

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

TUESDAY, April 3, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey (arrived at 7:12 p.m.), and Stratford. Staff present: City Manager Gary Napper, City Engineer Rick Angrisani, City Attorney Mala Subramanian, Finance Manager Merry Pelletier, Community Development Director David Woltering, Assistant to the City Manager Laura Hoffmeister, and City Clerk Laci Jackson.
2. **CLOSED SESSION** – None.
3. **PLEDGE OF ALLEGIANCE**- led by Mayor Geller.
4. **CONSENT CALENDAR**- It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of March 20, 2012.
 - (b) Approved the Financial Demands and Obligations of the City.
 - (c) Accepted the resignation of Charles (Chuck) Evans from the Contra Costa Transportation Authority's Citizen Advisory Committee, effective immediately, and authorized staff to advertise this appointed office vacancy.
5. **RECOGNITIONS AND PRESENTATIONS** – None.
6. **REPORTS**
 - (a) Planning Commission – No meeting held.
 - (b) Trails and Landscaping Committee – No meeting held.
 - (c) The City Manager reported on the Successor Agency to the former Clayton Redevelopment Agency. He stated the Successor Agency Oversight Board now has six of the seven members officially appointed. The goal is to establish a Board meeting for the last week of April to inform the Board of their duties and to approve the Enforceable Obligations (ROPS). He stated staff just discovered the former Clayton Redevelopment Agency did not transfer the title of The Grove park into the City's ownership so now the Oversight Board will have an opportunity to review this matter about asset liquidation under ABx1 26. He stated Clayton is not the only City with this problem and The Grove was built with state grants that require the park remain in public title for 20 years. He stated this is an Enforceable Obligation and the property cannot be liquidated and must be transferred into title of the City. He stated the legislature is also working on cleanup legislation for such problems with AB 1585.

Councilmember Shuey arrived at 7:12 p.m.

(d) City Council

Councilmember Pierce attended a Transportation Authority meeting and stated countywide the sales tax increment has gone up by 4.5% over last year. She noted the City of Hercules received approval of Measure J money for their transit center. She attended ABAG meetings including attendance at the Marin County Conference of Mayors, and will be attending the ABAG General Assembly business meeting on the City's behalf.

Councilmember Stratford noted the trait being exemplified this month is "Integrity," under the Do the Right Thing program.

Vice Mayor Medrano stated he has been working with the Clayton Valley Charter High School HR Committee. He attended the City Budget ad-hoc committee meeting, a League of California Cities East Bay Division meeting, and has been working on securing sponsorships for the Concerts in The Grove weeknight concerts.

Councilmember Shuey stated he has been working with the Clayton Valley Charter High School Student Services Committee, and met with someone who might be interested in running for the Mt. Diablo Unified School District Board.

Mayor Geller attended the lottery for the Clayton Valley Charter School and spoke at the opening of the Creekside Arts Festival. He thanked Arlene Nielsen for her hard work on the event. He attended a Contra Costa Council luncheon and is looking forward to hosting the Contra Costa County Mayors' Conference on Thursday.

(e) Other – None.

7. PUBLIC COMMENTS

8. PUBLIC HEARINGS

(a) Presentation of the Mid-Year City Budget status report for Fiscal Year 2011-2012.

The Finance Manager presented the staff report recommending no mid-year budget adjustments. She stated on October 18th the Council approved adding encumbrances to the City Budget. She stated that expenditures have dropped compared to previous years at the mid-year point. She stated property taxes are higher though sales taxes are lower. She noted business license revenues are up, but rental revenue from sports fields are down. She stated there is less youth sports participation and the adult soccer league is no longer playing. She noted at the mid-year point only half of the administration budget has been provided for by the Redevelopment Agency and there are transfers and debts owed to the former Redevelopment Agency that the Successor Agency Oversight Board will need to review. She stated staff has done a good job of staying in budget. She stated the Special Funds are doing well and revenues are over expenses but there are reserve funds to cover the any over expenses. She stated she and the City Manager met and discussed the mid-year budget with the Council ad-hoc committee.

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Councilmember Shuey asked for more information about the dollar amount lost from the adult soccer league. He noted Little League now plays at other sports fields because it costs more to play on the fields in Clayton.

