

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

TUESDAY, March 20, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 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, Police Chief Dan Lawrence, City Engineer Rick Angrisani, City Attorney Mala Subramanian, and City Clerk Laci Jackson.

2. **CLOSED SESSION** – None.

4. **CONSENT CALENDAR**- Vice Mayor Medrano pulled Item 4(c) to clarify this is a housekeeping item and it was negotiated long ago. He stated this Resolution just puts it in writing after a CalPERS audit and does not institute anything new.

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 regular meeting of March 6, 2012.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution 07-2012 stating the status of the City's CalPERS Employer-Paid Member Contributions (EPMC).
- (d) Adopted Resolution 08-2012 approving the Engineer's Report for Diablo Estates at Clayton Benefit Assessment District, declaring intention to levy and collect assessments for Fiscal Year 2012-13, calling for an assessment ballot procedure, and giving notice of the time and place for hearings on the real property levy of the proposed assessments.

5. **RECOGNITIONS AND PRESENTATIONS**

- (a) Mayor Geller presented Certificates of Recognition to "Do The Right Thing" students of the month for exemplifying "Self-Discipline" during January and February 2012. The following students were recognized: Mt. Diablo Elementary School- Jack Simpkins and Kendall Albert; Diablo View Middle School- Maris Degener and Drew Fagerlin; and Clayton Valley High School- Heather Heilberg and Jae Greenwald.

6. **REPORTS**

- (a) Planning Commission – Commissioner Sandra Johnson reported on the March 13th Planning Commission meeting. She stated the Commission approved the implementation measures for the Housing Element Implementation Project and its Mitigated Negative Declaration. She noted Clayton residents (Byrd) with property near the old Fire Station sent the City a letter and asked that their lot be considered with other sites for re-designation to multi-family high density residential.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager had no report.

(d) City Council

Councilmember Shuey attended the Career Day as a presenter at Diablo View Middle School.

Councilmember Pierce attended multiple ABAG meetings, and indicated the proposed Clayton Regional Housing Needs Allocation (RHNA) of the next 8 years is 140 units, and the Sustainable Communities Strategy (SCS) is scheduled for release in May 2012.

Vice Mayor Medrano attended meetings for the Charter School HR committee.

Councilmember Stratford noted the "Do the Right Thing" focus this month is Integrity.

Mayor Geller was a presenter at the Career Day at Diablo View Middle School, and attended the Clayton Valley High School Cheerleader awards banquet held following the squads undefeated national championship at the JAMZ All star Cheer & Dance Nationals in Las Vegas.

(e) Other – None.

7. PUBLIC COMMENTS

Damien Bibeau stated he had several questions regarding the Diablo Estates Benefit Assessment District. He asked why the City did not just pay for the improvements out of the General Fund? He also asked who would administer the Benefit Assessment District?

The City Manager responded the rule of thumb for government in the past decade is development pays its way. He stated the City only receives 4.2% of assessed valuation from new homes and a Benefit Assessment District (BAD) allows for a funding mechanism for ongoing maintenance of improvements. He stated the Developer understood this and the infrastructure was put into place by the developer. He stated after the money is collected it will go into a separate fund and the work will be contracted out by the City Engineers office rather than performed by City employees.

The City Engineer stated this is a unique situation because the streets and lighting are privately owned. He stated normally such maintenance would be handled by a Homeowners Association (HOA), but when this project was approved the developer did not want to form an HOA. He stated the BAD was done at the developer's request and there is no impact to the General Fund.

Glenn Miller stated he is enthused about the Do the Right Thing program. He stated he is concerned about City fees being imposed on residents. He received a letter regarding a home alarm system and a notice to pay a City alarm fee of \$30 per year for an alarm system on a fenced pool. What services does the City provide for that fee? He also stated he had a friend who wanted to do a bathroom remodel and will be charged a \$103 storm water pollution prevention fee and \$500 deposit. He asked where the nexus is for the fees and City services provided?

Mike Fine stated he is not sure how much it would cost, but a parking structure on the City Hall side of Clayton Road could help relieve congestion for residents in the downtown. He asked why the Council was going to put money toward another parking lot downtown? The City Manager stated the item on the agenda tonight (Item 9b) was for completion of the Clayton Community Park parking lot project which is by Regency Drive, not in the downtown.

8. **PUBLIC HEARINGS-** None.

9. **ACTION ITEMS**

Mayor Geller asked for Item 9 (d) to be taken out of order and considered first.

- (d) Request for continued consideration of a proposal and associated details by the Vice Mayor regarding allowance of up to five (5) additional public Concerts in The Grove on selected Thursday evenings sponsored by the City but set up and funded solely by private sponsors organized by the P2C Foundation.

The City Attorney stated she spoke with an expert in the Attorney General's office and believes that if the donation from P2C is set up as a gift then it would be possible to avoid a conflict of interest. She reiterated this is not a formal opinion.

Vice Mayor Medrano stated the Council could use another non-profit and he wants a vote tonight on whether the Council is willing to try adding these concerts in concept.

Mayor Geller asked Vice Mayor Medrano if he had another Foundation in mind. Vice Mayor Medrano stated he would go in search once the Council moves forward. He pulled the item at the last Council meeting but since then has spoken with Ted Meriam Boardmember of the P2C Foundation and wants to move forward. He stated he received several phone calls saying he shouldn't have pulled it from the last agenda. He stated the idea was to stimulate the local economy on a weeknight when it is needed more than on a Saturday night.

Councilmember Shuey asked if this would be for Thursday nights? Vice Mayor Medrano responded yes.

Councilmember Pierce asked if the sale of alcohol is still involved? Vice Mayor Medrano stated on-site alcohol sales are still in the proposal.

Councilmember Stratford asked if there are other places where you can get liability insurance? Vice Mayor Medrano stated there are outside programs that will cover the event for half the cost of the quoted event insurance available through the City's membership in the municipal pooling authority.

Vice Mayor Medrano stated concerts' alcohol sales are not to take away from the businesses, but would give those who wanted to purchase alcohol at the event the option. He stated currently there is no draw downtown on most weeknights so there is no loss to the businesses in bringing people down for the concerts.

Mayor Geller noted at the last council meeting some of the business said they didn't want more concerts or alcohol served. Vice Mayor Medrano stated these concerts would help Moresi's Chophouse and Ed's Mudville Grill who want to see these concerts.

Mayor Geller opened public comment.

Glenn Miller stated he likes the idea of the concerts. He stated the last concert he went to members of the Council (Mayor Geller and Councilmember Pierce) passed a bucket for donations to help underwrite the concert and the perk of donating was a free drink at the Clayton Club. He stated he wants to know if it is the alcohol some councilmembers are against or the concept of the concerts in general? Mayor Geller stated the Concert Committee and the City did not promote the free drinks but it was a promotion by the Clayton Club.

Damien Bibeau stated he liked the idea of the concerts to stimulate business, but he doesn't know if more of the same thing would be beneficial. He stated he is not familiar with the P2C Foundation and asked what is its purpose?

Vice Mayor Medrano stated the P2C Foundation was started to stimulate business for the businesses in Clayton. He stated when the Council first discussed park concerts he suggested a weeknight to help downtown businesses. He stated he thinks the concerts should run without City funds on a one year trial basis. He suggests selling alcohol and merchandise to help fund the concerts. He stated the merchandise sales will not hurt downtown businesses because the merchandise will be different than what is currently available downtown. He suggested making up shirts with the local bands names listed for friends and families of the local bands to purchase. He stated he is asking for the Council to vote tonight but not contract with the P2C Foundation. He stated the goal is to try new ideas on a smaller scale without using City funds and the intent is for these concerts to benefit the community.

Councilmember Stratford stated he was in favor of trying it. He stated the Council received a number of emails of people who are against the concerts, but it seems like the bigger issue is the alcohol sales more than anything else. He stated he is in favor of doing the concerts but is less in favor of the alcohol sales.

Councilmember Pierce agreed with Councilmember Stratford and stated she was fine with trying it without the alcohol sales.

Mayor Geller stated of the 20 emails received regarding this item, 18 were against the concerts and/or alcohol sales. He stated many of these emails were specifically from people who live downtown who have had enough of downtown concerts and events. He stated when people moved to some of these neighborhoods The Grove Park or the activities downtown did not exist. He stated the Council will get opposition adding any new events because the downtown is saturated. He stated he is against alcohol sales for the concerts and is trying to listen to what the people are telling him.

Councilmember Shuey asked Vice Mayor Medrano if he was willing to withdraw the alcohol from his proposal. Vice Mayor Medrano stated yes.

It was moved by Vice Mayor Medrano, seconded by Councilmember Pierce, to approve the request for City sponsorship and use of The Grove Park for five (5) additional concerts on Thursday nights without the inclusion of concerts' alcohol sales (Passed; 4-1 vote; No-Geller).

- (a) Second Reading and Adoption of Ordinance No. 439 amending Chapter 10.41 of the *Clayton Municipal Code* to revise the definition of recreational vehicles and make other clarifying revisions for the purpose of regulating the on-street parking of recreational vehicles within the City of Clayton.

The Police Chief presented the staff report and stated the definition of a recreational vehicle had been clarified in the Ordinance to help determine the difference between a recreational vehicle (with a bathroom, kitchen or sleeping area) verses a pick-up truck with a camper shell.

No public comments were received.

Councilmember Pierce thanked staff for the definition changes and stated she believes it solves the problem of interpretation on the difference between camper shell and pick-up truck turned into a recreational vehicle.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 439 by title and number only and waive further reading (Passed; 5-0 vote).

The City Clerk read Ordinance No. 439 by title and number only.

It was moved was moved by Councilmember Stratford, seconded by Councilmember Pierce, to adopt Ordinance No. 439 (Passed; 5-0 vote).

- (b) Adopt a Resolution approving a Notice of Completion for the Community Park Parking Lot Expansion Project (CIP No. 10413) and allocate \$186,717.69 in additional monies from the City's Trust and Agency interest earnings to underwrite project change orders costs and project management expenses.

Damien Bibeau stated the project went over budget by \$187,000 and asked who was in charge of managing the contract for this project? He also asked why it was using 65% of the unallocated funds and why the City Council was not re-approached about these change orders? He asked why it is the City's obligation to pay for this?

The City Manager responded that the City Engineer was the Project Manager and designed the project. He stated the 65% of unallocated funds is from the Trust and Agency Fund, not of the City's unallocated Reserve Fund or the other fund balances. The City Manager noted he has authority to approve change orders and the scope of the project was expanded once in the eifld to add further re-landscaped areas for project aesthetics and to reduce irrigation expenses to these areas paid for by General Funds. He stated change orders are typical for project construction circumstances unforeseen which are found in the field.

The City Engineer stated when Council approved this project, topography was done, and the grades did not appear as steep as they were. He stated the curb elevations did not meet the current standards and therefore the contractor had to create a new path of travel and it required a lot of rework in the field.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce to adopt Resolution 09-2012 (Passed; 5-0 vote).

- (c) Consideration of a staff report evaluating the merit and feasibility of the City hosting a City of Clayton Facebook page.

The City Clerk presented the staff report and outlined the benefits and dangers of creating a City of Clayton Facebook page. She noted many local governments are using Facebook as a public engagement tool. She stated Facebook is a highly used social media and many different events, activities, or alerts could be provided to the public through the site. She noted this information is already provided on the City's website. She noted there are many dangers in engaging in this type of social media for local government including content regulation, public records requests, account access, and administration. She stated deciding what information gets posted and the ongoing maintenance to keep the site "fresh" would be difficult for staff to manage. She

presented the Council with two options for use should they decide to move forward: a closed wall and an open wall. She noted the fiscal impact would be staff time in maintaining and updating the site, and reliability of keeping it current 24/7.

Vice Mayor Medrano stated a lot of work would be required by staff to keep the site updated constantly and other cities that have bigger staff to handle these things. He stated it is duplicating the information that is already on the City's website and he is concerned with having to update and respond to posts from the public. He stated he does not see the added benefit to having a Facebook page.

Councilmember Pierce stated it sounded like a better idea but now realizes it would take a lot of time. She suggested doing a write up in the Pioneer on how to find information easier on the City's website.

Tamara Steiner from the Clayton Pioneer offered she might want to talk about communication options for having events posted in one place.

Councilmember Shuey stated it seemed like Facebook would be a good communication thing a small community. He stated unfortunately we don't have the staff time so Councilmembers will just have to continue to use their personal pages to get information out to the public.

Councilmember Stratford stated he still thinks there is value to having a City Facebook page.

The City Manager noted he would not want staff to be the weak link in communication with the public and that our city cannot afford to staff a Public Information Officer, which position is available in most other cities that provide this communication outreach.

Mayor Geller agreed with Vice Mayor Medrano.

Direction was provided to staff to not move forward with a City of Clayton Facebook page. No action was taken.

- (e) Consideration of a request by the Vice Mayor to allow 2-4 reserved seats at the Concerts in The Grove series for the Mt. Diablo Elementary Parent-Faculty Club (PFC) to auction off as part of its fundraising effort for the public school.

Vice Mayor Medrano was approached by a parent who asked if the City would allow the Parent Faculty Club to auction off reserved seating at the Concerts to raise money. He stated as far as the set-up of the area, maybe they could tape off a small area for the fundraiser winners.

Councilmember Pierce stated she was afraid every scout troop, women's club, and anyone looking for fundraiser ideas would now want to do this. She stated if someone really wanted to auction off seats they could go down and mark a spot at 4 p.m. like everyone else instead of asking the City to facilitate it.

Councilmember Shuey stated he thinks this could be a slippery slope and agreed with Councilmember Pierce that one could go down and reserve a spot as long as they wait until 4 p.m.

Councilmember Stratford stated it is difficult to regulate who is allowed to have reserved areas. Vice Mayor Medrano suggested only allowing school fundraisers.

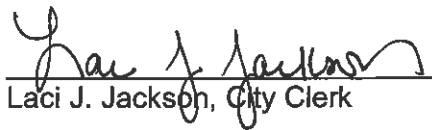
The City Manager stated room at the Concerts are presently available on a first come first serve basis.

No action was taken. By consensus the Council determined the seating areas during the Concerts in The Grove should remain available on a first come first serve basis.

10. **COUNCIL ITEMS**- None.

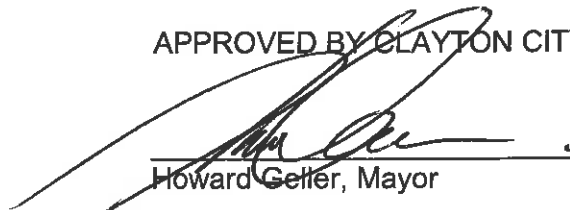
11. **ADJOURNMENT**- On call by Mayor Geller the meeting adjourned at 9:08 p.m.

Respectfully submitted,



Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor