



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

TUESDAY, April 3, 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 ***

April 3, 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 meeting of March 20, 2012. ([View Here](#))

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

(c) Accept the resignation of Charles (Chuck) Evans from the Contra Costa Transportation Authority's Citizen Advisory Committee, effective immediately, and authorize staff to advertise this appointed office vacancy. ([View Here](#))

5. **RECOGNITIONS AND PRESENTATIONS** – None.

6. **REPORTS**

(a) Planning Commission – No meeting held.

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

(c) City Manager/Staff.

(d) City Council - Reports from Council liaisons to Regional Committees,
Commissions and Boards.

(e) Other

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

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**

- (a) Presentation of the Mid-Year City Budget status report for Fiscal Year 2011-2012. ([View Here](#))
(Finance Manager; Council Budget Sub-Committee)

Staff recommendations: **1).** Receive the presentation of the Mid-Year Budget Report; **2).** Receive public comments; **3).** Adopt a motion accepting the Mid-Year Budget Report for FY 2011-12.

- (b) Consideration of the Introduction and First Reading of proposed Ordinance 440 and related measures enacting various Code amendments for the City's Housing Element Implementation Project (ENV 01-12; GPA 03-11; SPA 01-12; ZOA 06-11). ([View Here](#))
(Community Development Director)

Staff recommendation: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Adopt various motions as follows:

1. By Resolution, adopt an Initial Environmental Study/Mitigated Negative Declaration, prepared in accordance with the California Environmental Quality Act, which analyzes the potential impacts caused by the Housing Element Implementation Project and identifies various measures to mitigate these impacts;
2. By Resolution, approve the General Plan Amendment No. 03-11 to add a Multi-Family High Density designation allowing 15.1-20 dwelling units per acre and related amendments; and re-designating certain parcels on the Clayton General Plan Map to conform with that re-designation;
3. By Resolution, approve a Town Center Specific Plan Amendment No. 01-12 to add a Multi-Family High Density designation allowing 15.1-20 dwelling units per acre; and re-designating a certain parcel on the Clayton Town Center Specific Plan Map to conform with that re-designation; and
4. By separate motions: **A)** Authorize the City Clerk to read Ordinance No. 440 by title and number only; and then following that reading, **B)** Adopt a motion to approve the Introduction and First Reading of Ordinance 440, an Ordinance of the City of Clayton amending Chapters 17.04 and 17.20 and Sections 17.16.020, 17.24.20, 17.28.100, and 17.60.030 of the *Clayton Municipal Code*, related to uses allowed within the City of Clayton, and rezoning certain parcels shown on the Clayton Zoning Map to Planned Development District.

9. **ACTION ITEMS**

- (a) Consideration of a Resolution awarding contract for the Clayton Road Median Improvement Project to lowest bidder Stockbridge General Contracting, Inc. in the amount of \$263,071.50 and to further consider awarding Additive Bid No. 1 Project - CVS Retaining Wall Landscaping in the amount of \$27,640.00, each funded by the Citywide Landscape Maintenance District. ([View Here](#))
(City Engineer)

Staff recommendation: Following staff report and public comment, that Council adopt the Resolution awarding contract to Stockbridge General Contracting, Inc. in the total amount of \$290,711.50 from Citywide Landscape Maintenance District funds for the Clayton Road Median Landscaping Project and the CVS Retaining Wall Landscape Project; and to allocate a total of \$319,711.50 from the Landscape Maintenance District's FY 2011-12 budget and reserve for the total Project expense.

- (b) Consideration of an evergreen contract with Pacific Coast Farmers' Markets Association for automatic renewal of its sponsorship of annual Clayton Farmers' Market in the Clayton Town Center. ([View Here](#))
(Assistant to the City Manager)

Staff recommendation: Following staff report and public comment, that Council approve the proposed contract as submitted.

- (c) Consideration of a Resolution authorizing the City Manager to cast the City's real property owner votes due April 6th on the 2012 Community Clean Water Initiative Ballot Measure in Contra Costa County. ([View Here](#))
(Assistant to the City Manager)

Staff recommendation: Following staff report and public comment, that Council provide policy direction to staff regarding this matter.

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

11. **ADJOURNMENT** – the next regularly scheduled City Council meeting is April 17, 2012.

#

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

Agenda Date: 4-3-12

Agenda Item: 4a

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



Agenda Date: 4/3/12

Agenda Item: 4B

STAFF REPORT

Approved:

Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: APRIL 3, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION

Approve the following Invoices.

4/3/12	Cash Requirements Report	\$131,577.81
3/29/12	Neopost ACH#9100135	\$300.00
3/30/12	CalPERS ACH#9100136	\$111,846.15
	(PPE 1/9/12-3/12/12)	

Attachments:

Cash Requirements Report dated 3/30/12 (5 pages)

Transaction Register dated 3/30/12 (1 page)

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
ACCOUNTEMPS								
ACCOUNTEMPS	4/3/2012	3/14/2012	35125539	for Employee Jodi Fehl week end 3/9/12	\$859.68	\$0.00		\$859.68
				Totals for ACCOUNTEMPS:	\$859.68	\$0.00		\$859.68
All City Management Services, Inc.								
All City Management Services, Inc.	4/3/2012	3/9/2012	26159	Crossing Guard Services 2.26-3/10/2012	\$465.00	\$0.00		\$465.00
				Totals for All City Management Services, Inc.:	\$465.00	\$0.00		\$465.00
American Fidelity Assurance Company								
American Fidelity Assurance Company	4/3/2012	3/16/2012	777790B	Employee Billing	\$975.59	\$0.00		\$975.59
American Fidelity Assurance Company	4/3/2012	3/16/2012	A805988	Premium for 4/12	\$256.82	\$0.00		\$256.82
				Totals for American Fidelity Assurance Company:	\$1,232.41	\$0.00		\$1,232.41
AT&T Yellow Pages								
AT&T Yellow Pages	4/3/2012	2/23/2012	2/23/12	Advertising thru 6/30/12	\$734.35	\$0.00		\$734.35
				Totals for AT&T Yellow Pages:	\$734.35	\$0.00		\$734.35
AT&T/ CalNet 2								
AT&T/ CalNet 2	4/3/2012	2/21/2012	13 invoices	master billings	\$1,316.47	\$0.00		\$1,316.47
				Totals for AT&T/ CalNet 2:	\$1,316.47	\$0.00		\$1,316.47
Blackbaud								
Blackbaud	4/3/2012	2/29/2012	90417335	App Svcs FE Consultant 02/24/2012	\$3,262.50	\$0.00		\$3,262.50
				Totals for Blackbaud:	\$3,262.50	\$0.00		\$3,262.50
CalPERS Health								
CalPERS Health	4/3/2012	3/15/2012	614	Cal Pers Health Premium	\$27,941.86	\$0.00		\$27,941.86
				Totals for CalPERS Health:	\$27,941.86	\$0.00		\$27,941.86
CalPERS Retirement								
CalPERS Retirement	4/3/2012	3/30/2012	thru 3/18/12	PERS Contributions from 1/9 -3/18/12	\$111,846.15	\$0.00		\$111,846.15
				Totals for CalPERS Retirement:	\$111,846.15	\$0.00		\$111,846.15
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	4/3/2012	3/14/2012	1045188	Konica Contract 61697	\$302.53	\$0.00		\$302.53
				Totals for Caltronics Business Systems, Inc:	\$302.53	\$0.00		\$302.53
CCC Animal Svcs Dept								
CCC Animal Svcs Dept	4/3/2012	3/21/2012	ASD M5591	Fourth Quarter Installment - Services 4/1/12-	\$14,552.00	\$0.00		\$14,552.00
				Totals for CCC Animal Svcs Dept:	\$14,552.00	\$0.00		\$14,552.00
CCC Library								
CCC Library	4/3/2012	2/3/2012	FY 11-12	Extra Hours for 10/1/2011 - 12/31/2011 Libra	\$5,663.83	\$0.00		\$5,663.83
				Totals for CCC Library:	\$5,663.83	\$0.00		\$5,663.83
Chad Gardner								
Chad Gardner	4/3/2012	3/26/2012	024926	Refund park rental fees due to rain out	\$176.00	\$0.00		\$176.00

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
City of Concord				Totals for Chad Gardner:	\$176.00	\$0.00		\$176.00
City of Concord	4/3/2012	3/23/2012	27930	Printing - Env & Lithd - PD	\$137.00	\$0.00		\$137.00
				Totals for City of Concord:	\$137.00	\$0.00		\$137.00
Crop Production Svcs								
Crop Production Svcs	4/3/2012	2/28/2012	225166	Ranger Pro 30 GA EPA # 524-517	\$552.08	\$0.00		\$552.08
				Totals for Crop Production Svcs:	\$552.08	\$0.00		\$552.08
CSAC Excess Insurance Authority								
CSAC Excess Insurance Authority	4/3/2012	4/1/2012	1240812-IN	Employee Assistance Program	\$304.98	\$0.00		\$304.98
				Totals for CSAC Excess Insurance Authority:	\$304.98	\$0.00		\$304.98
E.R. Luke Schwandt								
E.R. Luke Schwandt	4/3/2012	3/22/2012	3/22.12	Deposit Refund - Debris Management	\$2,000.00	\$0.00		\$2,000.00
				Totals for E.R. Luke Schwandt:	\$2,000.00	\$0.00		\$2,000.00
East Bay Brass Foundry, Inc.								
East Bay Brass Foundry, Inc.	4/3/2012	3/9/2012	29976	Plaque for The Grove - "B Hoyer"	\$452.00	\$0.00		\$452.00
				Totals for East Bay Brass Foundry, Inc.:	\$452.00	\$0.00		\$452.00
Geoconsultants, Inc.								
Geoconsultants, Inc.	4/3/2012	3/16/2012	18533	Well Monitoring - Lydia Lane Park & Westwo	\$1,546.50	\$0.00		\$1,546.50
				Totals for Geoconsultants, Inc.:	\$1,546.50	\$0.00		\$1,546.50
Globalstar LLC								
Globalstar LLC	4/3/2012	3/16/2012	1000000003751502	Ref # 50064965	\$27.30	\$0.00		\$27.30
				Totals for Globalstar LLC:	\$27.30	\$0.00		\$27.30
Goldfarb & Lipman								
Goldfarb & Lipman	4/3/2012	3/16/2012	104272	Fees for successor agency	\$220.50	\$0.00		\$220.50
				Totals for Goldfarb & Lipman:	\$220.50	\$0.00		\$220.50
Graphic Reproduction								
Graphic Reproduction	4/3/2012	3/13/2012	S-00748851	Clayton Road Median Project Printing	\$713.43	\$0.00		\$713.43
				Totals for Graphic Reproduction:	\$713.43	\$0.00		\$713.43
Hammons Supply Company								
Hammons Supply Company	4/3/2012	2/28/2012	70842	Janitorial Supplies - Library	\$607.34	\$0.00		\$607.34
				Totals for Hammons Supply Company:	\$607.34	\$0.00		\$607.34
Health Care Dental Trust								
Health Care Dental Trust	4/3/2012	3/15/2012	139456	Delta Dental Monthly Billing	\$2,722.99	\$0.00		\$2,722.99
				Totals for Health Care Dental Trust:	\$2,722.99	\$0.00		\$2,722.99
HUB Inter of CA Ins Svc								
HUB Inter of CA Ins Svc	4/3/2012	3/31/2012	March 2012	Event Insurance	\$278.87	\$0.00		\$278.87

City of Clayton
Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Jarvis Fay Doporito & Gibson, LLP								
Jarvis Fay Doporito & Gibson, LLP	4/3/2012	3/12/2012	4514	Totals for HUB Inter of CA Ins Svc:	\$278.87	\$0.00		\$278.87
				Chevron Property Tax Refund Dispute	\$69.03	\$0.00		\$69.03
				Totals for Jarvis Fay Doporito & Gibson, LLP:	\$69.03	\$0.00		\$69.03
John Deere Landscapes Inc								
John Deere Landscapes Inc	4/3/2012	3/10/2012	60450194	Landscaping Supplies	\$546.49	\$0.00		\$546.49
				Totals for John Deere Landscapes Inc:	\$546.49	\$0.00		\$546.49
Karl Schwartz								
Karl Schwartz	4/3/2012	3/26/2012	024949	Refund Deposit Endeavor Hall Minus One Ho	\$877.00	\$0.00		\$877.00
				Totals for Karl Schwartz:	\$877.00	\$0.00		\$877.00
LarryLogic Productions								
LarryLogic Productions	4/3/2012	3/21/2012	1231	City Council Meeting Support 3/20/12	\$350.00	\$0.00		\$350.00
				Totals for LarryLogic Productions:	\$350.00	\$0.00		\$350.00
Lexipol LLC								
Lexipol LLC	4/3/2012	3/1/2012	6791	Daily Training Bulletins	\$2,000.00	\$0.00		\$2,000.00
				Totals for Lexipol LLC:	\$2,000.00	\$0.00		\$2,000.00
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	4/3/2012	3/6/2012	412-146	Library Maintenance 01/12	\$502.17	\$0.00		\$502.17
Marken Mechanical Services Inc	4/3/2012	3/6/2012	412-147	Endeavor Hall Maintenance 01/12	\$247.00	\$0.00		\$247.00
Marken Mechanical Services Inc	4/3/2012	3/6/2012	412-148	City Hall Preventative Maintenance 01/12	\$332.50	\$0.00		\$332.50
Marken Mechanical Services Inc	4/3/2012	3/1/2012	412-142-3	City Hall Preventative Maintenance 02/12	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	4/3/2012	3/1/2012	412-1151-3	City Hall Preventative Maintenance 03/12	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	4/3/2012	2/28/2012	112-15140	Library - New VMA Controller, parts and lab	\$1,333.59	\$0.00		\$1,333.59
				Totals for Marken Mechanical Services Inc:	\$2,715.26	\$0.00		\$2,715.26
Martell Water Systems, Inc.								
Martell Water Systems, Inc.	4/3/2012	3/13/2012	18922	Irrigation Supplies and Service Call	\$272.10	\$0.00		\$272.10
				Totals for Martell Water Systems, Inc.:	\$272.10	\$0.00		\$272.10
Mary Coakley								
Mary Coakley	3/26/2012	3/26/2012	024932	Deposit Refund Endeavor Hall Minus One Ho	\$397.00	\$0.00		\$397.00
				Totals for Mary Coakley:	\$397.00	\$0.00		\$397.00
NBS Govt. Finance Group								
NBS Govt. Finance Group	4/3/2012	2/29/2012	2291253	Reminder/Demand Letters	\$479.45	\$0.00		\$479.45
NBS Govt. Finance Group	4/3/2012	3/20/2012	3201200210	CFD Administration 4/1/12 thru 6/30/12	\$4,884.50	\$0.00		\$4,884.50
				Totals for NBS Govt. Finance Group:	\$5,363.95	\$0.00		\$5,363.95
Pacific Nurseries								
Pacific Nurseries	4/3/2012	2/13/2012	SI-241487	LAGDALSP15 & ROSOFFHUN01	\$625.69	\$0.00		\$625.69
				Totals for Pacific Nurseries:	\$625.69	\$0.00		\$625.69

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PERMCO, Inc.								
PERMCO, Inc.	4/3/2012	3/26/2012	9691-9699	3/10-3/23	\$13,436.60	\$0.00		\$13,436.60
				<i>Totals for PERMCO, Inc.:</i>	<i>\$13,436.60</i>	<i>\$0.00</i>		
PG&E								
PG&E	4/3/2012	3/12/2012	7293447797-6-3/12/	electricity and gas charges	\$16,301.50	\$0.00		\$16,301.50
PG&E	4/3/2012	3/23/2012	3/23/12	Individual Inv	\$440.93	\$0.00		\$440.93
PG&E	4/3/2012	3/19/2012	3/19/12	Traffic and irrigation	\$465.81	\$0.00		\$465.81
PG&E	4/3/2012	3/23/2012	12180963055	Master bill	\$1,639.22	\$0.00		\$1,639.22
				<i>Totals for PG&E:</i>	<i>\$18,847.46</i>	<i>\$0.00</i>		<i>\$18,847.46</i>
Riso Products of Sacramento								
Riso Products of Sacramento	4/3/2012	3/22/2012	88444	Konica contract	\$94.79	\$0.00		\$94.79
				<i>Totals for Riso Products of Sacramento:</i>	<i>\$94.79</i>	<i>\$0.00</i>		<i>\$94.79</i>
Rock & Waterfall Co								
Rock & Waterfall Co	4/3/2012	2/28/2012	104-94	Waterfall Maintenance	\$650.00	\$0.00		\$650.00
				<i>Totals for Rock & Waterfall Co:</i>	<i>\$650.00</i>	<i>\$0.00</i>		<i>\$650.00</i>
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	4/3/2012	2/28/2012	11041	repair pressure washer - parts and labor	\$408.18	\$0.00		\$408.18
				<i>Totals for SPRAYTEC (Sprayer Sales Co):</i>	<i>\$408.18</i>	<i>\$0.00</i>		
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	4/3/2012	2/29/2012	531409315-118	Maintenance Nexel	\$279.00	\$0.00		\$279.00
				<i>Totals for Sprint Comm (PW & ADM):</i>	<i>\$279.00</i>	<i>\$0.00</i>		<i>\$279.00</i>
Treppa Law Group								
Treppa Law Group	4/3/2012	2/29/2012	591	JFC Litigation	\$2,789.80	\$0.00		\$2,789.80
				<i>Totals for Treppa Law Group:</i>	<i>\$2,789.80</i>	<i>\$0.00</i>		<i>\$2,789.80</i>
US Bank Corp Pynt System (Cal Card)								
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Geoconsultants	\$1,546.50	\$0.00		\$1,546.50
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	lights	\$99.94	\$0.00		\$99.94
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	supplies	\$292.33	\$0.00		\$292.33
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	landscape supplies	\$5,720.52	\$0.00		\$5,720.52
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Vehicle Gas	\$1,100.88	\$0.00		\$1,100.88
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	PAPA Seminar	\$440.00	\$0.00		\$440.00
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	ALEC	\$88.72	\$0.00		\$88.72
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Verizon	\$217.34	\$0.00		\$217.34
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	supplies	\$269.37	\$0.00		\$269.37
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	stormwater class	\$150.00	\$0.00		\$150.00
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	landscape supplies	\$386.81	\$0.00		\$386.81
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	vehicle supplies	\$9.78	\$0.00		\$9.78
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	landscape fuel	\$1,082.31	\$0.00		\$1,082.31
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Cemex - rock	\$371.72	\$0.00		\$371.72

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	SUPPLIES	\$66.06	\$0.00		\$66.06
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Postage	\$28.75	\$0.00		\$28.75
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	gas	\$2,246.06	\$0.00		\$2,246.06
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	car wash	\$30.00	\$0.00		\$30.00
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	auto supplies	\$49.23	\$0.00		\$49.23
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	supplies	\$91.21	\$0.00		\$91.21
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	Parking for training	\$70.00	\$0.00		\$70.00
US Bank Corp Pynt System (Cal Card)	4/3/2012	2/22/2012	02222012	computer parts	\$922.11	\$0.00		\$922.11
Totals for US Bank Corp Pynt System (Cal Card):					\$15,279.64	\$0.00		\$15,279.64
Valley Yellow Pages								
Valley Yellow Pages	4/3/2012	3/1/2012	3/1/12	Advertising through June 30, 2012	\$506.20	\$0.00		\$506.20
Totals for Valley Yellow Pages:					\$506.20	\$0.00		\$506.20
GRAND TOTALS:					\$243,423.96	\$0.00		\$243,423.96

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City of Clayton

Transaction Register

Vendor Name	Transaction Date	Created On	Post Status	Post Date	Transaction Number	Transaction Type	Description	Discount Amount	Transaction Amount
Neopost (add postage)									
Neopost (add postage)	3/29/2012	3/29/2012	Not yet posted	3/29/2012	9100135	Check			(\$300.00)
Totals for Neopost (add postage):								\$0.00	(\$300.00)
A total of 1 payment(s) listed:									(\$300.00)
GRAND TOTALS:									(\$300.00)



Agenda Date: 4-3-12

Agenda Item: 4c

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: LACI J. JACKSON, CITY CLERK

DATE: April 3, 2012

SUBJECT: Accept the resignation of Charles Evans on the Transportation Authority's Citizen Advisory Committee.

RECOMMENDATION

Accept the resignation of Charles Evans as the City of Clayton representative on the Contra Costa Transportation Authority's Citizen Advisory Committee.

CONCLUSION

Staff will advertise the vacancy on the City's website, in the Clayton Pioneer, and on the City's posting boards.

Attachments: Resignation letter from Mr. Evans (1 page)

March 21, 2012

To: The Clayton City Council
From : Charles D. (Chuck) Evans
Subject: Resignation from the CCTA's CAC

Dear Council Members,

It is with some reluctance and great regret that I submit this letter to you. The letter serves as my resignation from CCTA's, CAC , effective immediately.

For the past several months I've been trying to overcome the effects of colon cancer, and my hope was that by resigning from the County Connection's CAC I would be able to be more effective with the Authority's important work. Such has not been the case.

I have enjoyed my many years with the Authority's CAC and have learned so much about Contra Costa's complicated transportation systems. Ultimately, it has been Clayton's City Council that has afforded me the privilege of serving the city in this way. And for that I will always be in your debt. Thank you so much.

Charles (Chuck) Evans

Charles (Chuck) Evans

cc. Gary Napper, Manager

Received

MAR 23 2012

City of Clayton



Agenda Date: 4-3-12

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER

DATE: April 3, 2012

SUBJECT: MID-YEAR BUDGET REVIEW AS OF DECEMBER 31, 2011

RECOMMENDATION OF COUNCIL BUDGET SUB COMMITTEE

1. By motion, accept the Mid-Year Budget staff report of the City's General Fund and Special (Restricted-Use) Funds for Fiscal Year 2011-12 with no mid-year budget adjustments.

BACKGROUND

At a special meeting of the Clayton City Council on June 21, 2011 the City's budgets for fiscal year 2011-2012 were adopted. The adopted Budget for the City's General Fund included a revenue program of \$3,652,726 and an expenditure plan for \$3,652,726. Hence, an annual balanced cash budget.

YEAR-TO-DATE CHANGES

On October 18, 2011 the City Council approved Resolution No. 42-2011 increasing the General Fund Operations Budget to cover encumbrances (approved expense items incomplete) carried over from the prior fiscal year ending June 30, 2011) in the amount of \$192,546. Other Fund Budgets were also increased with similar encumbrances as follows: Gas Tax Fund \$31,512; the Landscape Maintenance District Fund \$86,654; The Grove Park Fund \$29,431; the Stormwater Fund \$3,883; the RDA LMI Fund \$28,455; the Capital Improvement Project Fund \$2,462,867; and the Capital Equipment Replacement Fund \$27,000.

DISCUSSION

The revenue and expense figures for the second fiscal quarter 2011-12 are now compiled, giving us a view of the fiscal picture for half an operating year. Attached is a spreadsheet of General Fund expenditures and revenues through December 31, 2011.

A. General Fund Revenues

General Fund revenues for mid-year are at 52.7% of the total original budget compared to 52.2% in the FY 10-11 Mid-Year report. Some comparisons to consider:

<u>Description</u>	<u>2010-11</u>	<u>2011-12</u>
Mid-Year Revenue	\$ 1,899,350	\$1,925,511
Encumbrances	\$ 235,389	\$ 192,546
Inter Fund Transfers	\$ 334,294	\$ 317,583
Property Taxes	\$ 803,442	\$ 823,773
Sales and Use Tax	\$ 130,877	\$ 88,804
Business Licenses	\$ 84,433	\$ 96,109
Building Permit Fees	\$ 6,297	\$ 27,156
Planning Project Fees	\$ 14,672	\$ 15,229
Real Property Transfer Tax	\$ 26,399	\$ 20,206

Analysis of our Mid-Year General Fund status reveals our actual received revenues presently exceed General Fund expenditures to date by \$59,089. Based on past operational history of the City organization, it is expected this trend will continue for the remainder of the fiscal year.

Annual revenues are forecast to come in on Budget. However, at the writing of this report staff received notification the adult soccer league was not intending to continue their league play at Community Park sports fields (on Sunday) due to the organizer's moving out of the area and no other individual stepping up to take his place. All Out Sports League (the City's community recreation services contractor operating programs at the Clayton Community Gym) has offered to take over the program and hopefully will enlist the adult soccer league to continue playing under his supervision. Furthermore, the Youth Soccer League and Clayton Valley Little League organizations have reduced their rental times for this season (due to participation decline) which will also impact the overall park use fees revenues. The revenue budgeted for Park Use Fees is \$68,500 and to date we have received \$21,112 which is close to our revenue (\$21,444) for the same period in the prior fiscal year.

Local sales tax revenue generation is significantly off the pace of last fiscal year and staff hopes the local economy will be reenergized by consumer patronage. Other revenues the City receives as funneled or collected through the county or by the state are now notoriously late in dispersal as each entity holds onto the local shares as long as possible to "float" on interest earnings. Reconciliation in June of each fiscal year typically takes place and the revenues ultimately tumble into rightful place in the amounts projected.

One cautionary note is offered by staff in this Mid-Year Budget Report regarding the amount of monetary transfers into the General Fund for administration of the former Clayton Redevelopment Agency (RDA) not officially dissolved until February 1, 2012. At this mid-year point, staff has transferred one-half of the RDA annual administration budget of \$400,000 into the General Fund, along with one-half of the RDA's 4-year annual repayment of \$125,475 representing the City's overlooked "2% election" payment exercised when the RDA formed in 1987. The latter 2% election oversight was not discovered by City staff until two years ago and it amounted to a

\$501,900 oversight due the City by the RDA. The City upon its discovery decided to require the RDA to repay it over a 4-year period, thereby establishing an "intra-agency" loan between the City and the RDA that may be questioned as an eligible loan repayment under the new Redevelopment Dissolution Act known as AB1x 26. These mid-year transfers, equaling \$200,000 and \$62,737.50, respectively (in GF Revenue accounts 101-6008 and 101-6009) have been entered as enforceable obligations (EOPS & ROPS) due the City under the Dissolution Act but remain subject to review and approval by the Clayton Successor Agency Oversight Board, the County Auditor-Controller, and the State Department of Finance. It is expected the revenues will be deemed eligible, and the former RDA Special Legal Counsel recommends the City apply them appropriately, but the haze looming over the initial implementation year of dissolved redevelopment agencies is very murky and unclear at this time.

B. General Fund Expenditures

General Fund expenditures for mid-year are at \$1,866,421 (48.42%) of the budget compared to \$1,899,835 in December 2010. Most departments are within or less than the 50% mid-year mark taking into consideration that some costs are not annualized. For example, liability and workers' compensation insurance is prepaid for 12 months and our Deferred Maintenance projects are ongoing in the Public Works Department. Departmental mid-year budget comparisons are as follows:

<u>Description</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
Legislative	\$ 25,186	\$ 33,608	\$ 39,425	\$ 29,179
Admin	\$ 410,790	\$436,859	\$ 435,179	\$ 437,500
Public Works	\$ 154,937	\$185,469	\$ 141,063	\$ 219,771
Planning	\$ 142,174	\$140,609	\$ 138,911	\$ 160,630
General Services	\$ 59,367	\$ 76,176	\$ 97,907	\$ 61,985
Police	\$ 972,550	\$913,290	\$ 919,173	\$ 889,275
Library	\$ 59,975	\$ 70,225	\$ 50,760	\$ 60,938
Engineering	\$ 41,442	\$ 43,599	\$ 46,451	\$ 46,019
Total	\$1,866,421	\$1,899,835	\$1,868,869	\$1,905,297

Annual General Fund expenditures are expected to come in on or under Budget.

C. Special Fund Revenues and Expenditure

Annual revenues and expenditures of the City's Other Funds each appear to be on target as originally budgeted with one positive exception. Endeavor Hall revenues are currently at 53% of budget while expenditures are at 46%. It was anticipated this particular Enterprise Fund might experience a budgeted net loss of \$5,227; however, if facility rentals continue at the recent pace it appears the Fund's net loss will be reduced to \$1,906.

D. Redevelopment Agency Fund Revenues and Expenditure

Unquestionably, the biggest unknown in the City's Mid-Year Budget Report this year is the fiscal aftermath of the Clayton Redevelopment Agency's termination by the state of California. The former RDA existed for the first 7 months of this fiscal year under new regulations and restrictions

imposed by the State's elimination of its existence, and enforceable obligations of the RDA (meaning previously-issued bond debt service, contracts in effect, etc.). Until the referenced Oversight Board can meet and officially approve the Successor Agency's Recognized Enforceable Obligation Payments (ROPS), without being overturned by the County Auditor-Controller or the State Department of Finance, all RDA expenses are considered at risk until the financial obligation initial pathway is struck. The former RDA received its first installment of Tax Increment Financing (TIF) revenues from the County Auditor-Controller in the amount of \$2,755,501; and in some circles staff has heard this disbursement is the only amount Successor Agencies may receive for this entire fiscal year. As of February 1, 2012, no further entries have been made to the former Clayton RDA's ledger and any further TIF revenues, interest earnings and eligible expenses must now be posted to a new "Clayton Successor Agency Fund" (Fund No. 615).

At this Mid-Year Budget point reflecting on the former RDA revenues and limited expenses incurred to date, and even taking into consideration a bond call payment (enforceable obligation) made in February 2012 of \$700,000, it appears the Clayton Successor Agency will have sufficient TIF revenues to meet its annual enforceable obligations within the first installment payment (should no more TIF revenues be dispersed this fiscal year). Significant payments withheld for Oversight Board certification include a \$200,000 contractual remittance to Diamond Terrace (affordable housing subsidy), intra-agency loan obligations to the City by the former RDA, and Successor Agency administration expenses (a minimum \$250,000 allowed expense by AB1x 26). The outcome of this shake-down for the first year of the former RDA's dissolution could cause a \$150,000 gap in administrative transfer revenue to the City's General Fund for this fiscal year. As noted in previous reports to the City Council, it is unlikely General Fund revenues on their own will be able to completely fill that void.

COUNCIL BUDGET SUB-COMMITTEE REVIEW

On March 29, 2012 the City Manager and the Finance Manager met with Vice Mayor Medrano and Council Member Stratford to review the Mid-Year Budget data in great detail. The Council Budget Sub-Committee supports the analysis and recommendations herein.

CONCLUSION

No budgetary action is necessary or recommended at this time.

The General Fund is projected to break even at year-end (not including the former RDA possible revenue transfer gap noted above), even when accounting for encumbrances (\$192,546) carried over from the prior fiscal year. The Deferred Maintenance projects (\$116,533), the General Plan Diagram (\$20,847), City Promotional Activities (4th of July parade, Clayton Counts Down, etc. at \$12,382), and unbudgeted wild animal control services at the Clayton Community Park (\$11,890) account for a majority of the outstanding encumbrances.

It is noted that City staff has done everything possible to reduce costs and operate on a bare bones budget over the past seven years. Unknowns that could affect costs are related to

Subject: Mid-Year Budget Review December 31, 2011

Date: April 3, 2012

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fluctuations in energy, water, vehicle operating costs, unforeseen building maintenance costs, unfunded state mandates or state-mandated shifts in revenue, and the crushing hammer of redevelopment agency dissolution.

Respectively submitted,



Merry Pelletier

Finance Manager

Attachments:

- A. General Fund Mid-Year Revenues and Expenditures [7 pgs.]
- B. Special (Restricted-Use) Funds Report [18 pgs.]
- C. Redevelopment Agency Funds Report [4 pgs.]

City of Clayton

Revenue & Expense July-December 2011

Revenues					
101-4101-00	Property Taxes - Secured	\$784,794.02	\$1,522,826.00	\$738,031.98	51.54 %
101-4102-00	Property Taxes - Unsecured	\$38,979.36	\$37,385.00	(\$1,594.36)	104.26 %
101-4103-00	Property Taxes - Unitary Tax	\$0.00	\$11,892.00	\$11,892.00	0.00 %
101-4106-00	Property Taxes - Other	\$0.00	\$5,834.00	\$5,834.00	0.00 %
101-4301-00	Sales and Use Tax	\$88,804.43	\$256,500.00	\$167,695.57	34.62 %
101-4502-00	Real Property Transfer Tax	\$20,206.43	\$45,000.00	\$24,793.57	44.90 %
101-5101-00	Business Licenses	\$96,109.14	\$99,000.00	\$2,890.86	97.08 %
101-5103-00	CCC Building Permit Remit Fees	\$27,155.75	\$26,000.00	(\$1,155.75)	104.45 %
101-5106-00	Other Permits	\$2,466.84	\$6,500.00	\$4,033.16	37.95 %
101-5109-00	Stormwater Permit Fees	\$1,032.00	\$1,000.00	(\$32.00)	103.20 %
101-5201-00	Public Safety Allocation	\$22,179.85	\$57,000.00	\$34,820.15	38.91 %
101-5202-00	Abandoned Veh Abate (AVA)	\$1,009.83	\$2,273.00	\$1,263.17	44.43 %
101-5203-00	Motor Vehicle In Lieu	\$5,436.97	\$32,400.00	\$26,963.03	16.78 %
101-5205-00	Other In Lieu	\$71,529.81	\$140,255.00	\$68,725.19	51.00 %
101-5214-00	Post Reimbursements	\$3,236.93	\$3,500.00	\$263.07	92.48 %
101-5217-00	State Mandated Cost Reimbursement	\$884.00	\$0.00	(\$884.00)	0.00 %
101-5301-00	Planning Services	\$3,743.40	\$8,000.00	\$4,256.60	46.79 %
101-5302-00	Police Services	\$14,488.86	\$23,000.00	\$8,511.14	63.00 %
101-5304-00	Planning Fees (Public Hearing)	\$15,229.41	\$30,000.00	\$14,770.59	50.76 %
101-5306-00	Well Water Usage Charge	\$17,805.93	\$10,000.00	(\$7,805.93)	178.06 %
101-5319-00	Misc. City Services	\$1,712.29	\$2,500.00	\$787.71	68.49 %
101-5321-00	Well Monitoring Svc Charge	\$9,279.00	\$18,858.00	\$9,579.00	49.20 %
101-5322-00	City Administrative Fees-OHRec	\$34,204.00	\$34,541.00	\$337.00	99.02 %
101-5401-00	Franchises - Comcast Cable	\$87,525.18	\$175,000.00	\$87,474.82	50.01 %
101-5402-00	Franchises - Garbage Fees	\$63,573.96	\$78,000.00	\$14,426.04	81.51 %
101-5403-00	Franchises - PG&E	\$679.14	\$115,000.00	\$114,320.86	0.59 %
101-5404-00	Franchises - Equilon Pipe	\$11,592.66	\$11,300.00	(\$292.66)	102.59 %
101-5405-00	AT&T Mobility Franchise Fees	\$42.69	\$83.00	\$40.31	51.43 %
101-5501-00	Fines and Forfeitures	\$6,333.59	\$33,000.00	\$26,666.41	19.19 %
101-5601-00	Interest	\$60,626.60	\$103,764.00	\$43,137.40	58.43 %
101-5602-00	Park Use Fee	\$21,110.50	\$68,500.00	\$47,389.50	30.82 %
101-5603-00	Meeting Room Fee	\$1,053.50	\$2,000.00	\$946.50	52.68 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
101-5608-00 Cattle Grazing Lease Rent	\$8,863.68	\$8,864.00	\$0.32	100.00 %
101-5609-00 Sprint/ Nextel Lease Rent	\$18,355.54	\$30,550.00	\$12,194.46	60.08 %
101-5612-00 Street Use Fee	\$100.00	\$0.00	(\$100.00)	0.00 %
101-5701-00 Reimbursements/Refunds	\$4,930.85	\$5,036.00	\$105.15	97.91 %
101-5702-00 Donations/Contributions	\$0.00	\$1,000.00	\$1,000.00	0.00 %
101-5790-00 Other Revenues	\$61,650.25	\$1,000.00	(\$60,650.25)	6,165.03 %
101-5791-00 Overhead cost recovery	\$1,202.03	\$3,500.00	\$2,297.97	34.34 %
101-5801-00 Sale of Assets	\$0.00	\$6,700.00	\$6,700.00	0.00 %
101-6002-00 Trx. From Measure C Fund	\$2,000.00	\$4,000.00	\$2,000.00	50.00 %
101-6004-00 Trx. From Gas Tax	\$3,343.50	\$6,687.00	\$3,343.50	50.00 %
101-6005-00 Trx. From St. Lights	\$5,140.00	\$10,280.00	\$5,140.00	50.00 %
101-6006-00 Trx. From GHAD	\$9,600.00	\$19,200.00	\$9,600.00	50.00 %
101-6007-00 Trx. From Landscape Mncc.	\$15,378.00	\$30,756.00	\$15,378.00	50.00 %
101-6008-00 Trx. From RDA Project Fund 301	\$187,690.00	\$375,380.00	\$187,690.00	50.00 %
101-6009-00 Trx. From RDA Housing Fund 302	\$75,047.50	\$150,095.00	\$75,047.50	50.00 %
101-6011-00 Trx From Grove Park Fund	\$3,133.50	\$6,267.00	\$3,133.50	50.00 %
101-6016-00 Trx.From Stormwater Asses.	\$16,250.00	\$32,500.00	\$16,250.00	50.00 %
Totals for Department(s) 00 - City:	\$1,925,510.92	\$3,652,726.00	\$1,727,215.08	52.71 %
Total Revenues	\$1,925,510.92	\$3,652,726.00	\$1,727,215.08	52.71 %
Expenses				
101-7115-01 Council/Commission Compensatio	\$11,700.00	\$23,400.00	(\$11,700.00)	50.00 %
101-7220-01 PERS Retirement	\$2,068.92	\$5,121.00	(\$3,052.08)	40.40 %
101-7233-01 FICA and Medicare	\$167.36	\$339.00	(\$171.64)	49.37 %
101-7246-01 Benefit Insurance	\$0.50	\$0.00	\$0.50	0.00 %
101-7324-01 Dues and Subscriptions	\$5,245.80	\$11,458.00	(\$6,212.20)	45.78 %
101-7362-01 City Promotional Activity	\$2,803.58	\$20,782.00	(\$17,978.42)	13.49 %
101-7372-01 Conferences	\$100.00	\$1,584.00	(\$1,484.00)	6.31 %
101-7419-01 Other Professional Services	\$3,100.00	\$8,000.00	(\$4,900.00)	38.75 %
Totals for Department(s) 01 - Legislative:	\$25,186.16	\$70,684.00	(\$45,497.84)	35.63 %
101-7111-02 Regular Salaries	\$261,409.11	\$509,365.00	(\$247,955.89)	51.32 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
101-7218-02 Life and LTD Insurance	\$1,579.62	\$3,242.00	(\$1,662.38)	48.72 %
101-7220-02 PERS Retirement	\$48,937.42	\$109,145.00	(\$60,207.58)	44.84 %
101-7233-02 FICA and Medicare	\$4,300.17	\$7,232.00	(\$2,931.83)	59.46 %
101-7241-02 Auto Allowance Mileage	\$4,956.84	\$10,740.00	(\$5,783.16)	46.15 %
101-7246-02 Benefit Insurance	\$33,527.13	\$66,379.00	(\$32,851.87)	50.51 %
101-7321-02 Printing and Binding	\$108.00	\$0.00	\$108.00	0.00 %
101-7324-02 Dues and Subscriptions	\$79.00	\$1,781.00	(\$1,702.00)	4.44 %
101-7332-02 Telephone	\$2,626.53	\$10,280.00	(\$7,653.47)	25.55 %
101-7363-02 Business Entertainment Expense	\$0.00	\$50.00	(\$50.00)	0.00 %
101-7364-02 Employee Recognition	\$1,058.48	\$2,718.00	(\$1,659.52)	38.94 %
101-7373-02 Education & Training	\$25.00	\$0.00	\$25.00	0.00 %
101-7411-02 Professional Services Retainer	\$33,820.65	\$96,000.00	(\$62,179.35)	35.23 %
101-7413-02 Legal Services	(\$2,500.00)	\$0.00	(\$2,500.00)	0.00 %
101-7414-02 Audit	\$5,000.00	\$17,276.00	(\$12,276.00)	28.94 %
101-7415-02 Computer Services	\$637.50	\$8,518.00	(\$7,880.50)	7.48 %
101-7419-02 Other Professional Services	\$15,225.01	\$25,408.00	(\$10,182.99)	59.92 %
101-7431-02 Collection Services	\$0.00	\$100.00	(\$100.00)	0.00 %
Totals for Department(s) 02 - Administration:	\$410,790.46	\$868,234.00	(\$457,443.54)	47.31 %
101-7111-03 Regular Salaries	\$5,180.61	\$6,081.00	(\$900.39)	85.19 %
101-7112-03 Temporary Salaries	\$1,515.50	\$4,198.00	(\$2,682.50)	36.10 %
101-7113-03 Overtime	\$256.05	\$0.00	\$256.05	0.00 %
101-7218-03 Life and LTD Insurance	\$23.07	\$40.00	(\$16.93)	57.68 %
101-7220-03 PERS Retirement	\$719.26	\$1,331.00	(\$611.74)	54.04 %
101-7233-03 FICA and Medicare	\$538.37	\$409.00	\$129.37	131.63 %
101-7246-03 Benefit Insurance	\$668.13	\$1,216.00	(\$547.87)	54.94 %
101-7311-03 General Supplies	\$2,648.83	\$9,551.00	(\$6,902.17)	27.73 %
101-7329-03 Park Supplies	\$332.85	\$0.00	\$332.85	0.00 %
101-7331-03 Rentals/Leases	\$83.89	\$140.00	(\$56.11)	59.92 %
101-7332-03 Telephone	\$1,203.32	\$3,000.00	(\$1,796.68)	40.11 %
101-7335-03 Gas & Electricity	\$14,169.90	\$30,000.00	(\$15,830.10)	47.23 %
101-7338-03 Water Services	\$8,860.54	\$18,000.00	(\$9,139.46)	49.23 %
101-7341-03 Buildings/Grounds Maintenance	\$4,308.06	\$7,844.00	(\$3,535.94)	54.92 %
101-7342-03 Machinery/Equipment Maintenance	\$2,807.25	\$9,366.00	(\$6,558.75)	29.97 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
101-7343-03 Vehicle Maintenance	\$255.11	\$9,981.00	(\$9,725.89)	2.56 %
101-7344-03 Vehicles: Gas, Oil & Supplies	\$7,884.66	\$14,000.00	(\$6,115.34)	56.32 %
101-7346-03 HVAC Mtn & Repairs	\$4,887.50	\$9,130.00	(\$4,242.50)	53.53 %
101-7347-03 Deferred Mtn Projects	\$2,258.28	\$116,533.00	(\$114,274.72)	1.94 %
101-7373-03 Education & Training	\$280.00	\$701.00	(\$421.00)	39.94 %
101-7411-03 Professional Services Retainer	\$1,088.20	\$0.00	\$1,088.20	0.00 %
101-7417-03 Janitorial Service	\$3,519.90	\$6,900.00	(\$3,380.10)	51.01 %
101-7429-03 Animal Control	\$0.00	\$850.00	(\$850.00)	0.00 %
Totals for Department(s) 03 - Public Works:	\$63,489.28	\$249,271.00	(\$185,781.72)	25.47 %
101-7111-04 Regular Salaries	\$82,427.32	\$164,855.00	(\$82,427.68)	50.00 %
101-7115-04 Council/Commission Compensation	\$3,600.00	\$7,200.00	(\$3,600.00)	50.00 %
101-7218-04 Life and LTD Insurance	\$467.70	\$1,072.00	(\$604.30)	43.63 %
101-7220-04 PERS Retirement	\$14,556.96	\$36,075.00	(\$21,518.04)	40.35 %
101-7233-04 FICA and Medicare	\$1,128.34	\$2,390.00	(\$1,261.66)	47.21 %
101-7241-04 Auto Allowance/Mileage	\$2,069.99	\$4,140.00	(\$2,070.01)	50.00 %
101-7246-04 Benefit Insurance	\$10,725.72	\$21,451.00	(\$10,725.28)	50.00 %
101-7323-04 Books/Periodicals	\$0.00	\$100.00	(\$100.00)	0.00 %
101-7324-04 Dues and Subscriptions	\$655.00	\$705.00	(\$50.00)	92.91 %
101-7332-04 Telephone	\$275.44	\$630.00	(\$354.56)	43.72 %
101-7371-04 Travel	\$0.00	\$100.00	(\$100.00)	0.00 %
101-7384-04 Legal Notices	\$106.60	\$1,600.00	(\$1,493.40)	6.66 %
101-7385-04 TRANSPAC Fees	\$21,790.00	\$21,790.00	\$0.00	100.00 %
101-7411-04 Professional Services Retainer	\$4,200.87	\$0.00	\$4,200.87	0.00 %
101-7419-04 Other Professional Services	\$170.00	\$20,872.00	(\$20,702.00)	0.81 %
Totals for Department(s) 04 - Community Development:	\$142,173.94	\$282,980.00	(\$140,806.06)	50.24 %
101-7119-05 Furloughs	(\$24,337.52)	(\$54,597.00)	\$30,259.48	44.58 %
101-7231-05 Workers' Compensation	\$1,603.00	\$2,003.00	(\$400.00)	80.03 %
101-7232-05 Unemployment Compensation	\$3,407.69	\$10,907.00	(\$7,499.31)	31.24 %
101-7246-05 Benefit Insurance	\$0.00	\$4,042.00	(\$4,042.00)	0.00 %
101-7312-05 Office Supplies/Expense	\$3,249.95	\$7,000.00	(\$3,750.05)	46.43 %
101-7314-05 Postage	\$2,113.13	\$6,641.00	(\$4,527.87)	31.82 %
101-7331-05 Rentals/Leases	\$5,274.10	\$10,858.00	(\$5,583.90)	48.57 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
101-7332-05 Telephone	\$1,074.21	\$0.00	\$1,074.21	0.00 %
101-7345-05 Office Equip-Maint/Repairs	\$0.00	\$500.00	(\$500.00)	0.00 %
101-7351-05 Insurance Premiums	\$58,990.02	\$60,117.00	(\$1,126.98)	98.13 %
101-7373-05 Education & Training	\$406.22	\$10,000.00	(\$9,593.78)	4.06 %
101-7381-05 Property Tax Admin. Costs	\$0.00	\$17,000.00	(\$17,000.00)	0.00 %
101-7419-05 Other Professional Services	\$7,586.49	\$37,722.00	(\$30,135.51)	20.11 %
Totals for Department(s) 05 - General Support:	\$59,367.29	\$112,193.00	(\$52,825.71)	52.92 %
101-7111-06 Regular Salaries	\$413,266.55	\$837,478.00	(\$424,211.45)	49.35 %
101-7113-06 Overtime	\$52,372.83	\$86,000.00	(\$33,627.17)	60.90 %
101-7114-06 Holiday Pay	\$4,958.40	\$0.00	\$4,958.40	0.00 %
101-7116-06 Part-time Salaries	\$1,283.56	\$4,348.00	(\$3,064.44)	29.52 %
101-7117-06 Vacation Buy-out Pay	\$38,374.03	\$0.00	\$38,374.03	0.00 %
101-7218-06 Life and LTD Insurance	\$2,649.90	\$5,444.00	(\$2,794.10)	48.68 %
101-7220-06 PERS Retirement	\$163,435.51	\$356,961.00	(\$193,525.49)	45.79 %
101-7233-06 FICA and Medicare	\$8,850.56	\$13,723.00	(\$4,872.44)	64.49 %
101-7241-06 Auto Allowance/Mileage	\$2,219.88	\$4,440.00	(\$2,220.12)	50.00 %
101-7242-06 Uniform Allowance	\$9,000.00	\$9,000.00	\$0.00	100.00 %
101-7246-06 Benefit Insurance	\$72,480.49	\$146,993.00	(\$74,512.51)	49.31 %
101-7311-06 General Supplies	\$1,767.37	\$6,000.00	(\$4,232.63)	29.46 %
101-7312-06 Office Supplies/Expense	\$1,204.65	\$3,000.00	(\$1,795.35)	40.16 %
101-7314-06 Postage	\$84.51	\$900.00	(\$815.49)	9.39 %
101-7324-06 Dues and Subscriptions	\$3,230.00	\$5,740.00	(\$2,510.00)	56.27 %
101-7332-06 Telephone	\$4,572.34	\$18,048.00	(\$13,475.66)	25.33 %
101-7342-06 Machinery/Equipment Maintenance	\$418.89	\$2,124.00	(\$1,705.11)	19.72 %
101-7343-06 Vehicle Maintenance	\$6,550.40	\$17,000.00	(\$10,449.60)	38.53 %
101-7344-06 Vehicles: Gas, Oil & Supplies	\$13,555.22	\$35,000.00	(\$21,444.78)	38.73 %
101-7345-06 Office Equip-Maint/Repairs	\$569.02	\$1,803.00	(\$1,233.98)	31.56 %
101-7363-06 Business Entertainment Expense	\$47.88	\$100.00	(\$52.12)	47.88 %
101-7364-06 Employee Recognition	\$0.00	\$781.00	(\$781.00)	0.00 %
101-7365-06 CC Volunteer Recognition	\$0.00	\$250.00	(\$250.00)	0.00 %
101-7373-06 Education & Training	\$973.16	\$7,000.00	(\$6,026.84)	13.90 %
101-7375-06 Education/Training-Reimbursabl	\$46.32	\$0.00	\$46.32	0.00 %
101-7411-06 Professional Services Retainer	\$1,814.72	\$0.00	\$1,814.72	0.00 %

City of Clayton Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
101-7413-06 Legal Services	\$10,968.81	\$0.00	\$10,968.81	0.00 %
101-7415-06 Computer Services	\$0.00	\$1,698.00	(\$1,698.00)	0.00 %
101-7417-06 Janitorial Service	\$1,125.00	\$2,700.00	(\$1,575.00)	41.67 %
101-7419-06 Other Professional Services	\$28,383.47	\$29,211.00	(\$827.53)	97.17 %
101-7424-06 Dispatch Services	\$79,038.00	\$158,076.00	(\$79,038.00)	50.00 %
101-7425-06 Crime Lab	\$6,899.94	\$13,000.00	(\$6,100.06)	53.08 %
101-7426-06 Jail Booking Fee	\$0.00	\$1,200.00	(\$1,200.00)	0.00 %
101-7427-06 CAL ID	\$10,621.00	\$10,621.00	\$0.00	100.00 %
101-7428-06 C Net	\$1,512.84	\$6,500.00	(\$4,987.16)	23.27 %
101-7429-06 Animal Control	\$29,104.00	\$58,208.00	(\$29,104.00)	50.00 %
101-7432-06 Emergency Services	\$0.00	\$1,500.00	(\$1,500.00)	0.00 %
101-7433-06 Integrated Justice System	\$1,170.63	\$4,000.00	(\$2,829.37)	29.27 %
Totals for Department(s) 06 - Police:	\$972,549.88	\$1,848,847.00	(\$876,297.12)	52.60 %
101-7111-07 Regular Salaries	\$6,300.60	\$9,240.00	(\$2,939.40)	68.19 %
101-7112-07 Temporary Salaries	\$977.25	\$904.00	\$73.25	108.10 %
101-7218-07 Life and LTD Insurance	\$33.92	\$55.00	(\$21.08)	61.67 %
101-7220-07 PERS Retirement	\$1,057.40	\$2,101.00	(\$1,043.60)	50.33 %
101-7233-07 FICA and Medicare	\$145.72	\$392.00	(\$246.28)	37.17 %
101-7246-07 Benefit Insurance	\$982.22	\$1,877.00	(\$894.78)	52.33 %
101-7332-07 Telephone	\$687.55	\$1,900.00	(\$1,212.45)	36.19 %
101-7335-07 Gas & Electricity	\$18,405.39	\$48,000.00	(\$29,594.61)	38.34 %
101-7338-07 Water Services	\$502.97	\$1,800.00	(\$1,297.03)	27.94 %
101-7341-07 Buildings/Grounds Maintenance	\$6,832.95	\$8,956.00	(\$2,123.05)	76.29 %
101-7346-07 HVAC Mtn & Repairs	\$1,904.34	\$11,000.00	(\$9,095.66)	17.31 %
101-7417-07 Janitorial Service	\$12,749.77	\$30,600.00	(\$17,850.23)	41.67 %
101-7423-07 Library Aide Additional Hours	\$9,394.79	\$18,222.00	(\$8,827.21)	51.56 %
Totals for Department(s) 07 - Library:	\$59,974.87	\$135,047.00	(\$75,072.13)	44.41 %
101-7324-08 Dues and Subscriptions	\$167.16	\$1,060.00	(\$892.84)	15.77 %
101-7332-08 Telephone	\$336.89	\$940.00	(\$603.11)	35.84 %
101-7411-08 Professional Services Retainer	\$31,057.54	\$75,000.00	(\$43,942.46)	41.41 %
101-7412-08 Engineering/Inspection Service	\$116.50	\$500.00	(\$383.50)	23.30 %
101-7430-08 Well Monitoring Svc Charge	\$9,763.74	\$18,948.00	(\$9,184.26)	51.53 %

City of Clayton

Revenue & Expense July-December 2011

Totals for Department(s) 08 - Engineering:		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
		\$41,441.83	\$96,448.00	(\$55,006.17)	42.97 %
101-7111-09	Regular Salaries	\$20,151.31	\$36,835.00	(\$16,683.69)	54.71 %
101-7112-09	Temporary Salaries	\$8,475.50	\$14,416.00	(\$5,940.50)	58.79 %
101-7113-09	Overtime	\$0.00	\$2,000.00	(\$2,000.00)	0.00 %
101-7218-09	Life and LTD Insurance	\$130.35	\$239.00	(\$108.65)	54.54 %
101-7220-09	PERS Retirement	\$4,063.39	\$8,059.00	(\$3,995.61)	50.42 %
101-7233-09	FICA and Medicare	\$782.59	\$1,637.00	(\$854.41)	47.81 %
101-7246-09	Benefit Insurance	\$3,774.51	\$6,099.00	(\$2,324.49)	61.89 %
101-7329-09	Park Supplies	\$2,384.76	\$19,875.00	(\$17,490.24)	12.00 %
101-7331-09	Rentals. Leases	\$0.00	\$405.00	(\$405.00)	0.00 %
101-7335-09	Gas & Electricity	\$688.32	\$2,800.00	(\$2,111.68)	24.58 %
101-7338-09	Water Services	\$37,582.55	\$83,000.00	(\$45,417.45)	45.28 %
101-7417-09	Janitorial Service	\$5,305.64	\$12,700.00	(\$7,394.36)	41.78 %
101-7419-09	Other Professional Services	\$8,108.80	\$4,161.00	\$3,947.80	194.88 %
101-7429-09	Animal Control	\$0.00	\$2,000.00	(\$2,000.00)	0.00 %
Totals for Department(s) 09 - Clayton Community Park:		\$91,447.72	\$194,226.00	(\$102,778.28)	47.08 %
Total Expenses		\$1,866,421.43	\$3,857,930.00	(\$1,991,508.57)	48.38 %
BEGINNING FUND BALANCE		\$4,845,555.89	\$4,845,555.89	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)		\$59,089.49	(\$205,204.00)	(\$264,293.49)	(28.80)%
ENDING FUND BALANCE		\$4,904,645.38	\$4,640,351.89	(\$264,293.49)	105.70 %

City of Clayton
Revenue & Expense July-December 2011

		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues					
201-4607-00	Street Light Assessment	\$14,037.82	\$27,000.00	\$12,962.18	51.99 %
201-5209-00	State Gasoline 2105	\$26,642.85	\$60,000.00	\$33,357.15	44.40 %
201-5210-00	State Gasoline 2106	\$20,796.49	\$42,400.00	\$21,603.51	49.05 %
201-5211-00	State Gasoline 2107	\$40,029.12	\$78,500.00	\$38,470.88	50.99 %
201-5212-00	State Gasoline 2107.5	\$3,000.00	\$3,000.00	\$0.00	100.00 %
201-5216-00	State Gasoline 2103	\$64,676.28	\$67,000.00	\$2,323.72	96.53 %
201-5601-00	Interest	\$1,581.78	\$5,000.00	\$3,418.22	31.64 %
201-5790-00	Other Revenues	\$35.00	\$0.00	(\$35.00)	0.00 %
Totals for Department(s) 00 - City:		\$170,799.34	\$282,900.00	\$112,100.66	60.37 %
Total Revenues		\$170,799.34	\$282,900.00	\$112,100.66	60.37 %
Expenses					
201-7111-00	Regular Salaries	\$9,451.07	\$23,248.00	(\$13,796.93)	40.65 %
201-7112-00	Temporary Salaries	\$2,632.25	\$5,918.00	(\$3,285.75)	44.48 %
201-7218-00	Life and LTD Insurance	\$44.12	\$151.00	(\$106.88)	29.22 %
201-7220-00	PERS Retirement	\$1,375.48	\$5,087.00	(\$3,711.52)	27.04 %
201-7231-00	Workers' Compensation	\$0.00	\$84.00	(\$84.00)	0.00 %
201-7232-00	Unemployment Compensation	\$0.00	\$446.00	(\$446.00)	0.00 %
201-7233-00	FICA and Medicare	\$291.65	\$790.00	(\$498.35)	36.92 %
201-7246-00	Benefit Insurance	\$1,277.69	\$4,651.00	(\$3,373.31)	27.47 %
201-7311-00	General Supplies	\$0.00	\$12,000.00	(\$12,000.00)	0.00 %
201-7327-00	Park & Street Supplies	\$6,958.71	\$14,580.00	(\$7,621.29)	47.73 %
201-7335-00	Gas & Electricity	\$18,977.18	\$42,500.00	(\$23,522.82)	44.65 %
201-7340-00	Traffic Safety Supplies	\$0.00	\$800.00	(\$800.00)	0.00 %
201-7349-00	Traffic Signal Maintenance	\$6,699.86	\$26,000.00	(\$19,300.14)	25.77 %
201-7381-00	Property Tax Admin. Costs	\$0.00	\$300.00	(\$300.00)	0.00 %
201-7419-00	Other Professional Services	\$0.00	\$1,400.00	(\$1,400.00)	0.00 %
201-7520-00	Projects	\$500.00	\$0.00	\$500.00	0.00 %
201-8101-00	Transfer To General Fund	\$3,343.50	\$6,687.00	(\$3,343.50)	50.00 %
201-8111-00	Transfer to CIP Fund	(\$1,500.00)	\$167,000.00	(\$168,500.00)	(0.90)%

City of Clayton

Revenue & Expense July-December 2011

	Totals for Department(s) 00 - City:			
	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Total Expenses	\$50,051.51	\$311,642.00	(\$261,590.49)	16.06 %
BEGINNING FUND BALANCE	\$64,754.04	\$64,754.04	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	\$120,747.83	(\$28,742.00)	(\$149,489.83)	(420.11)%
ENDING FUND BALANCE	\$185,501.87	\$36,012.04	(\$149,489.83)	515.11 %

City of Clayton Revenue & Expense July-December 2011

Revenues		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
210-4604-00	Clayton LMD Assessment	\$514,717.71	\$936,054.00	\$421,336.29	54.99 %
210-5601-00	Interest	\$6,962.82	\$5,000.00	(\$1,962.82)	139.26 %
Totals for Department(s) 00 - City:		\$521,680.53	\$941,054.00	\$419,373.47	55.44 %
Total Revenues		\$521,680.53	\$941,054.00	\$419,373.47	55.44 %
Expenses					
210-7111-00	Regular Salaries	\$82,810.56	\$162,632.00	(\$79,821.44)	50.92 %
210-7112-00	Temporary Salaries	\$64,608.50	\$94,150.00	(\$29,541.50)	68.62 %
210-7218-00	Life and LTD Insurance	\$585.53	\$1,057.00	(\$471.47)	55.40 %
210-7220-00	PERS Retirement	\$18,253.72	\$35,592.00	(\$17,338.28)	51.29 %
210-7231-00	Workers' Compensation	\$77.50	\$2,679.00	(\$2,601.50)	2.89 %
210-7232-00	Unemployment Compensation	\$0.00	\$6,999.00	(\$6,999.00)	0.00 %
210-7233-00	FICA and Medicare	\$5,093.08	\$9,561.00	(\$4,467.92)	53.27 %
210-7246-00	Benefit Insurance	\$16,956.02	\$31,135.00	(\$14,178.98)	54.46 %
210-7311-00	General Supplies	\$16,125.30	\$40,000.00	(\$23,874.70)	40.31 %
210-7316-00	Landscape Replacement	\$0.00	\$20,000.00	(\$20,000.00)	0.00 %
210-7335-00	Gas & Electricity	\$9,371.95	\$29,000.00	(\$19,628.05)	32.32 %
210-7338-00	Water Services	\$66,869.22	\$180,000.00	(\$113,130.78)	37.15 %
210-7342-00	Machinery/Equipment Maintenance	\$6,646.67	\$9,000.00	(\$2,353.33)	73.85 %
210-7343-00	Vehicle Maintenance	\$1,422.90	\$8,334.00	(\$6,911.10)	17.07 %
210-7344-00	Vehicle Gas, Oil, and Supplies	\$5,427.54	\$9,000.00	(\$3,572.46)	60.31 %
210-7381-00	Property Tax Admin. Costs	\$2,053.93	\$3,737.00	(\$1,683.07)	54.96 %
210-7411-00	Professional Services Retainer	\$1,422.89	\$0.00	\$1,422.89	0.00 %
210-7419-00	Other Professional Services	\$31,763.55	\$141,181.00	(\$109,417.45)	22.50 %
210-7486-00	CERF Charges/Depreciation	\$13,500.00	\$13,500.00	\$0.00	100.00 %
210-7520-00	Landscape Projects	\$1,312.35	\$330,000.00	(\$328,687.65)	0.40 %
210-7615-00	CCC Property Tax	\$2,397.62	\$2,370.00	\$27.62	101.17 %
210-8101-00	Transfer To General Fund	\$15,378.00	\$30,756.00	(\$15,378.00)	50.00 %
210-8111-00	Transfer to CIP Fund	\$0.00	\$50,000.00	(\$50,000.00)	0.00 %
Totals for Department(s) 00 - City:		\$362,076.83	\$1,210,683.00	(\$848,606.17)	29.91 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Total Expenses	\$362,076.83	\$1,210,683.00	(\$848,606.17)	29.91 %
BEGINNING FUND BALANCE	\$535,631.36	\$535,631.36	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	\$159,603.70	(\$269,629.00)	(\$429,232.70)	(59.19)%
ENDING FUND BALANCE	\$695,235.06	\$266,002.36	(\$429,232.70)	261.36 %

City of Clayton

Revenue & Expense July-December 2011

Revenues

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
211-4613-00 Clayton DT Park Assessment	\$61,488.31	\$112,062.00	\$50,573.69	54.87 %
211-5601-00 Interest	\$2,433.76	\$3,000.00	\$566.24	81.13 %
211-5790-00 Other Revenues	\$0.00	\$10,000.00	\$10,000.00	0.00 %
Totals for Department(s) 00 - City:	\$63,922.07	\$125,062.00	\$61,139.93	51.11 %
Total Revenues	\$63,922.07	\$125,062.00	\$61,139.93	51.11 %

Expenses

211-7111-00 Regular Salaries	\$9,880.57	\$29,177.00	(\$19,296.43)	33.86 %
211-7112-00 Temporary Salaries	\$5,064.75	\$16,813.00	(\$11,748.25)	30.12 %
211-7218-00 Life and LTD Insurance	\$47.71	\$190.00	(\$142.29)	25.11 %
211-7220-00 PERS Retirement	\$1,487.23	\$6,384.00	(\$4,896.77)	23.30 %
211-7231-00 Workers' Compensation	\$0.00	\$202.00	(\$202.00)	0.00 %
211-7232-00 Unemployment Compensation	\$0.00	\$974.00	(\$974.00)	0.00 %
211-7233-00 FICA and Medicare	\$448.51	\$1,709.00	(\$1,260.49)	26.24 %
211-7246-00 Benefit Insurance	\$1,381.50	\$5,590.00	(\$4,208.50)	24.71 %
211-7310-00 Supplies and Equipment	\$1,169.80	\$4,900.00	(\$3,730.20)	23.87 %
211-7331-00 Rentals/leases	\$87.45	\$500.00	(\$412.55)	17.49 %
211-7335-00 Gas & Electricity	\$429.85	\$1,200.00	(\$770.15)	35.82 %
211-7338-00 Water Services	\$782.62	\$4,000.00	(\$3,217.38)	19.57 %
211-7342-00 Machinery/Equip Maintenance	\$0.00	\$500.00	(\$500.00)	0.00 %
211-7343-00 Vehicle Maintenance	\$0.00	\$1,000.00	(\$1,000.00)	0.00 %
211-7344-00 Vehicle Gas, Oil and Supplies	\$0.00	\$1,500.00	(\$1,500.00)	0.00 %
211-7381-00 Property Tax Admin. Costs	\$2,055.75	\$3,900.00	(\$1,844.25)	52.71 %
211-7417-00 Janitorial Services	\$3,694.89	\$12,900.00	(\$9,205.11)	28.64 %
211-7419-00 Other Professional Services	\$4,427.27	\$4,897.00	(\$469.73)	90.41 %
211-7420-00 Other Outside Service	\$1,741.34	\$3,800.00	(\$2,058.66)	45.82 %
211-7485-00 Capital Equipment	\$6,274.00	\$0.00	\$6,274.00	0.00 %
211-7486-00 Cerf Charges	\$2,700.00	\$2,700.00	\$0.00	100.00 %
211-7615-00 CCC Property Tax	\$426.84	\$415.00	\$11.84	102.85 %
211-8101-00 Transfer To General Fund	\$3,133.50	\$6,267.00	(\$3,133.50)	50.00 %

City of Clayton

Revenue & Expense July-December 2011

Totals for Department(s) 00 - City:

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Total Expenses	\$45,233.58	\$109,518.00	(\$64,284.42)	41.30 %
BEGINNING FUND BALANCE	\$213,306.54	\$213,306.54	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	\$18,688.49	\$15,544.00	(\$3,144.49)	120.23 %
ENDING FUND BALANCE	\$231,995.03	\$228,850.54	(\$3,144.49)	101.37 %

City of Clayton

Revenue & Expense July-December 2011

		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues					
212-4606-00	Oakhurst GHAD Assessment	\$18,684.86	\$33,972.00	\$15,287.14	55.00 %
212-5601-00	Interest	\$42.30	\$0.00	(\$42.30)	0.00 %
212-5790-00	Other Revenues	\$80.00	\$0.00	(\$80.00)	0.00 %
Totals for Department(s) 00 - City:		\$18,807.16	\$33,972.00	\$15,164.84	55.36 %
Total Revenues					
		\$18,807.16	\$33,972.00	\$15,164.84	55.36 %
Expenses					
212-7314-00	Postage	\$0.00	\$700.00	(\$700.00)	0.00 %
212-7381-00	Property Tax Admin. Costs	\$550.69	\$1,000.00	(\$449.31)	55.07 %
212-7384-00	Legal Notices	\$0.00	\$95.00	(\$95.00)	0.00 %
212-7412-00	Engineering/Inspection Service	\$4,386.79	\$5,000.00	(\$613.21)	87.74 %
212-7413-00	Legal Services	\$2,037.18	\$7,000.00	(\$4,962.82)	29.10 %
212-7520-00	Projects	\$1,946.00	\$0.00	\$1,946.00	0.00 %
212-8101-00	Transfer To General Fund	\$9,600.00	\$19,200.00	(\$9,600.00)	50.00 %
Totals for Department(s) 00 - City:		\$18,520.66	\$32,995.00	(\$14,474.34)	56.13 %
Total Expenses					
		\$18,520.66	\$32,995.00	(\$14,474.34)	56.13 %
BEGINNING FUND BALANCE					
		\$4,832.68	\$4,832.68	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)					
		\$286.50	\$977.00	\$690.50	29.32 %
ENDING FUND BALANCE					
		\$5,119.18	\$5,809.68	\$690.50	88.11 %

City of Clayton
Revenue & Expense July-December 2011

Revenues		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
214-4607-00	Street Light Assessment	\$69,002.32	\$125,459.00	\$56,456.68	55.00 %
214-5601-00	Interest	\$1,562.78	\$2,000.00	\$437.22	78.14 %
Totals for Department(s) 00 - City:		\$70,565.10	\$127,459.00	\$56,893.90	55.36 %
Total Revenues		\$70,565.10	\$127,459.00	\$56,893.90	55.36 %
Expenses					
214-7113-00	Overtime	\$4,711.32	\$10,500.00	(\$5,788.68)	44.87 %
214-7311-00	General Supplies	\$210.31	\$4,000.00	(\$3,789.69)	5.26 %
214-7335-00	Gas & Electricity	\$40,597.05	\$97,000.00	(\$56,402.95)	41.85 %
214-7381-00	Property Tax Admin. Costs	\$0.00	\$3,800.00	(\$3,800.00)	0.00 %
214-7384-00	Legal Notices	\$0.00	\$2,905.00	(\$2,905.00)	0.00 %
214-7412-00	Engineering/Inspection Service	\$73.99	\$1,000.00	(\$926.01)	7.40 %
214-8101-00	Transfer To General Fund	\$5,140.00	\$10,280.00	(\$5,140.00)	50.00 %
Totals for Department(s) 00 - City:		\$50,732.67	\$129,485.00	(\$78,752.33)	39.18 %
Total Expenses		\$50,732.67	\$129,485.00	(\$78,752.33)	39.18 %
BEGINNING FUND BALANCE		\$136,033.61	\$136,033.61	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)		\$19,832.43	(\$2,026.00)	(\$21,858.43)	(978.90)%
ENDING FUND BALANCE		\$155,866.04	\$134,007.61	(\$21,858.43)	116.31 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
216-4602-00 Stormwater Assessment	\$4,879.43	\$81,370.00	\$76,490.57	6.00 %
216-4603-00 Stormwater O&M Annual Fee	\$2,225.00	\$2,451.00	\$226.00	90.78 %
216-5324-00 Street Sweeping Fees	\$29,047.16	\$40,000.00	\$10,952.84	72.62 %
216-5601-00 Interest	\$1,486.43	\$1,000.00	(\$486.43)	148.64 %
Totals for Department(s) 00 - City:	\$37,638.02	\$124,821.00	\$87,182.98	30.15 %
Total Revenues	\$37,638.02	\$124,821.00	\$87,182.98	30.15 %
Expenses				
216-7111-00 Regular Salaries	\$7,741.62	\$23,625.00	(\$15,883.38)	32.77 %
216-7112-00 Temporary Salaries	\$9,823.00	\$8,339.00	\$1,484.00	117.80 %
216-7218-00 Life and LTD Insurance	\$24.63	\$154.00	(\$129.37)	15.99 %
216-7220-00 PERS Retirement	\$767.97	\$5,169.00	(\$4,401.03)	14.86 %
216-7231-00 Workers' Compensation	\$0.00	\$109.00	(\$109.00)	0.00 %
216-7232-00 Unemployment Compensation	\$0.00	\$550.00	(\$550.00)	0.00 %
216-7233-00 FICA and Medicare	\$668.01	\$981.00	(\$312.99)	68.09 %
216-7246-00 Benefit Insurance	\$713.38	\$4,526.00	(\$3,812.62)	15.76 %
216-7311-00 General Supplies	\$795.64	\$3,000.00	(\$2,204.36)	26.52 %
216-7373-00 Education & Training	\$0.00	\$200.00	(\$200.00)	0.00 %
216-7409-00 Street Sweeping	\$14,000.00	\$42,000.00	(\$28,000.00)	33.33 %
216-7412-00 Engineering/Inspection Service	\$978.32	\$7,000.00	(\$6,021.68)	13.98 %
216-7419-00 Other Professional Services	\$1,125.00	\$4,549.00	(\$3,424.00)	24.73 %
216-7481-00 Permit Fees	\$7,279.00	\$5,400.00	\$1,879.00	134.80 %
216-8101-00 Transfer To General Fund	\$16,250.00	\$32,500.00	(\$16,250.00)	50.00 %
Totals for Department(s) 00 - City:	\$60,166.57	\$138,102.00	(\$77,935.43)	43.57 %
Total Expenses	\$60,166.57	\$138,102.00	(\$77,935.43)	43.57 %
BEGINNING FUND BALANCE	\$138,597.98	\$138,597.98	\$0.00	100.00 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
NET SURPLUS/(DEFICIT)	(\$22,528.55)	(\$13,281.00)	\$9,247.55	169.63 %
ENDING FUND BALANCE	\$116,069.43	\$125,316.98	\$9,247.55	92.62 %

City of Clayton

Revenue & Expense July-December 2011

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
220-5223-00 Measure J Funds	\$24,875.00	\$209,748.00	\$184,873.00	11.86 %
220-5601-00 Interest	\$0.00	\$1,000.00	\$1,000.00	0.00 %
Totals for Department(s) 00 - City:	\$24,875.00	\$210,748.00	\$185,873.00	11.80 %
Total Revenues	\$24,875.00	\$210,748.00	\$185,873.00	11.80 %
Expenses				
220-7419-00 Other Professional Services	\$392.00	\$4,500.00	(\$4,108.00)	8.71 %
220-8101-00 Transfer To General Fund	\$2,000.00	\$4,000.00	(\$2,000.00)	50.00 %
220-8111-00 Transfer to CIP Fund	\$0.00	\$194,824.00	(\$194,824.00)	0.00 %
Totals for Department(s) 00 - City:	\$2,392.00	\$203,324.00	(\$200,932.00)	1.18 %
Total Expenses	\$2,392.00	\$203,324.00	(\$200,932.00)	1.18 %
BEGINNING FUND BALANCE	(\$52,159.60)	(\$52,159.60)	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	\$22,483.00	\$7,424.00	(\$15,059.00)	302.84 %
ENDING FUND BALANCE	(\$29,676.60)	(\$44,735.60)	(\$15,059.00)	66.34 %

City of Clayton

Revenue & Expense July-December 2011

Grants Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
230-5220-00 Restricted Grants	\$9,719.87	\$20,000.00	\$10,280.13	48.60 %
230-5601-00 Interest Income	\$1,912.97	\$2,000.00	\$87.03	95.65 %
230-5790-00 Other Revenues	\$92,395.00	\$92,395.00	\$0.00	100.00 %
Totals for Department(s) 00 - City:	\$104,027.84	\$114,395.00	\$10,367.16	90.94 %
230-5222-06 Avoid the 25 Grant	\$680.40	\$0.00	(\$680.40)	0.00 %
Totals for Department(s) 06 - Police:	\$680.40	\$0.00	(\$680.40)	0.00 %
Total Revenues	\$104,708.24	\$114,395.00	\$9,686.76	91.53 %
Expenses				
230-7384-00 Legal Notices	\$112.20	\$105.00	\$7.20	106.86 %
230-7389-00 Misc. Expense	\$0.00	\$11,164.00	(\$11,164.00)	0.00 %
230-7485-00 Capital Equipment	\$3,149.93	\$0.00	\$3,149.93	0.00 %
230-7520-00 Projects	\$157.00	\$0.00	\$157.00	0.00 %
Totals for Department(s) 00 - City:	\$3,419.13	\$11,269.00	(\$7,849.87)	30.34 %
230-7111-06 Regular Salaries - COPS	\$28,997.05	\$55,994.00	(\$26,996.95)	51.79 %
230-7112-06 Temp Salaries - COPS	\$0.00	\$8,536.00	(\$8,536.00)	0.00 %
230-7113-06 Overtime - COPS	\$2,361.65	\$7,244.00	(\$4,882.35)	32.60 %
230-7218-06 Life and LTD Insurance - COPS	\$179.88	\$509.00	(\$329.12)	35.34 %
230-7220-06 PERS Retirement - COPS	\$12,049.61	\$24,166.00	(\$12,116.39)	49.86 %
230-7231-06 Workers' Compensation - COPS	\$0.00	\$1,015.00	(\$1,015.00)	0.00 %
230-7232-06 Unemployment Compensation COPS	\$0.00	\$777.00	(\$777.00)	0.00 %
230-7233-06 FICA and Medicare - COPS	\$742.29	\$1,572.00	(\$829.71)	47.22 %
230-7242-06 Uniform Allowance - COPS	\$900.00	\$900.00	\$0.00	100.00 %
230-7246-06 Benefit Insurance COPS	\$8,777.29	\$17,906.00	(\$9,128.71)	49.02 %
Totals for Department(s) 06 - Police:	\$34,007.77	\$118,619.00	(\$84,611.23)	45.53 %
Total Expenses	\$57,426.90	\$129,888.00	(\$72,461.10)	44.21 %

City of Clayton Revenue & Expense July-December 2011 Grants Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
BEGINNING FUND BALANCE	\$194,147.03	\$194,147.03	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	\$47,281.34	(\$15,493.00)	(\$62,774.34)	(305.18)%
ENDING FUND BALANCE	\$241,428.37	\$178,654.03	(\$62,774.34)	135.14 %

City of Clayton

Revenue & Expense July-December 2011

Self Insurance Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
501-5601-00 Interest	\$316.06	\$500.00	\$183.94	63.21 %
Totals for Department(s) 00 - City:	\$316.06	\$500.00	\$183.94	63.21 %
Total Revenues	\$316.06	\$500.00	\$183.94	63.21 %
Expenses				
501-7351-00 Insurance Premiums	\$609.96	\$1,220.00	(\$610.04)	50.00 %
501-7352-00 Insurance Claims Expense	\$1,633.44	\$5,000.00	(\$3,366.56)	32.67 %
501-7413-00 Legal Services	\$11,085.48	\$20,000.00	(\$8,914.52)	55.43 %
Totals for Department(s) 00 - City:	\$13,328.88	\$26,220.00	(\$12,891.12)	50.83 %
Total Expenses	\$13,328.88	\$26,220.00	(\$12,891.12)	50.83 %
BEGINNING FUND BALANCE	\$37,629.03	\$37,629.03	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)	(\$13,012.82)	(\$25,720.00)	(\$12,707.18)	50.59 %
ENDING FUND BALANCE	\$24,616.21	\$11,909.03	(\$12,707.18)	206.70 %

City of Clayton

Revenue & Expense July-December 2011

CERF Fund

		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues					
502-5328-00	CERF Funds	\$16,200.00	\$16,200.00	\$0.00	100.00 %
502-5601-00	Interest	\$318.95	\$2,500.00	\$2,181.05	12.76 %
502-5790-00	Other Revenues	\$172,701.00	\$172,701.00	\$0.00	100.00 %
502-6099-00	Capital Contribution	\$0.00	\$83,553.00	\$83,553.00	0.00 %
Totals for Department(s) 00 - City:		\$189,219.95	\$274,954.00	\$85,734.05	68.82 %
Total Revenues		\$189,219.95	\$274,954.00	\$85,734.05	68.82 %
Expenses					
502-7485-00	Capital Equipment	\$158,295.35	\$209,701.00	(\$51,405.65)	75.49 %
502-7513-00	Computers/ Software Upgrades	\$15,807.68	\$0.00	\$15,807.68	0.00 %
Totals for Department(s) 00 - City:		\$174,103.03	\$209,701.00	(\$35,597.97)	83.02 %
Total Expenses		\$174,103.03	\$209,701.00	(\$35,597.97)	83.02 %
BEGINNING FUND BALANCE					
		\$493,689.18	\$493,689.18	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)					
		\$15,116.92	\$65,253.00	\$50,136.08	23.17 %
ENDING FUND BALANCE					
		\$508,806.10	\$558,942.18	\$50,136.08	91.03 %

City of Clayton
Revenue & Expense July-December 2011
CC Gym Fund

Revenues		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
701-5699-00	Facility User Fees	\$0.00	\$41,000.00	\$41,000.00	0.00 %
Totals for Department(s) 00 - City:		\$0.00	\$41,000.00	\$41,000.00	0.00 %
Total Revenues		\$0.00	\$41,000.00	\$41,000.00	0.00 %
Expenses					
701-7310-00	Supplies & Equipment	\$0.00	\$2,000.00	(\$2,000.00)	0.00 %
701-7335-00	Gas & Electricity	\$0.00	\$17,000.00	(\$17,000.00)	0.00 %
701-7417-00	Janitorial Service	\$0.00	\$22,000.00	(\$22,000.00)	0.00 %
Totals for Department(s) 00 - City:		\$0.00	\$41,000.00	(\$41,000.00)	0.00 %
Total Expenses		\$0.00	\$41,000.00	(\$41,000.00)	0.00 %
BEGINNING FUND BALANCE					
		(\$5,127.31)	(\$5,127.31)	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)					
		\$0.00	\$0.00	\$0.00	0.00 %
ENDING FUND BALANCE					
		(\$5,127.31)	(\$5,127.31)	\$0.00	100.00 %

City of Clayton

Revenue & Expense July-December 2011

Endeavor Hall Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
702-5607-00 Endeavor Hall Rental Fee	\$10,732.00	\$20,500.00	\$9,768.00	52.35 %
702-5611-00 EH Reserve	\$541.34	\$775.00	\$233.66	69.85 %
Totals for Department(s) 00 - City:	\$11,273.34	\$21,275.00	\$10,001.66	52.99 %
Total Revenues	\$11,273.34	\$21,275.00	\$10,001.66	52.99 %
Expenses				
702-7111-00 Regular Salaries	\$3,589.94	\$8,202.00	(\$4,612.06)	43.77 %
702-7112-00 Temporary Salaries	\$262.00	\$2,435.00	(\$2,173.00)	10.76 %
702-7116-00 Part-time Salaries	\$432.00	\$0.00	\$432.00	0.00 %
702-7218-00 Life and LTD Insurance	\$29.87	\$53.00	(\$23.13)	56.36 %
702-7220-00 PERS Retirement	\$931.31	\$1,795.00	(\$863.69)	51.88 %
702-7231-00 Workers' Compensation	\$0.00	\$11.00	(\$11.00)	0.00 %
702-7232-00 Unemployment Compensation	\$0.00	\$191.00	(\$191.00)	0.00 %
702-7233-00 FICA and Medicare	\$65.86	\$305.00	(\$239.14)	21.59 %
702-7246-00 Benefit Insurance	\$865.10	\$1,641.00	(\$775.90)	52.72 %
702-7311-00 General Supplies	\$588.21	\$900.00	(\$311.79)	65.36 %
702-7332-00 Telephone	\$292.37	\$702.00	(\$409.63)	41.65 %
702-7335-00 Gas & Electricity	\$1,026.34	\$2,250.00	(\$1,223.66)	45.62 %
702-7338-00 Water Services	\$288.47	\$1,100.00	(\$811.53)	26.22 %
702-7341-00 Buildings/Grounds Maintenance	\$3,030.75	\$4,117.00	(\$1,086.25)	73.62 %
702-7346-00 HVAC Mtn & Repairs	\$494.00	\$1,600.00	(\$1,106.00)	30.88 %
702-7417-00 Janitorial Service	\$330.00	\$1,200.00	(\$870.00)	27.50 %
Totals for Department(s) 00 - City:	\$12,226.22	\$26,502.00	(\$14,275.78)	46.13 %
Total Expenses	\$12,226.22	\$26,502.00	(\$14,275.78)	46.13 %
BEGINNING FUND BALANCE	\$1,379,082.03	\$1,379,082.03	\$0.00	100.00 %

City of Clayton
Revenue & Expense July-December 2011
Endeavor Hall Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
NET SURPLUS/(DEFICIT)	(\$952.88)	(\$5,227.00)	(\$4,274.12)	18.23 %
ENDING FUND BALANCE	\$1,378,129.15	\$1,373,855.03	(\$4,274.12)	100.31 %

City of Clayton

Revenue & Expense July-December 2011

RDA Project Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
Revenues				
301-4101-00 Property Taxes - Secured	\$2,184,039.10	\$3,965,069.00	\$1,781,029.90	55.08 %
301-4103-00 Property Taxes - Unitary Tax	\$11,106.74	\$0.00	(\$11,106.74)	0.00 %
301-4104-00 Property Taxes - Supplemental	\$9,255.02	\$0.00	(\$9,255.02)	0.00 %
301-5601-00 Interest	\$17,321.16	\$5,000.00	(\$12,321.16)	346.42 %
301-5790-00 Other Revenues	\$0.00	\$14,500.00	\$14,500.00	0.00 %
301-6003-00 Trx. From CIP Fund	\$0.00	\$32,364.00	\$32,364.00	0.00 %
Totals for Department(s) 00 - City:	\$2,221,722.02	\$4,016,933.00	\$1,795,210.98	55.31 %
Total Revenues	\$2,221,722.02	\$4,016,933.00	\$1,795,210.98	55.31 %
Expenses				
301-7361-00 Advertising	\$2,458.50	\$4,074.00	(\$1,615.50)	60.35 %
301-7381-00 Property Tax Admin. Costs	\$0.00	\$43,000.00	(\$43,000.00)	0.00 %
301-7389-00 Misc. Expense	\$7.30	\$0.00	\$7.30	0.00 %
301-7413-00 Legal Services	\$2,206.00	\$15,000.00	(\$12,794.00)	14.71 %
301-7414-00 Audit	\$0.00	\$1,500.00	(\$1,500.00)	0.00 %
301-7419-00 Other Professional Services	\$4,000.00	\$0.00	\$4,000.00	0.00 %
301-7520-00 Projects	\$3,323.02	\$23,000.00	(\$19,676.98)	14.45 %
301-7612-00 Interest Expense	\$15,437.50	\$30,875.00	(\$15,437.50)	50.00 %
301-7998-00 RDA County Pass Throughs	\$0.00	\$800,000.00	(\$800,000.00)	0.00 %
301-8101-00 Transfer To General Fund	\$187,690.00	\$375,380.00	(\$187,690.00)	50.00 %
301-8106-00 Transfer to RDA Debt	\$843,384.84	\$2,100,921.00	(\$1,257,536.16)	40.14 %
301-8118-00 Transfer to RDA Housing	\$135,761.10	\$148,103.00	(\$12,341.90)	91.67 %
Totals for Department(s) 00 - City:	\$1,194,268.26	\$3,541,853.00	(\$2,347,584.74)	33.72 %
Total Expenses	\$1,194,268.26	\$3,541,853.00	(\$2,347,584.74)	33.72 %
BEGINNING FUND BALANCE	(\$23,572.19)	(\$23,572.19)	\$0.00	100.00 %

City of Clayton
Revenue & Expense July-December 2011
RDA Project Fund

	Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
NET SURPLUS/(DEFICIT)	\$1,027,453.76	\$475,080.00	(\$552,373.76)	216.27 %
ENDING FUND BALANCE	\$1,003,881.57	\$451,507.81	(\$552,373.76)	222.34 %

City of Clayton

Revenue & Expense July-December 2011

RDA LMI Fund

Revenues		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
302-4101-00	Property Taxes - Secured	\$546,009.78	\$991,267.00	\$445,257.22	55.08 %
302-4103-00	Property Taxes - Unitary Tax	\$2,776.69	\$0.00	(\$2,776.69)	0.00 %
302-4104-00	Property Taxes - Supplemental	\$2,313.76	\$0.00	(\$2,313.76)	0.00 %
302-5601-00	Interest	\$57,021.47	\$30,000.00	(\$27,021.47)	190.07 %
302-6008-00	Trx. From RDA Project Fund 301	\$135,761.10	\$148,103.00	\$12,341.90	91.67 %
Totals for Department(s) 00 - City:		\$743,882.80	\$1,169,370.00	\$425,487.20	63.61 %
Total Revenues		\$743,882.80	\$1,169,370.00	\$425,487.20	63.61 %
Expenses					
302-7381-00	Property Tax Admin. Costs	\$0.00	\$10,746.00	(\$10,746.00)	0.00 %
302-7413-00	Legal Services	\$205.00	\$1,000.00	(\$795.00)	20.50 %
302-7419-00	Other Professional Services	\$2,635.00	\$5,924.00	(\$3,289.00)	44.48 %
302-7520-00	Projects	\$0.00	\$200,000.00	(\$200,000.00)	0.00 %
302-7521-00	RDA - LMI Housing	(\$20.70)	\$0.00	(\$20.70)	0.00 %
302-7998-00	RDA County Pass Throughs	\$0.00	\$200,000.00	(\$200,000.00)	0.00 %
302-8101-00	Transfer To General Fund	\$75,047.50	\$150,095.00	(\$75,047.50)	50.00 %
Totals for Department(s) 00 - City:		\$77,866.80	\$567,765.00	(\$489,898.20)	13.71 %
Total Expenses		\$77,866.80	\$567,765.00	(\$489,898.20)	13.71 %
BEGINNING FUND BALANCE		\$5,690,922.88	\$5,690,922.88	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)		\$666,016.00	\$601,605.00	(\$64,411.00)	110.71 %
ENDING FUND BALANCE		\$6,356,938.88	\$6,292,527.88	(\$64,411.00)	101.02 %

City of Clayton

Revenue & Expense July-December 2011

RDA Debt Svc Fund

Revenues		Actual 12/31/2011	Budget 12/31/2011	Budget Variance	% Used
401-5601-00	Interest	\$1,378.99	\$1,500.00	\$121.01	91.93 %
401-6017-00	Transfer from RDA Project Fund	\$843,384.84	\$2,100,921.00	\$1,257,536.16	40.14 %
Totals for Department(s) 00 - City:		\$844,763.83	\$2,102,421.00	\$1,257,657.17	40.18 %
Total Revenues		\$844,763.83	\$2,102,421.00	\$1,257,657.17	40.18 %
Expenses					
401-7419-00	Other Professional Services	\$2,425.00	\$2,900.00	(\$475.00)	83.62 %
401-7611-00	Principal	\$610,000.00	\$3,110,000.00	(\$2,500,000.00)	19.61 %
401-7612-00	Interest Expense	\$161,658.75	\$413,663.00	(\$252,004.25)	39.08 %
401-7613-00	Paying Agent Fee	\$2,695.94	\$5,355.00	(\$2,669.06)	50.25 %
Totals for Department(s) 00 - City:		\$776,779.69	\$3,531,928.00	(\$2,755,148.31)	21.99 %
Total Expenses		\$776,779.69	\$3,531,928.00	(\$2,755,148.31)	21.99 %
BEGINNING FUND BALANCE		\$633,252.80	\$633,252.80	\$0.00	100.00 %
NET SURPLUS/(DEFICIT)		\$67,984.14	(\$1,429,507.00)	(\$1,497,491.14)	(4.76)%
ENDING FUND BALANCE		\$701,236.94	(\$796,254.20)	(\$1,497,491.14)	(88.07)%



Agenda Date: 4-3-12

Agenda Item: 8b

Approved:


Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: APRIL 3, 2012

SUBJECT: HOUSING ELEMENT IMPLEMENTATION PROJECT
(ENV 01-12; GPA 03-11; SPA 01-12; and ZOA 06-11)

RECOMMENDATION

Staff recommends to the City Council the following actions:

1. By Resolution, adopt the Housing Element Implementation Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND) (ENV 01-12), February 2012, and related March 13, 2012 Errata Sheet (See **Attachment 1**);
2. By Resolution, approve the General Plan Amendment (GPA 03-11) to add a Multi-Family High Density designation allowing 15.1 to 20 dwelling units per acre and related amendments, and to designate certain parcels on the Clayton General Plan Map Multi-Family High Density (See **Attachment 2**);
3. By Resolution, approve a Town Center Specific Plan Amendment (SPA 01-12) to add a Multi-Family High Density designation allowing 15.1 to 20 dwelling units per acre and to designate a certain parcel on the Clayton Town Center Specific Plan Map as Multi-Family High Density (See **Attachment 3**); and
4. Approve Introduction and First Reading of Ordinance No. 440 (See **Attachment 4**) which amends Chapters 17.04 and 17.20 and Sections 17.16.020, 17.24.20, 17.28.100, and 17.60.030 of the *Clayton Municipal Code*, related to uses allowed within the City of Clayton, and rezoning certain parcels shown on the Clayton Zoning Map to Planned Development District.

BACKGROUND

This Housing Element Implementation Project was initially discussed by the Planning Commission at its December 13, 2011 meeting and considered further at its February 28, 2012 and March 13, 2012 meetings. The Planning Commission ultimately recommended City Council adoption of the IES/MND and approval of the project-related General Plan, Town Center Specific Plan, and Zoning Ordinance amendments at the conclusion of its March 13th meeting.

At the December 13th meeting, staff indicated to the Planning Commission that the certification of the Clayton 2009-2014 Housing Element by the State Department of Housing and Community Development (HCD) was contingent upon the City of Clayton making good faith progress toward formally adopting and otherwise carrying out the implementation measures listed in the Housing Element. Accordingly, staff identified a number of key implementation measures from the 2009-2014 Housing Element to carry forward and consider for formal adoption. The adoption of these measures would facilitate the possibility for the construction of more affordable housing within the Clayton community. The measures identified by staff from the 2009-2014 Housing Element are summarized as follows:

- Implementation Measure I.1.1: "The City will promote the development of Affordable Housing Opportunity sites identified in Table 42 (Housing Element), Vacant Residential Land (i.e., High Street parcel (Site V-2) and Old Fire Station site (V-5)) by creating a General Plan Multi-family High Density designation to allow 15.1- 20 units per acre and create a new Zoning District Multi-Family Residential High (M-R-H) to allow up to 20 units per acre...."
- Implementation Measure II.1.2: "...Pursuant to Senate Bill 2, the City must explicitly allow both supportive and transitional housing types in all residential zones. The City shall update its Zoning Code to include separate definitions of transitional and supportive housing as defined in Health and Safety Code Sections 50675.2 and 50675.14. Both transitional and supportive housing types will be allowed as a permitted use subject to only the same restrictive uses contained in the same type of structure...."
- Implementation Measure II.1.3: "...The City shall update its Zoning Code to allow for the development of single-room occupancy units (a type of residential hotel offering one-room units for long-term occupancy by one or two people; SROs may have a kitchen or bath facilities (but not both) in the room) with a conditional use permit in the L-C (Limited Commercial) District and in the area that is currently designated Kirker Corridor...."
- Implementation Measure II.2.1: "...To increase housing supply and obtain densities closer to those envisioned by zoning policies, the City will consider amending the Zoning Code to allow single-family homes in the Multiple Family Residential (M-R) District only with a conditional use permit so that these remaining sites can be used to accommodate multi-family housing...."
- Implementation Measure II.6.1: "The City shall provide flexible development standards (e.g., parking, landscaping, and setbacks) and authorize regulatory concessions for development that includes residential units affordable to extremely low-, very low-, and low-income households...."
- Implementation Measure IV.1.2: "The City shall amend the Zoning Ordinance to remove the maximum number of persons defined as part of a family. The current definition of family limits the number of unrelated individuals to six (6) or fewer persons. Upon amending the definition in the Zoning Ordinance, the City will not restrict the number of unrelated individuals in a family...."

Land Redesignations

In addition to the text amendments associated with the Housing Element Implementation Project, including, but not limited to, the creation of a new Multifamily High Density Residential land use designation (15.1 to 20 units per acre) for the General Plan and Town Center Specific Plan and a new Multiple Family High Density Residential Zoning District, which would also allow 15.1 to 20 units per acre, this project included initially the proposed redesignation of six properties to the new Multifamily High Density designation.

Commission Hearings

Representatives from the Clayton Valley Presbyterian Church attended the December 13th meeting. They stated concerns about the possibility of SRO units being allowed on their property on Kirker Pass Road. Specifically, the concerns related to increased traffic, the potential for over concentration of affordable housing units in that area given the existing low-income Kirker Court apartments in the immediate vicinity, safety for children attending their youth programs, and possible limitations to future Church expansion plans (See **Attachment 5**).

After the introduction of this Project at the December 13th meeting, staff worked with Raney Planning and Management (RPM) to prepare the necessary draft amendments to the City's General Plan, Town Center Specific Plan, and Zoning Ordinance in order to enable the listed implementation measures to be formally considered for adoption. Additionally, the RPM staff and Community Development Department staff worked together to prepare and distribute for a State mandated 30-day review period an IES/MND pertaining to this Housing Element Implementation Project. The purpose of this IES/MND is to identify and evaluate the potential environmental consequences of carrying out the identified implementation measures associated with this project as well as suggest mitigation measures, as necessary, to avoid or minimize to a less than significant level, any potential adverse impacts associated with the implementation of the measures.

At the February 28, 2012 Planning Commission meeting, staff reviewed the draft amendments to the General Plan, Town Center Specific Plan, and Zoning Ordinance (See **Attachments 2, 3, and 4**, respectively) as well as reviewed and solicited comments regarding the evaluation, findings, and recommended mitigation measures contained within the IES/MND (See **Attachment 1**). Additionally, staff indicated the matter of the overlay Zone to allow for SROs on Kirker Pass Road would require additional research and will be considered as part of future Housing Element implementation work. Staff indicated the conclusion of the IES/MND is that the proposed project, i.e., implementation of the selected implementation measures as reflected in the draft amendments presented, would not result in any significant adverse impacts, assuming the recommended mitigation measures described in the IES/MND are followed.

At its February 28th meeting, the Commission received only one public comment on the proposed project. Mr. and Mrs. Byrd, who reside at 1212 Mitchell Canyon Road, submitted a comment letter dated February 23, 2012 (See **Attachment 6**). The Byrds reside in a single-family residence located immediately adjacent to the south of the old fire station

property at the southeast corner of Mitchell Canyon Road and Clayton Road (See **Attachment 7**). The old fire station is currently being used as a residence and is being considered as part of the proposed project for redesignation to Multifamily High Density Residential. The purpose of this proposed redesignation is to facilitate multifamily development of this property. In their February 23rd letter, Mr. and Mrs. Byrd requested that their property be redesignated to Multifamily High Density Residential similar to the adjoining former fire station property.

At the February 28, 2012 Planning Commission meeting, the Commission indicated it generally supported the proposed text and map amendments as part of the subject proposed Housing Element Implementation Project as well as the evaluation, findings, and recommended mitigation measures in the IES/MND prepared for this project. Staff indicated at the meeting that the request of Mr. and Mrs. Byrd appeared beneficial by providing more land area adjacent to the subject V-5 site, old fire station property, for multifamily residential development. This could be helpful as the V-5 site has somewhat reduced development potential because of high tension power lines that extend over a portion of that property and an easement located below those power lines restricts structural development in that area of the site. Staff indicated, however, it will further evaluate the request.

At the February 28, 2012 Planning Commission meeting, Commissioner Armstrong commented that the height limit indicated in the development standards being proposed for Multifamily High Density Residential is 35 feet whereas the Town Center Specific Plan indicates a maximum height of 40 feet. Staff indicated that would be corrected.

In preparation for the Planning Commission's March 13, 2012 meeting, staff worked with Raney Planning and Management staff to evaluate the request by Mr. and Mrs. Byrd to add their property at 1212 Mitchell Canyon Road to the six redesignation sites. It was assumed that the 0.29 acre Byrd Site could be redeveloped with up to five dwelling units. The total increased development potential of the initial six redesignation sites was determined to be 78 units. Adding the Byrd site would increase the development potential of this proposed project to 83 units. This increase required that the greenhouse gas emissions be analyzed for the total increased development potential of dwelling units being proposed for this project. This analysis was completed by RPM (See **Attachment 1**). It was determined that the total greenhouse gas emissions, even with the additional five units, would not result in a significant adverse impact. Moreover, a review of all initial environmental checklist categories related to the possible addition of the Byrd Site did not alter the basic finding of the IES/MND that, with the recommended mitigation measures, the proposed project would not result in a significant adverse impact. This finding assumes the Byrd Site would likewise be subject to applicable recommended mitigation measures. Redesignation of the Byrd Site to Multifamily High Density Residential would have benefits in terms of redeveloping the old fire station property, V-5, by potentially increasing the development footprint, offering access options, and providing design flexibility. Accordingly, staff asked RPM to prepare the attached Errata Sheet (See **Attachment 1**) to the IES/MND to describe the rationale and enable consideration of the Byrd Site to be added as the seventh redesignation site.

At the March 13, 2012 Planning Commission meeting, staff recommended to the Planning Commission including the Byrd Site to be redesignated to Multifamily High Density Residential based on the information contained in the March 13, 2012 Errata Sheet. Additionally, staff corrected the maximum building from 35 feet to 40 feet for Multiple Family High Density in the draft Zoning Ordinance text amendments, as requested by Commissioner Armstrong. Accordingly, the Planning Commission by a 4-0 vote approved Resolution 01-12 (See **Attachment 8**), thereby, recommending City Council adoption of the Housing Element Implementation Project IES/MND (ENV 01-12), February 2012, and Errata Sheet, dated March 13, 2012 (IES/MND) and approval of related amendments to the City's General Plan (GPA 03-11), Town Center Specific Plan (SPA 01-12), and Zoning Ordinance (ZOA 06-11).

FISCAL IMPACT

A contract was entered into on February 22, 2011 between the City of Clayton and RPM to assist with work efforts to implement various measures of Clayton's 2009-2012 Housing Element. Redevelopment Agency Low and Moderate Income (LMI) funds in the amount of \$37,350 were secured in advance of the dissolution of the City's Redevelopment Agency for this work effort. Approximately, \$17,500 of the contract amount is remaining for additional Housing Element implementation efforts beyond this current work effort.

Attachments:

- 1 Environmental Resolution (ENV 01-12) - Housing Element Implementation Project Initial Environmental Study/ Mitigated Negative Declaration, February 2012:
<http://www.ci.clayton.ca.us/documents/negdecENV01-12.pdf> and
March 13, 2012 Errata Sheet to IES/MND
- 2 General Plan Amendment Resolution (GPA 03-11)
- 3 Town Center Specific Plan Resolution (SPA 01-12)
- 4 Ordinance No. 440
- 5 Letter from Gail Doering, Pastor, Clayton Valley Presbyterian Church, dated January 23, 2012
- 6 Letter from Mr. and Mrs. Byrd, dated February 23, 2012
- 7 Location Map of Byrd Site
- 8 Planning Commission Resolution No. 01-12
- 9 Planning Commission Staff Report, dated February 28, 2012
- 10 Excerpts from Planning Commission Meetings, dated December 13, 2011, February 28, 2012, and March 13, 2012

**A RESOLUTION ADOPTING THE HOUSING ELEMENT IMPLEMENTATION
PROJECT INITIAL ENVIRONMENTAL STUDY/MITIGATED NEGATIVE
DECLARATION (IES/MND), FEBRUARY 2012**

(ENV 01-12)

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

WHEREAS, the Planning Commission held duly-noticed public hearings on February 28, 2012 and March 13, 2012 to consider the Housing Element Implementation Project (“Project”) which involves proposed text and map amendments to the City’s General Plan, Town Center Specific Plan, and Zoning Ordinance, and the rezone of several parcels within the City of Clayton; and

WHEREAS, on February 28, 2012, the Planning Commission held a public hearing to consider the Housing Element Implementation Project IES/MND, February 2012 (“ENV 01-12”), which was prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (“CEQA”) Guidelines, and was circulated for the required 30-day public review period from February 21, 2012 to March 21, 2012; and

WHEREAS, one (1) public comment letter was received during the review period and, subsequently, responded to in the ENV 01-12; and

WHEREAS, there have been changes to the Project as noted in the Errata Sheet, dated March 13, 2012, and mitigation measures agreed to by the Project sponsor in the ENV 01-12; and

WHEREAS, although the Project has the potential to have a significant effect on the environment, there will not be a significant effect in this case because the Project sponsor has agreed to the mitigation measures listed in the ENV 01-12 that will mitigate all potential adverse impacts to insignificant levels; and

WHEREAS, the Planning Commission considered all relevant information, including ENV 01-12, the March 13, 2012 Errata Sheet, staff reports, background information, and public input on the same at the above-cited hearings; and

WHEREAS, the Planning Commission adopted Resolution No. 01-12 on March 13, 2012, recommending City Council’s adoption of ENV 01-12; and

WHEREAS, on _____, 2012, and _____ the City Council held duly-noticed public hearings and gave due consideration to the Planning Commission’s recommendation on ENV 01-12, as well as all testimony, comments, and documents received pertaining to ENV 01-12, the proposed General Plan Amendments (text and map), Town Center Specific Plan Amendments (text and map), Zoning Ordinance Amendments (text and map) for the Project; and

WHEREAS, the City Council determines that ENV 01-12 accurately describes the Project; analyzes, and evaluates the potential significant impacts, which may result from the Project; and, identifies measures, agreed to by the applicant, that will mitigate all potential adverse environmental impacts to insignificant levels in accordance with the requirements of CEQA Guidelines, and, accordingly, that ENV 01-12, serves as a Mitigated Negative Declaration pursuant to Public Resources Code Sections 21064.5 and 21080(c), and Article 6 of the CEQA Guidelines; and

WHEREAS, the City Council determines that there is no substantial evidence that the Project, assuming implementation of the mitigation measures in ENV 01-12, and the recommended conditions of approval, may have a significant effect on the environment, and that the Project will conform with the City's General Plan, Town Center Specific Plan, Zoning Ordinance, and would be in the public interest as well as support the public necessity, convenience, and general welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON THAT:

SECTION 1. The City Council does hereby find and affirm the above-noted recitals are true and correct and hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The City Council does hereby adopt the Housing Element Implementation Project Initial Environmental Study/Mitigated Negative Declaration, February 2012 (ENV 01-12), attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular meeting thereof held on _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Exhibits:

- 1 Housing Element Implementation Project Initial Environmental Study/Mitigated Declaration, February 2012 (ENV 01-12); and
 - 2 Errata Sheet, dated March 13, 2012, to the Housing Element Implementation Project Initial Environmental Study/Mitigated Negative Declaration (ENV 01-12).
-

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City Clayton at a regular meeting held on _____.

Laci J. Jackson, City Clerk

38044.00000\7357120.1

**Clayton Housing Element Implementation IES/MND
Initial Environmental Study/ Mitigated Negative Declaration ENV 01-12**

**Errata Sheet
March 13, 2012**

This Erratum presents, in ~~strike-through~~ and double-underline format, the revisions to the Clayton Housing Element Implementation Project IES/MND (February 2012) needed to reflect the addition of a seventh property to the project description. The details of the seventh property will be presented below in the errata section entitled, "IV. Project Description." Generally, the seventh parcel (APN 120-015-007) is 0.29-acre and located immediately south of Site V-5, which is one of the six sites included in the original project description and IES/MND analysis. Site V-5 is the 1.01-acre corner property located at the southeast corner of Clayton Road and Mitchell Canyon Road. The seventh property, hereafter referred to as the "Byrd Site", is being added to the project description per the request of the property owner. Similar to the other six sites evaluated in the IES/MND, the Byrd Site would be redesignated to the new General Plan land use designation of Multifamily High Density. Among the potential benefits of adding the Byrd Site to the project description is the site's adjacency to Site V-5. As discussed on page 15 of the IES/MND, high tension power lines are located overhead a portion of Site V-5. An access easement is located on the property to provide access to the overhead power lines. The power lines and access easement limit the available development footprint on Site V-5. The addition of the contiguous Byrd Site to the project description would provide a larger development footprint for a future high density residential development project in this area.

The revisions to the IES/MND reflected in this Erratum do not affect the adequacy of the previous environmental analysis contained in the Housing Element Implementation Project IES/MND. Generally, the changes provide clarification concerning the addition of the Byrd Site to the project description. However, as will be discussed below, the addition of the Byrd Site requires that greenhouse gas emissions (GHG) be calculated for the proposed project. Previously, the buildout potential for the six properties evaluated in the IES/MND (i.e., 78 units) was at the Bay Area Air Quality Management District's screening threshold for GHG operational emissions. Because the seventh property could result in the future development of another five units, the GHG screening threshold is exceeded and GHG quantification is necessary. As will be demonstrated below, the project's GHG emissions would be below the BAAQMD's operational GHG threshold of 1,100 metric tons per year (MT/yr) of CO₂e, resulting in a less-than-significant impact. Therefore, the additional GHG information added to the Housing Element Implementation Project IES/MND does not change the original less-than-significant conclusion identified for GHG emissions in the Public Review Draft IES/MND.

The remaining CEQA Checklist sections of the IES/MND remain adequate to address the potential environmental impacts of the proposed project, including the Byrd Site. Similarly, the mitigation measures identified in the IES/MND would fully mitigate all potential project impacts, including those associated with the Byrd Site, if the below-listed minor revisions are made to the existing mitigation measures (See the section entitled, *V. List of Mitigation Measures*, of this Erratum). For

example, according to Exhibit VIII-1 of the Noise Element of the General Plan (Projected Noise Contours), Sites P-2, P-4, and V-5 lie within 60 and 70 dB roadway noise contours. Consequently, Mitigation Measure 5 was included in the IES/MND to require submittal of a noise assessment with future development plans for Sites P-2, P-4, and V-5. This noise study would identify any mitigation measures needed to reduce noise levels to a less-than-significant level. According to Exhibit VIII-1, the Byrd Site is also within a 60 dB noise contour (i.e., for Clayton Road). Therefore, Mitigation Measure 5 has been revised in this Erratum to include the Byrd Site. Like Sites P-2, P-4, and V-5, preparation of a noise assessment for the Byrd Site prior to development plan approval would ensure that all necessary mitigation measures have been incorporated into the site design to ensure that noise impacts upon the project are less-than-significant.

Regarding traffic, as discussed in Section 15, *Transportation/Circulation*, of the IES/MND, the surrounding project intersections operate at either LOS A or B during the AM and PM peak hours under Existing and Cumulative Baseline conditions, respectively. The increase in vehicle trips resulting from the 78 dwelling units, which were evaluated in the IES/MND for the six redesignation sites, was determined not to substantially degrade the surrounding key intersections. An additional five units for the Byrd Site would generate a minimal amount of additional vehicles on the surrounding roadway network. Therefore, the project, as amended (i.e., 83 dwelling units), would not be expected to result in a significant increase in vehicle trips from what was addressed in the IES/MND or substantially degrade the surrounding key intersections. However, in order to ensure that adequate access, on-site circulation, and parking is provided in compliance with City standards, Mitigation Measure 7 was included in the IES/MND for the six sites, which requires inclusion of a site-specific traffic study along with future development plans. Mitigation Measure 7 has been revised in this Erratum to include the Byrd Site. With implementation of Mitigation Measure 7, as amended, any traffic/circulation impacts would be reduced to a less-than-significant level for all seven sites.

The potential biological and cultural resources impacts related to future site disturbance of the Byrd Site are similarly adequately addressed by the existing IES/MND analysis and mitigation. For example, Mitigation Measure 1 requires a pre-construction nesting survey for migratory birds if initial grading and building demolition is to be conducted during the months of March through August. This mitigation measure, as written, would apply to the Byrd Site. Mitigation Measures 2 and 3, as slightly amended below, require review of all structures on the seven sites that are over 50 years old, as well as the preparation of a cultural resources assessment for all seven sites. Furthermore, removal of any trees on the Byrd Site as part of future construction would be addressed through compliance with the City's Tree Protection Ordinance, as already discussed in Section 5 of the IES/MND (See Question "e"). Potential soil erosion during construction activities would be addressed through compliance with the City's stormwater management and discharge control regulations (Section 13.12 of the Municipal Code), as already discussed in Section 7 of the IES/MND (See Question "c"). Similar to the IES/MND conclusions for the six redesignation sites, adequate water and sewer treatment capacity would be available to serve the additional five units for the Byrd Site (See Section "16" of the IESMND).

In Summary, because the proposed project, as amended, would not result in any new significant impacts or increase in impact significance from what was addressed in the IES/MND for the original project, recirculation of the Housing Element Implementation IES/MND is not required.

LIST OF CHANGES TO IES/MND

Table of Contents

The inadvertent numbering errors on page 2 of the Table of Contents in the section entitled, “VI. Evaluation of Environmental Impacts,” are hereby corrected as follows:

1.	Aesthetics.....	23
2.	Agriculture Resources.....	26
3.	Air Quality.....	29
14 .	Greenhouse Gas Emissions	36
25 .	Biological Resources.....	39
36 .	Cultural Resources.....	45
47 .	Geology and Soils.....	49
58 .	Hazards and Hazardous Materials.....	54
69 .	Hydrology.....	59
710 .	Land Use.....	64
811 .	Mineral Resources.....	67
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1013 .	Population And Housing.....	72
1114 .	Public Services.....	74
1215 .	Transportation/Circulation.....	79
1316 .	Water, Sewer, and Stormwater Systems.....	82
1417 .	Mandatory Findings of Significance	85

Project Description

Page 17 of The Project Description section of the IES/MND has been revised to add a description of the Byrd Site and to include the corresponding buildout data to Table 1 of the IES/MND.

Byrd Site

The 0.29-acre “Byrd” Site is located immediately south of Site V-5 and is identified as APN 120-015-007. The site currently contains an occupied single family residence, associated garage, and several trees.

The City of Clayton General Plan Land Use Diagram designates the site as Single Family Low Density and the site is zoned R-15. In order to help meet the City’s lower income unit needs, the proposed project includes considering the redesignation of the Byrd Site from Single Family Low Density to Multifamily High Density. In addition, the site would be considered for rezoning from R-15 to PD. This site was not included in the City’s Housing Element as a potential rezone site; however, the property owner has expressed interest to be included among the parcels currently being

considered by the City for rezoning/redesignation. The maximum development potential, upon the above-mentioned redesignations, would be approximately 5.8 units. The theoretical maximum development potential for the Byrd Site is listed in Table 1.

Table 1
Existing and Proposed Maximum Development Potential of Six Seven Redesignation Sites

Site #	APN	Existing General Plan Designation	Parcel Acreage	Existing Development Potential (maximum)*	Proposed Development Potential (Based on redesignation/rezone to MF HD with 20 units/ac max)*
V-2**	119-021-063	MF MD (10.1 to 15 units per acre)	1.11	17	22
V-5**	120-015-011	MF MD	1.01	15	20
P-2	119-021-013	SF MD (3.1 to 5 units per acre)	0.93	5	19
P-3**	119-021-054	SF MD	1.13	6	23
P-4	119-021-055	SF MD	0.97	5	19
Hoyer**	119-021-019 and -020	SF MD	1.54	8	31
<u>Byrd</u>	<u>120-015-007</u>	<u>SF LD (1.1 to 3 units per acre)</u>	<u>0.29</u>	<u>1</u>	<u>6</u>
Total			6.77 ac	5657	134140
Total increased development potential resulting from approval of proposed redesignations to MF HD (56—13457-140)					7883 dus

MF MD = Multifamily Medium Density
SF MD = Single Family Medium Density
SF LD = Single Family Low Density

*Numbers rounded for planning purposes

** For Sites V-2, V-5, P-3, and Hoyer, the proposed maximum development potential estimates do not take into consideration existing development constraints. Therefore, the total increased development potential could be less than 7883 dwelling units.

Entitlements

As a result of the addition of the Byrd Site to the project description, the list of entitlements on page 20 of the IES/MND is hereby revised for clarification purposes:

- General Plan Text Amendment to revise the Land Use Element to include a new Multifamily High Density Land Use designation (15.1 to 20 units per acre) and make minor revisions to the existing Multifamily Low and Medium Density designations, as well as the “Residential Density and Population Projections” section.
- General Plan Map Amendment to revise the Land Use Map to redesignate ~~six~~ seven parcels (APN 120-015-011, and -007; 119-021-063, -013, -054, -055, -019 and -020) to Multifamily High Density.
- Town Center Specific Plan Text Amendment to revise the TCSP to create a new Multifamily High Density Residential Land Use designation (15.1 to 20 units per acre).

- Town Center Specific Plan Map Amendment to redesignate Site V-2 (APN 119-021-063) to Multi-Family High Density Residential.
- Zoning Ordinance Text Amendment to revise Chapters 17.04, Definitions; 17.16, Single Family Residential; 17.20, Multiple Family Residential; 17.24, Limited Commercial District; and 17.28, Planned Development, in order to implement various Housing Element Implementation Measures.
- Zoning Ordinance Map Amendment to rezone ~~four~~ five parcels (APN 119-021-013, -054, -055, -019 and -020; and 120-015-007) to Planned Development District.

V. LIST OF MITIGATION MEASURES

As a result of the addition of the Byrd Site to the project description, the following clarifications have been made to select IES/MND mitigation measures:

Cultural Resources

Mitigation Measure 2. Prior to the issuance of a demolition permit for any on-site structures on the ~~six~~ seven redesignation sites, the structure(s) shall be evaluated to determine if the structure(s) are over 50 years old. If any structure scheduled for demolition is over 50 years old, the structure shall be evaluated to determine if it is eligible for the California Register. Should the structure(s) be determined ineligible for the California Register, further mitigation would not be required. Eligibility shall be determined by an architectural historian approved by the City. The architectural historian shall submit a report to the Community Development Director for review and approval. For any structure determined to be eligible for the California Register, the report shall include measures necessary to ensure that impacts to the structure are less-than-significant.

Mitigation Measure 3. Development Plans for the ~~six~~ seven redesignation sites shall include a cultural resources assessment conducted by a qualified expert (approved by the Community Development Director). The assessment shall be submitted for the review and approval by the Community Development Director and shall identify any on-site archaeological resources and/or human remains, as well as measures necessary for their protection.

Noise

Mitigation Measure 5. Development plans for Site V-5, Byrd, P-2, and P-4 shall include a noise assessment performed by a qualified acoustical consultant. The noise assessment shall demonstrate that the City's residential noise standards are met, and if necessary, recommend measures to be included in the project design to ensure the applicable standards are met.

Transportation/Circulation

Mitigation Measure 7. Development plans for the ~~six~~ seven redesignation sites shall include a site-specific traffic study. The traffic study shall confirm that proposed site access, on-site circulation, and parking is adequate and in compliance with City standards. In addition, the traffic study shall determine whether the vehicle trips generated by the project would result in any nearby intersections being degraded to unacceptable levels of service. If necessary, the traffic study shall

include mitigation measures to ensure that all traffic-related impacts are reduced to a less-than-significant level, as determined by the City Engineer.

VI. EVALUATION OF ENVIRONMENTAL IMPACTS

Section 4, Greenhouse Gas Emissions, of the IES/MND, is hereby revised to include greenhouse gas emissions (GHG) calculations and to demonstrate that with the addition of another five dwelling units to the overall future development potential, the project would still have a less-than-significant impact to GHG emissions, as originally determined in the IES/MND GHG analysis.

4. Greenhouse Gas Emissions

~~Six~~ Seven Redesignation Sites

Background

Evidence exists that the Earth's climate has been warming over the past century because of the buildup in the atmosphere of greenhouse gases (GHGs) emitted from human activity. Greenhouse gases have varying global warming potentials. The major components of greenhouse gases include carbon dioxide (CO₂), nitrous oxide (N₂O) and methane, (CH₄). Ozone is a greenhouse gas; however, unlike the other greenhouse gases, ozone in the troposphere is relatively short-lived and therefore is not global in nature. The burning of fossil fuels is the largest source of GHGs, particularly carbon dioxide. Greenhouse gases act much like a blanket, trapping the Earth's heat in the atmosphere and resulting in an increase in the global mean temperature. A warmer global climate could have significant effects on local and regional weather patterns, agricultural production, flooding and water resources, and the distribution of plant and animal species among other impacts.

In 2006, California enacted the California Global Warming Solutions Act (AB 32). The Act requires California to reduce its emission of GHGs to the statewide level emitted in 1990 by 2020. The Act charges the California Air Resources Board (CARB) with the task of developing, with public input, a plan for reducing GHG emissions and implementing that plan by January 2012.

As directed by SB97, the Natural Resources Agency adopted Amendments to the CEQA Guidelines for greenhouse gas emissions on December 30, 2009. On February 16, 2010, the Office of Administrative Law approved the Amendments, and filed them with the Secretary of State for inclusion in the California Code of Regulations. The Amendments became effective on March 18, 2010. Amended CEQA Guidelines Section 15064.4, states that, in determining the significance of greenhouse gas emissions, a "lead agency shall have discretion to determine, in the context of a particular project, whether to:

- (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use. The lead agency has discretion to select the model or methodology it considers most appropriate provided it supports

- its decision with substantial evidence. The lead agency should explain the limitations of the particular model or methodology selected for use; and/or
- (2) Rely on a qualitative analysis or performance based standards.”

Analysis

The June 2010 BAAQMD CEQA Guidelines includes a project-level GHG threshold for land use development projects (i.e., residential, commercial, industrial, and public land uses and facilities). The threshold is compliance with a qualified GHG Reduction Strategy; or annual emissions less than 1,100 metric tons per year (MT/yr) of CO₂e. ~~Furthermore, said Guidelines include operational GHG screening criteria for various land uses in Table 3-1 on page 3-2. Several multi-family land use types are included in Table 3-1, such as apartment, low-rise, mid-rise, and high-rise; condo/townhouse, general and condo/townhouse, high-rise. The lowest screening level for multi-family land use types is 78 units in the apartment, low-rise and condo/townhouse, general categories.~~

The proposed project does not include direct development of any of the ~~six~~ seven project sites. However, ~~as stated above~~, approval of the proposed project amendments could result in the future development of an additional ~~78~~ 83 dwelling units beyond the level of development allowable for the ~~six~~ seven redesignation sites under current designations (see Table 1 above). Utilizing the BAAQMD’s Greenhouse Gas Model (BGM) Version 1.1.9, which is an Excel spreadsheet program that allows users to estimate GHG emissions from land development projects, in conjunction with URBEMIS2007 emissions modeling files for the project, the project’s GHG emissions were calculated. According to the BGM results, A a total of 78 83 additional dwelling units for the six seven sites meets the 78-unit screening criteria for GHG operational emissions would result in GHG emissions of 904.54 MTCO₂e/yr, which is below the 1,100 MTCO₂e/yr threshold (See Attachment 1 for GHG emission calculations). In addition, as discussed in the footnotes to Table 1, the estimate of ~~78~~ 83 additional units for the ~~six~~ seven redesignation sites is a theoretical conservative estimate because it does not account for the existing constraints to development on several of the sites. For example, Site V-5 currently contains high tension power lines and an associated access easement that would likely render infeasible the maximum dwelling unit potential on the site. In addition, Sites V-2, P-3, and Hoyer, have existing slope constraints along their western boundaries that would likely prohibit the development of the maximum allowable number of units on-site. As a result, although the realistic unit capacity for all ~~six~~ seven sites is not known at this time, it can be reasonably assumed that said capacity would be below ~~78~~ 83 units given the existing on-site constraints to development. In conclusion, because approval of the proposed project amendments would not result in future residential development that would exceed the applicable operational GHG ~~screening criteria threshold~~, the project would have a **less-than-significant** impact regarding the generation of GHG emissions. In addition, future residential development would be built in compliance with the 2010 California Green Building Standards Code (CALGreen), which would serve to reduce GHG emissions indirectly generated via energy use.

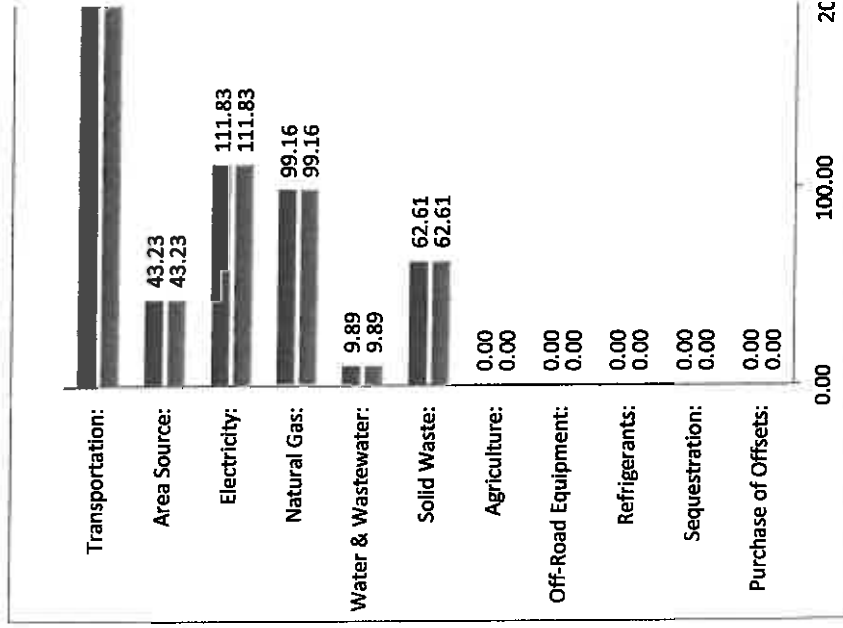
Attachment 1

Summary Results

Project Name: Clayton Housing Element Implementation
 Project and Baseline Years: 2013 N/A

Results	Unmitigated Project- Baseline CO2e (metric tons/year)	Mitigated Project- Baseline CO2e (metric tons/year)
Transportation:	577.83	577.83
Area Source:	43.23	43.23
Electricity:	111.83	111.83
Natural Gas:	99.16	99.16
Water & Wastewater:	9.89	9.89
Solid Waste:	62.61	62.61
Agriculture:	0.00	0.00
Off-Road Equipment:	0.00	0.00
Refrigerants:	0.00	0.00
Sequestration:	N/A	0.00
Purchase of Offsets:	N/A	0.00
Total:	904.54	904.54

Baseline is currently: **OFF**
 Baseline Project Name:
 Go to Settings Tab to Turn On Baseline





Project-Baseline CO2e (metric tons/year)

577.83
577.83

■ Unmitigated
■ Mitigated



Detailed Results

Unmitigated	CO2 (metric tpy)	CH4 (metric tpy)	N2O (metric tpy)	CO2e (metric tpy)	% of Total
Transportation*:				577.83	63.88%
Area Source:	40.03	0.14	0.00	43.23	4.78%
Electricity:	111.65	0.00	0.00	111.83	12.36%
Natural Gas:	98.91	0.01	0.00	99.16	10.96%
Water & Wastewater:	9.87	0.00	0.00	9.89	1.09%
Solid Waste:	0.46	2.96	N/A	62.61	6.92%
Agriculture:	0.00	0.00	0.00	0.00	0.00%
Off-Road Equipment:	0.00	0.00	0.00	0.00	0.00%
Refrigerants:	N/A	N/A	N/A	0.00	0.00%
Sequestration:	N/A	N/A	N/A	N/A	N/A
Purchase of Offsets:	N/A	N/A	N/A	N/A	N/A
Total:				904.54	100.00%

* Several adjustments were made to transportation emissions after they have been imported from URBEMIS.

After importing from URBEMIS, CO2 emissions are converted to metric tons and then adjusted to account for the "Pavley"

regulation. Then, CO2 is converted to CO2e by multiplying by 100/95 to account for the contribution of other GHGs (CH4, N2O, and HFCs [from leaking air condi

Finally, CO2e is adjusted to account for the low carbon fuels rule.

Mitigated	CO2 (metric tpy)	CH4 (metric tpy)	N2O (metric tpy)	CO2e (metric tpy)	% of Total
Transportation*:				577.83	63.88%
Area Source:	40.03	0.14	0.00	43.23	4.78%
Electricity:	111.65	0.00	0.00	111.83	12.36%
Natural Gas:	98.91	0.01	0.00	99.16	10.96%
Water & Wastewater:	9.87	0.00	0.00	9.89	1.09%
Solid Waste:	0.46	2.96	N/A	62.61	6.92%
Agriculture:	0.00	0.00	0.00	0.00	0.00%
Off-Road Equipment:	0.00	0.00	0.00	0.00	0.00%
Refrigerants:	N/A	N/A	N/A	0.00	0.00%
Sequestration:	N/A	N/A	N/A	0.00	0.00%
Purchase of Offsets:	N/A	N/A	N/A	0.00	0.00%
Total:				904.54	100.00%

Baseline	CO2 (metric tpy)	CH4 (metric tpy)	N2O (metric tpy)	CO2e (metric tpy)	% of Total
Transportation*:				0.00	N/A
Area Source:	0.00	0.00	0.00	0.00	N/A
Electricity:	0.00	0.00	0.00	0.00	N/A
Natural Gas:	0.00	0.00	0.00	0.00	N/A
Water & Wastewater:	0.00	0.00	0.00	0.00	N/A
Solid Waste:	0.00	0.00	N/A	0.00	N/A
Agriculture:	0.00	0.00	0.00	0.00	N/A
Off-Road Equipment:	0.00	0.00	0.00	0.00	N/A
Refrigerants:	N/A	N/A	N/A	0.00	N/A
Sequestration:	N/A	N/A	N/A	N/A	N/A
Purchase of Offsets:	N/A	N/A	N/A	N/A	N/A
Total:				0.00	0.00%

tioners}].

Mitigation Measures Selected:

Transportation: Go to the following tab: [Transp. Detail Mit](#) for a list of the transportation mitigation measures selected (in URBE

Electricity: The following mitigation measure(s) have been selected to reduce electricity emissions.

Natural Gas: The following mitigation measure(s) have been selected to reduce natural gas emissions.

Water and Wastewater: The following mitigation measure(s) have been selected to reduce water and wastewater emissions.

Solid Waste: The following mitigation measure has been selected to reduce solid waste related GHG emissions.

Ag: No existing mitigation measures available.

Off-Road Equipment: No existing mitigation measures available.

Refrigerants: The following mitigation measure has been selected to reduce refrigerant emissions:

Carbon Sequestration: Project does not include carbon sequestration through tree planting.

Emission Offsets/Credits: Project does not include purchase of emission offsets/credits.

Combined Annual Emissions Reports (Tons/Year)

File Name:

Project Name: Clayton Housing Element Implementation

Project Location: Bay Area Air District

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	1.34	0.14	1.95	0.01	0.28	0.27	189.94

OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	0.57	0.68	6.34	0.01	1.18	0.22	637.34

SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	1.91	0.82	8.29	0.02	1.46	0.49	827.28

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Area Source Unmitigated Detail Report

AREA SOURCE EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

<u>Source</u>	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
Natural Gas	0.01	0.11	0.05	0.00	0.00	0.00	145.83
Hearth	0.48	0.03	1.76	0.01	0.28	0.27	43.86
Landscape	0.01	0.00	0.14	0.00	0.00	0.00	0.25
Consumer Products	0.74						
Architectural Coatings	0.10						
TOTALS (tons/year, unmitigated)	1.34	0.14	1.95	0.01	0.28	0.27	189.94

Area Source Changes to Defaults

Operational Unmitigated Detail Report

OPERATIONAL EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

<u>Source</u>	<u>ROG</u>	<u>NOX</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM25</u>	<u>CO2</u>
Apartments high rise	0.57	0.68	6.34	0.01	1.18	0.22	637.34
TOTALS (tons/year, unmitigated)	0.57	0.68	6.34	0.01	1.18	0.22	637.34

Operational Settings:

Does not include correction for passby trips

Does not include double counting adjustment for internal trips

Analysis Year: 2013 Season: Annual

Emfac: Version : Emfac2007 V2.3 Nov 1 2006

Summary of Land Uses

Land Use Type	Acreage	Trip Rate	Unit Type	No. Units	Total Trips	Total VMT
Apartments high rise	1.34	5.29 dwelling units		83.00	439.07	3,753.92
					439.07	3,753.92

Vehicle Fleet Mix

Vehicle Type	Percent Type	Non-Catalyst	Catalyst	Diesel
Light Auto	53.7	0.6	99.2	0.2
Light Truck < 3750 lbs	12.8	0.8	96.9	2.3
Light Truck 3751-5750 lbs	19.9	0.5	99.5	0.0
Med Truck 5751-8500 lbs	6.6	0.0	100.0	0.0
Lite-Heavy Truck 8501-10,000 lbs	0.9	0.0	77.8	22.2
Lite-Heavy Truck 10,001-14,000 lbs	0.6	0.0	50.0	50.0
Med-Heavy Truck 14,001-33,000 lbs	1.0	0.0	20.0	80.0
Heavy-Heavy Truck 33,001-60,000 lbs	0.4	0.0	0.0	100.0
Other Bus	0.1	0.0	0.0	100.0
Urban Bus	0.1	0.0	0.0	100.0
Motorcycle	3.2	56.2	43.8	0.0
School Bus	0.1	0.0	0.0	100.0
Motor Home	0.6	0.0	83.3	16.7

Travel Conditions

Urban Trip Length (miles)	Residential				Commercial	
	Home-Work	Home-Shop	Home-Other	Commute	Non-Work	Customer
	10.8	7.3	7.5	9.5	7.4	7.4

	<u>Travel Conditions</u>				
	Residential			Commercial	
	Home-Work	Home-Shop	Home-Other	Commute	Non-Work
Rural Trip Length (miles)	16.8	7.1	7.9	14.7	6.6
Trip speeds (mph)	35.0	35.0	35.0	35.0	35.0
% of Trips - Residential	32.9	18.0	49.1		

% of Trips - Commercial (by land use)

RESOLUTION NO. _____

**A RESOLUTION AMENDING THE CLAYTON GENERAL PLAN
LAND USE ELEMENT TO ADD A MULTI-FAMILY HIGH DENSITY (15.1-20
UNITS/ACRE) LAND USE CATEGORY AND RELATED AMENDMENTS; AND
REDESIGNATING CERTAIN PARCELS SHOWN ON THE CLAYTON GENERAL
PLAN MAP TO MULTIFAMILY HIGH DENSITY RESIDENTIAL**

(GPA 03-11)

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

WHEREAS, State Planning and Zoning Law, and specifically Government Code Section 65358, authorizes cities to amend their general plans; and

WHEREAS, the City of Clayton has proposed amendments to the Land Use Element and Map of the General Plan to make additions, revisions, and deletions of various permitted uses, definitions, land-use categories, text, and figures regarding allowable development within City; and

WHEREAS, the purpose for the proposed amendments to the Land Use Element and Map of the General Plan is to facilitate the construction of more affordable housing within the City of Clayton; and

WHEREAS, the Planning Commission held duly-noticed public hearings on February 28, 2012 and March 13, 2012 on the proposed amendments of the Land Use Element and Map (Diagram) of the General Plan, at which it considered the public testimony, staff reports, and related documents; and

WHEREAS, on February 28, 2012, the Planning Commission also held a public hearing to consider the Housing Element Implementation Project Initial Environmental Study/Negative Declaration (IES/MND), February 2012 ("ENV 01-12"), which studied the environmental impacts of the amendments of the General Plan related to the Housing Element Implementation Project in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on March 13, 2012, the Planning Commission adopted Planning Commission Resolution No. 01-12, which recommended City Council adoption of ENV 01-12 and approval of the amendments of the Land Use Element and Map of the General Plan; and

WHEREAS, on _____, 2012, and _____ the City Council held duly-noticed public hearings and gave due consideration to the Planning Commission's recommendation as well as all testimony, comments and documents received pertaining to ENV 01-12, and the proposed General Plan Amendments (text and map) for the Housing Element Implementation Project; and

WHEREAS, the proposed amendments of the Land Use Element and Map of the General Plan are in general conformance with the Clayton Town Center Specific Plan and Zoning Ordinance; would be in the public interest; and have been assessed for potential impacts and have been determined to not be detrimental to the public health, safety, or welfare; and

WHEREAS, there is no evidence that the proposed amendments will result in any significant adverse environmental impacts or have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code. By Resolution No. ____, the City Council has adopted ENV 01-12 which involves the amendment of the Land Use Element and Map of the General Plan that are approved herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct are hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The Land Use Element and Map of the General Plan are hereby amended with the additions and deletions shown in **Attachment 1** and **Attachment 2**, attached hereto and incorporated herein by reference.

SECTION 3. These amendments shall not become effective until the effective date of the companion Ordinance No. 440.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular meeting thereof held on _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Exhibits:

- 1 Amendments to Land Use Element
- 2 Amendments to Land Use Map

I 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 _____, 2012.

Laci J. Jackson, City Clerk

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PROPOSED GENERAL PLAN LAND USE ELEMENT AMENDMENTS

Changes to the General Plan Land Use Element text are shown in double underline for new text and ~~striketrough~~ for deleted text. The changes begin at the bottom of page II-6 of the Land Use Element, as follows:

Multifamily Low Density (7.6 to 10 Units Per Acre)

This designation is intended for and allows cluster units such as duplexes, triplexes, townhouses, garden units, and other types of PUDs, as well as including single family detached dwellings on smaller lots with a conditional use permit, that provide a development with amenities to balance the increased density. This density must be adequately buffered from single-family and estate development. ~~Development intensity can reach 100% of individual parcel coverage provided that each unit has access to private outdoor space, use of outdoor recreational amenities, and provision of useable open space.~~ Structural coverage, excluding recreational amenities, shall not exceed ~~30~~40% of the site area. Second dwelling units are allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98)

Multifamily Medium Density (10.1 to 15 Units Per Acre)

This designation is intended for and allows multifamily units, including duplexes, triplexes, and townhouses, located where the site area, circulation system and other features can comfortably accommodate increased density. Development within this density shall be ~~required~~ encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. ~~Development intensity can reach 100% of individual parcel coverage provided that each unit has access to private outdoor space and use of outdoor recreational amenities.~~ Structural coverage, excluding recreational amenities, shall not exceed ~~40~~50% of the site area. Second dwelling units are allowed.

(Amended by Resolution 21-87, dated 5/16/87, and Resolution 25-2004, dated 6/1/04)

Multifamily High Density (15.1 to 20 Units Per Acre)

This designation is intended for and allows the two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

Institutional Density (7.6 to 20 Units Per Acre)

This designation is intended for development of various forms of ~~elderly~~ senior housing under sponsorship of public or quasi public agencies. The density of ~~elderly~~ senior projects is not always equivalent to standard concepts of density; therefore, a density range of 7.6 to 20 units per acre may be permitted. Group dining, limited vehicles, medicine-dispensing services and other characteristics make this form of housing unique.

Senior projects must be submitted as planned developments and will have to be reviewed for site limitations including density, number of stories and structure height, on a case-by-case basis. It is assumed that densities can exceed 15 units per acre when possible impacts can be mitigated. Development intensity can reach 100% structural coverage of each individual parcel. Structural

coverage shall not exceed 50% of the site area, however, specific sites and relationship to adjacent uses may pose additional limitations.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98, and Resolution 25-2004, dated 6/1/04)

Residential Density and Population Projections

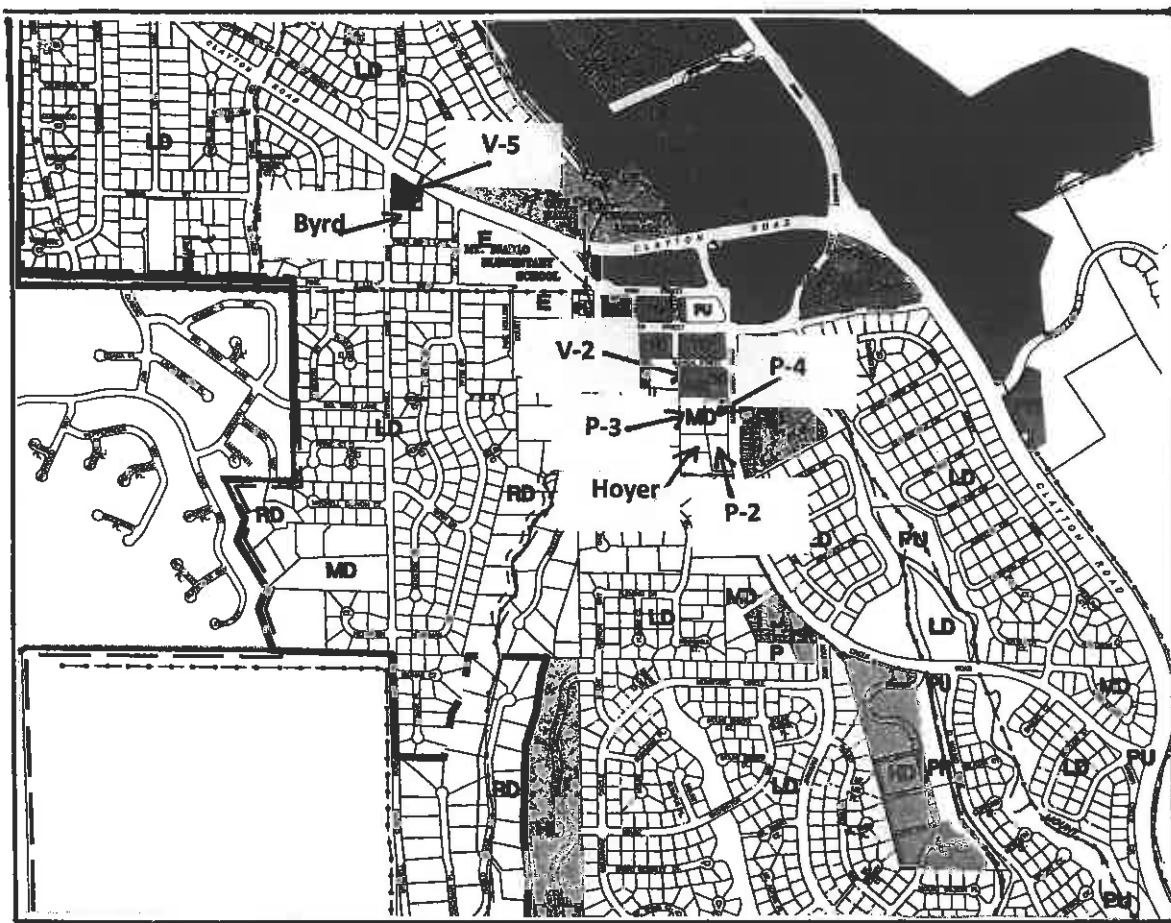
The ~~1980~~ 2010 census indicated that Clayton had an average population of ~~3.23~~ 2.72 persons per unit for occupied units. ~~The California State Department of Finance indicated the person per unit for all units was 3.14.~~ Clayton's high occupancy rate compared to other cities in Contra Costa County is due to the large homes on large parcels. As homes decrease in size, occupant size can also be expected to decrease.

