MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, August 16, 2011

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 4:38 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 (arrived at 5:20 p.m.), Councilmembers Medrano, Pierce and Stratford. Staff present: City Manager Gary Napper, City Attorney Dan Adams (7:00 p.m.), Community Development Director David Woltering, and City Clerk Laci Jackson.

2. **INTERVIEW OF PLANNING COMMISSION APPLICANTS**

   The following six applicants were interviewed individually for one unexpired term on the Planning Commission (term of office ends 30 June 2012): Steven Lane, Alyse Smith, Bob Staehle, Gregg Manning, Glenn Miller, and Jake Pauline,
   (Appointed office vacant effective 01 August 2011).

   6:25 p.m- Council recessed.

   7:00 p.m.- Council reconvened.

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

4. **CONSENT CALENDAR**- Mayor Shuey asked what the cost overrun was for the pavement project Item 4(d). The City Engineer stated project cost overrun was a result of the final quantity of the AC work in the field. **It was moved by Vice Mayor Geller, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted (Passed; 5-0 vote).**

(a) Approved the minutes of the regular meeting of July 19, 2011.

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

(c) Adopted Resolution 31-2011 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.

(d) Adopted Resolution 32-2011 authorizing the execution of a Subdivision Agreement for Subdivision 8719, Diablo Pointe, with Toll CA XIX, L.P., covering construction of the required improvements.

(e) Approved 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.

(f) Authorized 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.

5. RECOGNITIONS AND PRESENTATIONS

(a) Proclamation declaring September 18th-24th as "Fall Prevention Awareness Week" in the City of Clayton.

Mayor Shuey presented a Proclamation to Gennifer Mountain with the Fall Prevention Program, a component of the Meals on Wheels program. Ms. Mountain thanked the Council for the Proclamation and stated the goal of the organization was to reduce the number of preventable injuries for seniors and people with disabilities. She also stated the Walk for Fall Prevention will be held on September 24th, at 500 Ellinwood Drive in Pleasant Hill.

6. REPORTS

(a) Planning Commission – No meeting held.

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

(c) The City Manager had no report.

(d) City Council

Councilmember Stratford attended the East Contra Costa Habitat Conservancy meeting.

Councilmember Pierce attended the Mayors' Conference, several Board of Supervisor meetings, the Ygnacio Valley Road slide repair celebration, and three Mayors' Cook-off meetings. She also gave an update on the MTC's vote to purchase a building using toll money.

Vice Mayor Geller attended the Mayors' Conference. He stated the last two concerts collected $1,200 and $1,300 in donations respectively. He will be attending the CBCA Rib Cook-off at the Clayton Club Saloon on August 20th.

Mayor Shuey stated the Mt. Diablo Unified School District Board held a meeting on the Clayton Valley Charter High School petition August 9th and the entire City Council was in attendance. He stated September 13th will be the final hearing on the charter school's petition.

(e) Other – None.

7. PUBLIC COMMENTS

Clayton Valley students Rachael Kreigg, Ben Lindsey, Kelsie Fagardland, and Ted Hall stated the Mt. Diablo Athletic Association is holding its annual 5k Run/Walk to support athletics in the school District. They stated the event will take place October 9th and for more information people could visit the following website: *www.unitedmtdiabloathleticfoundation.org*

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.

The City Manager reported this item comes back from the last meeting where the Allied Waste agreement deal points were discussed and approved in concept. He stated the current agreement with Allied Waste from 2002 will expire at the end of 2012. He stated the adhoc committee of Mayor Shuey, Councilmember Medrano and he had met with Allied Waste Services to discuss the benefits of extending the franchise agreement. He stated the sub-committee asked for a 10 year contract extension with deal points as outlined at the last meeting. Based on upon that direction staff drafted the Resolution and Franchise Agreement extension and is bringing it forth for Public Hearing. He stated the new agreement will expire December 21, 2022. Attached to the report are the deal points from the last meeting incorporating Allied Waste's verbal commitment to offer free commercial recycling at no cost to the City. He stated now customers will be offered the option and to use larger recycling carts at no additional cost in hopes of enhancing recycling. In addition that same option and free service would be available for green yard waste cans. Allied Waste will now provide free collection of e-waste products, household batteries, CLF bulbs, and will provide free large item pick up in order to deter illegal dumping. The franchise fee will move to 10% with additional revenue to the City's General Fund of about $50,000 a year. Allied Waste will also provide a $100,000 community enhancement donation to be paid to the City by January 15, 2013. Customer rate adjustments starting in 2013 will be based upon the San Francisco Bay Area CPI with at least an annual increase of 1% but no more than 5%. Clayton's rates remain one of the lowest garbage rates in the County and this represents a win-win for the community.

Mayor Shuey opened the Public Hearing at 7:36 p.m.

Tim Argenti, General Manager of Allied Waste Services, stated he appreciates the relationship with Clayton and is passionate about providing the best service at the lowest rates possible. He thanked the Council and staff for their support.

Mayor Shuey closed the Public Hearing at 7:39 p.m.

Councilmember Pierce added the contract is extended from 2012-2022, but all of the enhancements become effective as soon as the agreement is signed.

Councilmember Stratford thanked Allied Waste.

Councilmember Medrano thanked Allied for allowing the contracts benefits to go into effect before the end of the current term, and for their support.

Mayor Shuey stated he and Councilmember Medrano were not on the Council when the first contract was put in place and though they were always satisfied with Allied Waste services they wanted to do their due diligence in exploring contract options. He stated the City and the citizens got a great deal with this agreement and thinks continuing the relationship with Allied Waste is beneficial to the City and our community.

It was moved by Vice Mayor Geller, seconded by Councilmember Medrano, to adopt Resolution 33-2011 approving Amendment No. 2 to the Franchise Agreement (Passed; 5-0 vote).

(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).

Councilmember Pierce recused herself and left the room noting she lives within 500 feet of this property.

The City Engineer stated the City received a complaint about new landscape mounds on Mr. Van Brusselen's property in May. These mounds were topped with palm trees which were allowed to be planted in the right of way. The City Engineer stated in May he sent a letter to Mr. Van Brusselen stating the mounds were in violation of not having an approved encroachment permit nor a stormwater discharge permit and he issued a notice of violation. He stated in the letter the materials need to be removed by July 9th. Mr. Van Brusselen appealed the Notice of Violation to the City Council for reconsideration.

Councilmember Stratford asked if the problem was just with the dirt mounds? The City Engineer responded the mounds cause a potential for stormwater runoff that would not be allowed under the Stormwater permit.

Mayor Shuey stated he is concerned because the mounts reduce the amount of area off the side of the pavement for bicycles. The City Engineer suggested moving the mounds back from the edge of the pavement. He stated Mr. Van Brusslen takes good care of his property and expressed the desire to do what is necessary to keep the mounds there. Staff has never issued a permit for something that sticks that far into the right of way and if the City needed to repave that part of the road or expand the road the City would be required to pay for the removal of the unauthorized mounds and the trees.

Mayor Shuey opened the Appeal Hearing at 7:52 p.m.

Lisa Van Brusselen stated they have been trying to work with the City. She stated the mounds have always been present but recently they added more material to the mounds. She stated they added the material as a safety issue because the intersection is so busy and the area behind the mounds serve as a sidewalk for people. She stated they have no problem with covering the mounds with netting to keep them from turning into mud and putting small curbs in.

John Van Brusselen stated the reason the mounds were put in to begin with was people were running over his property and making u-turns in his yard. He stated his intention was always to cover the mounds but didn't want to do that until this issue was resolved.

Mayor Shuey asked if Mr. Van Brusselen would be willing to put a curb in? Mr. Van Brusselen responded he would be willing to put a curb in and if need be move the mounds back a foot or so.

Glenn Miller stated he was on the Planning Commission when his project was approved. He stated the trees and mounds were a compromise because the City was reluctant about extending the sidewalk and curb. He stated he did not understand the need to fine or penalize Mr. Van Brusselen for doing what he thought was the right thing.

Councilmember Stratford stated he would rather see rock a foot behind the pavement.

Councilmember Geller stated he is concerned that in the future the City might have to incur costs to remove the mounds. He stated he would like to see the mounds pushed back two feet from the road.

Councilmember Medrano thanked Mr. Van Brusselen for working with the City and suggested going back and working with the City Engineer to come up with a plan for the area and stated he was against assessing fines.

Mayor Shuey asked what the impact to the City would be in regards to stormwater? The City Engineer stated as long as they cover the mounds there would not be a problem with stormwater requirements.

Mayor Shuey stated a buffer of rock behind the pavement before the mounds would be good for bike riders. He stated the City Engineer should work with Mr. Van Brusselen to figure out proper setbacks and logistics.

The City Manager stated a special encroachment permit should be used to call out these special condidtions. Mayor Shuey agreed and stated the City needs to be protected in terms of future issues. Jon Van Brusselen was agreeable to the encroachment permit.

Mayor Shuey closed the Appeal Hearing at 8:03 p.m.

It was moved by Vice Mayor Geller, seconded by Councilmember Medrano to uphold the appeal with the conditions as noted and to have the City Engineer and Mr. Van Brusslen work out a solution and get an encroachment permit recorded (Passed; 4-0 vote).

Councilmember Pierce returned to the dias.

9. **ACTION ITEMS**

(a) Continued discussion of Council Member's request to eliminate Pension Plans for elected city council members in Clayton.

Councilmember Medrano stated current Councilmembers cannot opt out of the CalPERS retirement program. He stated the City received new information about the Health Insurance offered by CalPERS and the rules state the City has to pay a contribution toward employee health plans ($108). He stated he would like to have future Councilmembers removed from the retirement system and make it mandatory for all current Councilmembers to pay their 7% employee contribution.

Responding to a question, the City Manager stated as long as Councilmembers are part of the CalPERS retirement plan they can belong to CalPERS health program.

Glenn Miller, encouraged the Council to remove itself from CalPERS program in the future and move to a 1099 plan.

Councilmembers Pierce and Vice Mayor Geller agreed the 7% employee contribution should not be mandatory.

Councilmember Stratford stated it sets a good precedent going forward and it would be good for the Council to be united.

It was moved by Councilmember Medrano, seconded by Councilmember Stratford, to eliminate the CalPERS pension for all future Councilmembers (Passed; 5-0 vote).

It was moved by Councilmember Medrano, seconded by Councilmember Stratford to make it mandatory for the current Council to pay the 7% employee portion of CalPERS.

Mayor Shuey asked to come back to this item at a later time for a decision. Councilmember Medrano pulled his motion from the floor until a later time in the meeting; Councilmember Stratford, as the second to the motion, agreed.

(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.

Mayor Shuey stated the Council interviewed six applicants and had a tough decision to make.

Councilmember Stratford stated all six people interviewed were enthusiastic and had good reasons to apply for the Planning Commission. He stated his top choice was Bob Staehle because he eliminated the prior concern over any conflict on the Creekside Terrace project when he received confirmation from the FPPC.

Councilmember Medrano stated he appreciated Bob Staehle received an answer back from the FPPC. He stated Gregg Manning could do a great job. He stated Gregg Manning, Glenn Miller or Bob Staehle would be good choices but he deferred to the rest of the Council. He also stated Jake Pauline and Alyse Smith will make good Commissioners in the future.

Vice Mayor Geller stated he missed Alyse Smith and Steven Lane's interviews. He stated Gregg Manning was his first choice and Bob Staehle was his second choice.

Councilmember Pierce stated she was torn between Bob and Gregg, but was glad Bob contacted the FPPC.

Mayor Shuey stated there are candidates with a lot more experience, and the City needs someone who can hit the ground running. He stated Gregg Manning was the clear choice for him because of his institutional knowledge and background.

It was moved by Mayor Shuey, seconded by Councilmember Medrano, to adopt Resolution 34-2011 appointing Gregg Manning to the Planning Commission for a term of office to expire June 30, 2012 (Passed; 5-0 vote).

(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.

The City Manager reviewed each General Resolution to be voted on at the conference and the Council agreed with his positions on the Resolutions.

No formal action was taken.

(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.

By consensus, the Council stated there was insufficient business items scheduled for the Conference to warrant the expense of sending a delegate.

(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.

The Assistant to the City Manager presented the staff report and stated all fees are propped for adjustment by the annual CPI change of 2.8%. Staff recommends all amounts be rounded to the nearest dollar as revised in the Resolution. She stated some of the other changes include the tree in-lieu fee which had not been changed in 10 years and no longer covered the cost of a 24-inch boxed tree. She stated other fees that were increased were the stormwater fees for environmental review and a re-inspection.

Councilmember Medrano asked for clarification to make sure that it says for every inspection after two there will be a re-inspection fee.

Glenn Miller asked if this applies retroactively to projects? The Assistant to the City Manager stated anyone who has already paid a fee and has an application in will not be subject to these fees; it will be for fees moving forward. She stated regarding development applications it does not change anything.

Glenn Miller asked if a notice was posted for this? The City Manager stated the two individuals on file who requested prior notice of this type of item were contacted; and the information is also available as part of the agenda packet before tonight's meeting.

It was moved by Vice Mayor Geller, seconded by Councilmember Pierce, to adopt Resolution 35-2011 setting City fee rates for FY 2011-12 as amended by Councilmember Medrano's comment (Passed; 5-0 vote).

(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.

The Chief of Police stated on June 7th the Council discussed the merits of establishing a rewards program for citizens who turn in people found guilty of damaging public property and considered the installation of security cameras. He stated the first issue was regarding the recovery of reward money from the suspect and there is a government code to recover the reward money by the suspect. Staff researched and received quotes on the suitability of camera systems at The Grove Park and the Endeavor Hall parking lot. Staff contacted 3 vendors who provide this type of service and 2 vendors responded. He stated basically there are two types of camera security systems: wireless and hard wired. He stated the unfortunate part of these systems it that they are extremely expensive. Staff feels that a wireless wireless security system would be great way to provide blanket coverage of public area from remote sites but may not be the most economical way to address the vandalism. Therefore staff recommends moving forward with a $1,000 reward program.

Mayor Shuey asked about the expected life of a camera system. The Chief responded the systems should work five years. He also stated the ADT proposal was very comprehensive but noted the hardware does wear out.

The Council generally agreed the camera system was too expensive at this point but asked staff to prepare an ordinance to develop a monetary rewards system.

(a)- Continued

Mayor Shuey then returned the meeting to the unresolved issue on the CalPERS pension plan for Councilmembers.

It was moved by Councilmember Medrano, seconded by Councilmember Stratford to make it mandatory for the current Council to pay the 7% employee portion of CalPERS (Failed; 2-3 vote; Noes: Geller, Pierce and Shuey).

10. <u>COUNCIL ITEMS</u>

Vice Mayor Geller asked for the Concerts in The Grove dates to be added to a future Agenda.

11. <u>ADJOURNMENT</u>– On call by Mayor Shuey the meeting adjourned at 9:34 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

David T. Shuey, Mayor