Councilmember Pierce asked why the Police Department has expended over 60% of its overtime budget for the year? The Finance Manager responded that what often drives this is training. The Police Chief responded it is front loaded and there is a staff shortage because an officer is on light duty. He stated he met with the administrative sergeant and they will come in under budget on year-end.

Councilmember Stratford thanked staff for their work and stated there is a slight surplus at mid-year which puts the City in good position.

Mayor Geller opened the Public Hearing at 7:45 p.m., no comments were received. Mayor Geller closed the Public Hearing at 7:46 p.m.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to accept the Mid-Year Budget Report for FY 2011-12 as presented (Passed; 5-0 vote).

- (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).

The Community Development Director presented the staff report. He stated in April 2010 the City of Clayton adopted its current Housing Element and that it was certified by the State in July 2010. He indicated there are over thirty categories of implementation measures in the Housing Element to facilitate the construction of more affordable housing in the community. He indicated in February 2011, Raney Planning and Management was hired by the City to assist with preparing the needed policy and regulatory (i.e., General Plan, Town Center Specific Plan, and Zoning) amendments and environmental documentation to enact some of the required implementation measures. He stated over the last three or four months staff and the consultant have worked with the Planning Commission on the recommended implementation measures:

- I.1.1. Create and assign to specified properties a Multiple Family High Density (15.1 to 20 units per acre) land-use designation/classification as an incentive for affordable multi-family projects in the community.
- II.1.2 Senate Bill 2- Allow supportive and transitional housing types in all residential zones. This is housing that provides support services for certain groups.
- II.1.3 Allow single room occupancy (SRO) units in the downtown Limited Commercial (L-C) zoning district.
- II.2.1 Better ensure that intended densities are achieved in multiple-family districts.
- II.6.1 Provide flexible development standards and concessions to encourage and promote affordable housing units in Planned Development (PD) Districts.
- IV.1.2 Remove maximum "number" of persons defined as a family.

He stated the General Plan amendments include a total of 7 different properties to be redesigned to Multiple Family High Density Residential, allowing 15.1 to 20 units per acre. He stated re-designations include several properties on the west side of Old Marsh Creek Road near the AT&T facility and an area at Mitchell Canyon Road at Clayton Road.

He noted staff received a letter from Mr. and Mrs. Bryd at 1212 Mitchell Canyon Road, requesting to have the allowed density on their property increased to 15.1 to 20 units per acre. Staff analyzed this request and determined this would be acceptable, assuming that applicable mitigation measures identified in the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) for the other six properties be applied to the Byrd property. He stated in total there are 7 acres of land being considered which could increase the number of buildable units by 83 with the application of the Multiple Family High Density designation.

The Community Development Director indicated there are four documents for consideration tonight. First, a Resolution approving an IES/MND which includes mitigation measures in the following areas: biological, cultural, archeological, hazards, noise, public services, and transportation and circulation. He stated the mitigation measures are only required for the re-designated sites, not for the text amendments. He stated the second Resolution would approve the General Plan amendments, including text amendments creating a Multiple Family High Density designation and, then, re-designating specified properties on the General Plan Map to that new designation. He stated the third Resolution approves amendments to the Town Center Specific Plan text and map. These amendments create the Multiple Family High Density designation and assign it to one property in the Town Center Specific Plan area. He stated the final document is the Introduction and First Reading of Ordinance No. 440 which includes both text changes to the City's Zoning Code and map changes to the Zoning Map. The map changes involve reclassifying several specified properties to Planned Development (PD), with the Multiple Family High Density (15.1 to 20 units per acre) General Plan designation and other text amendments to address the cited implementation measures, including defining and allowing for single room occupancy units, transitional housing, and support housing at specified locations within the community.

Mayor Geller asked about SRO units and whether it was common for them to have either no bathroom or no kitchen? Councilmember Pierce stated yes and that in many cities these units have shared facilities, such as shared kitchens.

Mayor Geller then asked the status the Easley property. The Community Development Director clarified the Easley property is not part of the action tonight as opposed to the Easleys.