(Amended by Resolution 21-87, dated 5/16/87, and Resolution 43-95, dated 6/28/95)

The analysis of the relationship of units per acre to population is not direct. Population is based on relationship of residential unit size and living pattern of residents. Generally the size of the units will indicate the number of bedrooms. Variables include the reduced size of the family, larger homes on smaller lots, ethnic and cultural preferences for family size and use of space, economic fluctuations, percentage of unmarried shared rent households and changes in taste. The projected population levels are as follows:

<u>Designation</u>	<u>Persons Per Unit</u>
Rural Estate	3.3
Low Density	3.1
Medium Density	2.8
High Density	2.5
Multifamily Low Density	2.3

General Plan Amendments (GPA 03-11)



Proposed General Plan (GP) Map Changes

Site V-2: APN 119-021-063 (south High Street):

- **Existing GP:** Multifamily Medium Density
- **Proposed GP:** Multifamily High Density

Site V-5: APN 120-015-011 (SE corner of Clayton Road and Mitchell Canyon Road):

- **Existing GP:** Multifamily Medium Density
- **Proposed GP:** Multifamily High Density

Site P-2: APN 119-021-013 (west of Old Marsh Creek Road):

- **Existing GP:** Single Family Medium Density
- **Proposed GP:** Multifamily High Density

Site P-3: APN 119-021-054 (west of Old Marsh Creek Road):

- **Existing GP:** Single Family Medium Density
- **Proposed GP:** Multifamily High Density

Site P-4: APN 119-021-055 (west of Old Marsh Creek Road):

- **Existing GP:** Single Family Medium Density
- **Proposed GP:** Multifamily High Density

Site Hoyer: APNs 119-021-019 and -020 (west of Old Marsh Creek Road):

- **Existing GP:** Single Family Medium Density
- **Proposed GP:** Multifamily High Density

Site Byrd: APN 120-015-007 (south of Mitchell Canyon Road):

- **Existing GP:** Single Family Low Density
- **Proposed GP:** Multifamily High Density

RESOLUTION NO. ____

**A RESOLUTION AMENDING
CHAPTER 2 (LAND USE) OF THE TOWN CENTER SPECIFIC PLAN TO ADD A
MULTI-FAMILY HIGH DENSITY RESIDENTIAL (15.1-20 UNITS/ACRE) LAND USE
CATEGORY; AND REDESIGNATING A CERTAIN PARCEL SHOWN ON THE
CLAYTON TOWN CENTER SPECIFIC PLAN MAP TO MULTI-FAMILY HIGH
DENSITY RESIDENTIAL**

(SPA 01-12)

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

WHEREAS, State Planning and Zoning Law, and specifically Government Code Section 65453, authorizes cities to amend specific plans; and

WHEREAS, the City of Clayton has proposed amendments to Chapter 2 (Land Use) of the Town Center Specific Plan to make additions, revisions, and deletions of various permitted uses, definitions, land-use categories, text, and figures regarding allowable development within the City; and

WHEREAS, the purpose for the proposed amendments to Chapter 2 (Land Use) of the Town Center Specific Plan is to facilitate the construction of more affordable housing within the City of Clayton; and

WHEREAS, the Planning Commission held duly-noticed public hearings on February 28, 2012 and March 13, 2012, to consider the amendments to Chapter 2 (Land Use) of the Town Center Specific Plan, at which it considered the public testimony, staff reports, and all related documents; and

WHEREAS, on February 28, 2012, the Planning Commission also held a public hearing to consider the Housing Element Implementation Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), February 2012 (ENV 01-12), which studied the environmental impacts of the proposed Town Center Specific Plan amendments related to the Housing Element Implementation Project in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on March 13, 2012, the Planning Commission adopted Planning Commission Resolution No. 01-12, which recommended City Council adoption of ENV 01-12 and the approval of the amendments to Chapter 2 (Land Use) of the Town Center Specific Plan; and

WHEREAS, on _____, 2012, and _____ the City Council held duly-noticed public hearings and gave due consideration to the Planning Commission's recommendation as well as all testimony, comments and documents received pertaining to the ENV 01-12, and the proposed Town Center Specific Plan Amendments (text and map) for the Housing Element Implementation Project; and

WHEREAS, the proposed amendments of the Town Center Specific Plan are in general conformance with the Clayton General Plan and Zoning Ordinance; would be in the public interest; and have been assessed for potential impacts and have been determined to not be detrimental to the public health, safety, or welfare; and

WHEREAS, there is no evidence that the proposed amendments will result in any significant adverse environmental impacts or have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code. By Resolution No. ____, the City Council has adopted ENV 01-12 which involves the proposed amendments to the Land Use Element, Town Center Specific Plan and Map of the General Plan that are approved herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct and are hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. Chapter 2 (Land Use) of the Town Center Specific Plan is hereby amended as shown in **Attachment 1** and **Attachment 2**, attached hereto and incorporated herein by reference.

SECTION 3. These amendments shall not become effective until the effective date of the companion Ordinance No. 440.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular meeting thereof held on _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Exhibits:

- 1 Amendment to Town Center Specific Plan, Chapter 2 (Land Use)
- 2 Amendment to the Town Center Specific Plan Map

I 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 _____ 2012.

Laci J. Jackson, City Clerk

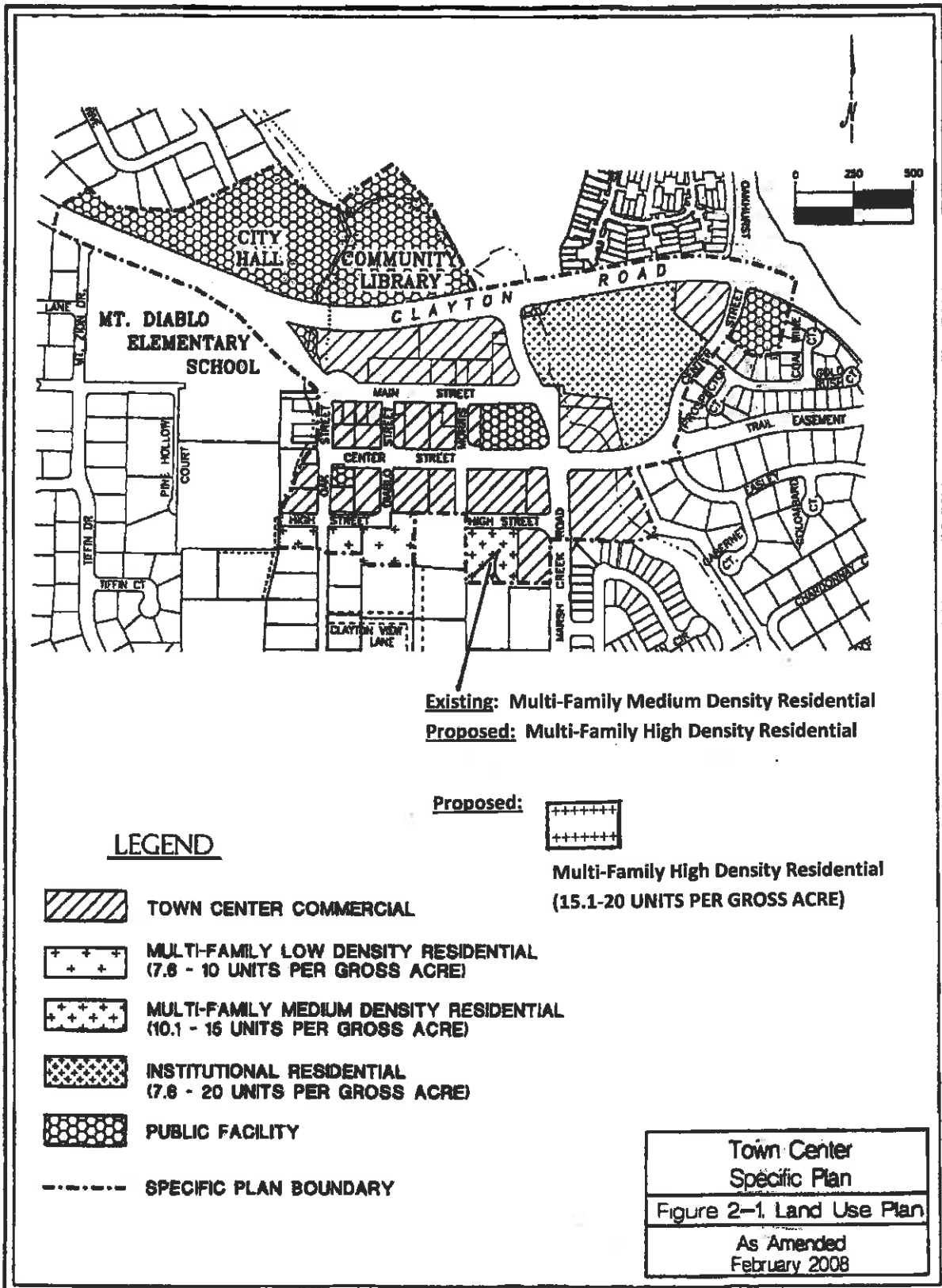
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PROPOSED TOWN CENTER SPECIFIC PLAN AMENDMENT

Changes to the Town Center Specific Plan text are shown in double underline for new text. A new Multi-Family High Density Residential land-use category is proposed to be added. This category would be added after Multi-Family Medium Density Residential toward the bottom of page 13 of the Town Center Specific Plan, as follows:

Multi-Family High Density Residential – Dwelling units at a density of 15.1 to 20 units per gross acre. Areas so designated on the Land Use Plan are deemed to have adequate site area and are located with respect to the Town Center road system such that the range of density can comfortably be accommodated. This designation is intended for and allows the two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreation amenities, shall not exceed 65% of the site area.

Town Center Specific Plan Amendment (SPA 01-12)



FRL FEB 15, 2008 12:14 P 5.8 PG 5 A Z:\CD0010195\DWG\TOWN CENTER SPECIFIC PLAN V1 PROP AMENDMENTS FEB 2008.DWG

ORDINANCE NO. 440

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AMENDING CHAPTERS 17.04 AND 17.20 AND SECTIONS 17.16.020, 17.24.20,
17.28.100, AND 17.60.030 OF THE CLAYTON MUNICIPAL CODE,
RELATED TO USES ALLOWED WITHIN THE CITY OF CLAYTON, AND
REZONING CERTAIN PARCELS SHOWN ON THE CLAYTON ZONING MAP TO
PLANNED DEVELOPMENT DISTRICT**

(ZOA 06-11)

THE CITY COUNCIL OF CLAYTON, CALIFORNIA HEREBY FINDS AS FOLLOWS:

WHEREAS, the proposed text and rezone amendments specifically allow for a broader range of types of affordable housing, including transition, supportive, and single-room occupancy , and increase the allowable residential densities within the City of Clayton on specific properties; and

WHEREAS, the Planning Commission held duly-noticed public hearings on February 28, 2012 and March 13, 2012 on the proposed zoning text amendments and rezones in connection with the Housing Element Implementation Project, and considered the public testimony, staff reports, and related documents; and

WHEREAS, on March 13, 2012, the Planning Commission adopted Planning Commission Resolution No. 01-12, which recommended City Council approve the proposed zoning text amendments and rezones; and

WHEREAS, on April 3, 2012, the City Council held a duly-noticed public hearing on the zoning text amendments and rezones, and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the adoption of the proposed zoning text amendments and rezones are in the best interest of the public health, safety and welfare; and

WHEREAS, the proposed text amendments and rezones are in general conformance with the General Plan and any applicable specific plans as they facilitate the construction of more affordable housing within the City of Clayton; and

WHEREAS, there is no evidence that the proposed amendments will result in any significant adverse environmental impacts or have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code. By Resolution No. ____, the City Council adopted the IES/MND prepared for the Housing Element Implementation Project which involves the zoning text amendments and the rezones that are approved herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct and are hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The Clayton Municipal Code is hereby amended as described in **Exhibit 1**, attached hereto and incorporated herein by reference.

SECTION 3. The following five (5) properties are hereby rezoned to Planned Development (PD) District as depicted on **Exhibit 2**, attached hereto and incorporated herein by reference:

- Site P-2 (APN 119-021-013);
- Site P-3 (APN 119-021-054);
- Site P-4 (APN 119-021-055);
- Site Hoyer (APNs 119-021-019, 020); and
- Site Byrd (APN 120-015-007)

SECTION 4 Action to Challenge. Any action or proceeding to attack, review, set aside, void or annul this ordinance must be commenced and the service made on the City no later than ninety (90) days after its effective date.

SECTION 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this ordinance are hereby repealed. The provisions of this ordinance shall control with regard to any provisions of the Municipal Code that may be inconsistent with the provisions of this ordinance.

SECTION 6. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council has declared that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase thereof be declared unconstitutional, invalid or ineffective.

SECTION 7. Effective Date and Publication. This ordinance shall become effective thirty (30) days after its adoption. Within fifteen (15) days after the adoption of the ordinance, the City Clerk shall cause it, including the names of the City Council Members voting for and against it, to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of Clayton, California held on the 3rd day of April 2012, and

PASSED, ADOPTED AND ORDERED posted by the City Council of Clayton, California at a regular public meeting thereof on _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

APPROVED AS TO FORM:

APPROVED BY ADMINISTRATION:

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

Exhibits:

- 1 Amendments to Municipal Code Sections
- 2 Amendments to Zoning Map

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of Clayton, California held on April 3, 2012 and was duly adopted, passed and ordered posted at a regular public meeting of the City Council held on _____, 2012.

Laci J. Jackson, City Clerk

ZOA\2011\06-11.Ordinance
38044.00000\7357811.1

REVISED CHAPTERS OF CLAYTON ZONING CODE¹

SECTION 1. Section 17.04.187, entitled “Single-Room Occupancy (SRO) Facilities, Section 17.04.205, entitled “Supporting Housing,” and Section 17.04.206, entitled “Transitional Housing,” are added to the list of Definitions contained in Clayton Municipal Code Chapter 17.04 entitled “Definitions.”

SECTION 2. Section 17.04.090 of Clayton Municipal Code Chapter 17-04, entitled “Definitions,” is amended to read as follows:

“17.04.090 Family. “Family” means one person or ~~group of persons related by birth or marriage, or no more than six (6) persons not related by birth or marriage,~~ more living together in a building or part of it designed for occupation as a residential domestic unit as distinguished from a hotel, club, fraternity or sorority house, dormitory, or boardinghouse. A family includes servants employed by the family.”

SECTION 3. The following sections are added to Clayton Municipal Code Chapter 17-04, entitled “Definitions,” to read as follows:

“17.04.187 Single-Room Occupancy (SRO) Facilities. “Single-Room Occupancy” or “SRO” means a type of residential hotel offering one-room units for long-term occupancy by one or two people. SROs may have kitchen or bath facilities (but not both) in the room.”

“17.04.205 Supportive Housing. “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.”

“17.04.206 Transitional Housing. “Transitional housing” and “transitional housing development” means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.”

SECTION 4. Section 17.16.020 of Clayton Municipal Code Chapter 17.16, entitled “Single Family Residential (R-10, R-12, R-15, R-20, R-40 and R-40-H) Districts,” is amended to read as follows:

¹ Changes to the Zoning Code text are shown in double underline for new text and strikethrough for deleted text.

“17.16.20 Permitted uses – Principal. The principal permitted uses in the single family residential districts shall be as follows:

A. A detached, single family dwelling in each lot and the accessory structures and uses normally auxiliary to it;

B. Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets;

C. Publicly-owned parks and playgrounds;

D. Supportive housing and transitional housing;

~~D. E.~~ The keeping of equestrian livestock (R-40-H only), provided that a minimum land area to livestock ratio of forty thousand feet of land to two head of equestrian livestock shall be required.

~~E. F.~~ Personal property sales in accordance with the following regulations:

- a. Personal property sales shall be allowed up to a maximum of six (6) days per calendar year;
- b. Personal property sales shall be limited to the hours between 8:00 a.m. and 5:00 p.m.; and
- c. Personal property sales shall not result in adverse impacts related to noise, traffic, safety, congestion, and parking.”

SECTION 5. Section 17.20 of the Clayton Municipal Code, entitled “Multiple Family Residential (M-R) District,” is amended in its entirety to read as follows:

“Chapter 17.20

MULTIPLE FAMILY RESIDENTIAL (M-R, M-R-M, and M-R-H)
DISTRICTS

Sections:

17.20.010	Purpose.
17.20.020	Permitted uses--Generally.
17.20.030	Permitted uses--Principal.
17.20.040	Minimum requirements generally.
17.20.050	Lot area.
17.20.060	Lot width.
17.20.070	Lot depth.
17.20.080	Building height.
17.20.090	Front Setback.
17.20.100	Interior Side Setback.
17.20.105	Exterior Side Setback.
17.20.110	Rear Setback.
17.20.120	Minimum setback.
17.20.130	Parking.
17.20.140	Lot coverage.
17.20.150	Open area.
17.20.160	Building relationship.

17.20.010 Purpose. The intent and purpose of this chapter is to provide a low (M-R), medium (M-R-M), and high density (M-R-H) multiple family residential districts designed to provide as much compatibility as possible with nearby single family residential zoning and to provide affordable housing opportunities.

17.20.020 Permitted uses – Generally. All land within any of the multiple family residential districts (map symbols M-R, M-R-M, and M-R-H) may be used for any of the uses described in, and under the regulations of, this chapter.

17.20.030 Permitted uses – Principal. The principal permitted uses in the M-R multiple family residential districts shall be as follows:

A. Residential dwelling and the accessory structures and uses normally auxiliary thereto Duplex, triplex, townhouses, apartments and other multifamily structures not exceeding the density limits set by the applicable General Plan Land Use Designation;

B. Crop and tree farming, but not including retail nurseries or the raising or keeping of any animals other than household pets. (Ord. 52 Ch. II Sec. 6(b), 1968);

B. Supportive housing and transitional housing;

C. Single family dwelling units only with a Conditional Use Permit (See Section 17.60.030.B.5).

17.20.040 Minimum requirements generally. The minimum requirements in Sections 17.20.060 through 17.20.160 shall be observed in the M-R multiple family residential districts.

17.20.050 Lot Area. No ~~detached single family dwelling duplex, triplex, townhouse, apartment, or other multiple family building; or other structure~~ permitted in M-R multiple family residential districts shall be erected or placed on a lot having less than as follows:

A. M-R, ~~nine~~ six thousand square feet, and provided further that for each dwelling unit a minimum of ~~and three thousand square feet of land shall be provided for each dwelling unit;~~

B. M-R-M, six thousand square feet and one thousand eight hundred (1,800) square feet for each dwelling unit; and

C. M-R-H, nine thousand square feet and one thousand square feet for each dwelling unit.

17.20.060 Lot Width. No ~~detached single family dwelling, duplex, triplex, townhouse, apartment, or other multiple family building; or other structure~~ permitted in the M-R multiple family residential districts shall be erected or placed on a lot less than as follows:

A. M-R, ~~ninety~~ sixty feet in average width;

B. M-R-M, sixty feet in average width; and

C. M-R-H, ninety feet in average width.

17.20.070 Lot Depth. No ~~detached single family dwelling, duplex, triplex, townhouse, apartment, or other multiple family building, or other structure~~ permitted in the M-R multiple family residential districts shall be erected or placed on a lot less than as follows:

- A. M-R, ninety feet in average width;
- B. M-R-M, ninety feet in average width; and
- C. M-R-H, ninety feet in average width.

17.20.080 Building Height. No ~~detached single family dwelling, duplex, triplex, townhouse, apartment, or other multiple family building, or other structure~~ permitted in the M-R multiple family residential districts shall exceed as follows:

- A. M-R, thirty-five (35) feet in height, except that when an M-R multiple family residential district abuts any single family residential district, then the building height maximum of the portion of the M-R multiple family residential district being within fifty (50) feet of the abutting single family residential district shall be twenty (20) feet.
- B. M-R-M, thirty-five (35) feet in height.
- C. M-R-H, forty feet (40) feet in height, except shall be thirty-five (35) feet in height for that portion within 50 feet of an abutting single family residential district.

17.20.090 Front Setback. The front setback in the M-R multiple family residential districts shall be (20) feet.

17.20.100 Interior Side Setback. The interior side setback in the M-R multiple family residential districts shall be fifteen (15) feet. ~~The average aggregate interior side setback shall be thirty-five (35) feet.~~

17.20.105 Exterior Side Setback. The exterior side setback on corner lots in the M-R multiple family residential districts shall be twenty (20) feet.

17.20.110 Rear Setback. The rear setback in the M-R multiple family residential districts shall be fifteen (15) feet for any principal building.

17.20.120 Minimum Setback. Notwithstanding the distance calculated in accordance with the above setbacks, the minimum setback of the principal building from a property line shall be fifteen feet.

17.20.130 Parking. Off-street parking shall be provided in accordance with the requirements of Chapter 17.37 (Off-Street Parking and Loading Regulations).

17.20.140 Lot Coverage. No buildings or structures permitted in ~~the M-R multiple family residential~~ districts shall cover more than as follows:

A. M-R, ~~twenty-five~~ forty percent of the lot area (Ord. 52 Ch. H Sec. 6(d)(9), 1968);

B. M-R-M, fifty percent of the lot area; and

C. M-R-H, sixty-five percent of the lot area.

17.20.150 Open Area. ~~Twenty-five percent of t~~The parcel shall not be occupied by buildings, structures, or pavement, but shall be landscaped, a minimum of as follows:

A. M-R, twenty-five percent of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent of this twenty-five percent (open space) shall be planted and maintained with growing plants.;

B. M-R-M, twenty percent of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent of this twenty percent (open space) shall be planted and maintained with growing plants; and

C. M-R-H, twenty percent of the lot area shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent of this twenty percent (open space) shall be planted and maintained with growing plants.

17.20.160 Building Relationship. Each building or structure shall be located at least twenty feet from every other building or structure, except that covered walkways between buildings or structures may be permitted. A covered walkway shall not exceed twelve feet in height, nor more than fifty percent of the side of the structure shall be enclosed with any material other than that necessary for roof supports, and the walkway shall not be more than ten feet wide.

SECTION 6. Section 17.24.020 of Clayton Municipal Code Chapter 17.24, entitled "Limited Commercial (LC) District," is amended to read as follows:

"17.24.020 Permitted uses – Principal. Unless the land is located within the boundary of the *Town Center Specific Plan*, the principal permitted uses in the Limited Commercial District are as set forth herein. If the land is located within the boundary of the *Town Center Specific Plan*, the principal permitted uses are the retail sales, commercial service, restaurant, bar, commercial recreation, office, upper-floor residential, and visitor-accommodation uses specifically set forth in the "Town Center Commercial" land use designation of the *Town Center Specific Plan*.

A. Retail business or service establishment supplying commodities or performing services for residents of the surrounding community, such as a junior department store, grocery, fruit, or vegetable store, bakery, drugstore, barbershop and beauty shop, clothes cleaning and laundry pickup station, business or professional offices and the like;

- B. Cafes, restaurants, grills, and similar enterprises, provided that such uses are conducted within a completely enclosed building;
- C. Business and technical schools, and schools and studios for photography, art, music and dance;
- D. Medical and dental offices and clinics;
- E. Administrative, executive, and editorial offices;
- F. Professional offices;
- G. Financial offices, including banks, and real estate and other general business offices;
- H. Outdoor sales activities, such as sidewalk cafes, and other similar uses, where the City finds any such use to be in the public interest and compatible with existing development in the general area where such use is proposed, and which use is maintained with sufficient screening or landscaping or both, where the same is or are determined by the City to be necessary to protect surrounding properties;
- I. Accessory uses and structures customarily appurtenant to a permitted use, such as incidental storage facilities;
- J. SRO facilities only with a Conditional Use Permit (See Section 17.60.030.B.6);
- J- K. Any other retail business, office or service establishment which the Commission finds not to be inconsistent with the purpose of this title and which will not impair the present or potential use of adjacent properties."

SECTION 7. Section 17.28.100(A) of Clayton Municipal Code Chapter 17.28, entitled "Planned Development (PD) District," is amended to read as follows:

"17.28.100 Open Space.

- A. Amount of Open Space. Projects must contain provisions for active and passive open space areas collectively comprising at least twenty (20) percent of the project site, except as follows: 1) commercial or mixed use projects on parcels less than one acre which must provide active open space on at least ten (10) percent of the project site; 2) affording housing projects may be required to provide less than twenty percent of the project site as open space subject to approval by the Planning Commission. These minimum requirements may be increased depending upon the amount and type of active open space improvements provided.

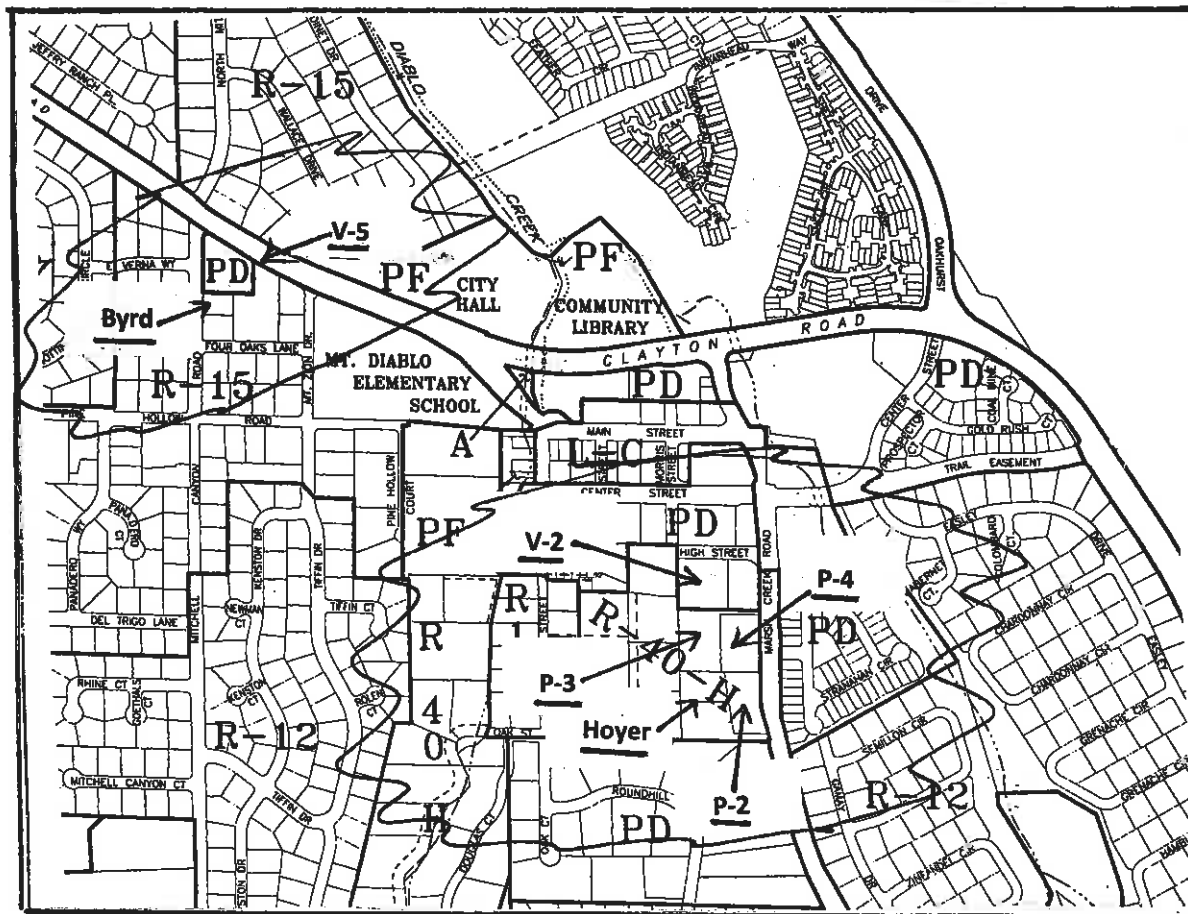
SECTION 8. Section 17.60.030(B) of Clayton Municipal Code Chapter 17.60, entitled "Use Permits," is amended to read as follows:

- "B. Residential Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

1. Model home complex/ subdivision sales office.
2. Equestrian livestock. (See Sections 17.16.130 and 17.36.060)
3. Agricultural animals. (See Sections 17.16.130 and 17.36.070)
4. Multiple household pets:
 - a. More than five and less than ten of any combination of dogs, pot bellied pigs, or cats over six months of age;
 - b. More than three and less than seven dogs or pot bellied pigs over six months of age;
 - c. More than five and less than ten cats over six months of age.
5. Single family dwelling units in Multiple Family Residential Districts.
6. SRO facilities in Limited Commercial (LC) District.

Applicable Districts: Agricultural; Limited Commercial; All Residential; and Planned Development (Residential).”

Zoning Ordinance Amendments (ZOA 06-11)



Proposed Zoning Map Changes

Site V-2: APN 119-021-063 (south High Street):

- **Existing Zoning:** Planned Development (PD)
- **Proposed Zoning:** No Change

Site V-5: APN 120-015-011 (SE corner of Clayton Road and Mitchell Canyon Road):

- **Existing Zoning:** Planned Development (PD)
- **Proposed Zoning:** No Change

Site P-2: APN 119-021-013 (west of Old Marsh Creek Road):

- **Existing Zoning:** R-40-H
- **Proposed Zoning:** Planned Development (PD)

Site P-3: APN 119-021-054 (west of Old Marsh Creek Road):

- **Existing Zoning:** R-40-H
- **Proposed Zoning:** Planned Development (PD)

Site P-4: APN 119-021-055 (west of Old Marsh Creek Road):

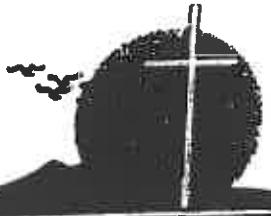
- **Existing Zoning:** R-40-H
- **Proposed Zoning:** Planned Development (PD)

Site Hoyer: APNs 119-021-019 and -020 (west of Old Marsh Creek Road):

- **Existing Zoning:** R-40-H
- **Proposed Zoning:** Planned Development (PD)

Site Byrd: APN 120-015-007 (south of Mitchell Canyon Road):

- **Existing Zoning:** R-15
- **Proposed Zoning:** Planned Development (PD)



1578 Kirker Pass Road, Clayton, California 94517

Church Office (925) 672-4848 Fax (925) 672-4849
Children's Center (925) 672-0882

Clayton Valley Presbyterian Church

January 23, 201²

City of Clayton Planning Commission
David Woltering, AICP
Community Development Director
Clayton, CA 94517

RECEIVED

FEB 01 2012

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

David and Planning Commissioners:

Having attended the Planning Commission Public Meeting on December 13th, we understand and appreciate your need to rezone vacant parcels within the City limits.

However we urge you to not include our parcel in the proposed Housing Element implementation measures (GPA 03-11: ZOA 06-11).

Putting aside any plans (parking lot, memorial garden, etc;) that we have for this area, we ask that you consider the practicality of building SRO units on the parcel. To gain access behind the Sanctuary, you would need to add a road which, no doubt, would travel alongside the Kirker Court units and our preschool. This would cause:

- Additional traffic to Kirker Pass,
- Safety concerns to the children at our preschool,
- Possible stress to residents at Kirker Court,
- Inhibited growth of the church due to inadequate parking.

An additional concern is whether it is practical to mix the population of SRO's with the Kirker Court special population and with our preschool.

We fully support having housing for all populations within Clayton. One of the reasons that Kirker Court exists today is that we worked with the City to have low-income housing for independent living by persons with mental disabilities.

Thank you for your consideration.

Gail Doering
Gail Doering
Pastor

Attachment 6

February 23, 2012

To: Mr. David Woltering

Mr. Woltering as per our conversation today we are sending you this letter to let you know after receiving your letter dated 2/17/12 in regards to rezoning of several properties in Clayton California, for Multi-Family housing. Our property is located at 1212 Mitchell Canyon Rd, which adjoins the old fire house property @ Mitchell Canyon Rd and Clayton Rd. We would like to have our property rezoned as well.

Please provide us any information we might need to complete this task. Please feel free to contact us anytime at 925 672-1940


Kenneth Fredrick Byrd


Mary Josephine Byrd

1212 Mitchell Canyon Rd

Clayton, CA 94517

CC: City of Clayton Mayor: Howard Geller

RECEIVED

FEB 27 2012

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

TAX CODE AREA

A PINE HOLLOW 43-30
 B PINE HOLLOW UNIT NO 2 46-9
 C PINE HOLLOW UNIT NO 3 50-10
 SEC 10 TIN RIW MDBM

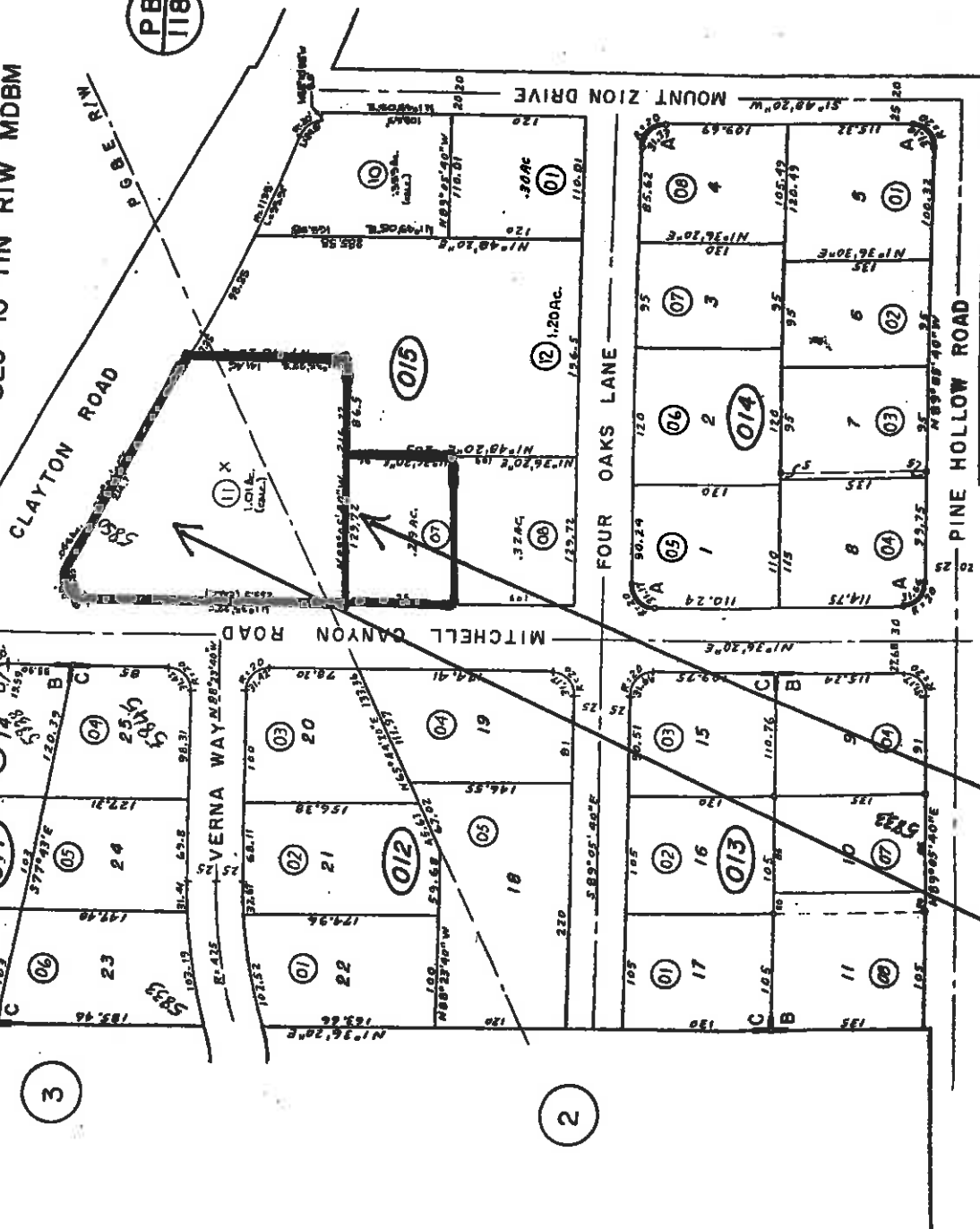
Attachment 7

8-2-90
 ASSESSOR'S MAP
 BOOK 120 PAGE 01
 CONTRA COSTA COUNTY, CALIF.

011 012 013 014 015

PB 119

PB 118



BYRD SITE

OLD FIRE STATION SITE (V-5)

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 01-12**

RECOMMENDING CITY COUNCIL APPROVAL OF THE FOLLOWING ACTIONS:

- 1. ADOPTING THE CLAYTON HOUSING ELEMENT IMPLEMENTATION PROJECT INITIAL ENVIRONMENTAL STUDY / MITIGATED NEGATIVE DECLARATION (IES/MND), INCLUDING ERRATA SHEET, DATED MARCH 13, 2012, AND MITIGATION MONITORING PLAN (ENV 01-12)**
- 2. AMENDING THE GENERAL PLAN LAND USE ELEMENT TO: 1) ADD A NEW MULTIFAMILY HIGH DENSITY DESIGNATION (15.1 TO 20 UNITS PER ACRE); 2) MAKE REVISIONS TO THE EXISTING MULTIFAMILY LOW DENSITY AND MULTIFAMILY MEDIUM DENSITY DESIGNATIONS; AND 3) REVISE THE "RESIDENTIAL DENSITY AND POPULATION PROJECTIONS" SECTION (GPA 03-11)**
- 3. MODIFYING THE LAND USE DESIGNATIONS FOR THE FOLLOWING SEVEN SITES TO MULTIFAMILY HIGH DENSITY (15.1 TO 20 UNITS PER ACRE):**
 - **SITE V-2 (APN 119-021-063)**
 - **SITE V-5 (APN 120-015-011)**
 - **SITE P-2 (APN 119-021-013)**
 - **SITE P-3 (APN 119-021-054)**
 - **SITE P-4 (APN 119-021-055)**
 - **SITE HOYER (APNs 119-021-019 and -020) (GPA 03-11)**
 - **SITE BYRD (APN 120-015-007)**
- 4. AMENDING THE TOWN CENTER SPECIFIC PLAN TO ADD A NEW MULTIFAMILY HIGH DENSITY RESIDENTIAL DESIGNATION (15.1 to 20 UNITS PER GROSS ACRE), AND REDESIGNATE SITE V-2 (APN 119-021-063) TO MULTIFAMILY HIGH DENSITY RESIDENTIAL (SPA 01-12)**
- 5. AMENDING ZONING CODE SECTION 17.04 (DEFINITIONS), SECTION 17.16.020 (SINGLE FAMILY RESIDENTIAL (R-10, R-12, R-15, R-20, R-40 AND R-40-H) DISTRICTS, PERMITTED USES - PRINCIPAL), SECTION 17.20 (MULTIPLE FAMILY RESIDENTIAL), SECTION 17.24.20 (LIMITED COMMERCIAL DISTRICT, PERMITTED USES - PRINCIPAL), SECTION 17.28.100 (PLANNED DEVELOPMENT DISTRICT, OPEN SPACE), AND SECTION 17.60.030B (USE PERMITS, USE PERMITS REQUIRED FOR RESIDENTIAL RELATED USES) (ZOA 06-11)**
- 6. REZONING TO PLANNED DEVELOPMENT (PD) THE FOLLOWING FIVE PROPERTIES:**
 - **SITE P-2 (APN 119-021-013)**
 - **SITE P-3 (APN 119-021-054)**
 - **SITE P-4 (APN 119-021-055)**
 - **SITE HOYER (APNs 119-021-019 and -020) (ZOA 06-11)**
 - **SITE BYRD (APN 120-015-007)**

WHEREAS, the Planning Commission held a duly-noticed meetings on February 28, 2012 and March 13, 2012 to consider entitlements, including an IES/MND and Mitigation Monitoring Plan, as well as the above-listed General Plan, Town Center Specific Plan, and Zoning Code text and map amendments for the Clayton Housing Element Implementation Project; and

WHEREAS, the Planning Commission considered the public testimony and staff reports related to the Clayton Housing Element Implementation Project at the February 28, 2012 and March 13, 2012 meetings; and

WHEREAS, the Planning Commission finds the IESMND and Mitigation Monitoring Program were prepared in accordance with the 15070 et seq. of the California environmental Quality Act (CEQA) Guidelines;

WHEREAS, the Clayton Housing Element Implementation Project, including the above-listed General Plan, Town Center Specific Plan, and Zoning Code text and map amendments, was analyzed in the Clayton Housing Element Implementation IES/MND, which assessed all potential impacts from the proposed amendments and found that the amendments would not result in any impacts detrimental to the public health, safety, or welfare; and

WHEREAS, the Planning Commission determined recommending City Council approval of the above-listed amendments is in general conformance with the General Plan and the public necessity, convenience, health, safety and general welfare and would help the City implement the Clayton Housing Element and meet its need for lower income residential units.

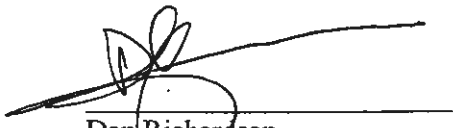
Now, Therefore, Be it Resolved That:

SECTION 1. The Planning Commission, based on the previously stated citations, recommends City Council adoption of the IES/MND and Mitigation Monitoring Program and approval of the above-listed text and map amendments to the General Plan, TCSP, and Zoning Code, as further described in Attachments A through I.

Adopted by the Planning Commission on March 13, 2012.

APPROVED

ATTEST


Dan Richardson
Chair


David Woltering, AICP
Community Development Director

ATTACHMENTS:

- A Clayton Housing Element Implementation Project IES/MND and Mitigation Monitoring Plan (ENV 01-12) *(Provided Under Separate Cover)*.
- B Proposed General Plan Land Use Amendments.
- C Proposed Town Center Specific Plan Amendment.
- D Revised Chapters of Clayton Zoning Code (Excluding Chapter 17.20).
- E Revised Chapter 17.20 (Multiple Family Residential Districts) of Clayton Zoning Code.
- F Errata Sheet to IES/MND, dated March 13, 2012 *(Provided Under Separate Cover)*.
- G Proposed General Plan Amendments Map.
- H Proposed Town Center Specific Plan Amendment Map.
- I Proposed Zoning Ordinance Amendments Map.

PLANNING COMMISSION STAFF REPORT

Meeting Date: February 28, 2012

From: David Woltering, Community Development Director *DW*

Subject: Clayton 2009-2014 Housing Element Implementation
(ENV 01-12; GPA 03-11; SPA 01-12; and ZOA 06-11)

BACKGROUND

On December 13, 2011, an initial meeting was held before the Planning Commission regarding the Clayton Housing Element Implementation Project. At this meeting, staff gave the Planning Commission an introduction to several Housing Element Implementation Measures that staff considers to be a priority relative to carrying out Clayton's Housing Element. Successful completion of these key Implementation Measures would demonstrate to the State of California Department of Housing and Community Development (HCD) that the City is making progress towards achieving the affordable housing goals set forth in its Housing Element.

The Implementation Measures require various amendments to the City's General Plan, Town Center Specific Plan (TCSP), and Zoning Code, including but not limited to the creation of a new Multifamily High Density Residential land use designation (15.1 to 20 units per acre) for the General Plan and Town Center Specific Plan, as well as a new Multiple Family High Density Residential zoning district, which would also allow 15.1 to 20 units per acre. In addition to these texts amendments to the City's regulatory and planning documents, this project includes the proposed redesignation of six properties to the new Multifamily High Density designation. At the December 13, 2011 meeting, staff briefly identified the six properties being considered for redesignation. This staff report includes a more detailed discussion of the six redesignation sites and the various proposed text amendments.

DISCUSSION

The following discussion section will first describe the six redesignation sites and then the General Plan Amendments (GPA 03-11), TCSP Amendments (SPA 01-12), and Zoning Code Amendments (ZOA 06-11) proposed for the project. At the end of this section is a summary of the findings of the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) prepared for this project.

Six Redesignation Sites

According to Table 38 of the Housing Element, a total of 84 lower income units were allocated to Clayton for the Housing Element planning period. Table 42 of the Housing Element identifies vacant residential land sites within the City of Clayton and notes that sites V-2 and V-5 comprise the City's available vacant higher-density parcels and are most appropriate to meet the City's very low- and low-income Regional Housing Needs Allocation (RHNA). According to Table 42, assuming that sites V-2 and V-5 would be rezoned to the proposed Multiple Family Residential

High Density (M-R-H) Zoning District,¹ sites V-2 and V-5 would have a realistic capacity of 34 units that can be made available for the development of housing affordable to lower-income households. According to the Housing Element, the remaining lower-income housing need is 50 units (84 total units minus 34 units on sites V-2 and V-5). Therefore, the City has identified four additional properties at this time to consider for redesignation to Multifamily High Density in order to help meet the RHNA lower income allocation (these additional sites are designated as P-2, P-3, P-4, and “Hoyer” in the below descriptions) (See **Exhibit A** for a Location Map).

V-2

Site V-2 is a 1.11-acre parcel located south of High Street and west of Old Marsh Creek Road. Site V-2 is listed in Table 42, Vacant Residential Land, of the Housing Element. While the site is listed as vacant and zoned for residential uses, a structure does exist on-site. Currently, a former workshop structure is located in the approximate center of the site. A few trees are located along the borders of the site and an upward slope is located on the western portion of the site, which limits the available development footprint.

The General Plan and the TCSP designate the site as Multifamily Medium Density and the site is zoned Planned Development (PD). In order to help meet the City’s lower income unit needs, the proposed project includes the redesignation of Site V-2 from Multifamily Medium Density to Multifamily High Density (General Plan and TCSP). The zoning of the site would continue to be PD. The theoretical maximum development potential for Site V-2 is listed in Table 1.

V-5

Site V-5 is a 1.01-acre parcel located at the southeast corner of Clayton Road and Mitchell Canyon Road. Site V-5 is listed in Table 42, Vacant Residential Land, of the Housing Element. While the site is listed as vacant and zoned for residential uses, structures do exist on-site. Currently, an occupied single family residence is located on-site. The residence is a former fire station building that has been upgraded. Several trees surround the residence and high tension power lines are located overhead. An access easement is located on the property to provide access to the overhead power lines. The power lines and access easement limit the available development footprint on the site.

The General Plan Land Use Diagram designates the site as Multifamily Medium Density and the site is zoned PD. In order to help meet the City’s lower income unit needs, the proposed project includes the redesignation of Site V-5 from Multifamily Medium Density to Multifamily High Density. The zoning of the site would continue to be PD. A representative of the property owner has submitted a concept plan to the City, which indicates the potential to accommodate 20 units on this property—the theoretical maximum development potential for Site V-5 (See Table 1).

P-2

Site P-2 is a 0.93-acre parcel located immediately west of Old Marsh Creek Road. Site P-2 is listed in Table 45, Potential Sites for Rezone Units, of the Housing Element. The site currently contains an occupied single family residence, associated structures, and several trees.

¹ As described below, the PD zoning will actually be retained for Sites V-2 and V-5, but these two sites will be redesignated to the new General Plan Multifamily High Density designation (15.1 to 20 units per acre), thereby achieving the same density range as the M-R-H zone anticipated for Sites V-2 and V-5 in the Housing Element.

The General Plan Land Use Diagram designates the site as Single Family Medium Density and the site is zoned R-40-H. In order to help meet the City's lower income unit needs, the proposed project includes the redesignation of Site P-2 from Single Family Medium Density to Multifamily High Density. In addition, the site would be rezoned from R-40-H to PD. The theoretical maximum development potential for Site P-2 is listed in Table 1.

P-3

Site P-3 is a 1.13-acre parcel located immediately west of Old Marsh Creek Road and northwest of Site P-2. Site P-3 is listed in Table 45, Potential Sites for Rezone Units, of the Housing Element. The site currently contains an occupied single family residence, garage, and several trees. In addition, approximately 40 percent of the western portion of the lot contains a slope in excess of 10 percent.

The City of Clayton General Plan Land Use Diagram designates the site as Single Family Medium Density and the site is zoned R-40-H. In order to help meet the City's lower income unit needs, the proposed project includes considering the redesignation of Site P-3 from Single Family Medium Density to Multifamily High Density. In addition, the site would be considered for rezoning from R-40-H to PD. The theoretical maximum development potential for Site P-3 is listed in Table 1.

P-4

Site P-4 is a 0.97-acre parcel located immediately west of Old Marsh Creek Road and north of Site P-2. Site P-4 is listed in Table 45, Potential Sites for Rezone Units, of the Housing Element. The site currently contains an occupied single family residence, small barn, horse corral, and several trees.

The General Plan Land Use Diagram designates the site as Single Family Medium Density and the site is zoned R-40-H. In order to help meet the City's lower income unit needs, the proposed project includes the redesignation of Site P-4 from Single Family Medium Density to Multifamily High Density.. In addition, the site would be rezoned from R-40-H to PD. The theoretical maximum development potential for Site P-4 is listed in Table 1.

Hoyer

The "Hoyer" Site is located immediately west of Site P-2 and is made up of two parcels for a total of 1.54 acres. The site currently contains an occupied single family residence, associated garage, and several trees.

The General Plan Land Use Diagram designates the site as Single Family Medium Density and the site is zoned R-40-H. In order to help meet the City's lower income unit needs, the proposed project includes considering the redesignation of the Hoyer Site from Single Family Medium Density to Multifamily High Density. In addition, the site would be considered for rezoning from R-40-H to PD. This site was not included in the City's Housing Element as a potential rezone site; however, the property owner has expressed willingness to be included among the parcels currently being considered by the City for rezoning/redesignation. The maximum development potential, upon the above-mentioned redesignations, would be approximately 31 units, though existing slope constraints would reduce the available development footprint, which would be determined at the time of development application review. The theoretical maximum development potential for the Hoyer Site is listed in Table 1.

Table 1
Existing and Proposed Maximum Development Potential of Six Redesignation Sites

Site #	APN	Existing General Plan Designation	Parcel Acreage	Existing Development Potential (maximum)*	Proposed Development Potential (Based on redesignation/rezone to MF HD with 20 units/acre max)*
V-2**	119-021-063	MF MD (10.1 to 15 units per acre)	1.11	17	22
V-5**	120-015-011	MF MD	1.01	15	20
P-2	119-021-013	SF MD (3.1 to 5 units per acre)	0.93	5	19
P-3**	119-021-054	SF MD	1.13	6	23
P-4	119-021-055	SF MD	0.97	5	19
Hoyer**	119-021-019 and -020	SF MD	1.54	8	31
Total			6.7 ac	56	134
Total increased development potential resulting from approval of proposed redesignations to MF HD (56 - 134)					78 dus

MF MD = Multifamily Medium Density
SF MD = Single Family Medium Density

*Numbers rounded for planning purposes

** For Sites V-2, V-5, P-3, and Hoyer, the proposed maximum development potential estimates do not take into consideration existing development constraints. Therefore, the total increased development potential could be less than 78 dwelling units.

General Plan Land Use Element Text Amendments

A. Revisions to the Multifamily Low Density Designation

Minor revisions are proposed to the Multifamily Low Density (7.6 to 10 units per acre) General Plan Land Use Designation to specify that single family detached dwellings are allowed in areas designated Multifamily Low Density only with a conditional use permit. The lot coverage maximum (excluding recreational amenities) has also been revised from 30% to 40%, consistent with the revisions to the Multiple Family Residential Low Zone District.

B. Revisions to the Multifamily Medium Density Designations

Minor revisions are proposed to the Multifamily Medium Density (10.1 to 15 units per acre) General Plan Land Use Designation to specify additional types of residential uses allowable in this designation. The lot coverage maximum (excluding recreational amenities) has also been revised from 40% to 50%, consistent with the revisions to the Multiple Family Residential Medium Zone District.

C. Creation of New Multifamily High Density Designation

Implementation Measure I.1.1 of the Housing Element calls for the creation of a General Plan Multifamily High Density Land Use Designation to allow for 15.1 to 20 units per acre. In order to implement this measure staff has prepared a new Multifamily High Density General Plan Land Use Designation (15.1 to 20 units per acre). The proposed text of the new designation is as follows:

Multifamily High Density (15.1 to 20 Units Per Acre)

This designation is intended for and allows the two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

D. Revise "Residential Density and Population Projections" Section

The "Residential Density and Population Projections" section of the Land Use Element of the Clayton General Plan is based upon 1980 census data. As a result, this project includes updating this section based upon 2010 census data.

Town Center Specific Plan Amendment

The Town Center Specific Plan (TCSP) does not currently have a Multi-Family High Density Residential Land Use Designation accommodating 15.1 to 20 units per acre. Rather, the current TCSP land use designation that provides the highest densities is the Multi-Family Medium Density Residential designation (10.1 to 15 units per acre). One of the six redesignation sites, Site V-2, is located within the current TCSP boundaries. As part of this project, Site V-2 is being considered for redesignation to the new General Plan Multifamily High Density land use designation (15.1 to 20 units per acre). As a result, a corresponding Multi-Family High Density Residential land use designation needs to be added to the TCSP. The proposed text of the new designation is as follows:

Multi-Family High Density Residential – Dwelling units at a density of 15.1 to 20 units per gross acre. Areas so designated on the Land Use Plan are deemed to have adequate site area—and are located with respect to the Town Center road system—such that the range of density can comfortably be accommodated. This designation is intended for and allows the two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

Zoning Code Text Amendments

The following sections of the Zoning Code would be amended as part of this project in response to various Implementation Measures set forth in the Housing Element.

A. Chapter 17.04, Definitions

Revision of Section 17.04.090, Family

The definition of “Family” is being revised as part of this project in response to Implementation Measure IV.1.2 of the Housing Element. This measure requires the City to amend the Zoning Code to remove the maximum number of persons defined as part of a family. The current definition of family limits the number of unrelated individuals to six or fewer persons. Upon amending the definition in the Zoning Code, the City will not restrict the number of unrelated individuals in a family.

Addition of Section 17.04.187, Single-Room Occupancy (SRO) Facilities

A definition for “Single-Room Occupancy (SRO) Facilities” has been prepared by the City and would be added to Section 17.04 of the Zoning Code as part of this project in response to Implementation Measure II.1.3 of the Housing Element. This Implementation Measure is in response to Assembly Bill 2634 and requires the City to update its Zoning Code to allow for the development of SRO units (a type of residential hotel offering one-room units for long-term occupancy by one or two people) with a conditional use permit in the L-C (Limited Commercial) District and in the area that is currently designated Kirker Corridor. Regarding the latter, the City will create an overlay zone with specific development standards to focus on the approximately five-acre Kirker Corridor area, but this will be completed at a later date.

At the December 13, 2011 Planning Commission meeting on the project, representatives of the Clayton Valley Presbyterian Church expressed concern regarding the future proposed creation of an overlay zone in the Kirker Corridor area, which would enable SRO facilities (See **Exhibit B** for December 13, 2011 Planning Commission Meeting Minutes Excerpt and **Exhibit C** for letter dated January 23, 2012 from Pastor Gail Doering). In response to the expressed concerns, it is important to note that this project does not include creation of an overlay zone in the Kirker Corridor area. This Implementation Measure will be brought forward at a later date. In addition, future creation of such an overlay zone in the Kirker Corridor area would simply establish SRO facilities as a conditional use. Actual construction of SRO facilities in the Kirker Corridor area would require additional discretionary development permit approvals from the City. In addition, per the below-described amendment to Chapter 17.24, Limited Commercial District (L-C), SRO facilities will also be conditional uses in the L-C District in the Town Center area.

Addition of Sections 17.04.205, Supportive Housing; and 17.04.206, Transitional Housing
Definitions for “Supportive Housing” and “Transitional Housing” have been prepared by the City and would be added to Section 17.04 of the Clayton Zoning Code as part of this project in response to Implementation Measure II.1.2 of the Housing Element. This Implementation Measure is in response to Senate Bill 2, which requires the City to explicitly allow both supportive and transitional housing types in all residential zones. Implementation Measure II.1.2 requires the City to update its Zoning Code to include separate definitions of transitional and supportive housing as defined in Health and Safety Code Sections 50675.2 and 50675.14.

B. Chapter 17.16, Single Family Residential (R-10, R-12, R-15, R-20, R-40 and R-40-H) Districts

In response to Implementation Measure II.1.2 of the Housing Element and the addition of the “Transitional” and “Supportive Housing” definitions to Chapter 17.04, Chapter 17.16, Single Family Residential Districts, has also been revised to include “Supportive and Transitional Housing” as permitted uses.

C. Chapter 17.20, Multiple Family Residential

1. Creation of new Multiple Family Residential High Density Zoning District (M-R-H).
Implementation Measure I.1.1 of the Housing Element requires the City to create a new Multiple Family Residential High (M-R-H) Zoning District to allow up to 20 units per acre. Creation of this district would provide a zoning district compatible with the proposed new General Plan Multifamily High Density Land Use Designation. In order to create this new zoning district, Chapter 17.20, Multiple Family Residential, has been revised to specify the development standards for the new M-R-H designation.
2. Creation of new Multiple Family Residential Medium Density Zoning District (M-R-M).
Staff has also revised Chapter 17.20 to include a Multiple Family Residential Medium District (M-R-M) for consistency purposes, given that a corresponding Multifamily Medium Density Land Use Designation is already included in the Clayton General Plan

Land Use Element. The revisions to Chapter 17.20 specify the development standards for the M-R-M Zoning District.

3. Revise Chapter 17.20 to allow single family homes only with a Conditional Use Permit. In response to Implementation Measure II.2.1 of the Housing Element, Chapter 17.20 has also been revised to allow single-family homes only with a conditional use permit in Multiple Family Residential Zones M-R, M-R-M, and M-R-H. It should be noted that Chapter 17.60, Use Permits, has also been revised to specify that Single Family dwelling units would require a Conditional Use Permit in MF Districts.
4. Revise Chapter 17.20 to include "Supportive and Transitional Housing" as permitted uses. In response to Implementation Measure II.1.2 of the Housing Element and the addition of the "Transitional" and "Supportive Housing" definitions to Chapter 17.04, Chapter 17.20, Multiple Family Residential, has also been revised to include "Supportive and Transitional Housing" as permitted uses.

D. Chapter 17.24, Limited Commercial District

In response to Implementation Measure II.1.3 of the Housing Element, Chapter 17.24, Limited Commercial (L-C) District, of the Zoning Code has been revised to include SROs as a conditional use in the L-C District. In addition, Chapter 17.60, Use Permits, has also been revised to specify that SROs would require a Conditional Use Permit in the L-C District.

E. Chapter 17.28

The City is also proposing to revise Section 17.28.100, Open Space, of the Planned Development District to allow greater flexibility for affordable housing projects relative to the 20 percent open space requirement.

F. Chapter 17.60, Use Permits

Section 17.60.030B, "Use Permits Required," of Chapter 17.60 is being revised as part of this project to specify two additional types of residential uses requiring a use permit: single family dwelling units in Multiple Family Residential Districts and SRO facilities in the Limited Commercial (L-C) District.

Clayton Housing Element Implementation Project IES/MND

The above-discussed six redesignation sites and the proposed General Plan, TCSP, and Zoning Code amendments have been fully evaluated in the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) prepared for the Housing Element Implementation Project (See **Exhibit D** to this staff report). The IES/MND was routed for the required 30-day public review period, starting on February 21, 2012. The IES/MND found that implementation of the proposed Housing Element Implementation Project could result in potentially significant impacts to biological resources; cultural resources; hazards and hazardous materials; noise; public services; and transportation/circulation. However, with implementation of the mitigation measures required in the IES/MND, all potential impacts would be reduced to a less-than-significant level. It is important to note, however, that implementation of the Housing Element

Implementation Project would not directly generate any physical environmental impacts because approval of the entitlements would only result in text and map changes to the City's regulatory and planning documents. The IES/MND clearly states that the potentially significant impacts are those that could occur should future development occur on the six redesignation sites or as a result of the proposed General Plan and Zoning Code text amendments, which would allow additional uses within the City of Clayton.

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

- Accept a presentation on the proposed Clayton Housing Element Implementation Project at the February 28, 2012 Planning Commission meeting; and
- Provide direction to staff regarding any modifications to the Initial Environmental Study/Mitigated Negative Declaration, General Plan Amendments, Town Center Specific Plan Amendments, and Zoning Ordinance Amendments.

EXHIBITS

- A Location Map for Six Redesignation Sites
- B December 13, 2011 Planning Commission Meeting Minutes (Excerpt)
- C Letter dated January 23, 2012 from Clayton Valley Presbyterian Church Pastor Gail Doering to Community Development Director David Woltering
- D Clayton Housing Element Implementation Project IES/MND (ENV 01-12) (*Provided to Planning Commissioners under Separate Cover*)

ComDev/Housing Element Implementation/Clayton Housing Element Imp Items Sr2_2 28 12 (3)

**Excerpt
Minutes
Clayton Planning Commission Meeting
Tuesday, December 13, 2011**

Call to Order

Chair Dan Richardson called the meeting to order at 7:00 p.m. at Endeavor Hall, 6008 Center Street, Clayton.

Present: Chair Dan Richardson, Vice Chair Keith Haydon, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning
Absent: None
Staff: Community Development Director David Woltering

New Business

5. **GPA 03-11, ZOA 06-11, Housing Element Implementation Measures, City of Clayton.** The Clayton Community Development Department has scheduled a public meeting regarding proposed Housing Element implementation measures which include the following:
- General Plan Amendment to create a Multi-Family High density designation allowing 15.1-20 dwelling units per acre;
 - Zoning Ordinance Amendment to create a Multi-Family Residential High (M-R-H) classification allowing 15.1-20 dwelling units per acre;
 - Zoning Ordinance Amendment to allow an emergency shelter by right in a zoning designation (to be determined);
 - Zoning Ordinance Amendment to add separate definitions for supportive and transitional housing and allowing supportive and transitional housing as a permitted use subject to the residential standards of the district;
 - Zoning Ordinance Amendment to allow SRO's (single room occupancy residential units) in the Limited Commercial zone subject to a Conditional Use Permit;
 - Zoning Ordinance Amendment to only allow Single-family homes in the Multi-family residential zoning districts with a Conditional Use Permit; and
 - Zoning Ordinance Amendment to remove the number of persons per household limit.

Director Woltering presented the staff report. He indicated the City of Clayton adopted its current 2009-2014 Housing Element on April 20, 2010, and that this Housing Element was then conditionally certified by the State of California Department of Housing and Community Development (HCD) on July 15, 2010. Mr. Woltering stated the State's certification was conditioned that the City of Clayton follow through with the implementation program in the City's General Plan Housing Element. He described the implementation program as having many measures to help facilitate the production of affordable housing within the City of Clayton. He said the measures ranged from creating a higher density multiple family residential General Plan and Zoning designation/classification (15.1 to 20 dwelling units per acre) to then redesignating and reclassifying enough property within Clayton to facilitate the construction of 50 affordable housing units within the community to adopting Zoning Ordinance amendments to allow for emergency shelter, supportive and transitional, as well as single room occupancy housing at specified locations within the City of Clayton.

Director Woltering stated staff was proposing that the full range of implementation measures be divided into smaller bundles of related measures to bring to the Planning Commission for initial review and then further processing for needed approvals of pertinent General Plan amendments and Zoning Ordinance amendments at public hearings before the Planning Commission and the City Council. He then described the measures staff was proposing for review and comment as part of the initial bundle of implementation measures. The measures he described are as follows:

Implementation Measure (I.1.1) The City will promote the development of the Affordable Housing Opportunity sites identified in Table 42 of the Housing Element, Vacant Residential Land (i.e., High Street parcel (Site V-2) and Old Fire Station site (Site V-5)) by creating a General Plan Multi-Family High Density designation to allow for 15.1 to 20 units per acre and create a new Zoning District Multi-Family Residential High (M-R-H) to allow up to 20 units per acre.

This implementation measure also indicates the City will consider redesignating/rezoning additional properties besides Sites V-2 and V-3 to a General Plan designation of Multi-Family High Density and a Zoning classification of Multi-Family High Density to allow up to 20 units per acre. These additional properties are located on or in the immediate vicinity of Old Marsh Creek Road near Clayton's downtown. These properties are described in Implementation Measure I.1.1 as P-2, P-3, and P-4. Additionally, since the adoption and certification of the City's Housing Element, the owner of an adjoining property, identified as Assessor's Parcels 119-021-019 and 119-021-020 has indicated an interest in having his property redesignated/rezoned to Multi-Family High Density residential. The properties to be considered for the new Multi-Family High Density designation/classification are listed below:

- V-2 (APN 119-021-063, 1.11 acres)
- V-5 (APN 120-015-011, 1.01 acres)
- P-2 (APN 119-021-013, .87 acres)
- P-3 (APN 119-021-054, 1.16 acres)
- P-4 (APN 119-021-055, .95 acres)
- Adjoining Hoyer Property: (APNs 119-021-019, 119-021-020, .60 acres, .94 acres)

Implementation Measure (II.1.2) Transitional and supportive housing provides temporary housing, often with supportive services, to formerly homeless persons for a period that is typically between six months and two years. The supportive services, such as job training, rehabilitation, and counseling, help individuals gain life skills necessary for independent living.

Additionally, pursuant to Senate Bill 2, the City must explicitly allow both supportive and transitional housing types in all residential zones. The City shall update its Zoning Code to include separate definitions of transitional and supportive housing as defined in Health and Safety Code Sections 50675.2 and 50675.14. Both transitional and supportive housing types will be allowed as a permitted use, subject to only the same restrictions on residential uses contained in the same type of structure.

Implementation Measure (II.1.3) Assembly Bill 2634 requires the quantification and analysis of existing and projected housing needs of extremely low-income households and requires Housing Elements to identify zoning to encourage and facilitate supportive housing and single-room occupancy units (SROs). The City shall update its Zoning Code to allow for the development of SROs, a type of residential hotel offering one-room units for long-term occupancy by one or two people; SROs may have a kitchen or bath facilities (but not both) in the room with a conditional use permit in the L-C (Limited Commercial) District and in the area that is currently designated Kirker Corridor. The Kirker Corridor is classified as PD (Planned Development) in the City's Zoning Ordinance. This corridor is close to services and public transportation. The City will create an overlay zone with specific development standards to focus on this approximate five-acre area. The conditions for these units will continue to be minimal and will only require review by the Planning Commission.

Implementation Measure (II.2.1) Most recent housing developments in Clayton have not been constructed to the maximum densities allowed by zoning. Market conditions, bank financing, and insurance requirements have favored the construction of single-family detached houses. Currently, the City's Zoning Code allows for the development of single-family homes in the Multi-Family Residential (M-R) District. To increase housing supply and obtain densities closer to those envisioned by zoning policies, the City will consider amending the Zoning Code to allow single-family homes in the Multi-Family Residential (M-R) District only with a conditional use permit so that these remaining sites can be used to accommodate multiple family housing.

Implementation Measure (IV.1.2) The City shall amend the Zoning Ordinance to remove the maximum number of persons defined as part of a family. The current definition of family limits the number of unrelated individuals to six or fewer persons. Upon amending the definition in the Zoning Ordinance, the City will not restrict the number of unrelated individuals in a family.

Chair Richardson opened the public hearing.

Clayton Valley Presbyterian Church representatives indicated the following:

- The Church's property on Kirker Pass Road was identified in the City's Housing Element Implementation Program as a location for a Zoning Ordinance overlay to accommodate certain affordable housing opportunities, including single room occupancy units. They indicated the Church had plans to expand in the future and that there would not be sufficient land area for existing improvements, their expansion plans, and affordable housing.
- The Kirker Court Apartments, a low-income housing project, is already located on the immediately adjoining property to the northeast. They were concerned about the over-concentration of affordable housing in this vicinity, if additional affordable housing would be brought to this area.
- The proposed housing could result in reduced traffic safety in the area and a need for a traffic light.
- Concerns about the type of affordable housing being considered for this area, given that the Church conducts childcare programs on its premises.
- They asked to be notified of future public hearing on this matter. *Staff and Commissioners indicated that they would be notified of future public hearings related to their property.*

Chair Richardson closed the public hearing.

Chair Richardson inquired are the measures being proposed for consideration mandated by State law and do other communities, likewise, have similar requirements? *Director Woltering affirmed that the clarification was accurate.*

Vice Chair Haydon inquired is manufactured housing considered in the Implementation Program? *Director Woltering indicated that manufactured housing is being considered in the Program.*

Commissioner Armstrong indicated the following:

- As staff comes back with information for consideration at the public hearings on this matter, it be clarified whether the maximum height limit in the Town Center area is 35 feet or 40 feet.
- He and other Commissioners pointed out that the referenced information in the City's General Plan cites 1980 census data. He and the other Commissioners requested that current census data be referenced.

Commissioner Johnson indicated that her understanding is that the measures being considered are to facilitate the construction of affordable housing in Clayton by the private and non-profit sectors, but that the City is not directly required to construct the affordable housing. *Director Woltering agreed with that understanding.*

Commissioner Manning indicated he acknowledged that the measures are State-mandated in order to facilitate the opportunity for the construction of affordable housing within the community.

The Commissioners concluded that it would be acceptable to move forward the measures being proposed by staff for formal consideration at noticed public hearing, consistent with the intent of the Housing Element Implementation Program.

**Excerpt
Minutes
Clayton Planning Commission Meeting
Tuesday, February 28, 2012**

Call to Order

Chair Dan Richardson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Dan Richardson, Vice Chair Keith Haydon, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: None

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Public Hearing

3. **ENV 01-12, GPA 03-11, SPA 01-12, ZOA 06-11, Housing Element Implementation Project, City of Clayton.** The Clayton Community Development Department has scheduled a public hearing regarding the proposed Housing Element Implementation Project which includes consideration of the following:

- Adoption of an Initial Environmental Study/Mitigated Negative Declaration, prepared in accordance with the California Environmental Quality Act, which analyzes the potential impacts caused by the Housing Element Implementation Project and identifies various measures to mitigate these impacts;
- General Plan Amendment to create a Multi-Family High Density designation allowing 15.1 – 20 dwelling units per acre;
- Town Center Specific Plan Amendment to create a Multi-Family High Density designation allowing 15.1 – 20 dwelling units per acre;
- Zoning Ordinance Amendment to create a Multi-Family Residential High (M-R-H) classification allowing 15.1 – 20 dwelling units per acre;
- General Plan Amendments and Zoning Ordinance Amendments to redesignate/reclassify specified properties to a Multi-Family High Density allowing 15.1 – 20 dwelling units per acre (APNs 119-021-013, 119-021-019, 119-021-020, 119-021-054, 119-021-055, 119-021-063, and 120-015-011);
- Zoning Ordinance Amendment to add separate definitions for supportive and transitional housing and allowing supportive and transitional housing as a permitted use subject to the residential standards of the district;
- Zoning Ordinance Amendment to allow SROs (single room occupancy residential units) in the Limited Commercial zone subject to a Conditional Use Permit;
- Zoning Ordinance Amendment to only allow single-family homes in the Multi-Family residential zoning districts with a Conditional Use permit; and
- Zoning Ordinance Amendment to remove the number of persons per household limit.

The Initial Environmental Study/Mitigated Negative Declaration may be reviewed starting Tuesday, February 21, 2012, commencing the 30-day review period on the document, on the City of Clayton website at www.ci.clayton.ca.us or at the City of Clayton Community Development Department located at 6000 Heritage Trail, Clayton, California. You may also contact David Woltering, Community Development Director, at 925-673-7343. Written comments on the environmental aspects of the project must be submitted to the City of Clayton Community Development Department, Attention: David Woltering, 6000 Heritage Trail, Clayton, California, 94517, no later than 5:00 p.m. on Wednesday, March 21, 2012.

Director Woltering distributed a letter from Kenneth Frederick Byrd and Mary Josephine Byrd and presented the staff report, in which he summarized proposed text and map amendments to the City's General Plan, Town Center Specific Plan, and Zoning Ordinance to address specified implementation measures in the City's adopted and certified Housing Element. During his presentation he mentioned the following:

- Staff worked with Raney Planning and Management to prepare the Public Review Draft of the Clayton Housing Element Implementation Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND) for which the 30-day review period is from February 21, 2012 to March 21, 2012.
- As explained in the Housing Element Implementation staff report, the City seeks to create a high density land use designation in the General Plan that allows a density of 15.1 to 20 units per acre to fulfill State requirements. And, in order to provide consistency with this proposed revision to the City's General Plan, complementary amendments are proposed in the Town Center Specific Plan and Zoning Ordinance. The intention of these revisions is to encourage the development of higher density multi-family projects and increase the potential for more affordable housing within the City.
- Census information in the General Plan Land Use Element will be updated using 2010 census data, replacing the presently referred to 1980 census data.
- The unrelated six-person family limit listed in the Municipal Code will be eliminated.
- Definitions for single-room occupancy units (SROs), supportive housing, and transitional housing will be added in the Municipal Code.
- Staff is requesting comments on the matters being presented at this meeting and then suggesting a continuance of this item to the Planning Commission meeting of March 13, 2012 for possible action. Staff expects to return at the March 13th meeting with formal resolutions and draft ordinances for recommending City Council approval of the item.

Commissioner Manning asked for the definitions for supportive housing and transitional housing. *Director Woltering responded that transitional housing is housing with support services which people can occupy for approximately six months while moving from a situation of having no housing to having more permanent housing. Supportive housing is similar in function but is used for a longer duration.*

Director Woltering continued:

- Amendments are proposed for the Limited Commercial (L-C) District and Use Permit chapters in the Zoning Ordinance to allow SROs as a conditionally-permitted use in the L-C District.

- The open space requirements in the Code are proposed to be modified to allow relaxation from the 20% open space requirements for affordable housing projects.
- Six redesignation sites, as identified in the staff report, are proposed for the High Density Residential designation/classification. These sites are identified as follows: the old fire station (V-5), the “Stanley” property across High Street from the Post Office (V-2), and properties west of Marsh Creek Road located just south of the Town Center Specific Plan area (P-2, P-3, P-4, and “Hoyer”).
- It was determined in the IES/MND that the proposed project would not result in a significant adverse impact, assuming the implementation of seven identified mitigation measures including, but not limited to addressing biological impacts related to protection of birds nesting between the months of March and August, for cultural resource impacts to structures more than 50 years old that may need to be demolished as part of future multi-family high density and/or affordable housing developments on the redesignation sites, municipal service impacts related to offsetting police staffing costs, and possible traffic impacts.

Commissioner Manning had the following question and comments:

- Is the environmental checklist used in the IES/MND provided by the State? *Director Woltering indicated that, yes, the environmental checklist is provided by the State in accordance with the California Environmental Quality Act.*
- There could be potentially significant discoveries of human artifacts in the area, given that evidence of these artifacts has been found previously during environmental (e.g., archaeological) studies conducted for past developments in Clayton.

Commissioner Armstrong asked if future developers of multi-family high density and/or affordable housing projects could use traffic data already provided in recent studies conducted previously for adjacent sites? *Director Woltering indicated that, yes, recent, up-to-date information provided in traffic studies for nearby projects could be used for subsequent future developments.*

Vice Chair Haydon asked what is the status of the conceptual plan referred to for the former fire station site, given that it depicts 20 residential units on that site? *Director Woltering indicated that, since it is a conceptual plan, with no formal reviews or analysis supporting it, and no actions taken on it by the City, it has no formal status at this time. The information was provided about the concept plan only to give an indication of what the property owner believes may be achievable on the site.*

Commissioner Johnson had the following questions:

- Will issues related to SROs in the Kirker Pass Corridor area be tabled at this point and addressed later on? *Director Woltering indicated, yes, that consideration of allowing for SROs and an emergency shelter in the Kirker Pass Corridor will be addressed in the future, likely sometime later this year, and not as part of this process.*
- Can the City use the Kirker Court Apartments to show compliance with State housing requirements for SROs? *Director Woltering indicated that would not be possible because the City has in the past already used those housing units in the category of very low income units.*

The public hearing was opened.

There was no public comment.

The public hearing was closed.

Commissioner Armstrong had the following question and comment:

- Regarding the removal of the maximum number of people for the definition of “family”, would Uniform Building Code (UBC) capacity regulations establish maximum occupancy allowances? *Director Woltering indicated that, yes, the UBC would be used to enforce maximum occupancy requirements for public health and safety purposes.*
- The 35-foot building height maximum listed in Appendix C should be changed to be consistent with the 40-foot building height maximum specified in the Town Center Specific Plan. *Director Woltering concurred and indicated that would be done.*

Chair Richardson indicated he understands the State is requiring the City to provide multi-family high density land-use designations at an adequate number of sites to facilitate the anticipated need for affordable housing within the community. *Director Woltering concurred with that representation.*

Vice Chair Haydon commented that the analysis of project-related impacts as well as showing how the project-related impacts would be mitigated were excellent.

Chair Richardson moved and Commissioner Manning seconded a motion to continue the public hearing for ENV 01-12, GPA 03-11, SPA 01-12, ZOA 06-11 to the next regularly-scheduled Planning Commission meeting on March 13, 2012. The motion passed 5-0.

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**Excerpt
Draft
Minutes
Clayton Planning Commission Meeting
Tuesday, March 13, 2012**

Call to Order

Chair Dan Richardson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Dan Richardson, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: Vice Chair Keith Haydon

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Public Hearing

3. **ENV 01-12, GPA 03-11, SPA 01-12, ZOA 06-11, Housing Element Implementation Project, City of Clayton.** The Clayton Community Development Department has scheduled a public hearing regarding the proposed Housing Element Implementation Project which includes consideration of the following (*This item was continued from the meeting of February 28, 2012*):

- Adoption of an Initial Environmental Study/Mitigated Negative Declaration, prepared in accordance with the California Environmental Quality Act, which analyzes the potential impacts caused by the Housing Element Implementation Project and identifies various measures to mitigate these impacts;
- General Plan Amendment to create a Multi-Family High Density designation allowing 15.1 – 20 dwelling units per acre;
- Town Center Specific Plan Amendment to create a Multi-Family High Density designation allowing 15.1 – 20 dwelling units per acre;
- Zoning Ordinance Amendment to create a Multi-Family Residential High (M-R-H) classification allowing 15.1 – 20 dwelling units per acre;
- General Plan Amendments and Zoning Ordinance Amendments to redesignate/reclassify specified properties to a Multi-Family High Density allowing 15.1 – 20 dwelling units per acre (APNs 119-021-013, 119-021-019, 119-021-020, 119-021-054, 119-021-055, 119-021-063, and 120-015-011);
- Zoning Ordinance Amendment to add separate definitions for supportive and transitional housing and allowing supportive and transitional housing as a permitted use subject to the residential standards of the district;
- Zoning Ordinance Amendment to allow SRO's (single room occupancy residential units) in the Limited Commercial zone subject to a Conditional Use Permit;
- Zoning Ordinance Amendment to only allow single-family homes in the Multi-Family residential zoning districts with a Conditional Use permit; and
- Zoning Ordinance Amendment to remove the number of persons per household limit.

The Initial Environmental Study/Mitigated Negative Declaration may be reviewed starting Tuesday, February 21, 2012, commencing the 30-day review period on the document, on the City of Clayton website at www.ci.clayton.ca.us or at the City of Clayton Community Development Department located at 6000 Heritage Trail, Clayton, California. You may also contact David Woltering, Community Development Director, at 925-673-7343. Written comments on the environmental aspects of the project must be submitted to the City of Clayton Community Development Department, Attention: David Woltering, 6000 Heritage Trail, Clayton, California, 94517, no later than 5:00 p.m. on Wednesday, March 21, 2012.

Director Woltering presented the staff report. During his presentation he reviewed the following:

- Since the February 28, 2012 Planning Commission meeting on this item, staff and Raney Planning and Management (RPM) staff have analyzed the request from Mr. and Mrs. Byrd (presented at the February 28th meeting) regarding changing the land use designation and zoning classification of their property at 1212 Mitchell Canyon Road to allow for higher density residential development. Based on this analysis, staff is recommending that the Byrd property be included in those properties proposed for redesignation to Multiple-Family High Density Residential and reclassified to Planned Development Zoning District. The inclusion of the Byrd property is based on the following:
 - The Byrd property is subject to the same mitigation measures applicable to the other properties analyzed in the Housing Element Implementation;
 - Addition of the Byrd property would create minimal impact;
 - None of the findings or conclusions listed in the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) would change with the addition of the Byrd property;
 - Five additional units were assumed with the Byrd property;
 - Particular attention was given to greenhouse gas emissions in the analysis; and
 - An Errata Sheet, dated March 13, 2012, to the project IES/MND was prepared to address the inclusion of the Byrd property as part of the proposed project and to recommend appropriate mitigation measures to assure that the inclusion of this property would not result in any significant adverse impacts.
- The maximum height allowed for a primary structure in a Multiple-Family High Density Residential District will be 40 feet unless the structure were located within 50 feet of a single-family residential district, then the maximum height would be 35 feet.
- A numbering error in the IES/MND Table of Contents was corrected in the Errata Sheet.
- The submitted Resolution No. 01-12 with attachments.

Commissioner Manning commented that the number indicated under Action 6 on the first page of Resolution No. 01-12 should be changed from “four” to “five”.

Commissioner Armstrong inquired about and indicated the following:

- If the Byrds sell to Seeno (the property owner of the adjoining old fire station property), how could the old fire station property be joined with the Byrd property? *Director Woltering indicated that the mechanisms used to join the two properties would either be the lot line adjustment process or lot merger process in order to remove the interior lot line.*

- What if lots located adjacent to the old fire station and/or Byrd properties would want to join with the old fire station/Byrd properties to allow for higher density residential development? *Director Woltering indicated that, hypothetically, the large lot located east of and adjacent to the old fire station/Byrd properties could be a candidate for that action, but it would require a General Plan Amendment and a Rezone along with a lot merger for that to occur and to allow for a high density multi-family development of the overall property.*
- Does the Multiple-Family land use designation/zoning classification preclude four-plexes? *Director Woltering responded that four-plexes, triplexes, and other multi-unit higher-density residential developments would be allowed under this land use designation/zoning classification.*
- How does foster care fit into the “supportive” housing category? *Director Woltering indicated that foster care is a State-mandated land use, generally considered separately from “supportive” housing.*

The public hearing was opened.

There was no public comment.

The public hearing was closed.

There was a consensus by the Planning Commission that the term “elderly” should be changed to “senior” under the Institutional Density category on Page 1 of Attachment B in Planning Commission Resolution No. 01-12.

Commissioner Manning moved and Commissioner Armstrong seconded a motion to adopt Resolution No. 01-12, with amendments, which recommends City Council approval of the Housing Element Implementation Project Initial Environmental Study/Negative Declaration (ENV 01-12); and approve the text and map amendments to the City’s General Plan, Town Center Specific Plan, and Zoning Ordinance (GPA 03-11, SPA 01-12, ZOA 06-11) related to the Housing Element Implementation Project, subject to conditions and mitigation measures.

The motion passed 4-0.

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Agenda Date: 4-3-12
Agenda Item: 9a

STAFF REPORT

Approved:

Gary A. Napper
City Manager/Executive Director

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: APRIL 3, 2012

SUBJECT: CONSIDERATION OF A RESOLUTION AWARDING A CONTRACT TO STOCKBRIDGE GENERAL CONTRACTING, INC. IN THE AMOUNT OF \$290,711.50 FOR THE CONSTRUCTION OF THE CLAYTON ROAD MEDIAN LANDSCAPING AND CVS RETAINING WALL LANDSCAPING PROJECTS AND APPROPRIATING FUNDS FROM THE CITYWIDE LANDSCAPE MAINTENANCE DISTRICT

RECOMMENDATION

Adopt a Resolution awarding contract to Stockbridge General Contracting, Inc., and appropriate the necessary funds from the Citywide Landscape Maintenance District.

BACKGROUND

In order to obtain the most favorable prices, the City combined three separate projects into a single bid. The three projects were the Clayton Road Median Landscaping Project, the CVS Retaining Wall Landscaping Project, and the Daffodil Hill Landscaping Project. The City intended to fund the first two projects, while CBCA was expected to fund its Daffodil Hill Project. The determination of the low bidder is based solely on the bid price for the Clayton Road Median Landscaping Project.

On March 22nd, staff opened bids for the above project. We received a total of three bids as follows:

	Stockbridge General Contracting Inc.	Blossom Valley Construction	Environmental Landscape Solutions
Clayton Road Median	\$263,071.50	\$302,161.00	\$348,958.50
CVS Retaining Wall	\$27,640.00	\$15,038.00	\$12,286.00
Daffodil Hill	\$51,931.00	\$68,913.00	\$29,031.5
Total	\$342,642.50	\$386,112.00	\$390,276.00

After receiving the bids, staff found that the bid quantities for the maintenance strip (1' wide along the back of curb and comprised of 4" of gold decomposed granite on top of 6" Class 2 aggregate base rock) were overstated by a significant amount. The quantities shown on the bid form were 330 tons and 60 tons, respectively. The quantities should have been approximately 67 tons and 101 tons, respectively. These quantities change the cost for the Clayton Road Median Landscaping, only, as follows:

	Stockbridge General Contracting Inc.	Blossom Valley Construction	Environmental Landscape Solutions
Clayton Road Median	\$247,556.50	\$276,736.00	\$268,738.50

As can be seen, the revised quantities change the position of the #2 and #3 bidders but, fortunately, not that of the low bidder. Staff has checked the low bidder's references and finds them acceptable. Therefore, per the project specifications, staff is recommending award to Stockbridge Construction for both the Clayton Road Median Landscaping and the CVS Retaining Wall Landscaping projects. Due to the low bidder's price on its intended project, CBCA has decided not to fund this competitive bid on their Daffodil Hill Landscaping work at this time.

Despite the quantities issue, it should be noted the City must award the contract for the original bid amount. The contractor has not yet agreed to a change order based upon the revised quantities for the maintenance strip. Therefore, in accordance with the project's specifications, the City will have to track the actual material quantities installed and pay for only the actual quantities.

FISCAL IMPACT

Assuming the City Council agrees with staff's recommendations, a total of \$290,711.50 must be appropriated from the Citywide Landscape Maintenance District funds for the construction contract alone (Option 1 Resolution). If the City Council decides to forego the CVS Retaining Wall Landscaping work, only \$263,071.50 in construction funds needs to be appropriated (Option 2 Resolution). In addition, \$29,000 more will be necessary to fund Project inspection and management services by City staff and the City Engineer incurred during actual construction, and post-construction finalization. Therefore, the total amount necessary for Project allocation at this time, assuming both bids are awarded by Council, is \$319,711.50.

The Landscape Maintenance District Fund has \$307,600 remaining in the FY 2011-12 Budget for "Landscape Projects" (of its original \$330,000 budget) and approximately \$429,000 in its Reserve for District capital improvement projects. Monies will be appropriated from those sources in the sufficient amounts depending on the City Council's action.

Date: April 3, 2012

Page 3 of 2

Separate Council resolutions and construction contracts (with and without the CVS Retaining Wall work) have been prepared and included for the Council's optional consideration.

CONCLUSION

Based upon the above, Staff recommends the City Council approve the attached Resolution awarding a contract in the amount of \$290,711.50 to Stockbridge General Construction, Inc. for the Clayton Road Median Landscaping and the CVS Retaining Wall Landscaping Projects or in the amount of \$263,071.50 for the Clayton Road Median Landscaping Project only. It is further recommended the Council appropriate either \$319,711.50 for both Projects or \$292,071.50 for the base bid work only from the Citywide Landscape Maintenance District funds for the Project(s) construction.

Attachments:

1. Option 1 Council Resolution
2. Option 2 Council Resolution
3. Contracts (2)
4. CBCA email on Daffodil Hill bid

RESOLUTION NO.**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A CONTRACT
IN THE AMOUNT OF \$290,711.50 WITH STOCKBRIDGE GENERAL CONTRACTING, INC.
FOR THE CLAYTON ROAD MEDIAN LANDSCAPING AND CVS RETAINING WALL
LANDSCAPING PROJECTS****THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City Council approved a conceptual plan for the re-landscaping of the Clayton Road Medians between Mitchell Canyon Road and Oakhurst Drive and authorized the preparation of construction plans and requesting of bids; and

WHEREAS, hoping to receive favorable construction prices, staff, as a non-binding additive bid item, added the landscaping of the public right-of-way area on the south side of Clayton Road along the CVS-installed retaining walls; and

WHEREAS, at the request of CBCA, and based upon CBCA's intent to fund the work, the landscaping of Daffodil Hill was also added as a non-binding additive bid item; and

WHEREAS, pursuant to the state Public Contract Code, the low bidder was to be determined solely by the bid price for the Clayton Road Median Landscaping Project; and

WHEREAS, sealed bids were publicly opened on March 22, 2012; and

WHEREAS, Stockbridge General Contracting, Inc. ("SGC") submitted a low bid of \$263,071.50 for the Clayton Road Median Landscaping Project; and

WHEREAS, SGC's bid prices for the CVS Retaining Wall Landscaping and Daffodil Hill Landscaping Projects were \$27,640.00 and \$51,931.00, respectively; and

WHEREAS, Staff finds SGC's bid price for the CVS Retaining Wall Landscaping Project to be acceptable; and

WHEREAS, CBCA finds SGC's bid price for the Daffodil Hill Landscaping Project to be unacceptably high; and

WHEREAS, the City Engineer has reviewed Stockbridge General Contracting, Inc.'s bid, found it to be responsive in all respects, and has recommended awarding the contract to Stockbridge General Contracting, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby name Stockbridge General Contracting, Inc. as responsible low bidder and does herein authorize its City Manager to execute a contract in the amount of \$290,711.50 for the Clayton Road Median Landscaping and CVS Retaining Wall Landscaping Projects.

BE IT FURTHER RESOLVED the City Council does hereby appropriate and allocate \$319,711.50 from Citywide Landscape Maintenance District funds for the construction of the Clayton Road Median Landscaping and CVS Retaining Wall Landscaping Projects.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 3rd day of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on April 3, 2012.

Laci J. Jackson, City Clerk

RESOLUTION NO.

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A CONTRACT
IN THE AMOUNT OF \$263,071.50 WITH STOCKBRIDGE GENERAL CONTRACTING, INC.
FOR THE CLAYTON ROAD MEDIAN LANDSCAPING PROJECT**

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

WHEREAS, the City Council approved a conceptual plan for the re-landscaping of the Clayton Road Medians between Mitchell Canyon Road and Oakhurst Drive and authorized the preparation of construction plans and requesting of bids; and

WHEREAS, hoping to receive favorable construction prices, staff, as a non-binding additive bid item, added the landscaping of the public right-of-way area on the south side of Clayton Road along the CVS-installed retaining walls; and

WHEREAS, at the request of CBCA, and based upon CBCA's intent to fund the work, the landscaping of Daffodil Hill was also added as a non-binding additive bid item; and

WHEREAS, pursuant to the state Public Contract Code, the low bidder was to be determined solely by the bid price for the Clayton Road Median Landscaping Project; and

WHEREAS, sealed bids were publicly opened on March 22, 2012; and

WHEREAS, Stockbridge General Contracting, Inc. ("SGC") submitted a low bid of \$263,071.50 for the Clayton Road Median Landscaping Project; and

WHEREAS, SGC's bid prices for the CVS Retaining Wall Landscaping and Daffodil Hill Landscaping Projects were \$27,640.00 and \$51,931.00, respectively; and

WHEREAS, Staff finds SGC's bid price for the CVS Retaining Wall Landscaping Project to be unacceptably high; and

WHEREAS, CBCA finds SGC's bid price for the Daffodil Hill Landscaping Project to be unacceptably high; and

WHEREAS, the City Engineer has reviewed Stockbridge General Contracting, Inc.'s bid, found it to be responsive in all respects, and has recommended awarding the contract to Stockbridge General Contracting, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby name Stockbridge General Contracting, Inc. as responsible low bidder and does herein authorize its City Manager to execute a contract in the amount of \$263,071.50 for the Clayton Road Median Landscaping Project; and

BE IT FURTHER RESOLVED the City Council does hereby appropriate and allocate \$292,071.50 from Citywide Landscape Maintenance District funds for the construction of the Clayton Road Median Landscaping Project.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 3rd day of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on April 3, 2012.

Laci J. Jackson, City Clerk

CITY OF CLAYTON
CALIFORNIA

CITY CONTRACT NO.

CLAYTON ROAD MEDIAN PROJECT

THIS CONTRACT, made and entered, into this ____ day of _____, 2012, between the **CITY OF CLAYTON** (hereinafter called "City"), and _____ (hereinafter called "Contractor").

WITNESSETH

WHEREAS, the City has awarded a contract to Contractor for performing the work hereinafter mentioned in accordance with the Contractor's sealed proposal therefore;

NOW, THEREFORE, IT IS AGREED, as follows:

1. **Scope of Work:** The Contractor shall perform all the work, and furnish all the labor, materials, equipment, and all the utility and transportation services required to complete all of the public improvements portion of the improvements more particularly described in those certain specification and proposal forms, "**CLAYTON ROAD MEDIAN PROJECT**", dated February, 2012.

2. **Time of Performance and Liquidated Damages:** The Contractor shall begin work as stated in Section G-4 of the specifications and shall diligently prosecute the same to completion before the expiration of the working days as stated in the specifications.

The City has determined, that in the event the Contractor does not complete the work within the time limit so specified or within such further time as said City shall have authorized, the Contractor shall pay to the City liquidated damages in the amount of NINETEEN HUNDRED DOLLARS (\$1,900.00), or as specified in Section G-6 of the specifications, per day for each and every calendar day's delay in finishing the work beyond the completion date(s) as are set forth in the specification and contract documents, which provisions are hereby referred to and incorporated herein by this reference.

3. **Payments:** Payments under this Contract shall be for those public improvements set forth in the project plans, the special provisions and all the Standard Specifications and Standard Plans. Based upon the unit prices set forth in the Contractor's proposal and as attached hereto, the estimated price of this Contract is **\$263,071.50**. Payments will be made by the City to the Contractor for the work performed, including all labor, material, equipment, and utility and transportation services, to complete said public improvements, at the times and in a manner provided in the specifications, and at the unit prices stated in Contractor's proposal. For all moneys to be withheld by the City, the Contractor may, at his request and expense, substitute securities, equivalent to the amount to be withheld, in the form and manner and subject to the conditions provided in Section 22300 of the Public Contract Code.

4. **Component Parts:** This Contract shall consist of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated herein and made a part hereof by this reference thereto:

- a. This Contract
- b. Notice Inviting Sealed Proposals
- c. Contractor's Proposal
- d. Faithful Performance Bond
- e. Labor and Material (Payment) Bond
- f. General Conditions
- g. Special Provisions
- h. Standard Specifications
- i. Standard Plans
- j. Plans and Detailed Drawings

5. **Wage Scale:** The City has obtained from the Director of Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holidays and overtime work for each craft, classification or type of workman required to execute this Contract. A copy of said prevailing rate of per diem wages is on file in the office of the City Engineer, to which reference is hereby made for further particulars. The prevailing rate of per diem wages will be made available to any interested party upon request, and a copy thereof shall be posted by the Contractor at the job site. The Contractor shall comply with the provisions of Article 2, Chapter 1, Part 7, Division 2 (commencing with Section 1770) of the California Labor Code, and particularly Sections 1775 and 1776 thereof.

6. **Hours of Labor:** The Contractor shall forfeit, as penalty to the City, Fifty dollars (\$50.00) for each worker employed in the execution of the Contract by him or by any subcontractor, for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, if the Contractor is in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2 (commencing with Section 1810) of Labor Code.

7. **Apprentices:** The Contractor shall be responsible for compliance with provisions of Labor Code Section 1777.5 for all apprenticeable occupations. In accordance with the provisions of said Section 1777.5, and in accordance with the rules and procedures of the California Apprenticeship Council, properly indentured apprentices shall be employed in the prosecution of the work. The ratio of apprentices to journeymen who shall be employed in the respective crafts or trades may be the ratio stipulated in the contract under which the apprenticeship committee operates, but in no event shall the ratio be less than one apprentice for each five journeymen, except as otherwise provided pursuant to said Section 1777.5. Willful failure by the Contractor to comply with said Section 1777.5 shall result in his being denied the right to bid on a public works contract for a period of one year from the date the determination of noncompliance is made by the Administrator of Apprenticeship and the imposition of civil penalties, as more particularly set forth in Section 1777.7 of said Labor Code.

Information relative to the number of apprentice standards, wage schedules, and other requirements shall be obtained from the Director of the Department of Industrial Relations, ex officio the

Administrator of Apprenticeship, San Francisco, California, or from the division of Apprenticeship Standards and its branch offices.

8. **Labor Discrimination:** Attention is directed to Section 1735 of said Labor Code, which reads as follows:

“No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin or ancestry, physical handicap, medical condition, marital status or sex of each persons, except as provided in Section 12940 of the Government Code, and section is subject to all the penalties imposed for a violation of this chapter.”

9. **Worker’s Compensation Insurance:** In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700 of said Labor Code), the Contractor is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Worker’s Compensation Insurance.

By execution hereof, the undersigned Contractor certifies that he is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker’s Compensation or to undertake self-insurance in accordance with the provisions of that Code, and performance of the work of this contract.

10. **Ineligible Contractors:** Contractor is expressly prohibited from employing any “ineligible subcontractors” (as defined in Labor Code Section 1777.1) on the project described herein.

11. **Attorneys’ Fees:** In the event that the City is required to bring legal action against Contractor related to this agreement, the City, if determined to be the prevailing party, shall be entitled to recover its attorney’s fees from Contractor.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officers, thereunto duly authorized, all as of the day and year first above written.

CITY OF CLAYTON

Contractor

By: _____
Mayor

By: _____

By: _____
"Contractor"

Attest: _____
By: City Clerk

Street Address

Approved as to Form & Procedure

City

Mailing Address (if different)

City Attorney

P.O. Box

City

Contact Person

Telephone Number

Federal Tax I.D. Number

LEGAL RELATIONS AND RESPONSIBILITIES

Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties not parties to this contract or affect the legal liability of either party to the contract by imposing any standard of care different from the standard of care imposed by law.

It is understood and agreed that neither the City of Clayton ("City") nor any officer or employee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by _____ (Contractor") under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement. It is understood and agreed that pursuant to Government Code Section 895.4 Contractor shall defend, indemnify and save harmless the City, its officers and employees from all claims, suits or actions of every name, kind and description brought for or in account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by the Contractor under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement.

The Contractor waives any and all rights to any type of express and implied indemnity and defense against the City, its officers and employees arising from any work, authority or jurisdiction delegated to the Contractor under this agreement.

Executed on _____, 2012

NAME OF CONTRACTOR

By _____

TITLE

ATTACHMENT 1

BASE BID: CLAYTON ROAD MEDIAN PROJECT

<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
<u>IRRIGATION</u>					
1	Demolition	1	LS	7,700	\$7,700.00
1	Irrigation Controller	2	EA	17,000	34,000.00
2	Irrigation Controller Enclosure	1	EA	6,000	6,000.00
3	2 ½ ", Sch. 40, PVC Irrigation Main	160	LF	4.10	656.00
4	2", CL. 200, PVC Irrigation Lateral	110	LF	3.45	379.50
5	1 ½ ", CL 200, PVC Irrigation Lateral	200	LF	1.70	340.00
6	1 ¼ ", CL 200, PVC Irrigation Lateral	450	LF	1.40	630.00
7	1", CL 200, PVC Irrigation Lateral	1,000	LF	1.00	1,000.00
8	¾", CL 200, PVC Irrigation Lateral	1,500	LF	0.70	1,050.00
9	1 ½ ", Sch. 40, PVC Irrigation Lateral	50	LF	1.70	85.00
10	1 ¼ ", Sch. 40, PVC Irrigation Lateral	220	LF	1.40	308.00
11	1", Sch. 40, PVC Irrigation Lateral	900	LF	1.00	900.00
12	¾", Sch. 40, PVC Irrigation Lateral	600	LF	0.90	540.00
13	2" Remote Control Valve & Box	10	EA	1,000	10,000.00
14	1 ¼ " Remote Control Valve & Box	4	EA	900	3,600.00
15	2 ½ " Gate Valve (NIBCO) & Box	7	EA	830	5,810.00
16	Rainbird Nozzle w/12" Body	360	EA	70	25,200.00
17	Rainbird Bubbler	89	EA	27	2,403.00
18	Quick Coupler & Box	10	EA	275	2,750.00
19	Irrigation Splice Box	5	EA	70	350.00
20	14 AWG Direct Burial Wires	2,400	LF	1.35	3,240.00
20	PVC Sleeves – installed by jacking	100	LF	50	5,000.00
	<u>SUBTOTAL IRRIGATION:</u>				\$111,941.50

<u>RECESSED PLANTERS</u>					
21	Planter No. 2	1	LS	5,700	\$5,700.00
	Planter No. 3	1	LS	4,000	4,700.00
	Planter No. 4	1	LS	3,000	3,000.00
	<u>SUBTOTAL RECESSED PLANTERS:</u>				\$12,700.00
<u>CONCRETE BAND</u>					
	Concrete Band	16	LF	11	\$176.00
	<u>SUBTOTAL CONCRETE BAND:</u>				\$176.00
<u>BRICK PAVERS</u>					
	Brick Pavers	1,500	SF	9	\$13,500.00
	<u>SUBTOTAL BRICK PAVERS:</u>				\$13,500.00
<u>MAINTENANCE STRIP</u>					
	Header Board	3,038	LF	5.45	\$16,557.10
	Class II AB	60	T	125	7,500.00
	Crushed Gold Rock	325	T	80	26,000.00
	Weed Barrier	3,038	SF	0.35	1,063.30
	<u>SUBTOTAL MAINTENANCE STRIP:</u>				\$51,120.40
<u>LIGHTING AND ELECTRICAL</u>					
	10 AWG Wire	2,000	LF	1.45	\$2,900.00
	12 AWG Wire	500	LF	1.70	850.00
	1 ½", Sch. 40, PVC Conduit	360	LF	6.50	2,340.00
	¾", Sch. 40, PVC Conduit	140	LF	15	2,100.00
	N9 Christy Box	4	EA	250	1,000.00
	LED Fixture	15	EA	585	8,775.00
	<u>SUBTOTAL LIGHTING/ELECTRICAL:</u>				\$17,965.00
<u>PLANTING</u>					
	Groundcover	8,000	SF	1.35	\$10,800.00
	1 Gallon Shrub	556	EA	6.85	3,808.60
	5 Gallon Shrub	503	EA	20	10,060.00
	15 Gallon Tree	37	EA	100	3,700.00

	Specimen Oak Tree – 60” Box	4	EA	4,000	16,000.00
	Specimen Oak Tree – 72” Box	1	EA	8,200	8,200.00
	Plant Establishment Period	1	LS	2,700	2,700.00
	<u>SUBTOTAL PLANTING:</u>				\$55,286.60
<u>SIGNAGE</u>					
	Relocate Street Sign	1	EA	400	\$400.00
	<u>SUBTOTAL SIGNAGE</u>				\$400.00
	<u>BASE BID TOTAL AMOUNT</u>				\$263,071.50

**CITY OF CLAYTON
CALIFORNIA**

CITY CONTRACT NO.

**CLAYTON ROAD MEDIAN PROJECT
INCLUDING THE CVS RETAINING WALL LANDSCAPING PROJECT**

THIS CONTRACT, made and entered, into this ____ day of _____, 2012, between the **CITY OF CLAYTON** (hereinafter called "City"), and _____ (hereinafter called "Contractor").

WITNESSETH

WHEREAS, the City has awarded a contract to Contractor for performing the work hereinafter mentioned in accordance with the Contractor's sealed proposal therefore;

NOW, THEREFORE, IT IS AGREED, as follows:

1. **Scope of Work:** The Contractor shall perform all the work, and furnish all the labor, materials, equipment, and all the utility and transportation services required to complete all of the public improvements portion of the improvements more particularly described in those certain specification and proposal forms, "**CLAYTON ROAD MEDIAN PROJECT**", dated February, 2012.

2. **Time of Performance and Liquidated Damages:** The Contractor shall begin work as stated in Section G-4 of the specifications and shall diligently prosecute the same to completion before the expiration of the working days as stated in the specifications.

The City has determined, that in the event the Contractor does not complete the work within the time limit so specified or within such further time as said City shall have authorized, the Contractor shall pay to the City liquidated damages in the amount of NINETEEN HUNDRED DOLLARS (\$1,900.00), or as specified in Section G-6 of the specifications, per day for each and every calendar day's delay in finishing the work beyond the completion date(s) as are set forth in the specification and contract documents, which provisions are hereby referred to and incorporated herein by this reference.

3. **Payments:** Payments under this Contract shall be for those public improvements set forth in the project plans, the special provisions and all the Standard Specifications and Standard Plans. Based upon the unit prices set forth in the Contractor's proposal and as attached hereto, the estimated price of this Contract is **\$290,711.50**. Payments will be made by the City to the Contractor for the work performed, including all labor, material, equipment, and utility and transportation services, to complete said public improvements, at the times and in a manner provided in the specifications, and at the unit prices stated in Contractor's proposal. For all moneys to be withheld by the City, the Contractor may, at his request and expense, substitute securities, equivalent to the amount to be withheld, in the form and manner and subject to the conditions provided in Section 22300 of the Public Contract Code.

4. **Component Parts:** This Contract shall consist of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated herein and made a part hereof by this reference thereto:

- a. This Contract
- b. Notice Inviting Sealed Proposals
- c. Contractor's Proposal
- d. Faithful Performance Bond
- e. Labor and Material (Payment) Bond
- f. General Conditions
- g. Special Provisions
- h. Standard Specifications
- i. Standard Plans
- j. Plans and Detailed Drawings

5. **Wage Scale:** The City has obtained from the Director of Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holidays and overtime work for each craft, classification or type of workman required to execute this Contract. A copy of said prevailing rate of per diem wages is on file in the office of the City Engineer, to which reference is hereby made for further particulars. The prevailing rate of per diem wages will be made available to any interested party upon request, and a copy thereof shall be posted by the Contractor at the job site. The Contractor shall comply with the provisions of Article 2, Chapter 1, Part 7, Division 2 (commencing with Section 1770) of the California Labor Code, and particularly Sections 1775 and 1776 thereof.

6. **Hours of Labor:** The Contractor shall forfeit, as penalty to the City, Fifty dollars (\$50.00) for each worker employed in the execution of the Contract by him or by any subcontractor, for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, if the Contractor is in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2 (commencing with Section 1810) of Labor Code.

7. **Apprentices:** The Contractor shall be responsible for compliance with provisions of Labor Code Section 1777.5 for all apprenticeable occupations. In accordance with the provisions of said Section 1777.5, and in accordance with the rules and procedures of the California Apprenticeship Council, properly indentured apprentices shall be employed in the prosecution of the work. The ratio of apprentices to journeymen who shall be employed in the respective crafts or trades may be the ratio stipulated in the contract under which the apprenticeship committee operates, but in no event shall the ratio be less than one apprentice for each five journeymen, except as otherwise provided pursuant to said Section 1777.5. Willful failure by the Contractor to comply with said Section 1777.5 shall result in his being denied the right to bid on a public works contract for a period of one year from the date the determination of noncompliance is made by the Administrator of Apprenticeship and the imposition of civil penalties, as more particularly set forth in Section 1777.7 of said Labor Code.

Information relative to the number of apprentice standards, wage schedules, and other requirements shall be obtained from the Director of the Department of Industrial Relations, ex officio the

Administrator of Apprenticeship, San Francisco, California, or from the division of Apprenticeship Standards and its branch offices.

8. **Labor Discrimination:** Attention is directed to Section 1735 of said Labor Code, which reads as follows:

“No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin or ancestry, physical handicap, medical condition, marital status or sex of each persons, except as provided in Section 12940 of the Government Code, and section is subject to all the penalties imposed for a violation of this chapter.”

9. **Worker’s Compensation Insurance:** In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700 of said Labor Code), the Contractor is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Worker’s Compensation Insurance.

By execution hereof, the undersigned Contractor certifies that he is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker’s Compensation or to undertake self-insurance in accordance with the provisions of that Code, and performance of the work of this contract.

10. **Ineligible Contractors:** Contractor is expressly prohibited from employing any “ineligible subcontractors” (as defined in Labor Code Section 1777.1) on the project described herein.

11. **Attorneys’ Fees:** In the event that the City is required to bring legal action against Contractor related to this agreement, the City, if determined to be the prevailing party, shall be entitled to recover its attorney’s fees from Contractor.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officers, thereunto duly authorized, all as of the day and year first above written.

CITY OF CLAYTON

Contractor

By: _____
Mayor

By: _____

By: _____
"Contractor"

Attest: _____
By: City Clerk

_____ Street Address

Approved as to Form & Procedure

_____ City

_____ Mailing Address (if different)

_____ City Attorney

_____ P.O. Box

_____ City

_____ Contact Person

_____ Telephone Number

_____ Federal Tax I.D. Number

LEGAL RELATIONS AND RESPONSIBILITIES

Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties not parties to this contract or affect the legal liability of either party to the contract by imposing any standard of care different from the standard of care imposed by law.

It is understood and agreed that neither the City of Clayton ("City") nor any officer or employee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by _____ (Contractor") under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement. It is understood and agreed that pursuant to Government Code Section 895.4 Contractor shall defend, indemnify and save harmless the City, its officers and employees from all claims, suits or actions of every name, kind and description brought for or in account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by the Contractor under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement.

The Contractor waives any and all rights to any type of express and implied indemnity and defense against the City, its officers and employees arising from any work, authority or jurisdiction delegated to the Contractor under this agreement.

Executed on _____, 2012

NAME OF CONTRACTOR

By _____

TITLE

ATTACHMENT 1

<u>BASE BID: CLAYTON ROAD MEDIAN PROJECT</u>					
<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
<u>IRRIGATION</u>					
1	Demolition	1	LS	7,700	\$7,700.00
1	Irrigation Controller	2	EA	17,000	34,000.00
2	Irrigation Controller Enclosure	1	EA	6,000	6,000.00
3	2 ½ ", Sch. 40, PVC Irrigation Main	160	LF	4.10	656.00
4	2", CL. 200, PVC Irrigation Lateral	110	LF	3.45	379.50
5	1 ½ ", CL 200, PVC Irrigation Lateral	200	LF	1.70	340.00
6	1 ¼ ", CL 200, PVC Irrigation Lateral	450	LF	1.40	630.00
7	1", CL 200, PVC Irrigation Lateral	1,000	LF	1.00	1,000.00
8	¾", CL 200, PVC Irrigation Lateral	1,500	LF	0.70	1,050.00
9	1 ½ ", Sch. 40, PVC Irrigation Lateral	50	LF	1.70	85.00
10	1 ¼ ", Sch. 40, PVC Irrigation Lateral	220	LF	1.40	308.00
11	1", Sch. 40, PVC Irrigation Lateral	900	LF	1.00	900.00
12	¾", Sch. 40, PVC Irrigation Lateral	600	LF	0.90	540.00
13	2" Remote Control Valve & Box	10	EA	1,000	10,000.00
14	1 ¼ " Remote Control Valve & Box	4	EA	900	3,600.00
15	2 ½ " Gate Valve (NIBCO) & Box	7	EA	830	5,810.00
16	Rainbird Nozzle w/12" Body	360	EA	70	25,200.00
17	Rainbird Bubbler	89	EA	27	2,403.00
18	Quick Coupler & Box	10	EA	275	2,750.00
19	Irrigation Splice Box	5	EA	70	350.00
20	14 AWG Direct Burial Wires	2,400	LF	1.35	3,240.00
20	PVC Sleeves – installed by jacking	100	LF	50	5,000.00
	<u>SUBTOTAL IRRIGATION:</u>				\$111,941.50

<u>RECESSED PLANTERS</u>					
21	Planter No. 2	1	LS	5,700	\$5,700.00
	Planter No. 3	1	LS	4,000	4,700.00
	Planter No. 4	1	LS	3,000	3,000.00
	<u>SUBTOTAL RECESSED PLANTERS:</u>				\$12,700.00
<u>CONCRETE BAND</u>					
	Concrete Band	16	LF	11	\$176.00
	<u>SUBTOTAL CONCRETE BAND:</u>				\$176.00
<u>BRICK PAVERS</u>					
	Brick Pavers	1,500	SF	9	\$13,500.00
	<u>SUBTOTAL BRICK PAVERS:</u>				\$13,500.00
<u>MAINTENANCE STRIP</u>					
	Header Board	3,038	LF	5.45	\$16,557.10
	Class II AB	60	T	125	7,500.00
	Crushed Gold Rock	325	T	80	26,000.00
	Weed Barrier	3,038	SF	0.35	1,063.30
	<u>SUBTOTAL MAINTENANCE STRIP:</u>				\$51,120.40
<u>LIGHTING AND ELECTRICAL</u>					
	10 AWG Wire	2,000	LF	1.45	\$2,900.00
	12 AWG Wire	500	LF	1.70	850.00
	1 ½", Sch. 40, PVC Conduit	360	LF	6.50	2,340.00
	¾", Sch. 40, PVC Conduit	140	LF	15	2,100.00
	N9 Christy Box	4	EA	250	1,000.00
	LED Fixture	15	EA	585	8,775.00
	<u>SUBTOTAL LIGHTING/ELECTRICAL:</u>				\$17,965.00
<u>PLANTING</u>					
	Groundcover	8,000	SF	1.35	\$10,800.00
	1 Gallon Shrub	556	EA	6.85	3,808.60
	5 Gallon Shrub	503	EA	20	10,060.00
	15 Gallon Tree	37	EA	100	3,700.00

	Specimen Oak Tree – 60” Box	4	EA	4,000	16,000.00
	Specimen Oak Tree – 72” Box	1	EA	8,200	8,200.00
	Plant Establishment Period	1	LS	2,700	2,700.00
	<u>SUBTOTAL PLANTING:</u>				\$55,286.60
<u>SIGNAGE</u>					
	Relocate Street Sign	1	EA	400	\$400.00
	<u>SUBTOTAL SIGNAGE</u>				\$400.00
	<u>BASE BID TOTAL AMOUNT</u>				\$263,071.50
<u>ADDITIVE BID ITEM 1: CVS RETAINING WALL LANDSCAPING WORK</u>					
<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
<u>IRRIGATION</u>					
	2”, Sch. 40, PVC Irrigation Lateral	40	LF	6	\$240.00
	1-1/2”, Sch. 40, PVC Irrigation Lateral	40	LF	5	200.00
	1-1/4”, Sch. 40, PVC Irrigation Lateral	60	LF	4.5	270.00
	1”, Sch. 40, PVC Irrigation Lateral	180	LF	40	7,200.00
	¾”, Sch. 40, PVC Irrigation Lateral	180	LF	3	540.00
	2” Remote Control Valve & Box	3	EA	1,600	1,600.00
	2” Gate Valve (NIBCO) & Box	1	EA	1,400	1,400.00
	Rainbird Bubbler	116	EA	70	8,120.00
	Quick Coupler & Box	1	EA	700	700.00
	Irrigation Splice Box	1	EA	100	100.00
	<u>SUBTOTAL IRRIGATION:</u>				\$23,570.00
<u>PLANTING</u>					
	1 Gallon Shrub	30	EA	8	\$240.00
	5 Gallon Shrub	82	EA	30	2,460.00
	15 Gallon Tree	4	EA	150	600.00
	Plant Establishment Period	1	LS	770	770.00
	<u>SUBTOTAL PLANTING:</u>				\$4,070.00
	<u>ADDITIVE BID ITEM 1 TOTAL AMOUNT:</u>				\$27,640.00

Gary Napper

From: HAYDON JR., KEITH <kh5149@att.com>
Sent: Friday, March 30, 2012 1:49 PM
To: gnapper@ci.clayton.ca.us
Cc: jenngv@comcast.net; James Diaz; John Garrett; Edward E. Hartley;
 amy@adellingerevents.com
Subject: CBCA response on Daffodil Hill

Hi Gary,

Although the CBCA Executive Board and Daffodil Hill Committee have not had a chance to meet and discuss the bids in detail, and our next steps, our preliminary review of the materials has raised a number of fundamental questions regarding the wildly inconsistent bids received, where it is difficult to imagine that three contractors were bidding on the same set of specifications. Needless to say, these questions, in light of the \$51,900 bid from Stockbridge, which was nearly twice what the low bid was in this round of bidding (which low bid was not coupled with the low bid for the "core" portion of the bid, and substantially more than the more informal cost estimates previously received) indicate that it does not look like the CBCA Board or Daffodil Hill Committee will recommend approval of the Daffodil Hill bid that was included in the bid from Stockbridge General Contracting. Once we have a more complete picture of these inconsistencies, the CBCA will again need to meet with City staff to review our options in completing this project at something approaching a reasonable cost, working with, or without, the city's involvement, or to cut our losses and abandon the project completely.

I will get back to you when the CBCA has finalized our next steps. Thank you for your assistance with this project.

Keith Haydon
 Senior Contract Manager
 AT&T Services, Inc.
 925-824-5898 Tel
 925-866-9317 Fax
kh5149@att.com

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From: Gary Napper [<mailto:gnapper@ci.clayton.ca.us>]
Sent: Friday, March 30, 2012 10:15 AM
To: HAYDON JR., KEITH
Subject: RE: CBCA response on Daffodil Hill

Sure – the sooner the better. Is it safe for us to build our staff report around the prospect that CBCA does not wish the Council to award the Daffodil Hill project to the base low bidder?

GARY A. NAPPER
 City Manager
 6000 Heritage Trail

Clayton, CA 94517-1250
925.673-7300
www.ci.clayton.ca.us



From: HAYDON JR., KEITH [<mailto:kh5149@att.com>]
Sent: Friday, March 30, 2012 10:06 AM
To: gnapper@ci.clayton.ca.us
Subject: RE: CBCA response on Daffodil Hill

Hi Gary,
When do you need our response? I have sent a draft response to the Board and will get back to you shortly. Is that okay?

Keith Haydon
Senior Contract Manager
AT&T Services, Inc.
925-824-5898 Tel
925-866-9317 Fax
kh5149@att.com

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From: Gary Napper [<mailto:gnapper@ci.clayton.ca.us>]
Sent: Friday, March 30, 2012 9:47 AM
To: HAYDON JR., KEITH
Subject: CBCA response on Daffodil Hill
Importance: High

Keith:
Staff must put together a staff report for the Agenda Packet today on the recent bid. Would you be able to provide me something in writing for inclusion in that Packet regarding CBCA's wishes on the Daffodil Hill bid?
Thanks,

GARY A. NAPPER
City Manager
6000 Heritage Trail
Clayton, CA 94517-1250
925.673-7300
www.ci.clayton.ca.us



Agenda Date: April 3, 2012

Agenda Item: 9b

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Laura Hoffmeister, Assistant to the City Manager

DATE: April 3, 2012

SUBJECT: Consideration of an evergreen contract with Pacific Coast Farmers' Market Association for automatic renewal of its management and operation of the annual seasonal Clayton Farmers Market in the Clayton Town Center.

RECOMMENDATION

It is recommended, that the City Council authorize the City Manager to execute the Agreement for Professional Services with Pacific Coast Farmers Market Association (PCFMA) for its management and operation of the event with the contract in perpetuity, i.e.: "evergreen", unless either party provides advance written notice of cancellation.

BACKGROUND

The City's annual seasonal farmers market located in downtown on Diablo Street has been provided by Pacific Coast Farmers Market Association since May 2008. The City initially issued RFP's and Pacific Coast was the only responder. In November 2007 the City Council approved a one-year trial contract with Pacific Coast Farmers Market to manage and operate the event. In January 2009, after the initial year, per the contract terms, the City Council authorized a three- year contract. In The overall contract term ended in 2011. The Farmers Market is a turn key operation managed by Pacific Coast Farmers Market Association. The event venue runs from the first Saturday after Art and Wine through the last Saturday in October, except for the Saturdays where the Soap Box Derby and the Oktoberfest are held. In the first year the market hours were initially was established to run 9 am to 1pm. Based upon feedback from the community and vendors after the first year the market hours were changed to 8am to Noon.

Farmers Markets are markets where local farmers can sell their value rated product to the public. They are usually held outdoors and in public places. Per Section 11372 of California Retail Food Law, "a certified farmers market means a location that is certified by the State of California through the enforcement of officers of the county Agricultural Department and operated pursuant to the state codes and local health regulations." Under California law, farmers may only sell directly to consumers (.ie.: the public rather

than to wholesalers or retailers or resellers) only at the point of or near production (i.e.: on or near their farm land such as road side stands) or in an area certified by a county Agricultural Commissioner for the sale of farm products -- this is referred to as a "certified farmers market". Only California grown agriculture may be sold in a certified farmers market in California. These products include fruits, vegetables, greens, nuts, herbs, berries, eggs, flowers, nursery stock and honey. Most farmers markets also have an adjacent area in which complementary items are sold such as breads, pastries, sauces and prepared foods. These complementary items are regulated and inspected by only the county health department. California law also states that certified farmers markets can only be operated through local governments, certified producers/farmers, or nonprofit organizations.

DISCUSSION

In general the Pacific Coast Farmers Market director and market managers are pleased with the response they received in Clayton and the location. Staff has personally met or contacted most of the business owners downtown along Main Street (exceptions for TLC Pet Grooming, Hair/Nail Salon, and Dentist) and Diablo Streets. Of all the businesses contacted all were very supportive of continuing the Farmers Market on Diablo Street.

Some of the key aspects of the agreement include:

- Start date to be the first Saturday each May after Art and Wine.
- End date to be last Saturday each October.
- No market on the Oktoberfest weekend and Soap Box Derby weekend.
The market was tried on these event dates in 2008 to see if there could be some synergy created in the downtown. Unfortunately the logistics were more problematic than anticipated and there was not sufficient patronage to compete with the larger community events. The feedback from the merchants at the market indicated that they will not come on those event dates. PCFMA is therefore not planning to schedule a market on those two Saturdays.
- City or CBCA may provide and supply PCFMA with business directory guides to make available to market patrons.
On several occasions customers would ask about location of other businesses/restaurants; however the merchants and market manager did not have any information that they could provide. The other communities that PCFMA serves have business guides/directories with maps etc. that are made available to the public at their info booth and at other merchant booths.
- The market will continue to offer opportunity for a backyard farmer booth (provided the booth sponsor obtain appropriate insurance) and the rotating Merchant/Community group at a Market booth. These opportunities have been available although very few community groups or merchants have taken advantage of this. There may be need to further outreach information to the community about these options to see if more interest can be established.

-
- Advertising will continue to be done by PCFMA in the Clayton Pioneer and Concord Transcript.
 - PCFMA also has email list that it uses to send out it sends announcements and information and a web site. The City has a link on its web site to the PCFMA site. The City also puts announcement of Farmers Market dates/time on its web site.
 - The PCFMA will also attempt to continue having some sort of background music component as they have in the past as well as periodic children activities i.e.: face painting, balloons, bounce house etc.
 - PCFMA will continue to provide appropriate insurance coverage and policy endorsements to the City, including naming the City as an additional insured.

ANALYSIS

Staff believes the operation and management of the Downtown Clayton farmers market that has been provided by Pacific Coast Farmers Market Association since 2008 has been meeting the community needs, interest and expectations. Continuation of an ongoing “evergreen” contract with PCFMA will allow for the market to continue uninterrupted at no cost to the City. PCFMA will continue to be available to come to a City Council meeting at least annually to receive any feedback. As to the market itself the target is to continue to have about 16-24 vendors providing a mixture or variety of seasonal produce. They will also make every attempt to include some “certified organic” vendors.

The proposal by the PCFMA includes providing:

- a turn-key operation
- no cost to the City of Clayton
- all insurance for organization and vendors.
- All event staffing, set up/street closure, take down/clean up.
- event site manager/coordinator
- marketing/promotions in advertising of the event
- all necessary health department and agriculture department permit approvals.

The City would be responsible for providing at no cost to the PCFMA:

- use of Diablo Street,
- use of the three community banner poles for Farmers Market banner (Oak St/Clayton Rd; Clayton Rd. median/Westwood; Oakhurst Blvd/Yolanda Cir)
- use of and pre-deployment and post pick- up of City barricades/cones for street closures,
- any supplemental advertising the City might want to undertake as part of its economic development efforts.
- Ongoing “evergreen” agreement with a 30-day cancellation clause by either party.

PCFMA, a Bay Area non-profit organization, has been providing farmers markets in the Bay Area for over 20 years, and operates markets in eight cities in Contra Costa County area including Danville, Walnut Creek-Kaiser, Concord and Martinez.

PCFMA is a full service organization with 22 staff persons. There is not any fee they collect from the City to operate a farmers market, however it requires the City to provide the market space for free. They receive their funding through their member/vendor fees. Their approach is that each community is different and they provide an approach where they work directly with the community so the market reflects what the community desires. "They market to have the feel of community ownership." They operate their own web site which includes the market information for each city that they serve.

OPERATIONS AND MANAGEMETN AGREEMENT RESPONSIBILITIES

The Agreement obligates PCFMA to develop, organize, operate, maintain, and manage a Certified Farmers' Market in Clayton.

PCFMA's obligations are set forth in the Annual Management, Operating, and Marketing Plan attached to the Agreement as Exhibit A of Attachment 1. These obligations are summarized below:

- Manage and operate the market providing the optimum number of farmers and non-agricultural vendors. The target number for the Saturday morning market is 18-25 farmers and 3-5 non-agricultural producers.
- Recruit eligible vendors who provide quality products and excellent customer service. Vendors are required to comply with State and County regulations and PCFMA will enforce the City's no-smoking policy at the market as a public venue.
- Secure all necessary permits and certificates and enforce all state and local agricultural and health regulations.
- Develop and implement market-day systems in coordination with the City including signage, information booth, vendor parking and stall location, traffic safety, market security, and clean-up.
- Implement an aggressive marketing and promotional program. PCFMA proposes to utilize local paper advertisements in the Clayton Pioneer and special events in the Contra Costa Times/Concord Transcript.
- Maintain liaison with City Staff, City Police, the County Agricultural Commissioner, and downtown businesses.

The City's obligations under the Agreement are to assist PCFMA with market outreach and to fulfill obligations for the Saturday market detailed in the Proposal dated March 21, 2008. No monetary support will be provided to PCFMA. City responsibility under the Plan for the Saturday Morning markets includes:

- Provide Police presence, when necessary
- Coordinate trash and recycling pick-up with the PCFMA event manager
- Make parking barricades/cones available to the market manager

FISCAL IMPACT

The City provides no monetary payment to PCFMA to operate the market. PCFMA is responsible for operating and maintaining the market area and for posting appropriate signage for street closure parking and traffic direction. There has been no fiscal impact to the City of Clayton except for the occasional color copies of flyers that are placed at City Hall, Library and posting boards, and updating the market event banners as needed.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a final Agreement.

Attachment: 1. Correspondence from PCFMA
 2. Agreement



Pacific Coast Farmers' Market Association

A non-profit community services organization

March 30, 2012

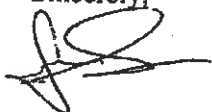
Laura Hoffmeister
Assistant to the City Manager
6000 Heritage Trail
Clayton, CA 94517

Dear Laura:

All of us at PCFMA are requesting to operate the Clayton Certified Farmers' Market for the 2012 season and beyond. We recommend operating at the same location beginning May 12, 2012 and ending Oct 27, 2012. The day of the week would remain the same, every Saturday, 8 am until 12 pm, we also know there are dates that the market will be closed for Clayton events (dates to be determined). Furthermore we have been successfully operating the market since 2008 and the current agreement expired with the end of the 2011 season, therefore we are asking for a new agreement starting in time for the 2012 season with the same language as the previous agreement except without an expiration clause. We would be fine with having a two week termination for cause, and a 30 day termination for any other reason. We feel this agreement allows the City to monitor the farmers' market and provides an efficient use of limited staff time for future extensions of the agreement.

We look forward to continuing to serve the Clayton Community.

Sincerely,



John Silveira

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT ("Agreement") is entered into on _____, 2012 between the City of Clayton (the "CITY") and **Pacific Coast Farmers' Market Association, 5060 Commercial Circle, Ste A., Concord, CA 94520** (the "ASSOCIATION").

THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings and intentions:

The CITY desires to contract with **Pacific Coast Farmers' Market Association** and **Pacific Coast Farmers' Market Association** to contract with the CITY for provision by **Pacific Coast Farmers' Market Association** to the CITY for services as further described herein, including Exhibit A, and Exhibit B attached and incorporated by reference, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the parties herein contained, the parties hereto agree as follows:

1. **Effective Date.** The effective date of this Agreement is _____.

2. **Services.** ASSOCIATION shall provide the basic services described in detail in Exhibit A, Farmers Market Annual Management Operating and Marketing Plan, and Exhibit B, Site Layout and Proposal dated March 21, 2008, attached hereto and made a part hereof.

3. **Amendment.** If authorized by the CITY, the ASSOCIATION shall furnish additional services, which are in addition to the basic services. If additional services are requested by the CITY, this Agreement may be amended, modified, or changed by the parties subject to mutual consent and in accordance with the Municipal Code by execution of an addendum by authorized representatives of both parties setting forth the additional scope of services to be performed, the performance time schedule, and the compensation for such services.

4. **Authorized Representatives.** Authorized representatives shall represent the CITY and the ASSOCIATION in all matters pertaining to the services to be ordered by the CITY or rendered by the ASSOCIATION under this Agreement except where approval for the CITY is specifically required by the City Council. All requirements of the CITY pertaining to the services to be rendered under this Agreement by the ASSOCIATION shall be submitted through these representatives and the CITY shall cooperate with the ASSOCIATION in all matters relating to this

1 Agreement in such a manner as will result in the performance of such work without delay.

2 The CITY authorized representative is the Assistant to the City Manager, currently Laura
3 Hoffmeister. The ASSOCIATION authorized representative is the Executive Director, currently John
4 Silveira.

5 **5. Compensation.** ASSOCIATION shall not be compensated for basic services
6 rendered.

7 **6. Term.** The term of this Agreement, subject to termination as set forth in Section 13,
8 shall ongoing except that either party may cease with 30 calendar days written notice

9 **7. Standard of Performance.** ASSOCIATION represents to CITY that the services shall
10 be performed in an expeditious manner, and with the degree of skill and care that is required by
11 current, good, and sound procedures and practices. ASSOCIATION further agrees that the services
12 shall be in conformance with generally accepted professional standards prevailing at the time work is
13 performed.

14 **8. Performance by Association.** ASSOCIATION shall not employ other consultants or
15 contractors without the prior written approval of the CITY. ASSOCIATION hereby designates the
16 ASSOCIATION'S representative as the person primarily responsible for the day-to-day performance
17 of ASSOCIATION'S work under this Agreement. ASSOCIATION shall not change the
18 ASSOCIATION'S representative without the prior consent of the CITY. Unless otherwise expressly
19 agreed by the CITY, ASSOCIATION'S representative shall remain responsible for the quality and
20 timeliness of performance of the services, notwithstanding any permitted or approved delegation
21 hereunder.

22 **9. Ownership and Maintenance of Documents.** All documents furnished by
23 ASSOCIATION pursuant to this Agreement are instruments of ASSOCIATION's services in respect
24 to this project. They are not intended nor represented to be suitable for reuse by others on extensions
25 of this project or on any other project. Any reuse without specific written verification and adoption by
26 ASSOCIATION for the specific purposes intended will be at user's sole risk and without liability or
27 legal exposure and expenses to ASSOCIATION, including attorney's fees arising out of such
28 unauthorized reuse.

ASSOCIATION's records, documents, calculations, and all other instruments of service

1 pertaining to actual project shall be given to CITY at the completion of the project. The CITY reserves
2 the right to specify the file format that electronic document deliverables are presented to the CITY. If
3 agreement is terminated per Section 13, deliverables shall be provided based on Section 13
4 requirements.

5 **10. Indemnification.** ASSOCIATION agrees to defend, indemnify and hold harmless the
6 CITY, its officers, agents, employees and volunteers from and against any and all claims, demands,
7 actions, losses, damages, injuries, and liability (including all attorney's fees and other litigation
8 expenses) arising out of the negligent acts or omissions of ASSOCIATION in the performance of this
9 Agreement.

10 **11. Insurance.** ASSOCIATION shall, at its own expense, procure and maintain in full
11 force at all times during the term of this Agreement the following insurance:

12 **A. Commercial General Liability Coverage.** ASSOCIATION shall maintain
13 commercial general liability insurance with limits of no less than one million dollars
14 (\$1,000,000) combined single limit per occurrence or two million dollars (\$2,000,000)
15 aggregate limit for bodily injury, personal injury, and property damage.

16 **B. Automobile Liability Coverage.** ASSOCIATION shall maintain automobile liability
17 insurance covering all vehicles used in the performance of this Agreement providing a One
18 Million Dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal
19 injury, and property damage.

20 **C. Compliance with State Workers' Compensation Requirements.** ASSOCIATION
21 covenants that it will insure itself against liability for Workers' Compensation pursuant to the
22 provisions of California Labor Code §3700, et seq. ASSOCIATION shall, at all times, upon
23 demand of the City Council and properly authorized agents, furnish proof that Workers'
24 Compensation Insurance is being maintained by it in force and effect in accordance with the
25 California Labor Code.

26 **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to contain
27 the following provisions:

28 (1) CITY, its officers, agents, employees, and volunteers are to be covered
as additional insureds as respects: Liability arising out of activities performed by or on

1 behalf of ASSOCIATION and operations of ASSOCIATION, premises owned,
2 occupied, or used by ASSOCIATION. The coverage shall contain no special
3 limitations on the scope or protection afforded to CITY, its officers, officials,
4 employees, or volunteers.

5 (2) ASSOCIATION'S insurance coverage shall be primary insurance with
6 respect to CITY, its officers, officials, employees, and volunteers. Any insurance, risk
7 pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
8 employees, or volunteers shall be in excess of ASSOCIATION 'S insurance and shall
9 not contribute with it.

10 (3) Any failure to comply with the reporting provisions of the policy shall
11 not affect the coverage provided to the CITY, its officers, officials, employees, or
12 volunteers.

13 (4) The aforementioned policies shall be issued by an insurance carrier
14 having a rating of Best A-7 or better which is satisfactory to the City Attorney and
15 shall be delivered to CITY at the time of the execution of this Agreement or as
16 provided below. In lieu of actual delivery of such policies, a Certificate issued by the
17 insurance carrier showing such policy to be in force for the period covered by the
18 Agreement may be delivered to CITY. Such policies and certificates shall be in a form
19 approved by the City Attorney. Except for worker's compensation and professional
20 liability insurance, the policies mentioned in this subsection shall name CITY as an
21 additional insured and provide for thirty (30) days notice of cancellation to CITY. Said
22 policies shall not be canceled earlier than, nor the amount of coverage reduced earlier
23 than, thirty (30) days after the CITY receives notices from the insured of the intent of
24 cancellation or reduction.

25 (5) A waiver of subrogation stating that the insurer waives all rights of
26 subrogation against the indemnified parties.

27
28 **12. Suspension of Work. CITY may, at any time, by ten (10) days' written notice,**
suspend further performance by ASSOCIATION. All suspensions shall extend the time

1 **schedule for performance in a mutually satisfactory manner.**

2 **13. Termination.** CITY may terminate this Agreement for cause upon ten (10) days written
3 notice to the other party. CITY may terminate the Agreement upon five (5) days written notice if
4 ASSOCIATION breaches this Agreement.

5 **14. Compliance with Civil Rights.** During the performance of this contract,
6 ASSOCIATION agrees as follows:

7 **A. Equal Employment Opportunity.** In connection with the execution of this
8 Agreement, ASSOCIATION shall not discriminate against any employee or applicant for
9 employment because of race, religion, color, sex, or national origin. Such actions shall include,
10 but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer;
11 recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of
12 compensation; and selection for training including apprenticeship.

13 **B. Nondiscrimination Civil Rights Act of 1964.** ASSOCIATION will comply with all
14 federal regulations relative to nondiscrimination in federally assisted programs.

15 **C. Solicitations for Subcontractors including Procurement of Materials and**
16 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
17 ASSOCIATION for work to be performed under a subcontract including procurement of
18 materials or leases of equipment, each potential subcontractor, supplier or lessor shall be
19 notified by ASSOCIATION of ASSOCIATION'S obligation under this Agreement and the
20 regulations relative to nondiscrimination on the grounds of race, religion, color, sex, or
21 national origin.

22 **15. Independent Contractor.** In assuming and performing the services, ASSOCIATION
23 is an independent contractor and shall not be eligible for any benefits, which the City may provide its
24 employees, except as expressly provided for in the Agreement. All persons, if any, hired by
25 ASSOCIATION shall be employees or subcontractors of ASSOCIATION and shall not be construed
26 as employees or agents of the City in any respect. ASSOCIATION shall have responsibility for and
27 control over the means of providing services under this Agreement.

28 **16. Compliance with Laws.** ASSOCIATION shall comply with all applicable Federal,
State of California, and local laws, rules, and regulations and shall obtain all applicable licenses and

1 permits for the conduct of its business and the performance of the services.

2 **17. Choice of Laws.** This Agreement shall be construed and interpreted in accordance
3 with the laws of the State of California, excluding any choice of law rules which may direct the
4 application of the laws of another jurisdiction.

5 **18. Non-Waiver.** The waiver by either party of any breach of any term, covenant, or
6 condition contained in the Agreement, or any default in their performance of any obligations under the
7 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other
8 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default
9 constitute a continuing waiver of same.

10 **19. Enforceability.** In the event that any of the provisions or portions of application of
11 any of the provisions of the Agreement are held to be illegal or invalid by a court of competent
12 jurisdiction, CITY and ASSOCIATION shall negotiate an equitable adjustment in the provisions of
13 the Agreement with a view toward effecting the purpose of the Agreement. The illegality or invalidity
14 of any of the provisions or portions of application of any of the provisions of the Agreement shall not
15 affect the legality or enforceability of the remaining provisions or portions of application of any of the
16 provisions of the Agreement.

17 **20. Integration and Interpretation.** The Agreement contains the entire agreement and
18 understanding between the parties as to the subject matter of this Agreement. It merges and supersedes
19 all prior or contemporaneous agreements, commitments, representation, writings, and discussions
20 between ASSOCIATION and CITY, whether oral or written. In the event that any provision of this
21 Agreement is inconsistent with any provision in Exhibit "A" or "B", the provisions of this Agreement
22 shall control.

23 **21. Successors and Assigns.** CITY and ASSOCIATION respectively, bind themselves,
24 their successors, assigns, and legal representatives. ASSOCIATION shall not assign or transfer any
25 interest in the Agreement without the CITY's prior written consent, which consent shall be in the
26 CITY's sole discretion. Any attempted assignment or transfer in breach of this provision shall be void.

27 **22. Attorney's Fees.** If either party to this Agreement commences any legal action against
28 the other party arising out of this Agreement, the prevailing party shall be entitled to recover its
reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and

attorney's fees.

23. Financial Records. Records of ASSOCIATION's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to CITY if and when required.

24. Notices. All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY's address as shown below, or such other places as CITY or CONSULTANT may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY

**City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517
Phone: (925) 673-7300
Fax: (925) 672-4917**

To CONSULTANT

**Executive Director
Pacific Coast Farmers' Market Assoc.
5060 Commercial Circle Ste A
Concord, CA 94520
Phone: (925) 825-9090
Fax: (925) 825-9101**

IN WITNESS WHEREOF, the parties have executed this Agreement in one (1) or more copies as of the date and year first written above.

ASSOCIATION

CITY OF CLAYTON,

By: _____
Name: John Silveira
Title: Executive Director
Address: 5060 Commercial Circle Ste A
Concord, CA 94520
Telephone: (925) 825-9090

By: _____
Name: Gary Napper
Title: City Manager
Address: 6000 Heritage Trail
Clayton, CA 94517
Telephone: (925) 673-7300

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

Date: _____, 2012

Date: _____, 2012

Exhibit A

Clayton Farmers' Market Annual Management, Operating, and Marketing Plan

I. Management and Operations

A. Responsibilities of PCFMA

1. Provide Management and secure necessary permits to operate in accordance with applicable laws.
2. Maintain liaison with Clayton Police and County Agriculture Commissioner. Meet with City Staff and provide requested reports as needed.
3. Recruit eligible producers whom:
 - a. Provide quality products
 - b. Provide a good mix of products with a target of 18-25 vendors, including making good faith effort to include certified organic and gourmet vendors (i.e., cheese, smoked salmon, sausage)
 - c. Provide excellent customer service
 - d. Adhere to all health and safety issues
4. Assure producer compliance with:
 - a. State and County rules and regulations
 - b. Adhere to PCFMA market rules regarding
 - 1) Product quality
 - 2) Attractive appearance
 - 3) Appropriate clean-up procedures
 - 4) Non-agricultural criteria
 - c. No-Smoking policy
5. Implement market-day systems in compliance with the terms of Pacific Coast Farmers' Market Diagram Plan as may be modified by the City for Diablo Street and any other city permit conditions.
 - a. Stall Locations – Diablo Street
 - b. Parking – place all no parking signs and street closure signs at location determined by City maintenance Supervisors
 - c. Information Booth and Manager Access
 - 1) Manager is physically present at all markets and wears distinguishing attire so as to be easily identified
 - 2) Information booth is fully staffed
 - 3) Providing added value items of interest to customers (product information, recipes)

- d. Signage
 - 1) Placement and size of signs are subject to City staff approval prior to initiating market operations
 - 2) Signs will be professionally manufactured
 - 3) If market time changes, PCFMA will pay the cost of replacing signs
 - 4) City shall make available the banner pole locations for the farmers market
- e. Monitor traffic safety
- f. Market security - PCFMA management will report security problems to Clayton Police.
- g. Clean up of site – Street and general surrounding area to be returned back to condition that existed prior to market
- 6. Include performance measure into year end reports including:
 - a. Conduct one customer survey per market annually and report survey results in Annual Report submitted to the City.
 - b. Inventory vendors for selection of produce to insure variety and diversity of produce.

B. Responsibilities of City of Clayton

- 1. Assist PCFMA with market outreach
 - a) Provide PCFMA with list of elected officials, city staff, and other interested citizens
 - b) Include the Farmers' Market operating hours and a description of the site in the City web site and web site link City newsletter and other appropriate publications
- 2. Provide a police presence at the market, if necessary.
- 3. Coordinate trash pick-up, if necessary.
- 4. Make barricades/cones available to the market manager.

II. PCFMA Marketing and Promotion Responsibilities

A. General

- 1. Advertise through web site local media and email notifications.
- 2. Work with the city and the local Health Department concerning regulations governing events that involve cooking and/or food tasting.
- 3. Organize and implement recipe contests.

B. Special Events

1. Holiday oriented themes
2. Opening Day Celebration for Market
3. Chef at the Market
4. Recipe Contests

C. Promotions

1. Fruit Tasting
2. Staffed Information Booth with educational materials, recipes, and ads
3. E-mail sign-ups for Market information
4. Web page link
8. Consumer Information (community information as well as recipes, cooking tips, etc.)

D. Advertising and Public Relations

1. Advertise market in local media to include print, cable TV, radio, direct mail and provide a media advertising schedule to City
2. Develop a public relations (media outreach) plan for the Clayton market and provide it to City staff



Pacific Coast Farmers' Market Association

A non-profit community services organization

March 21, 2008

Laura Hoffmeister
Assistant to the City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Ms. Hoffmeister:

On behalf of the Board of Directors and staff of the Pacific Coast Farmers' Market Association, I am happy to present this proposal to launch the Clayton Farmers' Market in May of 2008.

We see a farmers' market in downtown Clayton as a vibrant marketplace that serves as a gathering place for all residents. The market would provide a source of fresh and nutritious food while supporting local businesses and civic organizations. By partnering with PCFMA to bring a farmers' market to the downtown area, you would aid dozens of California farmers who would sell their products in the farmers' market, as well as many diverse elements of the local community that would benefit from the market's presence.

The attached proposal provides more detail about our vision for the farmers' market. We are ready and willing to work with you to ensure that this vision is compatible with your plans for the school and for other planned uses of the site, and work with you to make our common vision a reality.

If you have any questions about the Pacific Coast Farmers' Market Association or this proposal, please feel free to contact me at 925-825-9090. Thank you for your attention and consideration.

Sincerely,

John Silveira

John Silveira
Director

5056 Commercial Circle, Suite E • Concord, CA 94520
Ph: 925-825-9090 • Fax: 925-825-9101 • www.pcfma.com

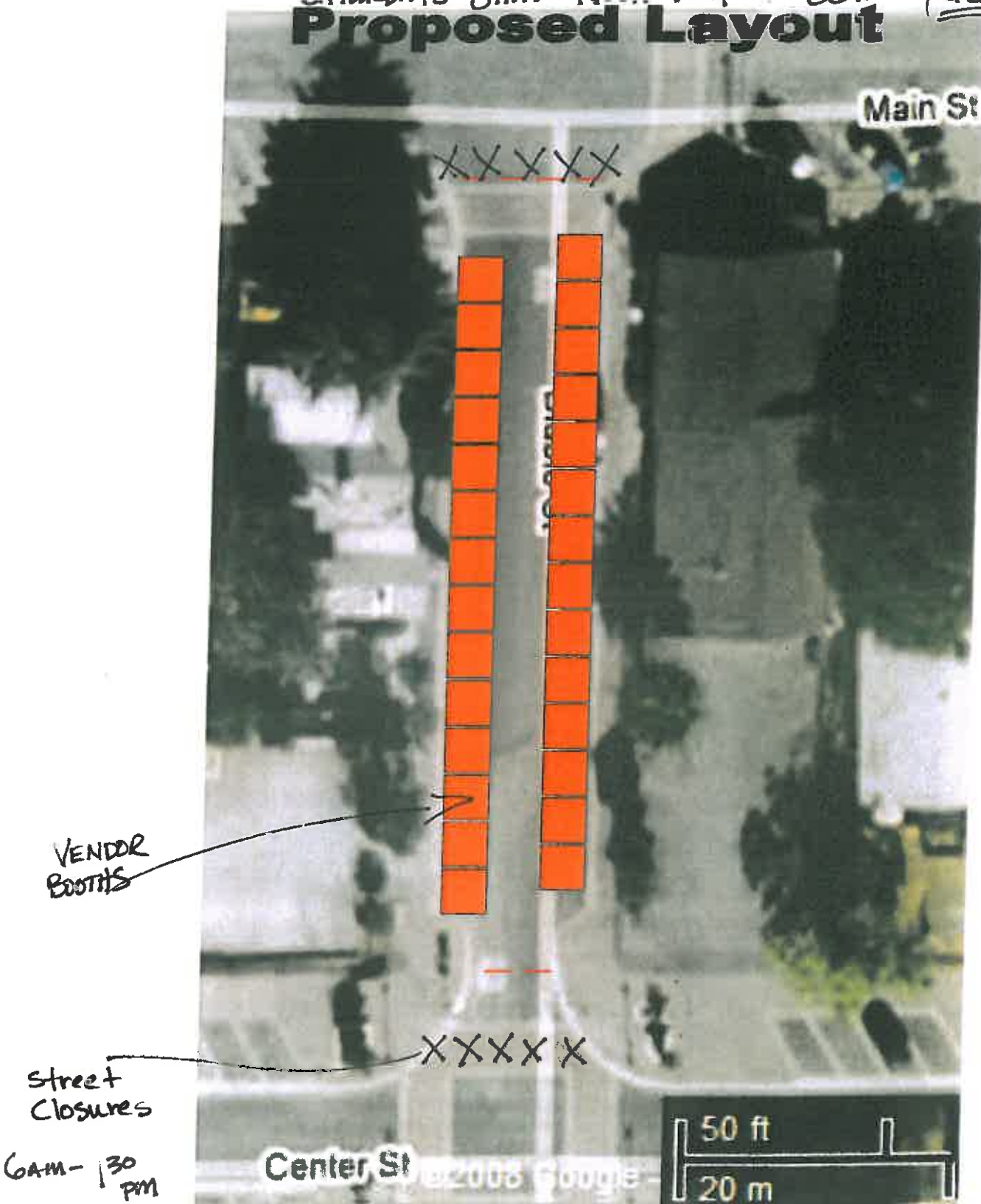
EXHIBIT "B"

Clayton Farmers' Market

SATURDAYS 8AM - Noon May - OCT.

Proposed Layout

(except for
Art n Wine
Soap Box Derby
Octoberfest
Sats)



City Maint. staff to pre-deploy barricades/cones @ Diablo/Main v Diablo/Center Sts. on FRIDAY's along w/ No Parking, after 2am on Diablo St. Sign/barricades. Main. staff will pick up Mondays. Farmers Mkt. staff will put up street closures SAT am & take down after event over. ea. SAT.



BANNER ON COMMUNITY BANNER POLE LOCATIONS
TO BE PUT UP BY CITY MAINT.



Pacific Coast Farmers' Market Association

A non-profit community services organization

March 27, 2008

Laura Hoffmeister
Assistant to the City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Laura:

Thank you for your quick response to our proposal to operate the Clayton Farmers' Market. Within this letter we have responded to your questions with additional information on our plan for the farmers' market. Please remember that we intend each of our markets to be community events that operate in partnership with the local community. If there is anything in our proposal that you are unclear about, or that you feel could be done differently to create a better outcome for the market and the Clayton community, we are happy to discuss those with you.

- *Hours of event open to public, and set up, take down time*

We propose to have the Clayton Farmers' Market open to the public from 9:00am to 1:00pm on Saturdays. We would need to take possession of the space – Diablo Street, between Main and Center Streets – by 7:00am and would reopen it to vehicular traffic by 2:00pm.

- *Is event every Saturday? Start date and end date? Is it rain or shine?*

We propose to open the Clayton Farmers' Market on Saturday, May 17 and operate every Saturday through October 25. All of our markets operate rain or shine. The only time we close a farmers' market is if the weather is so dangerous that the market cannot be operated safely. This tends to happen only in cases of heavy sustained winds.

- *Who and what expectations are there for advertising, signage for the event, who pays and does.*

We are prepared to invest up to \$3000 in advertising – primarily in the Clayton Pioneer – to promote the Clayton Farmers' Market. In addition, we will produce posters that we will distribute to local businesses and ask that they display in their establishments and flyers that they can distribute to their customers. If the City of Clayton has the resources to contribute to this effort, it would be greatly appreciated and would allow for a more thorough advertising effort.

Also, we would appreciate any in-kind contributions that the City of Clayton might be able to make, such as a link from the city's website, a mention in city newsletters, advertisements on the government access channel on the local cable networks, etc.

- *Is any city support needed for the event day, if so what type (ie: street closures? Cones? barricades??)*

We will utilize equipment for the street closure as required by your local city ordinances. Typically, this consists of metal and wooden a-frame style barricades that stand 45 inches tall and are 24 inches wide, and have orange and white reflective striping. They are likely similar to the barricades used by your public works department. These are supplemented with traffic cones to block vehicular access to the streets.

In many communities, the city asks that we use their barricades. In that case, the city stages the equipment at or near the market site for the use of PCFMA staff. In other cases, PCFMA provides the barricades. In this case, we often seek storage at or near the market site for that equipment.

- *What location will be used for the event and the general layout of that location (where would booths be where do vendor vehicles park?)*

We propose to operate the Clayton Farmers' Market on Diablo Street, between Main and Center Streets. The producers would be setup along the curb selling to a center customer aisleway down the city of Diablo Street. Please see the attached diagram for a sample setup. The actual extent of the street occupied would depend in part on the number of producers participating in the market. Please see the attached diagram for an example of the market layout.

- *What type of vendors would there be expected to have, would it only be produce or other type of vendors*

The market will consist of California farmers – certified agricultural producers – in the certified farmers' market section of the Clayton Farmers' Market. In an adjacent area, nonagricultural producers such as bakeries, hot foods, gourmet foods, and kettle corn would sell their products. PCFMA typically does not have artisan or craft areas in its markets.

PCFMA also sets aside space in its markets for local businesses to promote themselves through the Merchant at the Market program. Similarly, we set aside space for local nonprofit and community organizations to promote their services through the Community at the Market program. We also regularly welcome California Master Gardeners and Master Composters who are willing to come out and share their knowledge with market shoppers.

We hope this information helps to clarify that which was included in our initial proposal. If you have any further questions or would like to discuss any of these issues in person, please feel free to contact us.

We look forward to working with you and the City of Clayton.

Sincerely,

John Silveira

John Silveira
Director

Laura Hoffmeister

From: John Silveira [John@pcfma.com]
Sent: Thursday, March 27, 2008 1:36 PM
To: lhoffmeister@ci.clayton.ca.us
Cc: Vince Scalise; Allen Moy
Subject: Re: clayton farmers market status

The site will hold 28 stalls and we'd like to fill all of them, we'll want 18-25 producers. The producers will offload and park on Center or another location that would allow ample parking for customers, some farmers will offload and attend another market.

Organics—the answer from John is that they will do their best to try and obtain some certified organic vendors/products. It is really a function of the marketplace availability of vendors and community support. Their overall membership of certified organic growers/vendors is about 7% ... at their larger farmers market locations they have about 15-20% of the total vendors on site that are certified organics. The pricing is higher and number or vendor availability smaller and in order to entice the vendors that are certified organics they need to be assured that they are really going to make a profit at the venue. At the initial start up they hope to have at least one certified organic veggie and one cert organic fruit, again it will just all depend. 2/26=7% to get to 15-20% in Clayton out of 26 vendors would be 4-6 which would be a goal that they would strive for.

— Original Message —

From: Laura Hoffmeister
To: 'John Silveira'
Sent: Thursday, March 27, 2008 12:46 PM
Subject: RE: clayton farmers market status

I did not get a sample layout with this that you mention in your letter.
Also where would the vendor trucks park? Do you think there is enough room for both trucks and vendor tents on Diablo Street? Or would some of them or all of them park on Center street?
About how many vendors would you anticipate having in Clayton?

Laura Hoffmeister
Asst. to the City Manager - City of Clayton

LHoffmeister@ci.clayton.ca.us

4/11/2008



Pacific Coast Farmers' Market Association

5056 Commercial Circle, Suite E, Concord, CA 94520
925-825-9090 • 925-825-9101 (fax) • www.pcfma.com

A Proposal to Operate a Certified Farmers' Market in Downtown Clayton

Goals:

Through the implementation of this proposal, the Pacific Coast Farmers' Market Association seeks to accomplish five goals:

- To operate a Certified Farmers' Market in downtown Clayton in compliance with all state and local laws concerning direct agricultural marketing and the sale of fresh and processed food items.
- To set up and maintain the Farmers' Market in a manner that protects the City of Clayton from potential liability while enhancing the city's profile as a partner and supporter of the surrounding community.
- To provide a wide variety of California-grown, freshly-picked, seasonal fruits, vegetables, nuts, and greens – including a number of certified organic products – for local consumers.
- To provide an economically viable marketplace for select California Agricultural Producers and other specialty food producers.
- To use the Certified Farmers' Market to provide a community gathering space that is supportive of local civic and business organizations.

Through our pursuit of these short-term goals, we hope to achieve our long-term goal: improving the health and wellness of local residents by increasing their access to fresh and healthy foods and by inspiring them to make fresh and healthy foods a central part of their daily diet.

Background on Certified Farmers' Markets in California:

While the term "Farmers' Market" is widely used round the nation, *Certified Farmers' Markets* are unique to California. California law allows direct sales by agricultural producers to consumers only at the point of production or at Certified Farmers' Markets.

Since 1977, California law has required that each Farmers' Market be certified by the county agricultural commissioner in the county in which the market will operate. Only nonprofit organizations such as PCFMA, local governments, or certified producers may operate a Certified Farmers' Market.

Without the Certified Farmers' Markets, agricultural producers would only be able to sell their commodities at the point of production, effectively cutting off the producers of rural California from the consumers of urban California. PCFMA's Certified Farmers' Markets give California consumers in San Francisco, Fremont, San Jose, Vallejo, San Mateo, Oakland and other urban and suburban communities of the San Francisco Bay Area direct access to farm-fresh products from the very farmers who grew, nurtured and harvested the crops.

There are currently over 400 Farmers' Markets in California, each a reflection of the community it serves. In addition to serving as sources of farm fresh fruits, vegetables, nuts, greens, herbs and berries, Farmers' Markets are often popular gathering places – each providing a place to see old friends and meet new ones; an opportunity to speak directly to the people who grow our food; and a chance to pick up the latest recipe, visit a nearby café or stop by a local shop for a last-minute gift. Farmers' Markets also provide a place for community-oriented events such as harvest festivals, health fairs, recipe contests and cook-offs.

PCFMA only operates *Certified Farmers' Markets*. PCFMA's Rules and Regulations for Farmers' Markets were written to accommodate the California Agricultural Direct Marketing Statutes and CalCode, which govern sales within all farmers' markets statewide. PCFMA's rules and regulations govern each of PCFMA's markets to ensure that every producer complies with state and local laws.

Background on the Pacific Coast Farmers' Market Association

The Pacific Coast Farmers' Market Association is a non-profit corporation dedicated to establishing and maintaining successful Certified Farmers' Markets around the Greater San Francisco Bay Area. PCFMA was founded in 1988 with the mission *to establish and operate community-supported certified farmers' markets and other direct marketing outlets that provide: viable economic opportunities for California farmers and food producers, local access to farm fresh products, support for local businesses and community organizations, and education concerning food, nutrition and the sustainability of California agriculture.*

In 2007 PCFMA operated 45 Certified Farmers' Markets around the Bay Area weekly during the peak summer months. These markets give farmers and other agricultural producers direct access to consumers; give consumers access to fresh, locally grown produce; and serve as sites for community gatherings.

PCFMA plays an essential role in establishing and maintaining Certified Farmers' Markets. PCFMA coordinates with the California farmers who bring their products to market, the California Department of Food and Agriculture that enforces the Direct Marketing Statutes as set forth by the State Legislature, county Agricultural Commissioners who approve all Farmers' Market locations and certify California farmers, local county health departments at each market site, and the markets' sponsors. By acting as a liaison among all these actors, PCFMA is able to operate successful Certified Farmers' Markets.

In addition to managing the day-to-day operations of its markets, PCFMA also supports its markets by employing a variety of innovative and time-tested marketing strategies that include market promotions, coordinating special events, conducting advertising campaigns, performing community outreach, and conducting consumer education campaigns. This technical expertise goes beyond the markets themselves to include strategies to maximize the promotional opportunities of Farmers' Markets located in and around retail shopping areas, Business Improvement Districts and California Main Street Programs.

PCFMA is recognized as a leader in its field due in part to its innovative program that has brought Certified Farmers' Markets to corporate sites. For the past three years, PCFMA has partnered with Kaiser Permanente to bring Certified Farmers' Markets to Kaiser Permanente facilities. Through this partnership PCFMA has been able to open additional outlets for California farmers, introduce the benefits of eating fresh and healthy to new audiences, and to draw upon Kaiser Permanente's extensive knowledge in health and nutrition to augment PCFMA's own nutrition education efforts. Kaiser Permanente has benefited by being able to offer its employees and members an additional benefit at low cost, by having a weekly forum in which they can teach members about nutrition and lifestyle choices, and by raising their profile in the community as a supporter of healthy activities.

This partnership has garnered significant positive press for Kaiser Permanente and in 2005, resulted in Kaiser Permanente Northern California winning the prestigious Ellis J. Bonner Community Leadership Award, a national award presented by the American Association of Health Plans in recognition of efforts by healthcare providers to improve the quality of life in their local communities.

However, this is the only one small portion of what PCFMA does.

PCFMA also works to forge and sustain a link between California farmers and California's communities. At each Farmers' Market, PCFMA works to create a sense of neighborhood by respecting local community dynamics and creating a family-oriented environment.

In addition, PCFMA works to educate the community about healthy eating and sustainable agriculture. PCFMA's food education efforts encompass nutrition, preparation, storage, food safety, production, and security.

PCFMA's newest educational effort is "Cookin' the Market," a program of cooking demonstrations that show consumers how quick and easy it can be to cook fresh fruits and vegetables and how delicious these healthy recipes can be. The Cookin' the Market program is supported by a three-year grant from Kaiser Permanente's Community Benefit program.

PCFMA's website is a part of its community outreach strategy, providing healthy recipes utilizing the market's seasonal products, in addition to detailed information about each of PCFMA's markets and a list of PCFMA's producers statewide.

PCFMA's success is apparent in many different areas. PCFMA is the largest Farmers' Market Association in the State of California and the second largest in the nation. We currently have over 350 certified agricultural producers that participate at several of the markets that we operate in the Greater San Francisco Bay Area. In addition to the California small family farmers, 150 non-agricultural producers participate in the markets. These producers bring variety to the markets in the form of artisan breads and baked goods, freshly caught fish or shellfish, specialty cheeses, and many other wonderful locally-produced food items.

PCFMA takes its position as a leader in California's agriculture industry very seriously. Members of PCFMA's staff and Board of Directors serve on the Board of Directors of the California Federation of Certified Farmers' Markets, the California Small Farm Conference, and the state's Agricultural Direct Marketing Advisory Committee, and PCFMA is a member of the North American Farmers' Direct Marketing Association.

PCFMA is governed by a ten-member Board of Directors. Three of the ten members of PCFMA's Board of Directors are elected by the agricultural producers who sell in PCFMA's markets. The remaining seven Board positions are selected annually by the Directors then serving. In addition to agricultural producers, PCFMA's Board of Directors includes an attorney, a certified public accountant, a former official of the State of California's Department of Food and Agriculture, and a healthcare administrator.

PCFMA is led by a professional staff with extensive experience in California's Certified Farmers' Markets. PCFMA will dedicate an employee to serve as the Market Manager for the Clayton Farmers' Market. This individual will serve as the liaison between the city, the producers who sell in the market, the public officials who certify and inspect the Farmers' Markets, local community-based organizations, and PCFMA. While this Market Manager will lead PCFMA's efforts to maintain a successful Certified Farmers' Market in Clayton, he or she will be supported by PCFMA's full staff of managers, administrators and marketing experts.

PCFMA's strength, experience and leadership have contributed to the organization's fiscal strength. Careful financial planning has allowed PCFMA to develop sufficient financial reserves to invest in promising markets and new innovations and to weather potential short-term losses that might be caused by weather or natural disasters that might temporarily interfere with the operation of the markets. To protect itself and its sponsors, PCFMA maintains a general liability insurance policy in the amount of \$1,000,000, listing as additional insureds, each of the Certified Farmers' Markets PCFMA operates and each of the property owners of the facilities at which the markets operate.

In addition, each of the producers that sells within one of PCFMA's farmers' markets is required to maintain general liability insurance in the amount of \$1,000,000, listing PCFMA as an additional insured.

At each farmers' market, PCFMA and the property owners of the facility at which PCFMA operates a market jointly develop a license agreement that defines their respective roles and responsibilities. Through this document, PCFMA provides an additional level of protection for the property owner by agreeing to accept liability for incidents that may occur during the market's operation.

PCFMA is proud of the reputation that it has developed in California's Agricultural Direct Marketing Industry and in communities around the Bay Area.

Operations Strategy:

PCFMA believes every market should be a reflection of the community it serves, so it customizes its strategy for each market, while relying on four basic principles: create a marketplace that is inviting, friendly, safe and fun; offer the best variety and the biggest selection of top-quality food products that the market can bear; use the market as a venue to foster community connections, encourage healthy food choices, and support local businesses; and establish and enforce a system of market rules that promote compliance with local regulatory agencies while supporting the long term sustainability of the market.

Market Operations:

PCFMA currently operates markets on every day of the week, except Monday, as Mondays have become the nearly universal off-day in the Farmers' Market industry. PCFMA also operates markets that open in the early morning, in the late morning, and in the early afternoon. The day of the week and the timing of the market are set for each market to accommodate local community dynamics and market goals.

We propose to operate the Clayton Farmers' Market from 9:00 a.m. to 1:00 p.m. on Saturdays. This schedule will allow the market to maximize opportunities for local residents to visit the market, while will supporting local businesses by bringing crowds to their doorsteps. We propose to operate the market on Diablo Street, between Main and Center Streets. This location will provide the farmers' market with high visibility, provide customers with abundant parking near the market, and leave the major thoroughfares open for vehicular traffic, encouraging shoppers to come downtown for the farmers' market and to shop at other downtown businesses.

The market could begin operations in May, 2008. With its new markets, PCFMA often promotes a seasonal schedule while planning for year-round operation. With the market in downtown Clayton, PCFMA would secure permits to allow a year-round operation of the farmers' market, but launch the market and promote it with a November 22 seasonal closure date. This strategy allows the market to operate year-round if community response demands it. In such an instance, the farmers' market can use the announcement of the change to year-round operation from seasonal operation as the opportunity to garner additional press and publicity.

This strategy would also allow the farmers' market to close for the winter months if community response did not appear strong enough to sustain the market, or if PCFMA and the city of Clayton needed time to address any logistical or operational challenges that may have arisen during the market's first months of operation.

Producers in the Market:

Every farmers' market that PCFMA operates is unique. The number and mix of producers in the market vary depending upon market space, producer availability, consumer demand and other factors. The state laws governing Certified Farmers' Markets make a distinction between Certified Agricultural Producers and other producers and vendors in the market. As a result, every market has a dividing line – invisible to market consumers – that divides the two types of producers. PCFMA typically works to have 60% of the market served by Certified Agricultural Producers and 40% filled by other specialty food producers.

Certified Agricultural Producers offer farm fresh, seasonal fruit, vegetables, honey, greens, fresh cut flowers, nursery items, and nuts – including a selection of organically grown products. The other producers – those not certified by the state as Certified Agricultural Producers – include specialty food producers and other retailers offering items such as bakery fresh breads and pastries, gourmet cheeses, specialty sausages, various ethnic foods, hand-crafted soaps and freshly caught seafood. These vendors offer a variety of ready-to-eat foods, along with condiments, sauces and other specialty food items for home cooking use.

In addition, PCFMA proposes to devote space for the use of area community groups, local businesses, and nonprofit organizations at no cost to them. These community booths will allow the farmers' market to grow as a community center and gathering point. These community booths also serve to attract additional visitors to the Market.

Protection of Property-Owners from Liability:

PCFMA realizes that property-owners that make areas available for the operation of farmers' markets are providing a great public service and so PCFMA goes to great lengths to protect those property-owners from any potential liability that might arise from hosting the market.

In addition to maintaining general liability insurance for the market, naming the City of Clayton as an additional insured, PCFMA would be willing to include in its license agreement with the city that will provide additional assurances that PCFMA will assume responsibility for liabilities that may occur as a result of the market's presence. PCFMA will defend and hold harmless from any claim or liability arising in connection with the operation of the market.

Operations Philosophy:

PCFMA is dedicated to being a professional organization that provides a consistently high-quality service to its consumers, its sponsors and its producers. This philosophy is captured in the formal rules and procedures that PCFMA employs, as well as in the manner and attitude of all PCFMA employees.

Rules and Regulations:

PCFMA adopted Rules and Regulations at its inception. The Board of Directors is responsible for an annual review of this important document which is updated on a regular basis. Each producer agrees, as part of their application process each year, to abide by these Rules and Regulations. The on-site Market Manager enforces the Rules and Regulations.

PCFMA complies with the California Code of Regulations Title 3, Article 6.5, Food and Agriculture Direct Marketing, which authorizes Certified Farmers' Markets in California and CalCode, which ensures public health and safety.

Management Style:

Developing good communication skills and utilizing them on market days is the single most important managerial skill a Market Manager can possess. PCFMA conducts training in this important skill for all new managers. Additionally, we conduct regular manager meetings to provide support and continuity for our staff.

Community Involvement:

PCFMA welcomes on-going input from its sponsors, local chambers of commerce, and local merchants' association and other interested community groups. PCFMA sees their role as advisors, particularly on merchant- and community-related issues. We would also hope to have their support and participation in order to implement the cooperative marketing ideas that support both the market and local business and community organizations.

Public Relations:

Every PCFMA manager is taught the "Disneyland" approach to working with the public – the customer is always right and the site is always clean, safe, fun and festive.

PCFMA also maintains a list of entertainers that perform a variety of different musical styles at several of PCFMA's markets. These artists range from jazz trios, to country banjo, to classical harpists. All of the performers are carefully screened by PCFMA to ensure that their performances will enhance the shopping experience for market visitors.

Marketing Strategy:

As the largest operator of Certified Farmers' Market in the Bay Area, PCFMA has developed a sophisticated marketing and promotions function. The Clayton Farmers' Market would benefit from PCFMA's years of experience promoting Certified Farmers' Markets; available resources of display advertisements, radio spots and television commercials; and established relationships with local media outlets.

PCFMA's typical marketing strategy for a Certified Farmers' Market combines general and market-specific advertising. The general advertising promotes Certified Farmers' Markets as exciting retail destinations and

encourages consumers to find a market near them by calling PCFMA's toll-free phone number or by visiting PCFMA's website. Market-specific advertisements would spotlight just the Clayton Farmers' Market, promoting specific market elements or activities. PCFMA also makes extensive use of free media through a coordinated campaign of press announcements that raise the visibility of the markets in local and national newspapers and magazines.

PCFMA makes creative use of online media through a detailed website and a subscription-only e-mail list. PCFMA's website provides detailed information about each of PCFMA's markets. The e-mail newsletter alerts subscribers to upcoming market events, new products entering the market and new producers serving the market.

The market would also feature market-based promotions that are organized and implemented by PCFMA's marketing team, and that are designed to encourage repeat visits by market consumers. These promotions highlight new products entering the market with discounts, recipes and nutritional information; offer educational and entertaining activities for children in the market and build a market community by allowing consumers to register for the *Friends of the Farmers' Market* list that offers advance notice of special events and special discounts for regular customers.

Market events – such as seasonal recipe contests and cooking demonstrations – would help to make the market a community destination. PCFMA's popular recipe contests encourage the purchase of particular products entering the market and give consumers an opportunity to show off their creativity. Cooking demonstrations featuring local chefs as well as PCFMA's own *Grill Crazy* summer cooking demonstration are not only educational and entertaining, but produce delicious free samples that are proven crowd-pleasers.

Equally important to the advertising and special events are the relationships that the market is able to develop with the surrounding community. Here again, PCFMA's experience and reputation would benefit the market. PCFMA publishes a quarterly newsletter, *Market Thymes*, which features seasonal recipes, children's activities and useful articles on subjects such as food storage and nutrition. PCFMA also produces a wide range of brochures with seasonal recipes and with educational information on organic farming, sustainable agriculture, nutrition, and food storage and safety.

Other community outreach efforts that PCFMA can employ include working with local government agencies and nonprofit organizations to promote public benefit programs that can be used at Farmers' Markets, such as the Golden State Advantage electronic benefits card that has replaced food stamps and the California Farmers' Market Nutrition Program serving mothers in the federal WIC program and low-income seniors.

Benefits to the City of Clayton:

PCFMA is committed to making the Certified Farmers' Market in downtown Clayton popular with consumers, profitable for producers and supportive of local businesses and community organizations. PCFMA is also committed to a partnership with the city of Clayton that allows the market to achieve our common goals.

PCFMA is willing to commit to its partnership with the City of Clayton a Market Manager and PCFMA's experienced marketing and promotions team, under the oversight of PCFMA's professional management. We would maintain throughout the market's operation, liability insurance to protect the city from any claims arising from the market's operation. We will also maintain the space utilized for the market in excellent condition. Our pledge is that the space will look better when we depart than it did when we arrived.

One of the most valuable benefits to the city of Clayton will be the community connections that are created and reinforced. By playing host to the farmers' market, the city will be able to demonstrate its commitment to the health and well-being of the families living in the surrounding communities and increase its standing as a community leader.

Conclusion:

The Pacific Coast Farmers' Market Association – its Board of Directors, its staff and its hundreds of producers – are committed to bringing fresh, nutritious California-grown products to the people through Certified Farmers'

Markets. We offer this proposal in hopes of be allowed to launch and operate a Certified Farmers' Market on Saturday mornings in downtown Clayton.

Working together we are confident that the Certified Farmers' Market in downtown Clayton can grow to become a center of community life, good health, and economic vitality in the community.



Agenda Date: 4-3-12

Agenda Item: 9c

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Asst. to the City Manager 

MEETING DATE: April 3, 2012

SUBJECT: Consideration of Resolution authorizing the City Manager to cast ballots for all parcels owned by the City on the 2012 Community Clean Water Initiative

RECOMMENDATION

Adoption of Resolution No. ___-12 authorizing the City Manager to cast ballots for the 2012 Community Clean Water Initiative for all parcels owned by the City.

BACKGROUND

The City Clayton is one of nineteen joint permittee municipalities, along with the County of Contra Costa and the Contra Costa Flood Control and Water Conservation District, under the Municipal Regional Stormwater NPDES Permit (MRP) issued by the San Francisco Regional Water Quality Control Board. In 1992, the municipalities formed the Contra Costa Clean Water Program to work together to meet the Water Board's requirements and to comply with the federal Clean Water Act and the state Porter Cologne Act.

The primary purpose of the City's Stormwater Program is to implement federal and state mandated regulations that specifically target the reduction of pollutants in stormwater runoff that enters municipal storm drain systems.

A new MRP is traditionally re-issued on a five year cycle and typically includes more requirements with each renewal as was the case for the last permit. Although some permit requirements can be implemented regionally each municipality is individually responsible for adoption and enforcement of most MRP requirements. The current MRP was issued in 2009 but has additional requirements that phase in each year through 2014.

In 1992, the Program established a Stormwater Utility Assessment (SUA) to fund the required compliance activities. The fees are known as equivalent runoff units (ERU's) and are collected by the Flood Control District through the real property tax bill and disbursed to the individual agencies. Since then, funding has been a challenge because no federal or state funds were provided to meet increasing mandates.

Each participating municipality (except for the cities of Richmond and Brentwood) established individual maximum ERU rate at the time the SUA was established in 1992. The City of Clayton ERU rate was initially \$23 (1992) was raised to \$24.50 in 1998 then reached the ERU cap of \$29 in FY 1999-2000. Each increase was in response to additional state mandates. Additionally the City began drawing on its stormwater reserve in 2008 to meet its unfunded mandate responsibilities. This reserve is expected to be insufficient by FY 13-14 and the City must then need to consider use of its General Fund if there is insufficient stormwater revenue.

In 2009, the Water Board adopted a Municipal Regional Permit (MRP). The MRP is more prescriptive regarding ongoing pollution prevention activities and mandates significantly expanded stormwater monitoring and trash controls. This has created a situation where the municipalities are required to perform activities well beyond their current funding capacity.

The existing revenue for the ERU's are insufficient to meet the new and future MRP requirements. Without new funding sources to meet the cost of program implementation for the MRP permit compliance, a General Fund contribution will be necessary which will impact other city services. Failure to comply with the MRP requirements will result in fines and lawsuits.

STORMWATER QUALITY FUNDING INITIATIVE

Starting FY 2005-06 the CCCWP began studying the financial impacts related to increased permit requirements mandated by the SF RWQCB. Many options were reviewed including increasing the current ERU, state legislation for funding, grants etc. In 2009, the Water Board adopted a Municipal Regional Permit (MRP). The MRP is more prescriptive regarding ongoing pollution prevention activities and mandates significantly expanded stormwater monitoring and trash controls. This has created a situation where the municipalities are required to perform activities well beyond their current funding capacity.

In 2010-11 in response to the increasing unfunded mandates by the SF RWQCB, the Clean Water Program conducted a specific fiscal impact and funding analysis through SCI Consulting. The outcome of the report indicated that funding that was locally-regionally derived and 100% return to the municipality would be subject to a Proposition 218 election as it is a real property related fee. The results of their research and study was presented to the Mayors Conference and also distributed to all City Managers, and elected officials. The Stormwater Quality Funding Initiative was thoroughly studied after other avenues to seek funding through various grants and state measures were unsuccessful.

The current 2012 Community Clean Water Initiative is a proposed property-related fee to fund clean water activities required by the National Pollution Discharge Elimination System (NPDES) permits issued by the San Francisco Regional Water Quality Control Board. The City of Clayton received 25 ballots for its publicly-owned parcels amounting to approximately \$1,245.86 annually in fees. Staff is asking for City Council direction on whether to vote and how to vote on these ballots.

DISCUSSION

To evaluate the level to which additional permit requirements equate to increases in costs to the municipalities, the Program engaged a consultant to investigate additional public financing mechanisms that the Program municipalities could use to fund the requirements of the 2009 MRP. One of the tasks was to collect and analyze background and reference information and to review and analyze projected future annual costs and sources of funding. Countywide, the analysis showed a funding shortfall growing to over \$56.6 million over three years.

For Clayton, over the next ten years an additional \$1.2 million has been estimated as needed to meet the MRP requirements, or about \$102,090 per year in added costs. The \$22/per parcel would yield funding of \$93,721 per year, just slightly less than Clayton's anticipated need. The funding mechanisms developed were evaluated and, through statistically-valid public opinion polling, the property-related fee mechanism was identified as the preferred option. The watershed-based fee levels were tailored to balance the mandates required of the various municipalities with the level of support found among the communities. For an average residential parcel, the fee ranges from \$12 to \$22 annually. The Central Contra Costa Watershed fee is \$22 per single family parcel or its equivalent.

The Contra Costa County Board of Supervisors, acting as the governing board for the Flood Control District, voted on December 6, 2011 to accept the engineer's report and begin the Proposition 218 process. On February 7, 2012, the Board held a public hearing on the mail ballot phase. Ballots were mailed on February 21. Ballots must be received by the designated authority on or before April 6, 2012 at 5:00 pm.

The primary purpose of the City's Clean Water Program is to implement the foregoing federal and state mandated regulations by targeting the reduction of pollutants in water runoff into and from municipal separate storm sewer system (these regulations are widely known as "NPDES" or "National Pollutant Discharge Elimination System" permit requirements.). NPDES permits have traditionally been re-issued on a five-year cycle, and have become more rigorous with each renewal as a result of public comments, third-party lawsuits or other mandates.

Although some permit requirements can be implemented regionally through the CCCWP, each municipality is individually responsible for adoption and enforcement of most Clean Water permit requirements. The current Permit added substantial and costly requirements in the areas listed below:

- Keep trash and pollution out of our local creeks, reservoirs, lakes, the Delta and San Francisco Bay. This involves the retrofit of existing storm drain inlets with full trash capture devices.
- Additional water quality monitoring to protect local sources of clean drinking water from contamination and pollution
- Prevent illegal or toxic discharges from industrial and commercial properties
- Additional controls and activities to address mercury, PCBs, copper, PBDEs, legacy

pesticides and selenium in the San Francisco Bay

- Provide other clean water and pollution control services and facilities required by Federal and State regulations.

Unfortunately, the infrastructure improvements and services needed to meet the requirements of the NPDES permit exceed the revenues available to the City through the stormwater utility assessment, which remains flat at \$86,000. The City receives no Federal or State funding sources to fund this mandate. As an illustration, the City's 1998-99 costs were \$91,000, over ten years later after going through 2 permits renewals, the budget has increased to \$141,000, of this amount only \$86,000 is return to source. To offset its deficit, the Program utilized cash stormwater reserves, which will be drained by the end of FY 2013-2014.

The decision to seek public funding was made in an effort to ensure that each City remains in compliance with its NPDES permit. Non-compliance with the Permit will expose each City to civil penalties, fines, federal enforcement action, and third-party litigation. Civil penalties can reach \$10,000 per day, per violation.

The proposed 2012 Community Clean Water Initiative is a countywide, watershed-based, balloted, property-related fee. The fee rates for properties are based upon impervious area and individually calculated for each parcel, based upon attributes such as land use and size. The proposed base rate for a typical single family home in Clayton is \$22 per year. There are different multiplier factors for a smaller or larger-size lot.

The fee includes fiscal accountability and administrative elements including creation of an independent citizen's oversight committee, mandatory annual audits, and an expiration date. The revenue generated by the Clean Water fee will be completely returned to the Permittee where it was collected, less collection fees and other minor administrative costs (commonly known as "100% return to source").

The City of Clayton owns 70 parcels, but many of them are unimproved, with no impervious surface, and therefore would have no fee assessed. In total, only 25 of the City's parcels would be subject to the fee. Staff is seeking direction and authority to cast a vote on the ballots associated with these parcels. The City Council can authorize approval to vote "Yes" on the ballot for each parcel, a "No" vote, or, to not cast (return) the ballots. As a Proposition 218 election, the outcome of the election for passage of the Initiative requires 50% plus approval of the returned ballots. A copy of one such ballot is attached for reference (Attachment 3) along with the official ballot guide that was included in the mailing (Attachment 4). A list of the parcels that would be affected is also attached (Attachment 5).

FISCAL IMPACTS

The City's Clean Water Program has been using its ERU's and stormwater reserve to meet the state mandates, and to stay in compliance. The new MRP requirements will result in future costs exceeding the current revenue, and the City's General Fund will need to supplement if other new funding is not obtained. The City of Clayton owns 70 parcels, 25 of

which would be assessed by the 2012 Community Clean Water fee. The total annual fee for all of the City-owned parcels is \$1,245.86. If approved, the Clean Water fee will bring approximately \$93,721 in restricted-use funds annually to allow the City to stay in compliance with its NPDES permit. All of the revenue generated is return to source.

OPTIONS

The Council may choose to:

1. Direct the City Manager to vote "Yes" on the 2012 Community Clean Water Initiative ballots for each City parcel proposed to be assessed; or
2. Direct the City Manager to vote "No" on the 2012 Community Clean Water Initiative ballots for each City parcel proposed to be assessed; or
3. Direct the City Manager to not cast City ballots. The ballots outcome for passage requires a simple majority (50% plus 1) of the returned ballots voting in the affirmative.

If the City Council selects Option 1, then the City Council will need to adopt the Resolution (Attachment 1) authorizing the City Manager to approve the proposed annual Clean Water fee by voting "Yes" or "No" on the 2012 Community Clean Water Initiative ballots for each City parcel proposed to be assessed.

ATTACHMENTS

1. General Q/A information on the 2012 Clean Water Initiative
2. Resolution authorizing the City Manager to cast ballots for the annual Clean Water fee on the 2012 Community Clean Water Initiative.
3. Example Ballot
4. Clayton Parcel list
5. Official Ballot Guide
6. Projected Clean Water Program's Budget (5 years)
7. Funding Cost Analysis – Contra Costa Clean Water Program March 28, 2011

- **Why was the Prop 218 approach chosen?**

Faced with a severe funding challenge, the Contra Costa Clean Water Program evaluated a variety of alternatives for funding water quality and pollution control services and infrastructure including special taxes, property-related fees, regulatory fees, grants, legislative fees, etc. The Clean Water Program ultimately decided on the most commonly used approach for funding improved water quality in California - the balloted, property-related fee. (Please note that property related fees, not special taxes, are used for virtually all revenue for sewer, water and solid waste collection throughout California.)

This approach, which has been upheld by the courts (Howard Jarvis Taxpayers Association v. City of Salinas and Forde Green v. Marin County Flood Control and Water Conservation District) as appropriate for clean water funding, and has been used successfully in recent years by the cities of Palo Alto, San Clemente, Solano Beach, Burlingame, Rancho Palos Verde and Santa Clarita, and probably others. Los Angeles County plans to conduct an owner-decided property-related fee process for water quality this fall, and Orange and Ventura counties will likely follow soon after.

The balloted property-related fee approach is common for funding clean water services because it is very transparent in process and tabulation; has been confirmed by multiple court cases; businesses and other types of property owners subject to the fee get to vote; is a single issue mailed ballot approach, and it is typically less expensive to conduct than a special tax election. The balloted property-related fee effectively gives property owners the opportunity to decide their community's desired level of water quality.

Please note that Article 13D of the California Constitution requires a Notice of Public Hearing be mailed to all property owners subject to the proposed fee, and that a Protest Hearing be conducted, prior to the election. This "2-hurdles required approach" (protest hearing and election) is unique to California and was first implemented by Proposition 218, which was sponsored by the Jarvis Taxpayers Association and approved by California voters in 1996. At the Public Hearing for this fee on February 7, 2012, only a 1% protest was achieved – a 50% protest is required to terminate the process.

- **Who will actually be counting the votes?**

The accuracy of the tabulation is of utmost importance and there are multiple layers of accountability to ensure the utmost transparency and accuracy of the tabulation. First, the tabulation will be performed by Carol Keene Associates in Walnut Creek, a professional accounting and auditing firm with extensive professional experience tabulating other similar ballot proceedings. Second, the ballots are being mailed directly to the tabulator with prepaid postage, which allows the Post Office to track the number of delivered returned ballots and ensures that other parties, including the County and Clean Water Program, do not have access to the ballots. Third, the ballots will remain sealed until the end of the balloting period and a log of mailed ballots received will be maintained by the professional tabulation firm. Fourth, the tabulation will be observed

by the League of Women Voters and other groups, and can also be reviewed by other interested parties. And fifth, if desired, the ballot tabulation can be audited.

- **Was consideration given to having the county clerk conduct the election?**

Balloted property-related fee elections are regulated by different laws and codes than tax elections and, to our knowledge, have never been conducted by County Clerks in California. (County elections officials work with registered voter data, not property data.)

- **Why no pro and con arguments nor independent analysis?**

Article 13D of the California Constitution (aka Prop 218) and the supporting legislation do not authorize arguments or analysis on the ballot. Instead, the law stipulates that a minimum of 45 days must be provided so each owner can obtain additional information as needed. The ballot arguably provides comparable amounts of information as included with voter election ballots, plus a website and phone numbers give all property owners ready access to more detailed information and provide a venue for any questions over the 45 day balloting period (and the preceding 45-day protest period).

- **Why is a signature required on the ballots?**

Article 13D of the California Constitution and the supporting legislation and court cases have consistently concluded that a signature is required. The signature adds to the credibility and rigor of the process. In any case, the Clean Water Program will make every effort to ensure the ballots are secret.

RESOLUTION NO. ____-2012

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AUTHORIZING THE CITY MANAGER TO CAST BALLOTS FOR THE 2012
COMMUNITY CLEAN WATER INITIATIVE FOR ALL PARCELS OWNED BY THE
CITY**

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

WHEREAS, the City of Clayton is a member of Contra Costa Clean Water Program (Program), along with the County of Contra Costa, all nineteen of the County's cities and towns, and the Contra Costa County Flood Control and Water Conservation District, and is a joint permittee under the National Pollution Discharge Elimination System (NPDES) permits issued by the San Francisco Regional Water Quality Control Board; and

WHEREAS, the NPDES stormwater permits require public agency permittees to take certain prescribed measures to keep pollutants from entering storm drain systems and from being discharged into other bodies of water, such as local creeks, reservoirs, lakes, and the Delta and Bay; and

WHEREAS, if these federal and state requirements are not satisfied, the joint permittees may be subject to fines and/or lawsuits; and

WHEREAS, the Program previously established a stormwater utility assessment to fund the activities required by Water Board's permits; and

WHEREAS, in the years since the stormwater utility assessment has been in place, inflation and expanding permit mandates have progressively increased the costs of stormwater permit implementation and drainage system maintenance, thereby creating a situation where the joint permittees are mandated to perform activities well beyond their current funding capacity; and

WHEREAS, the Program has developed a proposal known as the 2012 Community Clean Water Initiative, whereby a property-related fee structure was crafted for all municipalities in the County, including the County of Contra Costa, that proposes to provide funding for stormwater permit implementation and drainage system maintenance; and

WHEREAS, the fee structure has been submitted to property owners within each of the member public agencies for approval as a mail ballot pursuant to Proposition 218; and

WHEREAS, the Contra Costa County Board of Supervisors, acting as the governing board for the Contra Costa County Flood Control and Water Conservation District, voted on December 6, 2011 to accept the engineer's report and to begin the Proposition 218 process; and

Attachment 2

WHEREAS, on February 7, 2012, the County Board of Supervisors held a public hearing and voted to proceed to the mail ballot phase of the Proposition 218 process; and

WHEREAS, on February 21, 2012, ballots were mailed to all owners of parcels subject to the assessment under the 2012 Community Clean Water Initiative which must be returned to the designated authority by April 6, 2012; and

WHEREAS, the City of Clayton owns twenty-five parcels that would be subject to the assessment and has received ballots accordingly; and

WHEREAS, the City has an opportunity to cast ballots for all parcels proposed to be assessed; and

WHEREAS, this Resolution is not a "project" under the California Environmental Quality Act (Cal. Pub. Res. Code § 15378(b)(4)) because the proposed property-related fee is a government funding mechanism and fiscal activity that does not involve any commitment to a specific project that may result in a potentially significant environmental impact.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct statements and incorporated herein by reference.

SECTION 2: The City Council authorizes the City Manager to cast ballots (insert "Yes" or "No") for the 2012 Community Clean Water Initiative for all parcels owned by the City of Clayton, and to hand-deliver those ballots to the Clerk of the Board of Contra Costa County Supervisors at 651 Pine Street, 1st Floor, Rom 106, Martinez, California so that they are received on or before by April 6, 2012 at 5:00 p.m.

SECTION 3. This Resolution shall become effective immediately upon passage and adoption.

SECTION 4. The City Clerk shall certify the passage of this Resolution.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton at a regular public meeting thereof said Council held on April 3, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Contra Costa Clean Water Program
c/o Accountants Carol Keane and Associates
700 Ygnacio Valley Road, Suite 360
Walnut Creek, CA 94596-8225

2012 COMMUNITY CLEAN WATER INITIATIVE
OFFICIAL BALLOT
CONTRA COSTA CLEAN WATER PROGRAM

In order to:

- Protect local sources of clean drinking water from contamination and pollution;
- Remove harmful and dangerous pollutants and toxic chemicals from our local creeks, reservoirs, lakes, and the Delta and the Bay;
- Capture, clean and use rainwater to irrigate local parks and landscaping;
- Prevent illegal or toxic discharges from industrial and commercial properties;
- Keep trash and pollution off our shorelines and out of our local creeks, reservoirs, lakes, and the Delta and the Bay;
- Provide other clean water and pollution control services and facilities required by Federal and State regulations;

Do you approve the proposed annual Clean Water fee for your property(s) listed on the other side of this ballot?

☐ **YES**, I approve the proposed annual Clean Water fee.*

☐ **NO**, I do not approve the proposed annual Clean Water fee.*

Signed _____

Signature of Record Property Owner, or Authorized Representative

Date _____

Print Name _____

I hereby declare, under penalty of perjury, that I am the property owner or owner's authorized representative of the parcel(s) identified on this official ballot.

***NOTE:**

The proposed annual clean water fee for your property is printed on the other side of this ballot.

INSTRUCTIONS FOR THE COMPLETION AND RETURN OF THIS OFFICIAL BALLOT ARE ON THE OTHER SIDE

FOLD SO THAT THIS SIDE IS ON THE INSIDE OF THE FOLD BEFORE PLACING THIS BALLOT IN THE RETURN ENVELOPE

Who May Complete this Official Ballot?

1. If the property is owned by an individual, the individual may sign.
2. If a property is held by a husband and wife, either may sign for both.
3. If two or more persons own the property as tenants-in-common or as joint tenants, any one tenant-in-common, or joint tenant, may sign for all.
4. If the property is owned by a corporation, the ballot may be signed for the corporation by an officer or officers authorized to make contracts or by resolution of the corporation's Board of Directors.
5. If the property is owned by another legal entity, the ballot may be signed by any person authorized by law to make contracts for the entity.
6. If the property is owned by a public agency, the ballot may be signed by any person authorized by law to make contracts for the agency or by resolution of the agency's Governing Board.

Steps for Completing the Official Ballot

1. Verify that the owner name, address, and parcel number(s) listed on the assessment ballot are correct. If they are not correct call 925-313-2360.
2. Fill in or clearly mark the oval next to the word "YES" or "NO" to approve or disapprove of the proposed Clean Water fee. To ensure a permanent mark a pen should be used.
3. Sign and date this official ballot. Only official ballots which are signed and marked with the property owner's support or opposition will be counted. After marking your vote, simply FOLD the ballot so that your vote is on the inside of the fold. Then place the ballot in the return envelope provided. No postage is necessary to mail back your ballot.
4. If you make a mistake in completing your ballot or wish to change or withdraw your ballot, please call 925-313-2360.

5. To be tabulated, fee ballots **MUST** be received by Friday, April 6, 2012 at 5:00 p.m.

You may return your ballot in the following ways:

- A) Mail your ballot to the address shown on the enclosed return envelope so that it is received on or before April 6, 2012 at 5:00 p.m.
- B) Hand-deliver your ballot to the Clerk of the Board of the Contra Costa County Supervisors at 651 Pine Street, 1st Floor, Room 108, Martinez, California so that it is received on or before April 6, 2012 at 5:00 p.m.

The Contra Costa County Flood Control and Water and Conservation District is initiating the 2012 Community Clean Water Initiative on behalf of the Contra Costa Clean Water Program.

Please see other side to complete this ballot.

owner name and address
printed here

Parcel Number

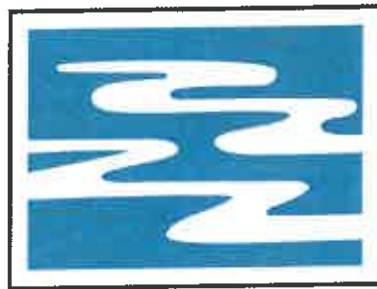
Proposed Fee

← **FOLD HERE** (this side should be on outside after fold)

parcel	situs_st	situs_suff	situs_city	situs_zip	cnty_acres	fee	sfe
118-164-087-9	OHARA	CT	CLAYTON	94517	0	56.32	2.56
118-230-002-8	DIABLO CREEK	PL	CLAYTON	94517	2.83	102.08	4.64
118-310-027-8	LYDIA	LN	CLAYTON	94517	2.21	80.96	3.68
118-370-006-9	CLAYTON	RD	CLAYTON	94517	4.73	39.6	1.8
118-520-006-8	MARSH CREEK	RD	CLAYTON	94517	10.91	72.6	3.3
118-520-008-4	MARSH CREEK	RD	CLAYTON	94517	0.64	24.64	1.12
118-520-014-2	MARSH CREEK	RD	CLAYTON	94517	12.93	85.8	3.9
118-560-009-3	CLAYTON	RD	CLAYTON	94517	0.25	10.56	0.48
118-620-063-8	GOLDEN EAGLE	PL	CLAYTON	94517	1.68	59.84	2.72
119-011-002-1	MAIN	ST	CLAYTON	94517	0.23	58.08	2.64
119-011-004-7	MAIN	ST	CLAYTON	94517	0.11	37.84	1.72
119-016-008-3	CENTER	ST	CLAYTON	94517	0.23	52.14	2.37
119-016-009-1	DIABLO	ST	CLAYTON	94517	0.46	96.8	4.4
119-050-009-8	OAK	ST	CLAYTON	94517	0.17	37.84	1.72
119-050-034-6	OAK	ST	CLAYTON	94517	0.29	56.76	2.58
119-281-024-8	MARSH CREEK	RD	CLAYTON	94517	7.4	39.6	1.8
119-452-011-8	EL MOLINO	DR	CLAYTON	94517	0.67	24.64	1.12
119-462-014-0	BLOCHING	CIR	CLAYTON	94517	0.43	17.6	0.8
119-471-001-6	EL MOLINO	DR	CLAYTON	94517	0.83	31.68	1.44
119-553-005-8	ZINFANDEL	CIR	CLAYTON	94517	0	102.08	4.64
119-573-016-1	CENTER	ST	CLAYTON	94517	0.81	31.68	1.44
119-591-017-7	GRENACHE	CIR	CLAYTON	94517	1.81	66.88	3.04
119-620-057-8	STRANANHAN	CIR	CLAYTON	94517	0.02	3.52	0.16
119-620-058-6	STRANAHAN	CIR	CLAYTON	94517	0.32	14.08	0.64
119-015-007-6	MAIN	ST	CLAYTON	94517	1.15	42.24	1.92
						<u>1245.86</u>	

Attachment 4

Official Ballot Guide



**CONTRA COSTA
CLEAN WATER
PROGRAM**

2012 Community Clean Water Initiative

**Please Return Your Ballot
Before Friday, April 6th at 5:00 p.m.**

Why Did You Receive This Ballot Guide and Official Ballot?

This ballot guide provides information about improving water quality in Contra Costa County through a proposed new Clean Water fee that will:

- Protect local sources of clean drinking water from contamination and pollution
- Remove harmful and dangerous pollutants, toxic chemicals, and potentially infectious bacteria and viruses from our local creeks, reservoirs, lakes, the Delta and Bay
- Capture, clean and use rainwater to irrigate local parks and landscaping. This "rainwater harvesting" will also decrease the impacts of polluted stormwater and urban runoff on our local creeks, lakes, the Delta and Bay
- Prevent illegal or toxic discharges from industrial and commercial properties
- Provide other clean water and pollution control services and facilities required by Federal and State clean water mandates
- Keep trash and pollution off our shorelines and out of our local creeks, reservoirs, lakes, the Delta and Bay

The official ballot included with this ballot guide allows property owners to decide on this proposed "2012 Community Clean Water Initiative." Please read the information in this ballot guide and call the Clean Water Program at 925-313-2360 if you have any additional questions. Then complete the official ballot to vote on this initiative.

Protecting Clean Water

Each year, tons of harmful and dangerous pollutants, bacteria and trash are carried through our communities and enter local creeks, reservoirs, lakes, the Delta and Bay. As water drains from streets, parking lots, and lawns, pollutants are picked up and enter the drainage system through thousands of catch basins throughout Contra Costa County. From there, this polluted water flows through a system of pipes, open channels and creeks into the Delta and Bay.

The Contra Costa Clean Water Program is composed of Contra Costa County, all of its nineteen cities and towns, and the Contra Costa County Flood Control & Water Conservation District. These twenty-one agencies are working cooperatively to prevent water pollution, but much more needs to be done to protect and improve local water quality. Also, new and expanded State and Federal clean water mandates require local communities to pay large fines if creeks, reservoirs, lakes, the Delta and Bay are not cleaned up. These are the reasons the Clean Water Program is proposing the 2012 Community Clean Water Initiative to improve local water quality and protect our communities from toxic and dangerous pollutants.



Local Clean Water Bodies in North/Central County Communities

If this measure is approved, the following local creeks and water bodies will benefit from clean water services and projects:

- Alhambra Creek
- Briones Reservoir
- Carquinez Shorelines
- Franklin Creek
- Galindo Creek
- Grayson Creek
- Heather Farms Lake
- Indian Creek
- Las Trampas Creek
- Mallard Reservoir
- Martinez Reservoir
- Mitchell Creek
- Mount Diablo Creek
- Pacheco Creek
- Peyton Slough
- Pine Creek
- Sacramento River and Shorelines
- San Pablo Reservoir
- Suisun Bay, Shorelines and Wetlands
- Tice Creek
- Walnut Creek



Photo by Rita Xavier

Briones Reservoir



Las Trampas Creek



Photo by Steve Thurman

Heather Farms Lake

Including Clayton, Concord, Martinez, Pacheco, Pleasant Hill and Walnut Creek



Alhambra Creek Meets Bay

Photo by Ted Thumler



*Marsh Near Industry in
Central County*

Strict Fiscal Safeguards

The proposed 2012 Community Clean Water Initiative includes strict fiscal safeguards to ensure the proceeds are used only for local clean water and pollution control services:

- All funds shall ONLY be used for local clean water and pollution control services in your community
- 100% of all funding received will be used in the community where it was generated (i.e. 100% Return-to- Source)
- An Independent Citizens Oversight Committee will ensure all funds are spent properly
- Conduct Mandatory Annual Audits
- The Clean Water fee will expire after 10 years

Information About Your Proposed Clean Water Fee

The proposed annual Clean Water fee for your property is printed on the official ballot included with this ballot guide. The total amount that would be raised County-wide by the proposed 2012 Community Clean Water Initiative for fiscal year 2012-13 is approximately \$8+ million. The proposed Clean Water fee is based on the cost of clean water and pollution control services and facilities needed to improve water quality and comply with federal and state mandates. The proposed Clean Water fee is calculated based on the average impervious surface (surfaces not permeable by water, such as driveways, pavement and buildings) for properties of different types and sizes. For example, properties with large impervious areas send more polluted water into the storm drain system than property types without impervious surfaces, such as open space.

The proposed annual Clean Water fee can only be increased by the consumer price index, or two percent, whichever is less. This will help ensure that Clean Water fee revenues keep pace with the cost of operating and maintaining our clean water and water pollution control services and facilities in future years. For more information, contact the Clean Water Program and/or review the Clean Water Fee Report available from the Program. Moreover, if approved, the Clean Water fee will be levied annually for a period not to exceed 10 years.



Trash in Creek



*Device used to Capture Trash
in Water Runoff*

Balloting Process

You may return your ballot in the following ways:

A) Mail your ballot to the address shown on the enclosed ballot return envelope so that it is **received on or before April 6, 2012 at 5:00 p.m.**

B) Hand-deliver your ballot to the Clerk of the Board of the Contra Costa County Supervisors at 651 Pine Street, 1st Floor, Room 106, Martinez, California so that it is **received on or before April 6, 2012 at 5:00 p.m.**

If you have questions about the Clean Water fee or the proposed clean water services, lose your official ballot, require a replacement official ballot, need a proportional official ballot so you can vote your share of your property separately from other owners, or want to change your vote, call the Clean Water Program at (925) 313-2360. The Clean Water fee shall not be imposed if, upon the conclusion of the tabulation, official ballots submitted in opposition to the fee exceed the official ballots submitted in favor of the fee. Failure of any person to receive a ballot(s) shall not invalidate the proceedings.

**Please Return Your Ballot Before
Friday, April 6th at 5:00 p.m.**

To be tabulated, Clean Water ballots **MUST** be
received by Friday, April 6, 2012 at 5:00 p.m.

Additional information

For additional information on the Contra Costa Clean Water
Program, its services, the proposed Clean Water fee, the
ballot proceeding or to obtain a copy of the Fee Report,
call: (925) 313-2360 or visit: www.cccleanwater.org



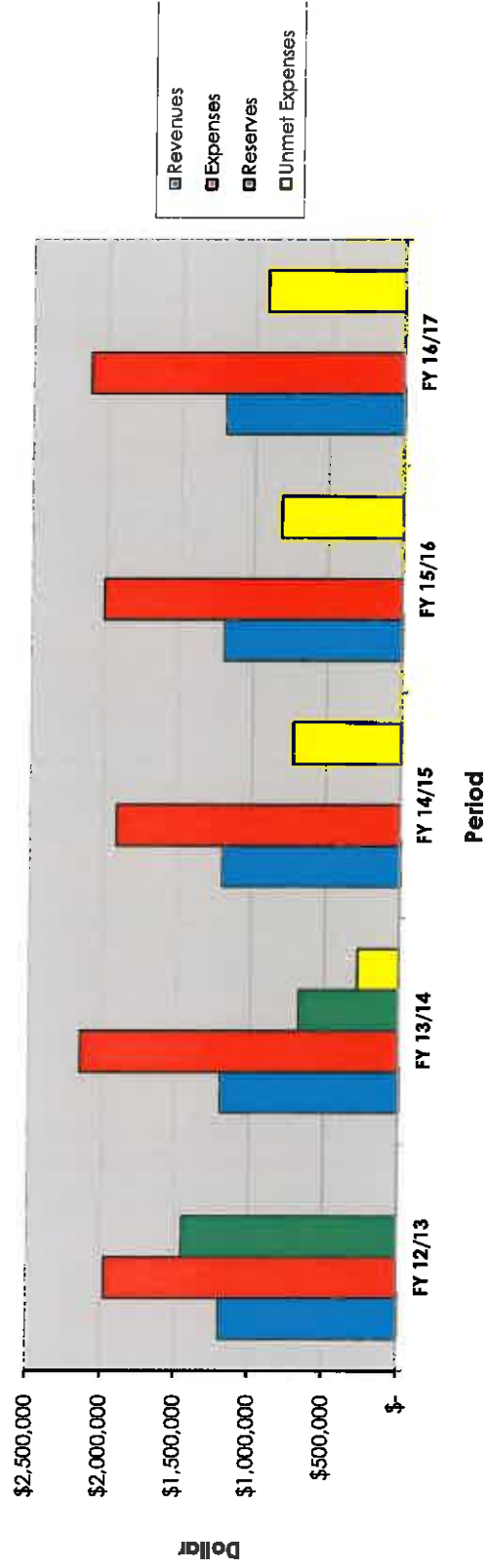
Para Ayuda En Español

Este infome contiene información sobre su propuesta
iniciativa de agua limpia. Es muy importante que entienda
el material. Busque la asistencia de alguien que puede
traducirlo para usted.



Attachment 2

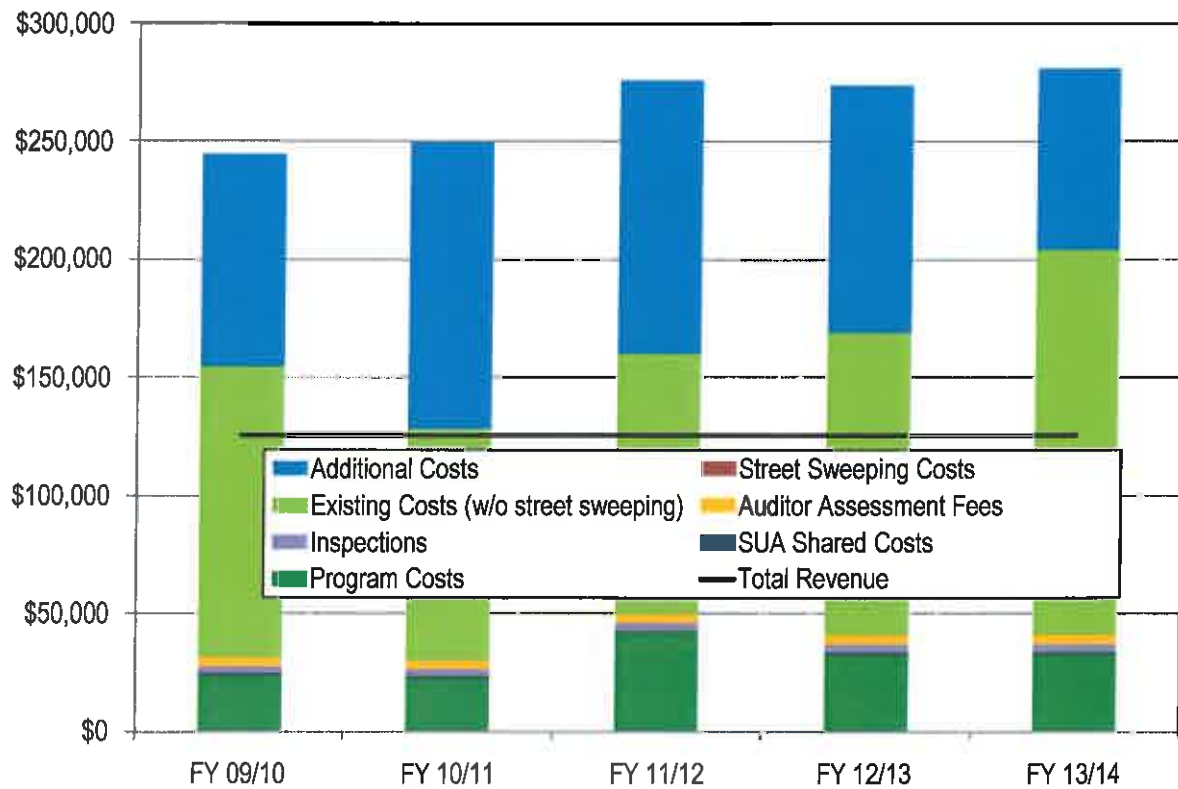
**Clean Water Program
Estimated Revenues & Expenses
(Without Funding Alternative)**



**ESTIMATED REVENUE GENERATED BY THE
PROPOSED CLEAN WATER FEE**

MUNICIPALITY	ESTIMATED REVENUE
ANTIOCH	491568.12
BRENTWOOD	253443.48
CLAYTON	93721.32
COUNTY (Unincorporated)	1498291.17
CONCORD	1116578.32
DANVILLE	407967.56
EL CERRITO	198559.46
HERCULES	152998.64
LAFAYETTE	288720.3
MARTINEZ	347126.34
MORAGA	169775.54
OAKLEY	167224.56
ORINDA	240772.84
PINOLE	162495.98
PITTSBURG	614237.36
PLEASANT HILL	345299.9
RICHMOND	784079.84
SAN PABLO	142454.02
SAN RAMON	616489.5
WALNUT CREEK	665868.5
	8757672.75

Figure C-3-1. City of Clayton Estimated Revenues and Expenditures



City of Clayton

CURRENT PROGRAM IMPLEMENTATION AND EXISTING EXPENDITURES

Clayton is Contra Costa's least populous municipality. The City has a relatively small base to which fixed costs of program administration can be distributed. Further, this suburban residential community is spread out, and that characteristic increases the amount of storm drain pipe and inlets relative to population. For these reasons, the per capita cost of the City's program is on the high end of the range for Contra Costa municipalities.

Assistant to the City Manager Laura Hoffmeister is the City's stormwater coordinator, and estimates one-third to one-half of her time is spent on stormwater program implementation, including general administration and outreach (MRP Provision C.7).

The City maintains 650 storm drain inlets. One-quarter of an FTE is budgeted for storm drain maintenance and implementation of municipal maintenance activities (Provision C.2), plus illicit discharge identification and elimination (Provision C.5) and municipal efforts to minimize pesticide use (Provision C.9).

Another one-quarter FTE is assigned to unrecoverable costs of review of development projects for compliance with Provision C.3 and inspection of construction sites and Clayton's small number of commercial businesses. (Provisions C.6 and C.4). Some inspection costs are recovered through storm water inspection fees per the City's fee schedule.

ESTIMATE OF COSTS UNDER THE MRP (MODELED ADDITIONAL COSTS)

Based on Clayton's 10,800 population, we estimate future local program coordination and local outreach activities (Provision C.7) could require 0.5 FTE at a cost of \$91,174 per year. (All estimates use 2009-2010 as basis.)

Based on the number of storm drain inlets maintained, the maintenance cost, together with implementation of the City's illicit discharge program and pesticide controls, could require 0.4 FTE at a cost of \$84,500.

We estimated effort of implementation of Provisions C.3 (new development) and C.6 (construction site controls) at 0.1 FTE (combined), for a cost of \$20,000. Based on the amount of land zoned for commercial/retail use, we estimate implementation of the business inspection program could be \$6,800.

We have estimated the cost of preparing and implementing the trash reduction plan mandated by the MRP at \$9,000. Because of its small size and limited commercial area, Clayton is exempt from the requirement to implement full-trash-capture devices. However, the City is participating in region-wide purchase of grant-funded trash capture devices through the San Francisco Estuary Project.

Attachment C—City of Clayton

The model-based total estimate of Brentwood's stormwater program costs is \$213,303, a 73% increase over the reported 2009-2010 estimate of local expenditures on the stormwater program (not including street sweeping).

TABLES

Table C-3-1 summarizes estimated revenues and expenditures for the permit term based on information provided to us by City staff.

Table C-3-2 shows budgeted expenses, with a breakdown provided by City staff. Where staff has projected budgets for future fiscal years, those budgets are shown in blue; otherwise a 3% annual increase is assumed.

Table C-3-3 shows our projection based on our linear model. The bottom rows of this table compare the projection with the current budget.

Figure C-3-1 summarizes this information in a bar graph.

Table C-3-1. City of Clayton Estimated Revenues and Expenditures

	% Share	Estimated Amounts by Fiscal Year					Total
		FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	
Total Revenue							
Total SUA Funding ^{(a)(b)}		\$ 125,641	\$ 125,641	\$ 125,641	\$ 125,641	\$ 125,641	\$ 628,205
Subtotal		\$ 125,641	\$ 125,641	\$ 125,641	\$ 125,641	\$ 125,641	\$ 628,205
Total Program Expenditures							
Program Costs ^(c)	1.03%	\$ (23,792)	\$ (22,658)	\$ (41,850)	\$ (32,755)	\$ (32,748)	\$ (153,802)
SUA Shared Costs ^(d)		\$ (824)	\$ (824)	\$ (824)	\$ (824)	\$ (824)	\$ (4,118)
Inspections ^(e)		\$ (3,042)	\$ (3,133)	\$ (3,227)	\$ (3,324)	\$ (3,423)	\$ (16,148)
Auditor Assessment Fees ^(f)		\$ (3,701)	\$ (3,812)	\$ (3,927)	\$ (4,044)	\$ (4,166)	\$ (19,650)
Subtotal		\$ (31,358)	\$ (30,426)	\$ (49,827)	\$ (40,947)	\$ (41,160)	\$ (193,718)
Total Local Expenditures							
Existing Costs (w/o street sweeping) ^(g)		\$ (123,000)	\$ (98,000)	\$ (110,000)	\$ (128,000)	\$ (163,000)	\$ (622,000)
Street Sweeping Costs ^(h)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Modeled Additional Costs		\$ (90,303)	\$ (121,702)	\$ (116,293)	\$ (105,082)	\$ (77,074)	\$ (510,454)
Subtotal		\$ (213,303)	\$ (219,702)	\$ (226,293)	\$ (233,082)	\$ (240,074)	\$ (1,132,454)
Balance		\$ (119,020)	\$ (124,487)	\$ (150,479)	\$ (148,388)	\$ (155,594)	\$ (697,967)

Footnotes:

[a] Assumes that the SUA funding generated remains the same from year to year.

[b] All funding is currently generated by SUA.

[c] Agency shares of Program costs are based on the "Estimated Group Program Costs" workbook.

[d] Assumes that SUA Shared Costs remain the same from year to year.

[e] Assumes a 3% increase from year to year.

[f] Cost for collecting assessment with the property tax bill. Assumes a 3% increase from year to year.

[g] Additional detail is provided in the "Existing Program Elements" spreadsheet.

[h] Street sweeping costs (\$42,000/year) are covered by the garbage bill as a pass-through cost.

Attachment C—City of Clayton

Table C-3-2. City of Clayton Budgeted Expenditures

City of Clayton Existing Program Elements	Estimated Costs by Fiscal Year ¹					Estimated Total
	FY 09/10 ²	FY 10/11 ³	FY 11/12	FY 12/13	FY 13/14	
Total Estimated Existing Costs (w/o street sweeping)	\$123,000	\$98,000	\$110,000	\$128,000	\$163,000	\$622,000
Total Estimated Existing Costs (w street sweeping)	\$123,000	\$98,000	\$110,000	\$128,000	\$163,000	\$622,000
Other Local Implementation Expenses	\$115,722	\$91,000	\$93,550	\$96,177	\$98,882	\$495,330
C.2. Municipal Operations	\$0	\$0	\$0	\$0	\$0	\$0
C.3. New Development and Redevelopment	\$0	\$0	\$0	\$0	\$0	\$0
C.4. Industrial and Commercial Site Controls	\$7,000	\$7,000	\$16,000	\$32,000	\$64,000	\$126,000
C.5. Illicit Discharge Detection and Elimination	\$0	\$0	\$0	\$0	\$0	\$0
C.6. Construction Site Control	\$0	\$0	\$0	\$0	\$0	\$0
C.7. Public Information and Outreach	\$0	\$200	\$206	\$212	\$219	\$837
C.8. Water Quality Monitoring	\$0	\$0	\$0	\$0	\$0	\$0
C.9. Pesticides Toxicity Control	\$0	\$0	\$0	\$0	\$0	\$0
C.10. Trash Load Reduction	\$0	\$0	\$0	\$0	\$0	\$0
C.11. Mercury Controls	\$0	\$0	\$0	\$0	\$0	\$0
C.12. Polychlorinated Biphenyls (PCBs) Controls	\$0	\$0	\$0	\$0	\$0	\$0
C.13. Copper Controls	\$0	\$0	\$0	\$0	\$0	\$0
C.14. Polybrominated Diphenyl Ethers (PBDE), Legacy Pesticides and Selenium	\$0	\$0	\$0	\$0	\$0	\$0
C.15. Exempted and Conditionally Exempted Discharges	\$0	\$0	\$0	\$0	\$0	\$0
C.16. Annual Reports	\$0	\$0	\$0	\$0	\$0	\$0

1 - Information is from the Special Revenue Adopted Budget

2 - Information from the 2009-10 Adopted Budget

3 - Information from the 2010-11 Proposed Budget

Assumed inflation factor is 3%.

Attachment C—City of Clayton

Table C-3-3. City of Clayton Projected Future Program Costs and Comparison to Budgeted Costs

City of Clayton Future Program Costs	Estimated Costs by Fiscal Year					Estimated Total
	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	
Program Administration and Outreach (C.7)	\$91,174	\$93,910	\$96,727	\$99,629	\$102,618	\$484,057
C.2 Municipal Operations						
C.5 Illicit Discharge Identification and Elimination						
C.9 Pesticide Toxicity Reduction	\$84,500	\$87,035	\$89,646	\$92,335	\$95,105	\$448,622
C.4. Industrial and Commercial Site Controls	\$6,800	\$7,004	\$7,214	\$7,431	\$7,653	\$36,102
C.3. New Development Controls (nonrecoverable)	\$10,000	\$10,300	\$10,609	\$10,927	\$11,255	\$53,091
C.6. Construction Site Controls (nonrecoverable)	\$10,000	\$10,300	\$10,609	\$10,927	\$11,255	\$53,091
C.10. Trash Controls -- Hot Spots	\$1,829	\$1,883	\$1,940	\$1,998	\$2,058	\$9,708
C.10. Trash -- Planning & Full Trash Capture	\$9,000	\$9,270	\$9,548	\$9,835	\$10,130	\$47,782
Totals	\$213,303	\$219,702	\$226,293	\$233,082	\$240,074	\$1,132,454
Estimate of Current Expenditures (without Street Sweeping)	\$123,000	\$98,000	\$110,000	\$128,000	\$163,000	\$622,000
Increase:	\$90,303	\$121,702	\$116,293	\$105,082	\$77,074	\$510,454
Percentage increase	73%	124%	106%	82%	47%	82%
Assumed inflation factor:	3%					



CONTRA COSTA
CLEAN WATER
PROGRAM

2012 COMMUNITY
CLEAN WATER INITIATIVE

FACT SHEET

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions (FAQ)

Overview:



Briones Creek

What is the 2012 Community Clean Water Initiative?

This initiative is a property-owner-only election seeking authorization for public funding to protect local water quality, keep trash and other pollutants away from Contra Costa County waterways, and meet mandated requirements of the Federal Clean Water Act and State clean water regulations.

To accomplish these goals, the Contra Costa County Flood Control and Water Conservation District has teamed up with all 19 of the incorporated cities and towns and Contra Costa County, in a cooperative effort to prevent water pollution. This joint effort is known as the **Contra Costa Clean Water Program** ("Clean Water Program"). The **2012 Community Clean Water Initiative** is sponsored by this public-agency partnership.

By law, ALL funds raised by the initiative must be dedicated to clean water or pollution control services in Contra Costa County – they can't be taken away by the State or Federal government, or used for other purposes. This is a property-owner-only election conducted entirely via mail ballot in the spring of 2012. The Contra Costa County Board of Supervisors will hold a Public Hearing on February 7, 2012 at 10:00 AM in the Board of Supervisors Chambers, Room 107, 651 Pine Street, Martinez, CA to receive public input. Property owners should receive their ballots by mail the week of February 21, 2012.

Completed ballots can be mailed OR hand-delivered to the Clerk of the Board of the Contra Costa County Board of Supervisors, 651 Pine Street, 1st Floor, Room 106, Martinez, California. To count in this election, **ALL completed ballots must be received by the County on or before April 6, 2012 at 5:00 p.m.**

Why is this measure needed?

Each year, tons of harmful and dangerous pollutants, bacteria and trash are carried through our neighborhoods and enter local creeks, reservoirs, lakes, the Delta, San Francisco and San Pablo Bays. As water drains from streets, parking lots, and lawns, pollutants are picked up and enter the drainage system through thousands of catch basins throughout Contra Costa County. From there, this polluted water flows through a system of pipes, open channels and creeks into the Delta and Bay. If approved by property owners, the 2012 Community Clean Water Initiative will provide essential funding to help keep water quality and local waterways in Contra Costa County free from harmful pollutants.

What will the clean water measure do?

The 2012 Community Clean Water Initiative will authorize local funding to:

- Protect local sources of clean drinking water from contamination and pollution
- Remove harmful and dangerous pollutants, toxic chemicals, and potentially infectious bacteria and viruses from our local creeks, reservoirs, lakes, the Delta and Bay
- Capture, clean and use rainwater to irrigate local parks and landscaping. This "rainwater harvesting" will also decrease the impacts of polluted stormwater and urban runoff on our local creeks, lakes, reservoirs, the Delta and Bay
- Prevent illegal or toxic discharges from industrial and commercial properties
- Provide clean water and pollution control resources/services/facilities to comply with the Federal Clean Water Act and State clean water regulations
- Keep local shorelines, creeks, reservoirs, lakes, the Delta and Bay free of trash and pollution.

The actual Ballot Question reads as follows:

"In order to:

- Protect local sources of clean drinking water from contamination and pollution;
- Remove harmful and dangerous pollutants and toxic chemicals from our local creeks, reservoirs, lakes, the Delta and Bay;
- Capture, clean and use rainwater to irrigate local parks and landscaping;
- Prevent illegal or toxic discharges from industrial and commercial properties;
- Keep trash and pollution off our shorelines and out of our local creeks, reservoirs, lakes, and the Delta and Bay;
- Provide other clean water and pollution control services and facilities required by Federal and State regulations;

Do you approve the proposed annual Clean Water fee for your property(s) listed on the other side of this ballot?"

What is Polluted Water Runoff?

Water runoff pollution is defined as the untreated, contaminated water that drains from streets and other surfaces into the storm drain system or other waterways. This polluted runoff drains into local creeks, reservoirs, lakes, the Delta, San Francisco and San Pablo Bays.

Pollutants in this runoff include:

- Trash: Cigarette butts, plastic, fast-food wrappers, bottles, etc.
- Toxins: Motor oil, PCBs, antifreeze, fertilizer, and pesticides
- Microbes: Dangerous bacteria, viruses, sewage and pet waste
- Heavy metals: Lead, mercury, arsenic, etc.

Why is preventing Polluted Water Runoff a concern?

Pollutants are picked up as water enters the stormwater system through thousands of catch basins in every community. Unfortunately, much of this polluted runoff is not biodegradable, which reduces water quality and impacts public health around Contra Costa creeks, lakes, reservoirs, the Delta and Bay, and can be especially harmful to humans, fish, and wildlife.

How will the funds raised through this measure be used?

For a specific list of clean water services and activities, see "What will the clean water measure do?" (above). By law, ALL Community Clean Water Initiative funds (100%) must be used to protect local water quality and maintain clean water and pollution control services and facilities within the specific city, town or unincorporated area where they were collected (i.e. this measure includes a 100% return-to-source mandate).



San Pablo Creek

How can property owners be assured that these clean water funds will be used properly?

This Initiative **REQUIRES** strict fiscal controls including:

- By law, this funding can't be taken away by other jurisdictions or used for other purposes.
- **ALL funds must stay local.** 100% of the funding will be used in the individual community where it was generated. (*i.e. 100% return-to-source*)
- Independent Citizens Oversight and mandatory audits will ensure funds are spent properly.
- This measure will only last 10 years. This funding cannot be extended without a new vote of local property owners.

Which local waterways will benefit from funding authorized by this measure?

West County:

- Baxter Creek
- Cerrito Creek
- Garrity Creek
- Hilltop Lake
- Jewel Lake
- Maloney Reservoir
- North Reservoir
- Pinole Creek
- Point Pinole
- Refugio Creek
- Rheem Creek
- Rodeo Creek
- San Francisco Bay
- San Francisco Bay Shorelines and Wetlands
- San Pablo Bay
- San Pablo Bay Shorelines and Wetlands
- San Pablo Reservoir
- Summit Reservoir
- Wildcat Creek

North/Central County

- Alhambra Creek
- Briones Reservoir
- Carquinez Shorelines
- Franklin Creek
- Galindo Creek
- Grayson Creek
- Heather Farms Lake
- Indian Creek
- Kirker Creek
- Las Trampas Creek
- Mallard Reservoir
- Martinez Reservoir
- Mitchell Creek
- Mount Diablo Creek
- Pacheco Creek
- Peyton Slough
- Pine Creek
- Sacramento River and Shorelines
- Suisun Bay
- Suisun Bay Shorelines and Wetlands
- Tice Creek
- Walnut Creek
- Willow Creek

Lamorinda:

- Briones Reservoir
- Cerrito Creek
- Grizzly Creek
- Happy Valley Creek
- Hidden Valley Creek
- Lafayette Creek
- Lafayette Reservoir
- Laguna Creek
- Lake Cascade
- Las Trampas Creek
- Moraga Creek
- Reliez Creek
- San Pablo Creek
- San Pablo Reservoir

South County:

- Alamo Creek
- Big Canyon Creek
- Bollinger Canyon Creek
- Coyote Creek
- Dan Cook Canyon Creek
- Green Valley Creek
- Norris Creek
- Oak Creek
- San Ramon Creek
- Sycamore Creek
- Tassajara Creek
- Watson Canyon Creek

East County:

- Antioch Reservoir
- Contra Loma Reservoir
- Deer Creek
- The Delta
- East Antioch Creek
- Lake Alhambra
- Los Vaqueros Reservoir
- Marsh Creek
- Marsh Creek Reservoir
- Markley Canyon Creek
- San Joaquin River and Shorelines
- Sand Creek
- West Antioch Creek

What will happen if the 2012 Community Clean Water Initiative does not pass?

It would make protecting water quality more difficult in Contra Costa County and expose local jurisdictions to civil penalties, fines, Federal and State enforcement action, and third-party litigation. Civil penalties alone can reach \$10,000 per day, per violation.

I'm not familiar with the Contra Costa Clean Water Program – what does it DO?

The Contra Costa Clean Water Program provides services designed to protect water quality and meet requirements of the Federal Clean Water Act and State clean water regulations by identifying, controlling and removing pollution from the stormdrain system and local waterways.

Funding Questions:**How much will this measure cost me?**

The cost of this clean water measure is modest. Each property owner will be assessed depending on the unique conditions relating to his/her individual property. The specific fee for each property will appear on each individual property owner's ballot. For the vast majority of property owners the cost will be in the range of \$12 - \$22 per year. This measure will only last 10 years. At the end of the 10-year period the funding will expire. This funding authorization cannot be extended without a new vote of local property owners.

How is the assessment calculated?

The actual and specific Clean Water assessment amount for each property will be based on: 1) the cost of needed clean water and pollution control services and facilities in property owner's host community; and, 2) variable property conditions and features for each individual property. More specifically, each property assessment has been calculated based on the average impervious surface (i.e. surfaces not permeable by water such as driveways, pavement and buildings) for properties of different types and sizes. For example, properties with large impervious areas (e.g., commercial, industrial, apartments, etc.) send more polluted water into the storm drain system than property types with less impervious surfaces, (e.g. Single family homes) – so their assessment would be higher. For more information on this specific topic, contact the Contra Costa Clean Water Program office at 925-313-2360.

How much money will the Community Clean Water Initiative generate?

If property owners approve this measure, it will generate approximately \$8.7 million per year to protect clean water sources in Contra Costa County. By law, ALL funds raised **must** be used for local clean water and pollution control services and facilities – and 100% of funds raised must be used in the community where those funds were collected (i.e. 100% return-to-source). None of this money will go to Sacramento or Washington DC – all of it will stay in Contra Costa County.

How long will the Clean Water measure be in place?

This measure will only last 10 years. At the end of the 10-year period, the funding will expire. This funding authorization cannot be extended without a new vote of local property owners.

What is a "property-related fee"?

A "property-related fee" is one of the ways local governments raise public funding for a local public benefit. In particular, the term describes a specific **property-owner** type of election defined and authorized by California's Proposition 218. This type of funding **REQUIRES** a vote of local **property owners** (*not registered voters*).

Will businesses share in the cost of the Clean Water measure?

Yes, beyond residential property owners, owners of other types of properties (e.g., commercial, industrial, apartments, etc.) will also be subject to the assessment if it is approved by property owners voting on the measure.

Are there exemptions available senior citizens and people with disabilities?

No. If the measure passes, all property owners will be assessed a fee based on conditions present on the property/properties they own.

Does the State and Federal government help with any funding here?

No, this is an unfunded mandate.

Why can't the Clean Water Program fund these services from its existing budget?

To protect local water quality, the Federal Clean Water Act requires local municipalities to meet increasingly stringent standards. Our Clean Water Program, in partnership with every local city and town has teamed up to meet these requirements. But even with their collaborative cost-sharing efforts, the simple fact is that protecting water quality is a constant and increasingly expensive challenge - a challenge that goes well beyond the scope and capabilities of existing local government budgets.

Can this fee ever be increased?

The proposed annual Clean Water assessment includes an adjustment for inflation. It can be increased by the Consumer Price Index (CPI), or 2%, whichever is **less**. This will help ensure that Clean Water funding keeps pace with inflation and the cost of maintaining clean water and water pollution control services and facilities in future years. This funding authorization only lasts 10 years. It cannot be extended without a new vote of local property owners.

If there is an existing stormwater fee in place, why is a new fee needed?

Existing dedicated stormwater assessment revenues since 2007/2008 are no longer sufficient to fund the increased federal/state mandates, and that municipalities are meeting the short fall by using monies from the General Fund which takes money away from other public services (e.g., police, fire, libraries, parks, after school programs, etc...).

Questions about the Election:

Who is eligible to vote on this measure?

This is a property-owner-only election. All Contra Costa County property owners are eligible to vote. If you are a Contra Costa registered voter, but you do not own property in the county, you won't be eligible to vote in this election. If you do own property here - you will be able to vote.

How will the election take place?

This is a property-owner-only election conducted entirely via mail ballot in the spring of 2012.

When will ballots be mailed?

Property owners should receive their ballots by mail the week of February 21, 2012.

When are ballots due?

Completed ballots can be mailed OR hand-delivered to the Clerk of the Board of the Contra Costa County Board of Supervisors, 651 Pine Street, 1st Floor, Room 106, Martinez, California. To count in this election, **ALL completed ballots must be received by the County on or before April 6, 2012 at 5:00 p.m.**

Can I drop off my ballot if it is too late mail it in?

Yes. Hand-deliver your completed ballot to the Clerk of the Board of the Contra Costa County Board of Supervisors at 651 Pine Street, 1st Floor, Room 106, Martinez, California. **To count in this election ALL ballots must be received by the County on or before April 6, 2012 at 5:00 p.m.**

Given that a signature is required for each completed ballot, WHO is authorized to sign my ballot?

1. If the property is owned by an individual, the individual may sign.

2. If a property is held by a husband and wife, either may sign for both.
3. If two or more persons own the property as tenants-in-common or as joint tenants, any one tenant-in-common, or joint tenant, may sign for all.
4. If the property is owned by a corporation, the ballot may be signed for the corporation by an officer or officers authorized to make contracts or by resolution of the corporation's Board of Directors.
5. If the property is owned by another legal entity, the ballot may be signed by any person authorized by law to make contracts for the entity.
6. If the property is owned by a public agency, the ballot may be signed by any person authorized by law to make contracts for the agency or by resolution of the agency's Governing Board.

Why is the property owner name and signature on the ballot?

Proposition 218, which was sponsored by the Jarvis Taxpayers Association and approved by California voters in 1996, and supporting legislation, stipulates that the property owner's name and signature must be on the ballot. These requirements likely were added to allow for the validation of the accuracy of the tabulation and to help ensure that ballots are signed by the property owner or an authorized representative. However, the Clean Water Program will make every effort to protect the secrecy of the ballots, except as required during tabulation.

How will the accuracy of the tabulation be ensured?

The accuracy of the tabulation is of utmost importance and there are multiple layers of accountability to ensure the utmost transparency and accuracy of the tabulation. First, the tabulation will be performed by a professional accounting and auditing firm with extensive professional experience tabulating other similar ballot proceedings. Second, the ballots are being mailed directly to the tabulator with prepaid postage, which allows the Post Office to track the number of delivered returned ballots and ensures that other parties, including the County and Clean Water Program, do not have access to the ballots. Third, the ballots will remain sealed until the end of the balloting period and a log of mailed ballots received will be maintained by the professional tabulation firm. Fourth, the tabulation will be observed by the League of Women Voters and can also be reviewed by other interested parties. And fifth, if desired, the ballot tabulation can be audited.

Why are there no proponent or opponent statements?

Proposition 218 and the supporting legislation do not authorize either proponent or opponent arguments on the ballot.

Why didn't I receive a ballot for my undeveloped parcel?

Only improved parcels with impervious surfaces use the storm drain system and are therefore assessed. Only parcels being assessed the fee vote on the measure.