



AGENDA

REGULAR JOINT MEETINGS

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CLAYTON CITY COUNCIL and CLAYTON REDEVELOPMENT AGENCY

* * *

TUESDAY, August 16, 2011

4:30 p.m.

*Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517*

Mayor: David T. Shuey
Vice Mayor: Howard Geller

Council Members
Joseph A. Medrano
Julie K. Pierce
Hank Stratford

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

*** CITY COUNCIL ***

August 16, 2011

4:30 P.M.

1. **CALL TO ORDER AND ROLL CALL** – Mayor Shuey.
2. **INTERVIEW OF PLANNING COMMISSION APPLICANTS** ([View Here](#))

Six applicants for one unexpired term of office ending June 30, 2012.
(Appointed office open effective 01 August 2011).

7:00 P.M.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Shuey.
4. **CONSENT CALENDAR**
Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.
 - (a) Approve the minutes of the regular meeting of July 19, 2011. ([View Here](#))
 - (b) Approve Financial Demands and Obligations of the City. ([View Here](#))
 - (c) Adopt a Resolution accepting the 2010 Neighborhood Streets Paving Project (CIP No. 10409) and the old Marsh Creek Road Overlay Project (CIP No. 10416) as complete, ordering the filing of the Notice of Completion, and authorizing the appropriation of \$11,656.90 in interest earnings from the City's Capital Improvement Project Budget (CIP) to address project cost overrun. ([View Here](#))
 - (d) Adopt a Resolution authorizing the execution of a Subdivision Agreement for Subdivision 8719, Diablo Pointe, with Toll CA XIX, L.P., covering construction of the required improvements. ([View Here](#))
 - (e) Approve the City's official response to the 2010-2011 Contra Costa Civil Grand Jury's Report No. 1105 ("Ethics and Transparency Issues") concerning matters within the City's municipal jurisdiction and responsibility. ([View Here](#))
 - (f) Authorization of a flat fee donation in the amount of \$168 from the Clayton Woman's Club for use of the Clayton Library Meeting Room (Hoyer Hall) their Annual Craft Sale on November 19th and 20th, 2011. ([View Here](#))

5. RECOGNITIONS AND PRESENTATIONS

- (a) Proclamation declaring September 18th-24th as “Fall Prevention Awareness Week” in the City of Clayton. ([View Here](#))

6. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
- (e) Other

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Citizens may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) by completing a speaker card available on the Lobby table and submitting it to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called by the Mayor, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

8. PUBLIC HEARINGS

- (a) Public Hearing on the consideration and approval of an Amendment to the City's Solid Waste and Recyclable Materials Management Services Franchise Agreement with Allied Waste Systems, Inc.(an indirect subsidiary of Republic Services, Inc.) to provide a ten (10) year time extension with certain new terms and conditions to expire on December 31, 2022. ([View Here](#))
(City Manager)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public testimony; **3)** Close the Public Hearing; and **4)** Adopt the Resolution approving Amendment No. 2 to the Franchise Agreement.

8. PUBLIC HEARINGS CONTINUED

- (b) Appeal Hearing on City staff's Notice of Violation and denial for an after-the-fact City Encroachment Permit for unauthorized private improvements in the public rights-of-way located on Mitchell Canyon Road (Appellant: Jon Van Brusselen, 5851 Pine Hollow Road). ([View Here](#))
(City Engineer)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Appeal Hearing and receive appellant and public testimony; **3)** Close the Appeal Hearing; **4)** Provide determination on the approval or denial of the appeal.

9. ACTION ITEMS

- (a) Continued discussion of Council Member's request to eliminate Pension Plans for elected city council members in Clayton. ([View Here](#))
(Councilmember Medrano)

Staff recommendation: Provide policy direction to staff.

- (b) City Council discussion and determination of a citizen appointment to one (1) vacancy on the Clayton Planning Commission for an unexpired term of office which ends of June 30, 2012. ([View Here](#))
(Mayor Shuey)

Staff recommendation: Determine the respective citizen appointment from among the six (6) interviewed applicants and then adopt the Resolution appointing that citizen to the respective term of appointed office on the Clayton Planning Commission.

- (c) Consideration of City Council position and voting instructions on the six (6) proposed General Resolutions at the 2011 Annual Conference of the League of CA Cities. ([View Here](#))
(City Manager)

Staff recommendation: Following Staff report and public comments, that Council provide direction and voting guidance on each General Resolution to its Voting Delegate.

- (d) Continued consideration of the 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.
(City Clerk) ([View Here](#))

Staff recommendation: The City Council determine if an elected official will attend the Annual Conference, and if so select its Voting Delegate and identify budget funds

- (e) Consider a Resolution establishing new fees and adjusting existing fees in the City Master Fee Schedule for certain user-benefit City services and rental of City facilities and parks in FY 2011-12. ([View Here](#))
(Asst. to the City Manager)

Staff recommendation: Following the Staff report and public comments, adopt the Resolution setting City fee rates for FY 2011-12.

- (f) Consideration of a report on the potential purchase and installation of a surveillance camera for the deterrence of vandalism occurring to public facilities at The Grove Park and Endeavor Hall, and continued discussion of establishing a monetary reward program for information leading to the arrest and conviction of reported vandals. ([View Here](#))
(Chief of Police)

Staff recommendation: Following the Staff report and public comments, provide policy direction to staff concerning these two items.

10. COUNCIL ITEMS – limited to requests and directives for future meetings.

11. ADJOURNMENT– the City Council meeting of September 6, 2011 was cancelled.
The next regularly scheduled City Council meeting is now September 20, 2011.

#

*** CLAYTON REDEVELOPMENT AGENCY ***

August 16, 2011

1. **CALL TO ORDER AND ROLL CALL** – Chairperson Pierce.

2. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Citizens may address the Redevelopment Agency on items within the Board's jurisdiction, (which are not on the agenda) by completing a speaker card available on the Lobby table and submitting it to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chair's discretion. When one's name is called by the Chair, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. Board Members may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Board.

3. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by the Board with one single motion. Members of the Board, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Chair.

- (a) Approve the minutes of the regular meeting of June 21, 2011. ([View Here](#))

4. **PUBLIC HEARINGS** – None.

5. **ACTION ITEMS**

- (a) Consideration of a Resolution approving and adopting the Enforceable Obligation Payment Schedule (EOPS) of the Agency pursuant to Part 1.8 of new California Redevelopment Law (AB1x 26; FY 2011-12 State Budget action). ([View Here](#)) (Executive Director and Finance Manager)

Staff recommendation: Following presentation of the Staff Report and public comments, adopt the prepared Resolution.

6. **BOARD ITEMS** – limited to requests and directives for future meetings.

7. **ADJOURNMENT** – the next regular Redevelopment Agency meeting will be scheduled as needed.

#

Agenda Date: 8-16-11

Agenda Item: 2a

Planning Commission Interview Schedule

4:40- Steven Lane

5:00- Alyse Smith

5:20- Bob Staehle

5:40- Gregg Manning

6:00- Glenn Miller

6:20- Jake Pauline

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

TUESDAY, July 19, 2011

Agenda Date: 8-16-11

Agenda Item: 4a

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 12th 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 24th 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 7th. 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 10th 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 17th 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 16th 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,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

David T. Shuey, Mayor



Agenda Date: 8/16/11

Agenda Item: 4b

STAFF REPORT

Approved:


Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: AUGUST 16, 2011

SUBJECT: INVOICE SUMMARY

RECOMMENDATION

Approve the following Invoices.

8/12/11	Bank Register Report - B of A Checking (Invoices paid)	\$714,488.15
8/3/11	Cash Requirements Report - Back-up for Bank Register Report	
8/12/11	Cash Requirements Report	\$461,956.29

Attachments:

Bank Register Report dated 8/12/11 (1 page)

Cash Requirements Report dated 8/3/11 (1 page)

Cash Requirements Report dated 8/12/11 (8 pages)

City of Clayton

Bank Register Report - B of A-Checking

CC Meeting 8/16/11 Paid Invoices

Transaction Number	Source	Transaction Type	Transaction Date	Reference	Deposits	Payments	Running Total	Status	Post Date
27824	Accounts Payable	Computer Check	8/3/2011	PERMCO, Inc. **	\$0.00	\$15,126.30	(\$15,126.30)	Outstanding	8/3/2011
9100089	Accounts Payable	Computer Check	8/3/2011	CalPERS *	\$0.00	\$24,735.45	(\$39,861.75)	Outstanding	8/3/2011
9100090	Accounts Payable	Computer Check	8/3/2011	US Bank Ops Ctr ATTN: TFM ***	\$0.00	\$226,092.52	(\$265,954.27)	Outstanding	8/3/2011
9100091	Accounts Payable	Computer Check	8/3/2011	US Bank Ops Ctr ATTN: TFM ***	\$0.00	\$397,101.70	(\$663,055.97)	Outstanding	8/3/2011
9100093	Accounts Payable	Computer Check	8/9/2011	Neopost (add postage)	\$0.00	\$300.00	(\$663,355.97)	Outstanding	8/9/2011
9100094	Accounts Payable	Computer Check	8/9/2011	CalPERS Health	\$0.00	\$28,927.82	(\$692,283.79)	Outstanding	8/9/2011
9100095	Accounts Payable	Computer Check	8/9/2011	CalPERS	\$0.00	\$22,204.36	(\$714,488.15)	Outstanding	7/31/2011

* See attached Cash Requirement Report Dated 8/3/11

Summary by Transaction Type

Total Deposits: \$0.00

Less Payments by Transaction Type:

Computer Check (\$714,488.15)

Total Payments: (\$714,488.15)

Adjustments:

Payment Adjustments \$0.00

Deposit Adjustments \$0.00

Total Adjustments: \$0.00

Total Change in Register Balance: (\$714,488.15)

City of Clayton

Cash Requirements Report

CC Meeting 8/16/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CalPERS Retirement								
CalPERS Retirement	7/31/2011	7/13/2011	PPE 7/10/11	Retirement PPE 7/10/11	\$24,735.45	\$0.00		\$24,735.45
				Totals for CalPERS Retirement:	\$24,735.45	\$0.00		\$24,735.45
City National Bank								
City National Bank	8/16/2011	7/15/2011	7152011	CFD 1990-2 Debt Svc 9/2/11	\$107,841.50	\$0.00		\$107,841.50
				Totals for City National Bank:	\$107,841.50	\$0.00		\$107,841.50
PERMCO, Inc.								
PERMCO, Inc.	8/3/2011	7/25/2011	9485	City Engineering Svc 7/9 - 7/22/11	\$3,452.48	\$0.00		\$3,452.48
PERMCO, Inc.	8/3/2011	7/25/2011	9486	AT&T EP Inspections	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/3/2011	7/25/2011	9487	CCWD Minor EP Insp	\$145.25	\$0.00		\$145.25
PERMCO, Inc.	8/3/2011	7/25/2011	9488	O'Meara SWP 01-10 Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9488	Richards SWP 11-10 Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9489	CCP Prkg Lot Exp Meetings & Plans	\$8,095.56	\$0.00		\$8,095.56
PERMCO, Inc.	8/3/2011	7/25/2011	9490	2010 Pavement Rehab Insp	\$1,342.00	\$0.00		\$1,342.00
PERMCO, Inc.	8/3/2011	7/25/2011	9491	Diablo Estates Review DP & COA	\$975.00	\$0.00		\$975.00
PERMCO, Inc.	8/3/2011	7/25/2011	9492	Diablo Estates Const Inspections	\$378.25	\$0.00		\$378.25
PERMCO, Inc.	8/3/2011	7/25/2011	9493	Diablo Pt Grading Inspections	\$186.75	\$0.00		\$186.75
PERMCO, Inc.	8/3/2011	7/25/2011	9494	Diablo Pt SW Inspections	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9495	Water Feature - Plans	\$86.63	\$0.00		\$86.63
PERMCO, Inc.	8/3/2011	7/25/2011	9496	St Lt AD - Prep Assessment Rolls	\$61.00	\$0.00		\$61.00
PERMCO, Inc.	8/3/2011	7/25/2011	9497	Pallotta/Majestic Pools SW Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9497	VanBrusselen SW Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9497	Caldwell/ Swan Pools SW Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9497	JMS Builders/ Magdefrau SW Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	8/3/2011	7/25/2011	9497	Hum EP Inspections	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/3/2011	7/25/2011	9498	OH GHAD- Prep Assessment Rolls	\$175.13	\$0.00		\$175.13
				Totals for PERMCO, Inc.:	\$15,126.30	\$0.00		\$15,126.30
US Bank Ops Ctr ATTN: TFM								
US Bank Ops Ctr ATTN: TFM	8/1/2011	8/1/2011	95433320 8/11	RDA 96 Debt Service 8/11	\$226,092.52	\$0.00		\$226,092.52
US Bank Ops Ctr ATTN: TFM	8/1/2011	8/1/2011	95465560 8/11	RDA 99 Debt Service 8/11	\$397,101.70	\$0.00		\$397,101.70
				Totals for US Bank Ops Ctr ATTN: TFM:	\$623,194.22	\$0.00		\$623,194.22
				GRAND TOTALS:	\$770,897.47	\$0.00		\$770,897.47

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Access One								
Access One	8/12/2011	8/2/2011	1172774	Long Distance Phone Service 7/11	\$65.37	\$0.00		\$65.37
				<i>Totals for Access One:</i>	<u>\$65.37</u>	<u>\$0.00</u>		<u>\$65.37</u>
Albert & Rachel Hum								
Albert & Rachel Hum	8/9/2011	7/20/2011	CAP 0017 7/11	Refund CAP 0017 Deposit 7/11	\$500.00	\$0.00		\$500.00
				<i>Totals for Albert & Rachel Hum:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
All-Guard Systems, Inc.								
All-Guard Systems, Inc.	8/9/2011	8/1/2011	A463262	EH Annual Fire Monitoring 11-12	\$576.00	\$0.00		\$576.00
				<i>Totals for All-Guard Systems, Inc.:</i>	<u>\$576.00</u>	<u>\$0.00</u>		<u>\$576.00</u>
American Planning Assoc.								
American Planning Assoc.	8/9/2011	6/17/2011	047118-1151	APA Membership Dues=Voltering 11-12	\$580.00	\$0.00		\$580.00
				<i>Totals for American Planning Assoc.:</i>	<u>\$580.00</u>	<u>\$0.00</u>		<u>\$580.00</u>
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	8/9/2011	8/9/2011	8/11	Library Volunteer Coordinator 8/11	\$820.00	\$0.00		\$820.00
				<i>Totals for Arlene H. Kikkawa-Nielsen:</i>	<u>\$820.00</u>	<u>\$0.00</u>		<u>\$820.00</u>
AT&T/ CalNet 2								
AT&T/ CalNet 2	8/12/2011	6/3/2011	5/11C (late)	Local Phone Service 5/11 (late)	\$442.76	\$0.00		\$442.76
AT&T/ CalNet 2	8/10/2011	7/22/2011	7/11A	Local Phone Service 7/11A	\$1,403.77	\$0.00		\$1,403.77
AT&T/ CalNet 2	8/12/2011	8/3/2011	7/11B	Local Phone Service 7/11B	\$357.08	\$0.00		\$357.08
				<i>Totals for AT&T/ CalNet 2:</i>	<u>\$2,203.61</u>	<u>\$0.00</u>		<u>\$2,203.61</u>
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	8/9/2011	6/4/2011	4020526	Legal Notice-Diablo Estates 6/4/11	\$166.80	\$0.00		\$166.80
				<i>Totals for Bay Area News Group East Bay (CCT):</i>	<u>\$166.80</u>	<u>\$0.00</u>		<u>\$166.80</u>
CalPERS Retirement								
CalPERS Retirement	8/12/2011	8/12/2011	PPE 8/7/11	Retirement PPE 8/7/11	\$22,324.64	\$0.00		\$22,324.64
				<i>Totals for CalPERS Retirement:</i>	<u>\$22,324.64</u>	<u>\$0.00</u>		<u>\$22,324.64</u>
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	8/9/2011	7/18/2011	893739	Admin Copier Copies 7/11	\$335.58	\$0.00		\$335.58
				<i>Totals for Caltronics Business Systems, Inc:</i>	<u>\$335.58</u>	<u>\$0.00</u>		<u>\$335.58</u>
CCC Assessor's Office								
CCC Assessor's Office	8/9/2011	7/25/2011	2011-12	Electronic Parcel Tax Rolls FY 11-12	\$170.00	\$0.00		\$170.00
				<i>Totals for CCC Assessor's Office:</i>	<u>\$170.00</u>	<u>\$0.00</u>		<u>\$170.00</u>
CCC Library								
CCC Library	8/9/2011	7/16/2011	7/16/11	Additional Library Hours 4/11-6/11	\$4,691.68	\$0.00		\$4,691.68
				<i>Totals for CCC Library:</i>	<u>\$4,691.68</u>	<u>\$0.00</u>		<u>\$4,691.68</u>

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CCC Office of Sheriff (CCNET)								
CCC Office of Sheriff (CCNET)	8/9/2011	7/26/2011	10/11C	CCNET Contribution 11-12	\$1,512.84	\$0.00		\$1,512.84
				Totals for CCC Office of Sheriff (CCNET):	\$1,512.84	\$0.00		\$1,512.84
CCC Office of the Sheriff - Forensic Svc Division (Lab)								
CCC Office of the Sheriff - Forensic Svc	8/9/2011	7/19/2011	CLPD-1106	PD Crime Lab 6/11	\$2,580.00	\$0.00		\$2,580.00
CCC Office of the Sheriff - Forensic Svc	8/9/2011	7/20/2011	CLPD-211	PD Blood Lab 4-6/11	\$1,047.45	\$0.00		\$1,047.45
				Totals for CCC Office of the Sheriff - Forensic Svc Division (Lab):	\$3,627.45	\$0.00		\$3,627.45
City National Bank								
City National Bank	8/9/2011	7/15/2011	99-131 9/11	CFD 90-2 Debt Service 9/11	\$107,841.50	\$0.00		\$107,841.50
				Totals for City National Bank:	\$107,841.50	\$0.00		\$107,841.50
City of Concord								
City of Concord	8/9/2011	7/8/2011	25284	PD Dispatch & Router Billing 6/11	\$13,285.00	\$0.00		\$13,285.00
City of Concord	8/9/2011	7/8/2011	25306	PD Vehicle Maintenance 6/11	\$1,197.00	\$0.00		\$1,197.00
City of Concord	8/9/2011	7/15/2011	25310	Admin Printing Services 7/11	\$108.00	\$0.00		\$108.00
				Totals for City of Concord:	\$14,590.00	\$0.00		\$14,590.00
City of Pleasant Hill								
City of Pleasant Hill	7/31/2011	7/25/2011	900006216	TRANSPAC Fees 11-12	\$21,790.00	\$0.00		\$21,790.00
				Totals for City of Pleasant Hill:	\$21,790.00	\$0.00		\$21,790.00
Clean Street								
Clean Street	8/9/2011	7/31/2011	64432	Street Sweeping 7/11	\$3,500.00	\$0.00		\$3,500.00
				Totals for Clean Street:	\$3,500.00	\$0.00		\$3,500.00
Contra Costa Water Dist.								
Contra Costa Water Dist.	8/10/2011	7/12/2011	A Series 5-6/11	Water Service 5-6/11	\$19,055.52	\$0.00		\$19,055.52
Contra Costa Water Dist.	8/10/2011	7/12/2011	A Series 7/11	Water Service 7/11	\$46.12	\$0.00		\$46.12
Contra Costa Water Dist.	8/10/2011	8/3/2011	B Series 6/11	Water Service 6/11	\$13,656.48	\$0.00		\$13,656.48
Contra Costa Water Dist.	8/10/2011	8/3/2011	B Series 7/11	Water Services 7/11	\$15,399.87	\$0.00		\$15,399.87
				Totals for Contra Costa Water Dist.:	\$48,157.99	\$0.00		\$48,157.99
CR Fireline Inc								
CR Fireline Inc	8/10/2011	7/15/2011	88688	Library Semi-Annual Fire Alarm Test 7/11	\$200.00	\$0.00		\$200.00
CR Fireline Inc	8/10/2011	7/15/2011	88689	EH Semi-Annual Fire Alarm Test 7/11	\$100.00	\$0.00		\$100.00
CR Fireline Inc	8/10/2011	7/15/2011	88690	CH Semi-Annual Fire Alarm Test 7/11	\$200.00	\$0.00		\$200.00
				Totals for CR Fireline Inc:	\$500.00	\$0.00		\$500.00
Cropper Accountancy Corp								
Cropper Accountancy Corp	8/10/2011	7/31/2011	495	Interim Audit for 10-11	\$5,000.00	\$0.00		\$5,000.00
				Totals for Cropper Accountancy Corp:	\$5,000.00	\$0.00		\$5,000.00
De Lage Landen Financial Services, Inc.								

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Dillon Electric Inc Dillon Electric Inc	8/9/2011	7/23/2011	2384	Totals for De Lage Landen Financial Services, Inc.:	\$431.68	\$0.00		\$431.68
Downtown Ford Sales Downtown Ford Sales	8/10/2011	8/1/2011	216982	CCP Parking Lot Consultation 7/11 Totals for Dillon Electric Inc:	\$170.00 \$170.00	\$0.00 \$0.00		\$170.00 \$170.00
Employee Benefit Specialists, Inc Employee Benefit Specialists, Inc	8/10/2011	7/31/2011	0053409-IN	PD New Police Vehicle 8/11 Totals for Downtown Ford Sales:	\$24,769.04 \$24,769.04	\$0.00 \$0.00		\$24,769.04 \$24,769.04
Fast Signs Fast Signs	8/11/2011	8/8/2011	PH75909	FSA Admin Fees 7/11 Totals for Employee Benefit Specialists, Inc:	\$100.00 \$100.00	\$0.00 \$0.00		\$100.00 \$100.00
Future Auto Center of Concord Future Auto Center of Concord	8/10/2011	8/5/2011	8/5/11	PD Detail for new vehicle 8/11 Totals for Fast Signs:	\$336.09 \$336.09	\$0.00 \$0.00		\$336.09 \$336.09
G and M Honey G and M Honey	8/9/2011	8/1/2011	302	PW New Vehicle F250 Pickup 8/11 Totals for Future Auto Center of Concord:	\$22,950.34 \$22,950.34	\$0.00 \$0.00		\$22,950.34 \$22,950.34
Ghiloti Bros Contractors Ghiloti Bros Contractors	8/9/2011	7/23/2011	11415-02	Bee Removal @ 995 Oak St 8/11 Totals for G and M Honey:	\$500.00 \$500.00	\$0.00 \$0.00		\$500.00 \$500.00
Globalstar LLC Globalstar LLC	8/9/2011	7/16/2011	3184239	CCP Parking Lot Paving 7/11 Totals for Ghiloti Bros Contractors:	\$52,335.41 \$52,335.41	\$0.00 \$0.00		\$52,335.41 \$52,335.41
Hammons Supply Company Hammons Supply Company Hammons Supply Company	8/9/2011 8/10/2011	7/20/2011 7/27/2011	67366 67470	PD Sat Phone 7/11 Totals for Globalstar LLC:	\$26.93 \$26.93	\$0.00 \$0.00		\$26.93 \$26.93
Health Care Dental Trust Health Care Dental Trust	8/9/2011	7/12/2011	128145	Library Janitorial Supplies 7/11 CH Janitorial Supplies 7/11 Totals for Hammons Supply Company:	\$638.59 \$198.01 \$836.60	\$0.00 \$0.00 \$0.00		\$638.59 \$198.01 \$836.60
J & R Floor Services J & R Floor Services	8/9/2011	8/1/2011	JUL 2011	Dental Premiums 8/11 Totals for Health Care Dental Trust:	\$2,569.96 \$2,569.96	\$0.00 \$0.00		\$2,569.96 \$2,569.96
				Janitorial Services 7/11	\$4,850.00	\$0.00		\$4,850.00

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Joe Pargett Landscape & Lghtg								
Joe Pargett Landscape & Lghtg	8/9/2011	7/15/2011	865	Yard Maintenance 268 Stranahan Cir 6/11	\$120.00	\$0.00		\$120.00
				<i>Totals for Joe Pargett Landscape & Lghtg:</i>	<i>\$120.00</i>	<i>\$0.00</i>		<i>\$120.00</i>
John Deere Landscapes Inc								
John Deere Landscapes Inc	8/9/2011	7/7/2011	58505939	PW Sprinkler Supplies 7/11	\$1,517.04	\$0.00		\$1,517.04
John Deere Landscapes Inc	8/10/2011	7/22/2011	58688456	PW Sprinkler Supplies 7/11	\$996.32	\$0.00		\$996.32
John Deere Landscapes Inc	8/10/2011	7/25/2011	58708338	PW Sprinkler Supplies 7/11	\$567.20	\$0.00		\$567.20
John Deere Landscapes Inc	8/10/2011	7/26/2011	58718757	PW Sprinkler Supplies 7/11	\$200.48	\$0.00		\$200.48
John Deere Landscapes Inc	8/10/2011	7/26/2011	58723137	PW Sprinkler Supplies 7/11	\$376.65	\$0.00		\$376.65
John Deere Landscapes Inc	8/10/2011	7/26/2011	58723346	PW Sprinkler Supplies 7/11	\$304.78	\$0.00		\$304.78
				<i>Totals for John Deere Landscapes Inc:</i>	<i>\$3,962.47</i>	<i>\$0.00</i>		<i>\$3,962.47</i>
LarryLogic Productions								
LarryLogic Productions	8/9/2011	7/20/2011	7/19/11	City Council Meeting Video 7/19/11	\$375.00	\$0.00		\$375.00
				<i>Totals for LarryLogic Productions:</i>	<i>\$375.00</i>	<i>\$0.00</i>		<i>\$375.00</i>
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	8/10/2011	8/4/2011	411-1151-8	CH HVAC Maintenance 8/11	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	8/10/2011	8/4/2011	411-1152-8	Library HVAC Maintenance 8/11	\$150.00	\$0.00		\$150.00
				<i>Totals for Marken Mechanical Services Inc:</i>	<i>\$300.00</i>	<i>\$0.00</i>		<i>\$300.00</i>
Maurice Mitchell								
Maurice Mitchell	8/10/2011	8/9/2011	EH 8/6/11	Refund EH Deposit 8/6/11	\$500.00	\$0.00		\$500.00
				<i>Totals for Maurice Mitchell:</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Municipal Pooling Authority								
Municipal Pooling Authority	8/9/2011	8/9/2011	8/11	Life, ADD & LTD Premiums 8/11	\$1,180.55	\$0.00		\$1,180.55
Municipal Pooling Authority	8/10/2011	7/31/2011	A071103	Unmet Liability Deductible 7/11	\$1,633.44	\$0.00		\$1,633.44
Municipal Pooling Authority	8/10/2011	7/26/2011	E1103	Vehicle Damage Premiums 11-12	\$453.00	\$0.00		\$453.00
Municipal Pooling Authority	8/10/2011	7/18/2011	ER-1103	ERMA Premiums 11-12	\$9,227.00	\$0.00		\$9,227.00
Municipal Pooling Authority	8/10/2011	7/29/2011	G1103	Workers Comp WAP 11-12	\$77.50	\$0.00		\$77.50
Municipal Pooling Authority	8/10/2011	7/28/2011	P1103	Property Coverage Premium 11-12	\$8,960.00	\$0.00		\$8,960.00
				<i>Totals for Municipal Pooling Authority:</i>	<i>\$21,531.49</i>	<i>\$0.00</i>		<i>\$21,531.49</i>
Neopost Leasing (Mail Finance)								
Neopost Leasing (Mail Finance)	8/9/2011	7/24/2011	N2661848	Admin Postage Machine Lease 9/11	\$222.02	\$0.00		\$222.02
				<i>Totals for Neopost Leasing (Mail Finance):</i>	<i>\$222.02</i>	<i>\$0.00</i>		<i>\$222.02</i>
Pacific Nurseries								
Pacific Nurseries	8/10/2011	7/21/2011	SI-235731	PW Landscape Plants 7/11	\$1,231.61	\$0.00		\$1,231.61
				<i>Totals for Pacific Nurseries:</i>	<i>\$1,231.61</i>	<i>\$0.00</i>		<i>\$1,231.61</i>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	8/10/2011	7/20/2011	285511	Outside Phone Booth 8/11	\$73.00	\$0.00		\$73.00

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PERMCO, Inc.				Totals for Pacific Telemanagement Svc:	\$73.00	\$0.00		\$73.00
PERMCO, Inc.	8/10/2011	8/8/2011	9501	City Eng Services 7/23 to 8/5/11	\$2,336.25	\$0.00		\$2,336.25
PERMCO, Inc.	8/10/2011	8/8/2011	9502	CCWD Minor EP Inspections 7/11	\$290.50	\$0.00		\$290.50
PERMCO, Inc.	8/10/2011	8/8/2011	9503	OMeara SWP Insp 01-10 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9503	Richards SWP Insp 11-10 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9504	CCP Pkg Lot Const Insp, Prep Plans 7/11	\$7,372.88	\$0.00		\$7,372.88
PERMCO, Inc.	8/10/2011	8/8/2011	9505	2010 Pavement Rehab Insp 7/11	\$770.13	\$0.00		\$770.13
PERMCO, Inc.	8/10/2011	8/8/2011	9506	Diablo Estates SPR Rvw COA, Plans 7/11	\$1,650.00	\$0.00		\$1,650.00
PERMCO, Inc.	8/10/2011	8/8/2011	9507	Diablo Pointe Const Insp Sub Impr 7/11	\$1,265.50	\$0.00		\$1,265.50
PERMCO, Inc.	8/10/2011	8/8/2011	9508	Diablo Pointe SW Inspections 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9509	Palotia/Majestic 0007 SW Insp 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9509	VanBrusselen 0010 SW Insp 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9509	Caldwell/Swan Pools 0012 SW Insp 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9509	JMS Builders/Magdefrau 0016 SW Insp 7/11	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/10/2011	8/8/2011	9509	Scanlon 0018 SW Insp 7/11	\$41.50	\$0.00		\$41.50
				Totals for PERMCO, Inc.:	\$14,017.26	\$0.00		\$14,017.26
PG&E								
PG&E	8/10/2011	7/25/2011	Grv Pk 6/11	Service Grove Pk 6/11	\$76.47	\$0.00		\$76.47
PG&E	8/10/2011	7/25/2011	Ind Inv 7/11	Services 7/11	\$534.55	\$0.00		\$534.55
PG&E	8/10/2011	6/30/2011	LMI Final 6/11	268 Stranahan Final Inv 6/11	\$3.41	\$0.00		\$3.41
PG&E	8/10/2011	7/20/2011	Lydia 7/11	Lydia Pk Service 7/11	\$205.04	\$0.00		\$205.04
PG&E	8/10/2011	7/20/2011	Mst #119... 7/11	Service Mst #119... 7/11	\$504.34	\$0.00		\$504.34
PG&E	8/10/2011	7/25/2011	Mst #121... 7/11	Service Mst #121... 7/11	\$3,056.98	\$0.00		\$3,056.98
PG&E	8/10/2011	7/20/2011	Mst #729... 7/11	Service Mst #729... 7/11	\$11,197.26	\$0.00		\$11,197.26
				Totals for PG&E:	\$15,578.05	\$0.00		\$15,578.05
pmsigns								
pmsigns	8/9/2011	7/14/2011	17825	4th of July Sign 7/11	\$103.92	\$0.00		\$103.92
pmsigns	8/9/2011	7/12/2011	17825A	Farmers Market Sign 7/11	\$139.47	\$0.00		\$139.47
				Totals for pmsigns:	\$243.39	\$0.00		\$243.39
Riso Products of Sacramento								
Riso Products of Sacramento	8/9/2011	7/20/2011	77002	PD Copier 7/11	\$94.79	\$0.00		\$94.79
				Totals for Riso Products of Sacramento:	\$94.79	\$0.00		\$94.79
Rock & Waterfall Co								
Rock & Waterfall Co	8/10/2011	7/30/2011	102-13	OH Waterfall Maintenance 7/11	\$650.00	\$0.00		\$650.00
				Totals for Rock & Waterfall Co:	\$650.00	\$0.00		\$650.00
Rutan & Tucker LLP								
Rutan & Tucker LLP	8/9/2011	7/14/2011	614251	Land Use & Econ Development 6/11	\$125.00	\$0.00		\$125.00

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Soil & Stone								
Soil & Stone	8/9/2011	5/3/2011	PI-121559	Water Feature Stone 5/11	\$3,978.44	\$0.00		\$3,978.44
Soil & Stone	8/9/2011	5/3/2011	PI-121598	Water Feature Stone 5/11	\$321.02	\$0.00		\$321.02
				Totals for Soil & Stone:	\$4,299.46	\$0.00		\$4,299.46
Sprayer Sales Co								
Sprayer Sales Co	8/9/2011	6/24/2011	10764	PW Wash Rack Maintenance 4/11	\$225.00	\$0.00		\$225.00
Sprayer Sales Co	8/9/2011	6/30/2011	10765	PW Wash Rack Maintenance 5/11	\$225.00	\$0.00		\$225.00
Sprayer Sales Co	8/10/2011	7/30/2011	10808	PW Wash Rack Maintenance 6/11	\$225.00	\$0.00		\$225.00
Sprayer Sales Co	8/10/2011	8/4/2011	10809	PW Wash Rack Maintenance 7/11	\$225.00	\$0.00		\$225.00
				Totals for Sprayer Sales Co:	\$900.00	\$0.00		\$900.00
Sprint Comm (PD)								
Sprint Comm (PD)	8/9/2011	7/29/2011	116	PD Phone Service 7/11	\$293.04	\$0.00		\$293.04
				Totals for Sprint Comm (PD):	\$293.04	\$0.00		\$293.04
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	8/9/2011	6/29/2011	110	PW & Adm Cell Phone Service 6/11	\$277.74	\$0.00		\$277.74
Sprint Comm (PW & ADM)	8/10/2011	7/29/2011	111	PW & Adm Cell Phone Service 7/11	\$271.51	\$0.00		\$271.51
				Totals for Sprint Comm (PW & ADM):	\$549.25	\$0.00		\$549.25
Stericycle Inc								
Stericycle Inc	8/9/2011	8/1/2011	3001484669	PD Haz Material Removal 8-10-11	\$168.57	\$0.00		\$168.57
				Totals for Stericycle Inc:	\$168.57	\$0.00		\$168.57
Tasha Castagna								
Tasha Castagna	8/9/2011	7/19/2011	9/24/11 Cnx	Refund EH Deposit 6/24/11 Cnx	\$375.00	\$0.00		\$375.00
				Totals for Tasha Castagna:	\$375.00	\$0.00		\$375.00
The Maids Home Svcs								
The Maids Home Svcs	8/9/2011	5/26/2011	60453	Clean Up of 268 Stranahan Cir 5/11	\$275.00	\$0.00		\$275.00
				Totals for The Maids Home Svcs:	\$275.00	\$0.00		\$275.00
Treppa Law Group								
Treppa Law Group	8/9/2011	6/30/2011	525	JFC Litigation Legal Services 6/11	\$99.00	\$0.00		\$99.00
				Totals for Treppa Law Group:	\$99.00	\$0.00		\$99.00
Underground Service Alert								
Underground Service Alert	8/9/2011	7/20/2011	11070164	USA Annual Membership 11-12	\$167.16	\$0.00		\$167.16
				Totals for Underground Service Alert:	\$167.16	\$0.00		\$167.16
United Site Services Inc								
United Site Services Inc	8/9/2011	7/5/2011	114-39399	4th of July Portapottys 7/11	\$626.06	\$0.00		\$626.06
				Totals for United Site Services Inc:	\$626.06	\$0.00		\$626.06

City of Clayton

Cash Requirements Report

CC Meeting 8/16/11

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	ADM 6/11	Admin Office Supplies, Plaque, Tapes	\$421.97	\$0.00		\$421.97
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	ADM 6/11	Neopost Lease & Ink supplies	\$503.31	\$0.00		\$503.31
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	ADM 6/11	Verizon - ISDN Phone Line 6/11	\$213.68	\$0.00		\$213.68
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	ADM 6/11	Well Monitoring 5/11	\$1,546.50	\$0.00		\$1,546.50
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Meth Test Kit, Gloves, Supplies	\$218.52	\$0.00		\$218.52
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Postage	\$5.59	\$0.00		\$5.59
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD CPCA Chief Membership 11-12	\$300.00	\$0.00		\$300.00
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Replace battery handle & memory cards	\$342.60	\$0.00		\$342.60
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Car Washes, repairs	\$260.05	\$0.00		\$260.05
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Vehicle Gas	\$2,746.00	\$0.00		\$2,746.00
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD Blood Fridge Supplies	\$96.60	\$0.00		\$96.60
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PD 6/11	PD FTO Training - Food	\$60.91	\$0.00		\$60.91
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Hoses, flags & cable ties	\$536.97	\$0.00		\$536.97
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW CCP Drinking faucets	\$400.67	\$0.00		\$400.67
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW CH Fountain part	\$34.91	\$0.00		\$34.91
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Library light bulbs	\$146.61	\$0.00		\$146.61
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Toro battery	\$109.70	\$0.00		\$109.70
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Vehicle Gas	\$1,021.99	\$0.00		\$1,021.99
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Street Supplies	\$135.26	\$0.00		\$135.26
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Landscape Supplies	\$1,210.04	\$0.00		\$1,210.04
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Truck & Trailer Repairs	\$1,058.15	\$0.00		\$1,058.15
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Chain links	\$14.77	\$0.00		\$14.77
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW Landscape Fuel	\$1,382.38	\$0.00		\$1,382.38
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	Water Feature rock, rentals & sod	\$10,070.47	\$0.00		\$10,070.47
US Bank Corp Pymt System (Cal Card)	8/12/2011	6/23/2011	PW 6/11	PW EH Paint	\$73.07	\$0.00		\$73.07
Totals for US Bank Corp Pymt System (Cal Card):					\$22,910.72	\$0.00		\$22,910.72

City of Clayton Cash Requirements Report CC Meeting 8/16/11

WK McLellan Co	8/10/2011	7/28/2011	17599	Sidewalk & Sinkhole Repair 7/11	\$2,446.00	\$0.00	\$2,446.00
				Totals for WK McLellan Co:	<u>\$2,446.00</u>	<u>\$0.00</u>	<u>\$2,446.00</u>
				GRAND TOTALS:	\$461,956.29	\$0.00	\$461,956.29



Agenda Date: 8-16-11

Agenda Item: 4c

STAFF REPORT

Approved:

Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 16, 2011

SUBJECT: RESOLUTION ACCEPTING THE 2010 PAVEMENT REHABILITATION PROJECT (CIP No. 10409) AND THE OLD MARSH CREEK ROAD OVERLAY PROJECT (CIP No. 10416) AS COMPLETE AND ORDERING THE FILING OF A NOTICE OF COMPLETION

RECOMMENDATION

Adopt Resolution.

BACKGROUND

The contractor, MCK Services, Inc., has finally completed construction and remedial work of the 2010 Pavement Rehabilitation Project (CIP No. 10409) and the Old Marsh Creek Road Overlay Project (CIP No. 10416) and has requested acceptance of the work.

The overlay of Old Marsh Creek Road went very well and the finished product was very acceptable. However, significant problems occurred with the 2010 Pavement Rehabilitation Project, particularly in the Dana Hills area. Issues ranged from performing the paving work on the same day as neighborhood garbage pickup to portions of the asphalt overlay coming up due to a lack of proper thickness at the edge of the ground area. In addition, the finished surface of the pavement had a very rough look in certain areas.

Due to the inclement weather, it was decided to delay repairs until after the winter. To insure that the contractor properly addressed our concerns, we enlisted the help of Pavement Engineering, a firm specializing in the design and construction of asphalt pavement. Regarding the asphalt that was breaking up and coming up, Pavement Engineering agreed the only problem was that the overlay thinned out in certain locations. They recommended that the thin areas be ground out and repaved. Pavement Engineering was not concerned with the structural integrity of the rough areas. They also felt that the rough areas would smooth out over time when the weather warmed up and traffic rolled over the pavement.

Date: August 16, 2011

Page 2 of 2

The contractor was then directed to grind out and repave the thin areas. In addition, the last 75 feet or so of Mountaire Parkway had an extremely rough finish and looked like it had not been rolled properly. The contractor was directed to remove all of that asphalt and repave it. In order to speed up the smoothing of the other rough areas, the contractor was directed to slurry seal the worst areas. We have noted that the anticipated smoothing by traffic use is happening and is expected to continue.

The Engineering Department has now completed inspection of the improvements and submits that the project passes our standards and is now ready for acceptance.

FISCAL IMPACT

2010 Pavement Rehabilitation Project

The final approved project budget amount was \$1,007,000 for the overlay or reconstruction of the 33 worst (per our pavement management system) subdivision streets throughout the City. The final cost is \$1,018,656.45 or \$11,656.90 (1.2%) over the approved budget. This overrun is due primarily to the final measured construction quantities being slightly higher than the bid quantities. It is recommended that the extra costs be funded by interest earnings in the City's Capital Improvement Budget (CIP).

Old Marsh Creek Road Overlay Project

The final approved project budget amount was \$430,000 for the overlay of the two lane portion of old Marsh Creek Road. The final cost ended up at \$378,896.40 or \$51,103.60 (11.9%) under the approved budget. The City paid the preliminary costs of \$19,300 with Gas Tax funds. The remaining costs were to be covered by a \$411,000 Measure J grant. Since the project did not use the entire \$411,000, the remaining Measure J funds will be reallocated to the Marsh Creek Road Upgrade project (CIP 10414).

CONCLUSION

The project is complete and the work has satisfied the project's specifications. Therefore, Staff recommends approval of this Resolution accepting the work as complete, ordering the filing of a Notice of Completion, and the payment of all retained funds 35 days after filing of the notice.

Attachments: Resolution
 Notice of Completion
 Final Project Report

RESOLUTION NO. - 2011

A RESOLUTION ACCEPTING THE CONSTRUCTION OF THE 2010 PAVEMENT REHABILITATION PROJECT (CIP #10409) AND OLD MARSH CREEK ROAD OVERLAY PROJECT (CIP #10416) AS COMPLETE AND ORDERING THE FILING OF A NOTICE OF COMPLETION

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, on September 7, 2010 the City Council of Clayton, California did award a contract to MCK Services, Inc. for the construction of both the 2010 Pavement Rehabilitation Project (CIP #140409) and the Old Marsh Creek Road Overlay Project (CIP #10416); and

WHEREAS, MCK Services, Inc. has now represented their work is complete and they are requesting acceptance by the City; and

WHEREAS, the City Council must accept the work as complete and order the filing of a Notice of Completion prior to release of the retained funds; and

WHEREAS, the City Engineer has inspected the work, declares the contract and related project specifications have been fulfilled; and the City Engineer now requests the City Council to accept the work and authorize the filing of a Notice of Completion.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby accept as completed as of the date of adoption of this Resolution the construction of the 2010 Pavement Rehabilitation Project and the Old Marsh Creek Road Overlay Project, hereby authorizes the City Engineer to file a Notice of Completion with the County Recorder, and further authorizes the release of the contract retention after the required 35 day waiting period; and

BE IT FURTHER RESOLVED the City Council does hereby approve and authorize the appropriation of \$11,656.90 in interest earnings from the City's Capital Improvement Project Budget (CIP) to address the corresponding project cost overrun of the 2010 Pavement Rehabilitation Project (CIP No. 10409).

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 16th day of August, 2011 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

DAVID T. SHUEY, Mayor

ATTEST:

Laci Jackson, City Clerk

#

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at its regular public meeting held on August 16, 2011.

Laci J. Jackson, City Clerk

Recorded at the request of:

City of Clayton
6000 Heritage Trail
Clayton, CA 94517

**NOTICE OF ACCEPTANCE
AND COMPLETION OF PUBLIC WORKS**

NOTICE IS HEREBY GIVEN that the City of Clayton did, on or about September 9, 2010, contract with MCK Services, Inc., P.O. Box 5697, Concord, California, 94524, for the construction of the 2010 Pavement Rehabilitation Project and the Old Marsh Creek Road Overlay Project in accordance with the plans and specifications prepared by the City of Clayton and said contractor's surety was and is Fidelity and Deposit Company of Maryland, 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL, 60196-1056.

NOTICE IS FURTHER GIVEN that the Clayton City Engineer has inspected said work of the Contractor and reported that the work complies with the approved plans and specifications and recommended its acceptance as complete; also that the City Council of the City of Clayton, California, by adopting Resolution No. XX-2011 on August 16, 2011, accepted said public work as complete.

I hereby certify that the foregoing is true and correct and that the aforesaid action of the City Council of the City of Clayton, in accepting said public work as completed, was duly entered on the minutes of said Council's meeting of August 16, 2011. I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 17, 2011, at Clayton, California.

Laci Jackson, City Clerk

**ATTACHMENT TO
NOTICE OF ACCEPTANCE
AND COMPLETION OF PUBLIC WORKS**

Project: 2010 Pavement Rehabilitation Project

Contractor: MCK Services, Inc.

Streets:

Alef Court	Mt. McKinley Court
Bloching Circle	Mt. Palomar Place
Casey Glen Court	Mt. Rainier Court
Caulfield Court	Mt. Sequoia Court
Chardonnay Circle	Mt. Vernon Drive
Crow Place	Mt. Wilson Place
Diablo Creek Court	N. Lydia Lane
Diablo Creek Place	Ohman Place
Golden Eagle Place	Panadero Way
Hummingbird Place	Petar Court
Hummingbird Way	Raven Way
Mountaire Parkway	Rialto Drive
Mountaire Place	Roundhill court
Mt. Alpine Place	Roundhill Place
Mt. Dell Drive	Southbrook Drive
Mt. Etna Drive	Whitt Court
	Windmill Canyon Place

Project: Old Marsh Creek Road Overlay Project

Contractor: MCK Services, Inc.

Streets: Marsh Creek Road

**CITY OF CLAYTON
ENGINEERING DEPARTMENT
925/672-9700
fax 925/672-2959**

FINAL PROJECT REPORT

**2010 PAVEMENT REHABILITATION PROJECT (CIP 10409)
&
OLD MARSH CREEK ROAD OVERLAY PROJECT (CIP 10416)**

Project Description

Construction of an overlay of Old Marsh Creek Road, including adjustment of structures and re-striping and the pavement rehabilitation (thin overlays and reconstruction) of numerous subdivision streets, including several with the Oakhurst development..

Scope Changes During Construction

In order to take advantage of the lower unit prices for paving work due to the large size of the project, the two projects were combined into one bid and contract award. While the Old Marsh Creek Overlay Project was completed without incident, the 2010 Pavement Rehabilitation Project was problematic. Shortly after the work was completed, portions of the asphalt overlay started coming up and the finished surface in many areas was unacceptable. Due to the time of year and the cold weather, it was decided to wait until this year to undertake any repairs. The unusually cold and wet Spring further delayed the repair work until July.

2010 PAVEMENT REHABILITATION PROJECT (CIP 10409)

CIP Budget and Funding Sources

Total Budget:	Original Amount (10-11)	\$1,007.000
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Sources:

Gas Tax	\$109,000
Measure J (per capita)	525,000
Proposition 42	208,000
GHAD (bond refund interest)	55,000
GHAD (lawsuit settlement)	<u>110,000</u>
Total	\$1,007,000

Final Costs

Permco (design, admin & inspect. – est. to compl.)	\$46,000.00
Nicolas Engineering (testing)	3,400.00
Pavement Engineering (expert consultant)	1,400.00
MCK Services (paid to date)	855,506.79
MCK Services (remaining + retention)	111,177.66
Legal Advertising	545.40
County Signals	<u>627.05</u>
Total Project Costs	\$1,018,656.45

CITY OF CLAYTON
ENGINEERING DEPARTMENT
925/672-9700
fax 925/672-2959

Budget Variance: over (under) \$11,656.90 (1.2%)

Budget variance primarily due to the final measured construction quantities being slightly higher than the bid quantities.

Recommended Sources:

Gas Tax	\$109,000
CIP Project Interest Earnings	11,657
Measure J (per capita)	525,000
Proposition 42	208,000
GHAD (bond refund interest)	55,000
GHAD (lawsuit settlement)	<u>110,000</u>
Total	\$1,018,657

OLD MARSH CREEK ROAD OVERLAY PROJECT (CIP 10416)

CIP Budget and Funding Sources

Total Budget: Original Amount (10-11) \$430,300

Sources:

Gas Tax	\$19,300
Measure J (grant)	<u>411,000</u>
Total	\$430,000

Final Costs

Permco (design, admin & inspect. – est. to compl.)	\$24,000.00
Environmental Collaborative (preconstruction survey)	3,400.00
MCK Services (paid to date)	315,083.70
MCK Services (remaining + retention)	35,009.30
Legal Advertising	545.40
County Signals	<u>858.00</u>

Total Project Costs \$378,896.40

Budget Variance: over (under) (\$51,103.60) (11.9%)

Recommended Sources:

Gas Tax	\$19,300
Measure J (grant)	<u>359,597</u>
Total	\$377,897

Remaining Measure J funds (\$51,403) will be reallocated back to the Marsh Creek Road Upgrade Project (CIP 10414).



Agenda Date: 8-16-11

Agenda Item: 4d

STAFF REPORT

Approved:

Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 16, 2011

SUBJECT: CONSIDER A RESOLUTION APPROVING A SUBDIVISION AGREEMENT WITH TOLL XIX CA, L.P., FOR SUBDIVISION 8719 (DIABLO POINTE) AND AUTHORIZING EXECUTION THEREOF

RECOMMENDATION

Adopt resolution.

BACKGROUND

As the Council is aware, the Diablo Pointe development (Subd. 8719) has been purchased by Toll Bros. ("Toll")

A good portion of the subdivision improvements were completed by the previous developer, but not accepted as complete by the City. In order to insure completion of the improvements and have Toll Bros. assume complete responsibility for those improvements previously installed, we have prepared the attached subdivision agreement (modified from our standard agreement).

Toll has executed the subdivision agreement and provided the required bonds and insurance certificate.

FISCAL IMPACT

None.

CONCLUSION

Based upon the above, Staff recommends that the City Council adopt the attached resolution approving subdivision agreement and authorizing the Mayor to execute the agreement on behalf of the City.

Attachments: Resolution
Subdivision Agreement
Bonds & Insurance

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE EXECUTION OF A SUBDIVISION AGREEMENT FOR SUBDIVISION 8719, DIABLO POINTE, WITH TOLL CA XIX, L.P., COVERING CONSTRUCTION OF THE REQUIRED IMPROVEMENTS.

THE CITY COUNCIL City of Clayton, California

WHEREAS, the original developer of Subdivision 8719, Seminary, LLC, a Delaware limited liability company ("Seminary"), lost title to the subject property through foreclosure to First Horizon/First Tennessee Bank; and

WHEREAS, Seminary posted performance bonds to insure completion of the construction of the improvements in accordance with their subdivision agreement which had been approved by the City Council on April; 1, 2008; and

WHEREAS, while Seminary had completed construction of a majority of the subdivision improvements, the City had not yet performed a final inspection or accepted the improvements as complete, when work was halted and the property foreclosed upon; and

WHEREAS, the property has now been purchased from the bank by Toll CA XIX, L.P. ("Toll"), and Toll wishes to complete construction of the subdivision improvements in accordance with the approved construction plans; and

WHEREAS, Toll is required to accept full responsibility for completeness and adequacy of the existing improvements as constructed by Seminary as well as any improvements to be constructed by Toll;

WHEREAS, Toll is further required to post performance bonds to insure completion of all of the required subdivision improvements; and

WHEREAS, Toll has executed a new subdivision agreement and submitted the required bonds and insurance certificates;

WHEREAS, the City Engineer has reviewed the agreement, bonds and insurance certificates and has recommended approval of the subdivision agreement;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California does hereby approve the subdivision agreement for Subdivision 8719, Diablo Pointe, with Toll XIX CA, L.P., and authorizes the Mayor to execute said agreement on behalf of the City.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Clayton, California at a regular meeting thereof held on the 16th day of August, 2011 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY OF CLAYTON, CA

David T. Shuey, Mayor

ATTEST:

Laci J. Jackson, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on August 16, 2011.

Laci J. Jackson, City Clerk

CITY OF CLAYTON

SUBDIVISION AGREEMENT

NAME OF SUBDIVISION: DIABLO POINTE NO. 8719

NAME OF SUBDIVIDER: TOLL CA XIX, L.P.

**ADDRESS OF SUBDIVIDER: 100 Park Place, Suite 140
San Ramon, CA 94583**

RECITALS

WHEREAS, the original Subdivider of the Diablo Pointe, SEMINARY, LLC, ("Seminary") constructed a majority of the improvements as required under the original Subdivision Agreement ("Agreement") for Diablo Pointe, Subd. 8719, before ceding fee title to its lender via foreclosure proceedings; and

WHEREAS, City did not accept any of Seminary's constructed improvements as complete; and

WHEREAS, the land subject to the aforesaid Agreement has now been purchased by a new owner, TOLL CA XIX, L.P. ("New Owner"); and

WHEREAS, in lieu of assuming the position of Seminary as regards to the Agreement between City and Seminary, the New Owner wishes to enter into a new and separate subdivision agreement ("New Agreement") with the City of Clayton ("City"); and

WHEREAS, City is willing to enter into the New Agreement with the New Owner with the understanding that by executing the New Agreement, the New Owner shall assume sole and full responsibility for all of the work and improvements begun and/or completed by Seminary, including any warranties or liabilities therefor;

NOW THEREFORE, City and New Owner agree as follows:

This is a **SUBDIVISION AGREEMENT** entered into this ____ day of _____, 2011, by and between the **CITY OF CLAYTON**, located in Contra Costa County, California, hereinafter called "City", and **TOLL CA XIX, L.P.** hereinafter called "Subdivider", who do mutually promise and agree to as follows:

1. **IMPROVEMENTS:** pursuant to the plans, specifications, standards and/or drawings attached hereto as Exhibit(s) A, Subdivider shall construct, install and complete road and street improvements, drainage facilities, sidewalks, curbs, gutters, street signs, sewer work, fire hydrants, landscaping, plant establishment work, electroliers, monuments, other structures, and any and all grading and improvements incidental to the work to be performed hereunder by reference and made a part hereof. All of said work and improvements as herein described (hereinafter called work) will be performed as required by the CITY OF CLAYTON and /or the CITY OF CLAYTON ENGINEERING DEPARTMENT and in conformance with all City Ordinances, and Resolutions, and the Standard Plans and Standard Specifications of the City, and applicable Contra Costa County Regulations, the applicable standards, statutes and laws of the State of California and Federal Government (including but not limited to the California Environmental Quality Act; Public Resources Code, Section 21000, et seq.) and the construction plans and specifications for this subdivision, including future amendments thereto, adopted, approved and filed with the City of Clayton at time of issuance of grading and improvement plan permits. It is expressly understood that if there is a conflict between the construction plans as submitted and approved, and the rules, statutes, standards, regulations, laws and ordinances of the City, County of Contra Costa, State of California or Federal Government, the strictest of all said requirements and standards shall govern subject to vested entitlements. It is also expressly understood that the rules, statutes, standards, regulations, laws, and ordinances referred to herein are incorporated by reference. It is expressly agreed, understood and warranted that City and Subdivider will perform all of the terms and conditions of this agreement pursuant to the California Subdivision Map Act, Government Code Section 66410, et seq.

2. **COMPLETION:** Subdivider shall complete all of said work and improvements within 12 months from the date of execution of this agreement unless an extension of

said period of time is granted by the City. If the construction of all subdivision improvements is not completed within the 12 month period described in Section 2 hereof, SUBDIVIDER shall pay an additional inspection fee to the City, by the 15th day of the 13th month from execution of this agreement, in an amount equal to ten percent (10%) of the initial inspection fee (\$86,000.00). A like additional fee shall apply each year that completion of the subdivision improvements is delayed beyond the initial 12 month period and each subsequent 12 month period.

3. **GUARANTEE AND MAINTENANCE:** Subdivider warrants that all work set forth in this New Agreement and in the prior Subdivision Agreement entered into between the City and Seminary shall be free from defects in material and workmanship and will perform satisfactorily and in accordance with all applicable codes, ordinances, statutes and regulations for a period of one (1) year from and after the City accepts the work as complete; Subdivider shall maintain all work and improvements for a period of one (1) year after its completion and acceptance by the City. Subdivider also agrees to correct, repair, and replace, at Subdivider's expense, any and all work and improvements found to have defects, including, but not limited to defective workmanship, defective materials, or any work or improvements that are deemed by the City to have unsatisfactory performance during said one (1) year period.

4. **SECURITY DEPOSIT:** All fees and deposits normally required with the execution of a subdivision agreement were paid by Seminary and shall be applied to the New Owner's account.

5. **ADDITIONAL FEES:** All additional fees lawfully required by the City shall be paid to the City prior to the issuance of a Certificate of Occupancy for each dwelling unit within the subdivision unless earlier payment is required by City Ordinances, Resolutions, or other regulations.

6. **BONDS:** Upon execution of the Agreement, Subdivider shall deposit the following security with the City.

(a) Faithful Performance and Maintenance –a cash deposit or certified or cashier's check, or an acceptable corporate surety bond for at least \$1,533,000.00 which totals the estimated cost of the work, guaranteeing his faithful performance of this Agreement and maintenance of the work for one (1) year after completion and

acceptance thereof against any defective workmanship or materials or any unsatisfactory performance; and

(b) Labor and Materials – Additional security for at least \$ 1,533,000.00, which is the total estimated cost of the work, securing payment to the contractor, to his subcontractor and to persons renting equipment or furnishing labor or materials to them or to the Subdivider.

(c) Upon acceptance by the City of work and improvements as complete, all deposits, including corporate surety bonds, for faithful performance of this Agreement may, at the discretion of the City, be reduced by fifty percent (50%).

(d) It is agreed by both parties that if at any time in the sole opinion of the City Engineer the security requirements herein become inadequate, then upon request, additional security shall be furnished to the City and in the newly specified amount.

7. **INSPECTOR:** City shall designate and appoint an inspector(s) who may be present from time to time on the job site. City is free to choose or utilize any and all person(s) or firms including, but not limited to, City or County personnel to inspect the job site. Said inspections shall take place at the sole discretion of the City and inspector shall be allowed access to the job site at all times.

8. **NO WAIVER BY CITY:** Inspection of the work and/or materials, or approval of work and/or materials inspected, or statement by any officer, agent or employee of the City indicating that the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments thereof or any combination or all of these acts, shall not relieve the Subdivider of his obligation to fulfill this agreement as prescribed; nor shall the City be thereby estopped from bringing an action or actions for damages arising from the failure to comply with any of the terms and conditions hereof.

9. **WARRANTY:** Subdivider warrants that said improvement construction plans are adequate to accomplish this work as promised in Section 1, herein. If, at any time before the City's resolution of acceptance for the subdivision, the improvement construction plans prove to be inadequate in any respect, Subdivider shall make changes deemed necessary by the City to accomplish the work as promised.

10. **INDEMNITY:** Subdivider shall hold harmless and indemnify and defend the indemnitees from the liabilities as defined in this section:

(a) The indemnitees benefited and protected by this promise are the City and its elective and appointed boards, commissions, officers, agents and employees;

(b) The liabilities protected against are any liability or claim for damage of any kind alleged suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the City approved the improvement construction plans or accepted improvements as complete. The liabilities protected against also include the indemnitees' attorneys' fees and costs of defense of any suit(s), action(s), or other proceeding(s) concerning these;

(c) The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to the Subdivider, contractor, subcontractor or any officer, agent or employee of one (1) or more of them. The indemnification in this section is not conditioned or dependent on whether or not any indemnitee has prepared, supplied, or approved plan(s) or specification(s) in connection with the work or subdivision, or has insurance or other indemnification covering any of these matters. Expressly excluded from this indemnity is liability solely caused by the active negligence or willful misconduct of indemnitee.

11. **INSURANCE:**

(a) Certificate of Insurance – Subdivider and his contractor shall procure and maintain Property Damage and Public Liability Insurance, and shall furnish the City with a Certificate of Insurance evidencing public liability insurance in the amount of at least two million dollars (\$2,000,000.00) combined single limit for both property damage and public liability. The Certificate of Insurance shall indicate that the insurance shall be effective during the period in which this agreement is enforceable, and that such insurance will not be canceled or modified without thirty (30) days' written notice to the City. The insurance required by this subparagraph does not limit, in any manner, the Subdivider's indemnification obligation set forth in this Agreement.

(b) Certificate of Additional Insured Endorsed – The City shall be named as an additional insured under the policies described above. The insurance coverage provided in accordance with subparagraph 11(a) shall be the primary coverage and no other coverage available to the City shall be called upon to respond until the limits provided by the Subdivider have been exhausted. The Subdivider shall provide the City with evidence of its inclusion in the Subdivider's insurance, as required herein, by providing to the City, in addition to the Certificate of Insurance identified in subparagraph 10(d), a copy of the Additional Insured Endorsement. This endorsement shall remain in full force and effect during the period in which this Agreement is enforceable, and that such insurance shall not be canceled or modified without thirty (30) days written notice to the City. The Certificate required by the subparagraph shall not in any manner limit the Subdivider's indemnification obligations set forth in this Agreement.

(c) Worker's Compensation Insurance – Subdivider covenants that he/she will insure himself/herself against liability for Worker's Compensation pursuant to the provisions of the California Labor Code, Section 3700, et seq. In addition, said insurance shall include a waiver of subrogation. Subdivider shall furnish proof that Worker's Compensation Insurance is being maintained by him/her and his/her contractors and subcontractors in force and effect in accordance with said Labor Code and this provision.

12. **COST:** Subdivider shall pay when due, all costs of the work, including inspections thereof and relocating existing utilities required thereby.

13. **HEIRS, SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon the heirs, successors, and assigns of the parties hereto.

14. **RUNS WITH LAND AND RECORDATION:** It is intended and agreed that the provisions of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the subdivision and burdens and benefits hereof shall bind and inure to the benefit of all estates and interest to the parties hereto.

15. **SURVEYS AND AS-BUILT DRAWINGS:** Before acceptance by the City of any work or improvements as complete, the Subdivider shall set and establish survey monuments in accordance with the final map approved for the subdivision and to the satisfaction of the City Engineer. It is further understood that the Subdivider shall

furnish the City Engineering Department with a complete set of as-built drawings of improvement plans on mylar and in digital format for the subdivision (including all revisions thereto) upon completion of all said improvements and work and before acceptance of the work or improvements by the City.

16. **RECORDATION OF FINAL MAP:** In consideration of the terms and conditions expressed herein, City has allowed Subdivider to file and record the Final Map or Parcel Map for this Subdivision.

17. **UNENFORCEABLE PROVISIONS:** If any term, provision, covenant or condition of this Agreement shall by a court of competent jurisdiction be found to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

18. **NON-ASSIGNABILITY:** It is understood and agreed that this Agreement is not assignable or transferable without written consent of the parties to this Agreement.

19. **NOTICE:** Any notice or communication required hereunder between the City and Subdivider must be in writing, and maybe given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received five (5) days after the registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. Any party may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address as substitution of the addresses to which such notice or communication shall be given. All notices or communication shall be given to the Subdivider at the address listed in this Subdivision Agreement. All notice and communications shall be given to the City, c/o City Engineer, 6000 Heritage Trail, Clayton, California 94517.

20. **NONPERFORMANCE, ATTORNEY'S FEES AND COSTS:** If Subdivider fails to complete the work and improvements within the time specified in this agreement or extensions granted, City may proceed to complete them by contract or otherwise, and Subdivider shall pay the costs and charges therefor immediately upon demand. If City successfully sues to compel performance of this agreement or recover the costs of completing the improvements, or for any breach this agreement, Subdivider shall pay all

reasonable attorney's fees, costs of suit, and all other expenses of litigation incurred by City in connection therewith.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF CLAYTON

Mayor

FORM APPROVED

CITY ATTORNEY

SUBDIVIDER

Name/Title

R. M. Nelson

RICHARD M. NELSON, Division President

Name/Title

G. M. Mayo *GARY M. MAYO GROUP PRESIDENT*

Street Address

100 PARK PLACE, SUITE 140

City/State/Zip Code

SAN RAMON, CA 94583

Phone

925-855-0260

NOTE TO SUBDIVIDER:

1. Execute acknowledgment form below; and
2. If a corporation, must be signed by two officers, one of whom shall not be the chairman of the board, president or any vice-president; and
3. If a corporation, attach a certified copy of (a) Bylaws, or (b) the Resolution of the Board of Director, authorizing execution of this Agreement and the bond required thereby; also
4. If a corporation, corporate seal must be affixed.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, before me, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ACKNOWLEDGMENT

State of California

County of Contra Costa)

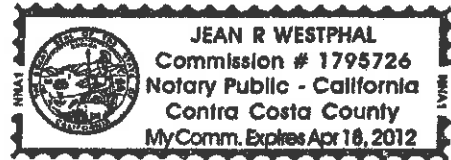
On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Richard M. Nelson
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in
his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jean R. Westphal (Seal)



ACKNOWLEDGMENT

State of California
County of Contra Costa)

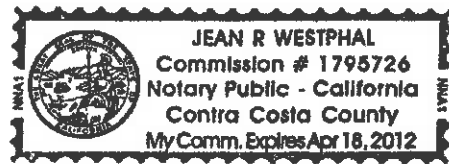
On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Gary M. Mayo
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jean R. Westphal (Seal)



CERTIFICATE OF GENERAL PARTNER

I, Kenneth J. Greenspan, Assistant Vice President of Toll CA GP Corp., a California corporation (the "Corporation"), do hereby certify and confirm that:

1. The Corporation is the general partner (the "General Partner") of the limited partnerships listed on Exhibit A attached hereto (collectively, the "Partnerships"), and as General Partner is authorized to make decisions and act on behalf of the Partnerships.
2. The following officers are duly appointed to the offices next to their names and are individually authorized, empowered and directed to execute and deliver, on behalf of the Corporation in its capacity as General Partner of the Partnerships, any agreement, application or any other document with respect to the applications for any and all permits, zoning, subdivision approvals and construction matters, including, but not limited to, utility documents and Department of Real Estate documents, which are to be applied for by the Partnerships, and any agreement, deed, or any other document with respect to the sale or conveyance of individual homes, units or lots owned by the Partnerships, upon such terms and conditions as they deem appropriate and in the best interest of the Corporation and the Partnerships:

James W. Boyd
Richard T. Hartman

Regional President
Regional President

Kevin D. Duermit
Gary M. Mayo

Group President
Group President

Richard M. Nelson
Charles B. Raddatz

Division President
Division President

Charles W. Templeton

Division Vice President

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Corporation this 13th day of June, 2011.



Kenneth J. Greenspan
Assistant Vice President

EXHIBIT A

Sorrento at Dublin Ranch I LP
Sorrento at Dublin Ranch III LP
Toll CA, L.P.
Toll CA II, L.P.
Toll CA III, L.P.
Toll CA IV, L.P.
Toll CA V, L.P.
Toll CA VI, L.P.
Toll CA VII, L.P.
Toll CA VIII, L.P.
Toll CA IX, L.P.
Toll CA X, L.P.
Toll CA XI, L.P.
Toll CA XII, L.P.
Toll CA XIX, L.P.
Toll Land XIX Limited Partnership
Toll Land XX Limited Partnership
Toll Land XXII Limited Partnership
Toll Land XXIII Limited Partnership
Toll Stonebrae LP

Bond No. 39BSBFU0742
Premium \$16,099.00

SUBDIVISION PERFORMANCE BOND - CALIFORNIA

WHEREAS: City of Clayton State of California, and
Toll CA XIX, L.P., A California Limited Partnership owned by wholly-owned subsidiaries of Toll Brothers, Inc. (hereinafter designated as
"Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public
improvements, which said agreement, dated _____, and identified as project, for
Diablo Pointe, Subdivision No. 8719
and is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of
said agreement.

Now, therefore, we, the Principal and Hartford Fire Insurance Company,
as Surety, are held and firmly bound unto City of Clayton,
hereinafter called "Obligee" in the penal sum of One Million Five Hundred Thirty Three Thousand Two Hundred
Thirty Dollars and 00/100 Dollars (\$1,533,230.00) lawful money of the United States,
for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and
administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounden Principal, his or its heirs, executors, administrators,
successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants,
conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to
be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and
meaning, and shall indemnify and save harmless the Obligee, its officers, agents and employees, as therein stipulated, then
this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

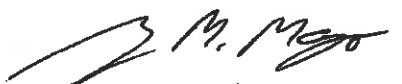
As part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs
and reasonable expenses and fees, incurred by Obligee in successfully enforcing such obligation, to be awarded and fixed
by the court, and to be taxed as costs and to be included in the judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the term of the
agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect
its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to
the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and Surety named, on March 25,
2011.

TOLL CA XIX, L.P.

BY: TOLL CA GP CORP.


GARY M. MAYO
GROUP PRESIDENT

Principal
By: 
RICHARD M. NELSON, Division President

Surety
Hartford Fire Insurance Company
By: 
Daniel P. Dunigan Attorney-In-Fact

2 Paoli Office Park - 2 Industrial Boulevard
Address
Paoli, PA 19301

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of PENNSYLVANIA

County of CHESTER

On MARCH 25, 2011 before me, _____
DATE

ARLENE OSTROFF

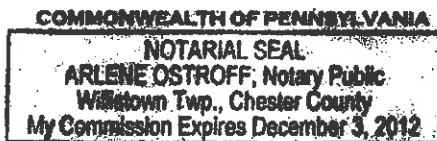
NOTARY PUBLIC

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared DANIEL P. DUNIGAN

NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Arlene Ostroff
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

HARTFORD FIRE INSURANCE COMPANY

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

POWER OF ATTORNEY

THE HARTFORD

BOND, T-4

690 ASYLUM AVENUE

HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 39-320116

KNOW ALL PERSONS BY THESE PRESENTS THAT:

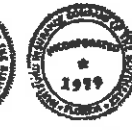
- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

William F. Simkiss, Daniel P. Dunigan, Richard J. Decker, Brian C. Block, Joseph W. Kolok, Jr.
of
Paoli, PA

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Paul A. Bergenholz

Paul A. Bergenholz, Assistant Secretary

David T. Akers

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT

ss. Hartford

COUNTY OF HARTFORD

On this 23rd day of July, 2003, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

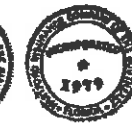
Scott E. Pasden

Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of MARCH 25, 2011

Signed and sealed at the City of Hartford.



Yves Cantin

Yves Cantin, Assistant Vice President

HARTFORD FIRE INSURANCE COMPANY

Hartford, Connecticut

Financial Statement, December 31, 2009

(Statutory Basis)

ASSETS

U.S. Government Bonds	\$ 368,756,707
Bonds of Other Governments	136,326,951
State, County Municipal	
Miscellaneous Bonds ..	12,724,600,391
Stocks	5,385,500,208
Short Term Investments	326,369,173
	<u>\$ 18,941,553,430</u>
Real Estate	\$ 135,059,043
Cash	135,120,953
Agents' Balances (Under 90 Day)	2,645,588,209
Other Invested Assets	426,558,272
Miscellaneous	2,259,048,524
Total Admitted Assets	<u>\$ 24,542,928,431</u>

LIABILITIES

Reserve for Claims	\$	
and Claim Expense.....		7,008,536,044
Reserve for Unearned Premiums		1,991,334,544
Reserve for Taxes, License		
and Fees		63,462,631
Miscellaneous Liabilities		2,289,376,393
Total Liabilities	\$	<u>11,352,709,612</u>
Capital Paid In	\$	54,740,000
Surplus		<u>13,135,478,819</u>
Surplus as regards Policyholders.....	\$	<u>13,190,218,819</u>
Total Liabilities, Capital		
and Surplus	\$	<u>24,542,928,431</u>

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

} ss.

Debora G. Westcott, Assistant Vice President, and Patricia A. Murrone, Assistant Secretary of the Hartford Fire Insurance Company, being duly sworn, each deposes and say that the foregoing is a true and correct statement of the said company's financial condition as of December 31, 2009.

Subscribed and sworn to before me
this 29th day of March, 2010.



Brenda M. Cunningham
Brenda M. Cunningham
Notary Public
My Commission Expires July 31, 2010

Debora G. Westcott
Debora G. Westcott, Assistant Vice President

Patricia A. Murrone
Patricia A. Murrone, Assistant Secretary

ACKNOWLEDGMENT

State of California

County of Contra Costa

On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Richard M. Nelson,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in
his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

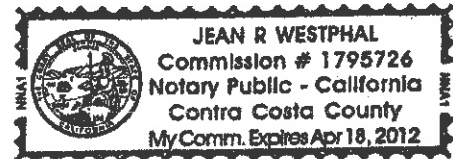
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Jean R. Westphal

(Seal)



ACKNOWLEDGMENT

State of California
County of Contra Costa)

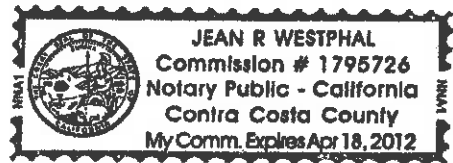
On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Gary M. Mayo
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jean R. Westphal (Seal)



Bond No. 39BSBFU0742
Premium: Included in Performance Bond

SUBDIVISION LABOR AND MATERIAL BOND - CALIFORNIA

WHEREAS: City of Clayton, State of California, and Toll CA XIX, L.P., A California Limited Partnership owned by wholly-owned subsidiaries of Toll Brothers, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, and identified as project for, Diablo Pointe, Subdivision No. 8719 and is hereby referred to and made a part hereof; and

WHEREAS, Under the terms of said agreement, Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Clayton to secure the claims to which reference is made in Title 15 (commencing with Section 3082) as Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said Principal and the undersigned as corporate Surety, are held and firmly bound unto City of Clayton (hereinafter designated as "Obligee") and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure, in the sum of One Million Five Hundred Thirty Three Thousand Two Hundred Thirty Dollars and 00/100 dollars (\$1,533,230.00), for material furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said Surety will pay the same in an amount not exceeding the sum hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the Obligee in successfully enforcing such obligation, to be awarded and fixed by the court, all to be taxed as costs and included in the judgment herein rendered.

It is expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give them a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

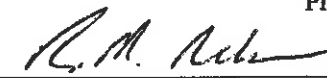
IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety named, on March 25, 2011.

TOLL CA XIX, L.P.

BY: TOLL CA GP CORP.

Principal

By:



RICHARD M. NELSON, Division President
Hartford Fire Insurance Company

Surety

By:


Daniel P. Dunigan

, Attorney-In-Fact

2 Paoli Office Park - 2 Industrial Boulevard

Address

Paoli, PA 19301


GARY M. MAYO
GROUP PRESIDENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5807

State of PENNSYLVANIA

County of CHESTER

On MARCH 25, 2011
DATE

before me,

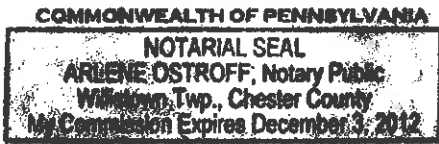
ARLENE OSTROFF
NOTARY PUBLIC

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared DANIEL P. DUNIGAN

NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Arlene Ostroff
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

HARTFORD FIRE INSURANCE COMPANY

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

POWER OF ATTORNEY

THE HARTFORD
BOND, T-4
690 ASYLUM AVENUE
HARTFORD, CONNECTICUT 06115
call: 888-266-3488 or fax: 860-757-5835
Agency Code: 39-320116

KNOW ALL PERSONS BY THESE PRESENTS THAT:

- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

William F. Simkiss, Daniel P. Dunigan, Richard J. Decker, Brian C. Block, Joseph W. Kolok, Jr.
of
Paoli, PA

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Paul A. Bergenholtz

Paul A. Bergenholtz, Assistant Secretary

David T. Akers

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT

COUNTY OF HARTFORD

ss. Hartford

On this 23rd day of July, 2003, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

Scott E. Pascka

Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of MARCH 25, 2011

Signed and sealed at the City of Hartford.



Yves Cantin

Yves Cantin, Assistant Vice President

HARTFORD FIRE INSURANCE COMPANY

Hartford, Connecticut

Financial Statement, December 31, 2009

(Statutory Basis)

ASSETS

U.S. Government Bonds	\$ 368,756,707
Bonds of Other Governments	136,326,951
State, County Municipal	
Miscellaneous Bonds ..	12,724,600,391
Stocks	5,385,500,208
Short Term Investments	326,369,173
	<u>\$ 18,941,553,430</u>
Real Estate	\$ 135,059,043
Cash	135,120,953
Agents' Balances (Under 90 Day)	2,645,588,209
Other Invested Assets	426,558,272
Miscellaneous	2,259,048,524
Total Admitted Assets	<u>\$ 24,542,928,431</u>

LIABILITIES

Reserve for Claims	\$ 7,008,536,044
and Claim Expense.....	1,991,334,544
Reserve for Unearned Premiums	
Reserve for Taxes, License	63,462,631
and Fees	2,289,376,393
Miscellaneous Liabilities	
Total Liabilities	<u>\$ 11,352,709,612</u>
Capital Paid In	\$ 54,740,000
Surplus	<u>13,135,478,819</u>
Surplus as regards Policyholders.....	\$ 13,190,218,819
Total Liabilities, Capital	
and Surplus	<u>\$ 24,542,928,431</u>

STATE OF CONNECTICUT
COUNTY OF HARTFORD
CITY OF HARTFORD

} ss.

Debora G. Westcott, Assistant Vice President, and Patricia A. Murrone, Assistant Secretary of the Hartford Fire Insurance Company, being duly sworn, each deposes and say that the foregoing is a true and correct statement of the said company's financial condition as of December 31, 2009.

Subscribed and sworn to before me
this 29th day of March, 2010.



Brenda M. Cunningham
Brenda M. Cunningham
Notary Public
My Commission Expires July 31, 2010

Debora G. Westcott
Debora G. Westcott, Assistant Vice President

Patricia A. Murrone
Patricia A. Murrone, Assistant Secretary

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Richard M. Nelson,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

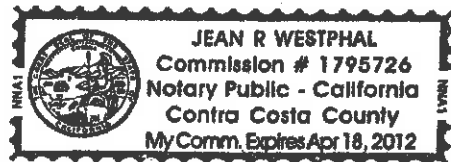
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Jean R. Westphal

(Seal)



ACKNOWLEDGMENT

State of California
County of Contra Costa)

On August 2, 2011 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

personally appeared Gary M. Mayo
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

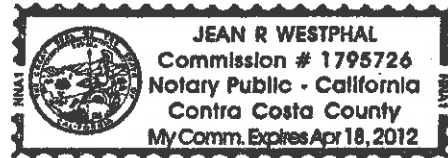
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Jean R. Westphal

(Seal)





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/13/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. TWO LOGAN SQUARE PHILADELPHIA, PA 19103 Attn: Rosemary Chakmakjian 215-938-3009		CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS: PRODUCER CUSTOMER ID #:	
848554-Toll-GAW-10-11 9/1/2012		INSURER(S) AFFORDING COVERAGE	
INSURED TOLL CA XIX, L.P. 250 GIBRALTAR ROAD HORSHAM, PA 19044		INSURER A: Steadfast Insurance Company INSURER B: Zurich American Insurance Co INSURER C: American Zurich Insurance Company INSURER D: INSURER E: INSURER F:	
		NAIC # 26387 16535 40142	

COVERAGES **CERTIFICATE NUMBER:** GLE-002684068-08 **REVISION NUMBER:** 10

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ BI/PP ☒ \$500,000 SIR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC			HBP 3999429-01	09/01/2010	09/01/2011	EACH OCCURRENCE \$5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$5,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COM/OP AGG \$5,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ ALL OWNED AUTOS ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS			BAP 3878217-05	09/01/2010	09/01/2011	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC3878213-05 (AOS) WC6552422-01 (AZ) WC6552423-01 (MA)	09/01/2010 09/01/2010 09/01/2010	09/01/2011 09/01/2011 09/01/2011	☒ WC STATUTORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$2,000,000 E.L. DISEASE - EA EMPLOYEE \$2,000,000 E.L. DISEASE - POLICY LIMIT \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Evidence of coverage pertaining to all phases of development and construction, including grading permits, for the project known as Diablo Estates at Clayton, Sub-division 8719, located in the City of Clayton, CA. The City of Clayton is included as additional insured on the above named policies except Workers Compensation.

CERTIFICATE HOLDER CITY OF CLAYTON 5275 CLAYTON ROAD CNCORD, CA 94521	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Donna Clamplitt <i>Donna Clamplitt</i>
---	---

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 09-01-2010

Policy No. WC 3878213-05

Endorsement No. N/A

Insured Toll Brothers, Inc.

Premium \$ included

Insurance Company American Zurich Insurance Company

Endorsement #014



General Change Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
HBP 3999429-01	09/01/2010	09/01/2012	07/13/2011	10466-000	\$0	\$0

Named Insured and Mailing Address:

TOLL BROTHERS, INC., ETAL
(SEE STF-GL-10102 A CW 11/06)
250 GILBRALTAR RD
HORSHAM, PA 19044

Producer:

MARSH USA
2 LOGAN SQ. 23RD FLOOR
PHILADELPHIA, PA 19103-2707

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Home Builders Protective Policy

In consideration of no change in premium, the policy is amended as follows:

The following additional insured is added to this policy, per the attached STF-GL-10117-D-CW (04/08):

City of Clayton

**ZURICH**

Additional Insured - Scheduled - Owners, Lessees Or Contractors - Scheduled Person Or Organization

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
HBP 3999429-01	09/01/2010	09/01/2012	07/13/2011	10486-000	\$0	\$0

Named Insured and Mailing Address:

TOLL BROTHERS, INC., ETAL
(SEE STF-GL-10102 A CW 11/06)
250 GILBRALTAR RD
HORSHAM, PA 19044

Producer:

MARSH USA
2 LOGAN SQ. 23RD FLOOR
PHILADELPHIA, PA 19103-2707

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Home Builders Protective Policy

SCHEDULE	
NAME OF PERSON(S) OR ORGANIZATION(S):	City of Clayton 5275 Clayton Road Concord, CA 94521
LOCATION AND DESCRIPTION OF COVERED OPERATIONS:	Diablo Estates at Clayton, Sub-division 8719

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A. **Section II - WHO IS AN INSURED** is amended to include as an insured the person or organization shown in the Schedule above, whom you are required to add as an additional insured on this policy under a written contract or written agreement.
- B. The insurance provided to the additional insured person or organization applies only to "bodily injury", "property damage" or "personal and advertising injury" covered under **Section I - Coverage A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, and **Section I - Coverage B - PERSONAL AND ADVERTISING INJURY LIABILITY**, and **Section I - Coverage D - Construction Damage Liability**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf; and resulting directly from:
 - a. Your ongoing operations performed for the additional insured at the location designated and described in the Schedule; or
 - b. "Your work" completed as included in the "products-completed operations hazard", performed for the additional insured at the location designated and described in the Schedule.
- C. However, regardless of the provisions of paragraphs A. and B. above:
1. We will not extend any insurance coverage to the additional insured person or organization:
 - a. That is not provided to you in this policy; or
 - b. That is any broader coverage than you are required to provide to the additional insured person or organization in the written contract or written agreement; and
 2. We will not provide Limits of Insurance to the additional insured person or organization that exceed the lower of:
 - a. The Limits of Insurance provided to you in this policy; or
 - b. The Limits of Insurance you are required to provide in the written contract or written agreement.
- D. The insurance provided to the additional insured person or organization does not apply to:
- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering or failure to render any professional architectural, engineering or surveying services including:
1. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 2. Supervisory, inspection, architectural or engineering activities.
- E. The additional insured must see to it that:
1. We are notified as soon as practicable of an "occurrence", "construction occurrence" or offense that may result in a claim;
 2. We receive written notice of a claim or "suit" as soon as practicable; and
 3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured, if the written contract or written agreement requires that this coverage be primary and non-contributory.
- F. With respect to the insurance provided by this endorsement:
1. The following paragraph is added to Paragraph 1.n.(1) of the Other Insurance Condition of **Section V – Home Builders Protective Conditions**:

This insurance is primary insurance as respects our coverage to the additional insured person or organization, where the written contract or agreement requires that this insurance be primary and non-contributory. In that event, we will not seek contribution from any other insurance policy available to the additional insured on which the additional insured person or organization is a Named Insured.
 2. The following paragraph is added to Paragraph 1.n.(2) of the Other Insurance Condition of **Section V – Home Builders Protective Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured by attachment of an endorsement to another policy providing coverage for the same "occurrence", claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

Any provisions in this Coverage Part not changed by the terms and conditions of this endorsement continue to apply as written.



Agenda Date: 8-16-11

Agenda Item: 4e

Approved:


Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CITY MANAGER
DATE: 16 AUGUST 2011
SUBJECT: CITY RESPONSE TO CIVIL GRAND JURY REPORT NO. 1105
"ETHICS AND TRANSPARENCY ISSUES IN CONTRA COSTA COUNTY"

RECOMMENDATION

It is recommended the City Council review the prepared City response letter regarding Civil Grand Jury Report No. 1105; and then subject to any Council modifications to the proposed response, by minute motion approve the letter as the City's official response and authorize Mayor Shuey to sign the letter.

BACKGROUND

A Contra Costa County Civil Grand Jury is commissioned annually to investigate city and county governments, special districts and certain non-profit corporations to ensure functions are performed in a lawful, economical and efficient manner. Pursuant to *California Government Code* Section 933.5(a), whenever a civil grand jury issues a report that involves matters within a particular municipality's jurisdiction or area of responsibility, the respective city is required to respond in writing and in accord with a specific response format.

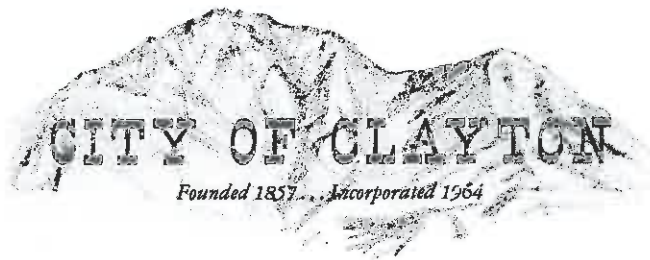
On 26 May 2011, the FY 2010-11 Contra Costa Civil Grand Jury released Report No. 1105 regarding its investigation of public accusations of ethical misbehavior and/or misrepresentation, charges of nepotism and cronyism, and allegations of long-term County mismanagement of the Keller Canyon [Landfill] Mitigation Fund. Although our City was not the subject or target of this Grand Jury Report, our City is still required to respond to a certain finding and recommendation contained within the Report, in particular the Report's Overall Finding and Overall Recommendation to all public agencies.

Attached is staff's recommended draft letter for the City Council to consider and approve constituting our City's response to Civil Grand Jury Report No. 1105. The City's response is due by 24 August 2011.

FISCAL IMPACT

None. There are indirect staff costs and time incurred in responding to Civil Grand Jury Reports and Findings.

Attachments: 1. Proposed City Response Letter [3 pp.]
 2. Civil Grand Jury Report No. 1105 [11 pp.]



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
DAVID T. SHUEY, MAYOR
HOWARD GELLER, VICE MAYOR
JOSEPH A. MEDRANO
JULIE K. PIERCE
HANK STRATFORD

August 17, 2011

DRAFT

The Honorable Diana Becton
Presiding Judge, California Superior Court, Contra Costa County
A.F. Bray Court House, Department 1
1020 Ward Street, Martinez, CA 94553

**Re: Contra Costa County Civil Grand Jury Report No. 1105, FY 2010-11
"Ethics and Transparency Issues in Contra Costa County"**

Dear Judge Becton:

On behalf of the Clayton City Council this letter responds to the 2010-2011 Contra Costa Civil Grand Jury's Report No. 1105, "Ethics and Transparency Issues in Contra Costa County", expressing its concern regarding public accusations of ethical misbehavior and/or misrepresentation, charges of nepotism and cronyism, and allegations of long-term County mismanagement of a mitigation fund. Grand Jury Report No. 1105 was sent to elected Special District Boards, LAFCO, City Councils and the County Board of Supervisors for response. The Clayton City Council met at its regular public meeting on August 16, 2011 to consider Report No. 1105 and authorized this written response.

Pursuant to California Government Code Section 933.5(a), the City of Clayton does hereby respond to each Finding and to each Recommendation individually as contained within Report No. 1105:

Grand Jury Findings

Specific Findings: Report No. 1105 contained specific findings that involved and were addressed to LAFCO, to a Cemetery District, and to the County Board of Supervisors regarding the Keller Canyon Mitigation Fund. As each of these findings did not pertain to the City of Clayton, no response was sought or is offered.

Overall Finding: *Avoiding the appearance of unethical behavior especially with regard to conflicts of interest and nepotism, is crucial to public confidence in governance.*

The respondent agrees with the finding.

Overall Recommendation

Recommendation #1: *Each of the 19 cities, 28 independent special districts and the County should review and report to the Grand Jury on the adequacy of its:*

- a) nepotism policy;*
- b) conflict-of-interest policy; and*
- c) ethics training policy.*

The recommendation has been implemented with applicable policies and practices of the City reviewed and reported to the Grand Jury with this letter.

a) **Nepotism Policy.** As to a formal nepotism policy, the City does not have a written policy enacted. The City did in February 2010 enact an Anti-Fraternization Policy within the City's employment organization (City Resolution No. 04-2010) that addressed the possible employer exposure to liability of certain employee fraternizations and therein set standards and policies for prohibited relations between supervisors and subordinate employees. Informally, it is existing practice that no City official or staff member would be allowed to participate in a process to hire a family member.

b) **Conflict of Interest Policy.** The City adheres to a previously adopted Conflict of Interest Code as mandated by state law. Said law further requires this Code to be reviewed every two years to ensure it is current regarding any public organizational changes or reorganization and its application to designated officials and employees subject to the Code.

c) **Ethics Training Policy.** To ensure regular training on ethical situations and issues, the City Council has required Council Members, Planning Commissioners, and designated employees under its Conflict of Interest Code to comply with Assembly Bill 1234 (statute 2005) - Ethics Training. Initially that training was provided in a live-presenter format. However, due to budget cutbacks and unfunded state mandate implications, most public agencies now comply through online training provided by the Institute for Local Government/League of CA Cities and endorsed by the Fair Political Practices Commission and the State Attorney General.

All new appointees and designated employees are required to complete the AB 1234 Training and our City Clerk sends biennial reminders to each designated official and employee to maintain current compliance. Certificates documenting the completion of said ethics training are collected and maintained by the City Clerk in a notebook available for public review at City Hall.

Letter to Presiding Judge Becton re: Civil Grand Jury Report No. 1105
August 17, 2011
Page 3 of 3

Our City Council did review our stated practices and policies, and deems them sufficient and adequate in this regard. We appreciate the time and effort that you and the Civil Grand Jury spent researching and considering these matters, and we trust this response will be helpful to its endeavors.

Sincerely,

DRAFT

David T. Shuey
Mayor

cc: Foreperson, Contra Costa Civil Grand Jury FY 11-12
725 Court Street, Martinez, CA 94533
Email copy to: jcuev@contracosta.courts.ca.gov

Grand Jury

Contra
Costa
County



EXHIBIT 2

725 Court Street
P.O. Box 911
Martinez, CA 94553-0091

Received

MAY 31 2011

City of Clayton

May 26, 2011

City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear City Manager:

Attached is a copy of Grand Jury Report No. 1105, "Ethics and Transparency Issues in Contra Costa County" by the 2010-2011 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefor.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **August 24, 2011.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to jcuev@contracosta.courts.ca.gov (Word document).

Sincerely,

A handwritten signature in cursive script that reads "Linda L. Chew".

LINDA L. CHEW, Foreperson
2010-2011 Contra Costa County Civil Grand Jury

A REPORT BY
THE 2010-2011 CONTRA COSTA COUNTY GRAND JURY

725 Court Street
Martinez, California 94553

REPORT 1105

Ethics and Transparency Issues in Contra Costa County

APPROVED BY THE GRAND JURY:

Date: MAY 4, 2011



LINDA L. CHEW
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/16/11



JOHN LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Linda Chew
Foreperson
(925)-567-9638

Contra Costa County Grand Jury Report 1105

ETHICS AND TRANSPARENCY ISSUES IN CONTRA COSTA COUNTY

**TO: Contra Costa County Board of Supervisors
Contra Costa Local Agency Formation Commission
Cities in Contra Costa County
Independent Special Districts in Contra Costa County**

SUMMARY

Ethical behavior and transparency (openness) by public officials are essential to good government. Despite the fact that County officials receive ethics training, the Grand Jury has found instances of ethical breaches.

In some cases, there have been public accusations of ethical misbehavior and/or misrepresentation, charges of nepotism and cronyism, and allegations of long-term County mismanagement of a mitigation fund.