Vice Mayor Medrano stated the Council had asked staff to look for the least impact and staff found some properties with willing property owners.

Mayor Geller clarified in the future the intent will be that multiple-family units, not single-family homes, be constructed on properties designated Multiple Family High Density Residential.

Mayor Geller opened the Public Hearing at 8:10 p.m.

Irena Liskovich asked if transitional housing meant a halfway house? The Community Development Director stated transitional housing is for a target group but he would not necessarily call it a halfway house. Vice Mayor Medrano added the State is requiring these amendments.

The City Manager added within some existing Clayton neighborhoods there are already State-permitted housing units where people are in transition and provided support services. He indicated that these homes typically blend in and people are generally unaware the unit is serving certain target populations.

With no further public comments, Mayor Geller closed the Public Hearing at 8:14 p.m.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to adopt Resolution 10-2012 adopting 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 (Passed; 5-0 vote).

It was moved by Vice Mayor Medrano, seconded by Councilmember Stratford, to adopt Resolution 11-2012 approving 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 (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to adopt Resolution 12-2012 approving 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 (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to authorize the City Clerk to read Ordinance No. 440 by title and number only (Passed; 5-0 vote).

The City Clerk read Ordinance No. 440 by title and number only.

It was moved by Councilmember Pierce, seconded by Vice Mayor Medrano, 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, 17.24.020, 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 (Passed; 5-0 vote).

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.

The City Engineer presented the staff report and stated the City combined 3 separate projects into one bid for review tonight. The three projects include Clayton Road Median Landscaping project, the CVS Retaining Wall Landscaping, and the Daffodil Hill Landscaping project. He stated CBCA was expected to fund the Daffodil Hill work and the award of bid was to be looked at based on the bid price for Landscape Median project. He stated the City received 3 bids. He stated Stockbridge General Contracting, Inc was the lowest bidder and their bid will actually be reduced further because of a miscalculation by staff on the amount of materials needed for the project. He stated the bid must be awarded at the original bid amount but the City always has the option for paying for the quantities actually delivered and used. He stated he checked the lowest bidder's references and they were regarded highly. He stated based on the bid price the CBCA has decided not to fund the Daffodil Hill portion of the project at this time. He stated on top of the contract bid amount an additional \$29,000 project inspection and management services needs to be added for a project budget total of \$319,711.50. He stated the Landscape District has money in reserve to cover the cost of the project and staff recommends approval of the Resolution to award the contract.

Councilmember Shuey asked where the bid quantities were overstated? The City Engineer stated it was in the bid form. Councilmember Shuey asked if Stockbridge was aware of this. The City Engineer responded Stockbridge knows and payments have always been on the amount based on actual quantities.

Councilmember Shuey asked if the City will be at risk for paying more? The City Engineer stated no.

Keith Haydon, CBCA President, explained the reasoning for not moving forward with their Daffodil Hill portion of the project. He stated the CBCA believes this is a worthwhile project but the bid was not competitive enough. He stated it was almost double what the CBCA had anticipated and the completion of the project is in jeopardy. He challenged the Council to find a way to complete this project.

Councilmember Stratford asked how much the CBCA has budgeted for the project? Keith Haydon stated nothing has been budgeted. He stated CBCA is considering talking separately with the contractor about doing their project.

Vice Mayor Medrano asked if the Daffodil Hill area could be part of the Landscape District? The City Manager stated the City Council could annex this property into the Landscape District. Councilmember Medrano stated he would like to see this happen for maintenance and funding purposes.

Councilmember Pierce asked about a post-contract award change order to include Daffodil Hill with the project? The City Engineer stated it will take 2-3 weeks for things to get finalized and that option is always available.

Vice Mayor Medrano stated the Council should try and look for a way to finish the project. Councilmember Stratford agreed and stated there was better funding from the Landscape District.

Councilmember Pierce stated the Council should first run Daffodil Hill through the Trails and Landscaping Committee to discuss if this is a priority of the District. She asked if the Maintenance staff had looked at what it will cost to maintain that area once it is complete. The City Manager stated staff had looked at contracting the maintenance of this project out with a contract due to limited in-house personnel.

Councilmember Shuey stated he was leery of committing money from the City and stated the Council needs to look at long term costs before we do it.

Vice Mayor Medrano stated the Council already committed to Daffodil Hill's ongoing maintenance when it allowed the first improvements to be installed by CBCA, so that is not the issue. He stated the real issue is the last piece of the physical construction.

The City Manager noted the next Trails and Landscaping Committee meeting is scheduled for April 16th.

Mayor Geller stated the community is lucky to have CBCA as part of the community, and they have already expended \$68,000 on the project. He stated he wished the CBCA would have come up with a dollar amount they were willing to spend for the project. He asked if there were other City funds which could be used to pay for the Daffodil Hill project? The City Manager responded yes.

Keith Haydon stated the reason CBCA did not come with an actual dollar amount is that the competitive bid price was much more than expected.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to direct staff to take the Daffodil Hill project to the Trails and Landscaping Committee for evaluation on whether or not the project should be annexed into the Landscape Maintenance District and given priority for funds (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Vice Mayor Medrano, to adopt Resolution 13-2012 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 (Passed; 5-0 vote).

- (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.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approved the contract with the Pacific Coast Farmers' Market Association (Passed; 5-0 vote).

John Silvera, Pacific Coast Farmers' Market Association, thanked staff, the Council and the community for their support and stated he looked forward to the Market's opening on May 12th.

- (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.

The Assistant to the City Manager presented the staff report regarding the 2012 Community Clean Water Initiative. She stated property owners received this information as well as the 19 municipalities. She stated the City has a joint permit, authorized under state and federal law for stormwater run-off. She stated over the years the State has mandated more requirements and standards. She stated the City and the Clean Water Program do not have the funds available to meet these unfunded mandates. She stated the City hit its cap of \$29 for the current stormwater assessment fee in 2000. She stated the Clean Water Program has been looking at ways to fund these additional mandates. She noted staff and Councilmembers attended meetings to fight these requirements including testifying at the Regional Water Board but to no avail. Over the last year staff has researched and evaluated various funding options to meet these new unfunded mandates. A Prop. 218 tax was the best option. She stated the tax requires there be mailed ballots to each property owner and the majority of the returned ballots constitute the vote. She stated the City has 70 parcels but only 25 qualify for this new tax.

She stated the tax would constitute an additional \$22 per parcel per year for a typical single family residence and would generate a total of \$93,721 per year to City for these programs, which would not be enough to cover the actual permit requirements and would still need subsidy out of the General Fund. She stated on average it costs Clayton \$140,000 per year to meet permit requirements.

The City Manager noted the Resolution needs to be amended in Section 2, for all parcels owned by the City of Clayton and the former Redevelopment Agency as Successor Agency.

Councilmember Medrano noted he is sick and tired of these unfunded mandates but does not want to see the General Fund depleted anymore. He stated you almost have to vote yes to approve it but it is unfortunate we must pass these costs as taxes onto citizens.

Councilmember Shuey asked what other counties are doing? The Assistant to the City Manager stated some counties have looked at the same method for raising revenue.

Councilmember Pierce stated we need to place the City's vote on this. She stated if the City is not in compliance with the regulations it will get fined and the fines will be far more than the tax.

Councilmember Shuey stated he is adamantly opposed to this and stated these unfunded mandates are unacceptable. He suggested staying out of it and seeing what the citizens want, or vote no.

Councilmember Stratford thinks by voting for the tax we are feeding the problem. He stated he is opposed to it and would prefer we vote no or stay out of it.

Mayor Geller stated he would vote no.

It was moved by Councilmember Shuey, seconded by Councilmember Stratford to have the City Manager cast a "no" vote on all of the City's ballots on the 2012 Community Clean Water Initiative (Passed; 5-0 vote).

10. **COUNCIL ITEMS**- None.

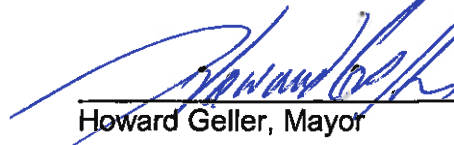
11. **ADJOURNMENT**- On call by Mayor Geller the meeting adjourned at 9:07 p.m.

Respectfully submitted,



Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor