-2011 authorizing the levy of annual assessments for the Oak Street Sewer Assessment District in FY 2011-2012.
  - (g) Adopted Resolution 28-2011 authorizing the levy of annual assessments for the Middle School Community Facilities District (CFD 1990-2R; Fund No. 421) for the 2011-2012 Tax Year.

- (h) Approved award of contract to Downtown Ford Sales (Sacramento, CA) in the amount of \$26,057.93 for the purchase of one 2011 Ford Crown Victoria "Police Interceptor" as the budgeted replacement patrol vehicle for the Clayton Police Department.
- (i) Adopt Resolution XX-2011 authorizing the execution of a Subdivision Agreement for Subdivision 8719, Diablo Pointe, with Toll CA XIX, L.P., covering construction of the required improvements. **(Item pulled from Consent Calendar)**
- (j) Authorized the City Manager to execute a Consulting Services Agreement with PMC Investigative Services for the conduct of a citizen complaint filed by Mr. Peter Laurence against the Clayton Police Department and named law enforcement personnel for its handling of Felony Assault Case (No.10-17822), and authorize the appropriation of up to \$15,000 from the Trust and Agency Fund interest earnings for the unanticipated expense.
- (k) Re-appointed Joyce Atkinson to serve on the Contra Costa County Library Commission with a term of office ending June 30, 2013.
- (l) Adopted Resolution 29-2011 approving a one (1) year Addendum No. 3 to the base Memorandum of Understanding (MOU) with the Clayton Police Officers Association effective the Fiscal Year 2011-12.

## 5. **RECOGNITIONS AND PRESENTATIONS**

- (a) Mayor Shuey presented a Certificate of Appreciation to Adam Argonow for the installation of two trail benches on the Bruce Lee Trail and the Mt. Diablo Trail as his Eagle Scout Project.
- (b) Mayor Shuey presented Tuija Catalano a plaque for civic service on the Clayton Planning Commission (2006-2011).

Ms. Catalano thanked the City Council for appointing her to the Commission and stated it was an honor and pleasure to serve.

- (c) Presentation by Beverly Lane, Board President, East Bay Regional Parks District (EBRPD).

Board President Lane stated she appreciated the chance to visit Clayton as the representative on the Board for central Contra Costa County. Ms. Lane reported EBRPD has a new General Manager (Bob Doyle) and has been working on many new programs including the Healthy Parks-Healthy People program. She stated the District is also working with the East Contra Costa Habitat Conservancy to purchase land and has seen many positive projects started and finished with the Measure WW grant money.

The City Manager asked if the City could have additional copies of the brochures and maps she shared maps for placement in City Hall. President Lane willingly offered provided the City Manager a box of maps and informational brochures.

## 6. **REPORTS**

- (a) Planning Commission –Commissioner Sandra Johnson reported on the July 12<sup>th</sup> Planning Commission meeting. She stated the Commission held a Public Hearing on the Diablo Estates project and reviewed the Site Plan Review, Lot Line Adjustments, and Variances. She stated the City received over 300 comments to the Church DEIR and the consultant will be working on analyzing the comments before it comes back to the Commission in the fall.

Councilmember Stratford asked what Toll Brothers has been doing at the Diablo Pointe Site? Commissioner Johnson stated they have been re-grading the area.

Glenn Miller, audience member, asked how a grading permit was issued without a subdivision agreement? The City Engineer stated the subdivision agreement was approved when Lemke owned the property and remedial grading has been going on at the site for the last few months at Toll Brothers' risk. The City Engineer also stated the street and utilities were previously put in by Lemke.

- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager noted the CERT program will be holding free two hour Disaster Preparedness classes in Hoyer Hall; the next one is August 24<sup>th</sup> 7-9p.m. He noted the class is intended to teach the basic fundamentals to families in case of a disaster. He stated the next full CERT class starts September 7<sup>th</sup>. He stated the League of California Cities filed suit yesterday against the State for eliminating Redevelopment Agencies. He stated they are looking for an injunction that would stop the legislative implementation while the constitutionality of the action is being sorted out. He stated Clayton will lose approximately \$400,000 to the General Fund and its affordable housing projects will be halted.
- (d) City Council

Councilmember Pierce attended the Mayors Conference, an ABAG/MTC/Joint Policy Committee meeting, the Board of Supervisors meeting, a Transpac meeting, the City Attorney sub-committee meeting to review candidates, and attended a meeting for the Mayors' Cook-off September 10<sup>th</sup> in Clayton. She talked with Senator DeSaulnier about the Redevelopment elimination and he told her he was working with the Speaker for an amendment to stop housing money from going to a county consortium.

Vice Mayor Geller reported the last concert was a huge success and collected \$1,466, in donations. He thanked citizens for obeying the 4pm rule for chairs and blankets.

Mayor Shuey attended the Mayors' Conference and the City Attorney sub-committee meeting.

- (e) Other – None.

## **7. PUBLIC COMMENTS**

Glenn Miller stated he had questions regarding the Redevelopment Agency. He stated he was confused about what he read in the Clayton Pioneer. He stated the General Fund will lose \$400,000 when RDA's are eliminated. He stated the article quoted the City Manager stating the RDA did not have any employees to lay off, but at the previous Council meeting the City Manager stated part of the operating expenses were the time of the City Manager as the Executive Director. He stated this seemed inconsistent.

The Mayor asked that Glenn email his comment for response by he or City staff.

The City Manager responded to Mr. Miller by stating all transfers in to the General Fund are specifically listed in the City's budget which is available on the website. He stated there are many similar transfers like the RDA, Street Light District, and Landscape District. He stated this is an acceptable accounting principle and it pays for the administrative costs of operating the RDA and these special districts. He stated the amounts are the overhead expenses of operating each entity and does

not spread directly to a portion of staffs' salaries. He stated with the elimination of the agency there will be no corresponding drop in City expenses.

Councilmember Pierce stated the overhead is absorbed by all.

Mr. Miller asked what other funds will have to be cut to make up for the Redevelopment Agency gap. The City Manager stated it is unknown at this time but the City Council will have to make those decisions.

Sandy Johnson stated we as citizens elected the City Council to make such decisions on how money will be spent and distributed in the City.

## **8. PUBLIC HEARINGS**

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

The City Engineer stated the Council approved the City Engineers report on May 17<sup>th</sup> and it was recommended once again to leave the rates unchanged. He stated they have remained unchanged since 1996. He stated no appeals have been received. Staff recommends approval of the Resolution.

Mayor Shuey opened the Public Hearing at 8:04 p.m. No comments were received and closed the Public Hearing at 8:05 p.m.

**It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to adopt Resolution 30-2011 setting the annual street lighting real property assessments for FY 2011-2012 (Passed; 5-0 vote).**

## **9. ACTION ITEMS**

- (a) Request by Council Member for Council discussion to eliminate Pension Plans for elected city council members in Clayton.

Councilmember Medrano stated this was brought up a few years ago and now by the civil grand jury. He stated he does not believe Councilmembers should receive public pensions. He stated the Council can vote to eliminate the pension plan for future Councilmembers.

The City Manager stated once an individual becomes a member of CalPERS they can not get out of the system. He stated staff received information from CalPERS that if a City Council wants to eliminate new members prospectively it has the authority to take that action.

Councilmember Pierce stated the primary reason the Council voted in 1998 was to allow members of the City Council to obtain health benefits. No one puts in expense requests for payments for phone calls, faxes, computers; it is all paid by each Councilmember. She stated she thought it was a small price to pay to allow potential members to have access to those programs at full cost for themselves. She stated serving on the City Council is not an easy thing to do. She stated two Councilmembers are already paying the employee portion of

CalPERS (7%) and trying to preclude this from being an option is a disincentive for people to serve this City. She stated no one runs for the City Council for the retirement payment.

Councilmember Stratford stated he doesn't really think many people consider the retirement plan when they run for a Council seat. He stated an option would be requiring Councilmembers to absorb 100% of the CalPERS pension costs (both employee and employer rates).

Mayor Shuey asked what that cost would be to the Councilmembers?

Vice Mayor Geller stated the Council was working long hours when they added this benefit. He stated to be on the City Council it is hard to work full-time need or you to be self-employed, own your own business, or be retired. He stated the previous Council wanted to have the option for health benefits. He stated paying the employee portion of the retirement costs should be voluntary.

The City Manager responded it costs \$4,466 for this year for this Council to be covered under the public retirement plan.

Councilmember Medrano stated it should be mandatory to pay the employee portion and make it mandatory for future Councilmembers.

Councilmember Pierce asked why it has to be mandatory?

Glenn Miller stated this is not a matter of contributions and who pays what. He stated CalPERS is broke and the defined benefit system is the problem because promises that are made are not sustainable. He stated the issue is not with the form of compensation but paying into this system. He stated he does not want his City to be part of CalPERS.

Councilmember Medrano stated he is willing to compromise with a mandatory contribution of the 7% employee portion of the CalPERS plan paid by each Councilmember.

The City Manager noted staff must bring a resolution back to record that action since only direction could be received at this meeting.

Mayor Shuey asked if there are other options for the City? The City Manager stated it received information that if the Council takes itself out of CalPERS, it could still contract for health benefits. Councilmember Pierce stated the League of California Cities told her something different.

The City Manager stated there are a lot more questions to be answered by CalPERS, and staff gets different answers to the same questions each time we call.

Mayor Shuey stated his understanding was that originally the Council's intent for getting the City Council in CalPERS was to offer insurance benefits. He stated if there is some way to maintain that benefit for Council he is intrigued by the question.

Vice Mayor Geller asked if future councils can still be part of the group health plan and not be in CalPERS. Councilmembers Pierce thinks it would be good information to know before action is taken.

**The Council directed staff to get the cost of the reported actuarial for getting the Council out CalPERS, and to get written information on the Council's ability to access health benefits without being part of the retirement system.**

- (b) **Designation of the City's Voting Delegate and Alternate to the League of California Cities 2011 Annual Conference to be held September 21 thru September 23, 2011 in San Francisco, CA.**

The City Clerk presented the staff report indicating that the Council needed to determine if an elected official will attend the Annual Conference due to City budget considerations, and if so select its Voting Delegate.

The Council tabled the discussion until the August 16<sup>th</sup> meeting in order to see if there are any important Resolutions that need to be voted on at the League Conference.

10. **COUNCIL ITEMS**- None.

11. **ADJOURNMENT**- On call by Mayor Shuey the meeting adjourned at 8:57 p.m.

Respectfully submitted,

  
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Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

  
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David T. Shuey, Mayor