The Grand Jury believes that greater effort must be made to improve openness and accountability, to display more sensitivity to ethical considerations, and to be aware of any appearances of impropriety to the public.

BACKGROUND

Effective January 1, 2006, AB 1234 (Government Code Sections 53232, et seq.) required that local officials who receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles. The requirement applies not only to the governing body of a local agency but also to members of commissions, committees, boards, or other local agency bodies, whether permanent or temporary, decision-making or advisory. Training must be renewed every two years.

According to the Fair Political Practices Commission and the California Attorney General, training regarding conflicts of interest, perquisites of office and governmental transparency should include the following:

(1) Laws relating to personal financial gain by public servants...

- (A) Laws prohibiting bribery (Pen. Code, § 68)
 - (B) Conflicts of Interest under the Political Reform Act (Gov. Code, §§ 87100, 87103).
 - (C) Contractual Conflicts of Interest (Gov. Code, § 1090 et seq.).
 - (D) Conflicts of Interest and Campaign Contributions (Gov. Code, § 84308).
 - (E) Conflicts of Interest When Leaving Office (Gov. Code, §§ 87406.3, 87407).
- (2) Laws relating to claiming perquisites of office
 - (3) Government transparency laws
 - (4) Laws relating to fair processes

The Grand Jury has divided the remainder of this report into several sections. Each section contains its own findings and recommendations. An overall finding and recommendation has also been made that may apply to all agencies throughout the County.

LAFCO: SOME MEMBERS OVERSTEPPING THEIR BOUNDARIES

BACKGROUND

The Contra Costa Local Agency Formation Commission (LAFCO) reviews, approves, or disapproves changes in organization to cities and special districts including annexations, detachments, new formations and incorporations. Its members (commissioners) serve the entire county and are to be neutral decision makers. LAFCO commissioners are guided by a Commissioner's Handbook which states:

“Government Code Section 56325.1 states that while serving on the Commission all members shall exercise their independent judgment on behalf of the interests of residents, property owners and the public as a whole.”

In May, 2010, two LAFCO commissioners addressed a developer-sponsored local ballot measure to extend the Urban Limit Line of the City of Brentwood. Prior to the election, these commissioners signed a public letter indicating that they were speaking not only as LAFCO spokespeople, but as representatives of the Contra Costa County Mayors' Conference, their appointing agency. They stated that should Brentwood voters defeat Measure F, LAFCO could annex the land in question to Antioch. Further, certain other LAFCO commissioners, instead of speaking to these statements, chose to weigh in supportively on the **content** of the letter, when the matter was not before LAFCO. The measure failed, and both LAFCO and the Mayors' Conference took some action to address this.

LAFCO stated that its procedures do not allow for reprimand or removal of offenders, but inserted new language into the Commissioner's Handbook (1.4 Rules and Procedures – Section F.5) which details when a commissioner may act as a spokesperson.

The Mayors' Conference, while voting (12-4) not to remove the involved commissioners, issued an admonishment, and adopted an amendment to the Conference Policies and Procedures statement prohibiting individual positions from being expressed as representative of the will of the Conference. In its motion, the Mayors' Conference stated that it "is not in the business of taking issues on individual matters, especially when pitting one city against another."

The Grand Jury recognizes that some corrective actions have been taken. However, some LAFCO members weighed in favorably on the import of the letter. While LAFCO had the option to recommend removal to the offending members' appointing authority for "malfeasance of office" (Commissioner Handbook 1.2), it did not do so.

FINDINGS

1. Some LAFCO members committed ethical breaches by indicating that they spoke on behalf of LAFCO and the Mayors' Conference on matters not before LAFCO.
2. Certain other LAFCO members weighed in inappropriately on the statements.

RECOMMENDATIONS

1. All LAFCO members, including the public member, should receive regular training per AB 1234*, on the LAFCO Commissioners Handbook with particular focus on LAFCO's mission statement and ethics, as well as the Updated Commissioner Representation policy (1.4 Rules and Procedures – Section F.5).
2. LAFCO should promptly consider appropriate action when a violation of its policies occurs.

***AB 1234 - Local Officials Ethics Training Requirement**

The newest of these ethics training requirements applies to certain local public officials. While similar to the rules for state officials that have been in place since 1998, the rules applicable to local officials are different in content, including a requirement that these officials receive training not only in applicable ethics laws but also in ethics principles and agency rules.

NEPOTISM ALIVE IN CEMETERY DISTRICT

BACKGROUND

Nepotism is favoritism (as in appointment to a job) based on kinship.¹

Nepotism undermines public trust by making government look like a family business run not for the community, but for the families in power.²

The Contra Costa County Board of Supervisors (BOS) makes appointments to certain special district boards. Each Supervisor recommends appointments for their respective district, after public notice of vacancy and interviews of applicants have been completed.

Recently, when a Supervisor's spouse sought an opening on the board of a small cemetery district, this notice and interview process was not initially followed. As a result, there was significant public reaction to the appearance of nepotism.

The spouse of one Supervisor sat on LAFCO, which regulates County boundaries. A prerequisite for this person's inclusion on LAFCO was being on the board of a special district. This person's current special district membership was ending soon and he sought a special district slot elsewhere.

In violation of California's Maddy Act (Gov. Code Section 54970-54974) the Clerk of the Board failed to advertise/post this opening to the public. As a result, several interested candidates were not considered or interviewed. The Supervisor self-recused and another Supervisor recommended appointment of the spouse. Ultimately, the BOS referred the process to an impartial outside panel, so as to avoid any real or perceived conflict-of-interest. The position was then advertised and applications from eight people were received.

After an interview process, a different individual was recommended by the special panel and was appointed by the BOS.

Subsequently, the BOS adopted an anti-nepotism policy that prohibits appointment by BOS members of relatives, domestic partners, and individuals with shared business interests to Boards, Councils, and Advisory Panels.

¹ Merriam-Webster Dictionary

² Robert Wechsler
Director of Research, City Ethics
<http://www.cityethics.org/node/811>

FINDINGS

1. There was a failure to advertise/post the open position, in compliance with the Maddy Act.

2. The initial recommendation to appoint the spouse of the Supervisor for the open special district position was not consistent with the appointment procedure.
3. At a minimum, these improprieties created the appearance of nepotism.
4. The formation of an outside, impartial panel to interview and select an applicant was appropriate.
5. The adoption of a County anti-nepotism policy was proper.

RECOMMENDATIONS

1. The County should adopt a policy requiring the formation of impartial selection committees in situations where there are conflicts of interest, real or perceived, that cannot be adequately addressed by a normal recusal process.

THE DECOMPOSING OF THE KELLER CANYON MITIGATION FUND

BACKGROUND

The Keller Canyon Mitigation Fund (KCMF) was established in 1992 to lessen the impacts of an East County landfill on roads, open space, and the surrounding community. Funds are generated through dumping fees and granted through an application process. Approximately \$14 million has been awarded over the past ten years.

In 2005, the BOS voted to eliminate the Finance Committee oversight of the KCMF. Since then the District Supervisor, the Supervisor's Chief-of-Staff, and a County employee comprise the KCMF Committee, and have had discretion in the awarding of grants. Eligible recipients of grants have expanded from those who were truly impacted by the landfill to any non-profit groups the KCMF Committee deems eligible.

In 2010, a group of concerned citizens complained about irregularities with the KCMF's operations. The group conveyed its concerns to various County agencies. Among these were:

- KCMF is being used illegally as a political "slush fund."
- KCMF lacks required grantee and management paperwork (applications, work plans, progress reports, etc.).
- Substantial expenditures are being made outside of the intent and guidelines of the KCMF, often without required BOS approval.

The Contra Costa County Auditor-Controller's office addressed the charges in its November 5, 2010, "Response to Allegations Concerning the Keller Canyon Mitigation Fund" Report (Auditor's report).

A fraud audit was not performed. However, it was determined that the "internal control environment of the KCMF is seriously deficient" and that because of this there is "a possibility of fraud and abuse". In addition, it was determined that over the last 10 years, \$634,372 was spent without required BOS approval, and that since 2005, when BOS Finance Committee oversight ended, the fund has had a deficit in each of the following years.

The Auditor's report detailed some problem areas with the fund and recommended, among other goals, restoring transparency, accountability, and public confidence in county governance with regard to the KCMF.

One recommendation calls for establishment of an ethics policy and training for KCMF Committee members. This recommendation, which "includes a recusal provision," seeks to eliminate numerous instances where KCMF Committee members also sit on boards of grantee organizations.

At the time this Grand Jury report was written, the BOS had instructed the Finance Committee to review the Auditor's Report and its recommendations.

FINDINGS

1. Proper oversight of the KCMF by the BOS is lacking, which provides opportunity for impropriety.
2. The KCMF has distributed grants without the required applications, work plans, and follow-up reports.
3. The KCMF, as currently administered, is not transparent, and lends itself to a perception of being a "political slush fund," (defined as "A sum of money used for illicit or corrupt purposes, as for buying influence." (Webster's New Universal Unabridged Dictionary)).
4. Ethical concerns are raised when grants are awarded to organizations whose boards include members of the granting committee.
5. Despite the fact that \$14 million has been distributed over the past ten years, no annual report has been issued. At the time of the writing of this report, no County-linked website to the KCMF could be found.
6. Due to a lack of publicly available information about the KCMF, not all non-profit organizations, nor the public, are aware of the fund, its mission, and its processes, and thus are unable to benefit from it.

RECOMMENDATIONS

1. The BOS should direct the County Administrator's Office to more closely monitor the KCMF activity and ensure compliance with BOS approval requirements, as well as application, work plan and performance reporting requirements.
2. The BOS should require training on and compliance with a County ethics policy for all KCMF Committee members.
3. An annual report for the KCMF should be issued, and a County-linked website should be established to clarify mission, application and selection process and requirements.
4. The BOS should consider re-establishing the Finance Committee oversight of grant awards.
5. The BOS should ensure that all County mitigation funds, or similar funds under the control of a single Supervisor, receive proper supervision.

OVERALL FINDING

The Grand Jury finds that:

1. Avoiding the appearance of unethical behavior especially with regard to conflicts-of interest and nepotism, is crucial to public confidence in governance.

OVERALL RECOMMENDATION

1. Each of the 19 cities, 28 independent special districts and the County should review and report to the Grand Jury on the adequacy of its:
 - a) nepotism policy;
 - b) conflict-of-interest policy; and
 - c) ethics training policy.

REQUIRED RESPONSES

LAFCO section

Findings and Recommendations

Local Agency Formation Commission

1, 2

NEPOTISM section

Findings

Contra Costa County Board of Supervisors 1-5

Recommendations

Contra Costa County Board of Supervisors 1

KELLER CANYON section

Findings

Contra Costa County Board of Supervisors 1-6

Recommendations

Contra Costa County Board of Supervisors 1-5

Overall Finding and Recommendation

Finding and Recommendation

Contra Costa County Board of Supervisors 1

REQUESTED RESPONSES

Overall Finding and Recommendation

Finding and Recommendation

The cities of: Antioch, Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon and Walnut Creek 1

Independent Special Districts:

Crockett Community Services District, Diablo Community Services District, Discovery Bay Community Services District, Kensington Police Protection and Community Services District, Knightsen Town Community Services District, Kensington Fire Protection District, Moraga-Orinda Fire District, Rodeo-Hercules Fire Protection District, San Ramon Valley Fire Protection District, Los Medanos Community Healthcare District, Mt. Diablo Healthcare District, West Contra Costa County Healthcare District, Byron-Bethany Irrigation District, East Contra Costa Irrigation District, Bethel Island Municipal Improvement District, Ambrose Recreation and Park District, Green Valley Recreation and Park District, Pleasant Hill Recreation and Park District, Rollingwood-Wilart Park Recreation and Park District, Byron Sanitary District, Central Contra Costa Sanitary District, Ironhouse Sanitary District, Mt. View Sanitary District, Rodeo Sanitary District, Stege Sanitary District, West County Wastewater District, Contra Costa Water District and Diablo Water District, Byron-Brentwood-Knightesen Union Cemetery District 1



Agenda Date: 8-16-11

Agenda Item: 4F

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

CONSENT ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Asst. to the City Manager

MEETING DATE: August 16, 2011

SUBJECT: Authorization of flat fee donation of \$168 from the Clayton Woman's Club (grant request for \$512) for their Annual Craft Sale on November 19th and 20th, 2011.

RECOMMENDATION

Authorize a flat fee donation of \$168 from the Clayton Woman's Club (grant request for \$512) for their Annual Craft Sale on November 19th and 20th, 2011 for use of the Library Community Meeting Room.

BACKGROUND

The Clayton Woman's Club is planning their annual craft sale, a fundraiser for their organization. They have requested use of the Library Community Meeting Room on Saturday November 19th and 20th, 2011. Under the current adopted fee schedule the rates for these days are \$42/hr. plus a \$200 refundable deposit. Currently there are no reservations for the dates requested. The event will be open to the public from 10 a.m. to 5 p.m. with additional time would for event set up and take down. Using the facility for approximately 8 hours each day the rental cost would be \$672. The Clayton Woman's Club uses the proceeds to support various community endeavors.

Using the same method as last nine years approval by the Council for a grant, wherein the organization provided payment for minimum rental costs of 4 hours at the specified rate, the fee would be \$168, and thus the grant would amount to \$512 (calculated at 4 hour minimum @\$42/hr = \$168; this is the non profit hourly rate in the City's currently adopted fee schedule). This approach would adequately cover direct costs associated with the event such as energy costs, janitorial service and staff time. This is the amount same amount as last four years (fee schedule increases for non profits have remained unchanged by the City Council since 2007).

Subject: Approve flat fee donation of \$168 from the Clayton Woman's Club (grant request for \$512) for their Annual Craft Sale on November 19th and 20th 2011

Meeting Date: August 16, 2011

Page 2 of 2

The Woman's Club will provide their own insurance (naming the City as an additional insured) and will provide the \$200 refundable reservation/damage-cleanup deposit. This organization, their function and event location meets the previously approved City Council banner criteria so no action is needed for this request. They may display their event banner on the community poles for a period of two weeks prior to the event date. The banners per the policy will be removed within 48 hrs after the event is over.

FISCAL IMPACT

The reduced rental fee to \$168 would cover all direct costs; the rental income difference would be \$512 which would have gone to the general fund. This is the same amount that was approved by the City Council for last year's craft fair.

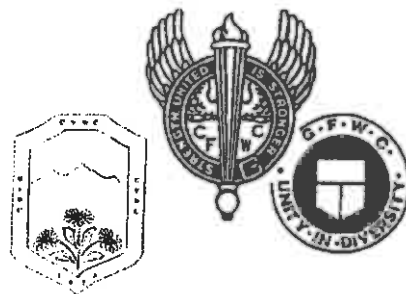
CONCLUSION

Approve the grant requested and authorize a flat fee rental donation of \$168 for the two-day event. Providing the grant would be considered a co-sponsorship by the City and allow for the organization to place their banners on the community event banner pole locations.

Attachments:

Letter dated May 19, 2011 from Clayton Valley Woman's Club

GFWC
CLAYTON VALLEY WOMAN'S CLUB
PO Box 95 Clayton, California 94517



May 19, 2011

Clayton City Council
6000 Heritage Trail
Clayton, CA 94517

Dear Council Members:

The Clayton Valley Woman's Club members would like to hold our annual Holiday Boutique in the Council Chambers at the Clayton Community Library on November 18th, 19th and 20th as we have for the previous 11 years.

We are requesting a grant from the Clayton City council to reduce the room use fees. Would it be possible for a flat donation by the Clayton Valley Woman's Club be given in lieu of an hourly use fee? The fee reduction would allow a greater portion of the dollars raised to be contributed to community organizations.

We would like to put our banners at Oakhurst Boulevard, down town at Oak Street and the entry to Clayton on Clayton Road. This would be for the period November 7th through November 20th to advertise the Holiday Boutique.

The Clayton Valley Woman's Club supports nonprofit organizations in the Clayton/Concord area. As we continue in our 38th year, we look forward to adding to the more than \$225,000 that we have given to these organizations, including the Clayton Community Library and the Clayton Historical Society.

We look forward to continuing our support of local organization through fund raising efforts such as this Holiday Boutique. Thank you for your consideration to approve our grant request.

Sincerely,

Kathryn Olson

Kathryn Olson
Corresponding Secretary

cc: Judy Bates

Agenda Date: 8-16-11

Declaring
September 18 – 24, 2011
“Fall Prevention Awareness Week”

Agenda Item: 5a

WHEREAS, it is estimated that nearly 15 percent of Contra Costa County’s estimated 1,025,000 people are 60 years of age or older; and

WHEREAS, it is estimated that one-third of adults over the age of 60 and 50 percent of adults over the age of 80 will fall each year, with medical costs of each fall-related hospitalization estimated at \$52,447; and

WHEREAS, falls are the leading cause of injury deaths among people over the age of 60, and the leading cause of doctor visits, hospital admissions, and emergency room visits; and

WHEREAS, in 2006, 2,152 older adults in Contra Costa County suffered injuries from a fall great enough to result in hospitalization and 35 deaths; and

WHEREAS, falling, and the fear of falling, can lead to depression, isolation, diminished mobility, and loss of functional independence; and

WHEREAS, injuries from falls are a largely preventable community health problem; and

WHEREAS, the cause of falls is composed of multiple contributing factors including lack of strength in the lower extremities, the use of multiple medications, reduced vision, chronic health problems, and unsafe environments; and

WHEREAS, concentrated efforts are being made in Contra Costa County to reduce falls and fall related injuries by using multi-faceted interventions; and

WHEREAS, at the state level SCR 77 (D-Lowenthal) Fall Prevention Awareness Week, has passed the Senate and the Assembly; and

WHEREAS, at the federal level the Safety of Seniors Act of 2007 (S. 845) was passed in April. This bill calls for the expansion of public health programs, educational outreach, and research activities related to fall prevention.

THEREFORE BE IT RESOLVED, I, David T. Shuey, as Mayor of the City of Clayton, on behalf of the City Council, hereby proclaim the week of **September 18, 2011**, as “**FALL PREVENTION AWARENESS WEEK**” in the City of Clayton and call upon our citizens and interested groups to observe the week with appropriate activities that promote awareness of fall prevention.



Agenda Date: 8-16-11

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 16 AUGUST 2011

**SUBJECT: PUBLIC HEARING ON PROPOSED FRANCHISE EXTENSION
SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION AND DISPOSAL**

RECOMMENDATION

It is recommended the City Council hold a Public Hearing on the proposed terms and conditions for a ten (10) year time extension of the City's existing Franchise Agreement with Allied Waste Systems, Inc., to and through 31 December 2022. Following the Public Hearing and consideration of public and Council comments, it is recommended the City Council adopt the prepared Resolution approving Amendment No. 2 to the Franchise Agreement.

BACKGROUND

The City's existing Franchise Agreement with Allied Waste Systems, Inc. (an indirect subsidiary of Republic Services, Inc.) will automatically expire on 31 December 2012 (17 months from now). Over the last year, an ad-hoc committee of the City Council (Mayor Shuey and Council Member Medrano) and the City Manager have met with authorized representatives of Allied Waste Systems to discuss the merit of extending the length of time to the existing Franchise Agreement. In consideration of that option, representatives of both parties mutually agreed to recommend new terms and service conditions associated with a ten (10) year time extension from the scheduled date of expiration.

Those "deal points" were presented to the City Council at a regular public meeting held on 05 July 2011, at which the City Council expressed its unanimous support for the added services and time extension (Council Member Stratford was not present at that meeting but indicated support for the package). The City Council then instructed its staff to prepare an amended and revised Franchise Agreement for public hearing and adoption at a subsequent public meeting.

AMENDED FRANCHISE AGREEMENT

The City Attorney and legal counsel for Allied Waste Systems jointly prepared and reviewed the proposed Amendment No. 2 to the current Franchise Agreement between the City and Allied Waste Systems for solid waste and recyclable materials collection and disposal services within our community. City staff also reviewed and provided input with modifications to the initial draft. Amendment No. 2 now presented for adoption by the City Council accurately represents and incorporates the "deal points" mutually agreed upon by both parties.

Attached to this Staff Report is a copy of the 05 July 2011 staff report (ref. Attachment C) which outlined the negotiated "deal points" for initial public consideration (pages 3 & 4 and its Exhibit 1). As noted previously, the addition of these enhanced services and terms for the extended Franchise Agreement will greatly benefit our residents and businesses and will enhance the community's continued effort to recycle, and recycle properly.

It is recommended the City Council adopt the prepared Resolution approving Amendment No. 2 for continued solid waste and recyclable material collection and disposal by our current operator, Allied Waste Systems.

FISCAL IMPACT

There is no cost impact to the City itself for the enactment of the extended Franchise Agreement.

Customers will be offered the option to use larger recycling and yard waste carts (96 gallon vs. current 64 gallon) at no additional charge plus the opportunity for free curbside collection of E-Waste products, household batteries and compact fluorescent bulbs, and free on-call bulky item pickup.

In consideration of the extended Franchise Agreement, Allied Waste Systems will charge a franchise fee of 10% (current 5% fee), which increase is expected to generate an additional \$50,000 annually to the City General Fund. Further, Allied Waste Systems has agreed to contribute a \$100,000 Community Enhancement Fee to the City by 15 January 2013 for use as determined by the City Council.

Customer rates, commencing January 2013, will still be restricted to 90% of the annual increase in the applicable Consumer Price Index; however, Allied Waste Systems is now assured of at least a 1% annual rate increase but never more than a 5% annual rate increase. The City's solid waste residential and commercial rates will remain amongst the lowest in the comparative area.

Attachments: A. Resolution [2 pp.]
 B. Amendment No. 2 to Franchise Agreement [11 pp.]
 C. 05 July 2011 Staff Report [12 pp.]

RESOLUTION NO. ____-2011

**A RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO
THE RESTATED AND AMENDED FRANCHISE AGREEMENT BETWEEN
THE CITY OF CLAYTON AND ALLIED WASTE SYSTEMS, INC. (A
DELAWARE CORPORATION REGISTERED TO DO BUSINESS IN
CALIFORNIA, AN INDIRECT SUBSIDIARY OF REPUBLIC SERVICES, INC.)
FOR SOLID WASTE AND RECYCLABLE MATERIALS
MANAGEMENT SERVICES**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton entered into a Franchise Agreement, dated July 2, 2002 for the collection, transportation, disposal and diversion of solid waste and recyclable materials (the "Agreement"); and

WHEREAS, Amendment No.1 to the Agreement was executed by the City of Clayton and Allied Waste Systems, Inc., a Delaware corporation registered to do business in California, an indirect subsidiary of Republic Services, Inc. (the Collector/ Franchisee) on or about September 6, 2005 for purpose of Franchisee ownership change only; and

WHEREAS, the aforementioned Agreement will expire December 31, 2012 without further action;

WHEREAS, both parties wish to extend the Agreement to midnight on December 31, 2022, upon mutually beneficial terms and conditions as set forth in Amendment No. 2, attached hereto and incorporated herein as if fully set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California does hereby determine as follows:

Section 1. The above Recitals are true and correct facts pertaining to this public policy matter.

Section 2. The terms and conditions set forth in Amendment No. 2 (attached) are herewith found to be in the best interests of the general welfare and health of its citizens and businesses in the City of Clayton, and Amendment No. 2 is hereby approved and adopted.

Section 3. The Mayor and City Manager are each hereby authorized and directed to execute Amendment No. 2 to the Restated and Amended Franchise Agreement, a true and correct copy of the Amendment No. 2 being attached to this Resolution; and

Section 4. This Resolution shall and does take immediate effect from and after its passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held the 16th day of August 2011 by the following recorded vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

David T. Shuey, Mayor

ATTEST:

Laci Jackson, City Clerk

AMENDMENT NO.2 TO RESTATED AND AMENDED FRANCHISE
AGREEMENT BETWEEN THE CITY OF CLAYTON AND ALLIED WASTE
SYSTEMS, INC., FOR SOLID WASTE AND RECYCLABLE MATERIALS
MANAGEMENT SERVICES

This Amendment No. 2 to the Restated and Amended Franchise Agreement ("Amendment") is entered into effective 17 August, 2011 between the City of Clayton, a municipal corporation ("City"), and Allied Waste Systems, Inc., a Delaware Corporation registered to do business in California, an indirect subsidiary of Republic Services, Inc. ("Collector").

Recitals

WHEREAS,

- A. The City and Pleasant Hill Bayshore Disposal, Inc., Collector's predecessor in interest, entered into a Restated and Amended Franchise Agreement, dated July 2, 2002.
- B. City and Collector entered into Amendment No. 1 to the Restated and Amended Franchise Agreement on or about September 6, 2005, confirming and clarifying that Allied Waste Systems Inc., dba Pleasant Hill Bayshore Disposal Inc., was the Franchisee and Collector, which action was approved by City Resolution No. 50-2005.
- C. Effective December 5, 2008, Allied Waste Industries Inc., the indirect owner of Collector's parent company, Allied Waste North America, Inc., was merged into Republic Services, Inc. Collector Allied Waste Systems, Inc. has continued to operate as a subsidiary of Allied Waste Industries Inc. under the same current management and in compliance with the terms of the Agreement, which said merger was approved by the City on or about September 15, 2009 by City Resolution No. 37-2009.
- D. Section 19 of the Agreement authorizes an assignment of the Agreement, subject to City's consent.
- E. City has consented to the assignment of the Agreement and the franchise rights to Collector, subject to the terms of this Amendment.
- F. City and Collector agree the franchise rights of the Agreement shall expire on December 31, 2012, without further action.
- G. City and Collector have agreed to a time extension of the Agreement as amended, (The Agreement) subject to the terms and conditions of this Amendment No. 2.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual promises contained herein, the parties agree as follows:

- 1. Section 1 of the Agreement is amended as follows:

The Term of the Agreement shall expire at midnight on December 31, 2022.

2. Section 4 of the Agreement is amended in its entirety effective immediately to read as follows:

Administrative Services and Franchise Fees; Community Enhancement Fee. Effective the next collector billing cycle for customer services in Clayton following approval of this amended Agreement, and as consideration for this franchise granted by City for use of its public rights of way, and to partially reimburse the City for its costs in overseeing this agreement and for services and programs pertaining thereto, Collector shall pay to the City a total annual franchise fee of ten percent (10%) of Collector's gross receipts from customer services provided under this Agreement to residential, commercial and industrial customers within the City limits of Clayton. The franchise fee shall be paid quarterly within 30 thirty (30) days after the end of each calendar quarter and shall be based upon actual gross receipts of Collector for the proceeding calendar quarter.

As further consideration for the extension of the Term of the Agreement, Collector shall, by January 15, 2013, pay to the City a Community Enhancement Fee in the amount of \$100,000.

3. Section 6 of the Agreement is amended to insert the following new paragraph at the end of 6.A.:

Effective the next collector billing cycle for customer services in Clayton following approval of this amended Agreement, Collector will charge up to the maximum service rates as set forth in Exhibit A attached hereto. Commencing effective on January 1, 2013, and every January 1st thereafter during the Term, the Collector's maximum monthly collection rates inclusive of landfill fees shall be increased automatically by an amount equal to ninety percent (90%) of the percentage increase in the Consumer Price Index for the San Francisco Bay Area- All Urban Consumers (base year: 1982-84) during the most recent twelve month period prior to the January 1 rate adjustment date for which such data is available ("CPI"), subject to the following minimum guaranteed rate increase and the maximum rate cap: regardless of the actual applicable change in the CPI, Collector shall receive at least a one percent (1%) increase in its rates every January 1st and Contractor's rates shall not increase more than five percent (5%) at any such annual CPI adjustment.

4. Section 7 of the Agreement is replaced and amended to read in its entirety:

7. Landfill Capacity. Collector agrees to reserve and provide disposal capacity at the Keller Canyon Landfill for all Solid Waste and Yard Waste collected within the franchise area during the term of this Agreement.

5. Section 9 of the Agreement shall be amended to add a new sentence at the end as follows:

Any collection vehicles that are replaced during the term of the Agreement shall be replaced with collection vehicles that use Natural Gas fuel.

6. Section 15. A. is amended to read in its entirety as follows:

Workers' Compensation Insurance. Collectors shall obtain and maintain in full force and effect throughout the entire term of this Franchise Agreement full workers' compensation insurance in accordance with the provisions and requirements of the Labor Code of the State of California. Said workers' compensation insurance shall include the following endorsement: "All rights of subrogation are hereby waived against the City, its officers and employees acting within the scope of their appointment or employment." Policy endorsements that implement the required coverage shall be filed and maintained with the City Manager throughout the term of this Franchise Agreement.

7. Section 16. of the Agreement is replaced and amended to read in its entirety:

16. Indemnification.

a. Indemnification. Contractor shall indemnify, defend and hold harmless City, its officers, directors, employees, volunteers and agents (collectively "indemnities") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit of any and every kind and description (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties) arising or resulting from and in any way connected with:

- (1) the alleged negligence or willful misconduct of Contractor, its officers, employees, agents and/or subcontractors in performing services under this Agreement;
- (2) the failure of Contractor, its officers, employees, agents and/or sub contractors to comply with applicable laws (including, without limitation, environmental laws) and regulations, and/or applicable permits and licenses;
- (3) the acts of Contractor, its officers, employees, agents and/or subcontractors in performing collection services under this Agreement for which strict liability is imposed by law (including, without limitation, environmental laws).

The foregoing indemnity applies regardless of whether the loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the indemnities' negligence, except this indemnity shall be limited to exclude coverage for intentional wrongful acts and active negligence of indemnities. Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys acceptable to the City) the City, its officers, directors, employees, and agents against any claims, actions, suits or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any events described in the immediately preceding paragraph.

Contractor's duty to indemnify and defend shall survive the expiration or earlier termination of this Agreement.

b. Hazardous Substances Indemnification. Contractor shall indemnify, defend with counsel selected by City, protect and hold harmless the City, its officers, directors, employees, volunteers, and agents (collectively, "indemnitees") from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages), injuries, costs, (including without limit any and all responses, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including without limit attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity), (collectively, "damages") of any kind whatsoever paid, incurred or suffered by, or asserted against, indemnitees arising from or attributable to the acts or omissions of Contractor, its officers, directors, employees, companies or agents, whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including without limit damages arising from or attributable to any operations, repair, clean-up or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance, hazardous waste, and/or house hazardous waste (collectively, "waste") at any places where Contractor transports, processes, stores or disposes of the Solid waste, and/or construction and street debris, or other waste collected under this Agreement. This indemnity afforded indemnitees, shall only be limited to exclude coverage for intentional wrongful acts and active negligence of indemnitees. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, CERCLA, 42 USC §9607(e) and California Health and Safety Code §25364, to defend, protect, hold harmless, and indemnify City from liability. This provision is in addition to all other provision in this Agreement and is intended to survive the end of the term of this Agreement. Nothing in this paragraph shall prevent the Contractor from seeking indemnification or contribution from persons or entities other than indemnitees, for any liabilities incurred by the Contractor, or the indemnitees. As appropriate, the parent company should provide the guarantees necessary to meet this provision. All costs of Contractor incurred in providing this indemnification and in defense of itself and related party entities, shall be disallowed for purposes of setting rates under this Agreement.

c. Proposition 218 Indemnification. City intends to comply with all applicable laws concerning the setting of maximum rates under this Agreement. Nonetheless, Contractor shall indemnify, defend and hold harmless the City, their officers, employees, agents and volunteers, (collectively, indemnitees) from and against all claims, damages, injuries, losses, costs, including demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest fines, charges, penalties and expenses (including attorneys' and expert witness fees, expenditures for investigation, and administration) and costs or losses of any kind whatsoever paid, imposed upon, endured or suffered by or assessed against Contractor or any of the indemnitees resulting in any form from the City's setting of maximum rates for service under this Agreement or in connection with

the application of California Constitution Article XIIIIC and Article XIIID to the imposition, payment or collection of rates and fees for services provided by Contractor under this Agreement. Nothing herein is intended to imply that California Constitution Articles XIIIIC or XIIID, apply to the setting of rates for the services provided under this Agreement; rather this section is provided merely to allocate risk of loss as between the parties.

d. AB 939/SB1016 Indemnification. The Contractor agrees to indemnify and hold harmless City, its officers, directors, employees and agents from and against all fines and/or penalties imposed by the CalRecycle if the source reduction and recycling goals or any other requirement of AB 939/SB1016 or any future diversion or disposal requirements are not met by City with respect to the waste stream collected under this Agreement and such failure is due to the failure of Contractor to meet any obligation under this Agreement, including delays in providing information that prevents City from submitting reports required by AB 939/SB1016 in a timely manner.

In interpreting the foregoing AB 939/SB1016 indemnification provision, Contractor and City are cognizant of Public Resources Code 40059.1 and agree that the intent of this Agreement is to provide Contractor with the breadth of rights and responsibilities to allow the City to meet its AB 939 diversion requirements through implementation of Contractor's programs. The program and services to be carried out by Contractor under this Agreement, as more particularly outlined in the service specifications (Exhibit A), are intended and expected to allow the City to meet its AB 939 diversion requirements, provided all programs are carried out consistently and competently, and with an aggressive program of outreach and customer education. Reliance by the City on Contractor's ability to provide programs and services that will consistently provide for City's compliance with AB 939 diversion requirements constitutes a material consideration for City to grant the exclusive rights and privileges contained herein.

8. Section 27 shall be amended by inserting the name of the new City Attorney when appointed.

9. New Section 29 shall be added to the Agreement as follows:

The Collector shall provide at no charge reasonable assistance to the City in the enforcement of any mandatory commercial recycling ordinance enacted by the City. Collector agrees to provide the mandatory commercial recycling services enacted by the City at no cost to the commercial customer.

10. Paragraph 3 of the Residential Solid Waste Services section of Exhibit A to the Agreement shall be amended to read in its entirety as follows:

Collector shall provide extra pickups as needed and upon request by customers at no additional charge. Collector shall provide special bulky item pickups for items such as large appliances and furniture as needed and upon request for no additional charge.

11. The following paragraphs will be added to the Residential Solid Waste Services section of Exhibit A to the Agreement and became effective on the signing of the extended Agreement:

4. Collector shall provide customer curbside collection of electronic waste (E Waste) at no additional charge. Collector shall provide customer curbside collection of household batteries and compact fluorescent bulbs at no additional charge.

5. Collector shall collect at no charge to City illegally dumped non-hazardous waste reported to the Collector.

12. Paragraph 1 of the Residential Recycling Services section of Exhibit A to the Agreement shall be amended to add the following language, effective at the signing of the extended Agreement:

Collector shall, at a resident's request, provide and service a 96-gallon recycling cart for residents in lieu of a 64- gallon recycling cart for no additional charge. Collector shall, at a resident's request, provide and service one additional 64-gallon recycling cart at no additional charge.

Collector shall provide extra pickups for recyclable material as needed and upon request by customers at no additional charge.

Collector shall provide unlimited residential curbside collection of recyclable materials.

13. Paragraph 3 of the Residential Recycling Services section of Exhibit A to the Agreement shall be amended to add the following language:

Collector shall, at a customer's request, provide and service a 96-gallon yard waste cart in lieu of a 64- gallon yard waste cart for no additional charge. Collector shall, at a customer's request, provide and service one additional 64-gallon yard waste cart at no additional charge.

14. Except as expressly amended by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

Attest:

CITY OF CLAYTON

Laci Jackson, City Clerk

By: _____
David T. Shuey, Mayor

Approved as to form:

City Attorney

By: _____
Gary A. Napper, City Manager

ALLIED WASTE SYSTEMS, INC.

APPROVED AS TO FORM:

By: _____
Thomas M. Bruen, Attorney for Collector

By: _____
Name and Title: _____

By: _____
Name and Title: _____

**Allied Waste Services
Clayton 2011 Residential Rates
5% Franchise Fee
(Rates Do NOT Include Street Sweeping)**

EXHIBIT A

	2011 Rate	2011 Rate 5% Franchise Fee	County Road Fee
20 gal	\$ 20.59	\$ 21.62	\$ 0.04
32 gal	\$ 21.82	\$ 22.91	\$ 0.05
64 gal	\$ 31.99	\$ 33.59	\$ 0.09
96 gal	\$ 34.91	\$ 36.66	\$ 0.10

Allied Waste Services
2011 Clayton Commercial and Industrial Rates
5% Franchise Fee Increase
(Rates Do NOT Include Street Sweeping Fee)

Service Level	Frequency	2011 Rate	2011 Rate 5% Franchise Fee	County Road Fee +
1yd	1 x per wk	\$ 127.45	\$ 133.82	\$ 0.52
1yd	2 x per wk	\$ 257.22	\$ 270.08	\$ 1.05
1yd	3 x per wk	\$ 385.81	\$ 405.10	\$ 1.58
1yd	4 x per wk	\$ 514.49	\$ 540.21	\$ 2.11
1yd	5 x per wk	\$ 643.03	\$ 675.18	\$ 2.64
Extra		\$ 38.30	\$ 40.22	\$ 0.16

2yd	1 x per wk	\$ 198.02	\$ 207.92	\$ 0.81
2yd	2 x per wk	\$ 395.97	\$ 415.77	\$ 1.62
2yd	3 x per wk	\$ 593.97	\$ 623.67	\$ 2.44
2yd	4 x per wk	\$ 791.99	\$ 831.59	\$ 3.25
2yd	5 x per wk	\$ 989.94	\$ 1,039.44	\$ 4.06
Extra		\$ 51.14	\$ 53.70	\$ 0.21

3yd	1 x per wk	\$ 267.43	\$ 280.80	\$ 1.10
3yd	2 x per wk	\$ 534.85	\$ 561.59	\$ 2.19
3yd	3 x per wk	\$ 802.26	\$ 842.37	\$ 3.29
3yd	4 x per wk	\$ 1,069.68	\$ 1,123.16	\$ 4.39
3yd	5 x per wk	\$ 1,337.09	\$ 1,403.94	\$ 5.48
Extra		\$ 63.85	\$ 67.04	\$ 0.26

4yd	1 x per wk	\$ -	\$ -	\$ -
4yd	2 x per wk	\$ -	\$ -	\$ -
4yd	3 x per wk	\$ -	\$ -	\$ -
4yd	4 x per wk	\$ -	\$ -	\$ -
4yd	5 x per wk	\$ -	\$ -	\$ -
Extra		\$ 82.99	\$ 87.14	\$ 0.34

5yd	1 x per wk	\$ -	\$ -	\$ -
5yd	2 x per wk	\$ -	\$ -	\$ -
5yd	3 x per wk	\$ -	\$ -	\$ -
5yd	4 x per wk	\$ -	\$ -	\$ -
5yd	5 x per wk	\$ -	\$ -	\$ -
Extra		\$ 95.77	\$ 100.56	\$ 0.39

Allied Waste Services
2011 Clayton Commercial and Industrial Rates
5% Franchise Fee Increase
(Rates Do NOT Include Street Sweeping Fee)

6yd	1 x per wk	\$ -	\$ -	\$ -
6yd	2 x per wk	\$ -	\$ -	\$ -
6yd	3 x per wk	\$ -	\$ -	\$ -
6yd	4 x per wk	\$ -	\$ -	\$ -
6yd	5 x per wk	\$ -	\$ -	\$ -
Extra		\$ 114.90	\$ 120.65	\$ 0.47

8yd	1 x per wk	\$ -	\$ -	
8yd	2 x per wk	\$ -	\$ -	
8yd	3 x per wk	\$ -	\$ -	
8yd	4 x per wk	\$ -	\$ -	
8yd	5 x per wk	\$ -	\$ -	
Extra		\$ 140.45	\$ 147.47	

32 gal can	1 x per wk	\$ 21.91	\$ 23.01	\$ 0.09
32 gal can	2 x per wk	\$ 43.81	\$ 46.00	\$ 0.18
32 gal can	3 x per wk	\$ 65.72	\$ 69.01	\$ 0.27
32 gal can	4 x per wk	\$ 87.62	\$ 92.00	\$ 0.36
32 gal can	5 x per wk	\$ 106.21	\$ 111.52	\$ 0.44
Extra		\$ 10.43	\$ 10.95	\$ 0.04

64 gal cart	1 x per wk	\$ 36.02	\$ 37.82	\$ 0.15
64 gal cart	2 x per wk	\$ 83.08	\$ 87.23	\$ 0.34
64 gal cart	3 x per wk	\$ 130.10	\$ 136.61	\$ 0.53
64 gal cart	4 x per wk	\$ 177.10	\$ 185.96	\$ 0.73
64 gal cart	5 x per wk	\$ 224.18	\$ 235.39	\$ 0.92
Extra		\$ 20.21	\$ 21.22	\$ 0.08

96gal cart	1 x per wk	\$ 53.38	\$ 56.05	\$ 0.22
96gal cart	2 x per wk	\$ 116.69	\$ 122.52	\$ 0.48
96gal cart	3 x per wk	\$ 180.15	\$ 189.16	\$ 0.74
96gal cart	4 x per wk	\$ 243.61	\$ 255.79	\$ 1.00
96gal cart	5 x per wk	\$ 307.06	\$ 322.41	\$ 1.26
Extra		\$ 31.29	\$ 32.85	\$ 0.13

Allied Waste Services
2011 Clayton Commercial and Industrial Rates
5% Franchise Fee Increase
(Rates Do NOT Include Street Sweeping Fee)

INDUSTRIAL RATES

	2011 Rate	2011 Rate 5% Franchise Fee	Road Fee	Tons Included
Compactor	\$ 314.95	\$ 330.70	\$ 1.29	none
Minimum Monthly Charge	\$ 404.93	\$ 425.18	\$ 1.66	
Regular Rate	\$ 397.72	\$ 417.61	\$ 1.63	1
Excess Tons	\$ 79.92	\$ 83.92	\$ 0.33	

Agenda Date: 7-5-11Agenda Item: 9b

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 05 JULY 2011

**SUBJECT: CONSIDERATION OF TENTATIVE DEAL POINTS FOR FRANCHISE EXTENSION
ALLIED WASTE SERVICES SOLID WASTE & RECYCLING SERVICES**

RECOMMENDATION

Following presentation of the Tentative Franchise Extension "Deal Points" and opportunity for public comment, it is recommended the City Council by motion accept the "Deal Points" as proposed and authorize City staff to prepare an amended and revised Franchise Agreement for public hearing and adoption at a subsequent public meeting.

BACKGROUND

At its meeting of 02 July 2002, the Clayton City Council adopted Resolution No. 42-2002 approving a ten (10) year time extension with Pleasant Hill Bayshore Disposal, Inc. for the provision of solid waste and recyclable materials collection and disposal services within the Clayton community. Since that date, the City's franchise agreement has been transferred to Allied Waste Services, Inc. and then most recently to Republic Services, Inc. in September 2009. The City's franchisee has continuously operated in the city providing these services under their now identifiable business name of "Allied Waste Services".

The existing Franchise Agreement is set to expire on 31 December 2012 (18 months from now) and for several months both parties have been exchanging information and data in consideration of extending the time period of the current franchise agreement. In those periodic discussions with Allied Waste Services General Manager Tim Argenti and Division Municipal Services Manager Susan Hurl, the City has been represented by its City Council ad-hoc Committee of Mayor Shuey and Council Member Medrano, and the City Manager.

The Franchisee (Allied Waste Services) is certainly interested in retaining and securing a longer term agreement for its continued operational business in the Clayton community. The Franchisor (City) is equally interested in maintaining the highest quality services at the most economical rate with no to minimal disruption in service. The combination of those objectives has led both parties to negotiate mutually-acceptable terms for extension of the existing franchise agreement.

NEGOTIATED TERMS VERSUS COMPETITIVE BIDDING (RFP)

Unlike state laws governing "public works projects" that require competitive bidding, a "services" franchise agreement is not subject to a mandatory bid procedure. A municipality may negotiate acceptable terms and conditions to a franchise agreement involving solid waste and recyclable materials collections and disposal services, or it may submit the franchise opportunity to a similar competitive bid process known as a "Request for Proposals".

While that option exists for Clayton, a guiding management principle is this type of expiring "service" franchise is usually put out for competitive RFP if the franchisor (city) is dissatisfied with the service record of the franchisee or the customer rates charged for the service are deemed to be excessive or out of alignment with other area rates. Essentially, if the service is not broken and does not need fixing, municipalities typically negotiate an extension of its current franchise agreement with its existing provider as a known and reliable entity.

In the case of Allied Waste Services' franchise record of performance in the Clayton community, monthly customer service records reveal no overriding problems or chronic dissatisfaction with their curbside and collection services. Yes, errors do occur as human services are not infallible and it is fairly certain everyone might have a curbside story to share about flattened cardboard boxes being missed on a collection day. However, in terms of service coupled with being a community partner in Clayton by event sponsorships and donations (e.g. Concerts in The Grove; CBCA Art and Wine Festival; CBCA Oktoberfest; 4th of July Parade; Clayton Counts Down – New Year's Eve; community golf tournament sponsorships; etc.), it is my professional judgment that Allied Waste Services has been and continues to be an exemplary franchisee that clearly understands the expectations of, and active involvement in, a small community like Clayton.

Occasionally a municipality will advertise its solid waste franchise agreement to a RFP [competitive] process when it believes the current rates are too high; by seeking competitive bids, it is assumed other operators will offer cutthroat lower rates to get the business, including the current franchisee. However, that strategy can backfire by allowing the current operator the opportunity to bid existing rates upward, while knowing competitors' rates in other communities are higher and the uncontrolled rate bidding process by that municipality offers the open-door chance to raise their own rates. Such experience occurred in the nearby city of San Ramon years ago when that city went out to Request for Proposals (RFP) for its solid waste franchise agreement. San Ramon received only two (2) bidders, and then one of the bidders subsequently dropped out; the sole remaining proposal was from their current franchisee who submitted rates and terms actually higher and less, respectively, than what had been negotiated at the table prior to the city's decision to go to RFP! Staff understands San Ramon's franchise agreement will expire again in several years and the current organizational philosophy is they believe they can obtain better rates and service options by negotiating with their existing franchisee.

Relative to current customer rates and services by Allied Waste Services, comparative data reveals our existing franchise-regulated rates are among the lowest in the area (ref. Exhibit 2, attached), and their services and company willingness are equally impressive.

TENTATIVE "DEAL POINTS"

The results of the discussions of terms and conditions of a franchise extension for Allied Waste Services are listed in Exhibit 1 to this Staff Report. The basic ingredients of the proposed agreement are a ten (10) year time extension of the current Franchise Agreement from January 2013 through December 2022. The current customer rate structure remains the same subject to the existing 90% annual Consumer Price Index (CPI) rate adjustment, with an additional wrinkle. In exchange for elimination of language allowing the Franchisee to apply for special circumstance rate increases (e.g. exorbitant fuel costs), the Deal Points call for a rate increase "floor" of at least 1% per year but in no case greater than a 5% increase per year (a "cap"), and within that percentage spread rates remain subject to 90% of the CPI annual modification (for the San Francisco-Bay Area index, All Urban Consumers).

One of the more significant benefits to retaining Allied Waste Services as the City's franchisee is the fact this company owns the nearby Keller Canyon Landfill for refuse disposal purpose. Some companies in the solid waste curbside collection business do not own landfills and therefore could be locked-out for future disposal should a preferred or the nearest landfill's future capacity begin to diminish. Essentially, that refuse collector then becomes a self-hauler looking for another landfill in which to pay the associated tipping fees, always at risk to the closure of a landfill. This particular advantage owned by Allied Waste Services is a key component in the proper management and disposal of our community's solid waste stream, one the City wishes to guaranty in the proposed franchise extension; namely, Allied Waste Services guarantees for the term of the franchise that Clayton's solid waste will be accepted at the Keller Canyon Landfill. Transport costs to the nearest available landfill for disposal are a variable in any rate structure offered by a refuse hauler.

To enhance the City's curbside recycling program and create increased convenience for customers to recycle and aid the community's mandatory recycling mark of at least 50% of the waste stream (moving up to 60%), Allied Waste is offering a series of new services. The expanded curbside recycling program will:

1. Allow customers to have a 2nd 64-gallon recycling cart at no additional charge (eliminating the current fee of \$1.85/mo.);
2. Customers can swap their 64-gallon recycling and/or green waste cart for a 96-gallon recycling and/or green waste cart, at no additional cost;
3. Curbside collection of household batteries and compact fluorescent bulbs/lamps (CFLs) at no additional charge;
4. Free on-call bulky item pickup (i.e. appliance, furniture), and illegal dumping pickups;
5. Free Electronic Waste pickup program; and
6. Unlimited curbside collection of recyclable materials.

The additions of these improved services should be well-received by a Clayton community eager to sustain its recycling efforts.

In consideration of its franchise extension for an additional ten (10) year term, Allied Waste Services has further agreed to contribute a \$100,000 Community Enhancement Fee to the City by 15 January 2013 (as the 10-year time extension begins). This contribution to the City comes absent any strings or restrictions on its use and the City Council will be the ultimate arbiter of its governmental allocation and purpose.

And finally, after review of prevailing franchise fee rates among area and California cities, Clayton's 5% franchise fee is at the lowest end of fees for the execution of a solid waste franchise agreement. Therefore, the negotiated Deal Points include the recommendation for the City's applicable franchise fee to be increased to 10%, effective with the signing of an amended franchise agreement. Copies of available franchise fee surveys are attached as Exhibit 3. Based on estimates provided by Allied Waste Services, the increased 5% franchise fee may generate an additional \$50,000 per year to the City General Fund, which Fund has remained a virtual flat line over the past ten (10) year period. Even with this fee bump, Clayton's rates will remain at the lower end of the comparative scale.

SUMMATION

As a total package, the Council ad-hoc Committee and the City Manager believe it is in the best interests of the City and the community it serves to extend the existing franchise agreement with Allied Waste Services an additional ten (10) years through December 2022, subject to the modifications and enhanced services offered by these negotiated Deal Points. Taking this action will ensure our residents and businesses are well-served for solid waste and recycling collection and disposal services by a highly-reputable company with a proven track record sincerely interested in providing exceptional service to this small community.

- Exhibits: 1. Tentative Deal Points [2 pp.]
2. Comparative Rate Surveys, Residential and Commercial [2 pp.]
3. Franchise Fee Surveys (2) [3 pp.]
4. Community Enhancement Fee letter [1 pg.]

SOLID WASTE FRANCHISE AGREEMENT***TENTATIVE DEAL POINTS***

- A. **TERM** (existing franchise agreement expires 30 December 2012)
- Term extended for an additional 10 years, from Jan. 2013 thru Dec. 2022
- B. **RATE ADJUSTMENT METHODOLOGY**
- Retain existing rate structure.
 - Retain blended CPI calculation, at 90%, through term of current franchise (1 yr. left).
 - Starting Dec. 2013, annual rate change at 90% of latest 12 mo. CPI change of San Francisco-Bay Area index – All Urban Consumers (base year: 1982-84), subject to rate floor and cap limits below.
 - Rate Adjustment Floor of 1% (annual guaranteed rate increase)
 - Rate Adjustment Cap of 5% (cannot exceed annual guaranteed rate)
 - Eliminate Section 7 – Significantly Changed Circumstances, in current agreement that allows franchisee to file for special rate adjustments showing good cause (e.g. fuel prices skyrocket; secondary recycling market bombs; green waste for alternate daily coverage disallowed at landfill; landfill operational/improvement costs explode, etc.).
- C. **LANDFILL DISPOSAL CAPACITY GUARANTY**
- Add new Section guaranteeing City solid waste stream has ensured disposal capacity at franchisee's Keller Canyon Landfill during full term of Franchise Agm't.
- D. **NEW SERVICES PROVIDED BY FRANCHISEE** (to commence on signing of extended Agm't.)
- Expand residential curbside recycling program:
 - Provide additional 64-gallon recycling cart at no additional charge (drop \$1.85/mo. fee)
 - Provide 96-gallon recycling cart (In lieu of 64 gal.) at no additional charge.
 - Offer same above-noted cart substitution/addition for green yard waste cart.
 - Curbside collection of household batteries and compact fluorescent bulbs/tubes.
 - Free on-call bulky item pick-up (e.g. appliance; furniture).
 - Free pickups/service for illegal dumping issues (hotline established for reporting).
 - Free Electronic Waste pickup program (details to be determined).
 - Unlimited curbside collection of recyclable materials.

E. OTHER

- Replacement trash trucks shall be Natural Gas fuel.
- Mandatory commercial recycling program (requires City ordinance too).
- Franchisee shall contribute a \$100,000 Community Enhancement Fee to City by 15 January 2013 for consideration of extended franchise term.

F. FRANCHISE FEE

- Increase City Franchise Fee from current 5% to 10% (each 1% equals approximately \$10,000 per year to City General Fund), effective the nearest month following approval of Franchise extension.

Note: Clayton's present fee is the 2nd lowest of area cities.

DATE: 30 June 2011

2011 Residential Solid Waste and Recycling Rates

EXHIBIT 2

	20 GAL	32 GAL	64 GAL	96 GAL
El Cerrito*	\$ 27.09	\$ 38.10	\$ 74.57	N/A
Orinda	\$ 26.66	\$ 30.75	\$ 60.78	\$ 91.17
Pinole*	\$ 25.66	\$ 30.40	\$ 54.08	\$ 78.49
Vallejo	N/A	\$ 29.72	\$ 48.24	\$ 66.44
Richmond*	\$ 24.18	\$ 29.53	\$ 56.32	\$ 83.90
Hercules*	\$ 24.35	\$ 29.09	\$ 51.55	\$ 74.52
San Pablo	\$ 23.33	\$ 28.74	\$ 54.71	\$ 81.50
Martinez	\$ 19.75	\$ 28.30	\$ 31.55	\$ 66.30
Pittsburg	N/A	\$ 27.00	\$ 33.00	\$ 37.00
Lafayette	\$ 21.67	\$ 24.98	\$ 49.95	\$ 74.93
Oakley	N/A	\$ 24.95	\$ 34.90	\$ 39.60
San Ramon	\$ 20.08	\$ 24.84	\$ 43.24	\$ 69.20
Benicia	N/A	\$ 23.69	\$ 27.68	\$ 38.18
Concord	N/A	\$ 23.00	\$ 31.00	\$ 38.00
Clayton***	\$ 21.62	\$ 22.91	\$ 33.59	\$ 36.66
Clayton**	\$ 20.59	\$ 21.82	\$ 31.99	\$ 34.91
Walnut Creek	\$ 14.86	\$ 17.80	\$ 35.59	\$ 53.39

*Rate include an IRRF (Integrated Resource Recovery Facility) fee for fixed costs related to solid waste and recycling, processing of recyclables, solid waste disposal services, household hazardous waste services and composting services.

**Clayton rates do not include street sweeping

***5% increase for franchise fees

2011 Commercial Rate Comparison

	32 gal	64 gal	96 gal	1yd	2yd	3yd	4yd	5yd	6yd	7yd	Byd
Pinole	\$ 36.92	\$ 75.80	\$ 99.19	\$ 226.59	\$ 379.44	\$ 523.54	\$ 663.15	\$ 799.97	\$ 935.76	\$ 1,070.58	n/a
Orinda	\$ 34.89	\$ 69.79	\$ 104.67	\$ 182.07	\$ 364.14	\$ 546.22	\$ 728.28	\$ 910.36	\$ 1,092.42	n/a	\$ 1,456.56
Hercules	\$ 34.92	\$ 71.62	\$ 93.84	\$ 216.55	\$ 363.44	\$ 502.20	\$ 636.65	\$ 768.78	\$ 899.65	\$ 1,029.70	n/a
San Pablo	\$ 35.38	\$ 72.57	\$ 95.05	\$ 207.46	\$ 349.11	\$ 483.14	\$ 613.01	\$ 740.76	\$ 867.11	\$ 992.97	n/a
Richmond	\$ 35.95	\$ 73.69	\$ 96.30	\$ 195.13	\$ 323.41	\$ 444.62	\$ 562.42	\$ 678.42	\$ 793.36	\$ 907.46	n/a
Lafayette	\$ 27.68	\$ 53.06	\$ 78.82	\$ 165.58	\$ 323.33	\$ 477.75	\$ 636.99	\$ 796.24	\$ 935.56	n/a	\$ 1,247.42
Moraga	\$ 23.52	\$ 47.03	\$ 70.55	\$ 144.11	\$ 288.20	\$ 432.31	\$ 576.41	\$ 720.52	\$ 864.62	n/a	\$ 1,152.83
Danville	\$ 19.38	\$ 38.75	\$ 58.13	\$ 124.94	\$ 249.87	\$ 374.81	\$ 499.76	\$ 631.54	\$ 749.62	n/a	\$ 999.49
Martinez	\$ 26.64	\$ 38.30	\$ 55.81	\$ 129.38	\$ 229.02	\$ 392.82	\$ 390.46	\$ 381.91	\$ 457.75	n/a	\$ 572.15
Antioch	\$ 23.66	\$ 42.22	\$ 60.35	\$ 145.47	\$ 223.96	\$ 336.97	\$ 435.78	\$ 539.36	\$ 640.00	n/a	\$ 841.09
San Ramon	\$ 34.89	\$ 48.56	\$ 82.27	\$ 115.19	\$ 213.93	\$ 296.13	\$ 361.86	\$ 427.56	\$ 493.30	n/a	n/a
Clayton**	\$ 23.01	\$ 37.82	\$ 56.06	\$ 133.82	\$ 207.92	\$ 280.80	n/a	n/a	n/a	n/a	n/a
Clayton	\$ 21.91	\$ 36.02	\$ 53.38	\$ 127.45	\$ 198.02	\$ 267.43	n/a	n/a	n/a	n/a	n/a
Pleasant Hill*	\$ 24.36	\$ 38.97	\$ 54.74	\$ 159.06	\$ 192.51	\$ 288.39	\$ 381.99	\$ 473.50	\$ 580.01	n/a	\$ 757.10
Walnut Creek	\$ 24.18	\$ 48.35	\$ 72.53	\$ 90.65	\$ 181.31	\$ 271.96	\$ 362.60	\$ 453.25	\$ 543.91	n/a	\$ 725.20
Benicia	\$ 27.48	\$ 31.71	\$ 48.78	\$ 119.21	\$ 152.54	\$ 228.75	\$ 302.56	\$ 374.87	\$ 449.85	n/a	\$ 599.96
Concord											
Pittsburg											

*Rates include recycling

** Includes 5% increase for franchise fees

as of mid 2010

EXHIBIT 3

	Franchise Fee
Albany	10%
Antioch	12%
Benicia	8% with 1% every year up to 15%
Clayton	5%
Concord	6%
Danville	10%
Dublin	14% 15%
El Cerrito	10%
Fairfield	8%
Lafayette	10%
Martinez	10%
Moraga	12%
Orinda	12.20%
Pinole	4%
Pittsburg	7%
Pleasant Hill	16%
San Pablo	\$10,000/month
San Ramon	10%
Vallejo	11%
Walnut Creek	10%

Appendix G. Comparative Franchise Fees

Exhibit G-1

Selected Comparative Franchise Fee Survey of California Cities and Counties
(As of September 2009)

Page 1 of 2

Number	Description	Percent of Gross Revenue	Effective Year
1	City of San Mateo	4.0%	2007
2	Placer County	4.0%	2009
3	City of Lodi	4.8%	2007
4	Contra Costa County (Allied, RSS)	5.0%	2007
5	Contra Costa County areas served by CCCSWA (Allied)	5.0%	2007
6	City of Clayton	5.0%	2007
7	El Dorado County	5.0%	2005
8	Inyo County	5.0%	2005
9	City of San Juan Capistrano	5.0%	2009
10	City of Marysville	5.0%	2005
11	City of Vacaville	5.0%	2007
12	City of Piedmont	5.5%	2007
13	City of Menlo Park	5.8%	2007
14	City of Danville	6.0%	2007
15	City of Elk Grove	6.0%	2007
16	City of Pittsburg	7.0%	2008
17	City of Citrus Heights	7.0%	2007
18	Town of Paradise	7.0%	2007
19	City of Red Bluff	7.0%	2007
20	Sacramento County	8.0%	2008
21	City of Lancaster	8.1%	2007
22	City of Tracy	8.5%	2007
23	Humboldt County	9.0%	2009
24	City of Diamond Bar	9.7%	2009
25	County of Napa	10.0%	2005
26	City of Ascadero	10.0%	2008
27	City of Marina	10.0%	2008
28	Town of Atherton	10.0%	2005
29	City of Oakland	10.0%	2005
30	City of Martinez	10.0%	2005
31	City of Moraga	10.0%	2007
32	City of Walnut Creek	10.0%	2007
33	City of Lafayette	10.0%	2007
34	City of Alameda	10.0%	2005

Exhibit G-1
Selected Comparative Franchise Fee Survey of California Cities and Counties
(As of September 2009) (continued)

Page 2 of 2

Number	Description	Percent of Gross Revenue	Effective Year
55	City of Albany	10.0%	2005
56	City of Fremont	10.0%	2005
57	City of Livermore	10.0%	2005
58	City of Los Alamos	10.0%	2003
59	City of San Leandro	10.0%	2005
60	City of San Ramon	10.0%	2006
61	City of San Luis Obispo	10.0%	2007
62	Town of San Anselmo	10.0%	2006
63	Los Angeles County	10.0%	2006
64	City of Poway	10.0%	2006
65	City of Los Angeles	10.0%	2003
66	City of West Hollywood	10.0%	2002
67	City of Santa Clarita	10.0%	2004
68	City of Vallejo	11.0%	2008
69	City of Salinas	12.0%	2004
70	City of Milpitas	12.0%	2007
71	City of Antioch	12.0%	2007
72	City of Costa Mesa	12.0%	2006
73	City of Orlando	12.2%	2007
74	City of Hayward	12.5%	2005
75	Santa Clara County	12.5%	2008
76	City of Redwood City	13.0%	2007
77	City of Dublin	13.6%	2005
78	Marin County	15.0%	2009
79	City of San Jose	15.0%	2006
80	City of Colton	15.0%	2006
81	City of Morgan Hill	15.5%	2005
82	City of Pasadena	16.0%	2006
83	City of Pleasant Hill	16.0%	2007
Average		9.4%	



Received

JUN 22 2011

City of Clayton

June 20, 2011

Gary A. Napper
City Manager
6000 Heritage Trail
Clayton, CA 94517

Dear Mr. Napper,

A component of our proposal to extend the Franchise Agreement between the City of Clayton and Allied Waste Services, Inc., is the contribution of a \$100,000 Community Enhancement Fee.

This letter will memorialize our understanding regarding the payment of a Community Enhancement Fee to the City of Clayton. Payment will be made on January 15, 2013.

We appreciate our relationship with the City and look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy M. Argenti'.

Timothy M. Argenti
General Manager



Agenda Date: 8-16-11
Agenda Item: 8b

STAFF REPORT

Approved:

Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 16, 2011

SUBJECT: APPEAL HEARING REGARDING NOTICE OF VIOLATION AND DENIAL OF AN AFTER-THE-FACT CITY ENCROACHMENT PERMIT FOR UNAUTHORIZED PRIVATE IMPROVEMENTS IN THE PUBLIC RIGHT OF WAY ALONG MITCHELL CANYON ROAD AT 5851 PINE HOLLOW ROAD (APPELLANT: Mr. Jon Van Brusselen)

RECOMMENDATION

Following the Appeal Hearing, provide direction on the approval or denial of the appeal.

BACKGROUND

In late April or early May 2011, the City Engineer's office received a couple of phone calls from residents regarding some landscape mounds along the edge of pavement on the east side of Mitchell Canyon Road, north of Pine Hollow Road, that "appeared overnight".

Investigation revealed that landscape mounds approximately three feet high had been constructed along Mitchell Canyon Road and that they were topped with several palm trees (see attached pictures). When learning of the City's concern, the property owner, Mr. Jon Van Brusselen, sent a letter, dated May 23, 2011 and attached hereto, stating that he had received permission from the City in 2003 and implying that the area adjacent to Mitchell Canyon Road had not changed since that time.

While Mr. Van Brusselen was correct in stating that the City did allow the planting of the trees within the right of way, the implication that the area was unchanged since that time was incorrect (see attached "old" picture). When Staff inspected the mounds, two concerns came to mind. First, the work had been undertaken without notice to or even a request for a permit from the City. Second, the bare mounds create the possibility of erosion and mud flows onto the street area in violation of the City's Stormwater Discharge Permit issued by the Regional Water Quality Control Board.

Date: August 16, 2011

Page 2 of 3

On June 21st, Staff issued a Notice of Violation to Mr. Van Brusselen specifying violation of the City's encroachment permit and stormwater control requirements (see attached letter). The Notice of Violation cited both Municipal Code sections, required removal of the fill material by July 8th, and noted that different appeal procedures to each violation. Shortly after receipt, Mr. Van Brusselen contacted me and a meeting was held at his property.

Mr. Van Brusselen complained that the mounds were always there and that he had only "freshened" them by adding six inches of material over them. He fully intended to cover the mounds with bark or other material and was more than willing to make any other improvements (such as, berms or jute netting), the City deemed necessary to allow the mounds to remain. Mr. Van Brusselen stated that part of the reason he needed the mounds was that the school traffic tended to use and drive over his property and he was concerned about potential damage. The mounds and trees reside wholly within the public right of way.

Mr. Van Brusselen, citing the need to undergo a medical treatment the following week that would incapacitate for a couple of weeks, asked for a delay in the violation proceedings and that the City consider what other improvements he could make to mitigate the violation. Based upon this, we put the Notice of Violation in abeyance and staff discussed what other options we could accept. After some discussion, staff decided that such a decision could be considered a precedent and that it would be more appropriate for the City Council to make the decision.

Staff re-issued a new Notice of Violation, dated July 11th and attached hereto. On July 19th, Mr. Van Brusselen filed appeals for both violations as required by the Notice and the Municipal Code (see attached). Obviously, the most immediate concern is the violation of the encroachment permit requirements. Mr. Van Brusselen's appeal cited the following grounds: (1) the mounds have existed since 2003 and (2) the mounds were approved in 2003 by a City inspector.

Denial of Appeal

If the Council should decide to deny the appeal and require removal of the fill material and restoration of the area to its previous condition, the Council should specify grounds for the denial and a completion date beyond which the penalties specified in the Municipal Code would be levied. Recommended grounds for denial of the appeal include the following:

- 1) Construction within the public right of way occurred without issuance of an encroachment permit by the City;
- 2) The proximity of the improvements (mounds) to the travel way poses a hazard to vehicles traveling along the street;
- 3) The improvements would make future widening of the street more difficult and costly to the City.

Date: August 16, 2011

Page 3 of 3

Upholding of Appeal

If the Council should decide to uphold the appeal and allow the improvement to remain, Staff recommends that the following conditions be imposed:

- 1) Appellant shall pay for and obtain a Special Encroachment Permit (plus penalty and fees for performance of work within the right of way without a City permit) from the City Engineer allowing the berms to remain and accepting all liability related to the mounds;
- 2) Appellant shall construct an 8" high asphalt berm around the mounds and the berm shall be painted white and repainted on a regular basis to insure its visibility;
- 3) the mounds shall be regraded to create a 6" wide flat area behind and 2" below the top of the asphalt berm;
- 4) the mounds shall be covered with jute netting and maintained in good condition so as to minimize erosion and topped with bark or other groundcover as may be approved by staff.;

FISCAL IMPACT

Depending upon Mr. Van Brusselen's cooperation, there will be little fiscal impact of the City unless the City is forced to remove the mounds for lack of property owner compliance and seek reimbursement from Mr. Van Brusselen.

CONCLUSION

As stated, Staff feels that this is more of a policy decision that belongs to the City Council. We await the Council's decision and direction.

Attachments: New Photographs (4)
 Van Brusselen 5/23/11 Correspondence
 Old Photograph (3)
 6/21/11 Notice of Violation
 7/11/11 Notice of Violation
 Van Brusselen Appeals









Jon A. Van Brusselen
5851 Pine Hollow Road
Clayton, California 94517
925.673.1862

May 23, 2011

RICK ANGRISANI
SR. ENGINEER
CITY OF CLAYTON
6000 Heritage Trail
Clayton, CA 94517

RECEIVED

MAY 24 2011

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

Dear Mr. Angrisani:

It has come to our attention that the dirt mounds and palm trees planted adjacent to our property on Mitchell Canyon Road has caused concern that their existence is interfering with the City's storm water drains. We have maintained this portion of City property for 7+ years without objection from the City or neighbors and find it aggravating that after so much time has passed, it has become an issue.

In 2003 before we commenced the construction of the cottage on our property located on Mitchell Canyon Road, we met with the City Engineer Permit Inspector to discuss the details of the landscape and sidewalk we were obligated to put in by the City. The solution he and I agreed on not only deterred drivers from driving onto the sidewalk and our property but also complimented the landscape and design of our home. The palm trees were chosen not only for our personal enjoyment but also because of the nature of the root system. The queen palms that are planted on the mounds have a fibrous, noninvasive root system that grows out wide and 3-4 feet deep. These characteristics of queen palms make them most favored to grow around swimming pools and walkways. Attached for your review are several research documents taken from the internet regarding the root system of a queen palm.

We look forward to hearing your determination in this matter and if you require additional information please do not hesitate to contact us.

Sincerely,



Matched | Canyon Road



Full Street View



Mitchell Canyon Road

© 2011 Google

© 2011 Google

37°56'30.50"N 111°58'30.63"W alt: 4550'

Google

Altitude: 4550'

Mitchell Canyon Road



Exit Street View



Mitchell Canyon Road

Google

©2011 Google
©2011 Google

37°56'39.05"N 111°25'33.87"W elev 4455 ft

Eye alt 450 ft

Access Denied

Mitchell Canyon Road



Exit Street View

M

Mitchell Canyon Road

©2011 Google
©2011 Google

37°46'10.68"N 121°58'30.40"W elev: 445 ft

Google
©2010

445 ft



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
DAVID T. SHUEY, MAYOR
HOWARD GELLER, VICE MAYOR
JOSEPH A. MEDRANO
JULIE K. PIERCE
HANK STRATFORD

June 21, 2011

Mr. Jon Van Brusselen
5851 Pine Hollow Road
Clayton, Ca 94517

Re: Notice of Violations
City of Clayton Municipal Code

Dear Mr. Van Brusselen:

This is in response to your correspondence, dated May 23, 2011, regarding the dirt mounds and palm trees planted within the public right of way along your frontage on Mitchell Canyon Road.

You are correct in stating that the City had allowed the planting of the palm trees when you improved your property in 2003. However, at that time the planted area was level adjacent to Mitchell Canyon Road and allowed for road drainage to flow without being impeded alongside the edge of the pavement. You recently caused a significant change in the drainage by mounding 2 to 3 feet of fill material in the planter area directly adjacent to the edge of pavement.

This change was done without permission by or notification to the City. At a minimum, this work, per Chapter 12.04 "Street Encroachments", of the Municipal Code required your application for and the issuance of an encroachment permit by the City prior to your undertaking of this new work. Per Section 12.04.640 of the Clayton Municipal Code, violation of the provisions of this chapter constitutes a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than one hundred eighty days, or both. I have enclosed a copy of this chapter for your review.

In addition, the mounded materials are subject to erosion from rainfall and storm flows along the street. Such erosion is considered a prohibited discharge under the City's Municipal Regional Permit issued by the San Francisco Bay Area Regional Water Quality Control Board and makes both the City and yourself subject to significant fines from this Board. I have also included a copy of the Chapter 13.12 "Stormwater Management and Discharge Control" of Clayton's Municipal Code for your review.

It is imperative that this fill material be immediately removed. Please make arrangements to have the material removed and the planter area returned to its original condition by July 8, 2011. Failure to do so will result in the City undertaking the removal of the materials and seeking reimbursement for all

Mr. Jon Van Brusselen
June 21, 2011
Page 2 of 2

costs, including all administrative and overhead costs, and will subject you the imposition of all penalties prescribed by law as set forth above..

Appeal Process

If you wish to appeal this notice of violation, please be aware that you must file a separate appeal for each violation and you must appeal both violations.

For the violation of the Encroachment Permit requirements (Chapter 12.04), I direct your attention to Section 12.04.600, et seq. You may appeal my refusal to grant you an encroachment permit by filing a notice of appeal with the City Clerk, in City Hall at 6000 Heritage Trail, within seven days of receipt of this notice. Your appeal will then be scheduled for a hearing before the City Council at an upcoming regularly scheduled meeting. The decision of the City Council will be final.

For the violation of the Stormwater Management requirements (Chapter 13.12), I direct your attention to Section 13.12.200. You may appeal this portion of this notice by filing a written appeal with the City Manager, in City Hall at 6000 Heritage Trail, within ten days of receipt of this notice. The City Manager will then request a report and schedule a hearing at the earliest practical date. The decision of the City Manager shall be final.

If you should have any questions, please do not hesitate to call the undersigned at 925/363-7433.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Angrisani', with a long horizontal line extending to the right.

Rick Angrisani, P.E.
City Engineer

cc: Gary Napper, City Manager w/encl.
Dan Adams, City Attorney w/encl.



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
DAVID T. SHUEY, MAYOR
HOWARD GELLER, VICE MAYOR
JOSEPH A. MEDRANO
JULIE K. PIERCE
HANK STRATFORD

July 11, 2011

Mr. Jon Van Brusselen
5851 Pine Hollow Road
Clayton, Ca 94517

Re: Notice of Violations
City of Clayton Municipal Code

Dear Mr. Van Brusselen:

I hope all went well with your surgery and that your recovery is proceeding as well as can be expected.

As I stated in my e-mail of June 24th, we have withheld any action on the Notice of Violation, postmarked June 21, 2011. I have discussed the situation with senior staff in hopes of finding an alternative to the complete removal of the mounds. After some discussion, we agreed that, due to the possibility of setting an unacceptable precedent, you will need to present your arguments to the City Council for a decision and direction to staff.

Therefore, the original Notice of Violation, dated June 21, 2001, is reactivated and effective as of Wednesday, July 13, 2011, which we will consider the date of receipt of this notice. I have enclosed a copy of the original notice and attachments for your convenience.

Appeal Process

If you wish to appeal this notice of violation, please be aware that you must file a separate appeal for each violation and you must appeal both violations.

For the violation of the Encroachment Permit requirements (Chapter 12.04), I direct your attention to Section 12.04.600, et seq. You may appeal my refusal to grant you an encroachment permit by filing a notice of appeal with the City Clerk, in City Hall at 6000 Heritage Trail, within seven days of receipt of this notice. Your appeal will then be scheduled for a hearing before the City Council at an upcoming regularly scheduled meeting. The decision of the City Council will be final.

For the violation of the Stormwater Management requirements (Chapter 13.12), I direct your attention to Section 13.12.200. You may appeal this portion of this notice by filing a written appeal with the City Manager, in City Hall at 6000 Heritage Trail, within ten days of receipt of this notice.

Mr. Jon Van Brusselen

July 11, 2011

Page 2 of 2

The City Manager will then request a report and schedule a hearing at the earliest practical date. The decision of the City Manager shall be final.

If you should have any questions, please do not hesitate to call the undersigned at 925/363-7433.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Angrisani', with a horizontal line extending to the right.

Rick Angrisani, P.E.
City Engineer

cc: Gary Napper, City Manager w/o encl.
Dan Adams, City Attorney w/o encl.

Appeal of an Administrative Decision

Below: Office Use Only

Received of CLAYTON

JUL 19 2011

City of Clayton

Heritage Trail, Clayton, CA 94517
Phone No. 925.673.7300 Fax No. 925.672.4917
www.ci.clayton.ca.us

File No. _____ Fee(s) _____

Received By: _____

Date _____ Receipt No. _____

Please clarify any questions with the Planning Staff prior to completing this form. Please print or type legibly. Attach additional sheets if necessary. Incomplete applications will not be accepted.

1. Personal Information (Appellant):

a. Name: JON VAN BRUSSELEN Signature: _____

b. Address: 5851 PINE HOLLOW ROAD

c. Phone: 925-673-1862

d. Interest in project (e.g., applicant, neighbor, etc): APPLICANT

2. Appeal Instructions:

a. To file an appeal, take the form and appeal fee to the City Clerk at City Hall, Third Floor, 6000 Heritage Trail. City Hall is open Monday through Friday, 9:00 a.m. to 5:00 p.m.

b. The appeal must be filed within 10 calendar days of the Administrative decision.

c. A public hearing will be held by the Planning Commission. The appellant, applicant, and any other person(s) who requested notice of an appeal hearing in writing will be mailed a notice of the public hearing.

d. Attach a copy of the written decision/ruling.

3. Specify Grounds of Appeal:

a. Date of Administrative Decision on Project: _____

b. State your rationale for arguing that the administrative ruling was an improper or erroneous interpretation of the Ordinance:

1- NOWAYS HAVE EXISTED SINCE 2003.

2- NOWAYS WERE APPROVED IN 2003 BY
DAN, PERMIT INSPECTOR.

4. Certification: I recognize that the Clayton Planning Commission may, in conformity with the Unified Development Ordinance, reverse or affirm, wholly or partly, or may modify the order; requirement, decision or determination appealed from, and may by a resolution make any necessary order, requirement, decision or determination.

Applicant Signature: _____

Date: 7/19/11



JUL 19 2011

6000 Heritage Trail, Clayton, CA 94517
City of Clayton Phone No. 925.672.3300 Fax No. 925.672.4917
www.ci.clayton.ca.us

Appeal of an Administrative Decision

Below: Office Use Only

File No. _____ Fee(s) _____

Received By: _____

Date _____ Receipt No. _____

Please clarify any questions with the Planning Staff prior to completing this form. Please print or type legibly. Attach additional sheets if necessary. Incomplete applications will not be accepted.

1. Personal Information (Appellant):

a. Name: JON VAN BRUSSELEN Signature: _____

b. Address: 5451 PINE HOLLOW ROAD

c. Phone: 925-673-1862

d. Interest in project (e.g., applicant, neighbor, etc): APPLICANT

2. Appeal Instructions:

a. To file an appeal, take the form and appeal fee to the City Clerk at City Hall, Third Floor, 6000 Heritage Trail. City Hall is open Monday through Friday, 9:00 a.m. to 5:00 p.m.

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d. Attach a copy of the written decision/ruling.

3. Specify Grounds of Appeal:

a. Date of Administrative Decision on Project: _____

b. State your rationale for arguing that the administrative ruling was an improper or erroneous interpretation of the Ordinance:

ANY RESOLUTION OF THE STORMWATER DRAINAGE VIOLATION IS moot UNTIL THE STREET ENCROACHMENT VIOLATION IS RESOLVED.

4. Certification: I recognize that the Clayton Planning Commission may, in conformity with the Unified Development Ordinance, reverse or affirm, wholly or partly, or may modify the order; requirement, decision or determination appealed from, and may by a resolution make any necessary order, requirement, decision or determination.

Applicant Signature: _____

Date: 7/19/11



Agenda Date: 8-16-11

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: LACI J. JACKSON, CITY CLERK

DATE: AUGUST 16, 2011

SUBJECT: DISCUSSION OF THE CITY COUNCIL'S SEPARATION FROM THE CALPERS RETIREMENT SYSTEM.

BACKGROUND

Obtaining information from CalPERS (PERS) is not easy; because of their lack of staff and being overloaded by questions lately they refuse to provide information in writing. The PERS Health Division was more willing to provide information in writing. A common concern other cities I spoke with (Signal Hill and Rancho Cordova) was that depending on who provided answers at CalPERS the answers often were different and left them feeling unsure about how to proceed.

PERS RETIREMENT

When staff spoke with PERS and asked for clarification in writing to answers previously received, PERS staff members stated there are only two staff members in the Contracts division for the entire state and that it was not a possible for responses to be done in writing. With some persistence staff was able to get PERS to write some notes of clarification on Attachment 1.

As shown in the attachment, staff received different information than what was provided over the phone when staff called PERS in May 2011. The conclusions now are:

1. "The City can request to have a determination to exclude Councilmembers. If it is approved, the exclusion will be prospective."
2. Current Members (Elected Officials) cannot "opt out" of membership from CalPERS once they have become members.
3. Currently enrolled (PERS) Councilmembers cannot be excluded, even when re-elected.
4. Unlike what staff had been told over the phone, there is no need for an actuarial for this process to occur. PERS now states it is an "easy" contract amendment.
5. The Contract unit refused to answer questions about Health Benefits and therefore staff had to contact that department separately.

Since PERS had not provided the information for another City going through the process, staff contacted them again and asked to know which cities in the state were in the process of eliminating their City Councilmembers from the retirement program. PERS responded that only the City of Signal Hill had recently asked for a similar determination.

Once this information was received, staff contacted the HR Manager of Signal Hill to see what their experience had been like with PERS and how the process of eliminating their Councilmembers was proceeding. Signal Hill staff noted that they were seeking the information from PERS for informational purposes only as their Council had not asked for the information to be gathered. Signal Hill stated they also had problems with receiving inconsistent information from PERS staff and had been unable to get information in writing.

Removal of Councilmembers from CalPERS requires their enrollment in Social Security.

PERS HEALTH

After multiple phone calls to the PERS Health Division (Public Employees Medical and Hospital Care Act, or PEMHCA), staff received confirmation that if the Council eliminates themselves from a retirement program, they would then be eliminated from PERS Health as they would no longer be considered "employees." Social Security does not qualify as a retirement system but, for example, the establishment of a 401k plan would.

If the City Council wishes to remain part of PERS Health they can do so as long as they meet the following criteria:

"Elected Officials Criteria for Participating in the CalPERS Health Benefits Program"

1. Elected officials must meet the definition of employee or annuitant.
2. The employer must provide a monetary contribution for the health premium as determined by CalPERS formula (e.g. the current contribution is \$108 monthly).
3. The elected official must be in an employer-sponsored retirement system and the employer must provide a contribution toward their retirement.
4. A retirement system can be CalPERS, CalSTRS, an employer-sponsored retirement (city or county), 401k, or 457 plan. The main criteria here is that the employer makes a contribution."

SUMMARY

Should the City Council remove itself from PERS but remain in PERS Health, the City would be required to pay at least \$1 toward an alternative retirement plan, and pay a minimum health contribution (\$108 per month) for new members (Social Security does not count as a retirement system according to PERS). In proceeding this way PERS would be establishing a new contract with the City (for Councilmembers only) and it would be completely separate from the current employees contract. Again, this would be prospective only since currently enrolled Councilmembers would not be allowed to extract themselves from the retirement CalPERS program.

That being said, there is no way to eliminate current Councilmembers from the PERS Health Plan as they cannot be eliminated from the CalPERS retirement system and are therefore still employees.

Much of this information was new to staff. Previously staff had been under the impression that it could charge Councilmembers the full 100% of the medical premium therefore having no cost incurred by the City. This is not the case per City Council Resolution 17-98 which stated the City would pay a minimum amount toward all "employees" health insurance. This dollar amount is not fixed, started at \$16 per month, and has now escalated to \$108 per month. Therefore, this research uncovered there is a fiscal impact to providing health benefits for City Councilmembers.

Staff also spoke with the HR Manager of Rancho Cordova who stated they had been under the impression that their Councilmembers were required to be part of the CalPERS retirement system to access PEMCHA, though the above information seems to counter these understandings.

RECOMMENDATION

Provide policy direction to staff.

Attachments:

1. Response from CalPERS to questions posed by the City.(1 page)
2. Elected Officials Criteria for Participating in CalPERS Health Benefits Program (2 pages)
3. City Council Resolution 17-98 (2 pages)
4. Contracting Agency Minimum Contribution for 2012 (2 pages)
5. Agenda Information from the July 17, 2011 meeting (15 pages)

ATTACHMENT 1

1. May the Clayton City Council remove just itself for membership from CalPERS?

If so, what is the process to get this action accomplished?

2. It is our City's understand that should the City Council be authorized to extract just its elected officials from membership in CalPERS, such action is prospective only and does not allow a currently-seated elected official who is now a member of CalPERS to individually "opt out."

Is this understanding correct? If not, please provide the current regulation.

3. It is our understanding that should the City Council eliminate its elected officials' membership from CalPERS currently-seated members of the Council no in CalPERS remain in CalPERS even if re-elected with no break in service.

Please confirm our understanding or advise differently.

4. To extract the Council itself only from CalPERS membership, we are informed the City must pay for an actuarial report. Please advise as to the expense of that report for our five (5) elected officials, what is the purpose of the actuarial, and is it likely the City must payoff an "unfunded liability" for this small part-time employee until membership to accomplish the intended objective?

Please provided any real examples of similar unfunded liability payoff amounts from other agency actions, if possible.

5. It is our understanding that should the Clayton City council be allowed to and does remove its elected official body from future CalPERS membership, its elected official body may continue to enroll in the CalPERS' Public Employees Medical and Hospital care Act (PEMHCA) for individual (and family) health insurance coverage. The City does currently contract with CalPERS for PEMHCA.

Please confirm or advise alternately that it is not a prerequisite for its elected officials (or public employees) to be members of the CalPERS pension system in order to be eligible for PEMHCA.

- ① The City can request to have a determination to exclude Council members. IF its approved, the exclusion will be prospective.
- ② yes, a member cannot "opt out."
- ③ Current council members cannot be excluded.
- ④ No valuation needed.
- ⑤ This needs to be answered by Health Benefits.

Danielle Brooks 7/25/11
Retirement Program Specialist

ATTACHMENT 2

ELECTED OFFICIALS CRITERIA FOR PARTICIPATING IN THE CALPERS HEALTH BENEFITS PROGRAM

- 1) Elected officials must meet the definition of employee or annuitant.**
- 2) The employer must provide a contribution for health.**
- 3) The elected official must be in an employer-sponsored retirement system and the employer must provide a contribution toward their retirement.**
- 4) A retirement system can be CalPERS, CalSTRS, an employer-sponsored retirement (city or county), 401K, or 457 plan. The main criteria here is that the employer makes a contribution.**

June 2005

[Back](#)[Print](#)[Administration](#)

Elected Official Eligibility for PEMHCA

Category: Health Benefit Services

Brief

Description: This is the information that the PA contracts unit was able to provide on this subject. The Board of Director members would need to meet the definition of employee under section 22772 (a) 1 and 2.

Attachment:

Full Article: Your Board of Directors could be covered under PEMHCA if they participate in a retirement program set up by the District, and to which the District provides a contribution. This could be a 401K, or similar program, but the District would have to provide a contribution toward it on a monthly basis - as little as \$1.00 would be okay.

Elected officials are eligible as employees under Section 22772(a)(2):
22772. (a) "Employee" means:

- (1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.
- (2) An employee who is employed by a contracting agency, including, but not limited to, an officer or official of a contracting agency if the officer or official participates in the retirement system provided by the employer.

Section 22760(a) & (c) defines "annuitant" as:

22760. "Annuitant" means:

- (a) A person who has retired within 120 days of separation from employment and who receives a retirement allowance under any state or University of California retirement system to which the state was a contributing party.
- (b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased employee under Section 21541, 21546, 21547, or 21547.7, or similar provisions of any other state retirement system.
- (c) A person who has retired within 120 days of separation from employment with a contracting agency as defined in Section 22768 and who receives a retirement allowance from the retirement system provided by the employer, or a surviving family member who receives the retirement allowance in place of the deceased. PEMHCA requires an employer contribution for all individuals (employees and annuitants) who receive health benefit coverage under its programs, with the exception of persons not meeting post-retirement vesting provisions specified in the law.

The question of covering former elected officials comes up from time to time. Former elected officials are simply officials who were not reelected and are no longer serving. They are treated as employees who separate employment. Under PEMHCA, those individuals would be eligible for COBRA benefits for the period of 36 months (18 Federal COBRA and 18 CalCOBRA). COBRA provides for a person to continue their group health plan by paying the total premium plus an administrative fee to the carrier.

Once the Board sets up an alternative retirement program, they will need to submit a resolution to CalPERS. The effective date is driven by the date received in CalPERS - received by the 10th of a month, can be effective as early as the first of the next month. However, we prefer a little more lead time, because you will need to identify qualified retirees of the group and we will need to send information to them.

Posted By: kwiley on 2/11/2009 at 9:02:53 AM

RESOLUTION 17-98

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
ELECTING TO BE SUBJECT TO PUBLIC EMPLOYEES' MEDICAL AND
HOSPITAL CARE ACT FIXING THE EMPLOYER'S CONTRIBUTION FOR
EMPLOYEES AND THE EMPLOYER'S CONTRIBUTION FOR ANNUITANTS
AT DIFFERENT AMOUNTS**

WHEREAS, Government Code Section 22850 provides the benefits of the Public Employees' Medical and Hospital Care Act to employees of local agencies contracting with the Public Employees' Retirement System on proper application by a local agency; and

WHEREAS, Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than five percent (5%) of the monthly contribution for employees, until such time as the amounts are equal; and

WHEREAS, City of Clayton, hereinafter referred to as Public Agency is a local agency contracting with the Public Employees' Retirement System; and

WHEREAS, The Public Agency desires to obtain for its employees and annuitants the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now therefore, be it

RESOLVED, That the Public Agency elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further

RESOLVED, That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his or her enrollment, including the enrollment of his or her family members in a health benefits plan up to a maximum of sixteen dollars (\$16.00) per month; and be it further

RESOLVED, That the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his or her enrollment, including the enrollment of his or her family members, in a health benefits plan up to a maximum of one dollar (\$1.00) per month; and be it further

RESOLVED, That the employer's contribution for each annuitant shall be increased annually by five percent (5%) of the monthly contribution for employees until such time as the contributions are equal;

And that the contributions for employees and annuitants shall be in addition to those amounts contributed by the Public Agency for administrative fees and to the Contingency reserve Fund; and be it further

RESOLVED, That the Clayton City Council appoint and direct, and does hereby appoint and direct, the City Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board of Administration; and be it further

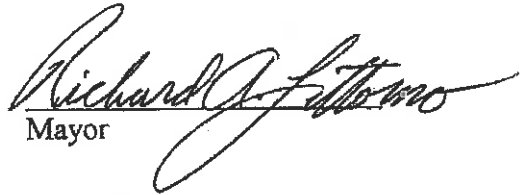
RESOLVED, That coverage under the Act be effective on July 1, 1998.

Adopted by the City Council of the City of Clayton at a regular meeting of said Council held on April 21, 1998, by the following vote:

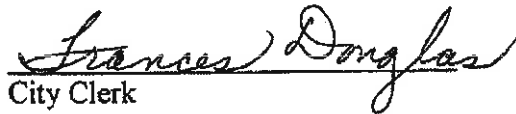
AYES: Council Members Manning, Peterson, Pierce, Vice Mayor Laurence,
Mayor Littorno

NOES: None

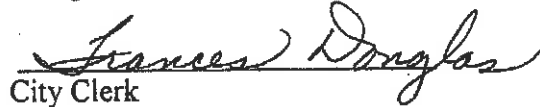
ABSENT: None


Mayor

ATTEST:

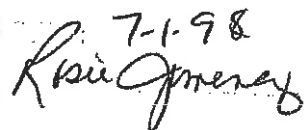

City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on April 21, 1998.


City Clerk

FILED 4-27-98

7-1-98



ATTACHMENT 4



P.O. Box 942714
Sacramento, CA 94229-2714
(888) CalPERS (or 888-225-7377)
TTY: for Speech & Hearing Impaired (916) 795-3240
www.calpers.ca.gov

Date: February 23, 2011
Reference No.:

Circular Letter No.: 600-013-11
Distribution: VII

Circular Letter

Special:

TO: Contracting Agency Health Benefits Officers and Assistant Health Benefits Officers

SUBJECT: Contracting Agency Minimum Employer Contribution for 2012

2012 Minimum Employer Contribution

Effective January 1, 2012, the 2012 Minimum Employer Contribution will be \$112.00 per month.

Background

The Minimum Employer Contribution was originally established as a specific dollar value with specified increases from calendar years 2004 through 2008. Starting in calendar year 2009, it was a calculated adjustment based upon the medical care component of the Consumer Price Index-Urban (CPI-U).

California Government Code 22892 of the Public Employees' Medical and Hospital Care Act (PEMHCA)¹ establishes the contracting agencies' minimum health premium contribution for their participating active membership. In addition, this section provides that "commencing January 1, 2009, the employer contribution shall be adjusted annually by the board to reflect any change in the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar." The table below displays annual increases of the Minimum Employer Contribution for active members.

Calendar Year	Employer Contribution
2006	\$64.60
2007	\$80.80
2008	\$97.00
2009	CPI-Med Component = \$101.00
2010	CPI-Med Component = \$105.00
2011	CPI-Med Component = \$108.00
2012	CPI-Med Component = \$112.00

Continued on next page

¹ California Government Code § 20000, et seq.

**Inflation Rate
Changes**

In January 2011, the U.S. Bureau of Labor Statistics determined that the annual percentage change in the medical care component of the CPI-U for 2010 was 3.4 percent. The table below provides an inflation comparison of medical care rates since 2006.

