CITY OF CLAYTON
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AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

***

TUESDAY, FEBRUARY 7, 2012

7:00 p.m.

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

Mayor: Howard Geller
Vice Mayor: Joseph A. Medrano

Council Members
Julie K. Pierce
David T. Shuey
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*

February 7, 2012

7:00 P.M.

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Geller.

2. **CLOSED SESSION** – None.

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

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 and special meetings of January 17, 2012 and January 30, 2012. (View Here)

(b) Approve Financial Demands and Obligations of the City. (View Here)

(c) Approve the rejection of a liability claim by Alec Nemon received by the City on December 19, 2011. (View Here)

(d) Adopt a Resolution approving the formation of the Diablo Estates at Clayton Benefit Assessment District pursuant to the provisions of the Landscaping and Lighting Act of 1972 and the Benefit Assessment District Act of 1982. (View Here)

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Certificate of Recognition to "Do The Right Thing" student of the month Molly Avilez for exemplifying "Kindness" during November and December 2011.

(b) Proclamation declaring Saturday, February 11, 2012 as "Clayton Valley Charter High School Celebration Day." (View Here)

6. **REPORTS**

(a) Planning Commission – Chairman Dan Richardson.
(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

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance 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 or you are recognized by the Mayor as wishing to speak, 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 at its discretion 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 – None.

9. ACTION ITEMS

(a) Second Reading and Adoption of Ordinance No. 438 formally implement an "Exclusion" to the City of Clayton's existing contract with the California Public Employees Retirement System (CalPERS) to exclude all newly elected city council members from enrollment or participation in the CalPERS pension plan.
(City Clerk) (View Here)

Staff recommendations: Following staff report and public comments, that Council:

1) By motion, approve the City Clerk to read Ordinance No. 438 by title and number only and waive further reading; and

2) By motion, approve for Second Reading and Adoption Ordinance No. 438 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to provide for the exclusion of city council members hired on or after the effective date of this amendment to become members of CalPERS under the City's contract.

(b) Consideration of the award of contract to Motorola Government Solutions, Inc. in the amount of $154,176.61 for the purchase of thirty-eight (38) portable and mobile radios compatible with the new two-county radio interoperability system for emergency and public safety services communications.
(Police Chief) (View Here)

Staff recommendation: Following staff report and public comments, that Council adopt a motion approving the award of contract to Motorola Government Solutions, Inc. as sole provider and authorize the appropriation of $154,176.61 from interest earnings in the Trust & Agency Fund for the capital equipment purchase.

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

11. **ADJOURNMENT**– the next regularly scheduled City Council meeting is February 21, 2012.

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MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 2-7-12

Agenda Item: 4a

TUESDAY, January 17, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director, Maintenance Supervisor John Johnston, and City Clerk Laci Jackson.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.

3. **CLOSED SESSION** – None.

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

(a) Approved the minutes of the special and regular meetings of December 6, 2011.

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

(c) Approved Clayton Community Library closures on certain Sundays in calendar year 2012.

(d) Approved the 1st Quarterly Investment Reports for FY 2011-12 (July-Sept.).

(e) Adopted Resolution 01-2012 in compliance with AB 936 declaring no loans between the City of Clayton and the Clayton Redevelopment Agency were forgiven in whole or in part during calendar years 2010 and 2011.

(f) Approved the appointment of Alyse Smith to the citizens advisory Trails and Landscaping Committee for the term of office from January 18, 2012 through December 31, 2013.

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Recognition of Virginia Siegel and Lorraine Mole for their leadership and service on the Clayton citizens advisory Trails and Landscaping Committee. The Mayor announced that since neither of these women could attend the meeting, their recognitions would be sent to them.

(b) Certificates of Recognition to "Do The Right Thing" students of the month for exemplifying "Kindness" during November and December 2011.

Mayor Geller recognized Molly Moylan and Jack Dress from Mt. Diablo Elementary School; Sierra Heuser and Brett Riessen from Diablo View Middle School; and Ben Linzey and Zoey Dow from Clayton Valley High School.

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 Shuey stated the County Board of Education approved the Clayton Valley Charter High School formation by a unanimous vote. He thanked the community for supporting this proposal. The Charter Executive Board has already met and the sub-committees are forming. He asked anyone interested in serving on a sub-committee to visit the Charter's facebook page, or its official website. He stated he had discussions with Councilmember Medrano and wants to reach back to the District to partner together in supporting the tow public schools in Clayton, Mt. Diablo Elementary and Diablo View Middle School.

Councilmember Pierce attended a Transportation Authority meeting, and the Clayton Counts Down. She thanked the Council and volunteers for their work on that event. She attended an ABAG joint meeting with the MTC planning committee. She also met with the E-Bart policy advisory committee. Last, she stated ABAG is having their installation of officers at which she will be installed as Vice President for the next two years.

Councilmember Stratford noted the "Do the Right Thing" program is emphasizing Self-Discipline for the month of January. He attended the Habitat Conservancy meeting and thanked everyone for their work on the Clayton Counts Down- New Year's Eve event.

Mayor Geller attended the Mayor Conference and the County Board of Education hearing on the Charter school appeal.

(e) Other – None.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Consideration of a contract modification request by LSA Associates in the amount of $48,525.00 for extraordinary work beyond the scope of its original contract to prepare an Environmental Impact Report for the proposed Clayton Community Church mixed land use project on approximately 2.3 acres of private properties generally located at 6055 Main Street.

Mayor Geller asked all speakers to refrain from speaking about the merits of the project and to focus discussion on the contract modification on the agenda when providing public comments.

The Community Development Director stated this item is before the Council because of a request by the Clayton Community Church. The EIR consultant is LSA Associates, hired in July 2010 after staff determined a full EIR would be required for the project. There were eight categories of potential significant adverse impact identified to be addressed in the EIR. The Draft EIR was completed and put out for a standard 45-day public review period, from May 12- June 27, 2011. As a result, there were 304 comment letters and e-mails received during this comment period, and another 200 plus letters and e-mails received after the close of the comment period. This was a very large number of letters and emails to receive. The California Environmental Quality Act (CEQA) process does not require the letters and e-mails submitted after the official comment period be responded to. LSA sorted through the 304 letters and emails received during the comment period and determined that 88 included comments that needed to be responded to. In total, there were 315 distinct comments to respond to in order to satisfy CEQA requirements.

The Community Development Director stated in LSA's contract document they established a budget of $21,800 (part of total budget) for responding to the comments submitted on the Draft EIR. After closure of the public comment period, LSA contacted staff about the budget amount set aside for this aspect of the work and stated the number of comments and related responses were almost unprecedented in their professional experience. Out of the approximately 100 EIR's LSA's Berkeley office has done in the last decade, this project has generated the second largest number of letters and the fifth highest number of distinct comments. The number of comments and required responses far exceeded what staff or LSA had anticipated. Staff discussed with LSA representatives measures to economize this effort like using master comments where there were clear themes present and ensuring duplicate comments were sorted out. LSA and staff worked to try to cut down the work and make the process as efficient as possible. LSA's contract includes fairly standard language which allows them to request a contract modification for extraordinary work preparing the EIR, including preparing responses to comments. LSA determined they would need to seek a contract modification. Staff asked LSA to include and they provided a detailed explanation in the contract modification to understand why they were making this request.

As part of discussions with staff, LSA chose 12 EIR projects and looked at the number of comments requiring responses and the staff time to respond to those comments. They noted on average the cost was $339 per comment to respond. Based on discussions with staff on ways to be more cost effective, they looked at a smaller sample and took an adjusted average of $215 per response. Given this church project has 315 responses, the adjusted cost would be $67,725 based on the lower amount. LSA agreed they would work with the lower figure, the $21,800 in the current contract for responding to comments would be deducted so they would be requesting an additional $45,925. as part of the contract modification. Coupled with this request and based upon public interest in the project, staff asked for one additional public hearing for the Planning Commission and one City Council public hearing be added for an addition $2,600. Accordingly, LSA is requesting a contract modification of $48,525 to cover the responses and the two additional meetings.

Community Development Director Woltering indicated that staff has consistently been holding back 10% of individual invoices from LSA in a retention account to ensure the City receive a Final EIR, including responses to comments to its satisfaction. Staff specifically included this provision in the LSA contract as a management tool. The contract allows retention up to $12,500.; presently, the retention amount is approximately $11,500. In addition, staff has held back the payment of invoices totaling approximately $7,800 until this matter of the contract modification is resolved,. Staff has worked with LSA and Church representatives and has tried to keep the Church representatives informed and aware of this issue. Staff asked LSA to provide the rationale for the requested contract modification, and this information was given to the Church in writing several times and discussed with Church representatives in a meeting at City Hall attended by Mr. Clore of LSA Associates and the City's Community Development Director.

The Community Development Director stated it is staff's belief that LSA has the standing to make this request, based on the provisions described in LSA's original contract. Both LSA Associates and the City have the right to terminate this agreement with 10 days written notice without cause. He stated LSA has performed well and has provided acceptable evidence and rationale to support the firm's request for the contract modification.

David Clore, LSA Associates, stated they could not have foreseen this many comments on the EIR. In comparison, he noted no letters from other agencies or environmental groups were received. He stated the Community Development Director did research and noted in the staff report that other Planning Directors in the area had seen EIR Consultant costs for this type of project from $150,000-$250,000. He stated that LSA is striving to finish a CEQA document in this case that will be as legally defensible as possible. This budget modification would bring this EIR cost to $182,025.

Councilmember Shuey asked if LSA was considering the comments outside of the comment period. The Community Development Director stated LSA was only responding to the comments received during the official public comment period which require responses pursuant to CEQA.

Edward Grutzmacher, Attorney for the law firm of Meyers Nave,, representing the Clayton Community Church, stated the Church would like to keep from incurring unanticipated costs. He stated the Church wants to be fairly treated. The Church believes the process is becoming burdensome. He stated no one wants this to go forward into litigation, but the Church will continue to defend its rights under law.

Mr. Grutzmacher stated the Church was happy when the City hired LSA to do the EIR work, but its representatives did not anticipate this 300% cost increase for responding to the comments received on the Draft EIR. He stated LSA justifies the cost by a per comment statistic and there does not seem to be any correlation to the complexity of responding to comments. He acknowledged LSA agrees with the use of the master responses. He stated the Church believes the City Council should hold LSA to their original contract.

Mayor Geller opened the item at this point for general public comments.

Glenn Miller stated in the past the City has not selected higher cost consultant proposals and limited amendments for cost increases. What is different here?

Brad Briegleb, member of the Clayton Community Church and the Church Leadership Council, stated he is asking the City Council to deny the requested modification to LSA's contract. He stated that when LSA submitted its original proposal to the City they should have recognized there would be large number of technical issues and intense public scrutiny within their contractual responsibilities. He stated the reason people hire experts is because they know what they are getting in to and they should be held to the contract.

Pete Laurence stated the cost goes up for a project when it is controversial. He stated the taxpayers should not pay for this as suggested by the attorney for the applicant. And, he stated that he takes offense to the citing of the RILUPA law by the Church's representative, given the early stage of this proposal and the agenda item, a request for contract modification by LSA.

Bill Walcutt stated he was disappointed the Clayton Community Church was asking the City and the Environmental Consultant to absorb costs and work for free. He stated this project has potentially significant impacts to the City that must be studied and this is the cost of doing business. LSA has done a good job so far in addressing the concerns identified in the Draft EIR, but there are approximately 300 comments that have to be considered. In his 11 years on the City Council, the City never asked a consultant to work for free. He stated LSA should complete the EIR, but the citizens and the City should not be asked to cover costs of this project.

Gary Hood encouraged the Council to ensure that the applicant pays all costs for the project. He stated this is the cost of doing business and it is a vital piece of property to this town. He did not want comments on the project to be treated by simple master comment reply; each deserves attention.

The City Attorney stated the Council has options including, they can choose to approve staff's recommendation to approve the contract modification or they could deny the request in which case LSA may choose to terminate the contract. LSA is required to ask in advance for a contract modification and have it approved before they can charge for the time incurred.

Upon request, Mr. Clore explained the table provided from his firm that is attached to the staff report in which costs are broken down based on the number and resulting work effort associated with responding to comments on 12 representative Draft EIRs. He stated the table included is a table of empirical data and shows the 12 largest responses to comments efforts worked on by his LSA office in the last 10 years. He stated it is absolutely true that for the smaller cases with a smaller number of comments, the per comment cost is higher. He stated each one of those projects included the use of master responses. He stated LSA looked at the empirical data to figure out what it will take to complete this project. He stated he is almost certain it will not be much less than this number to finish the project and if anything it is going to take more time and could be more costly than his budget modification figure.

Councilmember Shuey asked what was the rationale for using the cost per comment approach? Mr. Clore stated they were looking for methods to estimate the dollar amount cost that it might take to finish the responses and provide supporting documentation for their position.

Councilmember Shuey stated he is unclear, other than the volume, why LSA didn't anticipate the larger work effort in this area because in the contract LSA assumes an intense level of analysis for the topics.

Councilmember Shuey asked if this was one of the highest levels of comment letters they had seen? Mr. Clore stated LSA worked on a private school expansion in a residential area of Oakland which received more letters. When asked further about whether his firm's requests for contract modifications were typically approved, Mr. Clore stated in none of the cases described in the table being considered did LSA get paid less than was negotiated with staff.

Councilmember Shuey asked on average how many times LSA comes back to clients for contract modifications? Mr. Clore estimated that contract modifications are requested on about 10% of their contracts.

Councilmember Shuey asked how often LSA comes in under budget? Mr. Clore responded seldom.

Vice Mayor Medrano stated that in July 2010 when LSA was hired they were selected because of their expertise over other consultants. He stated they knew this project would be controversial and underestimated the effort to respond to comments. He stated the dollar amount being requested is outrageous and he wants to see them go back to the table with the Church and work something out. He stated it isn't fair to the applicant, and the City shouldn't pay for it either.

Councilmember Shuey asked Ed Grutzmacher if he received the letter from the City Attorney? Mr. Grutzmacher responded yes. Councilmember Shuey stated in Mr. Grutzmacher's letter he had asked the City to pay for these additional costs and an attorney should have known that this would be a gift of public funds. Mr. Grutzmacher responded he made a mistake and that he had followed the wishes of his client in adding that language; it was a lack of client control.

Councilmember Shuey asked him how much additional cost the Church felt was appropriate for responding to the comments? Mr. Grutzmacher stated the Church is willing to work with a contract amendment but he stated the Church isn't prepared to give a dollar amount.

Councilmember Shuey asked if the Church had an alternative to the proposal submitted by LSA Associates? Mr. Grutzmacher stated the Church and LSA had agreed on the 7 master comments for responding to the comments.

Councilmember Shuey asked if the Church was asking for a meeting with LSA to meet and confer? Mr. Grutzmacher stated the Church and LSA met and made some progress but not enough.

Councilmember Pierce asked if the additional work did not amount to the total amount of $48,525. being requested in the contract modification would the Church be billed? Mr. Clore responded the Church would only be billed for actual time and materials incurred up to that amount

Mayor Geller asked if this was LSA's last offer? Mr. Clore stated his staff spent a lot of time on this and he is skeptical that this price would even cover actual costs for preparing the responses.

Vice Mayor Medrano asked if LSA is willing to work with the project applicant to resolve the lack of agreement on expected cost of this work effort? Mr. Clore stated he would be more inclined if he saw a way to thematically or mathematically reduce the price, but he is highly disinclined to talking more about it.

Mayor Geller asked if this is the final cost adjustment LSA would asking for? Mr. Clore responded LSA knows what the objective is now and this would be the final cost adjustment. City Manager Napper clarified the cost adjustment being considered at this time only focuses on preparing the responses to comments and the two additional meetings being suggested by staff.

Councilmember Shuey asked how many projects LSA has sought to have a contract price amended where they were declined? Mr. Clore responded one or maybe two. Councilmember Shuey then asked if LSA terminated those contracts? Mr. Clore stated LSA did not renew its contract with one of the agencies.

Pastor Shawn Robinson, Clayton Community Church, stated the Church sat down with LSA and thought they had made some reasonable requests about master responses, and this would be given more consideration in terms of cost containment. When this did not happen, he thought this situation needed to be brought to the attention of the Council.

Councilmember Shuey commented if LSA decided to terminate the contract then it could end up costing even more money. He asked if the Church was prepared for that? Pastor Robinson stated the Church is prepared to go the distance with the project, but is hopeful LSA would not terminate the contract. But either way, the Church will be moving forward.

Vice Mayor Medrano stated he would like to see LSA try to work something out with the applicant and that he doesn't feel good about approving this level of increase.

Councilmember Stratford stated he feels for the Church because of the extra resources being requested. He stated he understands the desire to bring the cost down, but it seems like LSA has looked at the comments and has listened to the concerns of the Church in a sit-down discussion. He stated he is not sure what sitting down again with the Church would do, other than asking LSA to absorb more of the cost by not being paid for the work. He also stated LSA feels the work is going to exceed the dollar amount given in the proposed contract modification. Consequently, he is inclined to approve the contract modification with the outside hope the costs come in lower.

Councilmember Pierce stated she heard what everyone had to say. She stated she thinks it is clear that in LSA's best professional judgment it will cost another approximately $48,000 on top of budgeted amount to respond to the comments in a thorough professional manner. She stated if it takes less time there will be reduced charges. She stated she does not know many companies who would not be paid $48,000 for this anticipated level of work. She stated LSA will be required to justify their costs and substantiate their billings. She stated LSA has a general idea of the technical level of the comments. She expects that all of the people in Clayton that took the time to prepare comments should be responded to respectfully and in a technically competent and thoughtful manner. She stated some responses may be more complicated than the others. She stated if LSA terminates the contract it will cost more to bring in another consultant, and in the interest of the protecting the Church from incurring additional costs, the Council needs to approve this contract.

Councilmember Shuey stated he did not like the tenor of the letter from the Church's attorney. He stated it was not acknowledged that staff had negotiated with LSA to reduce the cost of the contract modification substantially. He stated staff did an excellent job in working on this issue. He stated he heard what Councilmembers Pierce and Stratford said but he stated if a contract for $48,000 is approved, LSA will spend it. He stated he believes LSA underbid the project but that the Church did not propose another option to solve the problem. He therefore recommends the Council approve a contract modification for up to $30,000 for the response to comments effort and the two additional meetings anticipated by staff.

Mayor Geller commended staff for their work and Mr. Clore for his professionalism and the facts and figures. He stated LSA has reduced their price, based on the information provided in the table reviewed by Mr. Clore and staff. Mr. Clore and staff provided information and sat at the table with Church representatives to explain the rationale for the requested modification. He stated LSA has negotiated and made an attempt to compromise and he stands behind staff's recommendation.

It was moved by Councilmember Shuey, seconded by Vice Mayor Medrano, to approve an amended contract amount of up to $30,000.

Councilmember Stratford stated he thinks this is just dragging out the process.

Councilmember Shuey stated he doesn't believe this delays the process at all and he does not think LSA will walk away from the project.

The City Manager asked and received clarification the motion was for $27,400 for the extra draft EIR comments and $2,600 for the extra hearings.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to introduce a substitute motion to approve staff recommendation with the contract modification of $48,525.00 (Passed; 3-2 vote; Noes- Medrano and Shuey).

At the request of Mayor Geller, the Council took Item No. 9(d) out of order at this time.

(d) Consideration of the award of contract to Scoreboards.com in the amount of $12,988.92 for the purchase of three (3) replacement scoreboards for installation at the three sports fields in Clayton Community Park.

Maintenance Supervisor Johnston stated the scoreboards at the Clayton Community Park have been up for 17 years. They were originally donated by CBCA and the City installed them. Over the last 5 years, upper scoreboards have not been functioning, and the lower scoreboard has required many repairs. He stated most manufacturers only offer a 5 year warranty on their boards. He stated the recommended replacement scoreboards are high tech, energy efficient (LED), and include wireless remotes. He stated All American Scoreboards have been easy for staff to work with and they would like to continue using their products. Staff contacted three companies with All American scoreboards. He stated electrical contractors will do the hard wiring for these boards, and an extra remote will be purchased. Staff recommends this upgrade be paid for from the Deferred Maintenance account.

Councilmember Shuey asked if these are for baseball only and asked if staff looked at a multi-sport scoreboard to include soccer?

Maintenance Supervisor Johnston stated staff had considered other scoreboards but there would be additional cost not only for the scoreboard but for the installation of new posts to mount the boards on.

Mayor Geller stated CBCA is looking for projects and might be interested in purchasing the scoreboards. The City Manager stated the contract could be approved tonight and CBCA could reimburse the City if they so desired.

The City Manager stated part of the goal of this project was to get these installed by the start of the Little League season in March/April.

The Council discussed the merits of looking at multi-sport scoreboards and noted some of the leagues might be willing to contribute money for the upgraded scoreboards. The Council asked staff to explore the options for multi-sport scoreboards and bring back the information at a later Council meeting.

No action taken; referred back to staff.

(b) Consider a series of actions to formally implement an "Exclusion" to the City of Clayton's existing contract with the California Public Employees Retirement System (CalPERS) to exclude all newly elected city council members from enrollment or participation in the CalPERS pension plan.

The City Clerk stated in August the Council gave staff direction to contact CalPERS and start the contract amendment for "Exclusion" of new City Councilmember and this is follow up action.

Mayor Geller stated he was sorry the Council used staff time for this particular issue. He stated had the Council known that they had a choice to opt in or out of the system from the beginning they could have chosen to not be part of the system. He stated people who are already part of the CalPERS system at some point in time must be part of the system in the future regardless.

It was moved by Councilmember Medrano, seconded by Councilmember Pierce, to adopt the Resolution of Intent, Resolution 02-2012 (Passed; 4-1 vote; No-Geller)

It was moved by Councilmember Medrano, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 438 by title and number only and waive further reading (Passed; 5-0 vote).

The City Clerk read Ordinance No. 438 by title and number only.

It was moved by Councilmember Medrano, seconded by Councilmember Pierce, to approve for Introduction and First Reading Ordinance No. 438 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to provide for the exclusion of city council members hired on or after the effective date of this amendment to become members of CalPERS under the City's contract (Passed; 4-1 vote; No Geller).

(c) Consideration of a Resolution expressing the City's intent to serve as the Successor Agency of the Clayton Redevelopment Agency pursuant to Health and Safety Code Section 34171(j) and Section 34173, and to elect to retain the Affordable Housing assets and function previously performed by the Clayton Redevelopment Agency pursuant to Health and Safety Code Section 3416.

The City Manager stated the Supreme Court ruled Redevelopment Agencies expire as of January 31, 2012. The City as the parent agency can become the successor agency in order to control some of the decisions of the dissolution of the Agency. Staff forecasts the Enforcable Obligations for the Agency are around $15.2 million though there are some questions as to whether the land for the fire station and the 2% election payments will be enforced. It is recommended the Council adopt the Resolution.

No public comments were received.

It was moved by Councilmember Pierce, seconded by Vice Mayor Medrano, to adopt Resolution 03-2012 expressing the City's intent to serve as the Successor Agency and Successor Housing Agency of the Clayton Redevelopment Agency. (Passed; 5-0 vote).

(e) Determination of the date, time and location for the City Council's annual Goals and Objectives Setting Session with its City Manager.

The City Council reviewed and discussed their availability and dates to attend the special meeting.

It was moved by Mayor Geller, seconded by Councilmember Pierce to call a City Council special meeting for Monday, January 30, 2012 at 4:00 p.m. in the City Hall Conference room, 6000 Heritage Trail to discuss the annual Goals and Objectives with the City Manager (Passed; 5-0 vote).

10. COUNCIL ITEMS- Councilmember Shuey asked that the Clayton Valley Charter High School core group be recognized at the next meeting.

11. ADJOURNMENT– On call by Mayor Geller the meeting adjourned at 10:30 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

MINUTES
OF THE
SPECIAL MEETING OF THE
CLAYTON CITY COUNCIL

Agenda Date: 2-7-12

Agenda Item: 4a

January 30, 2012

1. **CALL TO ORDER & ROLL CALL** – the special meeting was called to order at 4:01 p.m. by Mayor Geller in the 3rd Floor Conference Room, Clayton City Hall, 6000 Heritage Trail, Clayton, CA. Council Members present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey, and Stratford. Staff present: City Manager Gary Napper and City Clerk Laci Jackson.

2. **CLOSED SESSION** – None.

3. **PUBLIC COMMENTS** – None.

4. **ACTION ITEM**

(a) Discussion and establishment of Council-Manager Goals and Objectives for Calendar Year 2012.

The City Manager updated the City Council as to progress made and achievements obtained regarding the goals set from previous annual sessions. After considerable discussion and exchange of ideas, the City Council outlined the following additional Goals and Objectives for upcoming year:

- Continue to explore financial feasibility of adding 6-7 Bocce Ball Courts at the approved City Hall vacant site, and perhaps Field 4 of the Clayton Community Park
- Update the Emergency Operations Plan and conduct a tabletop exercise
- Explore the idea of solar panels in the City's Open Space
- Work on the relationship with the Mt. Diablo Unified School District and help coordinate a district-wide joint committee with the different City Councils and the School Board

4. **ADJOURN** – on call by Mayor Geller the meeting adjourned at 5:55 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

Agenda Date: 2/7/12

Agenda Item: 4B

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER mp

DATE: FEBRUARY 7, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION **Approve the following Invoices.**

2/7/12	Cash Requirements Report	$83,710.82

Attachments:
Cash Requirements Report dated 2/3/12 (5 pages)

City of Clayton
Cash Requirements Report
CC Meeting 2/7/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Ace Sierra Tow								
Ace Sierra Tow	2/3/2012	12/11/2011	47970	Tow svc - 1 truck & 2 bikes	$75.00	$0.00		$75.00
				Totals for Ace Sierra Tow:	*$75.00*	*$0.00*		*$75.00*
All City Management Services, Inc.								
All City Management Services, Inc.	2/3/2012	1/14/2012	25499	School Crossing Guard 1/1-1/14/12	$418.50	$0.00		$418.50
				Totals for All City Management Services, Inc.:	*$418.50*	*$0.00*		*$418.50*
American Fidelity Assurance Company								
American Fidelity Assurance Company	2/3/2012	1/17/2012	A778741	Employee FSA	$293.82	$0.00		$293.82
				Totals for American Fidelity Assurance Company:	*$293.82*	*$0.00*		*$293.82*
Andrew & Krista Hosler								
Andrew & Krista Hosler	2/3/2012	1/30/2012	0014	Stormwater Refund CAP 0014-	$1,689.79	$0.00		$1,689.79
				Totals for Andrew & Krista Hosler:	*$1,689.79*	*$0.00*		*$1,689.79*
AT&T/ CalNet 2								
AT&T/ CalNet 2	2/3/2012	1/8/2012	2944646	PD Master Billing 12/8-1/7/12	$177.50	$0.00		$177.50
				Totals for AT&T/ CalNet 2:	*$177.50*	*$0.00*		*$177.50*
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	2/3/2012	12/8/2011	667477	Labor/Employment Matter	$2,090.00	$0.00		$2,090.00
Best Best & Kreiger LLP	2/3/2012	1/9/2012	668907	CCChurch Matters	$518.86	$0.00		$518.86
Best Best & Kreiger LLP	2/3/2012	1/9/2012	668908	Labor Employment 12/2011	$1,274.55	$0.00		$1,274.55
Best Best & Kreiger LLP	2/3/2012	1/10/2012	669032	Legal Services	$8,000.00	$0.00		$8,000.00
				Totals for Best Best & Kreiger LLP:	*$11,883.41*	*$0.00*		*$11,883.41*
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	2/3/2012	1/13/2012	1005219	Copier useage 12/15/11-1/14/12	$284.27	$0.00		$284.27
				Totals for Caltronics Business Systems, Inc:	*$284.27*	*$0.00*		*$284.27*
CCC Sheriff - Forensic Svc Div (Lab)								
CCC Sheriff - Forensic Svc Div (Lab)	2/3/2012	1/23/2012	CLPD-1112	12/11 Services	$505.00	$0.00		$505.00
CCC Sheriff - Forensic Svc Div (Lab)	2/3/2012	1/6/2012	CLPD-411	6 blood withdrawls Oct-Dec11	$441.00	$0.00		$441.00
				Totals for CCC Sheriff - Forensic Svc Div (Lab):	*$946.00*	*$0.00*		*$946.00*
Cheyenne Electric Inc.								
Cheyenne Electric Inc.	2/3/2012	1/26/2012	12612	CAT-5 Run City Hall-PW Computer Upgrad	$1,400.00	$0.00		$1,400.00
				Totals for Cheyenne Electric Inc.:	*$1,400.00*	*$0.00*		*$1,400.00*
Cintas Fire Protection								
Cintas Fire Protection	2/3/2012	1/22/2011	OF44549222	Fire Extiniguisher Repairs & SVC Library	$731.77	$0.00		$731.77
Cintas Fire Protection	2/3/2012	12/22/2011	OF44549223	Fire Extinguisher Inspection & SVC-PD	$792.00	$0.00		$792.00
Cintas Fire Protection	2/3/2012	12/22/2011	OF44549224	Fire Extinguisher Inspection / Svc	$81.00	$0.00		$81.00
				Totals for Cintas Fire Protection:	*$1,604.77*	*$0.00*		*$1,604.77*

City of Clayton
Cash Requirements Report
CC Meeting 2/7/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
City National Bank								
City National Bank	2/3/2012	1/15/2012	1152012	CFD 1990-2 Interest Pymt	$13,127.50	$0.00		$13,127.50
				Totals for City National Bank:	*$13,127.50*	*$0.00*		*$13,127.50*
CR Fireline Inc								
CR Fireline Inc	2/3/2012	1/6/2012	90657	Qtr Fire Sprinkler Inspection + Annual Fire Al	$310.00	$0.00		$310.00
CR Fireline Inc	2/3/2012	1/6/2012	90658	Qtr Fire Sprinkler Insp+Semi-Annual Alarm	$310.00	$0.00		$310.00
CR Fireline Inc	2/3/2012	1/6/2012	90659	Qtr Fire Sprinkler Insp+Annual Alarm	$210.00	$0.00		$210.00
				Totals for CR Fireline Inc:	*$830.00*	*$0.00*		*$830.00*
Cropper Accountancy Corp								
Cropper Accountancy Corp	2/3/2012	1/31/2012	558	Bank Rec/BlackBaud help	$218.75	$0.00		$218.75
				Totals for Cropper Accountancy Corp:	*$218.75*	*$0.00*		*$218.75*
Dillon Electric Inc								
Dillon Electric Inc	2/3/2012	1/25/2012	2475	CIP 10413-Flood lights	$587.60	$0.00		$587.60
				Totals for Dillon Electric Inc:	*$587.60*	*$0.00*		*$587.60*
Globalstar LLC								
Globalstar LLC	2/3/2012	1/16/2012	3629296	PD Sat Phone 1/12	$27.30	$0.00		$27.30
				Totals for Globalstar LLC:	*$27.30*	*$0.00*		*$27.30*
Hammons Supply Company								
Hammons Supply Company	2/3/2012	1/26/2012	70331		$365.59	$0.00		$365.59
				Totals for Hammons Supply Company:	*$365.59*	*$0.00*		*$365.59*
HdL Coren & Cone								
HdL Coren & Cone	2/3/2012	1/16/2012	7044	Business License SQL Data Migration-upgrad	$750.00	$0.00		$750.00
				Totals for HdL Coren & Cone:	*$750.00*	*$0.00*		*$750.00*
ICMA Retirement Corporation								
ICMA Retirement Corporation	2/3/2012	1/6/2012	9844		$125.00	$0.00		$125.00
				Totals for ICMA Retirement Corporation:	*$125.00*	*$0.00*		*$125.00*
Independent Stationers								
Independent Stationers	2/3/2012	1/16/2012	123091	Office Supplies	$151.03	$0.00		$151.03
				Totals for Independent Stationers:	*$151.03*	*$0.00*		*$151.03*
Interstate All Battery Center - East Bay								
Interstate All Battery Center - East Bay	2/3/2012	9/29/2011	web000391	2 batteries	$257.74	$0.00		$257.74
				Totals for Interstate All Battery Center - East Bay:	*$257.74*	*$0.00*		*$257.74*
Interviews & Interrogations Inst								
Interviews & Interrogations Inst	2/3/2012	1/24/2012	12-4		$382.00	$0.00		$382.00
				Totals for Interviews & Interrogations Inst:	*$382.00*	*$0.00*		*$382.00*

City of Clayton
Cash Requirements Report
CC Meeting 2/7/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Jennifer K. Meeker								
Jennifer K. Meeker	2/3/2012	1/30/2012	0019	CAP 0019-SWP Refund	$1,904.55	$0.00		$1,904.55
				Totals for Jennifer K. Meeker:	*$1,904.55*	*$0.00*		*$1,904.55*
John Deere Landscapes Inc								
John Deere Landscapes Inc	2/3/2012	1/5/2012	60067109	Sprinkler Supplies	$444.54	$0.00		$444.54
John Deere Landscapes Inc	2/3/2012	1/11/2012	60093291		$113.13	$0.00		$113.13
John Deere Landscapes Inc	2/3/2012	1/11/2012	60093296	Sprinkler Supplies	$335.43	$0.00		$335.43
				Totals for John Deere Landscapes Inc:	*$893.10*	*$0.00*		*$893.10*
LarryLogic Productions								
LarryLogic Productions	2/3/2012	1/18/2012	1213		$425.00	$0.00		$425.00
				Totals for LarryLogic Productions:	*$425.00*	*$0.00*		*$425.00*
League of CA cities								
League of CA cities	2/3/2012	12/20/2011	98004	Local Rds & St needs Assessment	$200.00	$0.00		$200.00
				Totals for League of CA cities:	*$200.00*	*$0.00*		*$200.00*
Local Government Consultants								
Local Government Consultants	2/3/2012	1/30/2012	100	State Mandated Cost Claims 2010-11	$1,000.00	$0.00		$1,000.00
				Totals for Local Government Consultants:	*$1,000.00*	*$0.00*		*$1,000.00*
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	2/3/2012	1/18/2012	111-14352	Library Actuator repair + spare part	$1,133.75	$0.00		$1,133.75
Marken Mechanical Services Inc	2/3/2012	1/24/2012	411-1146-11	HVAC Preventative Mtn 1/12	$502.17	$0.00		$502.17
				Totals for Marken Mechanical Services Inc:	*$1,635.92*	*$0.00*		*$1,635.92*
Mt. Diablo Unified School Dist (Gym)								
Mt. Diablo Unified School Dist (Gym)	2/3/2012	1/31/2012	AR250889	Custodial New Years Eve 12/31/11	$639.00	$0.00		$639.00
				Totals for Mt. Diablo Unified School Dist (Gym):	*$639.00*	*$0.00*		*$639.00*
Muir/ Diablo Occupation Medicine								
Muir/ Diablo Occupation Medicine	2/3/2012	1/10/2012	164497	Enea & Billington TB & Hep Vac	$97.00	$0.00		$97.00
Muir/ Diablo Occupation Medicine	2/3/2012	1/18/2012	165487	Dansie, L Vaccine Hep B	$77.00	$0.00		$77.00
Muir/ Diablo Occupation Medicine	2/3/2012	1/24/2012	166184	White TB Skin Test/Vaccine Hep B	$97.00	$0.00		$97.00
				Totals for Muir/ Diablo Occupation Medicine:	*$271.00*	*$0.00*		*$271.00*
Municipal Pooling Authority								
Municipal Pooling Authority	2/3/2012	1/27/2012	c1203	Crime Premium 2012-13	$400.00	$0.00		$400.00
				Totals for Municipal Pooling Authority:	*$400.00*	*$0.00*		*$400.00*
Neopost (add postage)								
Neopost (add postage)	2/3/2012	2/1/2012	2112	Admin Postage added 2/1/12	$300.00	$0.00		$300.00
				Totals for Neopost (add postage):	*$300.00*	*$0.00*		*$300.00*

City of Clayton
Cash Requirements Report
CC Meeting 2/7/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Neopost Leasing (Mail Finance)								
Neopost Leasing (Mail Finance)	2/3/2012	1/24/2012	n3054682	Neopost Lease 1/24/12	$222.02	$0.00		$222.02
				Totals for Neopost Leasing (Mail Finance):	*$222.02*	*$0.00*		*$222.02*
Pacific Light And Shade Inc.								
Pacific Light And Shade Inc.	2/3/2012	2/1/2012	15190	Council Chamber Blinds	$1,824.00	$0.00		$1,824.00
				Totals for Pacific Light And Shade Inc.:	*$1,824.00*	*$0.00*		*$1,824.00*
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	2/3/2012	1/26/2012	344941	Outside Phone Booth 2/12	$73.00	$0.00		$73.00
				Totals for Pacific Telemanagement Svc:	*$73.00*	*$0.00*		*$73.00*
PERMCO, Inc.								
PERMCO, Inc.	1/13/2012	1/9/2012	9628	Engineer Retainer 12/24/11-1/6/12	$1,091.75	$0.00		$1,091.75
PERMCO, Inc.	1/13/2012	1/9/2012	9629	O'Meara SWP 01-10	$20.75	$0.00		$20.75
PERMCO, Inc.	1/13/2012	1/9/2012	9630	CCP Pkg Lot - Inspections, meetings, plans	$476.56	$0.00		$476.56
PERMCO, Inc.	1/13/2012	1/9/2012	9631	Diablo Estates Review Grd Plans & SWPPP	$1,948.75	$0.00		$1,948.75
PERMCO, Inc.	1/13/2012	1/9/2012	9632	Diablo Estates Construction Inspections	$394.25	$0.00		$394.25
PERMCO, Inc.	1/13/2012	1/9/2012	9633	Diablo Estates SW BMP Inspections	$20.75	$0.00		$20.75
PERMCO, Inc.	1/13/2012	1/9/2012	9634	VanBrusselen 0010 SW	$20.75	$0.00		$20.75
PERMCO, Inc.	2/3/2012	1/30/2012	9635	Retainer-General Svc	$4,544.75	$0.00		$4,544.75
PERMCO, Inc.	2/3/2012	1/30/2012	9636	O'meara SWP 01-10 inspection	$41.50	$0.00		$41.50
PERMCO, Inc.	2/3/2012	1/30/2012	9637	CIP 10413-CCParking Lot Exp	$3,210.13	$0.00		$3,210.13
PERMCO, Inc:	2/3/2012	1/30/2012	9638	Diablo Pt SPR easement needs BAD	$900.00	$0.00		$900.00
PERMCO, Inc.	2/3/2012	1/30/2012	9639		$1,894.50	$0.00		$1,894.50
PERMCO, Inc.	2/3/2012	1/30/2012	9640	Diablo Estates Construction Inspections	$373.50	$0.00		$373.50
PERMCO, Inc.	2/3/2012	1/30/2012	9641	Diablo Pt Stormwater BMP Inspections	$41.50	$0.00		$41.50
PERMCO, Inc.	2/3/2012	1/30/2012	9642	VanBrusselen 0010 SW Inspection	$41.50	$0.00		$41.50
PERMCO, Inc.	2/3/2012	1/30/2012	9643	MCR Upgrade Base bid survey info	$1,703.00	$0.00		$1,703.00
				Totals for PERMCO, Inc.:	*$16,723.94*	*$0.00*		*$16,723.94*
PG&E								
PG&E	2/3/2012	1/18/2012	11999663768-9	Irrigation & Traffic Signal 1/12	$464.99	$0.00		$464.99
PG&E	2/3/2012	1/23/2012	1218096305-5 1/12	Master Acct 1/12	$1,902.02	$0.00		$1,902.02
PG&E	2/3/2012	1/23/2012	2572177359-3 1/12	Individ Inv Utilities 1/12	$678.91	$0.00		$678.91
PG&E	2/3/2012	1/17/2012	7293447797-6 1/12	Master Acct Utilities 1/12	$17,369.22	$0.00		$17,369.22
				Totals for PG&E:	*$20,415.14*	*$0.00*		*$20,415.14*
R&S Erection of Concord								
R&S Erection of Concord	2/3/2012	10/17/2011	78504		$303.20	$0.00		$303.20
				Totals for R&S Erection of Concord:	*$303.20*	*$0.00*		*$303.20*
Riso Products of Sacramento								
Riso Products of Sacramento	2/3/2012	1/4/2012	84586	Copier use 1/12	$94.79	$0.00		$94.79

City of Clayton
Cash Requirements Report
CC Meeting 2/7/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for Riso Products of Sacramento:	*$94.79*	*$0.00*		*$94.79*
Sprint Comm (PD)								
Sprint Comm (PD)	2/3/2012	1/29/2012	703335311-122	PD 12/26-1/25/12 Nextel Svc	$295.90	$0.00		$295.90
				Totals for Sprint Comm (PD):	*$295.90*	*$0.00*		*$295.90*
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	2/3/2012	1/29/2012	531409315-117	PW Nextel Phone Svc 1/12	$291.65	$0.00		$291.65
				Totals for Sprint Comm (PW & ADM):	*$291.65*	*$0.00*		*$291.65*
Stericycle Inc								
Stericycle Inc	2/3/2012	2/1/2012	3001704076	12/12 Svc	$203.04	$0.00		$203.04
				Totals for Stericycle Inc:	*$203.04*	*$0.00*		*$203.04*
				GRAND TOTALS:	**$83,710.82**	**$0.00**		**$83,710.82**

Agenda Date: 2-7-12

Agenda Item: 4c

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY CLERK

DATE: FEBRUARY 7, 2011

SUBJECT: REJECTION OF LIABILITY CLAIM FILED BY ALEC NEMON

RECOMMENDATION

Approve the rejection of liability claim against the City filed by Alec Nemon (MPA Claim No. GL-010442) for alleged damages reportedly occurring on July 20, 2011.

BACKGROUND

On December 19, 2011 the City received a liability claim filed by Alec Nemon for alleged expenses. The City is self insured for general liability purpose and the Municipal Pooling Authority of Northern California administers the self-insured program. On December 19, 2011 the liability claim was transmitted to the Municipal Pooling Authority for processing.

Liability adjustors for the Municipal Pooling Authority investigated the claim. Following the investigation the Municipal Pooling Authority and the City Attorney advised the City to issue a notice of rejection for the claim.

FISCAL IMPACT

None.

Attachment: 1. Copy of Claim

TO: Gary A.Napper, City Manager of Clayton, California
6000 Heritage Trail Clayton, CA 94517-1250

FROM: Alec Nemon
P.O. BOX 371
Clayton,CA
94517-371

Dear Mr. Napper I feel the City of Clayton owes me the cost I have incurred pursuing the recovery of my property, seven legally owned firearms, that were illegally seized by the Clayton Police on July 20 2011. The costs are $5025- for the legal services of Daniel E. Cook (Attorney at Law), $58 for fees to the California Department of Justice, and $200 for miscellaneous expenses, for a total of $5,283-. It is known that if the Police didn't flagrantly break several laws, both State and Federal, I would not have incurred any of these loses. It is also known that if you did not file a petition with the Contra Costa County Superior Court to prevent the lawful return of my property I would not have incurred any of these loses. It is also known that since you and your hired council, (Best, Best, & Krieger, LLP), decided to file a dismissal of the petition with the court (3 hours before the scheduled hearing), that there was no validity in the petition in the first place, and that you through your action concede such. It is also in the law Penal Code 12028.5 that at hearing to decide upon the return of firearms the prevailing party shall pay the attorney fees of the other party. Your dishonest move of the dismissal robed me of the reimbursement I would have been granted at that time in Superior Court. You have cleverly broken the spirit of the law. I still deserve to be made a whole person.
If I do not receive this sum in 21 calendar days of the date of this letter then I will take both of two different and simultaneous courses of action.

A) I will sue in court for this sum and any additional costs incurred.
B) I will put on a presentation at a City Council Meeting (as I am allowed to by law) that will expose, what I feel, are illegal and/or unfair acts and/or policies of yours and the Police Department and corruption. I have spoken to friends of mine, whom are residents, parents, homeowners, voters, hunters, and owners of firearms. They have assured me that we can absolutely pack a city council meeting with like minded citizens. We have already started to make a list of contacts. I will also contact the NRA and have them contact Clayton NRA members. Some of the items I will present are:

1) The details of Officer Sorrell illegally threatening and flagrantly breaking the 2nd and 4th amendments' of the constitution as well as article 1 section 13 of the California Constitution. He latter violated my Eighth Amendment.
2) How Clayton Police Officer Shanna Decoite contacted my wife and got her to, at a time we were trying to heal our relationship, conspire against me and print out a copy of a private email between my Attorney Dan Cook and I, and bring it into the Police Station. My wife says the email was out of her sight for over 5 minutes, one can only assume it was photo copied. Several laws were broken here I believe, Attorney/Client Privilege, Inciting a Spouse to Conspire as well as the 4th Amendment again . My wife has agreed to sign a statement in front of a Notary to this effect if need be.
3) How the Clayton Police physically took a firearm that was completely secure locked up in a substantial gun safe and abandon it on the handle bar style gun rack of my ATV just 32 inches away from over 50 rounds of live ammunition creating a dangerous and illegal Child Endangerment situation.

Received
DEC 19 2011
City of Clayton

4) How the Clayton Police Department website in the "Our Mission" link says " We value the oath we took to uphold the constitution and enforce the law with integrity and professionalism in all aspects of our service." Yet the Police Chief Dan Lawrance told me when I called him on the phone to ask for the return of my fire arms the first time "we are going to petition the court to not return your fire arms and destroy them. You should not take this personally because we have a policy in all domestic disturbances to always seize all firearms and to always petition the court to destroy them." You can't legally have a policy to always break the 2nd, 4th, and 8th amendment and state law.
5) The fine points of CA penal Code 12028.5 and how it was flagrantly broken and abused by both you and the Clayton Police Department many times over.
6) The financial attack on my family, including the sheepish way you and your hired council withdrew the petition 3 hours before the hearing.
7) How the City of Clayton wastes our money harassing citizens. Are our City leaders making prudent decisions? Are our city leaders and then thus the Police Chief under them leaning heavily toward the anti-gun movement, to the point of flagrantly breaking laws, and filing frivolous petitions, possibly law suits and criminal charges against law abiding citizens.

I also will be looking to share this information in other venues beside the City Council Meetings, like other fourms of media (internet fourms,ect.).
I'm sure there are other avenues of recourse that I am not aware of, and I'll be actively seeking them out as well. I feel that you as well as the Police have put tension and stress on my wife and I. We both feel harassed. I'm sure you can tell that I am still bitter about it, as it is my right to be so. I am not a vindictive person and am not capable of immoral or illegal activity including libel, or slander but I will tell the truth. And I will not go away, unless you perform. You and the Police are our civil servants, we pay plenty of taxes and you have worked hard to divide our family. There is a new community initiative in Clayton these days. You must have seen it, it says "Do the right thing". Mr. Napper I ask you to DO THE RIGHT THING. As I said you have 21 calendar days to perform.

12/15/2011

Sincerely Alec Nemon 12-15-2011

c.c Dan E. Cook Esq.
c.c. Joel Fischman Esq.
c.c. David Lederman Esq.

Received
DEC 19 2011
City of Clayton

Agenda Date: 2-7-12
Agenda Item: 4d

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: FEBRUARY 7, 2012

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING THE FORMATION OF THE DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT AND ORDERING PREPARATION OF AN ENGINEER'S REPORT.

RECOMMENDATION

Adopt the attached Resolution approving the formation of the Diablo Estates at Clayton Benefit Assessment District ("BAD") and ordering the preparation of Engineer's Report as required prior to the levying of assessments.

BACKGROUND

In December 2004 and in July 2011, conditions of approval for the tentative map of Subdivision 8719, Diablo Estates at Clayton (formerly Diablo Pointe) were approved requiring the construction of common landscaping along Regency and Rialto Drives, as well as storm drainage and stormwater treatment facilities. In addition, the new Developer, Toll Bros, Inc., ("Toll") submitted new house types which subjected the project to the latest stormwater treatment requirements. The stormwater treatment facilities increased from a single separator unit constructed in the new street to approximately 48 filtration planters located on the lots.

The City's Stormwater Discharge Permit, issued by the local Regional Water Quality Control Board, makes the City responsible for insuring the maintenance and operation of these facilities despite the fact these systems are on private property. This is to be accomplished through annual monitoring, inspecting and reporting by the property owners. When property owners fail in their obligations, under unfunded state regulatory mandates it is incumbent on the City to perform such inspections and maintenance.

The original project proponent, Lemke Homes, did not want to form a Homeowners Association to assume responsibility for the various maintenance obligations imposed upon the project. Lemke requested, and the City acquiesced via additional conditions of approval, to form an assessment district over the subdivision lots to pay for in perpetuity the required maintenance of the storm drainage facilities, stormwater treatment facilities and the common landscaping. Further, the City agreed to include the streetlighting as part of the assessment district if so requested by the developer.

When Toll requested design approval for their new houses, in addition to the updated stormwater treatment requirements, the City imposed additional restrictions on the slopes within each lot. The property owners are prohibited from constructing any improvements or making any changes to the slope areas outside of the flat building pads. Since the City will be responsible for the maintenance of the drainage facilities (which include pipes and concrete ditches running through these slope areas), Toll asked that the City also be responsible for the weed abatement required by the Fire District each year.

Staff believes this is a reasonable request and recommends these duties be included yet paid for by property owners' funds via the BAD. Staff has made it very clear the City does not have any funds or personnel available to undertake any of the work involved, including the ongoing, daily oversight of the work, nor should it use general taxpayers' monies for essentially a private property owner(s) benefit. Therefore, the plan is for the City to contract with a management firm to handle the necessary day-to-day operations and to make sure all of the obligations being funded by the BAD are met. This cost, along with all of the City's administrative and overhead costs, will be funded by the District's annual assessments.

The Resolution being considered tonight is the first step in the formation and assessment levying process of the BAD. Since this is a new assessment, the process is subject to the Proposition 218 ballot election procedures.

FISCAL IMPACT

Staff has made it very clear there is to be no fiscal impact to the City's General Fund arising from this residential development. In working with the Developer and his engineer, staff is being very conservative in estimating all of the costs associated with the District, including the City's costs for overseeing the District ,handling the finances of the District, and inclusion of an escalator provision to the annual assessment.

Other than in an emergency situation, there will be little involvement by City Staff. The cost for any required staff involvement will be paid for by the District.

CONCLUSION

Staff recommends the City Council approve the attached Resolution approving the formation of the Diablo Estates at Clayton Benefit Assessment District, ordering recordation of the District boundary map, naming SCI Consulting Group as Engineer of Work, and directing preparation and submittal of an initial Engineer's Report.

Attachments: Resolution
Boundary Map

RESOLUTION NO.

A RESOLUTION APPROVING THE FORMATION OF THE DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT PURSUANT TO THE PROVISIONS OF THE LANDSCAPING AND LIGHTING ACT OF 1972 (GOVERNMENT CODE SECTION 22500 ET SEQ) AND THE BENEFIT ASSESSMENT ACT OF 1982 (GOVERNMENT CODE SECTION 54703 ET SEQ).

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the conditions of approval imposed upon the tentative map for Subdivision 8719 (Diablo Estates at Clayton, formerly Diablo Pointe) required the construction of various drainage improvements, stormwater treatment facilities, streetlights, and perimeter landscaping along existing public streets (Regency and Rialto Drives); and

WHEREAS, the final map for Subdivision 8719 was recorded in Book 506 of Maps at Page 45, in the Office of the County Recorder of Contra Costa County; and

WHEREAS, the various improvements, especially those related to the treatment of stormwater, require perpetual inspection and maintenance ; and

WHEREAS, under the terms of the City's Stormwater Discharge Permit, issued by the San Francisco Bay Regional Water Quality Control Board, the City is responsible for monitoring and enforcing all requirements related to the treatment of storm runoff prior to said runoff entering the City's storm drain system and/or creeks; and

WHEREAS, the City must establish a mechanism, namely a benefit assessment district, to provide funding of the costs of the required monitoring, enforcement and/or maintenance of the treatment facilities and improvements (including the cost of the City's administration of the district and the work) once they are constructed; and

WHEREAS, the project developer, Toll Bros., Inc., has requested that, in addition to the stormwater treatment facilities, that the City oversee the maintenance of other improvements, such as the storm drain collection system, common landscape and irrigation, weed abatement of natural slope areas, and street lighting; and

WHEREAS, the above described improvements have been placed in public easements, making the work eligible for funding by a benefit assessment district; and

WHEREAS, the Landscaping and Lighting Act of 1972, commencing at Section 22500 of the Government Code, and the Benefit Assessment Act of 1982, commencing at Section 54703 of the California Government Code (the "Acts"), authorize the levy of assessments upon benefited properties for the maintenance of the described facilities; and

WHEREAS, the City Council now desires to proceed with the formation of a benefit assessment district encompassing Lots 1 through 24, inclusive, of said Subdivision 8719 (506 M 45), in order to be able to levy assessments as needed to fund the work described above;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the Clayton, California as follows:

1. A benefit assessment district encompassing Lots 1 through 24, inclusive, of Subdivision 8719 (506 M 45) is hereby formed.

2. The name of the proposed benefit assessment district shall be the "Diablo Estates at Clayton Benefit Assessment District" ("District").

3. The proposed boundaries of the District are as shown on the boundary map on file with the City Clerk, which boundaries are hereby approved and to which map reference is hereby made for particulars. The City Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the District in the office of the County Recorder of the County of Contra Costa within fifteen days of the date of adoption of this Resolution.

4. The firm of SCI Consulting Group of Fairfield, California, is hereby named as Engineer of Work and is directed to prepare an initial Engineer's Report in accordance with the requirements of the Acts and submit said report to this Body for approval.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular meeting thereof held on 7^{th} day of February, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

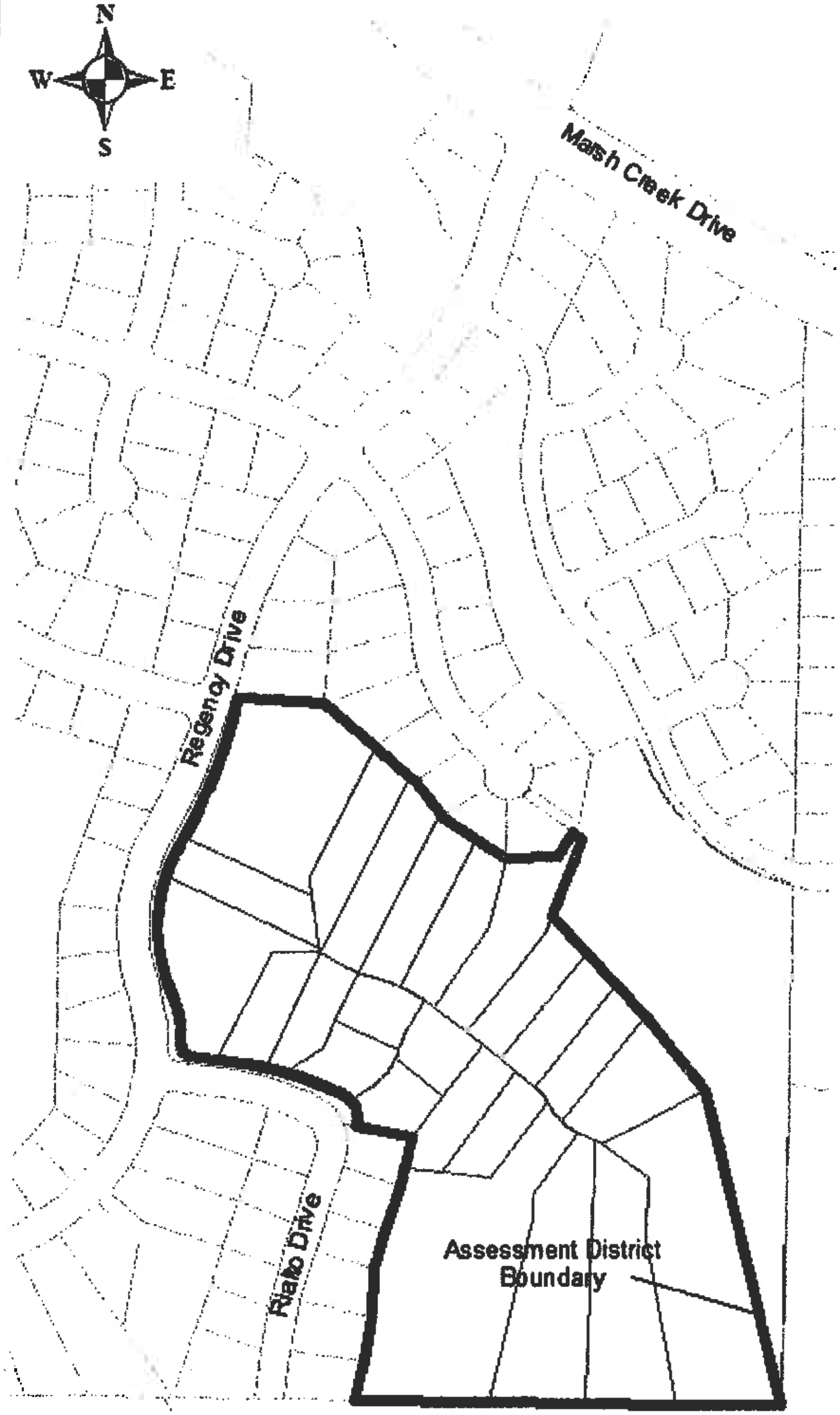
Howard Geller, Mayor

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 a regular meeting held on February 7, 2012.

Laci Jackson, City Clerk



AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL OF THE CITY OF CLAYTON ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE ________ DAY OF ________________, 2011 FOR FISCAL YEAR 2011-12 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF CONTRA COSTA ON THE ________ DAY OF ________________, 2011. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

____
CITY CLERK

FILED IN THE OFFICE OF THE CITY CLERK, CITY OF CLAYTON, COUNTY OF CONTRA COSTA, CALIFORNIA, THIS ______ DAY OF ____________, 2011.

____
CITY CLERK

RECORDED IN THE OFFICE OF THE CITY CLERK, CITY OF CLAYTON, COUNTY OF CONTRA COSTA, CALIFORNIA, THIS ______ DAY OF ________, 2011.

____
CITY CLERK

FILED THIS ______ DAY OF ____________, 2011, AT THE HOUR OF ________ O'CLOCK ___.M. IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AT THE REQUEST OF THE CITY COUNCIL OF THE CITY OF CLAYTON.

____
COUNTY AUDITOR, COUNTY OF CONTRA COSTA

Note:
REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF CONTRA COSTA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARECL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.

SCI Consulting Group
4745 Mangels Boulevard
Fairfield, CA 94534
(707) 430-4300

Proposed Boundary
Diablo Estates at Clayton
Benefit Assessment District

Agenda Date: 2-7-12

Agenda Item: 5a

declaring

February 11, 2012

as

Clayton Valley *Charter* High School *Celebration* Day

WHEREAS, parents and community members in the cities of Clayton and Concord came together in early 2011 to begin the process of petitioning for Clayton Valley High School to be converted to a Charter High School; and

WHEREAS, support and endorsements embracing the proposal grew and by June 2011 the final Charter Conversion plan documents were completed as required by applicable state and public education codes; and

WHEREAS, in June 2011, 80% of the employed teachers at Clayton Valley High School voted in favor of the public campus conversion and the petition's plan was then tendered its way to the Mt. Diablo Unified School District Board of Education; and

WHEREAS, the Mt. Diablo Unified School District Board held public hearings where numerous Charter supporters were present and passionately spoke in favor of the conversion, with U.S. Congressman George Miller offering his support; and

WHEREAS, in September 2011 the Mt. Diablo Unified School District Board "approved" the Charter with improbable conditions which the Charter conversion group viewed as a denial but vowed to persist in pursuit of its cause; and

WHEREAS, the Charter supporters worked diligently and in good faith to respond the School Board's conditions and ultimately submitted written responses in October 2011; and

WHEREAS, on November 8, 2011, despite evidence otherwise, the Mt. Diablo Unified School District Board of Education formally denied the Charter petition; and

WHEREAS, with unwavering determination, Charter supporters quickly filed a timely petition appeal to the Contra Costa County Board of Education; and

WHEREAS, on January 11, 2012 the Contra Costa County Board of Education unanimously voted to approve the Charter High School's petition for conversion of the public campus to the "Clayton Valley Charter High School", commencing the Fall of 2012.

NOW, THEREFORE, I, Howard Geller, as Mayor on behalf of the Clayton City Council, do hereby proclaim February 11, 2012, as "Clayton Valley Charter High School Celebration Day," and herein extend our commendations to the numerable parents, community supporters, Charter Steering Committee and Executive Board members, and to local teachers for the relentless effort to obtain a Clayton Valley Charter High School for the betterment of our youth today, and our future of tomorrow.

Agenda Date: 2-7-12

Agenda Item: 9a

CITY OF CLAYTON
Founded 1857 . Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: **HONORABLE MAYOR AND COUNCILMEMBERS**

FROM: **Laci J. Jackson, City Clerk**

DATE: **February 7, 2012**

SUBJECT: **Second Reading and adoption of Ordinance No. 438 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to provide for the exclusion of City Council members elected on or after the effective date of this amendment to contract.**

BACKGROUND

On January 17, 2011 the City Council adopted Resolution 02-2012 a Resolution of Intent to proceed with the Contract Amendment to include an Exclusion for new City Councilmembers participation in the CalPERS Retirement System. The Council also introduced Ordinance No. 438 for Introduction and First Reading.

Once Ordinance 438 is adopted and becomes effective, 30 days later, the contract amendment will go into effect the following payroll date. Based on the current schedule, the effective date of the contract modification will be March 19, 2012.

This reduced benefit change only affects newly elected City Councilmembers who have never been enrolled in the CalPERS system.

FINANCIAL IMPACT

There will be no immediate impact to the City's current employer contribution rate from this amendment since no "new hires" or election of new Councilmembers has occurred. Ultimately, the City's cost will decrease when new Councilmembers are elected and not eligible for enrollment in the CalPERS pension system.

RECOMMENDATION

Following public comment, it is recommended the City Council:

1. By motion, direct the City Clerk to read Ordinance No. 438 by title and number only.
2. After reading by the City Clerk, adopt a motion approving Ordinance No. 438 for First Reading.

Attachments: 1.Ordinance No. 438
3. Contract Amendment

ORDINANCE NO. 438

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF CLAYTON AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

THE CITY COUNCIL
City of Clayton, California

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

SECTION 1. That an amendment to the contract between the City Council of the City of Clayton and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

SECTION 2. The Mayor of the City of Clayton is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Clayton.

SECTION 3. This Ordinance shall take effect thirty (30) days after the date of its adoption, and 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 of the City Council for the posting of ordinance and public notices.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on January 17, 2012.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on February 7, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Howard Geller, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on January 17, 2012, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on February 7, 2012.

Laci J. Jackson, City Clerk

Attached: EXHIBIT

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Clayton

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective July 1, 1975, and witnessed June 3, 1975, and as amended effective November 17, 1977, June 17, 1990, June 2, 1997, July 2, 1999, November 29, 1999, August 20, 2001, January 29, 2007 and January 10, 2011 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective January 10, 2011, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:

   1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to January 10, 2011 and age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after January 10, 2011; age 55 for local safety members entering membership in the safety classification on or prior to January 10, 2011 and age 50 for local safety members entering membership for the first time in the safety classification after January 10, 2011.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1975 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.

   (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

   (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

   (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

   (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

(g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Police Officers (herein referred to as local safety members);

   b. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. FIREFIGHTERS; AND
   b. CITY COUNCIL MEMBERS HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to January 10, 2011 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

7. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after January 10, 2011 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to January 10, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).

9. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after January 10, 2011 shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).

10. Public Agency elected and elects to be subject to the following optional provisions:

    a. Section 21001 (Credit for War Relocation Leave). Legislation repealed said Section effective January 1, 2002.

    b. Section 21037 (Cancellation of Payment for Optional Service Credit Upon Retirement for Industrial Disability) for local safety members only.

    c. Section 21024 (Military Service Credit as Public Service).

    d. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.

    e. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.

    f. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full Formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after January 10, 2011.

       Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after Janaury 10, 2011.

11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on November 17, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous and local safety members of said Retirement System.

13. Public Agency shall also contribute to said Retirement System as follows:

a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.

b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _______________, ______.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY_______________________________
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF CLAYTON

BY_______________________________
PRESIDING OFFICER

____
Witness Date

Attest:

____
Clerk

Agenda Date: 2-7-12

Agenda Item: 9b

CITY OF CLAYTON
Founded 1857 Incorporated 1964

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: FEBRUARY 7, 2012

SUBJECT: APPROVE THE PURCHASE OF THIRTY-EIGHT PORTABLE AND MOBILE RADIOS REQUIRED FOR THE CITY'S POLICE AND MAINTENANCE DEPARTMENTS TO OPERATE WITH-IN THE PROPOSED TWO-COUNTY RADIO INTEROPERABILITY SYSTEM FOR EMERGENCY SERVICES

RECOMMENDATION

It is recommended that the City Council, by minute motion, formally approve the purchase of thirty-eight portable and mobile radios in the amount of $154,176.61 from Motorola Government Solutions, Inc. as competitive sole provider using interest earnings from the City's Trust & Agency Account to provide the City's police and maintenance personnel with the capability to participate in the new two-county radio interoperability emergency radio system.

BACKGROUND

On March 6, 2007 at a regular public meeting, the City Council officially committed the City to be a participant in the East Bay Regional Communications System Authority's (EBRCSA) project. The Authority's purpose is to develop and provide a regional interoperability communications system for Alameda and Contra Costa Counties for public safety and emergency services. The EBRCSA was created as a Joint Powers Authority (JPA) on September 2007 with the goal of developing and operating a state-of-the-art radio communications system that would provide regional radio interoperability. The new system will replace a patchwork of radio systems currently in use by public agencies in both counties. Virtually all of the radios and older systems are in need of replacement or upgrading, and most lack adequate capacity. The current communications current systems utilize four different frequency bands allowing for no interoperability between agencies operating in different frequency bands during emergency and civil disasters.

The EBRCSA currently has 37 member agencies consisting of two counties, 29 cities, four special districts, the University of California, and the California State Department of Transportation. During the system development phase, the EBRCSA required member agencies to determine the number of radios each would need to operate on the newly designed and enhanced regional system. City staff previously determined that our City would need at least 38 radios, mobile and handheld portable, for use by both the police and maintenance personnel. This figure was provided to the EBRCSA. The number of radios required and identified by each participating agency becomes the basis for determining future recurring maintenance costs. As a result, the City Council, on September 7, 2010, adopted a Resolution confirming the City's participation in the EBRCSA and authorized the City Manager to sign the EBRCSA's Operating Agreement for recurring radio maintenance costs once the system is operational.

DISCUSSION

The target date for the completion of the EBRCSA interoperability project is July 1, 2012. This date is also the anticipated operational start, or activation, of the new system. During the period of time leading up to the target date, EBRCSA anticipates all participating agencies will have purchased their new digital radio equipment and be able to go operational by the target date. During this same period, the older systems are still operational. Many participating agencies with older and unserviceable radios, including Concord and Brentwood, had to purchase dual-band radios sooner. This option allowed those agencies to continue on the older system, and the flexibility to utilize their new dual-band radios upon activation of the new system. Because our City police department's current mobile and portable radios are still serviceable and capable of operating on the old system, staff decided to delay the purchase of thirty-eight single-band radios until a time closer to the target start date instead of purchasing dual-band radios, a decision which saved approximately $800 per radio (approximately $30,000).

The EBRCSA conducted a competitive bid with several radio manufacturers and determined the Motorola Government Solutions, Inc. was the most economical cost per radio coupled with the ability to operate effectively on the new single-band Interoperability Communication System. The following are the City's cost quotes for both Mobile and Portable radios:

- 22 Mobile Radios (includes one for the motorcycle) $91,879.25
- 16 Portable Radios (handheld) $62,296.36
- **Total Cost (quotes attached as Exhibits A & B) $154,175.61**

The total purchase price is for thirty-eight single-band digital radios and includes radio equipment, software, sales tax, installation and warranty for five years.

If approved, the new single-band digital radios will be purchased and installed prior to the EBRCSA system activation date of July 1, 2012. During a 6-month "over-lap" period, following the activation of the Interoperability Communication System, it is anticipated that some participating agencies will still be in the process of purchasing and installing their new radios. In addition, other agencies may experience problems and will have the time to work out "kinks" that may occur with the conversion from the "Old System" to the "New Interoperability System."

However, on January 1, 2013, the new communications narrow-banding Interoperability Radio System will be fully operational with older systems shut down and no longer operational.

FISCAL IMPACT

Total purchase and installation price for thirty-eight mobile and portable radios is $154,175.61. There are no additional costs associated with this purchase. Under the new operational communication system, EBRCSA will provide software support for the new digital radios, while Motorola Government Solutions, Inc. will repair equipment under the equipment warranty. Under the new system, Clayton and Concord police officers will continue to be dispatched by Concord Police Dispatchers at no additional cost to the City for this upgrade in communications equipment.

The source of funds for this unbudgeted capital equipment purchase is recommended as the interest earnings in the City's Trust & Agency Account, which fund has currently $287,546 available in it for discretionary use.

Attachments: Exhibit A: Portable Radio Quote.
Exhibit B: Mobile Radio Quote.

MOTOROLA
intelligence everywhere™

EXHIBIT A

Clayton Police Department
Sergeant Richard McEachin

COST AND EQUIPMENT REQUIREMENTS

P25 Interoperable Portable - 700/800 MHz

QTY	*DESCRIPTION*		*UNIT PRICE*		*EXTENDED PRICE*
16	**APX6000 I 700/800 MHz 3 watt P25 Trunked Portable Radio** with: 1200 channels, Ultra-high Capacity *iMPRES* LiIon Battery (2900 mAH), Emergency Alert button, 8 character top display, Digital software, belt carry clip, low battery alert and antenna	$	1,520.00	$	24,320.00
16	ENH: ASTRO DIGITAL CAI OPERATION	$	412.00	$	6,592.00
16	ADD: SMARTZONE SYSTEM SOFTWARE	$	960.00	$	15,360.00
16	ENH: PROJECT 25 9600 BAUD TRUNKING SOFTWARE	$	240.00	$	3,840.00
16	ADD: RADIO PACKET DATA	$	160.00	$	2,560.00
16	ADD: PROGRAMMING OVER P25	$	80.00	$	1,280.00
16	ADD: ADVANCED SYSTEM KEY	$	-		
16	ALT: 1/4 WAVE 7/800 GPS STUBBY	$	19.00	$	304.00
16	ALT: LiION IMPRES IP67 2900 MAH BATTERY	$	80.00	$	1,280.00
16	ENH: ENHANCED ZONE BANK 1200 CHANNELS	$	60.00	$	960.00
	ACCESSORIES:				
3	**APX6000** Spare Battery - *iMPRES* LiIon Battery (2900 mAH) NNTN7038	$	112.00	$	336.00
16	**APX6000** Remote Spkr/mic with 3.5 mm ear jack PMMN4062	$	85.60	$	1,369.60
6	**APX6000** multi (6) unit rapid *iMPRES* charger NNTN7065	$	631.00	$	3,786.00
1	**APX6000** multi (6) unit *iMPRES* charger w Display NNTN7073	$	1,080.00	$	1,080.00
16	**APX6000** Single unit rapid *iMPRES* charger WPLN7080	$	100.00	$	1,600.00
13	**APX6000** Leather carrying case with swivel PMLN5658	$	53.00	$	689.00
16	**4 Year Repair Service Advantage**	$	162.00		$2,592.00
16	**EBRCSA Promotion APX6500 (Valid through 12/22/11)**	$	(450.00)	$	(7,200.00)
16	**Radio Trade-In** (incentive good until 12/22/11)	$	(200.00)	$	(3,200.00)

Equipment:	**$ 57,548.60**
Shipping:	*
8.25% Sales Tax:	**$4,747.76**
System Total:	**$62,296.36**

Prices do not include installation & programming
800 MHz programming done by Contra Costa County
Pricing Per Contra Costa County Bid 0904-018

TERMS: Net 30 days from shipment
VALIDITY: Prices valid until 10/31/11
SHIPPING: ***FOB Destination - Pre-paid and delivered by Motorola*** *
DELIVERY: Shipment approximately 35 days ARO

PHONE: Mike: (916) 201-5670 Bob: 415-720-0424

QUOTED BY Mike Marraccini & Bob Luhrs
DATE: 12/23/2011

Motorola is providing this quotation for budgetary [informational] purposes only and it does not constitute an offer for sale.
[If you wish to purchase the quoted products, Motorola will be pleased to provide you with our standard terms and conditions of sale, or alternatively, receive your purchase order, which will be acknowledged with a letter enclosing the Motorola standard terms and conditions.]

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EXHIBIT B

Clayton Police Department
Sergeant Richard McEachin

COST AND EQUIPMENT REQUIREMENTS

Single Band P25 Interoperable Mobile - 700/800 MHz

QTY	*DESCRIPTION*	*UNIT PRICE*		*EXTENDED PRICE*
21	**APX6500 700/800 MHz 35 watt Mobile P25 Radio** with: 870 c	$ 1,519.00		$31,899.00
21	ENH: ASTRO DIGITAL CAI OP APX	412.00		$8,652.00
21	ENH: SMARTZONE OPERATION APX6500	960.00		$20,160.00
21	ADD: ADVANCED SYSTEM KEY, SOFTWARE KEY	-		$0.00
21	ADD: P25 TRUNKING SOFTWARE	240.00		$5,040.00
21	ADD: APX05 CONTROL HEAD	345.00		$7,245.00
21	ADD: CONTROL HEAD SOFTWARE	-		$0.00
21	ADD: REMOTE MOUNT MID POWER	237.00		$4,977.00
21	ADD: ANTENNA 1/4 WAVE	11.00		$231.00
21	ADD: PALM MICROPHONE	57.00		$1,197.00
21	ADD: AUXILIARY SPEAKER 7.5 WATT	48.00		$1,008.00
21	ADD: RS232 PACKET DATA INTERFACE	160.00		$3,360.00
21	ENH: OVER THE AIR PROVISIONING	80.00		$1,680.00
1	**APX7500** Single Band Mid Power Mobile Radio for Motorcycle	$ 1,818.00	$	1,818.00
1	ADD: 7/800MHz PRIMARY BAND	$ -		
1	ADD: ASTRO DIGITAL CAI OPERATION	$ 412.00	$	412.00
1	ADD: SMARTZONE OPERATION	$ 1,200.00	$	1,200.00
1	ADD: P25 9600 BAUD TRUNKING	$ 240.00	$	240.00
1	ADD: ADVANCED SYSTEM KEY - SOFTWARE KEY	$ -	$	-
1	ADD: PROGRAMMING OVER P25 (OTAP)	$ 80.00	$	80.00
1	ADD: RADIO PACKET DATA	$ 160.00	$	160.00
1	ADD: APX 05 CONTROL HEAD	$ 345.00	$	345.00
1	ADD: CONTROL HEAD SOFTWARE	$ -	$	-
1	ADD: REMOTE MOUNT MOTORCYCLE	$ 320.00	$	320.00
1	ADD: MOTORCYCLE PALM MIC	$ 58.00	$	58.00
1	ADD: AUXILIARY SPEAKER MOTORCYCLE	$ 48.00	$	48.00
1	ADD: ANTENNA, 1/4 WAVE 762-870MHZ MOTORCYCLE	$ 11.00	$	11.00
	Optional:			
22	**Service Advantage - Motorola depot repair 4 YR added stan**	$ 246.00	$	5,412.00
21	**EBRCSA Promotion APX6500 (Valid through 12/22/11)**	$ (550.00)	$	(11,550.00)
1	**EBRCSA Promotion APX7500 (Valid through 12/22/11)**	$ (800.00)	$	(800.00)
22	**Trade-In Incentive (One for one radio, valid through 12/22/1**	$ (200.00)	$	(4,400.00)
		Equipment:		**$78,803.00**
	800 MHz programming done by Contra Costa County	**Shipping:**		*
		Installation	**$**	**6,575.00**
		8.25% **Sales Tax:**	**$**	**6,501.25**
		System Total:	**$**	**91,879.25**

TERMS: Net 30 days from shipment
VALIDITY: Prices valid until 12/22/2011
SHIPPING: ***FOB Destination - Pre-paid and delivered by Motorola ****
DELIVERY: Shipment approximately 35 days ARO on APX7500

PHONE: Mike (916) 201-5670 Bob (415)-720-0424

QUOTED BY Mike Marraccini and Bob Luhrs
DATE: 12/23/2011