Medical Care Inflation		
Year	Index	Percent
2006	336.200	4.0
2007	351.054	4.4
2008	364.065	3.7
2009	375.613	3.2
2010	388.436	3.4

**Calculation of
2012 Minimum
Employer
Contribution**

Using the 3.4 percent increase in the medical care component of the CPI-U, the Minimum Employer Contribution for Calendar Year 2012 is \$112.00. See calculation below.

$(\$108.00 \times 3.4\% = \$3.67 + \$108.00 = \$111.67, \text{ rounded to } \$112.00).$

Questions

If you have any questions about this Circular Letter, please contact CalPERS at **888 CalPERS** (or 888-225-7377).

Donald R. Martinez
Interim Chief
Office of Employer and Member Health Services

Gary Napper

From: Joe Medrano [joe@claytoncouncil.com]
Sent: Wednesday, July 06, 2011 10:34 AM
To: shuey@rankinlaw.com
Cc: gnapper@ci.clayton.ca.us
Subject: Future Meetings

Agenda Date: 7-19-11

Agenda Item: 9a

Dave,

I thought I was clear at the meeting last night that I wanted the issue of pension plans for the council on the next council meeting that had everyone in attendance. Since you indicated afterwards that you did not think I had made this request.

I am formally requesting that we discuss eliminating Pension Plans for city council members at our next council meeting that has everyone in attendance.

Thank you,
Joe

7/6/2011

Attachments for Information Only

1. Staff report from May 19, 2009- "Discussion of Council Members Enrollment in CalPERS"
2. Minutes from May 19, 2009
3. Pension System Information

ATTACHMENT 1



Agenda Date: 5-19-09

Agenda Item: 9a

Approved:

Gary A. Nepper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 19 MAY 2009

SUBJECT: DISCUSSION OF COUNCIL MEMBERS' ENROLLMENT IN CALPERS

RECOMMENDATION

It is recommended the City Council provide policy direction to staff regarding any modifications to the existing "optional" membership in the California Public Employees Retirement System (CalPERS) for City elected officials.

BACKGROUND

At the conclusion of the May 5th City Council meeting, Council Member Medrano requested a future Council Agenda item to discuss the participation of City Council members in the CalPERS. This subject has been placed on this Agenda and the information gathered below is included to facilitate the City Council's consideration of the matter.

HISTORY OF CALPERS ENROLLMENT

By action of a previous City Council in September 1998 (ref. City Resolution No. 51-98; attached), the Clayton City Council established that effective 01 January 1999 the current stipend of council members is considered "salary" for the purpose of participation in existing employee benefit programs of the City. Among those benefits then becoming available to City elected officials was the allowance of each City Council member to individually "opt" into CalPERS for pension purposes. For members opting into CalPERS, the adopted Resolution indicates the expense is to be paid 100% by the City (ref. 2nd Recital and Resolve sections).

City elected officials may further elect to enroll in City medical, dental or life insurance programs provided through the City but participation in those benefits are to be paid 100% by the participating elected official.

In May 2002 the City Council deemed it appropriate to increase its monthly compensation (allowed by state law for general law cities) from \$200.00 per month to \$300.00 per month (effective December 2002), raise the stipend for Planning Commissioners, and establish a stipend for Community Services Commissioners. Staff then prepared the required Ordinance (No. 365; attached), which was adopted on 04 June 2002. As a matter of Municipal Code housekeeping, the prepared Ordinance codified for the first time Section 2.05.030 – Council Benefits Program, the 1998 action previously extending optional CalPERS membership and employee insurance benefits to elected City officials.

CALPERS MEMBERSHIP FOR ELECTED OFFICIALS

The City's CalPERS plan for its general employees is the second lowest-benefit retirement pension system offered, known as 2% at Age 55. Deposits to this retirement pension system derive from an Employer's contribution and an Employee's contribution. For Fiscal Year 2009-2010, the respective contribution rates on salary compensation are 14.23% for the Employer and 7% for the Employee. Many years ago, the City of Clayton (as did most other cities) started paying the Employee's contribution (always fixed at a 7% rate) in behalf of its employees arising from the collective bargaining process (required of public employers by state law).

Application of these retirement pension rates to the City Council's total salary for FY 2009-2010 results in the following expenses in next year's City Budget:

City Council compensation:	\$ 23,400	(\$390 per month)
CalPERS pension expense:	\$ 4,966	(21.23%)

Relative to City Council members' participation in CalPERS, California Government Code Section 20322 provides that an "elective officer" is excluded from membership in CalPERS unless he or she files with the CalPERS Board of Administration an election in writing to become a member. The Clayton City Council, by its action noted in 1998, extended this public pension opportunity to its membership at the sole option of each elected official. Consequently, a member of the City Council does not automatically become a member of CalPERS unless and until each one voluntarily elects to "opt into" CalPERS by submittal of the CalPERS Form (AESD-1; copy attached). Section 16 on that Form is checked when a newly-elected member of the City Council informs staff they wish to exercise their option to join CalPERS.

All five (5) members of the current Clayton City Council exercised their election to be optional members of CalPERS. Of members in the recent past, former Mayor and Council Member Pete Laurence did not opt into CalPERS. One important note: *an elected official's decision to opt into CalPERS is irrevocable as long as that individual remains in an elective officer position with the same public agency. Once membership is established, it may be terminated only upon the member's permanent separation from employment covered by CalPERS (ref. CalPERS, Form AESD-59; copy attached).* Therefore, a current member of the Clayton City Council cannot now elect to "drop" his or hers CalPERS membership.

During this research, the question was posed to CalPERS whether the City can amend its CalPERS Contract to delete this optional membership for its elected officials, thereby barring future members of the City Council from electing to participate in this public retirement system. The answer is *"Yes, the City can preclude all future elected officials from opting into CalPERS by a Contract amendment."* CalPERS indicated there would be expenses incurred by CalPERS to undertake this Contract amendment and those costs must be paid by the City. As of the writing of this Staff Report, that amount and the exact amendment procedures were unknown to the CalPERS staffer but they would re-contact City staff to provide the requested information. For the local public agency, an amendment to its CalPERS Contract is done by adoption of an Ordinance.

- Attachments:
1. City Resolution No. 51-08 [2 pp.]
 2. Ordinance No. 366 [2 pp.]
 3. CalPERS Member Action Request, Form AESD-1 [2 pp.]
 4. CalPERS Election of Optional Membership, Form AESD-52 [1 pg.]

RESOLUTION NO. 51-98

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
APPROVING A BENEFITS PROGRAM FOR CITY COUNCIL MEMBERS**

WHEREAS, the City of Clayton City Council at their September 1, 1998 meeting considered various benefit options that could be made available to council members and directed staff to prepare a benefit program for City council members; and

WHEREAS, pursuant to City Council direction staff has prepared a program that would allow optional participation at cost to the city council member for individual or family medical and/or dental insurance and individual life insurance and deferred compensation; with the optional participation by City Council members in Public Employee Retirement System (PERS) to be paid by the City of Clayton; and

WHEREAS, the City Council will have their stipend changed to a salary at the same rate of the stipend, for purposes of allowing optional participation health/dental/life insurance and PERS; and

WHEREAS, said benefit program will not become effective until January 1, 1999.

WHEREAS, the City of Clayton City Council considered the proposed benefit program at their September 15, 1998 meeting.

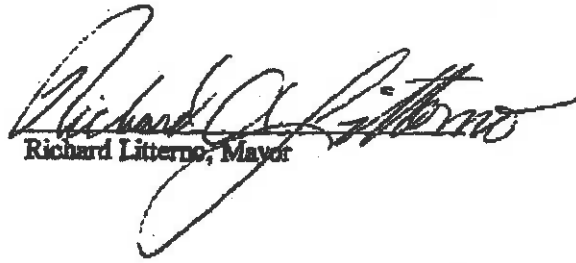
NOW, THEREFORE, BE IT RESOLVED that effective January 1, 1999, the City of Clayton City Council members are hereby treated employees with the current stipend to be salary for purposes of participation in a benefits program that would allow optional city council member participation; with PERS paid by the City of Clayton, and all other employee benefits at cost to the Council member.

Adopted by the City Council of the City of Clayton at a regular meeting of said Council held on September 15, 1998, by the following vote:

AYES: Council Members Manning, Peterson, Pierce, Vice Mayor Laurence, Mayor Littorno

NOES: None

ABSENT: None


Richard Litterno, Mayor

ATTEST:


Francesa Douglas, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on September 15, 1998.


Francesa Douglas, City Clerk

ORDINANCE NO. 365

AN ORDINANCE REVISING MONTHLY COMPENSATION FOR CITY COUNCIL, PLANNING COMMISSION, AND COMMUNITY SERVICES COMMISSION MEMBERS BY REPLACING SECTIONS 2.05.010, 2.12.025 AND 2.14.060 OF THE CLAYTON MUNICIPAL CODE WITH NEW SECTIONS SO NUMBERED AND ADDING NEW SECTION 2.05.030 (COUNCIL BENEFITS PROGRAM) TO THE CLAYTON MUNICIPAL CODE

**THE CITY COUNCIL
City of Clayton, California**

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Section 2.05.010 of the Clayton Municipal Code (Monthly Compensation) and applicable sections of Clayton Ordinances codified therein are each hereby repealed and new Section 2.05.010 is hereby added to Chapter 2.05 to read as follows:

"2.05.010 Monthly Compensation. Each member of the City Council shall receive compensation in the amount of Three Hundred Dollars (\$300.00) per month for each full month of a Council Member's term of office, provided however, no compensation shall be paid for any month in which the Council fails to hold at least one regular public meeting."

SECTION 2. New Section 2.05.030 entitled Council Benefits Program, currently set forth in Resolution No. 51-98, is hereby added to the Clayton Municipal Code to read as follows:

"2.05.030. Council Benefits Program. Effective as of January 1, 1999, Council Members are termed "employees" with their prevailing stipend to be salary for purposes of participation in a benefits program allowing optional City Council Member participation with FERS paid by the City, and all other employee benefits, such as individual or family medical and/or dental insurance and individual life insurance and deferred compensation, to be paid by and at the cost of the Council Member.

SECTION 3. Section 2.12.025 of the Clayton Municipal Code (Planning Commission Monthly Compensation) and applicable sections of Clayton Ordinances codified therein are each hereby repealed and new Section 2.12.025 is hereby added to Chapter 2.12 to read as follows:

"2.12.025 Monthly Compensation. Each member of the Planning Commission shall receive compensation in the amount of One Hundred Dollars (\$100.00) per month for each full month of the Commission Member's term of office, provided however, no compensation shall be paid for any month in which the Commission fails to hold at least one regular public meeting."

SECTION 4. Section 2.14.060 of the Clayton Municipal Code (Community Services Commission Monthly Compensation) and applicable sections of Clayton Ordinances codified therein are each hereby repealed and new Section 2.14.060 is hereby added to Chapter 2.14 to read as follows:

"2.14.060 Monthly Compensation. Voting members of the Community Services Commission shall receive compensation in the amount of Seventy-Five Dollars (\$75.00) per month for each full month of the Commission Member's term of office, provided however, no compensation shall be paid for any month in which the Commission fails to hold at least one regular public meeting."

SECTION 5. Monthly compensation for Council members as fixed in Section 1 above shall not become effective until December 1, 2002, which follows the next City Council election in November, 2002, when one or more members of the Council shall begin a new term of office.

SECTION 6. Compensation for Planning Commission and Community Services Commission members as fixed in Sections 2 and 3 above shall become effective August 1, 2002.

SECTION 7. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 8. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on May 21, 2002.

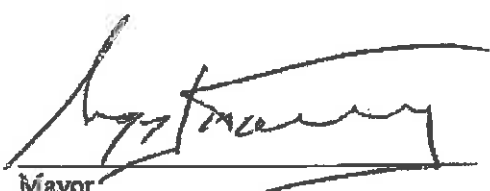
Passed, adopted and ordered posted at a regular meeting of the City Council of the City of Clayton on June 4, 2002, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:


Mayor



P.O. Box 942703
 Sacramento, CA 95828-2703
 Telephone (916) 225-7377
 FAX (916) 326-3267
 TDD (916) 326-3260

(Please PRINT or TYPE clearly)

ATTACHMENT 3

INCOMPLETE OR IMPROPERLY COMPLETED FORMS MAY BE RETURNED TO YOU

Member Action Request

1 SOCIAL SECURITY NUMBER - -		2 Current Name (First, Middle, Last)		3 Daytime Phone Number () - - - -	
4 Date of Birth MM DD YYYY		5 Gender ☐ Female ☐ Male ☐ Unknown		6 Former Name - For name changes only (First, Middle, Last)	
7 Mailing Address: In Care of (if applicable): Street/P.O. Box: Additional Address Line: City: State: CA ZIP Code: -				8 Remarks (pertaining to CalPERS)	
9 Employer Name					
10 Effective Date of Action MM DD YYYY		11 Subject to Section 20305 ☐ Yes ☐ No		12 Employer Code	
				13 District Code (School only)	
				14 Hire Date MM DD YYYY	

15 Type of Action (check all boxes that apply for this Effective Date; if none apply, indicate action needed in "Remarks" (#8) above):

- | | | |
|---|--|--|
| A. ☐ Appointment/Membership | E. ☐ Military Leave | I. ☐ Alternate Retirement Plan (G.C. 2030a) |
| B. ☐ Return from Leave | F. ☐ Worker's Comp Leave | J. ☐ Name Change |
| C. ☐ Separation, Permanent | G. ☐ Sabbatical Leave | K. ☐ Address Change |
| D. ☐ Separation, Temp (≥ 2 months) | H. ☐ Maternity/Fatality Leave | L. ☐ Coverage Group Change |

16 Coverage Group	17 Job/Position Title	18 % @ 55 Formula Cont. Rate: %
-------------------	-----------------------	--

19 ☐ - This person is an Optional Member (e.g., "Elected Officer," "Legislative Employees") who is seeking membership.
 (Please attach appropriate election form AESD-5, AESD-50, or AESD-220)

20 BASIS FOR MEMBERSHIP QUALIFICATION: (Optional informational field. Check appropriate box.)

- | | |
|--------------------------|--|
| ☐ | Full-Time for > 6 months |
| ☐ | Part-Time for ≥ 20 hours for 1 year or more |
| ☐ | Indeterminate; at least 20 hours a week for 1 year or more |
| ☐ | Has completed 1,000 hours or 125 days in fiscal year |
| ☐ | Person is already a PERS member |

21 Form Completed By:

(Name & Title)

(Telephone Number)

(Fax Number)

(Date)

(Signature of Certifying Officer)

(Date)

Member Action Request form (AESD-1): Quick Reference Guide
(Refer to CalPERS Procedures Manual for more detailed instructions)

NOTE: Submit AESD-1 only if a job/position change affects a person's retirement information (e.g., Name, Address, Coverage Group, etc.), or if the District Code has changed. Please ensure that all information is clear and legible. Typing or printing is preferred.

2. **Current Name:** In First, Middle (name or initial) and Last order. For a Name Change (e.g., due to marriage or divorce), enter the "correct" (current) name in Section #2; enter the *former* name (e.g., name before marriage/divorce) in Section #6, and check the "K - Name Change" box in Section #15.
3. **Daytime Phone Number:** (Optional field) Enter Area Code and telephone number of individual between 7 AM and 5 PM.
5. **Gender:** Check "Unknown" *only* if you are unable to contact the employee to verify the correct gender.
6. **Former Name:** See instructions for Name Change under Section "2" above.
9. **Employer Name:** Enter the *complete name* of your agency; avoid acronyms unless they would be *generally understood* (e.g., SMUD; BART) by CalPERS staff.
11. **Subject to Section 20306:** (Applies *only* to agencies that provide for such a plan.) Check "Yes" or "No," to indicate whether employee is subject to the Alternate Retirement Plan provisions of Government Code Section 20306, should her/his time base drop below 20 hours a week. (See Section 15, Box "I" for instructions when employee actually qualifies for the Alternate Plan.)
12. **Employer Code:** The 4-digit number (e.g., 0002, 1173) assigned by CalPERS to identify your agency.
13. **District Code:** This is required for *school employees only*. If you don't know the District Code, call us at 1-888-225-7377.
14. **Hire Date:** (For new hires being enrolled into membership only.) Date employee was first hired by your agency.
15. **Type of Action:** More than one box should be checked, if the same effective date applies to all. For example, if person's address changed at the same time that she/he separated, then *both* the "Separation, Permanent" and "Address Change" boxes should be checked. Some points to remember are:
 - A - Appointment/Membership: Check this for (1) new hires who qualify for membership, (2) current employees who have just now qualified for membership, (3) persons reinstating from retirement, and (4) persons electing "optional" membership (see Section #19 below).
 - B - Return from Leave: Should be checked when the person is returning from a temporary separation (Box "D"), or from any "Leave" status (Boxes E, F, G or H).
 - D - Separation, Temp (≥ 2 months): Only used for separations of two months or more (do not report shorter separations).
 - H - Maternity/Paternity Leave: Should be checked when on an approved leave of absence to give birth and/or care for a newborn child.
 - I - Alternate Retirement Plan: Should be checked when a non-vested member working less than 20 hours a week must switch to an alternate retirement plan, pursuant to Government Code Section 20306 (added by AB 2400, Chapter 1164, Statutes of 1996). Section #11 should also have the "Yes" box checked.
 - J - Name Change: Sections 2 and 6 should also be completed.
 - L - Coverage Group Change: Should be completed when employee moves to a new Coverage Group (e.g., changes from a "miscellaneous" to a "safety" position). Section 16 must also be completed, showing the new Coverage Group.
16. **Coverage Group:** Please call us at 1-888-225-7377 if you have questions about the appropriate Coverage Group to use; e.g., you are unsure about whether a given position (such as "Police Cadet," "Director of Public Safety," "Fire Inspector," etc.) is "miscellaneous" or "safety."
19. **Optional Member:** Includes elective officers (e.g., members of County Board of Supervisors, City Council members), and Legislative employees (e.g., Senate and Assembly Rules Committees). When electing optional membership, the person must *also* complete an election form (AESD/MEM-59 for public agencies/schools, AESD/MEM-3 for Legislative employees and AESD/MEM-229 for other State employees). The completed election form should be attached and submitted with the AESD-1.

NOTE: The following persons are now excluded from Cal PERS membership:

 - (1) School Board members elected on or after July 1, 1994;
 - (2) Members of an "administrative body" (e.g., board, commission, council) of a contracting agency *other than* a city or county, elected/appointed on or after July 1, 1994; or
 - (3) Members of a *city or county* "administrative" body (e.g., board, commission, council) elected/appointed on or after January 1, 1997.

Optional membership is still possible for persons elected *before* these dates, who have held office without a break in service.
20. **Basis for Membership Qualification:** This section is for use as an aid in determining when an employee should be brought into CalPERS membership; the most common qualification bases are indicated, and the appropriate box should be checked.
21. **Form Completed By:** The "Name & Title," "Telephone and Fax Numbers," and "Date" fields are for the person who is actually *completing* the AESD-1 form (who would be CalPERS' "contact" person if we have questions about the form); the "Signature of Certifying Officer" and "Date" fields are for the person (e.g., manager, supervisor, analyst or technician) who is responsible for certifying the accuracy of the data submitted.



Actuarial & Employer Services Branch
P.O. Box 942709
Sacramento, CA 94229-2709
Telecommunications Device for the Deaf - (916) 795-3240
(888) CalPERS (225-7377) FAX (916) 795-3005

Reply to: AESB Member Transactions Unit

ELECTION OF OPTIONAL MEMBERSHIP - ELECTIVE OFFICER

California Government Code Section 20322, provides that an "elective officer" is excluded from membership in the California Public Employees' Retirement System (CalPERS) unless he or she files with the Board of Administration an election in writing to become a member.

"Elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature and an appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people. Exceptions are: (1) Effective July 1, 1994, elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency that is not a city or county, who serve on public commissions, boards, councils, or similar legislative or administrative bodies, other than city councils or county boards of supervisors, are excluded from membership with no right to elect optional membership unless continuously holding the office since June 30, 1994; (2) Effective July 1, 1994, any person holding the office of city attorney was removed from the elective officer definition and became subject to non-elective, non-optional CalPERS membership qualifications unless continuously holding the office since June 30, 1994; (3) Effective January 1, 1987, city and county elected or appointed officers who serve on public commissions, boards, councils, or similar legislative or administrative bodies, other than city councils or county boards of supervisors, are excluded from membership with no right to elect optional membership unless they have continuously held the office since December 31, 1986. Please refer to the Public Employees' Retirement Law and the CalPERS Procedures Manual or State Handbook for further information on elective officers.

The election of optional membership may be filed at any time while a compensated elective officer holds the office and the office is not otherwise excluded by law or excluded by an agency's contract. Once elected, the membership remains in effect for all future service in an elective officer position with the same employer unless there is a significant break in employment. Once membership is established, it may be terminated only upon permanent separation from employment covered by CalPERS and subsequent withdrawal of retirement contributions. While a CalPERS member, you may contribute and receive credit for any previous eligible service in the elective officer position. The Member Services Division, P.O. Box 942704, Sacramento, CA 94229-2704, will handle any such requests to purchase previous service. The form to request optional member arrears service is on the CalPERS website at www.calpers.ca.gov, or you may request the "CalPERS Service Credit Purchase Options" booklet from your employer, in which a copy of the "Optional Member Service" form (PERS-MSD-372) is included.

If your election for optional membership in CalPERS will result in concurrent service with employment credited in a private benefit plan or another public retirement system, please contact that organization for information regarding the impact of such concurrent service. If your election will result in concurrent service under CalPERS, please contact the Member Transactions Unit, Actuarial & Employer Services Branch, at the above phone number, before completing this election form.

PLEASE COMPLETE AND RETURN THIS ENTIRE FORM TO YOUR PERSONNEL OFFICE SO THEY CAN ESTABLISH YOUR MEMBERSHIP.

I AM AN ELECTIVE OFFICER AS DEFINED ABOVE, being a/the (enter Officer title) of the

(Agency name) (Agency contact) (Agency phone) () .

My present term will expire on , 20 . In accordance with the provisions of Government Code Section 20322, I **ELECT TO BECOME A MEMBER OF CALPERS.** I request that this election be filed with the Board of Administration of the California Public Employees' Retirement System (CalPERS) as my election to become a member.

I UNDERSTAND THIS ELECTION IS IRREVOCABLE AS LONG AS I REMAIN IN EMPLOYMENT AS A MEMBER.

(Printed Name in FULL) (Signature) (Date)

(Social Security Number) (Address)

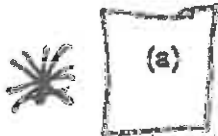
() (City & State) (ZIP Code)

(Daytime Telephone Number)

billion from local government. He stated the State's budget problem is very disturbing and has the potential to negatively impact the City of Clayton with more stolen revenue equaling \$152,338 (4.4% of the General Fund revenue) or more. He stated since 1981 the State had taken \$5.42 million in local revenues from the City of Clayton alone.

Mayor Pierce added the money the State is expected to take could pay for more than one Police Officer and is more than it costs for the City to support the expense of the Community Library for a year. She stated she did not believe the State would ever pay the "borrowed" money back and urged citizens to let their State legislators know they are unhappy with this potential action.

It was moved by Councilmember Gelfer to approve Resolution 12-2009 as amended with the amount of "\$152,338 or more" (Passed; 4-0 vote).



(a) Council Member request to discuss the present enrollment of elected City officials in the California Public Employees Retirement System (CalPERS).

Councilmember Medrano stated the reason he brought this issue in front of the Council was to look at the Councilmembers participation in the CalPERS system. He stated that after reading the information staff put together it does not seem as though there is an option to opt out of the program once already in. He stated that since the Council had asked staff to take cuts the Council should consider doing the same. He asked if it was possible for Councilmembers to use their stipend to pay for their portion of the benefit? The City Manager stated yes, the amount could be deducted from the \$390 a month stipend provided to the Council.

Councilmember Medrano stated he does not believe this is a benefit the City should be paying for and stated Councilmembers should pay for their portion of the retirement benefit.

Councilmember Gelfer stated there are other benefits of being members of the CalPERS systems such as the option to pay 100% of the premium for group medical insurance.

Vice Mayor Stratford stated he was considering the option for Councilmembers to pay for the 7% employee portion of the benefit but asked how that would affect the taxes. The City Manager stated he would have to look into the tax rules more closely if Council wished to pursue that option.

Mayor Pierce stated the benefit is a valuable one. She stated she was willing to discuss paying the employee portion but reminded the Council that if the CalPERS benefit was not offered the City might have to pay Social Security on the salary.

Councilmember Shuey arrived at 8:00 p.m.

Councilmember Medrano reiterated that staff was taking a pay cut and by the Council paying the employee portion for the benefit they were being team players.

City Manager stated he was not in Clayton in 1988 but believed the thought behind becoming members of the CalPERS system was to allow Councilmembers to be covered (at their own cost) by the medical insurance offered to other City employees. Mayor Pierce stated that was exactly the reason for enrolling in the program.

Councilmembers Shuey and Geller stated that Councilmembers were volunteers and believed the benefit was important because the Councilmembers do not ask for reimbursements for expenses to attend City meetings or conducting other City business.

Councilmember Medrano and Vice Mayor Stratford stated they would like to see the Council pay the 7% employee portion of CalPERS.

Mayor Pierce stated she does not want to obligate future Council's to pay for their portion of the CalPERS benefit but that if individually Councilmembers wanted to pay for their portion they could do so right now.

The City Manager stated that if the Council paid for their portion on a voluntary basis no action would need to be taken. He also stated that unlike other cities Councilmembers it has been past practice in Clayton not to submit expense reimbursements for Council business.

It was moved by Councilmember Medrano, seconded by Vice Mayor Stratford to have each Councilmember pay for the 7% employee portion of the CalPERS costs (Failed, 2-3 vote; Geller, Shuey, and Pierce-no).

~~(b) Council Member request to discuss the frequency of Planning Commission meetings.~~

~~Council Member Medrano thanked Chairperson Catalano and Commissioner Haydon for their submitted written comments regarding the meeting schedule.~~

~~The Council discussed the frequency and monthly stipend of the Planning Commissioners, and whether it should be a per meeting rate.~~

~~Councilmembers Shuey, Geller, and Stratford stated they were against changing the compensation or the meeting schedule of Planning Commissioners.~~

~~No action was taken.~~

5. RECOGNITIONS AND PRESENTATIONS

- (b) Mayor Pierce presented a Certificate of Appreciation to the Clayton Pioneer for their support services preparing advertisements of the 2009 Concerts in The Grove and stated a Certificate would be mailed to Pete Bane for his work on the Concert posters.

10. COUNCIL ITEMS

~~Mayor Pierce requested that at the June 2nd meeting the Council discuss the upcoming Planning Commission interviews. She stated she would like to discuss interviewing the candidates as a committee of the whole instead of at the sub-committee level because of the major projects coming in front of the Planning Commission in the next year.~~

ATTACHMENT 3

PENSION SYSTEM
Clayton City Council

A. <u>Currently</u>	<u>Employee</u>	<u>Employer</u>	<u>Total Rate</u>
CalPERS	7.0% *	14.883%	21.883%

City cost in FY 2011-12: \$4,466

* Two members of the City Council are paying their Employee 7% portion.

#

B. <u>No CalPERS</u>	<u>Employee</u>	<u>Employer</u>	<u>Total Rate</u>
Social Security	4.2% ¹	6.2%	10.4%
Social Security	6.2% ¹	6.2%	12.4%

City cost: \$1,451

¹ The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 reduced the Social Security tax rates by two percentage points for employees, from 6.2% to 4.2%. Without further authorization to the law, the Social Security employee tax rate returns to 6.2% in 2012.



Agenda Date: 8-16-11

Agenda Item: 9b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: August 16, 2011

SUBJECT: Consider applicants for appointment to the Planning Commission.

BACKGROUND

At its July 17, 2011 meeting the City Council accepted the unexpected resignation of Commissioner Tujia Catalano effective August 1, 2011. Ms. Catalano's term of office runs through June 30, 2012.

Staff advertised this vacancy for Planning Commission in the Clayton Pioneer, on the City's website, and at the City's three (3) posting areas. Applications were due on August 5, 2011 and five (5) applications were received on time. On Friday night after the deadline an application from Alyse Smith was deposited under the front door of City Hall. Staff consulted with the City Attorney and there is no legal reason why the late application cannot be accepted. Staff then contacted the Mayor for policy direction and he was not opposed to considering the applicant. Therefore six (6) applicants were invited to interview.

Prior to this meeting the City Council interviewed the six candidates. Official appointments to the Planning Commission require full City Council vote.

RECOMMENDATION

Adopt the attached Resolution appointing one citizen (to be named) to serve out the remainder of former Commissioner Catalano's term (August 16, 2011 through June 30, 2012).

FISCAL IMPACT

None.

Attachments: Resolution -1page
Applications (6)- 18 pages

RESOLUTION NO. XX-2011

**A RESOLUTION APPOINTING ONE CITIZEN
TO A VACATED TERM OF OFFICE ON THE
CLAYTON PLANNING COMMISSION**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, in 1964 the City Council of Clayton adopted Ordinance No. 20 establishing the City of Clayton Planning Commission; and

WHEREAS, Commissioner Tuija Catalano resigned from the Planning Commission effective August 1, 2011, therefore an unexpired term of office exists; and

WHEREAS, staff advertised the upcoming vacancy of one position on the Planning Commission and set a deadline of August 5, 2011 for candidates to submit an application for civic service; and

WHEREAS, six interested citizens submitted applications; and

WHEREAS, the full City Council interviewed each of the six applicants on August 16, 2011 during a regular open public meeting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California, does hereby appoint one citizen as follows to the Planning Commission of the City of Clayton for the remainder of the vacated term of office:

_____: August 16, 2011 through June 30, 2012

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 16th day of August 2011 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

David T. Shuey, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Received

PLANNING COMMISSION APPLICATION

AUG 05 2011

All information contained on this application is public record. This is a Clayton home address and all phone numbers and this position is required to fill out a Financial Statement of Economic Interest.

Name: STEVEN LANE
Date: 8-3-11
Home address: 245 MOUNTAIN CIRCLE
CLAYTON, CA 94517 Home phone: (925) 672-8325
Business phone: (925) 698-7057
FAX number: (925) 672-6863 if applicable
Length of residence in Clayton: 37 YEARS
E-mail address: slane23@msn.com
Present employer: SELF - EMPLOYED
Occupation: DRAFTING / DESIGN / PROJECT MGMT. CONSULTANT

Education and special training: MT. DIABLO ELEMENTARY; PINE HOLLOW INT.;
CLAYTON VALLEY HIGH SCHOOL, CLASS OF 1989
DIABLO VALLEY COLLEGE - ARCHITECTURAL PROGRAM TRANSFER TO:
U.C. BERKELEY - BACHELOR OF ARTS IN ARCHITECTURE, CLASS OF 1999
24 YEARS OF BUILDING AND LANDSCAPE DESIGN & DRAFTING EXPERIENCE
12 YEARS OF ARCHITECTURALLY-SPECIFIC DESIGN, DRAFTING, PROJECT
MGMT. EXPERIENCE OF MEDICAL, RELIGIOUS, COMMERCIAL & RESIDENTIAL WORK.
Experience and activities, which particularly qualify you for an appointment to the

Clayton Planning Commission: IN ADDITION TO ABOVE RESIDENCY, EDUCATION,
AND RELEVANT WORK EXPERIENCE - I AM AN ACTIVE - VOLUNTEER TO
CITY - ENHANCING CLUBS, SOCIETIES, AND ASSOCIATIONS:

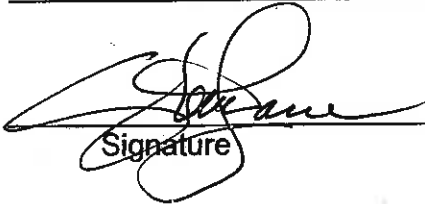
- CLAYTON VALLEY GARDEN CLUB, MEMBER SINCE 2007; CO-CHAIR OF 2010
LIBRARY BED IMPROVEMENTS PROJECTS; CURRENT CLUB VP AND ADVERTISING CHAIR
- CLAYTON HISTORICAL SOCIETY MUSEUM - MEMBER OF NATIVE AND HISTORICAL
GARDEN PROJECT COMMITTEE - HELPED COORDINATE ALL VOLUNTEER PLANTING OF PHASE I (OF III)
- CLAYTON BUSINESS AND COMMUNITY ASSOCIATION (CBCA) - DONATION OF
PROFESSIONAL SERVICES (PAID AND VOLUNTEER) FOR PROPOSED RAFFAEL
HILL IMPROVEMENTS.

How do you perceive the role of a Planning Commissioner?
AS A VOLUNTEERING CITIZEN OF THE COMMUNITY SELECTED BY RANKING
CITY OFFICIALS, WHO SERVES ON A 'COMMISSION' OF 5 MEMBERS
WHOM REVIEW AND HEAR CIVIC PROPOSALS, ISSUES, COMPLAINTS, ETC.
RELATED TO LAND-USE MATTERS; INCLUDING PLANNING, ZONING, USE -
PERMITS, ETC., WHO WORKS COLLECTIVELY WITH THE COMMISSION TO CONSIDER
THE AFFECTS OF SAID MATTERS ON THE COMMUNITY AS A WHOLE, AND
PRESENTS COLLECTIVELY, WITH THE COMMISSION - FINDINGS AND RECOMMENDATIONS
FOR RESOLUTION OF SAID MATTERS TO THE CITY
COUNCIL FOR CONSIDERATION.

Other interests and hobbies: GARDENING, MUSIC, LOCAL HISTORY, BICYCLING & HIKING

List three references with phone numbers:

JOANN CASPAR	(925) 672 - 7680
MARY SPRYER	(925) 672 - 7232
JAN RUBIALES	(925) 672 - 5694


Signature

Received

AUG 05 2011

PLANNING COMMISSION APPLICATION

City of Clayton

All information contained on this application is public record. This includes home address and all phone numbers and this position is required to fill out a Financial Statement of Economic Interest.

Name: Gregg Manning
Date: 8/1/2011
Home address: 703 Reisling Ct. Home phone: 925-360-8616
Business phone: 925-672-~~8~~6984
FAX number: _____ if applicable
Length of residence in Clayton: since 1979
E-mail address: claytonmayor2008@comcast.net
Present employer: Retired
Occupation: _____

Education and special training:

I have a B.A.B.A ans an MBA. I have had a California Contractor ## license for thirty years.

Experience and activities, which particularly qualify you for an appointment to the Clayton Planning Commission:

I was on the Clayton Planning Commission in 1986. I was on the Clayton City Council for twenty-two years. I know the city and am still active in the communnity.

How do you perceive the role of a Planning Commissioner?

Commission serves at the pleasure of the City Council and resolves issues which come to it in light of City Oedances and standards.

Other interests and hobbies:

City of Clayton, travel and grandchildren

List three references with phone numbers:

John Owen

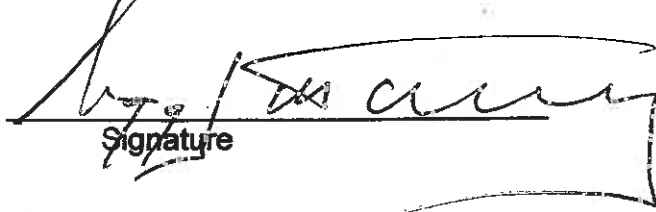
672-9722

Linda Pinder

672-7815

Rett Rossi

672-4492

A handwritten signature in cursive script, appearing to read "Rett Rossi", is written over a horizontal line. Below the signature, the word "Signature" is printed in a small, bold, sans-serif font.

Signature

CITY OF CLAYTON
PLANNING COMMISSION APPLICATION

Received
AUG 04 2011
City of Clayton

Name: Glenn D. Miller
Date: August 4, 2011
Home Address: 1005 Pebble Beach Drive, Clayton, Ca. 94517 **Home Phone:** 925-673-3369
Business Phone: 925-787-1578
Fax number: - NA
Length of Residence in Clayton – 14 years
Email Address: glennandlisam@sbcglobal.net
Present Employer: Self Employed
Occupation: Construction Project Manager, Estimator

Education and Special Training: BS Civil Engineering - Drexel University, Philadelphia, Pa.
Post Graduate Studies Univ. of California Berkeley – Structural Engineering, Economics
Licensed CA Civil Engineer - PE C 30679

Experience and Activities which particularly qualify you for an appointment to the Clayton Planning Commission:

Approximately 36 years as an Engineer, Construction Manager, Project Manager, Owner's Representative, and Field Representative. Projects and activities have ranged from structural designer, field Subcontractor Administrator, Scheduler, Cost Engineer for Raymond Kaiser International on large Industrial and Military Public Works projects. Served as Owners' Representative, Project Manager and Construction Manager for Mervyn's Department Stores, Wickes Lumber, Orchard Supply Hardware and Pacific Rim Development.

As Construction and Manager and Project Manager for Aztec Consultants, San Ramon, Ca. I managed all phases of Public Works projects as CM and Owner's Representative. Representative local clients and projects include 5 San Ramon Valley Fire Protection District Fire Stations and their Headquarters Administration Building and subsequent remodel, CCCTA's Para transit facility, Fire Stations for the City of Dublin (DRFA), Los Altos, and Moraga – Orinda Fire District (2 Stations). While at Aztec, I also served as Project Manager for various developers including three Multi-phased and Multi tenant shopping Centers in Redding, Chico and Tracy. In Clayton, I was the Project Manager and Construction Manager for the DeMartini Winery/City Hall conversion and served as Architect's Construction Representative for the Endeavor Hall reconstruction and addition. Included amongst the project duties for these projects were design and planning consulting and City, County and other governmental agency liaison including application processing and Public Hearings

Planning Commissioner for the City of Clayton for two + terms including term as Chair. Served as Planning Commission representative for the development and design of the Clayton Grove Park.

Volunteer – Mount Diablo Elementary School - Kindergarten Motor Skills – past 4 years (reference Mrs. Coverdale)

How do you perceive the role of a Planning Commissioner? : Planning Commissioners serve the Community by applying their unique knowledge and experience in an objective and fair minded manner when reviewing and making recommendations on projects that are brought before the Commission. This process includes the objective application of the City of Clayton's Municipal Codes, Zoning, Plans and Amendments in balance with past precedents, stated goals and policies, and a balanced application of related laws and principles. Commissioners are also called upon to review and make recommendations on Land Use and Municipal Code policy matters and in doing so they also should apply the same basics of knowledge, experience and principles in reviewing, engaging the Public and making recommendations on these matters.

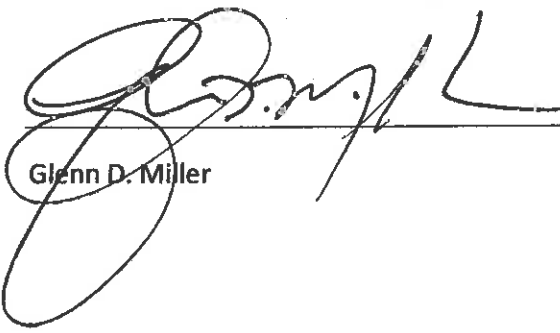
Other Interests and hobbies: Faith, Family, Community, Music and walking our dog along the Clayton trail system.

List Three References and phone numbers:

Keith Haydon – Res: 672-8262 Bus: 824-5898

Edward E. Hartley – Res: 698-4191 @ Hassard Bonnington, LLP 698-4191

Ed Moresi - Bus. – 673-0333



Glenn D. Miller

8/4/11
Date:

JUN 02 2011

PLANNING COMMISSION APPLICATION

City of Clayton

All information contained on this application is public record. This includes home address and all phone numbers and this position is required to fill out a Financial Statement of Economic Interest.

Name: Jason "Jake" Pauline
Date: 5/24/11
Home address: 5833 Verna Way East Home phone: (925) 672-6808
Business phone: (925) 777-3440
FAX number: (925) 777-3339 if applicable
Length of residence in Clayton: 22 years
E-mail address: Jake@blackdiamondelectric.com
Present employer: Black Diamond Electric
Occupation: Electrical Contractor

Education and special training:

See Attached

Experience and activities, which particularly qualify you for an appointment to the Clayton Planning Commission:

(See Attached)

How do you perceive the role of a Planning Commissioner?

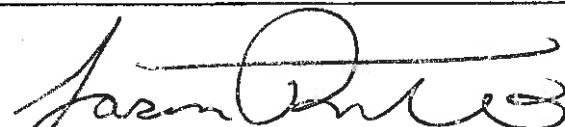
(See Attached)

Other interests and hobbies:

(See Attached)

List three references with phone numbers:

(See Attached)


Signature

City of Clayton Planning Commission Application

Date: 5-24-11

Education: Graduate of *De La Salle High School* 1990. Graduate of *University of Arizona* 1995 with BA in History.

Training: I hold an electrical contractors license in the states of Arizona, California, and Nevada. Each license requires the applicant to provide documentation of training and experience and each state requires the applicant to take an exam.

Experience and Activities that would make me qualified for the Planning Commission: I have been in the construction business for my entire adult life. As an Electrical contractor I familiar with the building and permitting process. I remodeled my own residence in 2001 and personally went through the process of gaining a permit within the City of Clayton. My own personal experience and my professional experience enables me to have a solid base of the overall building process that I believe would be an asset to the commission.

I am a 21 year resident of Clayton. I have a wife and three children and I love to call Clayton home. I am involved in the community and have a deep appreciation of what our town has to offer. I am a strong believer in Community involvement and I try to participate whenever possible. I have coached and refereed soccer for AYSO. I am currently coaching baseball for CVLL. I am currently serving as Chair on the Trails and Landscape Committee. I belong to the Contra Costa Sheriff's Posse, a lifetime member of the 100 Club, and a member of our CBCA. As a family and as business we have adopted the Cardinet trail. I am completely vested in our community and would take an appointment to the Commission very seriously and try my best to do what is best for our community as a whole.

Role of the Planning Commission: My perception is that the Commission appointed by the City Council reviews building applications from applicants that want to build within the City of Clayton. The Planning Commission working under the guide lines of the General Plan and applicable building codes will review each application, hear any public comment and then make a recommendation to the City Council on whether to approve or deny the project. I perceive that following the guide lines of the General Plan, adhering to the building codes, reviewing applications, listening to the City Staff's input, and making well founded recommendations to the Council is the fundamental role of the Commission. Another important role of the Commission is to have citizens of the community, who have a personal stake in the community, actively participate in their own governance. These citizens that personally hold a stake (whether it be property values, aesthetic interest, or having a glorious place to raise children) will be more likely to make the right decision that benefits the entire community.

Interest and Hobbies: The older I get the more my hobbies have slowly been taken over by my number one interest; My Family. My wife Cristina, my son Johnny and two daughters Analisa and Julia are the centers of my proverbial universe and I enjoy spending as much time as possible with them. Like I listed above I am interested in our local community. I majored in History in college and still hold a deep interest in History. I enjoy reading books about history, concentrating on early American history. I am fascinated by our founding fathers. I do consider myself a Patriot and I love our country. My love of history drives my interest in our government. The older I get the more I am driven to be a part of it and to uphold the sacred promise of our founders; Government of the people by the people, which truly does make our country great.

All and all I do find time for hobbies. I love to ride my mountain bike with my wife on our beautiful trails. I enjoy hiking. I still like tinker around on the guitar every once in a while. We have a

family cabin in Tahoe and I enjoy spending time there during the Summer with the family. I also love to plop down on the couch and watch a good movie.

List of three References:

-Contra Costa Sheriff, **David Livingston**. Cell # 925-786-2327. David@contracostasheriff.net.

-Contra Costa District Attorney **Mark Peterson**. Phone # 925-890-4600. MarkDDA@aol.com.

-Clayton Resident, owner of Diablo Ford **Michael Moore**. Cell # 925-575-0672.
Mmoore@diabloford.com.

AUG 08 2011

PLANNING COMMISSION APPLICATION

All information contained on this application is public record. The City of Clayton home address and all phone numbers and this position is required to fill out a Financial Statement of Economic Interest.

Name: ALYSE M. SMITH
 Date: August 4, 2011
 Home address: 601 Condor Place Home phone: (925) 693-0040
 Business phone: cell: (925) 408-9974
 FAX number: _____ if applicable
 Length of residence in Clayton: Nine Years
 E-mail address: alysej@comcast.net
 Present employer: currently developing my own company
 Occupation: Personal Fitness Trainer, Nutrition Specialist, and amateur athlete.

Education and special training:

- Ecole à Parsons, Paris, France; Architecture - 1988
- Parsons School of Design, N.Y.C.; B.F.A. - 1991
- N.Y.U., Post Graduate Studies; Screenwriting - 1991
- I.F.P.A.: Personal Fitness Trainer, 2004-2011, Body Building Specialist, 2009-2011
 Sports Nutrition Specialist, 2006-2011

Experience and activities, which particularly qualify you for an appointment to the

Clayton Planning Commission:

- Meetings with our HOA, Bay Services
 - Corporate Fundraiser - Secured \$250K as lead sponsor for the San Francisco's Museum of Arts' Renaissance Ball, Contemporary Extension - 2001
 - Previous Active Member of The San Francisco Junior League - Worked on numerous committees, annual fundraisers and community outreach programs
 - Corporate Event Planner - Organized CEO conferences and golf tournaments
 - How do you perceive the role of a Planning Commissioner? for Venture Capital Firms
 - Concept-driven individual with a sustainable vision for the future of the Clayton community, and its residents.
 - Successful with the implementation of planning spaces, overseeing and execution of site development to enhance and service the local community.
 - Ability to work well with others, and can communicate effectively with residents and local government.
- Other interests and hobbies:
- Golf, swimming, hiking, and gardening/landscaping
 - Interior Design

List three references with phone numbers:

Corrie Evans-Singleton - (925) 625-0995
Julliette Scott-O'Keefe (925) 787-7812
Shawn O'Keefe (925) 673-0165

Alyse M. Smith
Signature

August 4, 2011

Received

AUG 04 2011

City of Clayton

City Council
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Re: City of Clayton Planning Commission

from the desk of

**ROBERT
STAEHLE**

address
PO Box 974
Clayton, CA 94517

tel 925 672 8600
fax 925 672 4801
url www.vizfx.com

Dear Honorable Council Members,

Please accept this letter as confirmation of my continued interest to serve as a Planning Commissioner on behalf of the City of Clayton. Please continue to utilize the application submitted in June of this year. In addition to the application I would appreciate the opportunity to address the potential conflict of interest issue raised during my last public interview and also noted in the meeting minutes.

Attached please find a copy of a letter submitted to the California Fair Political Practices Commission. You'll see in that letter I've specifically requested a response prior to August 16th. I have obtained confirmation from CFPPC they received my letter. Standard turn around time is 21 business days. Based on that schedule, a response may not arrive in time for the planned selection schedule.

It is my contention that the value of architectural services provided for the Creekside Terrace project are well documented and established by invoices previously shared with city staff and the RDA sub committee. My firm agreed to continue providing services for the completion of the project based on a possibility some or all of that value might be recovered in the future. It was informally agreed that any reimbursement to my firm (and other consultants) will be derived if/or when the parcels are sold or developed. The only question remaining is what percentage of those fees will be recouped. I do not believe the success or failure of any project within 500 feet of the Creekside Terrace project will impact the value of services previously provided on that project. If selected to act as a planning commissioner, I feel it would be appropriate to state my relationship to the Creekside Terrace project for the public record, but do not feel compelled to recuse myself from a decision on a parcel within 500 feet of the Creekside parcels.

Thank you for considering my application to serve in this capacity again. It would be an honor to serve as a Planning Commissioner for the City of Clayton.

Sincerely yours,

Robert Staehle, Architect
Resident of the City of Clayton

July 26, 2011

California Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, California 95814

Re: City of Clayton Planning Commission
Sent Via Facsimile to: 916-327-2026

from the desk of

**ROBERT
STAEHLE**

Dear Commission,

I respectfully request a written opinion regarding the need to recuse myself as a planning commissioner under the circumstances described below.

I have submitted an application for appointment as a planning commissioner for the City of Clayton, CA. I anticipate an interview for that position on August 16. That interview is anticipated to be held in a public forum by the entire City Council. I am confident a response to the question of my need to recuse myself (under the circumstances addressed below) will be of interest to the Council. I would greatly appreciate having a written response to my personal circumstances prior to that date.

BACKGROUND

I am a licensed architect and 51% owner of a California Corporation: VIZfx Inc. That entity provided architectural services for a project that obtained planning commission approval and council ratification in the spring of 2010. That project is located on a parcel of land solely owned by the City of Clayton. The project was initially started by an independent developer wishing to purchase the land from the City and develop the property. During the design process the developer failed to pay City fees and the relationship between the City and the developer eroded. When the relationship was severed the City completed the project through the entitlement processing. The current status of the project is an entitled contiguous group of parcels. The City is actively attempting to identify qualified developers and oversee the completion of the construction of the proposed project. VIZfx Inc was contracted by the City of Clayton to complete the entitlement processing for the project and was paid fees of approximately \$10,000 to complete that work. In addition to the developer not paying the City the entitlement team of consultants was also not paid for services up to the time the City severed it's relationship with the developer. Each consultant contracted for services directly with the developer and were not subcontractors by VIZfx Inc. The total sum of invoiced and unpaid fees to the consultants is approximately \$148,370. In order to move forward with our consulting services the consultant team was given verbal assurances by the City of Clayton. The City staff has provided no more than a hand shake and verbal commitment that if and when the property is sold or developed the team might receive compensation for value added to the property. No dollar amount or value to those past services has been agreed to or committed to by the City. The consultant team has no ability to approve or reject a potential buyer of the property, or

address
PO Box 974
Clayton, CA 94517

tel 925 672 8600
fax 925 672 4801
url www.vizfx.com

from the desk of

**ROBERT
STAEHLE**

address
PO Box 974
Clayton, CA 94517

tel 925 672 8600
fax 925 672 4801
url www.vizfx.com

influence the price paid for the property. In short VIZfx Inc. or other consultants have no enforceable instrument to prove claim to the City for fees unpaid by the original developer. I do believe the consultant team has a reasonable expectation of some compensation if the parcel were to be sold or developed based on the approved design. The actual value of that compensation would be subject to negotiations between the consultants, the City and potentially the successful developer. Actual reimbursable expenses by VIZfx Inc for printing, delivery etc. for the project is \$2,732. Of the \$148,370, \$61,750 represents VIZfx Inc's invoiced services. It is my personal opinion that VIZfx Inc directly and myself indirectly may benefit by the potential sale or development of this property.

EVENT CALENDAR

Work began on the city owned parcel project in 2008. In January of 2010 the City of Clayton hired the consultant team to complete the entitlement processing. The project was entitled with planning commission approval in late spring 2010 and council ratification early the same summer.

CURRENT CIRCUMSTANCES

The City is in receipt of a project application and has completed a draft EIR for a different project within 500 feet of the project completed by the City (with VIZfx Inc. participation). It is anticipated that the newly appointed planning commissioner will be asked to act on the current project application.

AT QUESTION

Will the approval or denial of this newly proposed project impact the market value and resale potential for the property owned by the City? The answer to that question has to be yes, but up or down or how I don't feel can be predicted. Will the outcome of the current application impact the obligations or the value of services the City benefited from and has to VIZfx Inc.? I do not believe so. My personal opinion is disclosure of the relationship of myself to VIZfx Inc. and the link to the parcel owned by the City of Clayton may be appropriate. I do not feel my recusal related to planning commission actions for parcels within 500 feet of the City's property to be necessary. I respectfully request the input of your staff to either confirm or challenge my opinion. I am aware of your 8 step process of review and I am confident the City Staff and Council would appreciate confirmation of my opinion by the FPPC.

Please do not hesitate to contact me should you have additional questions or wish clarification of the circumstances surrounding this requested written opinion.

Sincerely yours,

Robert Staehle, Architect
Resident of the City of Clayton



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

July 27, 2011

Robert Staehle, Architect
P O Box 974
Clayton, CA 94517

Re: Your Request for Advice
Our file No. 11-140

Dear Mr. Staehle:

Your letter requesting advice under the Political Reform Act ("Act") was received by the Fair Political Practices Commission ("Commission") on July 26, 2011. If you have any questions about this request, you may contact William J. Lenkeit, the attorney who has been assigned to your questions at (916) 322-5660.

If your request seeks formal written advice under Government Code Section 83114(b), you may expect a response within 21 working days.¹ However, should we require additional information before responding to your request, we will contact you and our response will be provided within 21 working days from the date on which we receive the additional information. If your request is for informal assistance, an answer will be provided as quickly as possible. (2 Cal. Code Regs., § 18329.)

Please note that sometimes it is not appropriate to issue a written response. Therefore, your request may be denied. This may occur, for example, if your request involves past conduct or you are not authorized by the advisee to make the request. (2 Cal. Code Regs., §§ 18329 and 18329.5.)

Also, your request and our response are public records that may be disclosed to the public upon receipt of a proper request for disclosure. For questions about the status of your request, contact Juanita Lira, at (916) 322-5660.

Very truly yours,

Zackery P. Morazzini
Zackery P. Morazzini
General Counsel

ZPM:jgl

1. The timeline may be extended for good cause (Gov. Code, § 83114(b)).

Received

JUN 3 2011

City of Clayton

PLANNING COMMISSION APPLICATION

All information contained on this application is public record. This includes home address and all phone numbers and this position is required to fill out a Financial Statement of Economic Interest.

Name: Robert Staehle

Date: 6/3/11

Home address: 215 Mountaire Circle Home phone: 925 672 7726

Business phone: 925 672 8600

FAX number: 925 672 4801 if applicable

Length of residence in Clayton: 23 years

E-mail address: bob@draftingboard.com

Present employer: self - VIZf/x and RASNCC Holdings LLC

Occupation: Architect

Education and special training:

B. of Architecture, University of Arizona. '80

Registered Architect.

Self employed since '92, primary focus of firm is on land use entitlements.

Have worked on land use entitlement projects throughout the entire state. Project types have varied from 5000 acre utility usage to residential additions.

Experience and activities, which particularly qualify you for an appointment to the Clayton Planning Commission:

I was a planning commissioner for the City of Clayton in the early '90s. Worked on the Oakhurst development including many of the residential communities and the club house.

I am the architect of record for the proposed Creekside Terrace project located in downtown Clayton.

How do you perceive the role of a Planning Commissioner?

Serve at the pleasure of the City Council. Work with staff to review proposed projects for conformance with the General Plan, special specific planning areas, and other regional, state or national land use laws and practices.

Represent local issues and concerns when working with regional organizations such as ABAG or TransPAC.

Other interests and hobbies:

CEQA regulations as they apply to visual impacts of proposed development.

Photography

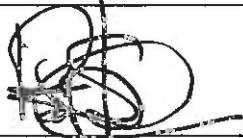
Computer based modeling and animation

List three references with phone numbers:

David Woltering, Community Development Director, Clayton 673-7300

Niroop Srivatsa, Community Development Director, Lafayette 284-1976

Suzanne Jones, Preserve Lamorinda Open Space, Moraga 376-9310

A handwritten signature in black ink, appearing to be 'Suzanne Jones', written over a horizontal line.

Signature



Agenda Date: 8-16-11

Agenda Item: 9c

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 16 AUGUST 2011

SUBJECT: CONSIDERATION OF PROPOSED GENERAL BUSINESS RESOLUTIONS
2011 ANNUAL CONFERENCE, LEAGUE OF CA CITIES

RECOMMENDATION

It is recommended the City Council consider and provide direction to its Voting Delegate as to the Clayton City Council's position on the six (6) general business resolutions submitted for action at the General Assembly during the upcoming 2011 Annual Conference of the League of CA Cities in San Francisco, CA (September 21st – 23rd).

BACKGROUND

Each year the membership of the League of CA Cities **assembles** in an annual conference to consider matters of municipal and local concern within the state of California. Issues are discussed and debated in various forums and workshop sessions, general meetings, and departmental meetings of elected and appointed city officials. Delegates at the Conference receive and share a wide variety of information and news about the latest technologies and program services available to cities. They also examine state legislation and laws/practices employed by other cities to enhance the effectiveness of their public agencies to improve the quality of life for citizens and businesses.

The League's Annual Conference culminates at an Annual Business Meeting wherein matters of legislative and policy concerns are voted on to direct the course of work and affairs in the ensuing year for the League of CA Cities. Each city in California with a registered delegate in attendance at the Conference gets one (1) vote to cast in behalf of its city on each general resolution submitted before the General Assembly.

Council Member Pierce was appointed to and serves on the League's Transportation, Communication and Public Works Policy Committee, which would normally meet during the Conference to consider general resolutions or discuss other matters as assigned. However, the substance of the submitted six (6) general resolutions do not involve the scope of her Policy Committee so at this time that Policy Committee is not scheduled to meet (ref. Page

iii). Should a valid Petition Resolution surface at the Conference itself, the Petition Resolution is funneled directly to the General Resolutions Committee.

The Annual Conference registration fee of \$525 has not been paid, a financial requirement in order for a city's delegate to vote. A one-day registration fee for a city delegate is \$250, should the City Council decide to send a delegate to the Business Session to cast the City's vote on the general resolutions. Due to the proximity of this year's Annual Conference being held in nearby San Francisco within commute distance, no prior arrangements have been made by staff for lodging reservations.

PROPOSED GENERAL RESOLUTIONS

The General Assembly will meet in its Annual Business Session in San Francisco on Friday afternoon, September 23rd (2:30 p.m.) to consider the filed general resolutions. "Petition Resolutions" may also surface at the Conference itself by delegates over the three (3) day conference, and the authorized city delegate must critique such general resolutions while in attendance at the Business Session to cast a vote in our City's best interest. At this time, six (6) general resolutions have been tendered in advance for General Assembly action.

The six (6) General Resolutions submitted for consideration are:

A. ADMINISTRATIVE SERVICES POLICIES (2 Resolutions)

1). *Resolution relating to Alternate Methods of Meeting Public Notice Requirements and to Advocate for Revisions to the Government Code.*

Submitted by the Desert/Mountain Division of the League, the proponents argue the current CA Government Code requirement to publish legal and public hearing notices in a newspaper of "general circulation" is not only expensive but has become antiquated in reaching intended or interested audiences of the public. The Division submits electronic communication (email broadcasts) and City website postings are increasingly the preferred methods by the public for dissemination of public information and acceptance of this alternative method will reduce an unfunded mandate expense of local governments. The Division references the City of Big Bear Lake (pop. 6,700) spends \$15,000-\$20,000 a year for local newspaper notices that are buried in obscure places of the newspaper.

The Resolution calls for the League of CA Cities to advocate for state legislation modifying and enhancing public notice requirements by the inclusion of electronic and website media.

Staff concurs it can be expensive to publish legal and public hearing notices and certain ordinance adoptions in local newspapers, although a public entity's annual expense is more often correlated with the extent of land use and advance planning tasks undertaken within the local government (e.g. General Plan

amendments). For Clayton, our legal notices expense has been about \$11,000 over the last three (3) years. Staff does agree the public is more electronically savvy regarding communications, even from its local government.

Staff recommendation: Support.

2). *Resolution Relating to Tort Reform.*

This Resolution was submitted by the Mayor of the City of Waterford and laments the immense time and public taxpayers' monies expended in defending frivolous lawsuits filed against public entities. It seeks for the League to encourage all California cities to adopt resolutions calling for tort reform on this subject, that cities also encourage their state legislators to pass legislation establishing "loser-pays" tort reform, and for the League to sponsor and support a statewide proposition that makes "loser-pays" lawsuits and tort reform a constitutional amendment.

While our City can certainly sympathize and empathize with the expensive cost involved in defending itself in litigation, staff is uncertain this Resolution has been sufficiently vetted to determine the extent of frivolous lawsuits occurring against public entities in California and what is the definition of a "frivolous" lawsuit.

Staff recommendation: Generally "unsupportive" unless further refined.

B. PUBLIC SAFETY POLICIES (3 Resolutions)

3). *Resolution raising public awareness about the imminent health and safety concerns for bullied children.*

Submitted by the City of Elk Grove, the Resolution notes the increasing trend and harmful, and often tragic, outcomes of children and youth being bullied by other peers. The Resolution asks the League to encourage cities to promote anti-bullying efforts across California as well as to provide education and awareness to the general public about the negative impacts to bullied children.

The Resolution's objective is meritorious and cities should certainly be supportive of such child-rearing awareness practices and public education. It might be more effective to incorporate such teachings into the public education curriculum in the primary and secondary education venues, rather than a city's recreation and park department or other social services division.

Staff recommendation: Supportive as to the objective but feel it best resides with public education and other non-secular institutions.

4). *Resolution supporting the Prison Rape Elimination Act of 2003.*

Submitted by a City of Los Angeles Council Member, the Prison Rape Elimination Act was signed into law by President Bush in 2003. This Act is to insure that jails and other correctional settings protect inmates from sexual assault, and in particular notes that youth tried and convicted of crimes as adults fit the risk profile of those persons at the highest risk of sexual assault in prison. The Resolution urges the League to include in its legislative program a support for standards which would ban the placement of young people under the age of 18 in adult jails and prisons. The author asserts the overwhelming majority of youth tried as adults are non-violent offenders, with a considerable proportion being first-time offenders.

It would seem this legitimate concern for implementation conditions on a federal act is best placed at the National League of Cities level for uniformity in standards across America. If the intent of the Resolution is to have the League of CA Cities communicate and push that concern with the National League of Cities, such objective is supportable rather than leaving our League to be point.

Staff recommendation: Support with amendment the League of CA Cities encourages the National League of Cities to undertake this effort.

5). *Resolution calling for the replacement of the death penalty with the sentence of life imprisonment without possibility of parole.*

This Resolution was submitted by a City of Claremont Council Member and indicates the current death penalty is not a deterrent to heinous crime in California and does not make cities or the state any safer. It notes the tremendous expense to County taxpayers for the prosecution of death penalty cases and corresponding appeals. The Resolution calls for Governor Brown to convert all death sentences to life imprisonment without the possibility of parole, calls upon all district attorneys to desist from pursuing the death penalty, and petitions the State Legislature and Governor Brown to place a ballot measure on a statewide ballot to abolish the death penalty in California.

The subject of the death penalty is a very personal and hotly debated issue for the public to decide. The public has existing avenues to petition their state legislators or activate interested organizations to pursue overturning the death penalty. It is staff's opinion this matter should not involve the time of the League of CA Cities.

Staff recommendation: Oppose as unsuitable for the League of CA Cities to pursue.

C. GENERAL ASSEMBLY RESOLUTION

6). *Resolution honoring the City of Bell.*

Submitted by a City Council Member of Los Angeles, the Resolution wishes to commend the citizens of Bell and its reconstituted government officials for its progress in restoring good local government after the infamous unveiling of municipal corruption permeating the City of Bell.

Staff recommendation: Support.

FISCAL IMPACT

There is no direct impact to the City of Clayton, its operations or financial condition, relative to the recommended voting position on the General Resolutions being proposed for the 2011 Annual Conference of the League of CA Cities.

Attendance of our City delegate at the Annual Conference would necessitate some expense of unbudgeted City funds for a registration fee plus commute expenses.

Attachments: 1. General Resolutions Packet – 2011 Annual Conference [19 pp.]



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

August 9, 2011

TO: Mayors, City Managers and City Clerks
League Board of Directors
General Resolutions Committee Members
Members, League Policy Committees to Which Resolutions Are Referred

RE: Annual Conference Resolutions Packet
Notice of League Annual Meeting

Enclosed please find the 2011 Annual Conference Resolutions Packet.

Annual Conference in San Francisco. This year's League Annual Conference will be held September 21 – 23 at the Moscone West Convention Center in San Francisco. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at www.cacities.org/ac. We look forward to welcoming city officials to the conference.

Annual Business Meeting - Friday, September 23, 2:30 p.m. The League's Annual Business Meeting will be held at the Moscone West Convention Center in Room 3000.

Resolutions Packet. At the Annual Conference, the League will consider the six resolutions introduced by the deadline, Saturday, July 23, 2011, midnight. These resolutions are included in this packet. We request that you distribute this packet to your city council.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on each resolution. A copy of the resolutions packet is posted on the League's website for your convenience: www.cacities.org/resolutions.

The resolutions packet contains additional information related to consideration of the resolutions at the Annual Conference. This includes the date, time and location of the meetings at which resolutions will be considered.

Voting Delegates. Each city council is encouraged to designate a voting delegate and two alternates to represent their city at the Annual Business Meeting. A letter asking city councils to designate their voting delegate and two alternates has already been sent to each city. Copies of the letter, voting delegate form, and additional information are also available at: www.cacities.org/resolutions.

**Please Bring This Packet to the Annual Conference
September 21 - 23 — San Francisco**

I. INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, five resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees. One resolution has been introduced that will go directly to the General Assembly at the League's Annual Business Meeting per the League bylaws.

POLICY COMMITTEES: Two policy committees will meet at the Annual Conference to consider and take action on resolutions referred to them. The committees are Administrative Services and Public Safety. These committees will meet on Wednesday, September 21, 2011, at the Moscone West Convention Center in San Francisco. Please see page iii for the policy committee meeting schedule. The sponsors of the resolutions have been notified of the time and location of the meetings.

Two other policy committees will also be meeting: Revenue and Taxation and Employee Relations. No resolutions have been referred to these two committees.

Four policy committees will not be meeting at the annual conference. These committees are: Community Services; Environmental Quality; Housing, Community & Economic Development; and Transportation, Communication, & Public Works.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 4:00 p.m. on Thursday, September 22, at the Moscone West Convention Center, to consider the reports of the two policy committees regarding the five resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 2:30 p.m. on Friday, September 23, at the Moscone West Convention Center, Room 3000.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Session of the General Assembly. This year, that deadline is 2:30 p.m., Thursday, September 22. If the petitioned resolution is substantially similar in substance to a resolution already under consideration, the petitioned resolution may be disqualified by the General Resolutions Committee.

Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224.

II. GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities and the League is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the Board of Directors.
 - (c) Consider important issues not adequately addressed by the policy committees and Board of Directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

III.
LOCATION OF MEETINGS

Policy Committee Meetings
Wednesday, September 21, 2011
Moscone West Convention Center, San Francisco
Fourth & Howard Street

POLICY COMMITTEES MEETING AT ANNUAL CONFERENCE TO
DISCUSS AN ANNUAL CONFERENCE RESOLUTION

9:00 a.m. – 10:30 a.m.	Public Safety
11:00 a.m. – 12:30 p.m.	Administrative Services

POLICY COMMITTEE MEETINGS AT ANNUAL CONFERENCE TO
DISCUSS OTHER ISSUES

9:00 a.m. – 10:30 a.m.	Employee Relations
11:00 a.m. – 12:30 p.m.	Revenue & Taxation

Note: These policy committees will ***NOT*** meet at the Annual Conference:
Community Services
Environmental Quality
Housing, Community & Economic Development
Transportation, Communication & Public Works



General Resolutions Committee
Thursday, September 22, 2011, 4:00 p.m.
Moscone West Convention Center



Annual Business Meeting and General Assembly
Friday, September 23, 2011, 2:30 p.m.
Moscone West Convention Center, Room 3000

**IV.
KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

ADMINISTRATIVE SERVICES POLICY COMMITTEE

		1	2	3
1	Alternative Methods of Meeting Public Notice Requirements and to Advocate for Revisions to the Government Code Recognizing Alternative Methods as a Means to Meet Noticing Requirements			
2	Tort Reform			

PUBLIC SAFETY POLICY COMMITTEE

		1	2	3
3	Raising Public Awareness about the Imminent Health and Safety Concerns for Bullied Children			
4	Prison Rape Elimination Act of 2003			
5	Replacement of the Death Penalty with the Sentence of Life Imprisonment without the Possibility of Parole			

NO POLICY COMMITTEE – REFERRED DIRECTLY TO THE GENERAL ASSEMBLY*

		1	2	3
6	City of Bell	N/A	N/A	

*Per the League's Bylaws, Resolution Number 6 will only be referred to the League's General Assembly.

Please note: These committees will ***NOT*** meet at the annual conference: Community Services; Environmental Quality; Housing, Community & Economic Development; and Transportation, Communication & Public Works

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: www.cacities.org. The entire Resolutions Packet will be posted at: www.cacities.org/resolutions.

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

Action Footnotes

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

KEY TO ACTIONS TAKEN

- A - Approve
- D - Disapprove
- N - No Action
- R - Refer to appropriate policy committee for study
- a - Amend
- Aa - Approve as amended
- Aaa - Approve with additional amendment(s)
- Ra - Amend and refer as amended to appropriate policy committee for study
- Raa - Additional amendments and refer
- Da - Amend (for clarity or brevity) and Disapprove
- Na - Amend (for clarity or brevity) and take No Action
- W - Withdrawn by Sponsor

Procedural Note: Resolutions that are approved by the General Resolutions Committee, as well as all qualified petitioned resolutions, are reported to the floor of the General Assembly. In addition, League policy provides the following procedure for resolutions approved by League policy committees but *not* approved by the General Resolutions Committee:

Resolutions initially recommended for approval and adoption by all the League policy committees to which the resolution is assigned, but subsequently recommended for disapproval, referral or no action by the General Resolutions Committee, shall then be placed on a consent agenda for consideration by the General Assembly. The consent agenda shall include a brief description of the basis for the recommendations by both the policy committee(s) and General Resolutions Committee, as well as the recommended action by each. Any voting delegate may make a motion to pull a resolution from the consent agenda in order to request the opportunity to fully debate the resolution. If, upon a majority vote of the General Assembly, the request for debate is approved, the General Assembly shall have the opportunity to debate and subsequently vote on the resolution.

V.
2011 ANNUAL CONFERENCE RESOLUTIONS

RESOLUTIONS REFERRED TO ADMINISTRATIVE SERVICES POLICY COMMITTEE

1. RESOLUTION SUPPORTING ALTERNATIVE METHODS OF MEETING PUBLIC NOTICE REQUIREMENTS AND TO ADVOCATE FOR REVISIONS TO THE GOVERNMENT CODE RECOGNIZING ALTERNATIVE METHODS AS A MEANS TO MEET NOTICING REQUIREMENTS

Source: Desert/Mountain Division

Referred To: Administrative Services Policy Committee

Recommendation to General Resolutions Committee:

WHEREAS, the Desert/Mountain Division of the League of California Cities recognizes local municipalities have a civic duty to conduct business in open, noticed public meetings; and

WHEREAS, that same duty calls for cities to engage their citizenry by noticing time and locale of public meetings, public hearings, introduction and adoption of Ordinances, and bid opportunities; and

WHEREAS, in accordance with California Government Code Section 54954.2, the requirement for posting meeting agendas reads as follows:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public ...

WHEREAS, in accordance with California Government Code Section 6066, the requirement for publishing public hearing notices reads as follows:

6066. Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.

WHEREAS, in accordance with California Government Code Section 6060, the term "notice" is defined as follows:

6060. Whenever any law provides that publication of notice shall be made pursuant to a designated section of this article, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided in that section. As used in this article, "notice" includes official advertising, resolutions orders, or other matter of any nature whatsoever that are required by law to be published in a newspaper of general circulation.

WHEREAS, notwithstanding any provision of law to the contrary, a newspaper is a "newspaper of general circulation" if it meets the criteria listed in California Government Code Sections 6000 and 6008, which read as follows:

6000. A "newspaper of general circulation" is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.

6008. Notwithstanding any provision of law to the contrary, a newspaper is a "newspaper of general circulation" if it meets the following criteria:

- (a) It is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers and has been established and published at regular intervals of not less than weekly in the city, district, or judicial district for which it is seeking adjudication for at least three years preceding the date of adjudication.*
- (b) It has a substantial distribution to paid subscribers in the city, district, or judicial district in which it is seeking adjudication.*
- (c) It has maintained a minimum coverage of local or telegraphic news and intelligence of a general character of not less than 25 percent of its total inches during each year of the three-year period.*
- (d) It has only one principal office of publication and that office is in the city, district, or judicial district for which it is seeking adjudication.*

WHEREAS, in accordance with California Government Code Section 36933, within 15 days after a passage of an Ordinance, a City Clerk shall publish and post Ordinances, and if so chosen, a member of the public may request notification as follows:

-(d) (1) Any member of the public may file with the city clerk, or any other person designated by the governing body to receive these requests, a request for notice of specific proposed ordinances or proposed amendments to ordinances.*
- (2) Notice pursuant to paragraph (1) shall be mailed or otherwise transmitted at least five days before the council is scheduled to take action on the proposed ordinances or proposed amendments to an ordinance. **Notice may be given by written notice properly mailed or by e-mail if the requesting member of the public provides an e-mail address.** Notice may be in the form specified in either paragraph (1) or (2) of subdivision (c), as determined by the city council.*
- (3) As an alternative to providing notice as requested of specific proposed ordinances or proposed amendments to ordinances, the city clerk, or other person designated by the governing body, may place the requesting member of the public on a general mailing list that gives timely notice of all governing body public meetings at which proposed ordinances or proposed amendments to ordinances may be heard, as provided in Section 54954.1. If this alternative is selected, the requesting member of the public shall be so advised.*
- (4) The city may charge a fee that is reasonably related to the costs of providing notice pursuant to this subdivision. The city may require each request to be annually renewed.*
- (5) Failure of the requesting person to receive the information pursuant to this subdivision shall not constitute grounds for any court to invalidate an otherwise properly adopted ordinance or amendment to an ordinance.*

WHEREAS, as California Government Code Section 36933 already recognizes electronic mail as a form of communicating with the public when it comes to Ordinances, the Desert/Mountain Division of the League of California Cities seeks other public noticing requirements in the Government Code reflect the same; and

WHEREAS, the traditional means of noticing in local adjudicated newspapers is antiquated and inefficient; and

WHEREAS, the Desert/Mountain Division of the League of California Cities recognizes that in recent decades, technology has vastly improved; and

WHEREAS, that technology includes the advent of the internet, electronic mail, social media, smart phones and other smart devices (i.e. iphones/ipads); and

WHEREAS, the public is becoming increasing familiar with the use of new technology and using it as a means to gain quick and up-to-date information; and

WHEREAS, the public has a preference for receiving information in an electronic format; and

WHEREAS, the Desert/Mountain Division of the League of California Cities is in support of cities communicating with the public using innovative, enhanced methods of communication; now therefore be it

RESOLVED by the General Assembly of the League of California Cities assembled at the Annual Conference in San Francisco, September 23, 2011, that the Desert/Mountain Division of the League of California Cities:

1. Desires to enhance current public noticing requirements by communicating with the public using innovative, technologically friendly methods of communication.
2. Request that the League, as a whole, support alternative methods of meeting public notice requirements.
3. Request the League advocate for the State Legislature to adopt revisions to the California Government Code recognizing alternative methods as a means to meeting public notice requirements.
4. Support any legislation that would adopt revisions to the California Government Code recognizing alternative methods as a means to meeting public notice requirements.

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Background Information on Resolution No. 1

Source: Desert/Mountain Division

Municipalities have a civic duty to conduct business in open, properly noticed public meetings. That same duty calls for cities to engage their citizenry by noticing time and locale of public meetings, public hearings, introduction and adoption of Ordinances, bid opportunities and the like. The public has a right to know what local elected officials are doing with public funds. The public has a right to know what decisions are being made that will affect them.

In efforts to engage the public, encourage more participation at public meetings and enhance communication with constituents, our division has discussed current public noticing requirements required by the State of California. Current requirements include cities place notices in a general newspaper of circulation. Annually, cities spend quite a bit on this task. For example, the City of Big Bear Lake, population 6,700, spends \$15,000 - \$20,000 a year on noticing in their local weekly newspaper and on occasion, in a regional. This is a substantial amount for a small city.

Noticing is typically done in the classified section, next to garage sale and help wanted ads. This system is antiquated and inefficient. Can you remember the last time you read that section of the paper? In recent decades, technology has vastly improved, given the advent of the internet, electronic mail, social media, smart phones and other smart devices (iphones/ipads). The public is becoming increasingly familiar with the use of new technology, using it as a means to gain quick and up-to-date information. We see more and more the public have a preference for receiving information in an electronic format. Technology allows us to be more efficient and when it comes to business, much more economical.

Our division would like to see a change to State Law that allows cities more discretion based on their community's distinct needs (i.e. residents can sign up for e-mail alerts of public hearings, meetings, etc.); and that would count towards meeting the public noticing requirements. We don't want to eliminate noticing in newspapers, just enhance requirements by allowing cities to use alternate methods as a means of meeting the law.

In recent years, this issue has come before the State Legislature, but newspaper publication groups have lobbied against this. They receive revenue from classified ads. But noticing is not supposed to be about generating revenue for private industry. It is supposed to be about informing the public, getting them more involved in local government and enhancing our methods of communication. Many times, we don't always see the turnout we would like at public meetings and hearings. We need to enhance our methods to change this.

In addition, cities are supposed to be reimbursed by the State for a portion of the cost to notice meetings, but these funds have been deferred for several years now due to the State Budget. If we are not receiving these funds, why can't the legislature work with cities to modify the requirements? We want to work smarter, not harder!

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2. RESOLUTION RELATING TO TORT REFORM

Source: Mayor Charlie Goeken, City of Waterford
Referred To: Administrative Services Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, frivolous lawsuits cost cities, counties, special districts, and school districts millions dollars a year to defend; and

WHEREAS, the money that cities spend each year in legal fees fighting frivolous lawsuits is a waste of taxpayers' money; and

WHEREAS, the money spent to defend frivolous lawsuits could be put to better public use; and

WHEREAS, cities or other government entities are easily sued without reasonable cause when there is no requirement that the person or entity filing the lawsuit have any responsibility when the lawsuit is lost; and

WHEREAS, the public good would be served if the law were changed to require the person or entity who filed the lawsuit to pay for all fees and costs of the city, or other sued party, to defend the lawsuit if it were unsuccessful; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Francisco, September 23, 2011, that the League encourages the existing 482 California cities to adopt resolutions calling for tort reform; and, be it further

RESOLVED, that California cities be encouraged to ask their state legislators to pass a bill that establishes loser-pays lawsuit and tort reform; and, be it further

RESOLVED, that California cities are encouraged to ask the League to sponsor and support a statewide proposition that makes loser-pays lawsuit and tort reform a constitutional amendment.

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Background Information on Resolution No. 2

Source: City of Waterford

Every year cities must weigh the cost of fighting frivolous lawsuits against the amounts requested by the plaintiffs. The frivolity of the lawsuits usually have little bearing on this balancing act, nor does the likelihood that settling will only encourage more lawsuits. This perverse use of the court system penalizes cities and other government entities by allowing a person to file a lawsuit with no regard for the facts and no exposure on their part. Attorneys accept these lawsuits, relying on getting paid by a city settling the lawsuit as a purely business decision, often times receiving more money than the plaintiffs.

Scarce taxpayer dollars are squandered fighting frivolous lawsuits or paying settlements to avoid lengthy trials and bad publicity. The passage of tort reform and a loser-pays constitutional amendment would enable elected officials to govern fairly without the fear of frivolous lawsuits, while still allowing the public to file suit when they have genuinely been wronged. The money saved through court costs, attorney's fees, payouts, staff time, and insurance premiums would be put to better use by cities to serve their taxpayers.

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RESOLUTIONS REFERRED TO PUBLIC SAFETY POLICY COMMITTEE

3. RESOLUTION RELATED TO RAISING PUBLIC AWARENESS ABOUT THE IMMINENT HEALTH AND SAFETY CONCERNS FOR BULLIED CHILDREN

Source: City of Elk Grove
Referred To: Public Safety Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, cities throughout the State of California are becoming more aware of the growing trend of bullying in schools and on the Internet that has become a serious nationwide problem, one with often severe consequences; and

WHEREAS, surveys indicate that as many as half of all children are bullied at some time during their school years, and at least 10 percent are bullied on a regular basis; and

WHEREAS, more than 25 percent of adolescents and teens have been bullied repeatedly through their cell phones or the Internet and more than 80 percent of teens use a cell phone regularly, making it the most popular form of technology and a common medium for cyber bullying; and

WHEREAS, the social media network has vastly increased the number of users online and young people are eager to participate without understanding the consequences of their behavior; and

WHEREAS, general bullying and cyber bullying have both caused severe damage, heartache, and even fatal tragedy to young people and their families and friends; and

WHEREAS, victims of bullying display a range of responses, even many years later, such as: low self-esteem, difficulty in trusting others, lack of assertiveness, aggression, difficulty controlling anger, and isolation; and

WHEREAS, bullying has been identified as a major concern by schools across the U.S.; and

WHEREAS, cities providing an open forum to discuss bullying gives an opportunity for parents, students, and communities to acknowledge this issue, open up the conversation about the topic and raise awareness of the issue; and

WHEREAS, the League supports cities who take a stance against bullying by raising education and awareness about anti-bullying efforts throughout the State of California to provide a better life and foundation for young people; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled in Annual Conference in San Francisco, September 23, 2011, that the League encourages cities to promote anti-bullying efforts across California as well as provide education and awareness to the general public about the imminent health and safety concerns for bullied children; and, be it further

RESOLVED, by the General Assembly of the League of California Cities, that the League will forward this Resolution to the CCS (Cities, Counties, Schools) Partnership for consideration at their next meeting to help promote anti-bullying efforts throughout California.

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Background Information on Resolution No. 3

Source: City of Elk Grove

Cities throughout the State of California are becoming painfully aware of the growing trend of bullying and its effects on children. Bullying has a potentially devastating effect on students and young adults, their families, schools, and communities. A guiding principle of the League is that the children of California must be recognized as our state's most valuable resource. Their development, education and well-being are key to our state's future.

Many studies and statistics show the frequency and unfortunate effects that bullying has on children:

- Bullying is a common experience for many children and adolescents. Surveys indicate that as many as half of all children are bullied at some time during their school years, and at least 10 percent are bullied on a regular basis (The American Academy of Child and Adolescent Psychiatry)
- More than 25 percent of adolescents and teens have been bullied repeatedly through their cell phones or the Internet. More than 80 percent of teens use a cell phone regularly, making it the most popular form of technology and a common medium for cyber bullying (bullyingstatistics.org)
- Victims of bullying display a range of responses, even many years later, such as: low self-esteem, difficulty in trusting others, lack of assertiveness, aggression, difficulty controlling anger, and isolation (bullyingstatistics.org)

- Research shows that bullying will stop when adults in authority and peers get involved (bullying.org)
- Bullying has been identified as a major concern by schools across the U.S. (NEA, 2003)

The health and safety of the residents of Elk Grove is paramount to the members of the Elk Grove City Council. On July 13, 2011, the City Council unanimously adopted a resolution raising public awareness of the imminent health and safety concerns for bullied children. This resolution is in conjunction with an aggressive, yet economical, public outreach campaign the City held to educate its residents about the effects of bullying on children. In conjunction with the Elk Grove City Council, Elk Grove Youth Commission, law enforcement and nonprofit agencies, the City hosted three public workshops focused on the subject of bullying that strengthened partnerships between youth and law enforcement, nonprofit agencies, parents and teachers. Workshop topics included how to keep teens safe from cyber bullying and online harassment, safe and responsible Internet use, social media and 'sexting' safety issues, dangers of bullying and strategies to stop bullies and empower victims. The City informed the community about the campaign through media coverage on every television and radio news outlet in the Sacramento region, the City's newsletter which reaches every Elk Grove household, and the City's social media outlets Facebook and Twitter.

Other cities in California are encouraged to raise the awareness of bullying in their community by educating residents about the dangers and effects of bullying on children. Educational outreach will benefit children, parents, teachers, and the community. Local governments have the ability to implement wide-spread cost-effective educational tools to communicate with residents about this important public safety issue.

All local government officials and parents in California want to protect their children, families, themselves, and others. Please help raise public awareness of the imminent health and safety concerns for bullied children.

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4. **RESOLUTION SUPPORTING THE PRISON RAPE ELIMINATION ACT OF 2003**

Source: Council Member Tony Cardenas, City of Los Angeles

Referred To: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

WHEREAS, according to the Bureau of Justice Statistics, 10,000 children are held in adult jails and prisons on any given day; and

WHEREAS, the annual number of youth exposed to the dangers of sexual assault in adult facilities is significantly higher because of the "flow" of youth entering and exiting facilities; and

WHEREAS, studies from across the nation confirm that youth tried as adults fit the risk profile of those persons at the highest risk of sexual assault; and

WHEREAS, studies also show that the overwhelming majority of youth tried as adults are nonviolent offenders, with a considerable proportion being first-time offenders; and

WHEREAS, according to the prison rape literature, the persons with the highest likelihood of being sexually assaulted are young people; and

WHEREAS, according to studies from the Office of Juvenile Justice and Delinquency Prevention and the Centers for Disease Control and Prevention, youth who are tried in the adult criminal justice system are 34% more likely to recidivate than youth in the juvenile justice system; and

WHEREAS, 70% of prisoners in adult prisons were once juvenile offenders, so the long-term effect of preventing harm to youth will decrease recidivism and substantially reduce the adult prison population and the associated economic, social and human cost; and

WHEREAS, the U.S. Department of Justice has an opportunity to ban the placement of youth (under 18) in adult jails and prisons as part of the implementation of the Prison Rape Elimination Act (PREA); and

WHEREAS, PREA was signed into law by President Bush in 2003 to address sexual violence behind bars; and

WHEREAS, a key component of the law was the development of national standards addressing prisoner rape and the requirements would apply to all detention facilities, including federal and state prisons, jails, police lock-ups, private facilities, and immigration detention centers; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Francisco, September 23, 2011, that the League includes in its 2011-12 Federal Legislative Program support for standards implementing the Prison Rape Elimination Act of 2003 which would ban the placement of young people under the age of 18 in adult jails and prisons.

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Background Information on Resolution No. 4

Source: City of Los Angeles

What is the Prison Rape Elimination Act?

The Prison Rape Elimination Act (PREA) of 2003 is a Federal law established to address the elimination and prevention of sexual assault and rape in correctional systems. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities. The major provisions of PREA are to:

- Develop standards for detection, prevention, reduction and punishment of prison rape
- Collect and disseminate information on the incidence of prison rape
- Award grants and technical assistance to help state governments implement the Act

Youth in adult facilities are at the greatest risk of prison rape. According to the Bureau of Justice Statistics, 10,000 children are held in adult jails and prisons daily, and the annual number of youth exposed to the dangers of sexual assault in adult facilities is significantly higher because of the “flow” of youth entering and exiting facilities. Studies from across the nation confirm that youth tried as adults fit the risk profile of those persons at the highest risk of sexual assault. *Studies also show that the overwhelming majority of youth tried as adults are nonviolent offenders, and a considerable proportion are first-time offenders.* In more than half of the states, there is no lower age limit on who can be prosecuted as an adult, so even young children can be prosecuted as adults and sent to adult jails and prisons.

How Does PREA Apply to Jails?

PREA seeks to insure that jails and other correctional settings protect inmates from sexual assault, sexual harassment, “consensual sex” with employees and inmate-inmate sexual assault. These violations affect security and staff safety, and pose long-term risks to inmates and staff inside jails, and to the public when victimized inmates are released into the community.

Where is PREA at?

The U.S. Department of Justice is currently considering banning the placement of youth (under 18) in adult jails and prisons as part of the implementation of PREA. As such, this resolution seeks to raise awareness of

youth spending time in adult facilities so elected and appointed officials could develop more effective juvenile justice policies and support the passage of the bill.

The Prison Rape Elimination Act was originally signed into law by President Bush in 2003 to address sexual violence behind bars. A key component of the law was the creation of the National Prison Rape Elimination Commission (NPREC), a bipartisan federal commission charged with developing national standards addressing prisoner rape and the requirements would apply to all detention facilities, including federal and state prisons, jails, police lock-ups, private facilities, and immigration detention centers. The NPREC held public hearings, had expert committees to draft the standards and released their final recommendations by issuing a report and set of standards (available online at <http://www.ncjrs.gov/pdffiles1/226680.pdf>.)

Who supports PREA?

American Probation and Parole Association
Correctional Education Association
International Community Corrections Association
National Association of Criminal Defense Lawyers
National Center on Domestic and Sexual Violence
Missouri Youth Services Institute

Campaign for Youth Justice
American Jail Association
National Juvenile Detention Association
Center for Children's Law and Policy
Family Violence Prevention Fund
National Alliance to End Sexual Violence

*****This is only a partial list of national supporters***

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5. RESOLUTION CALLING FOR THE REPLACEMENT OF THE DEATH PENALTY WITH THE SENTENCE OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE

Source: Council Member Joseph Lyons, City of Claremont

Referred To: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

WHEREAS the administration of the death penalty costs California taxpayers hundreds of millions of dollars more to administer than life imprisonment without the possibility of parole;

WHEREAS death penalty cases cost County taxpayers millions of dollars more to prosecute than cases that seek life imprisonment without the possibility of parole;

WHEREAS the non-partisan California Commission on the Fair Administration of Justice Senate Commission concluded that California's death penalty system is systemically dysfunctional and will require hundreds of millions of dollars to reform;

WHEREAS the death penalty is not a deterrent and does not make our Cities or the State of California a safer place to live;

WHEREAS California's Cities face severe cuts to the services needed to keep their neighborhoods safe and have had to resort to layoffs and furloughs because of reductions in revenues from State and County sources;

WHEREAS the millions of dollars in savings realized by replacing the death penalty with life without the possibility of parole could be spent on: education, roads, police officers and public safety programs, after-school programs, drug and alcohol treatment, child abuse prevention programs, mental health services, and services for crime victims and their families.

WHEREAS Governor Brown has the power to convert death sentences to sentences of life imprisonment without any possibility of parole, saving the state \$1 billion in the next five years without releasing a single prisoner;

WHEREAS California's County District Attorneys are solely responsible for pursuing the death penalty for persons convicted of special circumstance first-degree murders within their Counties;

WHEREAS the California State Legislature and Governor Brown have the ability to place a constitutional amendment on the ballot to permanently replace the death penalty with a sentence of life imprisonment without the possibility of parole;

RESOLVED by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Francisco, September 23, 2011, that the League of California Cities call upon Governor Jerry Brown to convert all death sentences to sentences of life imprisonment without any possibility of parole, mandating those sentenced to life without the possibility of parole to work in prison and pay restitution to the victims' families, and that the money saved by the state be used to fund education, local government, and public safety;

RESOLVED that the League of California Cities call upon California's County District Attorneys to desist from pursuing the death penalty, and to invest the savings in solving homicides, violence prevention, and effective public safety programs;

RESOLVED that the League of California Cities call upon the California State Legislature and Governor Brown to place on a statewide ballot a constitutional amendment to replace the death penalty with a sentence of life imprisonment without the possibility of parole.

Pursuant to this resolution copies of the adopted and officially signed resolution will be sent to Governor Jerry Brown, California Attorney General Kamala Harris, the leadership of the California State Senate and Assembly, County District Attorneys and their County Board of Supervisors

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Background Information on Resolution No. 5

Source: City of Claremont

California's death penalty is broken and remains at risk of executing an innocent person. A new study of the costs of California's death penalty was recently conducted by Judge Arthur Alarcon, a conservative federal judge who supports the death penalty, and Prof. Paula Mitchell, a law school professor who opposes the death penalty. With access to new information and documentation, their study is the most comprehensive appraisal of expenditures associated with the death penalty. They concluded that the death penalty costs California taxpayers \$184 million each year; California has spent a total of \$4 billion on the death penalty since 1978 and is expected to spend another \$1 billion over the next five years; each execution in California costs \$308 million.

Judge Alarcon and Professor Mitchell concluded that the current death penalty system is broken. With over 700 inmates, California's death row is the largest and most costly in the country, yet we have only executed 13 people since 1978. Victims' family members are put through a decades-long legal ordeal based on the hollow promise of execution, but 99% of those sentenced to death are never executed. The funds wasted on California's dysfunctional death penalty could be better spent to ensure public safety if the death penalty were replaced with Life Without the Possibility of Parole, allowing \$1 billion over the next

five years to be re-invested in public safety measures like law enforcement and education. There are three ways to accomplish this addressed in this resolution:

1. Governor Brown should convert all existing death sentences to Life Without Parole

The governor has the authority to convert death sentences to the alternative of Life Without Parole, saving \$1 billion over five years. This will allow the more than 700 existing death row inmates to be re-housed in the general population, eliminating the additional housing costs associated with death row and the cost of prosecuting and defending death row appeals. Three states have enacted this reform in the past to ensure that innocent men and women sentenced to death will not be executed and to save funds spent on maintaining death row. Life Without Parole is a real solution that ensures public safety and effectively punishes horrible crimes. It also allows inmates to work and pay restitution to the Victims' Compensation Fund. Recent polling from David Binder Research indicates that 64% of likely voters in California support this reform as a budgetary measure.

2. County District Attorneys should reduce or end the practice of seeking death sentences

According to Judge Alarcon and Prof. Mitchell's study, each prosecution seeking death costs the county approximately \$1 million more than a prosecution seeking Life Without Parole. The decision to seek the death penalty over the alternative of Life Without Parole falls to each county's District Attorney. According to the ACLU's 2009 report "Death in Decline '09," most counties in the state currently do not seek the death penalty, or do so very rarely, due to the excessive costs of such prosecutions. However, a small number of counties continue to seek the death penalty, at great expense to the cities within the county and the taxpayers of the state at large. When the county district attorney decides to seek the death penalty, everyone within the county is impacted as the entire county criminal justice system strains to accommodate the massive expenditures associated with a death penalty trial. Justice is slowed for everyone.

The ACLU's 2011 report, "The Death Penalty is Dead," showed a dramatic decrease in the number of death sentences in California in the first half of 2011, leaving the state on track to sentence the fewest men and women to death since 1978. Los Angeles County, historically the state's leader in death sentences, also saw a substantial decline in the first half of 2011. This trend should be encouraged and all County District Attorneys should be called upon to reduce or eliminate the practice of seeking the death penalty.

3. The California Legislature should pass SB 490 and give voters the option to replace the death penalty on the November 2012 ballot

SB 490 is currently under consideration by the California legislature. If passed, voters will be given the option of replacing the death penalty with Life Without Parole, saving \$1 billion over five years. California voters have not had an opportunity to vote on maintaining the death penalty since 1978, and have never been made aware of the costs associated with the system. Don Heller, the author of the 1978 initiative to reinstate California's death penalty, now supports its replacement because of the death penalty's costly failure over the last 30 years. Numerous attempts to streamline, speed up, and reduce waste within the death penalty have been made, but all have failed and often result in increasing the cost of the system. Voters should be given a chance to make an educated decision about whether the death penalty is worth \$184 million each year, or if there are more productive ways to invest those funds.

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RESOLUTION REFERRED TO GENERAL ASSEMBLY

6. RESOLUTION IN HONOR OF THE CITY OF BELL

Source: Council Member Tony Cardenas, City of Los Angeles
Referred To: General Assembly

WHEREAS, the city of Bell has a Native American history dating back thousands of years with the Gabrieliño Indians migrating to what is now known as the City of Bell in 500 B.C., and

WHEREAS, in the early 1800's, Spanish aristocrat and former soldier, Don Antonio Maria Lugo settled on 30,000 acres of land that encompasses the City of Bell, and

WHEREAS, between 1870 and 1890 settlers arrived to the area and among those was the city's founder, James George Bell who acquired approximately 360 acres of land and helped in its development as a small farming and cattle community, and

WHEREAS, the City of Bell was incorporated on November 7, 1927 and is now home to many businesses, small industries, schools, churches and community organizations, and

WHEREAS, in July 2010, the City of Bell was devastated with a municipal scandal that made national and international headlines, and

WHEREAS, it was revealed during the corruption scandal that Bell city officials were receiving unusually large salaries, perhaps the highest in the nation, and

WHEREAS, upon the removal of the previous administration, including the City Administrator and City Attorney, the City of Bell began taking steps to immediately address this unprecedented scandal, and

WHEREAS, under the new leadership of Pedro Carrillo, Interim City Administrator for the City of Bell, and James M. Casso, Interim City Attorney, the City of Bell has taken action to restore trust, ethics and fiscal sustainability in the City of Bell, and

WHEREAS, the City of Bell helped craft legislation (AB 900) authorizing the refunding of the illegally charged taxes to Bell property owners, which the state legislators quickly and unanimously adopted so that refund checks could be issued to constituents, and

WHEREAS, in March 2011, voters turned out in record numbers to recall and replace City Council members charged in the corruption scandal, and

WHEREAS, the City of Bell continues to consider all options for recovering all taxpayer funds that were spent improperly, and has implemented best practices that will enable the City of Bell to emerge from this unprecedented situation with an efficient, transparent and trusted government; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Francisco, September 23, 2011, that the League acknowledges the efforts of the City of Bell to address municipal corruption and restore policies and actions that create an environment of a responsible government.

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Background Information on Resolution No. 6

Source: City of Los Angeles

In July 2010, the City of Bell was devastated with a municipal scandal that made national and international headlines. At that time, the Los Angeles Times reported that the City of Bell had the second-highest property tax rate in the county — 1.55 percent — well above the county average of 1.16 percent with Bell city officials receiving unusually large salaries. It was reported that City Manager Robert Rizzo was being paid an annual salary of \$787,637; Police Chief Randy Adams was receiving \$457,000; and Assistant City

Manager Angela Spaccia was receiving \$376,000. Additionally, the mayor and three of the four City Council members were being paid about \$97,000 a year, including health benefits for their part-time jobs.

During this unprecedented corruption scandal, the previous administration, including the City Administrator and City Attorney, were immediately removed and the City of Bell began taking steps to immediately address this unprecedented scandal. In March 2011, voters subsequently turned out in record numbers to recall and replace City Council members charged in the corruption scandal with the City of Bell continuing to implement best practices that is enabling the City to emerge from this situation with an efficient, transparent and trusted government.

BRINGING GOOD GOVERNMENT PRACTICES BACK TO BELL

Since the scandal broke last year, the new Administration, under the leadership and guidance of Pedro Carrillo, Interim City Administrator for the City of Bell, and James M. Casso, Interim City Attorney, has taken exceptional action to restore trust, ethics and fiscal sustainability in the City of Bell. As such, the City of Bell continues to be fully committed to open government and is working diligently with all stakeholders to bring transparency and good government practices to Bell.

In the past few months, the Bell City Council, Interim CAO and Interim City Attorney have made substantial changes to bring good government practices to Bell. For example, the Bell City Council reduced property taxes worked with State Legislators and the State Controller on Assembly Bill (AB) 900 to secure rebates for Bell residents who were over assessed from 2007-2010. AB900 was signed into law allowing the City of Bell to authorize nearly \$3 million in refunds to Bell residents and small businesses with Los Angeles County providing fiscal oversight.

PURPOSE OF THE RESOLUTION

Given the actions of the City of Bell to restore good government practices, and the fact that the League of California Cities has taken steps to learn from this unprecedented scandal, this resolution would acknowledge the on-going efforts of the City of Bell to address municipal corruption and restore policies and actions that create an environment of a responsible and open government.

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Agenda Date: 8-16-11
Agenda Item: 9d

Approved: _____

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: August 16, 2011

SUBJECT: Designation of Voting Representative and Alternate for League of California Cities 2011 Annual Conference being held September 21 thru 23, in San Francisco.

RECOMMENDATION

By motion, it is recommended the City Council consider designating one of its members as the Voting Delegate and one member as the Alternate to represent the City of Clayton during the 2011 League of California Cities Annual Business Meeting.

BACKGROUND

The League of California Cities' "Annual Conference" is scheduled for Wednesday, September 21 through Friday, September 23 at the San Francisco Moscone West Convention Center. A Business Meeting will take place on Friday, September 23, 2011 at 2:30 p.m. Councilmember Medrano is the City Council's delegate to the East Bay Division of the League of California Cities (Councilmember Shuey is the alternate). Councilmember Pierce serves on the League's Transportation, Communications and Public Works Policy Committee.

League bylaws provide that each City is entitled to one vote in matters affecting municipal or League policy. Per the attached Annual Conference Voting Procedures, a City official must have in possession the City's Voting Card and be registered with the Credentials Committee to cast that City's vote. A voting card will be issued to the City officials designated by the City Council on the attached Voting Delegate Form.

Conference registration is required for voting delegates.

FISCAL IMPACT

During the last 3 fiscal years the vast majority of conference and training budget for the City Council was eliminated. If the Council wishes to send a delegate, funds will need to be allocated. Expenses for the conference registration is \$525 for the full event plus the cost of transportation.



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Annual Conference Voting Procedures 2011 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2011 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, August 26, 2011. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail: _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, August 26 to:

League of California Cities
ATTN: Mary McCullough
1400 K Street
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: mccullom@cacities.org
(916) 658-8247



Agenda Date: 8-16-11

Agenda Item: 9e

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Asst. to the City Manager

MEETING DATE: August 16, 2011

SUBJECT: Revised Master Fee Schedule for City Services and use of City Facilities and Parks

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution amending the Fee Schedule for City Services and Use of Public Facilities and Parks for FY 2011-12.

BACKGROUND

The City of Clayton has established annual review of user fees to ensure that user fees are set appropriately and updated, based upon various cost and revenue considerations. The current fee schedule for use of City Facilities and Parks was established by Resolution No. 39-2010 on September 7, 2010.

Staff is recommending all existing fees be increased by the CPI (2.8%) to adjust for inflation. All deposits will remain unchanged as these are refundable security damage/clean up deposits.

Since last year the staff has determined that the following changes need to be made to the fee schedule. In general there are a few additional fees that need to be established and some existing fees that need updating.

New Fees:

The Community Development Director had determined that the following fees are needed in order to cover staff costs:

Negative Declaration with Mitigations: Time-- \$2,500 minimum deposit

Negative Declaration with out Mitigations: Time \$1,500 minimum deposit

Code Enforcement non compliance 2nd re-inspection: \$30

Currently there is not a fee for covering staff time related to the necessary compliance review for Commercial projects construction and demolition fees. The Assistant to the City Manager and Finance Manager have determined based upon actual experience that the Construction and Demolition Recycling plan permit processing fee for Commercial should be \$268.

The City Engineer had determined that a category is needed in the Stormwater Inspection post construction Documentation compliance review for Commercial projects with a fee of \$165 per acre with a minimum of \$165.

The City Engineer and Community Development Director have determined that an administrative penalty or fee for City issued permits after the fact (ie: encroachment permits; tree removal permit, etc): should be established. The County has such fee for building permits and other cities have such fees. Consistent with the county building permit penalty and other cities it is being recommended that a fee be set that is double the original permit fee.

Fees being changed beyond the CPI:

Staff has identified several fees that are outdated and a CPI adjustment would not allow for the actual cost recovery. Staff has found that the actual costs for these is greater than the amount previously charged and greater than the CPI increase.

Related to the tree removal permit process in the City codes the Community Development has had in the fee resolution a Tree replacement in-lieu fee for 24" box tree which includes the purchase, delivery and installation of the tree by the City. The current fee of \$525 was established almost 10 years ago. Maintenance staff has provided new cost information and the fee should be increased to \$800 (this \$800 amount is consistent with the city established memorial program for the same size tree).

The City Engineer has determined that based upon actual experience and costs that various fees for stormwater post construction verification inspection, document compliance and state report and filing costs are actually greater than what has been set forth in the fee schedule. At the time the fees were set the staff did not have much experience or history as these fees relate to the state mandated stormwater runoff requirements, and unfunded mandate. With the completion of several projects the city has been able to better identify its real costs for these areas. The following fee changes are proposed by the City Engineer to cover costs:

Stormwater Post construction Annual verification inspection for individual single family lot: from \$45 to \$165

Stormwater Post construction Annual verification inspection for single family HOA: from \$100 per HOA to \$165 per HOA for up to 10 lots, plus \$50 per each additional lot.

Stormwater Post Construction Annual verification inspection for commercial projects: from \$100/acre to \$165 per acre with a minimum of \$165.

Stormwater Post Construction Documentation Compliance review for individual single family lot: from \$45 to \$165

Stormwater Post Construction Documentation Compliance review for HOA: from \$100 per HOA to \$165 45 to \$165.

Stormwater Annual State reporting/filing fee for individual single family lot from \$53 to \$60

Stormwater Annual State reporting/filing fee for HOA from \$100 per HOA to \$115 per HOA.

Stormwater Annual State reporting/filing fee for commercial from \$100 per acre to \$115 per acre.

Other fee schedule changes:

Staff also recommends the elimination of individual commercial rental rate for parks and facilities and have it the same as the non-residential rate. Staff has really never had a commercial rental and of the few that might have been a commercial category an individual rented the facility as either a resident or non resident. This modification would simplify the fee schedule and would not result in any reduction in revenue as to date individuals have rented at either the resident or non resident rate.

FISCAL IMPACT

Adjustments to our Master Fee Schedule are consistent with public policy that user-based municipal services bear their own costs. The proposed changes would accomplish this objective and in each instance no fee is higher than the true cost to provide the service or use.

CONCLUSION

Staff affirms the proposed Master Fee Schedule closely reflects the actual direct costs related to the provision of these City services. Staff recommends approval of the revised Master Fee Schedule for City Services and Use of Public Facilities and Parks.

New or proposed fees beyond the CPI are noted in yellow. All other fees are adjusted to the CPI and rounded up or down to the nearest whole dollar and are shown in the last column in Exhibit A.

Attachments:

- Resolution __-2010
- Exhibit A to Resolution __-2010

RESOLUTION NO. ____-2011

A RESOLUTION AMENDING THE CITY MASTER FEE SCHEDULE FOR CITY SERVICES AND USE OF PUBLIC FACILITIES AND PARKS

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton has various user fees for City services and facilities that are updated annually to reflect increases in costs to provide said services; and

WHEREAS, the City staff did develop data to substantiate proposed changes to fees which would not exceed the estimated reasonable cost of providing service or using the facility for which a fee is charged; and

WHEREAS, the fees reconsidered herein are not developer fees, and thus not subject to section 66017(a) of the California Government Code, and thus will become effective upon adoption of said Resolution; and

WHEREAS, the City Council of Clayton, California does deem it necessary to set and add the following fees to the Master Fee Schedule:

Negative Declaration with Mitigations: Time— \$2,500 minimum deposit

Negative Declaration with out Mitigations: Time \$1,500 minimum deposit

Construction and Demolition Recycling plan permit processing fee for Commercial: \$268

Stormwater Inspection post construction Documentation compliance review for Commercial: \$165/acre with a minimum of \$165

Administrative penalty for City issued permits after the fact (ie: encroachment permit; tree removal permit, etc): double the original permit fee

Code Enforcement non compliance 2nd re-inspection: \$30

WHEREAS, the City Council of Clayton, California deem it necessary for the following fees to be adjusted in the Master Fee Schedule:

Community Development Tree replacement in-lieu fee for 24" box tree: from \$525 to \$800

Stormwater Post construction Annual verification inspection for individual single family lot: from \$45 to \$165

Stormwater Post construction Annual verification inspection for single family HOA: from \$100 per HOA to \$165 per HOA for up to 10 lots, plus \$50 per each additional lot.

Stormwater Post Construction Annual verification inspection for commercial projects: from \$100/acre to \$165 per acre with a minimum of \$165.

Stormwater Post Construction Documentation Compliance review for individual single family lot: from \$45 to \$165

Stormwater Post Construction Documentation Compliance review for HOA: from \$100 per HOA to \$165 45 to \$165.

Stormwater Annual State reporting/filing fee for individual single family lot from \$53 to \$60

Stormwater Annual State reporting/filing fee for HOA from \$100 per HOA to \$115 per HOA.

Stormwater Annual State reporting/filing fee for commercial from \$100 per acre to \$115 per acre.

Parks and Facilities elimination of individual commercial rental rate for parks and facilities and have it the same as the Non residential rate.

WHEREAS, the City Council of Clayton, California **does** deem it necessary to increase all other fees by the CPI, and all other deposits shall remain unchanged.

NOW THEREFORE BE IT RESOLVED that the City Council of Clayton, California does hereby set, adjust and approve the various fees for certain City services and use of public facilities and parks, as set forth in the attached Exhibit "A" as the City Master Fee Schedule.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 16^h day of August 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, CA

David T. Shuey, Mayor

ATTEST:

Laci J. Jackson, City Clerk

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
COMMUNITY DEVELOPMENT DEPARTMENT			
Annexations			
Annexation	Time - \$5,000 minimum deposit		
General Plan /Zoning Ordinance Amendments			
General Plan Map or Text Amendment	Time - \$5,000 minimum deposit		
Pre- Zoning / Re-zoning	Time - \$5,000 minimum deposit		
Zoning Ordinance Text Amendment	Time - \$5,000 minimum deposit		
Site Plans / Development Plans			
Site Plan Review Permit - Residential	Time - \$5,000 minimum deposit		
Site Plan Review Permit - Residential Amendment	Time - \$1,000 minimum deposit		
Site Plan Review Permit - Non- Residential	Time - \$1,000 minimum deposit		
Site Plan Review Permit - Non Residential Amendment	Time - \$5,000 minimum deposit		
Development Plan	Time - \$2,000 minimum deposit		
Subdivisions			
Tentative Subdivision Map Application	Time - \$5,000 minimum deposit		
Lot Line Adjustment	Time - \$1000 minimum deposit		
Lot Merger	Time - \$2,000 minimum deposit		
Parcel Maps			
Tentative Parcel Map Application	Time - \$2000 minimum deposit		
Environmental Review			
Environmental Impact Report	Time - \$5,000 minimum deposit		
Negative Declaration with Mitigations (Mitigated Neg Dec)	Time - \$2,500 minimum deposit	new	Time - \$2,500 minimum deposit
Negative Declaration with out Mitigations	Time - \$1,500 minimum deposit	new	Time - \$1,500 minimum deposit
Mitigation Monitoring Plan	Included with Neg Dec/ Mitigated Neg Dec/EIR		
Categorical Exemption	no charge - unless document needs County recording		
Permits			
Home Occupation Permit - Administrative Review			
Home Occupation Permit - Planning Commission Review	Time - \$500 minimum deposit	\$ 150.00 \$	154.00
Use Permit - Fences Administrative Review			
Use Permit - Residential - Planning Commission Review	Time - \$1000 minimum deposit	\$ 150.00 \$	154.00
Use Permit - Non- Residential - Planning Commission Review	Time - \$5000 minimum deposit		
Temporary Use Permit - Administrative Review	Time \$500 minimum deposit	\$ 150.00 \$	154.00
Temporary Use Permit - Planning Commission Review			
Sign Permit - Administrative Review		\$ 50.00 \$	51.00
Sign Permit - Planning Commission Review	Time - \$1,000 minimum deposit		

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
Temporary Storage Permit		\$ 50.00 \$	51.00
Second Dwelling Unit Permit - Administrative Review		\$ 250.00 \$	257.00
Tree Removal Permit - Administrative Review without notice	\$10/tree - Minimum \$30	\$ 30.00 \$	31.00
Tree Removal Permit - Administrative Review with Notice	\$50/tree - Minimum \$100	\$ 100.00 \$	103.00
Tree Removal Permit - Planning Commission Review	Time - \$500 minimum deposit		
Tree Replacement In-Lieu Fee	per 24" box tree (code sect. 15.70.040 - F & 15.70.55)	\$ 525.00 \$	800.00
Building Moving Permit	Time - \$1000 minimum deposit		
Noise Permit - Administrative Review		\$ 150.00 \$	154.00
Outdoor Seating Permit (17.24.020 -H/Standard Policy No 3)		\$ 79.00 \$	81.00
Miscellaneous			
Variance - Residential	Time - \$1000 minimum deposit		
Variance - Non - Residential	Time - \$5000 minimum deposit		
Appeal - Administrative Decisions		\$ 50.00 \$	51.00
Appeal - Planning Commission Decisions - Residential		\$ 250.00 \$	257.00
Appeal - Planning Commission Decisions - Non - Residential		\$ 500.00 \$	514.00
Time Extension Request	Time - \$500 minimum deposit		
Contract Administration	Time - \$1000 minimum deposit		
Large Family Day Care Home Permit	Time - \$500 minimum deposit		
Pre-Application Consultation Deposit	Time - \$1000 minimum deposit		
Construction and Demolition (C&D) Recycling Plans			
Mgmt Plan Deposit - Single Family	\$2,000 plus \$1/sq foot over 2,000 sq feet		
Permit processing Fee - Single Family		\$ 130.00 \$	134.00
Permit processing Fee - commercial	new fee	new \$	268.00
Mgmt Plan Deposit - subdivision and commercial	\$2,000 plus \$1/sq foot over 2,000 sq feet		
Habitat Conservation Area Compliance			
Habitat Conservation Plan/Natural CC Plan	Time - \$1000 minimum deposit		

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule		FY 10-11 Fee	Proposed FY 11-12 Fee
CITY ENGINEERING DEPARTMENT				
Bid or Plan Sets	Actual Cost			
Subdivisions				
Final Map Filing Fee	\$500/map		\$ 500.00 \$	514.00
Final Map Checking Fee	Time - \$2500 minimum deposit			
Construction Plans Checking	Time - \$2500 minimum deposit			
Construction Inspection Fee - Public Improvements	9% of Bond Estimates			
Construction Inspection Fee - Private Improvements	9% of Bond Estimates			
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates			
Parcel Maps				
Final Parcel map Filing Fee	\$100/map		\$ 100.00 \$	103.00
Final Parcel map Plan Checking Fee	Time - \$1000 minimum deposit			
Construction Plan Checking Fee	Time - \$1000 minimum deposit			
Construction Inspection Fee - Public Improvements	9% of Bond Estimates			
Construction Inspection Fee - Private Improvements	9% of Bond Estimates			
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates			
Grading				
Grading Permit Filing Fee	\$150 / permit		\$ 150.00 \$	154.00
Grading Permit Plan Check	Time - \$1000 minimum deposit			
Grading Inspection	Time - \$1000 minimum deposit			
Minor Encroachment Permits				
Pools, driveways, minor concrete repair	\$75 / permit		\$ 75.00 \$	77.00
Major Encroachment Permits				
Major Encroachment Permit			\$ 50.00 \$	51.00
Major Plan Check	Time - \$2500 minimum deposit			
Major Inspection	Time - \$2500 minimum deposit			
Cash Bond Major Encroachments (may be surety if more than \$10,000)	Per City Engineer			

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
STORMWATER INSPECTION PERMITS			
Construction permit			
Minor - project that does not disturb ground (interior remodels etc)	\$100/permit + Time- \$500 deposit	\$ 100.00 \$	103.00
Standard - pools, driveways, minor concrete repairs, room additions	\$125/permit + Time - \$2000 minimum deposit	\$ 125.00 \$	129.00
Major projects	Time - \$5000 minimum deposit		
Post construction			
post construction Annual Verification Inspection - individual single family lot		\$ 45.00 \$	165.00
post construction Annual Verification Inspection - single family HOA	per HOA for up to 10 lots	\$ 100.00 \$	\$165 per HOA up to 10 lots; + \$50 per each addtl lot
post construction Annual Verification Inspection - Commercial	\$100/acre (with minimum of \$100)	\$ 100.00 \$	\$165/acre (minimum of \$165)
Documentation Compliance Review Fee - individual single family lot	per lot	\$ 72.00 \$	165.00
Documentation Compliance Review Fee - HOA	per HOA	\$ 100.00 \$	\$165 per HOA up to 10 lots; + \$50 per each addtl lot
Documentation Compliance Review Fee - Commercial	per acre	new	\$ 165 per acre (with minimum of \$165)
Annual State Reporting preparation/filing Fee - individual single family lot	per lot	\$ 53.00 \$	60.00
Annual State Reporting preparation/filing Fee - single family HOA	per HOA	\$ 100.00 \$	115.00
Annual State Reporting preparation/filing Fee - Commercial	per acre	\$ 100.00 \$	115.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
POLICE DEPARTMENT			
Residential Alarm System Registration	\$25/ house	\$ 25.00 \$	26.00
Commercial Alarm System Registration Fee	\$50/commercial occupancy	\$ 53.00 \$	54.00
Bicycle License	\$3/License	\$ 3.00 \$	3.00
Vehicle Release	\$130/ cash per vehicle	\$ 130.00 \$	134.00
Police Reports Residents		\$ 25.00 \$	26.00
Police Reports Non-Residents or Insurance		\$ 25.00 \$	26.00
VIN Verification		\$ 35.00 \$	36.00
Clearance Letters		\$ 25.00 \$	26.00
Police Enforcement on Party Ordinance	Time		
Police Enforcement on of DUI Involving Accident	Time - Maximum \$12,000	\$ 100.00 \$	103.00
Enforcement of Suspended or Revoked Licenses	Time	\$ 100.00 \$	103.00
City Alcohol Beverage Permit		\$ 50.00 \$	51.00
Booking Fees	As established by County or agreement w/ Concord		
False Alarm Fee	As established by City Ordinance	\$ 100.00 \$	103.00
Tabasco Sales Permit		\$ 75.00 \$	77.00
Taxicab Permit Fee - New		\$ 253.00 \$	260.00
Taxicab Permit Fee - Renewal		\$ 97.00 \$	98.00
Witness Fees per Gov. Code Sect. 68096-1 if City Employee subpoenaed	\$200/ day deposit + \$0.37 per mile	\$ 200.00 \$	206.00
Administrative Fee off Failure to Display Disabled Placards		\$ 25.00 \$	26.00
Firearms Seizure and Processing Fee	\$100/violation	\$ 100.00 \$	103.00
RV Public parking Permit Fee - Bona fide guest of Clayton Resident	\$25/permit	\$ 25.00 \$	26.00
RV Public Parking Permit Fee - Clayton Resident	\$0/permit	\$ -	
Solicitation Permit	\$207/permit	\$ 207.00 \$	213.00
Citation Sign off for correctable offenses - Non Resident	\$20/citation	\$ 20.00 \$	21.00
Citation Sign off for correctable offenses - Resident	no charge	\$ -	
Late Fee- Parking Violations	\$35/citation	\$ 35.00 \$	36.00
Suspended License	As established by City Ordinance		
Financial Responsibility (DUI)	As established by City Ordinance		

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
PUBLIC FACILITIES AND PARKS RENTAL FEES			
Library Meeting Room - Hoyer Hall			
Non profit (Non-Clayton Based)	\$42 / hour (anytime)	\$ 42.00 \$	43.00
Non- profit - Only Clayton Based	\$21 / hour (Mon-Thurs) \$50 max- up to 3 hours	\$ 21.00	\$22/hour \$51 max for up to 3 hours
Resident	per hour	\$ 52.00 \$	53.00
Nonresident or Commerical	per hour	\$ 63.00 \$	65.00
Commerical	per hour	\$ 400.00 \$	403.00
Deposit (far all) - clean up/damage - refundable	\$200 / rental	\$ 200.00 \$	200.00
Endeavor Hall Meeting Room			
Non profits- Clayton based and Non Clayton based Weekends	per hour Weekdays (Sun 5pm - Fri 5pm)	\$ 40.00 \$	41.00
	maximum weekday rental Clayton based non profit only	\$ 100.00 \$	103.00
Non profits- Clayton based and Non Clayton based Weekends	per hour Friday 5pm through Sunday 5pm	\$ 150.00 \$	154.00
Resident - Weekdays	per hour Sunday 5pm through Friday 5pm	\$ 100.00 \$	103.00
Nonresident or Commerical - Weekdays	per hour Sunday 5pm through Friday 5pm	\$ 120.00 \$	123.00
Commerical-Weekdays	per hour Sunday 5pm through Friday 5pm	\$ 150.00 \$	154.00
Resident - Weekends	per hour Friday 5pm through Sunday 5pm	\$ 150.00 \$	154.00
Nonresident or Commerical - Weekends	per hour Friday 5pm through Sunday 5pm	\$ 180.00 \$	185.00
Commerical-Weekends	per hour Friday 5pm through Sunday 5pm	\$ 250.00 \$	257.00
Deposit (all) - no alcohol or beer and wine only	reservation- clean up/damage per rental	\$ 500.00 \$	500.00
Deposit (all) - hard alcohol (distilled spirits)	reservation- clean up/damage per rental	\$ 1,000.00 \$	1,000.00
Reservation rental time change (same date)	less than 30 days prior to the event	\$ 35.00 \$	36.00
Reservation rental date change	less than 90 days prior to event	\$ 45.00 \$	46.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
City Hall 1st Floor Conference Room			
Non Profit (Clayton based or non clayton based non profits)	per hour	\$ 21.00 \$	22.00
Resident	per hour	\$ 26.00 \$	27.00
Non Resident or Commercial	per hour	\$ 32.00 \$	33.00
Commercial	per hour	\$ 52.00 \$	53.00
Deposit (all)	per rental - clean up/damage	\$ 100.00 \$	100.00
City Hall Courtyard			
Non Profit (Clayton based or non clayton based non profits)		\$ 42.00 \$	43.00
Resident		\$ 52.00 \$	53.00
Non Resident or Commercial		\$ 63.00 \$	65.00
Commercial		\$ 79.00 \$	84.00
Deposit (all)	per rental - clean up/damage	\$ 100.00 \$	100.00
Clayton Community Park and Related Facilities			
Picnic Areas			
Picnic Area #1 - Resident	flat fee for up to 4 hours	\$ 16.00 \$	16.00
Picnic Area #1 - Non Resident or Commercial	flat fee for up to 4 hours	\$ 21.00 \$	22.00
Picnic Area #2 - Resident	flat fee for up to 4 hours	\$ 16.00 \$	16.00
Picnic Area #2 - Non Resident or Commercial	flat fee for up to 4 hours	\$ 21.00 \$	22.00
Picnic Area #3 - Resident	flat fee for up to 4 hours	\$ 16.00 \$	16.00
Picnic Area #3 - Non Resident or Commercial	flat fee for up to 4 hours	\$ 21.00 \$	22.00
Picnic Area #4 - Resident	flat fee for up to 4 hours	\$ 37.00 \$	38.00
Picnic Area #4 - Non Resident or Commercial	flat fee for up to 4 hours	\$ 48.00 \$	49.00
Picnic Area #5 - Resident (6 separate areas)	flat fee for up to 4 hours - per table for 1 or 2 table rental	\$ 30.00 \$	31.00
	flat fee per additional table - 3rd table or more - up to 4 hours	\$ 20.00 \$	21.00
Picnic Area #5 - Non Resident or Commercial (6 separate areas)	flat fee for up to 4 hours - per table for 1 or 2 table rental	\$ 39.00 \$	40.00
	flat fee per additional table - 3rd table or more - up to 4 hours	\$ 26.00 \$	27.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
Picnic Area # 6 Resident (Large Group Area)	per day	\$ 250.00 \$	257.00
Picnic Area # 6 Resident (Large Group Area)	per hour - 4 hour minimum required	\$ 30.00 \$	31.00
Picnic Area # 6 Non Resident or Commercial (Large Group Area)	per day	\$ 325.00 \$	334.00
Picnic Area # 6 Non Resident or Commercial (Large Group Area)	per hour - 4 hour minimum required	\$ 43.00 \$	44.00
Picnic Area #5 & #6 Combined - Resident	per day	\$ 400.00 \$	411.00
Picnic Area #5 & #6 Combined - Resident	per hour - 4 hour minimum required	\$ 50.00 \$	51.00
Picnic Area #5 & #6 Combined - Non Resident or Commercial	per day	\$ 520.00 \$	535.00
Picnic Area #5 & #6 Combined - Non Resident or Commercial	per hour - 4 hour minimum required	\$ 65.00 \$	67.00
Picnic Area #7 - Resident	flat fee for up to 4 hours	\$ 40.00 \$	41.00
Picnic Area #7 - Non Resident or Commercial	flat fee for up to 4 hours	\$ 52.00 \$	53.00
Sports Fields			
Adult Field Rental	per hour	\$ 30.00 \$	31.00
Youth Field Rental	per hour	\$ 18.00 \$	19.00
Field Rental change of time same date	less than 7 calander days prior to use date	\$ 35.00 \$	36.00
Field rental change of date	less than 7 calander days prior to use date	\$ 45.00 \$	46.00
Field rental Cancellation	no refund less than 14 days prior to use	\$ -	

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
Grove Park and Related Facilities			
Entire Facility Security Deposits	events without food or beverage	\$ 1,500.00 \$	1,500.00
Entire Facility Security Deposits	events with food and beverage	\$ 1,800.00 \$	1,800.00
Entire Facility Security Deposits	events closing street (ie: either Main or Center etc)	\$ 2,180.00 \$	2,220.00
Special Event Permit/Application Process (non refundable)	events closing streets (Main or Center etc) + other permit fees:TUP/NP	\$ 250.00 \$	257.00
Gazebo only Rental Security Deposit		\$ 250.00 \$	250.00
Amplified Sound - damage/security deposit if using City sound equip		\$ 1,000.00 \$	1,000.00
Amplified Sound Equipment Use Fee (Noise Permit also required)	per hour	\$ 21.00 \$	22.00
City provided Sound Equipment Tech if needed for use of city equip	cost		
Entire Grove Park Facility			
Rental Entire Facility - Resident -- Weekends	per hour	\$ 150.00 \$	154.00
Rental Entire Facility - Resident -- Weekends	per day	\$ 1,200.00 \$	1,234.00
Rental Entire Facility - Non Profit (verification reqd) -- Weekends	per hour	\$ 150.00 \$	154.00
Rental Entire Facility - Non Profit (verification reqd) -- Weekends	per day	\$ 1,200.00 \$	1,234.00
Rental Entire Facility - Non Resident or Commercial -- Weekends	per hour	\$ 180.00 \$	185.00
Rental Entire Facility - Non Resident or Commercial -- Weekends	per day	\$ 1,440.00 \$	1,480.00
Rental Entire Facility - Commercial -- Weekends	per hour	\$ 250.00 \$	257.00
Rental Entire Facility - Commercial -- Weekends	per day	\$ 2,000.00 \$	2,056.00
Rental Entire Facility - Resident -- Weekdays	per hour	\$ 100.00 \$	103.00
Rental Entire Facility - Resident -- Weekdays	per day	\$ 800.00 \$	822.00
Rental Entire Facility - Non Profit (verification reqd) -- Weekdays	per hour	\$ 100.00 \$	103.00
Rental Entire Facility - Non Profit (verification reqd) -- Weekdays	per day	\$ 800.00 \$	822.00
Rental Entire Facility - Non Resident or Commercial -- Weekdays	per hour	\$ 120.00 \$	123.00
Rental Entire Facility - Non Resident or Commercial -- Weekdays	per day	\$ 960.00 \$	987.00
Rental Entire Facility - Commercial -- Weekdays	per hour	\$ 150.00 \$	154.00
Rental Entire Facility - Commercial -- Weekdays	per day	\$ 1,200.00 \$	1,234.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 Fee	Proposed FY 11-12 Fee
Gazebo Only			
Rental Gazebo only - Resident - Weekends	per hour	\$ 105.00	\$ 108.00
Rental Gazebo only - Resident - Weekends	per day	\$ 840.00	\$ 864.00
Rental Gazebo only - Non Profit (verification reqd) - Weekends	per hour	\$ 105.00	\$ 108.00
Rental Gazebo only - Non Profit (verification reqd) - Weekends	per day	\$ 840.00	\$ 864.00
Rental Gazebo only - Non Resident or Commercial - Weekends	per hour	\$ 126.00	\$ 130.00
Rental Gazebo only - Non Resident or Commercial - Weekends	per day	\$ 1,008.00	\$ 1,036.00
Rental Gazebo only - Commercial - Weekends	per hour	\$ 167.00	\$ 164.00
Rental Gazebo only - Commercial - Weekends	per day	\$ 1,256.00	\$ 1,294.00
Rental Gazebo only - Resident - Weekdays	per hour	\$ 75.00	\$ 77.00
Rental Gazebo only - Resident - Weekdays	per day	\$ 300.00	\$ 308.00
Rental Gazebo only - Non Profit (verification reqd) - Weekdays	per hour	\$ 75.00	\$ 77.00
Rental Gazebo only - Non Profit (verification reqd) - Weekdays	per day	\$ 300.00	\$ 308.00
Rental Gazebo only - Non Resident or Commercial - Weekdays	per hour	\$ 90.00	\$ 92.00
Rental Gazebo only - Non Resident or Commercial - Weekdays	per day	\$ 360.00	\$ 370.00
Rental Gazebo only - Commercial - Weekdays	per hour	\$ 112.00	\$ 116.00
Rental Gazebo only - Commercial - Weekdays	per day	\$ 450.00	\$ 463.00
Group Picnic Area (near tot lot)			
Group Picnic Area - Resident - Weekends	per hour 4 hour minimum	\$ 25.00	\$ 26.00
Group Picnic Area - Resident - Weekends	per day	\$ 175.00	\$ 180.00
Group Picnic Area - Non Profit (verification reqd) - Weekends	per hour 4 hour minimum	\$ 25.00	\$ 26.00
Group Picnic Area - Non Profit (verification reqd) - Weekends	per day	\$ 175.00	\$ 180.00
Group Picnic Area - Non Resident or Commercial - Weekends	per hour 4 hour minimum	\$ 30.00	\$ 31.00
Group Picnic Area - Non Resident or Commercial - Weekends	per day	\$ 210.00	\$ 216.00
Group Picnic Area - Commercial - Weekends	per hour 4 hour minimum	\$ 38.00	\$ 39.00
Group Picnic Area - Commercial - Weekends	per day	\$ 286.00	\$ 273.00
Group Picnic Area - Resident - Weekdays	per hour 4 hour minimum	\$ 20.00	\$ 21.00
Group Picnic Area - Resident - Weekdays	per day	\$ 160.00	\$ 164.00
Group Picnic Area - Non Profit (verification reqd) - Weekdays	per hour 4 hour minimum	\$ 20.00	\$ 21.00
Group Picnic Area - Non Profit (verification reqd) - Weekdays	per day	\$ 160.00	\$ 164.00
Group Picnic Area - Non Resident or Commercial - Weekdays	per hour 4 hour minimum	\$ 24.00	\$ 25.00
Group Picnic Area - Non Resident or Commercial - Weekdays	per day	\$ 192.00	\$ 197.00
Group Picnic Area - Commercial - Weekdays	per hour 4 hour minimum	\$ 30.00	\$ 31.00
Group Picnic Area - Commercial - Weekdays	per day	\$ 240.00	\$ 247.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
Plaza Picnic Area - per table			
Plaza Picnic Area - Resident - Weekends	per hour 4 hour minimum	\$ 25.00 \$	26.00
Plaza Picnic Area - Resident - Weekends	per day	\$ 175.00 \$	180.00
Plaza Picnic Area - Non Profit (verification reqd) - Weekends	per hour 4 hour minimum	\$ 25.00 \$	26.00
Plaza Picnic Area - Non Profit (verification reqd) - Weekends	per day	\$ 175.00 \$	180.00
Plaza Picnic Area - Non Resident or Commercial - Weekends	per hour 4 hour minimum	\$ 30.00 \$	31.00
Plaza Picnic Area - Non Resident or Commercial - Weekends	per day	\$ 210.00 \$	216.00
Plaza Picnic Area - Commercial - Weekends	per hour 4 hour minimum	\$ 38.00 \$	40.00
Plaza Picnic Area - Commercial - Weekends	per day	\$ 266.00 \$	273.00
Plaza Picnic Area - Resident - Weekdays	per hour 4 hour minimum	\$ 20.00 \$	21.00
Plaza Picnic Area - Resident - Weekdays	per day	\$ 160.00 \$	164.00
Plaza Area - Non Profit (verification reqd) - Weekdays	per hour 4 hour minimum	\$ 20.00 \$	21.00
Plaza Picnic Area - Non Profit (verification reqd) - Weekdays	per day	\$ 160.00 \$	164.00
Plaza Picnic Area - Non Resident or Commercial - Weekdays	per hour 4 hour minimum	\$ 24.00 \$	25.00
Plaza Picnic Area - Non Resident or Commercial - Weekdays	per day	\$ 192.00 \$	197.00
Plaza Picnic Area - Commercial - Weekdays	per hour 4 hour minimum	\$ 30.00 \$	31.00
Plaza Picnic Area - Commercial - Weekdays	per day	\$ 240.00 \$	247.00
FOUNTAIN OPERATION WITH GYSERS			
	per 48 hour event	\$ 324.00 \$	333.00
LIABILITY INSURANCE PURCHASED THRU CITY'S 3rd PARTY CARRIER			
Special Event Liability Insurance purchased thru City's 3rd party carrier	insurance cost per schedule rates by insurance provider		
Special Event Liability Insurance Administrative Fee	when purchasing insurance thru City 3rd party carrier	\$ 30.00 \$	31.00

**CITY OF CLAYTON
FEE SCHEDULE 2011-2012**

DEPARTMENT	City of Clayton Fee Schedule	FY 10-11 fee	Proposed FY 11-12 Fee
ADMINISTRATIVE FEES			
Document Copying (10 pages or less)	no charge	\$ - \$	
Document Copying (more than 10 pages)		\$ 0.21 \$	0.10
Trail Maps		\$ 2.00 \$	2.00
Audio Recordings of Meetings	\$20 refundable deposit if using city provided flash drive	\$ 20.00 \$	21.00
Printed documents (ie: general plan, budget, zoning ord, etc)	cost	\$ 253.00 \$	260.00
Video Recordings of Meetings	cost	\$ 97.00 \$	100.00
FPCC Document Copying	\$.10/page (per State Law)	\$ 0.10 \$	0.10
Notary Public Fee -	\$10/document (per State law)	\$ 10.00 \$	10.00
Business License initial registration fee - New Business		\$ 56.00 \$	58.00
Business License renewal registration - all Businesses including exempt		\$ 25.00 \$	26.00
Return check service charge	\$25/check return (per state law)	\$ 25.00 \$	25.00
Late Payment Charges for Administrative Fines	10% of original fine for every 30 days or portion thereof. Not to exceed 100% of the original fine.		
Street Closure Fee		\$ 100.00 \$	103.00
Administrative penalty for City issued permits after the fact (encroachment permit: tree removal permit, etc) are double the original permit fee new		new \$	double the original permit
Code Enforcement non-compliance re-inspection after the first inspection (in addition to any citation fines)			30.00
NOTES			
Time means the cost per hour for an employee as determined each July. The determination is based upon salary, benefits, overhead and overtime.			
Time also means City Engineer billing (plus 15%), as well as costs of other contracts and expenses.			
Audio recordings are kept for 30 calendar days after the minutes are approved.			
Cost: means the cost of materials, labor and supplies.			
Deposits: Deposits are required upon submittal of an application. A minimum deposit is stipulated by these fees. At his/her discretion the City Manager can reduce the required deposit.			
Also if in the judgement of staff a minimum deposit is not sufficient the required deposit may be increased.			
If, after a deposit is made, more funds are needed the applicant will be notified when about 30% of the deposit remains.			
If a development project requires multiple applications, only a single deposit shall be required. In such cases, the amount of the deposit shall be the largest single deposit required by any of the applications, or an amount determined by the City Manager, not to exceed the sum of the deposits.			
All fixed-cost development application fees are refundable based upon the City amount of staff work completed on the process of the application and subject to approval by the City Manager.			



Agenda Date: 8-16-11

Agenda Item: 9F

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: AUGUST 16, 2011

SUBJECT: CONTINUED DISCUSSION TO CONSIDER THE ESTABLISHMENT OF A REWARDS PROGRAM FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF PERSON(S) RESPONSIBLE FOR VANDALISM TO CITY FACILITIES, ASSETS, & PROPERTY; AND TO CONSIDER INSTALLATION OF SECURITY CAMERAS

RECOMMENDATION

Accept the staff report and hold a public discussion to consider establishing a monetary rewards program for information leading to the arrest and conviction of person(s) responsible for committing acts of vandalism to City facilities, assets, and property. In addition, discuss and consider installing security cameras as an alternative to address vandalism to select City owned property.

BACKGROUND

At its meeting of June 7, 2011, the City Council conducted a public discussion to consider establishing a monetary rewards program for information leading to the arrest and conviction of person(s) responsible for vandalizing city facilities, assets, or property. During the discussion, staff reported that several other cities have established reward programs for information leading to arrests and conviction of suspects in vandalism cases. The degree of success of those programs varied from low to moderate. In addition, staff reported the *California Government Code* provided cities the authority to recover certain operational costs associated with monetary rewards programs. However, it was not clear during the discussion if a convicted suspect could also be held responsible for reimbursing the City for the actual monetary reward paid to the witness, or witnesses.

During the discussion, staff also reported on the recent success of the Middle School's security cameras. The school's security system was able to record the illegal activity of

vandals damaging school property. As a result, valuable information was available to both the school administrators and the police, which led to the identity of the suspects responsible for the acts of vandalism. Because of their security system, the vandalism suspects will be held accountable, both criminally and civilly.

At the conclusion of the public discussion, the City Council directed staff to return, at a future City Council meeting, with further research to continue the public discussion. Specifically, the City Council wanted staff to report on the legality of recovering the monetary reward from the convicted suspect in vandalism cases. In addition, staff was also directed to report on the feasibility and the costs associated with the installation of a security camera system on City owned public property to address vandalism.

CONTINUED DISCUSSION-REWARDS PROGRAM

Staff contacted the City Attorney to determine whether a suspect can be held liable for the amount of a reward paid to a witness in a vandalism case involving city property. The City Attorney indicated that Section 53069.5 of the *California Government Code* outlines the authority to recover the amount of the reward from the parents of a minor who is responsible for causing damage to public property. However, this section does not include an attorney's fee recovery provision and if the parents decline to pay, then it would cost more to recover the reward than it is worth.

Since the June 7th City Council meeting, there have been no reports made to the Police Department involving vandalism incidents to city owned property. This might be the result of recent articles and messages provided to the community about the negative aspects of vandalism, etc. In addition, staff also tried to contact officers from other police agencies listed in the staff report of June 7th. Although staff was not able to talk directly with officers in charge of their city's rewards program, the general feeling among their support staff was that very few rewards were actually paid out and, in their opinion, the rewards program was not a major factor in preventing vandalism in their cities.

If a rewards program is approved, staff would coordinate with the City Attorney and Finance Manager to properly establish and set-up the rewards program for information leading to the identity and arrest of a person who is responsible for damaging city owned property.

SECURITY CAMERA DISCUSSION

In order to evaluate and determine the suitability of a security camera system for placement on city owned public property, staff contacted three security firms for information and cost estimates for installing security systems. The three security firms who provided information and cost estimates are listed as follows:

- ADT, Government Solutions, 4511 Willow Road, Suite 8, Pleasanton, CA 94588. This company submitted a proposal for a network based security camera system, which is included as Attachment A.
- California Fire Life Safety Systems (CFLSS), 3090 Teagarden Street, San Leandro, CA 94577. This is also a network based wireless security camera system. CFLSS proposal is included as Attachment B.
- AHM Security, 2300 B Stanwell Drive, Concord, CA 94520. Alarm Company. This is company specializes in network based hardwire security systems. This security firm was unable to provide a proposal as of this date.

Since the last meeting, staff from both Police and Maintenance Departments met with representatives from the three security firms on three separate occasions. The meetings took place at The Grove Park and the Endeavor Hall parking lot and included discussions on vandalism issues and which type of security system would be the best fit for Clayton's needs. After the onsite visits, and subsequent site surveys, both ADT and CFLSS security companies felt that a network-based wireless system was the most practical and would provide the best protection for city owned property and facilities. Both companies did not recommend a network based hardwire system. The primary reasons were installation costs, which would include digging trenches to accommodate cables. The two security firms provided cost estimates, listed above.

Since AHM did not provide a proposal or cost estimate, staff only reviewed the proposals submitted by ADT and CFLSS security companies. Both companies will offer network-based wireless security systems. The primary advantage of wireless systems over hardwire systems is the accessibility of a large amount of digital information via the Internet, from remote work stations. A wireless system's infrastructure requires only a point-to-point view with no obstructions that would block the signal between the cameras and a receiver at the recording device. There would be no requirement for in-ground cables or wires. Once installed, a wireless system could be expanded to other locations in the future, at minimal costs.

The primary disadvantage of a hardwire system is a limited amount of digital information that can be carried on the digital subscriber line (DSL). In addition, each camera location would require its own separate system, connected by hardwire, requiring trenching for the cables or wires to support the security system at each location.

Staff compared the two different proposals and quickly determined the ADT proposal provided the most comprehensive and complete offering that included design, equipment descriptions, installation strategy, and support for the system once the system was in place. ADT's security system has the capability to record activity in very low light applications and record very clear digital images, increasing the likelihood for suspect identification. On the other hand, the proposal submitted by CFLSS was not as complete or as comprehensive. Their security system proposal also includes less sophisticated equipment and two fewer

cameras with a lower pixel count that are not as sensitive to low light applications. In addition, CFLSS would require help from Clayton's Maintenance staff to install three poles during the installation phase. ADT's proposal does not necessitate the City Maintenance's participation. When taking into account these factors, the cost estimates submitted by both contractors would be about the same. Cost estimates are included in Exhibits A & B.

SUMMARY & CONCLUSIONS

As a result of staff's investigation into a rewards program and a network-based wireless security system utilizing cameras, staff concludes a security camera system is the most effective way in which to address vandalism to these two City properties, or any other criminal activity that might occur. However, staff recognizes the high costs to install and maintain a network-based wireless security system that is capable of recording criminal activity in high enough resolution for law enforcement purposes is prohibitive in today's stressed revenue times. Staff also realizes that spending an exorbitant amount of taxpayer dollars in order to address and prevent a relative few number of minor misdemeanor vandalism cases and damage expense may not be the most prudent use of limited funds.

Despite lukewarm support by officers of the police agencies with monetary rewards programs, staff believes the rewards program may be the least expensive way in which to address the city's vandalism issues when they occur as well as provide a deterrent.

Since there have been no recent reported vandalism cases involving City property, another strategy might be to adopt a status quo approach and take enforcement action when necessary. In any event, staff requests the City Council provide policy direction in this regard.

FISCAL IMPACT

1) Rewards Program. Fiscal impact is unknown at this time. However, if a rewards program is approved, staff would recommend a reward of up to **\$1,000** to witnesses who provide information leading to the successful resolution of each vandalism case to City facilities, assets, or property. A successful resolution would require the suspect(s) to pay for the damage they caused, as well as reimbursing the City for all costs associated with the vandalism case, including the amount of the reward.

2) Security System. If installation of a security camera system is authorized, the fiscal impact would be dependant on the contractor chosen as follows:

- ADT Proposal: a) cost to lease would be: **\$37,496 + \$344 per month**. b) out-right purchase cost is: **\$54,232**.
- CFLSS Proposal: out-right purchase is: **\$36,755**.

3) No fiscal impact if status quo is adopted.

Attachments: Exhibit A: ADT Proposal.
Exhibit B: CFLSS Proposal.
Exhibit C: Staff report of June 7th, 2011.

Video Surveillance System - Wireless

ADT[®] Commercial Security Solutions Proposal

Company: City of Clayton Police Department

d/b/a:

Company Contact: Tim Marchut

Contact Phone Number:

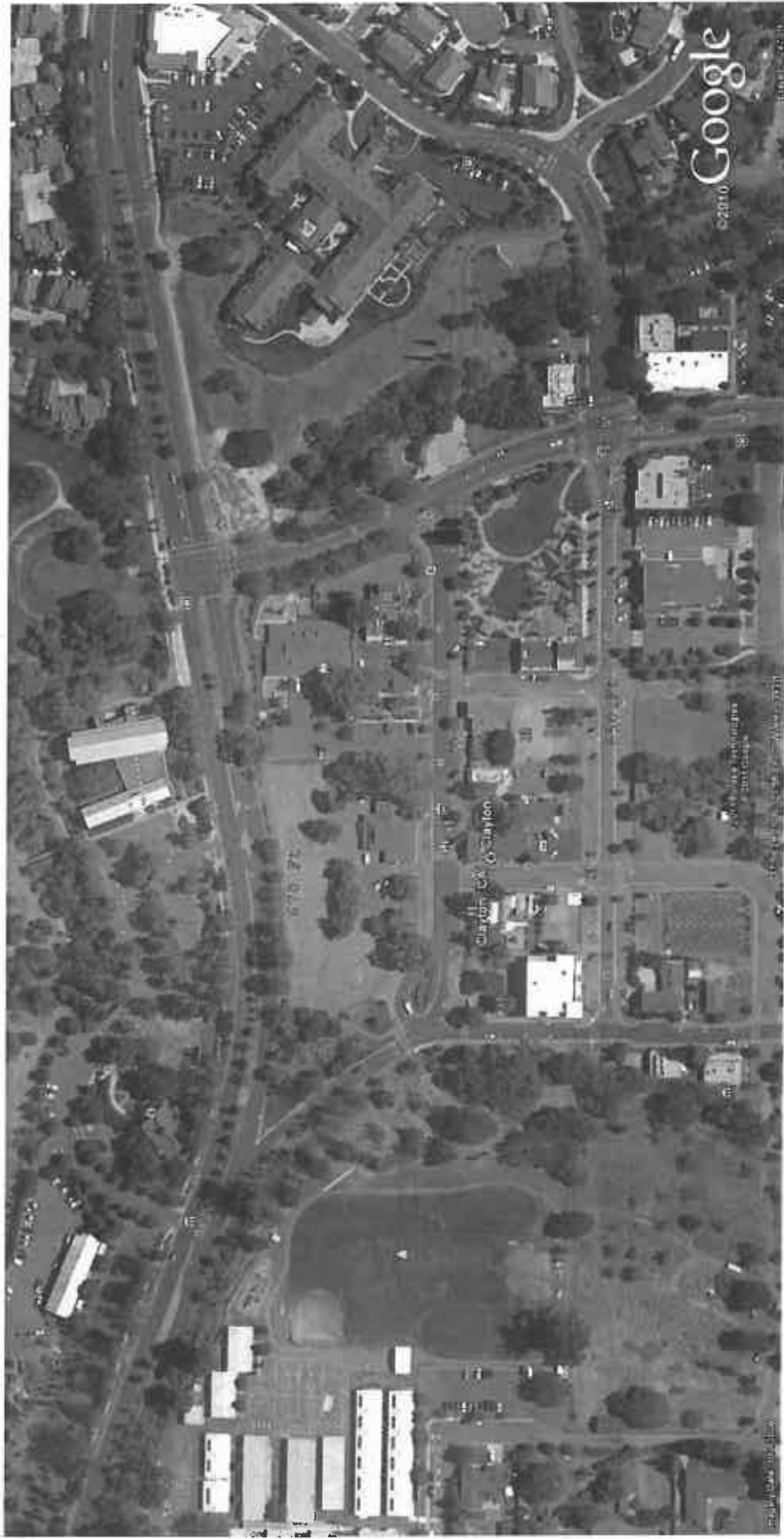
Site Location(s): 6000 Heritage Trail,
Clayton, CA 94517

Sales Representative: David Johnson

Sales Rep Phone Number: (925) 998-7509

Date: 7/12/2011

This [ADT Commercial Security Solutions Proposal] (the "Proposal") contains ADT proprietary and business confidential information and may not be shared with third parties without the prior written consent of ADT. ADT's provision of the equipment, systems, and/or services described in this Proposal is expressly conditioned upon Company's acceptance of the terms and conditions of the standard ADT Commercial Sales Agreement posted on www.adt.com/standtandc. The system design and specified equipment are subject to final approval by your local fire department or other authority having jurisdiction. This Proposal is valid for a period of sixty (60) days from the above date and any deletions or additions to this Proposal may result in changes to the pricing and/or terms and conditions.



Camera - 180 Degree View

Camera - 360 Degree View

Camera - 90 Degree View

Wireless 50 Mbit/sec link

Wireless Backhaul 300 Mbit/sec link

ADT® Overview

ADT's Business Security solutions are more than just burglar and fire alarms.

We understand your business security is important now more than ever before, and we want to help. Once we understand your business security concerns, we can draw from a broad range of technologically-advanced security solutions including video surveillance, electronic access control, full-facility intrusion and fire alarm monitoring and intercommunication to help you meet your business security needs. These are just a few of the security solutions that ADT can offer you to help you meet your changing security needs.

Part of ADT's value-added services is to help you identify areas of concern and potential vulnerabilities in your business and offer security solutions to help you protect your employees, your assets and yourself.

Below, ADT illustrates examples of our security solutions that we can offer you to help Deter, Detect and Document security events at your business.

BUSINESS OPERATIONS ISSUES	What Are the Areas of Concern?	What Are the Security Solutions?	Who's Involved?
	Fire/Life Safety Theft Robbery/Holdup Swatting Vandalism Burglary Vendor Fraud	Intrusion Detection Fire/Life Safety Video Surveillance Electronic Article Surveillance Remote Video Guard Tours Electronic Access Control RFID	CEO Director of Security Human Resources Owner Safety Director
	Productivity Efficiency Cost Controls Customer Service	Video Surveillance Remote Video Guard Tours Video Auditing Interactive Video RFID Intercom Systems Electronic Access Control	CFO CMO COO Line Managers Operations & Logistics
	Workplace Violence Premises Liability Slip & Fall Harassment Drugs in the Workplace Intellectual Property Sabotage/Industrial Espionage Business Interruption	Video Surveillance Remote Video Guard Tours Electronic Access Control Fire/Life Safety Emergency Evacuation Systems	CEO COO CFO CRO CIO Human Resources Legal President Security Officer

About ADT®

With more than 130 years of experience, over 200 sales and service offices nationwide and more than 20,000 company trained professionals, ADT provides security products and services that help make your job easier. We can help you customize a security solution that meets your business security needs and we offer 24/7 monitoring by trained ADT Professionals to watch over the things that are most important to you, even when you can't. ADT trained installers have been applying and installing emerging technologies that are scalable and capable of integrating into other products and security solutions for a wide range of Customers. So, whether your organization is big or small, we offer high quality, affordable and flexible security solutions to help you protect your employees, your assets and your bottom line.

ADT's services go beyond the installation of security systems.

ADT is **SAFETY Act** certified and designated for Electronic Security Services from the U.S. Department of Homeland Security. In addition, ADT was awarded the **National Joint Powers Alliance®** contract for Facility Security Equipment, Systems and Services with Related Equipment, Supplies and Accessories to make Security Equipment, Systems and Services Available to Government, Education and Non-Profit Agencies in North America.

Through community service, ADT stays actively involved in each of the many communities we serve.

- We're a local company, with offices in 200 communities throughout North America. That's why community service is so important to us.
- ADT created the Abused Women's Active Response Emergency program (AWARE®) to help protect victims of domestic violence.
- We teamed up with The National Volunteer Fire Council (NVFC) and The American Kennel Club (AKC) in a proactive effort to help save the estimated 500,000 pets affected in home fires each year.

The ADT Always There® Promise

- Sales - Single-source products and services from over 200 sales & service offices nationwide
- Installation - Quality, on-time installation
- Service - A nationwide team of service personnel and Quality Service Plans
- Monitoring - 24/7 monitoring by trained ADT Professionals in four (4) interconnected monitoring facilities
- Billing - Billing cycles to meet your needs

Service Plans

ADT understands that, like the rest of your business, your operational efficiency is an area of concern and needs protection. That's why we offer service solutions that can help you manage your business better.

Monitoring Service:

- 24 hour monitoring by trained ADT Professionals
- Network of four (4) interconnected monitoring centers with built-in back up systems
- Multi-tiered disaster preparedness procedures for virtually uninterrupted monitoring service

Technical Support: We offer 24-hour technical support for our customers

Quality Service Plan: Maintenance coverage for potential unexpected repair costs

Preventative Maintenance/Inspections: Prescheduled service inspections

Training: Hourly rate for hands-on training on products and services

Parallel Protection[®]: Back-up communication in the event your phone lines fail

ADT[®] SelectSM DataSource: 24/7 secured Web access to your ADT account activity to help you manage your security events

ADT[®] SelectSM Entry: Online Web service that allows multiple card access systems to be administered through a single interface

ADT[®] SelectSM Vision Remote Guard Tours: Remote video surveillance security guard tours by ADT Special Operations Team with Web-hosted reporting services

ADT[®] SelectSM Vision Video Auditing Service: Remote video analysis of customer defined business, operational, and security procedures with weekly compliance reporting

ADT[®] Select LinkSM: Web-based technology that can help broadcast messages in emergency situations to telephones, cell phones, e-mail, digital pagers, fax machines, and wireless PDAs

Interactive Video Monitoring: Remote video monitoring of business activity by ADT monitoring centers

ADT Technologically Advanced Security Solutions

Technology has emerged that offer unmatched ease of use and functionality of products as well as robust services. ADT offers installation and maintenance of technologically advanced security solutions.

Fire and Safety Systems

ADT Fire and Life Safety systems help protect businesses against more than just flames. We also offer carbon monoxide detectors, blast mitigation solutions, and other detection security solutions.

Video Surveillance

ADT® Video Surveillance systems are a strong deterrent to help you monitor internal and external theft and fraud within your business. From digital recorders, to networked video solutions, to touch screen systems, and a variety of system monitors, ADT Video Surveillance systems allows you to monitor multiple areas of your facility.

Electronic Access Control

Electronic Access Control solutions from ADT help you monitor and restrict access to sensitive or private areas within your business, no matter the size. Access Control provides assistance with workplace safety plans, expensive re-keying, and restriction to sensitive or private areas.

Intrusion Detection Systems

ADT® Intrusion Detection systems help you protect your company from robbery and larceny. At an additional cost to you, you can add hold-up, panic and critical condition signal monitoring services to give you peace of mind. ADT Always There®

Monitoring Services

24 hour monitoring by trained ADT Professionals because your security is our #1 concern.

ADT® SelectSM DataSource

ADT Select DataSource can help you manage your security system. Services including system activity, remote video and access control management details available on the Web.

ADT Preferred Services

You can customize the security solutions and services your business needs. This allows you to stay within budget while providing the safety and security you want and require.

ADT Advanced Integration

From loss prevention to operations to risk management, ADT Advanced Integration takes total security management planning to a new level to help you meet the needs of your business. Utilizing advanced security technologies that interface with IT networks; we are committed to supporting and managing large-scale integrated solutions for today's most complex security challenges.

RFID (Radio Frequency Identification)

ADT's RFID security solutions are efficient, modular and flexible. Features include item identification and people counting. This security solution is ideal for retail businesses.

Electronic Article Surveillance

ADT® Electronic Article Surveillance System can be an effective anti-shoplifting technology with visible and discreet cameras for flexible coverage.

ADT® Anti-Skim ATM Security Solutions

ADT Anti-Skim ATM Security Solutions help reduce ATM crime and fraud losses associated with ATM skimming by helping to deter card-skimming attempts and detecting the presence of skimming devices. The technology works on most major ATM models and can integrate seamlessly with security systems such as intrusion detection alarm panels and video surveillance DVRs for more effective, layered ATM security.

ADT Customer Proposal

Part of our job at ADT is to help you identify areas of concern for your business and offer security solutions and services that can help you protect your employees, your assets and yourself. One of the ways to leverage your electronic security system is by integrating it with additional security solutions and services, such as video surveillance combined with electronic access control, intrusion detection and fire and life safety.

As the nation's leading electronic security services provider, ADT can offer your company a comprehensive range of products and services that can help you meet your growing security needs. As security systems become more sophisticated, you can be assured that ADT will continue to offer you unparalleled service and superior integrated business security solutions.

Whether you are concerned about risk management, business operational management or loss prevention, this information should help you understand some of the ADT products and services available and what solutions can work best for your company. If you would like additional information, please ask your ADT Account Executive today.

Ownership

ADT makes it affordable to install the right security system. Choosing security for your business at a price you can afford can be challenging. ADT can help.

ADT Owned Option allows you to reduce the up-front cash requirements needed to install new security system and, at the same time, keep your monthly cost low.

Installation Investment Package:	\$37,496.19	
Total Monthly Payment Including Preferred Services:	\$343.92	/Month

*Loans are made by an independent entity to qualified ADT customers and are subject to completion of a credit application. Please contact your ADT sales representative for further details. All terms subject to credit approval and availability, and are subject to change without notice. Certain restrictions may apply. Cannot be combined with any other financing offer.

License Information: AL Alabama Electronic Security Board of Licensure, 7956 Vaughn Rd., Montgomery 36116, (334) 264-9388: AK 256239, 5520 Lake Otis Pkwy., Anchorage, AK 99507: AR E0055, Regulated by Arkansas Bd. of Private Investigators & Private Security Agencies, #1 State Police Plaza Dr., Little Rock 72209, (501) 618-8600: AZ ROC109396-C12; ROC109402-L67: CA ACO4227; PPO12949; 707408; Alarm company operators are licensed and regulated by the Bureau of Security & Investigative Services, Dept. of Consumer Affairs, Sacramento, CA 95814: DC 39703010: FL EF0001121,-0950,-1123-0478,EF20000341,-0413, EG0000164: GA LVA205374, -205386, -002833, -001438 -003379,-004452,-205572, LU001160: HI C27996: IL 127-000364: MA 45-C: MI A-0639, 3601202182 - 4182 Pier North Dr. Ste. D, Flint, MI 48504: MN TS00021: NV 0040091: NM 058126: NY 12000025576, Licensed by NYS Dept. of State: NC 846-CSA-Alarm Systems Licensing Bd., 1631 Midtown Pl., Ste.104, Raleigh, 27609 (919) 875-3611: OH 16782, 50-18-1052; 50-57-1034; 53-89-1329; 53-31-1582; 50-50-1019; 50-48-1032; 50-25-1050; 50-76-1025: OK 00067: OR 59944: RI AFC0126; 18004: TN ACC-216,-241,-255,-773,-173,-937,-294,-748,-511,-934,-1227: TX B00536-140 Heimer Rd. Ste. 100, San Antonio, TX 78232 - Texas Private Security Bureau, 5805 N. Lamar Blvd., Austin 78752: UT 297869-6501: VA 11-1878; 11-1879; 11-3247; 11-3635; 11-3863; Alarm Security Contracting 2701-035978A exp. 01/31: WA ECO6 ADTSESI03205, 11824 N Creek Pkwy. #105, Bothell, WA 98011: WV 014142.

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Outright Sale Option provides your business with ownership of the electronic security equipment upon purchase.

Installation Investment Package:	\$54,231.80	
Total Monthly Payment Including Preferred Services:	\$0.00	/Month

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Additional Information

SCOPE OF WORK

Contact Information:

Sgt. Tim Machut

System Operation:

Wireless (Proxim) video system for various City properties and monitored at the PD office.

Programming Info:

Program for motion detection recording and also with a single image captured on all cameras every one (1) minute that will demonstrate that the cameras are working during times of inactivity.

Program two local PCs with ability to observe camera systems. Use the Exacq Client software for this purpose.

Program Administrator password and Client User passwords based on Customer request.

Site Conditions:

No existing video. Cameras are to be pole mounted or wall mounted and wirelessly transmitted data relayed from the Park IT Closet to the PD offices.

Existing Equipment:

None

Customer Expectations:

Ability to view video in realtime and post-recorded from various locations as shown on drawing.

Training Expectations:

Full training on Administration and operation of Video Management System (VMS), camera tuning, searching video, burning video clips or stills to DVD, CD-ROM, USB drives and memory units.

Train Exacq Client users on use of the video system functions available to them.

General Comments:

Customer Responsibilities / ADT Exclusions:

Provide access to locations where equipment will be installed. Provide any necessary high voltage line power.

Documentation Needs:

All equipment manuals, user guides, cut sheets, camera layout drawings and IP configuration records.

ADT Proposed List Of Equipment

Group				
Item	Qty	Device#	Description	Total
1	38	Regular Labor	Regular Labor	\$5,320.00
2	1	Profile Codes	Profile Codes	\$0.00
3	1	10	Connection - None	\$0.00
4	1	10	Transmission - None	\$0.00
5	1	10	Account Management - None	\$0.00
6	1	10	Guard Response and Training - None	\$0.00
7	1	25	System - Closed Circuit Television	\$0.00
8	1	60	Closed Circuit Television PROVIDED	\$0.00
9	1	10	No Services Selected	\$0.00
10	1	TO BE INSTALLED:	TO BE INSTALLED:	\$0.00
11	1	NSI Product	IPS-6000-R2 Exacq 2U Rackmount IP, 30ips/channel. 6.0 TB Video NVR Server	\$8,772.14
12	1	NSI Product	5000-40100 Exacq Redundant Power Supply for 4U Rackmount Systems	\$1,353.24
13	1	NSI Product	5000-40310 Exacq Dual Xenon + 2GB additional RAM	\$718.20
14	1	NSI Product	5000-40140 Exacq Dual NIC Option = 2U IPS Servers, all 4U IPS Servers	\$143.64
15	12	NSI Product	SSA-EVIP-01 ExacVision VMS Annual Upgrade License/Camera	\$486.00
16	6	NSI Product	EVP-01 Exacq Vision NVR Camera License	\$1,170.00
17	1	NSI Product	IQ855V6NPSS IQeye Sentinel 5MP All-Weather D/N Camera, Telephoto Varifocal	\$2,719.98
18	2	NSI Product	IQ855V7NPSS IQeye Sentinel 5MP All-Weather D/N Camera, Wide Varifocal	\$5,504.76
19	2	NSI Product	IQ800-PMA IQeye Pole Mount Adapter, 4 to 14" Pole	\$320.76
20	2	NSI Product	AV8365DN 8MP H.264/MJPEG 360° Camera, 4 x 4mm MP Lens, D/N Indoor/Outdoor	\$6,184.00
21	1	NSI Product	AV8185DN 8MP H.264/MJPEG 180° Camera, 4 x 8mm MP Lens, D/N Indoor/Outdoor	\$3,092.00
22	3	NSI Product	DOME6-O-C - Outdoor 6" Ceiling Mount (pendant style),HB 24VAC .8W, Sunshade	\$2,293.92
23	3	NSI Product	Steel Pole for Pendant Mounted Surround cameras	\$60.00
24	2	NSI Product	VCS-CSQ Veracity CamSwitch Quad Switch (5 port, 4 PoE)	\$777.60
25	2	NSI Product	VQ-24V-US Veracity Quad Power Supply 24V	\$103.68
26	1	NSI Product	Q18138PCE Hoffman Screw-Cover, Type 4X, Gray 5.83x5.83"ID	\$119.14
27	150	741223	12/1c, SOL, Unshielded, THHN, Non-Plenum, Green, 500' Reel	\$48.50



28	8	Conduit	Conduit	\$80.00
29	1	QB-8150-LNK-US	Tsunami QB 8150 Link, 300 Mbps, 5.8 GHz (Two QB-8150-EPR-US)	\$5,150.46
30	4	NSI Product	QB-8150-LNK-50-US Tsunami QB 8150 Link, 50 Mbps, MIMO 2x2, 16 dBi Integrated antenna - US	\$18,135.36
31	2	NSI Product	Tesco Stand Off Brackets w Mast	\$720.00
32	10	NSI Product	ETH-SURGE-1G Gigabit surge protector for PoE with shielded RJ45	\$1,706.40
33	1	NSI Product	L4-24X7-EN-SP-1 1-Year 24x7 Enhanced ServPak (LVL-4)	\$1,220.40
34	4	NSI Product	L2-24X7-EN-SP-1 1-Year 24x7 Enhanced ServPak (LVL-2)	\$1,814.40
35	1	Lift Rental (Non-Production Only)	Genie Z-boom Lift 30' Rough Terrain 2WD (fuel).	\$490.00
36	1	Install Training	Install Training	\$0.00
37	1	Programming	Programming	\$0.00

Installation Charges

*Estimated Total - Material	\$62,694.57
*Estimated Total - Labor	\$5,320.00
*Estimated Total - Other	\$490.00
*Estimated Total Installation Charge	\$68,504.57

Annual Service Charges

*Estimated Monthly Service Charge	\$0.00
*Estimated Annual Service Charge	\$0.00

*Tax is not reflected in above totals



August 4, 2011

City of Clayton
Police Department
Sergeant Tim Marchut
6000 Heritage Trail
Clayton, CA 94517-1250

Dear: Sergeant Tim

Thank you for allowing us the opportunity to submit a proposal to install a wireless camera system for your Police Department.

We recommend the following central components:

- Install a mini-dome 3-9mm camera in each of the outdoor Gazebo type structures for a total of two cameras.
- Install a PTZ (pan and tilt camera) on a pole provided by customer located by the restrooms, looking out at the park.
- Install a mini dome camera on the light pole at the corner of Center and Oak Street looking at the endeavor front door area.
- Install a mini dome 3-9 camera at the back of the endeavor building on a light pole on Diablo Street.
- Install a repeater on a light pole on the corner of Center and Diablo; this is necessary as the camera on light pole (center & oak) does not have a clear line of sight back to the police station.
- All cameras will utilize Trango receivers/transmitters mounted on them for transmission; we believe two additional poles should be installed in the park by the gazebo for the best results and is generally recommended for government agencies.
- All cameras will need a step down transformer of 110 outlet to be provided by customer.

Address	Installation Investment	Monthly Maintenance If needed
Wireless Cameras	\$36,755.54*	\$362.00* MONTHLY

* Includes taxes

In considering CFLSS maintenance agreement it will include the following

- REPLACEMENT OF CAMERAS IN THE EVENT OF FAILURE
- 24-HOUR MAINTENANCE – 24/7/365
- ONCE A YEAR CLEANING.
- CUSTOMER SERVICE REPRESENTATIVE
- MAINTENANCE EXCLUDES VANDALISM OR THEFT
- 3-HOUR EMERGENCY SERVICE RESPONSE

As you know, we're a national company, with a local presence. That's how we can provide you with the fastest, most responsive service.

If you should have any questions regarding our proposal, please contact me at (510) 537-1122, x-203. We look forward to the opportunity to be of service.

Sincerely,

Kenneth Berry
Vice President and Regional Manager
Sonitrol/CFLSS



Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: June 7, 2011

SUBJECT: DISCUSSION TO CONSIDER THE ESTABLISHMENT OF A REWARD PROGRAM (UP TO \$1000 EACH OCCURRENCE) FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF PERSON(S) RESPONSIBLE FOR VANDALISM TO CITY FACILITIES, ASSETS, AND PROPERTY

RECOMMENDATION

Accept the staff report and conduct a public discussion to consider establishing a reward program for information leading to the arrest and conviction of person(s) responsible for committing acts of vandalism to city facilities, assets, and property. After receiving the report, provide direction to staff.

BACKGROUND

The Grove Park and Endeavor Hall parking lot have now been in use for approximately two years and both facilities have proven to be valuable resources for the community to enjoy. For example, the Endeavor Hall parking lot has provided additional parking for community events, while The Grove Park provides a beautiful central gathering spot in the downtown for visitors of all ages. Unfortunately, both locations have occasionally suffered from acts of vandalism, as well as littering.

Although not all minor acts of vandalism (or littering) are reported to the police department, there have been forty-one acts of vandalism reported to the police department since June 31, 2010. Twelve of these vandalism reports were for damage to publicly owned structures. The two most recent vandalism reports were for graffiti sprayed onto the newly constructed play equipment located in Lydia Park; and secondly, several railing slats were broken out of the Grove's gazebo. This type of damage is consistent with what a typical youthful vandal would cause when vandalizing property, not their own. These types of crimes most often

occur after dark, when other people are not around to witness the suspect's illegal activity. Presently, the police department has no information or suspects in any of these cases.

DISCUSSION

The purpose of this staff report is to provide the City Council an opportunity to discuss the value of monetary rewards in order to address vandalism to city property. Most cities have used monetary reward programs, of some sort, in order to encourage a reluctant public to provide information on many types of serious crimes. Several local cities, like Richmond, Hayward, and San Francisco, have persistent graffiti problems. As a result, they have established reward programs for information leading to the identification and conviction of suspects in gang related graffiti crimes that occur in their jurisdictions. In Southern California, both Los Angeles and Riverside have established monetary reward programs to address their graffiti problems. The previously mentioned cities offer rewards for up to the following amounts for each occurrence:

- City of Richmond \$200.
- City of San Francisco \$250.
- City of Hayward \$500.
- City of Los Angeles \$1000.
- City of Riverside \$1000.

The vandalism issues occurring in these urban environments appear to be of a greater magnitude or scope than the type of vandalism that is occurring in the City of Clayton. However, Clayton residents are very proud of their public facilities and have recently voiced their displeasure about the damage that a few vandals have caused to city owned property. Regular police patrols have not been able to completely prevent occasional acts of vandalism to city property. Currently, when acts of graffiti occur to city property, a police report is written and photos taken of the damage. After the report is completed, city maintenance staff immediately removes the graffiti. As a result, city staff has diverted valuable and limited resources away from other projects and budgeted uses in order to repair and restore the facilities to their full use.

Because there are usually no witnesses to these crimes, police staff has very little evidence to identify the responsible parties. Maybe it is time for the City Council to consider a different strategy in order to enlist help from the public in reducing this type of crime. The primary goal of any vandalism reward program would be to increase the city's ability to arrest vandals and reward witnesses who report these types of crimes.

If the City Council established a local reward program to address Clayton's vandalism problem, it might encourage witnesses to contact the police department and provide valuable information that would assist in the investigation. Useful information would include names and description of suspects, when and where the vandalism occurred, and anything else that would assist the police in their investigation.

In order to be eligible for the monetary reward, the witness information would need to lead to the identity of a suspect(s), apprehension, conviction, or otherwise the adjudication of the case. The suspect(s) would be held accountable for the damage they caused, pay for the repairs, and reimburse the city for all costs associated with the vandalism investigation. These costs could include reimbursing the city for the reward that was paid out. Suspect(s) could also perform "community service" as an alternative accountability measure.

In order to gauge the success of the reward programs that each of the cities listed above offer, staff contacted each city (or left a voice message). However, only a detective from the Hayward PD was able to provide information about their reward program. The detective said that their reward program has been in place for approximately four years and they average approximately one reward per year. When asked if the program has reduced the incidence of vandalism in their city, the response was lukewarm. Despite this information, staff feels that a reward program that offers a reward of a sufficient size (\$1000 for each occurrence), might encourage witnesses to assist police with information about vandalism cases that have occurred to city facilities, assets, or property.

If a rewards program for information about suspect(s) of vandalism cases against city property is approved, the next step would be for police staff to coordinate with the Finance Director and the City Attorney in order to properly implement the rewards program.

OTHER OPTIONS

Staff is currently investigating the feasibility of a surveillance system in order to address vandalism to city property. Cameras would be placed in strategically located public places in order to capture and record illegal criminal activity at the Grove Park and at the Endeavor Hall. Recently, three youthful suspects caused approximately \$1000 in damage to property at the Middle school during the Memorial weekend. The Middle school has a camera surveillance system in place and was instrumental in identifying the three culprits. This approach might provide police staff with more comprehensive information and evidence in order to solve vandalism issues.

Staff will also continue educating our community about the serious problem of vandalism to city property through news articles, and with positive contacts with school students by police officers while they are on patrol.

FISCAL IMPACT

Fiscal impact is unknown at this time. However, if approved staff, would recommend a reward of up to \$1000 to witnesses who provide information leading to the successful resolution of each vandalism case to city facilities, assets, or property. A successful resolution would require the suspect(s) to pay for the damage they caused, as well as reimbursing the city for all costs associated with the vandalism case.

Attachments:

MINUTES
OF THE
REGULAR MEETING

CLAYTON REDEVELOPMENT AGENCY

June 21, 2011

Agenda Date: 8-16-11

Agenda Item: 5a RDA

1. **CALL TO ORDER & ROLL CALL** - the meeting was called to order at 8:38 p.m. by Chairperson Pierce in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Boardmembers present: Chairperson Pierce, Vice Chair Geller, Boardmembers Medrano, Shuey, and Stratford. Staff present: Executive Director Napper, Finance Manager Pelletier, Secretary Jackson, and Assistant General Counsel Huguet.

2. **PUBLIC COMMENTS** – None.

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

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

4. **PUBLIC HEARINGS**

(a) Public Hearing on the proposed Clayton Redevelopment Agency Budget for Fiscal Year 2011 – 2012.

The Executive Director stated the City is still watching to see whether Redevelopment Agencies will be eliminated in the State Budget deal. He stated the Agency Budget is less than last years because the assessed valuation in the Agency has declined. He stated 89% of the Budget is devoted to retiring the Agency's debt service and no new money is available for projects. He stated on a positive note that the Agency has \$6 million in the Low/Moderate Income Housing Fund. He stated there is no money for capital improvement projects and the Agency must focus its attention on addressing its affordable housing unit requirements.

Chairperson Pierce opened the Public Hearing at 9:27 p.m. No comments were received, and closed the Public Hearing at 9:28 p.m.

It was moved by Boardmember Shuey, seconded by Boardmember Stratford, to adopt Resolution 02-2011 approving the Redevelopment Agency Budget for FY 2011-2012 (Passed; 5-0 vote).

5. **ACTION ITEMS** – None.

6. **BOARD ITEMS** – None.

7. **ADJOURN** – on call by Chairperson Pierce the meeting adjourned at 9:29 p.m.

Respectfully submitted,

Laci J. Jackson, Secretary

Clayton Redevelopment Agency Board

Julie K. Pierce, Chairperson



Agenda Date: 8-16-11

Agenda Item: 5a RDA

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE CHAIRPERSON AND BOARD MEMBERS

FROM: EXECUTIVE DIRECTOR

DATE: 16 AUGUST 2011

SUBJECT: RESOLUTION ADOPTING THE AGENCY'S "ENFORCEABLE OBLIGATION PAYMENTS SCHEDULE" (EOPS) PURSUANT TO AB1x 26 LAW

RECOMMENDATION

Following presentation by staff and public comments, it is recommended the Agency Board of Directors adopt the prepared Resolution declaring the Agency's "Enforceable Obligation Payments Schedule (EOPS) in accordance with questionable state law, AB1x 26.

BACKGROUND

By draconian measure and maneuver, Governor Brown and the State Legislature pushed through a FY 2011-12 State Budget that called for the outright elimination of over 400 active redevelopment agencies in California. By virtue of AB1x 26 signed into law, the Clayton Redevelopment Agency was officially "suspended" as of 01 July 2011. From the Governor's birthing of the idea in January 2011, the League of CA Cities and the California Redevelopment Association labeled the intention as unconstitutional and illegal in the wake of the California voters' passage of Proposition 22 in November 2010. Frustrated over years of State Budgets that "shifted" redevelopment agency tax increment revenues to specially-created funds to meet the state's fiscal obligations and desires, Proposition 22 clearly closed the loophole on any further state takings of local tax revenues.

Following enactment of the State Budget, the League of CA Cities and the California Redevelopment Association (in conjunction with other city/redevelopment agency plaintiffs) filed a petition with the California Supreme Court to halt the implementation of the unlawful legislation and have the Court hear and rule on its constitutionality. On 11 August 2011, the California Supreme Court agreed to review the petition challenging the constitutionality of AB1x 26 (the "Dissolution Act") and AB1x 27 (the "Voluntary Redevelopment Program Act"). The Court's order also stayed specified portions of these Redevelopment Restructuring Acts, indefinitely postponing certain provisions' implementation and effectiveness.

The temporary relief provided by the Court to the Clayton Redevelopment Agency and others means that redevelopment agencies will not automatically dissolve on 01 October 2011 unless they "opt back in" under restrictions and limitations imposed by AB1x 27, including the highly offensive "ransom note payment" of \$1.7 billion in FY 2011-12 alone. Our Agency's share of this "Pay to Play" shakedown is calculated at \$1.635 million this year with on-going ransom payments of approximately \$385,000± in subsequent years. Staff's preliminary calculations for determination of whether our Agency could "afford to play" were still in the magic cauldron when the Court's order was announced late last Thursday. However, the initial staff feeling is, given that 89% of our Agency's net revenue (after obligatory "pass-throughs" to other taxing public entities within the Agency's Project Area) is dedicated to paying previously-issued Debt Service, our Agency will be unable to pay to stay in business. The Agency's net revenues expected in FY 2011-12 are \$4.215 million (\$3,184,569 in Discretionary Project Funds and \$1,030,770 in LMI Funds) and the debt service payment is wholly loaded to the Discretionary Project Fund. Our rough guesstimate at this stage is the Agency is shy of available monies by over \$253,000 (note: this gap is before any monies are used for Agency operations or other contractual obligations).

ENFORCEABLE OBLIGATION PAYMENTS

The Court's announcement also means redevelopment agencies still have no authority to conduct new redevelopment activities during the pendency of the stay. Legal counsel opinions also seem to agree the Court's stay order halts an agency's fast-approaching decision on the "jump back in" determination (an act of the governing city council) as well as the obligation to pay one-half of the ransom note by 15 January 2012 (after the first tax increment share of approximately 55% is given to agencies in December 2011), with the other half due in May 2012.

The Court's stay order, however, leaves in place language (Part 1.8 of AB1x 26) prohibiting redevelopment agencies from making any payments after the date 60 days from the effective date of "the Dissolution Act", *other than those payments and bond [debt] payments listed on an adopted "enforceable obligation payments schedule* (the "EOPS"). Therefore, notwithstanding the Court's temporary relief, our Agency has need to move forward and adopt by Resolution a list of financial obligations of the Agency that were committed contractually or by previously-issued debt (namely, "enforceable obligations") that cannot be disturbed or disrupted by the state's unilateral act to terminate (dissolve) redevelopment agencies.

Under the questionable law, "enforceable obligations" of a redevelopment agency include the following financial arrangements (the EOPS of the Agency):

- Bonds

- Loans

- Payments required by state or federal government

- Obligations to employees

- Judgments or settlements

- Binding and legally enforceable agreements entered into before AB1x 26

- Contracts for RDA administration

This provision of AB1x 26, not affected by the Court's stay order, therefore requires our Agency to submit our completed EOPS by August 28th and to adopt the EOPS by Board Resolution.

Over the last several weeks, our Finance Manager has been researching and recording the enforceable obligations of our Agency for declaration in the EOPS. The fact these times are uncharted waters made the task even more difficult. With this Staff Report (ref. Exhibit A), staff calculates our Agency has total outstanding debt or obligations in the amount of \$14.29 million over the remaining life of the Agency, with \$6.857 million of that amount as previously-issued bonded indebtedness. It is staff's opinion the submitted EOPS accurately reflects the Agency's "enforceable obligations" in compliance with AB1x 26.

Our Agency must also prepare and file its Annual Statement of Indebtedness by 01 October 2011. The Court's stay order did not remove this deadline.

SUMMATION

Staff anxiously looks for a favorable Court ruling by 15 January 2012 on the merits of this questionable state legislation.

Attachment: 1. EOPS Resolution [3 pp.]

Exhibit: A. Enforceable Obligation Payments Schedule (EOPS) [2 pp.]

RESOLUTION NO. - 2011

**A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE
CITY OF CLAYTON, CALIFORNIA APPROVING AND
ADOPTING ITS ENFORCEABLE OBLIGATION PAYMENTS
SCHEDULE PURSUANT TO PART 1.8 OF THE
REDEVELOPMENT LAW**

**THE BOARD OF DIRECTORS
Clayton Redevelopment Agency, California**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on 20 July 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

WHEREAS, Section 34169 of the California Redevelopment Law requires the Agency to adopt an Enforceable Obligation Payments Schedule (EOPS) listing all of the obligations that are enforceable within the meaning of Section 34167(d) of said Redevelopment Law and to designate an official of the Agency whose responsibility shall be to provide information and documentation for items listed in the Enforceable Obligation Payments Schedule; and

WHEREAS, as further set forth in the staff report accompanying this Resolution (the "Staff Report"), the Agency has prepared a schedule setting forth all of the obligations which the Agency has determined are enforceable obligations under Section 34167(d) of the Redevelopment Law (the "Enforceable Obligation Payments Schedule"); and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of this Enforceable Obligation Payments Schedule is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a project, but instead consists of the continuation of an existing governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program because it merely lists enforceable obligations previously entered into and approved by the Agency; and

WHEREAS, the Agency Board of Directors has reviewed and duly considered the Staff Report, the proposed Enforceable Obligation Payments Schedule, and documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Clayton Redevelopment Agency does hereby find the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this action and Resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project. The Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa, California in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED that the Board does hereby approve and adopt the Enforceable Obligation Payments Schedule, attached hereto as "Exhibit A" and incorporated herein as if fully set forth in this Resolution.

BE IT FURTHER RESOLVED that the Board authorizes and directs the Agency's Executive Director or the Executive Director's designee to: (1) post the Enforceable Obligation Payments Schedule (Exhibit A) on the Agency and City website; (2) designate an Agency representative to whom all questions related to the Enforceable Obligation Payments Schedule can be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the State Department of Finance, and the State Controller of the Agency's action to adopt the Enforceable Obligation Payments Schedule and to provide those persons with the internet website location of the posted schedule and the contact information for the Agency's designated contact; and (4) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Enforceable Obligation Payments Schedule on behalf of the Agency.

AND BE IT FURTHER RESOLVED that this Resolution shall and does take immediate effect upon its adoption.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the City of Clayton Redevelopment Agency at a regular public meeting held on the 16th day of August 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE AGENCY BOARD OF DIRECTORS

Julie K. Pierce, Board Chairperson

ATTEST:

Laci J. Jackson, Secretary

#

I certify that the foregoing is a true and correct copy of the original Resolution on file in the office of the Agency Secretary of the Redevelopment Agency of the City of Clayton.

Laci J. Jackson, Secretary

Name of Redevelopment Agency: Clayton Redevelopment Project Area
Project Area(s) All

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by Month					Total
						Aug**	Sept	Oct	Nov	Dec	
1)	City Loan entered into on 12/1/1990	Diamond Terrace Investors	Loan - 8th Anniversary disbursement	400,000.00	200,000.00					200,000.00	\$ 200,000.00
2)	1996 Tax Allocation Bonds Series A	US Bank	Bonds issued to fund non-housing projects	1,682,220.00	399,082.50						\$ -
3)	1999 Tax Allocation Bonds	US Bank	Bonds issued to fund non-housing projects	5,175,000.00	3,554,538.00						\$ -
4)	City Loan entered into on 6/17/1999	City of Clayton	Loan for Fire Station Construction	475,000.00	30,875.00		2,572.91	2,572.91	2,572.91	2,572.91	\$ 10,291.64
5)	City Loan entered into on 2/16/2010	City of Clayton	2% Election payments per Section 33676	376,423.98	125,474.66		31,368.66	31,368.66	31,368.66	31,368.66	\$ 125,474.64
6)	City Loan entered into on 5/19/10	Clayton RDA LMI Housing	Loan for S.E.R.A.F. payment	592,412.00	148,103.00		14,810.30	14,810.30	14,810.30	14,810.30	\$ 59,241.20
7)	Contract for Consulting Services	Thales Consulting	RDA State Controller's Report 2010-11	5,400.00	1,800.00					1,800.00	\$ 1,800.00
8)	Contract for Consulting Services	Cropper Accountancy	RDA Audit 2010-11	12,372.00	4,124.00					4,124.00	\$ 4,124.00
9)	Contract for Consulting Services	NBS Local Gov't Solution	Arbitrage Reporting	8,700.00	2,900.00					2,900.00	\$ 2,900.00
10)	Contract for Consulting Services	US Bank	Paying Agent Fee	16,095.00	5,365.00					5,365.00	\$ 5,365.00
11)	Contract for Consulting Services	Raney Planning	Housing Element Implementation	35,294.00	35,294.00					35,294.00	\$ 35,294.00
13)	Contract for Consulting Services	Goldfarb & Lipman	Legal advice	15,000.00	15,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	\$ 15,000.00
14)	Administrative overhead	City of Clayton	Overhead for Agency's Operations	400,000.00	400,000.00	36,363.64	36,363.64	36,363.64	36,363.64	36,363.64	\$ 181,818.20
											\$ -
Totals - This Page				\$ 9,193,916.98	\$ 4,922,556.16	\$ 39,363.64	\$ 88,115.51	\$ 88,115.51	\$ 88,115.51	\$ 337,598.51	\$ 641,308.68
Totals - Page 2				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Page 3				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Page 4				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Other Obligations				\$ 5,096,881.51	\$ 1,142,731.17	\$ -	\$ -	\$ -	\$ -	\$ 1,878,400.00	\$ 1,878,400.00
Totals - All Pages				\$ 14,290,798.49	\$ 6,065,287.33	\$ 39,363.64	\$ 88,115.51	\$ 88,115.51	\$ 88,115.51	\$ 2,215,998.51	\$ 2,519,708.68

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.)
If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.
** Include only payments to be made after the adoption of the EOPS.

All

Page 1 of __1__ Page

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					
						Aug**	Sept	Oct	Nov	Dec	Total
1)	Section 33676 Payments	Comm College	Payments per former CRL 33676	165,986.00	38,411.00						\$ -
2)	Section 33676 Payments	County Supt Schools	Payments per former CRL 33676	34,589.00	8,004.00						\$ -
3)	Section 33676 Payments	County Res Consv	Payments per former CRL 33676	583.00	135.00						\$ -
4)	Section 33676 Payments	City of Clayton	Payments per former CRL 33676	217,813.00	50,404.00						\$ -
5)	Pass Through Agreement	County	Payments per former CRL 33401	3,276,204.00	713,409.00						\$ -
6)	Pass Through Agreement	Flood Control Dist	Payments per former CRL 33401	6,579.00	1,522.00						\$ -
7)	Pass Through Agreement	Library	Payments per former CRL 33401	261,912.00	1,299.00						\$ -
8)	Pass Through Agreement	County Fire	Payments per former CRL 33401	472,825.00	109,417.00						\$ -
9)	Pass Through Agreement	County	Payments per former CRL 33401/AB860	501,390.51	167,130.17						\$ -
10)	Statutory Payments	County	Property Tax Administrative Cost	159,000.00	53,000.00						\$ -
11)											\$ -
											\$ -
	Totals - This Page			\$ 5,096,881.51	\$ 1,142,731.17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Totals - Page 2			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Totals - Page 3			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Totals - Page 4			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Totals - Other Obligations			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Grand total - All Pages			\$ 5,096,881.51	\$ 1,142,731.17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

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