CITY OF CLAYTON

Founded 1857 . . Incorporated 1964

AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

TUESDAY, May 1, 2012

6:15 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*

May 1, 2012

6:15 P.M.

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

2. **CLOSED SESSION**

(a) *Government Code Section 54956.9*, Conference with Legal Counsel
Existing Litigation: *JFC Construction, Inc. v. City of Clayton, and related cross action*
Superior Court of CA, Contra Costa County; Case No. C-10-00293

Report out of Closed Session: Mayor Geller.

7:00 P.M.

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) Information Only
1. Updated Clayton Trails & Landscaping Brochure. (View Here)
2. Adopted Rules of Procedure of the Oversight Board, Clayton Successor Agency. (View Here)

(b) Approve the minutes of the regular meeting of April 17, 2012. (View Here)

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

(d) Adopt a Resolution rescinding Resolution No. 72-92 and defining City volunteers for purpose of City workers' compensation benefit eligibility. (View Here)

(e) Adopt a Resolution calling for the preparation and filing of the Engineer's Annual Report for the levy of FY 2012-2013 assessments in the Clayton Street Lighting Assessment District (pursuant to the Street Lighting Act of 1919). (View Here)

(f) Approve Save Mount Diablo as an acceptable third-party non-profit entity for developer dedication of real property title to and responsibility of Lot 25 (APN 119-630-011), satisfying the developer's (Toll Brothers, Inc.) open space mitigation parcel requirement pursuant to Condition No. 4 of the Diablo Estates at Clayton residential subdivision (SPR 01-11). (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) Consideration of the Introduction and First Reading of Planning Commission-recommended Ordinance No. 441 adding Chapter 15.90 to the *Clayton Municipal Code* establishing a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning or building standards, regulations, policies and procedures (ZOA 01-12). (View Here)
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing; **3)** Close the Public Hearing; **4)** By motion, authorize the City Clerk to read Ordinance No. 441 by title and number only; and **5)** Following that reading, by motion approve Ordinance 441 for Introduction.

9. ACTION ITEMS

(a) Consideration of the Trails and Landscaping Committee's recommendations on the priority to partially fund a joint landscaping project of Daffodil Hill with the Clayton Business and Community Association (CBCA), incorporate the targeted City-owned parcel into the Citywide Landscape Maintenance District (CFD 2007-1), and determine the of source of maintenance funds following completion of the joint landscape project. (View Here)
(Assistant to the City Manager)

Staff recommendations: Following staff report and public comments, it is recommended the City Council approve by motion the incorporation of the Daffodil Hill parcel into the Landscape Maintenance District (CFD 2007-1), agree to share the negotiated cost to complete the landscape beautification project on Daffodil Hill with CBCA at a 50-50 cost share not to exceed a City expense of $29,000 paid by Landscape Maintenance District funds, and the Landscape Maintenance District be the source of funds for the completed project's maintenance costs.

(b) Public Meeting on the proposed formation of a Diablo Estates at Clayton Benefit Assessment District (BAD) for the Diablo Pointe Subdivision 8719, 24 residential parcels east of Regency Drive and north of Rialto Drive (approx.19 acres).
(City Engineer) (View Here)

Staff recommendation: **1)** Receive the staff presentation; **2)** Open the Public Meeting and receive public comments; **3)** Close the Public Meeting; **4)** Take no action pending the Public Hearing scheduled for May 15, 2012.

(c) Consideration of the Introduction and First Reading of Ordinance No. 442 adding and amending certain sections of the *Clayton Municipal Code* relating to claims for refunds of City taxes and actions challenging City taxes, assessments and fees. (View Here)
(City Attorney)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** By motion, authorize the City Clerk to read Ordinance No. 442 by title and number only; and **4)** Following that reading, by motion approve Ordinance 442 for Introduction.

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

11. **ADJOURNMENT**– the next regularly scheduled City Council meeting is May 15, 2012.

# # # # #

Agenda Date: 5-1-12

Agenda Item: 4a(1)

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laura Hoffmeister, Asst. to the City Manager

MEETING DATE: May 1, 2012

SUBJECT: Informational item – New Trails and Landscape Committee Brochure

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The City Council appointed four new Trails and Landscape Committee members. The Committee's first meeting, since these appointments were made, was April 16th. At this meeting the TLC reviewed its' informational brochure from 2011 and determined that it needed to be updated. New Committee member Anthony Chippero noted that he had background in computer graphics and volunteered to update and redo the brochure, with Committee member Kelley Marshall to assist in text information editing.

Attached is the new Trails and Landscape Committee informational brochure for 2012.

CLAYTON'S TRAILS & LANDSCAPE COMMITTEE (TLC)

Formed by the Clayton City Council in August 2007

Comprised of up to 11 volunteer members of the Clayton community

Helps the city implement the voter-approved plan to manage the current and future needs of the citywide Landscape Maintenance District

Helps to manage and support Clayton's Adopt-A-Trail program

Serves as a financial oversight committee and provides short and long term implementation guidance to city staff and the City Council

The Landscape Maintenance District consists of roadway edge and roadway median landscaping, trail maintenance and fire abatement on trails and open space (city parks and the Clayton fountain operation are not included in the district)

Funds can only be used for spending within and for the Landscape Maintenance District

GET INVOLVED!

The Trails and Landscape Committee meets quarterly on the 3rd Monday of the month at 7pm at the Clayton Library

Clayton residents are encouraged to attend these meetings to provide public opinion and ask questions

Meeting agendas are posted online: City web site at www.ci.clayton.ca.us

Printed copies at:
City Hall, 6000 Heritage Trail;
Clayton Library, 6125 Clayton Road;
Chm's Bulletin Board, 1028 Diablo St

Please direct any questions or concerns to the City of Clayton via the website or address above

2012 Trails & Landscape Committee Members

Jake Pauline (Chair)
Kelly Marshall (Vice Chair)
Larry Casagrande
A.J. Chippero
Robert Krich
Harun Simbirdi
Alyse Smith
Bob Steiner

CITY OF CLAYTON

Founded 1857 Incorporated 1964

Trails & Landscape Committee

2012

THE LANDSCAPE MAINTENANCE DISTRICT: CLAYTON'S "FRONT YARD"

The Landscape Maintenance District covers:

- over 2 million square feet of landscape
- 40,700 square feet of lawns and flowerbeds
- Almost 3,000 city trees
- 515 acres of open space
- 7 miles of creek side trails
- 20 miles of open space trails
- Approximately 50 street islands and medians

The District uses the equivalent of only three full time staff along with seasonal and volunteer workers

HOW IS THE DISTRICT FUNDED?

Measure B, a special 10-year special parcel tax passed by Clayton voters in June 2007 funds the District

Measure B is the only source of funding for the Landscape District supplies, electricity, irrigation, water, and labor

Funds may only be used for voter approved Landscape District expenses

Trails & Landscape Committee

ADOPT-A-TRAIL

If you are one of the many Clayton residents that enjoy our trail system you can further help the Landscape Maintenance District and beautify Clayton's trails by Adopting a Trail

This program aims to:

- Augment financing provided by Measure B
- Provide a venue for volunteers that help Clayton maintain and enhance it's trail network
- Make the trails cleaner
- Celebrate the sponsors and volunteers that help Clayton keep the trail network one of the distinguishing characteristics of our community
- Foster civic pride through volunteerism, philanthropy, and cleanliness

If you are interested in participating in this program or would like additional information please leave your contact information on the Adopt-A-Trail Hot Line at 925-673-7369 and a Committee member will return your call

TLC's STRATEGIC FOCUS

- Remove unwanted expenditures and control costs with strict oversight
- Create equity in the District
- Implement cost effective measures to improve irrigation and infrastructure
- Invest in modern equipment to increase maintenance efficiency and effectiveness
- Implement seasonal and situational based labor to minimize costs

STANDARDS & PRIORITIES FOR THE DISTRICT

- Mandatory firebreaks
- Weeds trimmed along major trails and creeks twice a year
- Trees trimmed for safety purposes
- Irrigation breaks repaired as necessary
- Public roadway landscaping trimmed twice a year
- Landscape areas fertilized once a year as necessary

CITY OF CLAYTON

Agenda Date: 5-1-12

Agenda Item: 4(a) 2

RULES OF PROCEDURE

OVERSIGHT BOARD

FOR THE
SUCCESSOR AGENCY OF THE CITY OF CLAYTON

ARTICLE I - THE OVERSIGHT BOARD

Section 1. Name of Oversight Board

The name of the Oversight Board shall be the "Oversight Board for the City of Clayton Successor Agency" ("Oversight Board").

Section 2. Membership/Duration

a. Total Membership/Appointment

The total membership of the Oversight Board shall be seven (7), selected as follows or as may be amended by any amendments to Health and Safety Codes Section 34179:

(1) One member shall be appointed by the Board of Supervisors of the County of Contra Costa;

(2) One member shall be appointed by the Mayor of the City of Clayton;

(3) One member shall be appointed by the largest, by property tax share, special district (as defined in Revenue and Taxation Code Section 95) with territory in the territorial jurisdiction of the former Clayton Redevelopment Agency;

(4) One member, to represent schools, shall be appointed by the elected County of Contra Costa Superintendent of Education or, if the County Superintendent is appointed, then this member shall be appointed by the County of Contra Costa Board of Education;

(5) One member shall be appointed by the Chancellor of the California Community Colleges to represent community college districts in the City of Clayton;

(6) One member shall be a member of the public appointed by the Board of Supervisors of the County of Contra Costa; and

(7) One member, to represent the employees of the former Clayton Redevelopment Agency, shall be appointed by the Mayor of the City of Clayton from the recognized employee organization representing the largest number of former Clayton Redevelopment Agency employees employed by the Clayton Successor Agency at the time of appointment.

The Governor may appoint individuals to fill any member position identified herein that has not been filled by May 15, 2012. Following its initial formation, the Oversight Board shall report the names of its officers and other members to DOF.

The members shall serve without compensation and without reimbursement for expenses. Each member shall serve at the pleasure of the entity that appointed such member.

b. Duration

The Oversight Board shall be and remain established until the sooner of (1) the date that all indebtedness of the former Clayton Redevelopment Agency has been repaid, or (2) July 1, 2016, at which time the Oversight Board shall be dissolved and replaced by a single oversight board for all successor agencies within the County of Contra Costa.

Section 3. Local Entity

Pursuant to subdivision (e) of Section 34179 of the Health and Safety Code, the Oversight Board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

Section 4. Personal Immunity

Oversight Board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as members of the Oversight Board.

Section 5. Fiduciary Responsibilities

Oversight Board members shall have fiduciary responsibilities to holders of enforceable obligations, as that term is defined in subdivision (d) of Section 34171 of the Health and Safety Code, and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of the Health and Safety Code.

Section 6. Resignation

Any Oversight Board member may resign at any time by giving written notice to the Chairperson, who shall forward such notice to the Successor Agency and to DOF. Any such resignation will take effect upon receipt or upon any date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

Section 7. Filling of Vacancies

In the event of a vacancy on the Oversight Board, the appointing entity for the vacant seat shall select a member to fill such vacancy as soon as reasonably practicable, provided, however, that the Governor may appoint individuals to fill any member position that remains vacant for more than sixty (60) days.

Section 8. Staff

The Oversight Board may direct the staff of the Successor Agency, through the City Manager or his/her designee, to perform work in furtherance of the duties and responsibilities of the Oversight Board. The Successor Agency shall pay for all of the costs of the meetings of the Oversight Board and may include those costs in the administrative budget of the Successor Agency. The Successor Agency shall keep the records of the Oversight Board, and the City Manager shall designate a staff member to act as secretary at the meetings of the Oversight Board. The secretary shall prepare agendas and minutes of meetings of the Oversight Board, shall keep a record of the meetings in a journal of proceedings of the Oversight Board, and shall attest to and/or countersign all documents of the Oversight Board.

ARTICLE II - OFFICERS

Section 1. Officers

The officers of the Oversight Board shall consist of a Chairperson and a Vice Chairperson, who shall be elected in the manner set forth in this Article II.

Section 2. Chairperson

The Chairperson shall preside at all meetings of the Oversight Board, and shall submit such agenda, recommendations and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the Oversight Board. The Chairperson shall sign all documents necessary to carry out the business of the Oversight Board.

Section 3. Vice Chairperson

The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the event of the death, resignation or removal of the Chairperson, the Vice Chairperson shall assume the Chairperson's duties until such time as the Oversight Board shall elect a new Chairperson.

Section 4. Additional Duties

The officers of the Oversight Board shall perform such other duties and functions as may from time to time be required by the Oversight Board, these Rules of Procedure, or other rules and regulations, or which duties and functions are incidental to the office held by such officers.

Section 5. Election

The Chairperson and Vice Chairperson shall be elected from among the members of the Oversight Board at the first regular meeting of the Oversight Board. Thereafter, the Chairperson and Vice Chairperson shall be elected from among the members of the Oversight Board at each annual meeting. Each officer shall hold office until the next annual meeting of the Oversight Board following his/her election and until his/her successor is elected and in office. Any such officer shall not be prohibited from succeeding himself or herself, but no person shall be elected as an officer for more than two consecutive terms.

Section 6. Vacancies

Should the office of the Chairperson or Vice Chairperson become vacant, the Oversight Board shall elect a successor from among the Oversight Board members at the next regular or special meeting, and such office shall be held for the unexpired term of said office.

ARTICLE III - MEETINGS

Section 1. Annual Meetings

Annual meetings shall be held on the last Thursday in April of each year at the hour 3:00 p.m., in the 1st Floor Conference Room at City Hall, 6000 Heritage Trail, Clayton, California, or at such other locations as the Oversight Board may designate by resolution, provided, however, that should said date be a legal holiday, then any such annual meeting shall be held on the next business day thereafter ensuing which is not a legal holiday. At annual meetings, the Chairperson and Vice Chairperson shall be elected; reports of the affairs of the Clayton Oversight Board shall be considered; and any other business may be transacted which is within the purposes of the Clayton Oversight Board. Notice of an annual meeting shall be published in a newspaper of general circulation in the territorial jurisdiction of the Successor Agency at least once not less than ten (10) days prior to the date of the annual meeting.

Section 2. Regular Meetings

The Oversight Board shall meet regularly on the last Thursday of the selected month at the hour of 3:00 p.m. in the 1st Floor Conference Room at City Hall, 6000 Heritage Trail, Clayton, California, or at such other locations as the Oversight Board may designate by resolution or in the notice of call of any special meeting. In the event that the regular meeting date shall be a legal holiday, then any such regular meeting shall be held on the next business day thereafter ensuing that is not a legal holiday. A notice, agenda and other necessary documents shall be delivered to the members, personally or by mail, at least seventy-two (72) hours prior to the meeting.

Section 3. Special Meetings

Special meetings may be held upon call of the Chairperson, or an affirmative vote by a majority of the members of the Oversight Board present at a regular or special meeting of the Oversight Board at which a quorum is present, for the purpose of transacting any business designated in the call, after notification of all members of the Oversight Board by written notice personally delivered or by mail at least twenty-four (24) hours before the time specified notice for a special meeting. At such special meeting, no business other than that designated in the call shall be considered.

Section 4. Adjourned Meetings

Any meeting of the Oversight Board may be adjourned to an adjourned meeting without the need for notice requirements of a special meeting, provided the adjournment indicates the date, time and place of the adjourned meeting. Oversight Board members absent from the meeting at which the adjournment decision is made shall be notified by the Chairperson of the adjourned meeting.

Section 5. All Meetings to be Open and Public

All meetings of the Oversight Board shall be open and public to the extent required by law. All persons shall be permitted to attend any such meetings, except as otherwise provided by law.

Section 6. Posting Agendas/Notices

The secretary, or his/her authorized representative, shall post an agenda for each regular Oversight Board meeting or a notice for each special Oversight Board meeting containing a brief description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. Agendas/notices shall be at a minimum posted at City Hall, Clayton, California (a location readily accessible to the public) at least seventy-two (72) hours in advance of each regular meeting and at least twenty-four (24) hours in advance of each special meeting.

All notices required by law for proposed actions by the Oversight Board shall also be posted on the Successor Agency's internet web site or the Oversight Board's internet web site, if one exists.

Section 7. Right of Public to Appear and Speak

At every regular meeting, members of the public shall have an opportunity to address the Oversight Board on matters within the Oversight Board subject matter jurisdiction. Public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for public comment; provided, however, that the Oversight Board may direct that public input and comment on matters on the agenda be heard when the matter regularly comes up on the agenda.

The Chairperson may limit the total amount of time allocated for public discussion on particular issues and/or the time allocated for each individual speaker.

Section 8. Non-Agenda Items

Matters brought before the Oversight Board at a regular meeting which were not placed on the agenda of the meeting shall not be acted upon by the Oversight Board at that meeting unless action on such matters is permissible pursuant to the Ralph M. Brown Act (Gov. Code §54950 et seq.). Those non-agenda items brought before the Oversight Board which the Oversight Board determines will require Oversight Board consideration and action and where Oversight Board action at that meeting is not so authorized shall be placed on the agenda for the next regular meeting.

Section 9. Quorum

The powers of the Oversight Board shall be vested in the members thereof in office from time to time. A majority of the total membership of the Oversight Board shall constitute a quorum for the purpose of conducting the business of the Oversight Board, exercising its powers and for all other purposes, but less than that number may adjourn the meeting from time to time until a quorum is obtained. An affirmative vote by a majority of the total membership of the Oversight Board shall be required for approval of any questions brought before the Oversight Board.

Section 10. Unexcused Absences

If a member shall be absent from three (3) meetings, whether regular or special, within six (6) consecutive calendar months, such absence shall result in the termination of the membership of the absenting member. A member's absence shall be excused if, prior to the meeting from which said member will be absent, said member notifies the Chairperson of his or her intent to be absent and the reasons therefor; provided, however, that a member shall be entitled to only two (2) excused absences within twelve (12) consecutive calendar months. At each meeting, after the roll has been called, the Chairperson shall report to the Oversight Board the name of any member who has so notified him or her of his or her intent to be absent and the reason for such absence.

Section 11. Order of Business

All business and matters before the Oversight Board shall be transacted in conformance with Robert's Rules of Order.

Section 12. Minutes

Minutes of the meetings of the Oversight Board shall be prepared in writing by the secretary. Copies of the minutes of each Oversight Board meeting shall be made available to each member of the Oversight Board and the Successor Agency. Approved minutes shall be filed in the official book of minutes of the Oversight Board.

ARTICLE IV - REPRESENTATION BEFORE PUBLIC BODIES

Any official representations on behalf of the Oversight Board before the Successor Agency, the Contra Costa County Auditor-Controller, the State Controller, DOF, or any other public body shall be made by the City Manager.

ARTICLE V - AMENDMENTS

These Rules of Procedure may be amended upon an affirmative vote by a majority of the total membership of the Oversight Board, but no such amendment shall be adopted unless at least seven (7) days written notice thereof has previously been given to all members of the Oversight Board. Notice of the amendment shall identify the section or sections of these Rules of Procedure proposed to be amended. The Successor Agency shall be notified of any amendments to these Rules of Procedure.

ADOPTED: APRIL 26, 2012

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 5-1-12

Agenda Item: 4b

TUESDAY, April 17, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:0 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey, and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Finance Manager Merry Pelletier, 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; 5-0 vote).**

(a) Approved the minutes of the regular meeting of April 3, 2012.

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

(c) Adopted Resolution 15-2012 setting the City's Fiscal Year 2012-13 Equivalent Runoff Unit (ERU) real property assessment existing rate to fund local storm water/clean water programs and services required by the federal and state-mandated National Pollution Discharge Elimination System (NPDES) Program (storm water pollution prevention).

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Presentation of the Clayton Community Library Foundation's Annual Report for 2011.

Joyce Atkinson, CCLF President, presented the Annual Report and thanked the City for its support of the library. She noted the Clayton Library volunteers provided 7,013 hours last year. She stated the Library Foundation generated income of $50,054 and also received many donations of books to be added to the collection.

(b) Proclamation declaring April 15-21, 2012 as "Clayton Community Library Volunteer Recognition Week" and recognition of Clayton's "Library Volunteers of the Year".

Mayor Geller read the Proclamation aloud and presented it to Clayton Library Foundation members present.

Mayor Geller presented certificates of recognition to Rosemary Harwood and Laura Minorsky recognizing them as Library Volunteers of the Year. Dieter Lauterbach was unable to attend the meeting but was also recognized as a Library Volunteer of the Year.

6. REPORTS

(a) Planning Commission – Vice Chairman Keith Haydon reported on the April 10th Planning Commission meeting. He stated the Commission reviewed an Ordinance that will adopt a process for ADA Reasonable Accommodations or land use regulations.

(c) Trails and Landscaping Committee – Jake Pauline, Chairman, reported on the April 16th Trails and Landscaping Committee (TLC) meeting. He stated the Committee has four new members: Anthony Chippero, Alyse Smith, Harun Simbirdi, and Larry Casagrande. He stated the Committee reviewed the Adopt a Trail program and noted collected funds had recently paid for the re-lighting of the Oak trees on eastern side of the Library. He thanked the sponsors of the program for their support. He noted the Committee received an update on the deferred landscape improvement projects and reviewed the mid-year budget. He noted Saturday, April 21st is the Clayton Cleans Up from 9am-Noon.

Chairman Pauline stated the majority of meeting was the discussion of the Daffodil Hill project. He stated the Committee received background information on the project from staff and from CBCA members present. He stated the Committee reviewed Measure B and discussed the intent of the voters when approving the tax. He stated every member agreed Daffodil Hill is a main focal point but were concerned with the maintenance costs burdening the District. He stated the Committee did not have input on the plans and would have liked to see different plant types incorporated into the plan for consistency and maintenance. He stated the Committee weighed the benefits of annexing the property into the District and recommended the Council annex the property into the District, pay for 50% of the construction costs not to exceed $26,000 and for the General Fund to reimburse the District for ongoing maintenance of the project area. He stated the next Trails and Landscaping Committee meeting is May 21st.

(c) The City Manager noted Saturday April 21st is the Clayton Cleans Up which is sponsored by the Clayton Pioneer. He stated the Successor Agency Oversight Board will have its first meeting on April 26th. He added a few comments on the TLC report. He stated the District is fluid and has the opportunity to annex property as opportunities arise. He stated originally the Daffodil Hill project was scaled back considerably and at the time he believed General Fund could pay for the upkeep valued at $2,000 per year. The landscape plan has grown considerably and the status of the City's General Fund has suffered considerably with the recession. He also stated that during the bidding of this project the Contra Costa Water District banned planting of new plants due to a statewide drought. He stated now with the demise of the Redevelopment Agency this project had to shift.

(d) City Council

Vice Mayor Medrano attended the TLC meeting and stated everyone on the Committee is looking out for how taxpayer money is being spent. He stated he will be attending the League of California Cities Bocce Tournament fundraiser and is in the process of confirming bands for the weeknight concerts.

Councilmember Stratford attended the Mayors' Conference held in Clayton.

Councilmember Shuey has been working with the Charter School and stated community and parent volunteers are needed because there is a lot of work to be done.

Councilmember Pierce thanked the TLC for their feedback on the Daffodil Hill project. She attended the Mayors' Conference and thanked staff for their work on the event. She attended a meeting with ABAG Disaster Resilience Council, a Regional Planning Committee meeting, Transportation Authority meetings, San Ramon leadership program presentation, a Bay Area Council Economic Institute meeting, and a Joint meeting of ABAG/MTC.

Mayor Geller attended the Mayors' Conference and thanked Oakhurst Country Club for hosting a great event. He stated the food and service was outstanding, and everyone involved worked well with staff. He attended a Relay for Life meeting and worked on finalizing the flyer for the Saturday night concerts.

The City Manager acknowledged the time Mayor Geller personally contributed to making Clayton's hosting of the Mayors' Conference a memorable event.

(e) Other – None.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS- None.

9. ACTION ITEMS

(a) Consideration of the Second Reading and Adoption of proposed Ordinance No. 440 enacting various *Clayton Municipal Code* amendments regarding the City's Housing Element Implementation Project (ENV 01-12; GPA 03-11; SPA 01-12; ZOA 06-11).

The City Manager presented the staff report and stated this action is necessary to approve the Housing Element implementation measures required by the City's adopted Housing Element. He stated these amendments include property re-designations of certain parcels in the City and is part of an ongoing cycle required by the State for local housing elements.

No public comments were received.

It was moved by Vice Mayor Medrano, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 440 by title and number only for Second Reading (Passed; 5-0 vote).

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

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

(b) Consideration of a Resolution adopting a revised City of Clayton's Emergency Operations Plan that has been modified and updated for integration of the federal government's National Incident Management System.

The Chief of Police presented the staff report and stated an Emergency Operations Plan provides a plan for staff to follow when responding to large scale emergencies. He stated as required by the Federal Government all staff were trained in 2006 on NIMS (National Incident Management Systems). He stated staff has worked with the County in updating the Emergency Plan and believes it a valid current resource for possible serious hazards.

He stated following the adoption of the Resolution, and the signing of the letter of promulgation, staff and elected officials will be trained on the plan, a tabletop exercise will occur, and a functional disaster exercise will be planned.

No public comments were received.

Councilmember Pierce thanked staff for their work on this update, and noted emergency recovery is also critical to the success of responding to emergencies and disasters.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution 16-2012 (Passed; 5-0 vote).

(c) *Action Item of City serving as Successor Agency to the former Clayton RDA*
Consideration of a Resolution of the City, acting as the Successor Agency, to approve and adopt its 2nd Recognized Obligation Payment Schedule (ROPS) covering the time period from July 2012 through December 2012, pursuant to new California Redevelopment Law (ABx1 26).

The Finance Manager presented the staff report. She stated the first ROPS was adopted by the City for the time period of January through June 2012. She stated the second ROPS is for the time period of July through December 2012. She stated the ROPS includes the debt service payments and pass-throughs required to be paid. She noted the Successor Agency will not be able to pay off the bonds early as anticipated since ABx1 26 prohibits the acceleration of debt retirement. She stated the Successor Agency Oversight Board must review and approve the ROPS at its upcoming meeting.

No public comments were offered.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to adopt Resolution 17-2012 (Passed; 5-0 vote).

10. COUNCIL ITEMS- None.

11. **ADJOURNMENT**– On call by Mayor Geller the meeting adjourned at 8:12 p.m. in memory of Charles "Chuck" Evans a past Mayor and Councilmember of Clayton, who passed away recently.

Respectfully submitted,

_____
Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

_____
Howard Geller, Mayor

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Agenda Date: 5/4/12

Agenda Item: 4e

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: May 1, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION	**Approve the following Invoices.**	
4/25/12	Cash Requirements Report	$131,206.60
3/15/12	Check # 28459 - $10.00 Check # 28455 - $15.00 Dues Payments – PORAC	$25.00
4/18/12	CalPERS ACH#9100138 (PPE 4/15/12)	$21,993.32
4/18/12	CalPERS ACH#9100139 (PPE 4/1/12)	$22,401.57
4/25/12	Bands for Saturday Concerts in the Park	$12,275.00
	TOTAL REQUEST	**$187,901.49**

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
Access One								
Access One	5/1/2012	4/2/2012	1244500	Long Distance	$47.34	$0.00		$47.34
				Totals for Access One:	*$47.34*	*$0.00*		*$47.34*
All City Management Services, Inc.								
All City Management Services, Inc.	5/1/2012	4/6/2012	26479	crossing guard services	$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	5/1/2012	4/13/2012	777791A	LTD premium	$975.59	$0.00		$975.59
				Totals for American Fidelity Assurance Company:	*$975.59*	*$0.00*		*$975.59*
American Soil & Stone								
American Soil & Stone	5/1/2012	4/2/2012	clay15	boulders	$497.26	$0.00		$497.26
				Totals for American Soil & Stone:	*$497.26*	*$0.00*		*$497.26*
AT&T/ CalNet 2								
AT&T/ CalNet 2	5/1/2012	4/8/2012	3/12	PD main line	$87.64	$0.00		$87.64
				Totals for AT&T/ CalNet 2:	*$87.64*	*$0.00*		*$87.64*
Bay Area News Group-East Bay								
Bay Area News Group-East Bay	5/1/2012	3/31/2012	0000469817	planning advertisements	$1,795.40	$0.00		$1,795.40
				Totals for Bay Area News Group-East Bay:	*$1,795.40*	*$0.00*		*$1,795.40*
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	5/1/2012	4/16/2012	1065660	Konica contract	$407.44	$0.00		$407.44
				Totals for Caltronics Business Systems, Inc:	*$407.44*	*$0.00*		*$407.44*
CCC General Services (Traffic)								
CCC General Services (Traffic)	5/1/2012	4/18/2012	4525	traffic signal maintenance	$1,898.53	$0.00		$1,898.53
				Totals for CCC General Services (Traffic):	*$1,898.53*	*$0.00*		*$1,898.53*
CCC Sheriff - Forensic Svc Div (Lab)								
CCC Sheriff - Forensic Svc Div (Lab)	5/1/2012	4/5/2012	CLPD-112	blood withdrawal services	$955.50	$0.00		$955.50
				Totals for CCC Sheriff - Forensic Svc Div (Lab):	*$955.50*	*$0.00*		*$955.50*
Clayton Pioneer								
Clayton Pioneer	5/1/2012	4/17/2012	12026	concert flyer inserts	$432.00	$0.00		$432.00
				Totals for Clayton Pioneer:	*$432.00*	*$0.00*		*$432.00*
Contra Costa Water Dist.								
Contra Costa Water Dist.	5/1/2012	4/4/2012	series J	irrigation	$4,879.74	$0.00		$4,879.74
				Totals for Contra Costa Water Dist.:	*$4,879.74*	*$0.00*		*$4,879.74*
Cropper Accountancy Corp								
Cropper Accountancy Corp	5/1/2012	3/31/2012	585	consulting for Blackbaud Financial Edge	$2,030.10	$0.00		$2,030.10
				Totals for Cropper Accountancy Corp:	*$2,030.10*	*$0.00*		*$2,030.10*

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
Drobatz & Company, Inc								
Drobatz & Company, Inc	5/1/2012	4/4/2012	20565344	nuts and bolts	$398.65	$0.00		$398.65
				Totals for Drobatz & Company, Inc:	*$398.65*	*$0.00*		*$398.65*
Ghilotti Bros Contractors								
Ghilotti Bros Contractors	5/1/2012	3/28/2012	11415-08	final payment for CCP	$73,472.08	$0.00		$73,472.08
				Totals for Ghilotti Bros Contractors:	*$73,472.08*	*$0.00*		*$73,472.08*
ICMA Retirement Corporation								
ICMA Retirement Corporation	5/1/2012	4/5/2012	10137	annual plan fee - quarterly for 4/1/12-6/30/12	$125.00	$0.00		$125.00
				Totals for ICMA Retirement Corporation:	*$125.00*	*$0.00*		*$125.00*
Interstate All Battery Center - East Bay								
Interstate All Battery Center - East Bay	5/1/2012	4/11/2012	136491	batteries	$223.23	$0.00		$223.23
				Totals for Interstate All Battery Center - East Bay:	*$223.23*	*$0.00*		*$223.23*
Jarvis Fay Doporto & Gibson, LLP								
Jarvis Fay Doporto & Gibson, LLP	5/1/2012	4/17/2012	42312	Chevron Property Tax Refund Dispute	$105.09	$0.00		$105.09
				Totals for Jarvis Fay Doporto & Gibson, LLP:	*$105.09*	*$0.00*		*$105.09*
Joseph Padilla								
Joseph Padilla	5/1/2012	4/16/2012	024915	deposit refund EH	$500.00	$0.00		$500.00
				Totals for Joseph Padilla:	*$500.00*	*$0.00*		*$500.00*
LarryLogic Productions								
LarryLogic Productions	5/1/2012	4/18/2012	1237	production City Council Meeting	$300.00	$0.00		$300.00
				Totals for LarryLogic Productions:	*$300.00*	*$0.00*		*$300.00*
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	5/1/2012	4/10/2012	112-15397	Library hook up NCE to Internet	$335.00	$0.00		$335.00
Marken Mechanical Services Inc	5/1/2012	4/10/2012	112-15372	replace failed outside air actuator - Library	$919.42	$0.00		$919.42
Marken Mechanical Services Inc	5/1/2012	4/10/2012	312-15332	Library replace failed N30 controller	$7,790.00	$0.00		$7,790.00
Marken Mechanical Services Inc	5/1/2012	4/3/2012	412-1151-4	City Hall Maintenance	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	5/1/2012	4/3/2012	412-1152-4	Library Maintenance	$150.00	$0.00		$150.00
				Totals for Marken Mechanical Services Inc:	*$9,344.42*	*$0.00*		*$9,344.42*
Neopost (add postage)								
Neopost (add postage)	5/1/2012	4/20/2012	42412	postage added - Milan Notices	$300.00	$0.00		$300.00
				Totals for Neopost (add postage):	*$300.00*	*$0.00*		*$300.00*
ParcelQuest								
ParcelQuest	5/1/2012	4/17/2012	15284	Contra Costa Data and Maps Disc	$533.36	$0.00		$533.36
				Totals for ParcelQuest:	*$533.36*	*$0.00*		*$533.36*
PERMCO, Inc.								
PERMCO, Inc.	5/1/2012	4/23/2012	9718-9726	April Services	$10,262.81	$0.00		$10,262.81

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
				Totals for PERMCO, Inc.:	*$10,262.81*	*$0.00*		*$10,262.81*
PG&E								
PG&E	5/1/2012	4/17/2012	312	traffic and irrigation	$442.95	$0.00		$442.95
PG&E	5/1/2012	4/16/2012	312	electricity and gas	$16,431.31	$0.00		$16,431.31
				Totals for PG&E:	*$16,874.26*	*$0.00*		*$16,874.26*
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	5/1/2012	4/5/2012	11154	parts	$69.89	$0.00		$69.89
				Totals for SPRAYTEC (Sprayer Sales Co):	*$69.89*	*$0.00*		*$69.89*
Stericycle Inc								
Stericycle Inc	5/1/2012	5/1/2012	3001815292	Quarterly Services	$206.82	$0.00		$206.82
				Totals for Stericycle Inc:	***$206.82***	***$0.00***		***$206.82***
Treppa Law Group								
Treppa Law Group	5/1/2012	3/31/2012	594	JFC Litigation	$4,019.45	$0.00		$4,019.45
				Totals for Treppa Law Group:	*$4,019.45*	*$0.00*		*$4,019.45*
				GRAND TOTALS:	**$131,206.60**	**$0.00**		**$131,206.60**

4/18/2012

To: CalPERS
400 P Street
Sacramento, CA 95809 1982

1000199353-4	4/18/2012	For Pay Period 4/2/12-4/15/12		$21,993.32	$0.00	$21,993.32
			Totals:	**$21,993.32**	**$0.00**	**$21,993.32**

PAID-EFT/ACH
Initial
Initial

4/18/2012 9100138

Twenty one thousand nine hundred ninety three and 32/100 Dollars

$** 21,993.32

CalPERS
400 P Street
Sacramento, CA 95809 1982

4/18/2012

To: CalPERS
400 P Street
Sacramento, CA 95809 1982

10003464-5	4/18/2012	Pay Period 3/19/12-4/1/12		$22,401.57	$0.00	$22,401.57
			Totals:	**$22,401.57**	**$0.00**	**$22,401.57**

PAID-EFT/ACH
Initial
Initial

4/18/2012 9100139

Twenty two thousand four hundred one and 57/100 Dollars

$** 22,401.57

CalPERS
400 P Street
Sacramento, CA 95809 1982

CITY OF CLAYTON • 6000 HERITAGE TRAIL - CLAYTON, CALIFORNIA 94517

028459

To: Peace Officers Research Assoc of CA
4010 Truxel Rd
Sacramento, CA 95834 3725

INVOICE NUMBER	DATE	DESCRIPTION		AMOUNT	DISCOUNT	NET AMOUNT
32193	3/15/2012	PORAC PRA Dues		$10.00	$0.00	$10.00
			Totals:	**$10.00**	**$0.00**	**$10.00**

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THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD TO LIGHT TO VERIFY WATERMARK

CITY OF CLAYTON
Founded 1857 Incorporated 1964

6000 HERITAGE TRAIL, CLAYTON, CALIFORNIA 94517

BANK OF AMERICA, NA
11-35/1210

028459

CHECK DATE: 4/18/2012
CHECK NO.: 28459

CHECK AMOUNT
$** 10.00

Ten and 00/100 Dollars

VOID AFTER 6 MONTHS

PAY
TO THE ORDER OF

Peace Officers Research Assoc of CA
4010 Truxel Rd
Sacramento, CA 95834 3725

MP

CITY OF CLAYTON • 6000 HERITAGE TRAIL - CLAYTON, CALIFORNIA 94517

028455

4/18/2012

To: Legal Defense Fund
PO Box 2487
Stockton, CA 95201 2487

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
32959	3/9/2012	PORAC LDF Dues - Jan - Mar, 2012	$15.00	$0.00	$15.00
		Totals:	**$15.00**	**$0.00**	**$15.00**

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THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD TO LIGHT TO VERIFY WATERMARK

CITY OF CLAYTON
Founded 1857 ... Incorporated 1964

6000 HERITAGE TRAIL, CLAYTON, CALIFORNIA 94517

BANK OF AMERICA, NA
11-35/1210

028455

CHECK DATE: 4/18/2012
CHECK NO.: 28455

CHECK AMOUNT
$** 15.00

Fifteen and 00/100 Dollars

PAY

TO THE ORDER OF
Legal Defense Fund
PO Box 2487
Stockton, CA 95201 2487

VOID AFTER 6 MONTHS

MP
AUTHORIZED SIGNATURE

— Bump City

AUTHORIZED BY 4/25/12 DATE

3162 VENDOR # ACCOUNT #

1800 AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
~~MUSIC~~ PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and Bump City * [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows: (* A TRIBUTE TO TOWER OF POWER)

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday July 21, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Funk-Jazz-Rock-R+B (Tribute To Tower of Power)

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
4 piece horn section, female vocalist, male vocalist, Keyboards, guitar, bass + drums.

F. Full Payment Amount: $1,800 ("Performance Fee")
Payee name (***must be same as that on W-9***)
WILLIAM SIMS
Payee Address (***must be same as that on W-9***)
5309 BROOK VALLEY COURT
STOCKTON, CA 95219

G. Band Address: c/o TABLETOP PRODUCTIONS
Phone: 775/267-6770
Band Primary Contact Person:
Name Billy Sims Phone _____ cell 209/915-1152 email: WILL2B@PACBELL.NET

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

AUTHORIZED BY _____ DATE 4/25/12

2448 _____ 01-1574

VENDOR # ACCOUNT #

1600.-

AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and DAVID HOSLEY [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday AUGUST 4, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
POP, ROCK, HIP HOP

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
DAVID HOSLEY, VOCALS ICEY BOARDS

F. Full Payment Amount: $ 1600.- ("Performance Fee")
Payee name (***must be same as that on W-9***)
DAVID G. HOSLEY
Payee Address (***must be same as that on W-9***)
601 Vallecito Lane
WALNUT CREEK CA 94596

G. Band Address: SAME AS ABOVE
Phone: 925-323-9120
Band Primary Contact Person:
Name DAVE HOSLEY Phone _____ cell 925-323-9120 email: dave@davehosley.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

AUTHORIZED BY 4/25/12 DATE

2632 7013

VENDOR # ACCOUNT #

1500

AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and EAST BAY MUDD [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday SEPTEMBER 15, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
RHYTHM & BLUES, FUNK-POP

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
9 MEMBERS: MALE LEAD SINGER, GUITARIST, BASS GUITARIST, KEYBOARDS, TRUMPET, SAXOPHONE, TROMBONE, BARITONE SAXOPHONE, DRUMS

F. Full Payment Amount: $1,500 ("Performance Fee")
Payee name (***must be same as that on W-9***)
JAMES KIMBALL
Payee Address (***must be same as that on W-9***)
4036 CORTE VISTA LANE
VACAVILLE, CA 95688

G. Band Address: 4036 CORTE VISTA LANE, VACAVILLE, CA 95688
Phone: 707-290-8377
Band Primary Contact Person:
Name Bob Cadro Phone 707-290-8377 cell 707-290-8377 email bcadro@earthlink.net

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

Caravanserai

AUTHORIZED BY 4/25/12 DATE

3165 VENDOR # ACCOUNT #

1500 AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and CARAVANSERAI * [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

* A TRIBUTE TO SANTANA.

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday MAY 26, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Latin jazz-rock (tribute to Santana)

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
Lead vocalist, lead guitarist, keyboards, bass, drums, timbales + congas

F. Full Payment Amount: $1,500 ("Performance Fee")
Payee name (***must be same as that on W-9***)
LEO HERRERA.
Payee Address (***must be same as that on W-9***)
546 ATLANTA AVE.
SAN JOSE, CA 95125

G. Band Address: c/o TABLETOP PRODUCTIONS
Phone: 775/267-6770
Band Primary Contact Person:
Name LEO HERRERA Phone 408/283-9845 cell 408/772-7688 email: santanatributeband@yahoo.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

Livin' In The USA

4/25/12
AUTHORIZED BY DATE

3163
VENDOR # ACCOUNT #

1500
AMOUNT

04-25-12
CITY MANAGER APPROVAL

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and LIVIN' IN THE USA [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday JULY 7, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
seven-piece show group saluting USA, cities, towns, regions + musical legends

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
Two lead vocalist (both play guitar), keyboard, guitar, bass, drums, female backing vocalist.

F. Full Payment Amount: $1,500 ("Performance Fee")
Payee name (***must be same as that on W-9***)
CRIS SNYDER
Payee Address (***must be same as that on W-9***)
1311 BLEWETT AVE
SAN JOSE, CA. 95125

G. Band Address: c/o TABLETOP PRODUCTIONS
Phone: 775/267-6770
Band Primary Contact Person:
Name CRIS SNYDER Phone → cell 408/541-6668 email: snyder_cris@yahoo.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

Jan Laurton 4/25/12
AUTHORIZED BY DATE

2631
VENDOR # ACCOUNT #

1400
AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and LAURENT FOURGO & HIS COMBO [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday September 1ST, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Jazz standards a mix of Swing, Bossa Nova, Dixieland & ballads.

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
5 musicians + 2 vocalists

F. Full Payment Amount: $ 1400 ("Performance Fee")
Payee name (***must be same as that on W-9***) LAURENT FOURGO
Payee Address (***must be same as that on W-9***) PO Box 634
SAN FRANCISCO CA 94104

G. Band Address: www.FOURGO.COM
Phone: 415-244-5331
Band Primary Contact Person:
Name LAURENT FOURGO Phone _____ cell 415-244-5331 email: LAURENT@FOURGO.COM

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

AUTHORIZED BY 9/25/12 DATE

2444 VENDOR # ACCOUNT

1350 AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and J-23 [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday June 23, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Jazz, Blues, R&B

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
9 piece band - lead vocals, background vocals piano, bass, drum, guitar, saxophone, trumpet percussion

F. Full Payment Amount: $ 1350.00 ("Performance Fee")
Payee name (***must be same as that on W-9***)
JPJazz Entertainment Group
Payee Address (***must be same as that on W-9***)
4485 Snowbury Court, Concord, CA 94521

G. Band Address: 4485 Snowbury Court, Concord
Phone: 925-798-2241
Band Primary Contact Person:
Name Jack Pollard Phone 925 798-2241 cell 925 212-2703 email: jack@jpjazz.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

AUTHORIZED BY 4/25/12 DATE

3161
VENDOR # ACCOUNT

876
AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and Rolling Heads [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday August 18, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Rock

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
3 singers, 5 pieces

F. Full Payment Amount: $ 875 ("Performance Fee")
Payee name (***must be same as that on W-9***)
Ted Leonard
Payee Address (***must be same as that on W-9***):
5039 Winterfield dr, El Dorado Hills, CA 95762

G. Band Address: 5039 Winterfield dr, El Dorado Hills CA 95762
Phone: 916 955-5933
Band Primary Contact Person:
Name Ted Leonard Phone 916 955-5933 cell Same email: ted.leonard@gmail.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

AUTHORIZED BY _____ DATE 3/25/12

3164
VENDOR # ACCOUNT

750.
AMOUNT CITY MANAGER APPROVAL 04-25-12

CITY OF CLAYTON, CA
CONCERTS IN THE GROVE
MUSIC PERFORMANCE SERVICES AGREEMENT

CITY OF CLAYTON

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and MAMALUKE [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

A. The Band shall perform as specified in this Agreement ("Performance") on Saturday JUNE 9th, 2012 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").

B. Performance Time: 6:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").

C. Performance Requirements: 2 sets, at 60 minutes each; 1 break of 15 minutes in duration between the two sets; and one encore of 15 minutes.

D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Classic Rock

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
1 singer, 4 performers

F. Full Payment Amount: $750 ("Performance Fee")
Payee name (***must be same as that on W-9***)
Chris Rossi
Payee Address (***must be same as that on W-9***)
5060 Discovery Pt
Discovery Bay, CA 94505

G. Band Address: SAME
Phone: 925-634-5211
Band Primary Contact Person:
Name CHRIS ROSSI Phone 6345211 cell 2068616259 email: rossi111@aol.com

2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 3:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 10:00 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property

Agenda Date: 5-1-12

Agenda Item: 4d

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: **HONORABLE MAYOR AND COUNCILMEMBERS**

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

DATE: **May 1, 2012**

SUBJECT: **Adoption of a Resolution rescinding Resolution 72-92 for the purpose of providing authorized, assigned and defined City volunteers with City workers' compensation coverage.**

BACKGROUND

On November 10, 1992 the City of Council adopted Resolution 72-92 covering certain defined volunteers with workers' compensation benefits.

The Municipal Pooling Authority of Northern California (MPA) provides workers' compensation coverage for the City of Clayton. Staff and the MPA General Board recommended each City amend their current Resolutions to limit the exposure to only City "authorized, assigned, and defined voluntary services without pay."

RECOMMENDATION

Adopt the Resolution.

FISCAL IMPACT

None.

Attachments: 1. Proposed Resolution (1 pg.)
2. Resolution 72-92 (1 pg.)

RESOLUTION NO. XX-2012

A RESOLUTION PURSUANT TO SECTION 3363.5 OF THE CALIFORNIA LABOR CODE DESIGNATING CERTAIN DEFINED CITY VOLUNTEERS AS COVERED BY CITY WORKERS' COMPENSATION BENEFITS

WHEREAS, the City of Clayton periodically receives and benefits from voluntary services to the City without pay from various community volunteers; and

WHEREAS, volunteers provide important services to the City and its community, and are vital to the continued provision of many public services to City residents and businesses; and

WHEREAS, by City Resolution No. 72-92 the City Council extended City workers' compensation benefit eligibilities to persons performing voluntary service without pay to the City; and

WHEREAS, after twenty (20) years it is appropriate and prudent to review and revise its City volunteer policy to ensure the scope and extent of its volunteerism is limited to actions defined and directed by the City; and

WHEREAS, the City Council continues in its desire to afford such persons coverage for injuries incurred in the course and scope of providing such services without pay.

NOW, THEREFORE, pursuant to Labor Code 3363.5, the City Council of the City of Clayton does hereby resolve as follows;

1. City Resolution No. 72-92, adopted on November 10, 1992, is herewith rescinded in its entirety.

2. Any person who performs authorized, assigned and defined voluntary services without pay to the City of Clayton shall be considered an employee of the City for purposes of workers' compensation coverage only while performing such volunteer services as defined and directed by the City.

3. For purposes of this resolution "voluntary services without pay" shall include services performed by any person who received no remuneration from the City other than meals, transportation, lodging or reimbursement for incidental expenses.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 1st day of May 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

RESOLUTION NO. 72-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON DESIGNATING CERTAIN DEFINED VOLUNTEERS AS COVERED BY WORKERS COMPENSATION BENEFITS PURSUANT TO SECTION 3363.5 OF THE CALIFORNIA LABOR CODE.

WHEREAS, the City of Clayton receives voluntary service without pay from community volunteers; and

WHEREAS, the City desires to afford such persons coverage for injuries incurred in the course and scope of providing such services without pay;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES RESOLVE AS FOLLOWS:

1. Any person who performs voluntary service without pay to the City of Clayton shall be deemed to be an employee of the City of Clayton for purposes of workers compensation coverage pursuant to Sections 3201 et seq., of the California Labor Code only while performing such volunteer services for or on behalf of the City of Clayton.

2. For purposes of this resolution "voluntary service without pay" shall include services performed by any person who receives no remuneration from the City other than meals, transportation, lodging or reimbursement for incidental expenses.

Adopted by the City Council of the City of Clayton at an adjourned regular meeting of said Council on November 10, 1992, by the following vote:

AYES: Council Members Kendall, Laurence, Musto, Vice Mayor Walcutt, Mayor Manning
NOES: None
ABSENT: None

Mayor

ATTEST:

City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at an adjourned regular meeting held on November 10, 1992.

Agenda Date: 5-1-12
Agenda Item: 4e

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: MAY 1, 2012

SUBJECT: RESOLUTION DIRECTING THE FILING OF AN ANNUAL REPORT FOR THE CLAYTON STREET LIGHTING DISTRICT (FUND NO. 214)

RECOMMENDATION

Adopt the attached resolution.

BACKGROUND

The laws governing the City's existing Street Light Maintenance District (Fund No. 214), established in 1979, require the filing of an Annual Report by the Engineer of Work in order to establish and levy benefit assessment fees in each fiscal year. For the purpose of continuing to levy such an assessment in FY 2012-2013, the process must be initiated by the Council officially calling for such an annual report. This District covers the annual operations and maintenance of the street lights and poles in our various residential neighborhoods.

After enactment of this resolution, the next step will be for the Engineer of Work to submit, and the City Council to accept, the Engineer's Report for this District. Following that submittal will be public hearings required prior to setting next year's assessments in sufficient time to be collected via the property tax bills issued by the County in 2012-2013.

This resolution does not commit the Council to any action but is just the first administrative step required by the Street Lighting Act of 1919.

FISCAL IMPACT

None.

Attachment: Resolution [1 pg.]

RESOLUTION NO. - 2012

A RESOLUTION DIRECTING THE FILING OF AN ANNUAL REPORT FOR THE CLAYTON STREET LIGHTING DISTRICT (PURSUANT TO THE STREET LIGHTING ACT OF 1919).

THE CITY COUNCIL
City of Clayton, California

WHEREAS, by Resolution No. 11-79, adopted May 2, 1979, the Clayton City Council converted Street Lighting District No. 1 to a benefit assessment district and confirmed an assessment for fiscal year 1979-80, pursuant to the Street Lighting Act of 1919; and

WHEREAS, the said Street Lighting Act of 1919 requires that the City Council direct the Engineer of Work to prepare an Annual Report prior to the levying of an assessment;

NOW THEREFORE, the City Council of Clayton, California does hereby resolve as follows:

1. The City Engineer, designated by this Council as the Engineer of Work for the Clayton Street Lighting District, is hereby directed to file an Annual Report in accordance with the provisions of the Street Lighting Act of 1919.

2. This resolution is adopted pursuant to Section 18090 of the Streets and Highways Code.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 1st day of May 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

THE CITY COUNCIL OF CLAYTON, CA

_____
HOWARD GELLER, Mayor

_____
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 May 1, 2012.

_____
Laci J. Jackson, City Clerk

CITY OF CLAYTON
Founded 1857 ... Incorporated 1964

Agenda Date: 5-1-12

Agenda Item: 4f

Approved:

Gary A. Napper, City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 1, 2012

SUBJECT: CONSIDERATION OF SAVE MOUNT DIABLO TO ACCEPT DEDICATION OF LOT 25 PURSUANT TO PROVISIONS OF CONDITION NO. 4 OF THE DIABLO ESTATES AT CLAYTON SUBDIVISION SITE PLAN REVIEW APPROVAL (SPR 01-11)

RECOMMENDATION

It is recommended the City Council approve Save Mount Diablo as the third party to accept the dedication of Lot 25, a required open space mitigation parcel, pursuant to provisions of Condition No. 4 of the Diablo Estates at Clayton Subdivision Site Plan Review approval (SPR 01-11).

BACKGROUND AND ANALYSIS

Condition No. 4 of the Diablo Estates at Clayton Subdivision Site Plan Review (SPR 01-11) (See **Attachment 1**) stipulates that the project developer shall agree to dedicate Lot 25, a required 4.98 +/- project open space mitigation parcel, (APN 119-630-011), to the California Department of Parks and Recreation as an addition to Mount Diablo State Park, or, in the alternative, to a third party non-profit organization acceptable to the City Council. This condition further stipulates other requirements, including the timing for the land dedication and a performance deposit to ensure that at least 75% of the mitigation plantings on Lot 25 survive for a five year period after installation. The focus of this City Council agenda item is to consider Toll Brothers' request that Save Mount Diablo be the third party to accept dedication of Lot 25.

Representatives of Toll Brothers, the developer of the Diablo Estates at Clayton Subdivision, have contacted officials at the California Department of Parks and Recreation and learned there is no interest at this time by that agency in accepting the dedication of Lot 25. This lack of interest is because of the declining financial position of the State. It should be noted the State is cutting back on park and recreation services and is anticipating closing many existing park and recreation facilities to help offset its budget gap. Consequently, as allowed

in the referenced Condition No. 4, Toll Brothers has contacted a third party entity, Save Mount Diablo, a non-profit land stewardship organization in Contra Costa County, to determine if that organization would accept the dedication of Lot 25. That organization's "Mission Statement" is as follows:

"Save Mount Diablo's mission is to preserve Mount Diablo's peaks, surrounding foothills and watersheds through land acquisition and preservation strategies designed to protect the mountain's natural beauty, biological diversity and historic and agricultural heritage; enhance our area's quality of life; and provide recreational opportunities consistent with protection of natural resources."

One of the activities that Save Mount Diablo is directly involved with is land stewardship. For example, Save Mount Diablo's organizational capabilities include the ability to acquire land and then turn it over to park agencies as those agencies are able to receive the property. While holding the property, the land stewardship Save Mount Diablo may offer could involve volunteers doing clean-up, fence building, trail construction, planting, watering and habitat restoration, creek clean-ups, non-native plant removal, and other work projects, based on the needs of the particular property.

Save Mount Diablo's Mission Statement and capabilities make this organization well-positioned to be the third party to receive the dedication of Lot 25 of Diablo Estates at Clayton. This property directly abuts Mount Diablo State Park.

Save Mount Diablo Board Meeting

At its March 7, 2012 Save Mount Diablo Board of Directors meeting, the Board voted unanimously to accept the dedication of Lot 25. Attached is a letter (See **Attachment 2**), dated April 20, 2012, from Seth Adams, Save Mount Diablo Land Programs Director, in which he confirms this action of the Board and the deal points and understandings with Toll Brothers. Additionally, also attached (See **Attachment 3**) is a letter, dated April 20, 2012 from Andrew Warner of Toll Brothers acknowledging and accepting the deal points and understandings of the referenced Save Mount Diablo letter. Essentially, it is the intent of the proposed agreement between Toll Brothers and Save Mount Diablo that Save Mount Diablo would accept ownership of the property for $0 and provide stewardship of this property as an open space mitigation parcel until such time as the State Department of Parks and Recreation may be interested in acquiring the property. It is understood that should that circumstance occur, Save Mount Diablo would convey the property to the State to be included as part of Mt. Diablo State Park. In the meantime, Toll Brothers will continue to be responsible for the success of the on-site tree mitigation plan as described in the above-referenced Condition No. 4.

In the circumstance that the City Council accepts Save Mount Diablo as the third party to receive the dedication of Lot 25, Save Mount Diablo and Toll Brothers will need to execute their agreement based on the deal points and understandings referenced in Attachments 2 and 3 prior to issuance of the 20th building permit at the 24-lot Diablo Estates at Clayton Subdivision. Presently, 17 residential building permits have been issued at the project.

FISCAL IMPACT
None.

Attachments:

1. Condition No. 4, Diablo Estates at Clayton Site Plan Review Approval (SPR 01-11).
2. Letter from Seth Adams, Save Mount Diablo, to Community Development Director David Woltering, dated April 20, 2012.
3. Letter from Andrew Warner, Toll Brothers, to Community Development Director, dated April 20, 2012.

a. Property owners are responsible for the repair and maintenance of the required fences along their respective property lines. The fences shall be maintained in a style consistent with the design approved by the City.
b. Property owners shall comply with the Tree Retention Conditions.
c. Property owners, unless expressly assigned as the responsibility of the benefit-assessment district (BAD), shall maintain any gates needed for access to above- ground or under-ground drainage facilities.
d. No fencing, grading, or other improvements of any kind will be allowed between the developer-installed open wire fencing and the rear lot lines on Lots 1-6 and Lots 8, 9, and 11-24, inclusive, except for that fencing, landscaping and irrigation installed as part of the project's perimeter landscaping along Regency Drive and Rialto Drive.
e. No provision in the CC&R's which is included as a result of these Conditions
f. Approval may be amended without the prior written approval of the City of Clayton.

4. The Developer agrees to dedicate Lot 25 to the California Department of Parks and Recreation as an addition to Mount Diablo State Park, or in the alternative, to a third party non-profit organization acceptable to the City Council. The Developer shall provide proof of acceptance of Lot 25 by the California Department of Parks and Recreation or the accepted third party non-profit organization prior to the issuance of a building permit for the twentieth (20^{th}) dwelling. The Developer shall be responsible for the care and maintenance of Lot 25 until the dedication has been accepted by the State or accepted third party non-profit organization. This responsibility for care and maintenance may not be transferred to any entity, other than the State or the accepted third party non-profit organization, without the expressed written approval of the City. The Developer shall provide a performance deposit to the State or accepted third party non-profit organization prior to acceptance of Lot 25 by the State to ensure that at least 75 percent of the plantings installed for remediation survive for five (5) years following installation. In the event that less than 75 percent of the trees and shrubs survive, the Developer shall (in consultation with the State or accepted third party non-profit organization) install and maintain replacement trees and shrubs.

In the circumstance that the State or an accepted third party non-profit organization has not accepted Lot 25 and the Developer is in a position to request issuance of the twentieth (20^{th}) building permit, the Developer may petition the City Council to allow issuance of the 20^{th} and subsequent building permits. In the circumstance that Lot 25 is not accepted by the State or an accepted third party non-profit organization, the benefit assessment district or alternatively a Homeowners Association (HOA) shall be responsible for the installation of the plantings, on-going management of the property, with all associated costs being the responsibility of the property owners of this subdivision in accordance with the conditions and mitigation measures associated with Lot 25.

5. The Developer shall provide one dwelling unit as a very low-income housing unit; one dwelling unit as a low-income housing unit; and one dwelling unit as a moderate-income unit; or an in-lieu fee, as determined by the City Council. Affordability requirements and resale restrictions shall be subject to the review and approval of the

Save Mount Diablo April 20, 2012

1901 Olympic Blvd., # 320
Walnut Creek, CA 94596
Tel: (925) 947-3535
Fax: (925) 947-0642
www.SaveMountDiablo.org

Board of Directors
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Seth Adams
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Proud member of
Land Trust Alliance
California Council of Land Trusts
Bay Area Open Space Council

David Woltering
Community Development Director, City of Clayton
City of Clayton City Hall
6000 Heritage Trail
Clayton, CA 94517-1250

From:
Seth Adams, Land Programs Director
Save Mount Diablo
1901 Olympic Blvd. Suite 320
Walnut Creek, CA 94596

Re: Acceptance of Lot 25 at Diablo Estates, 52 Petar Court

David,

At its regular meeting of Wednesday, March 7, 2012 The Board of Directors of Save Mount Diablo unanimously approved "acceptance of a dedication offer of 0 Petar Court/Lot 25 (4.98 acres), APN 119-630-011, subject to ongoing due diligence." (aka 52 Petar Court; the County Assessor's records don't indicate the address).

1) Acceptance is subject to:
   - review and acceptance of a suitable standard, vacant land purchase agreement,
   - demonstration of clear title at the time of transfer, and
   - appropriate due diligence. The only significant due diligence items remaining beyond clear title at the time of transfer are:
     - removal of unnecessary pipes, debris and other former improvements related to drainage. The City of Clayton City Engineer must be consulted prior to the removal of any drainage facilities.
     - SMD's satisfaction about landslide and grading issues.
     - Proof that unnecessary title exceptions have been removed, including Exceptions 9 & 10 (North American Title Company Preliminary Report, Order No. 1127254, Dated January 13, 2012) pertaining to a Shell Oil Company easement and other unnecessary utility easements. While these are title

Attachment 2

- exceptions, removal of any easements by Toll CA XIX, L.P. requires the approval of the City of Clayton City Engineer.

2) According to Condition of Development 4, Toll CA XIX, L.P., Inc. will provide the City of Clayton a performance deposit to ensure that at least 75 percent of the tree plantings installed for remediation survive for 5 years following remediation.

   Save Mount Diablo will agree to reasonable access for licensed and reasonably insured contractors to maintain oak plantings but otherwise has no responsibility for the Diablo Estates development or this mitigation project.

   Toll CA XIX, L.P. will prepare a contract between SMD and Toll CA XIX, L.P. assuring that maintenance of plantings will be accomplished by licensed contractors with appropriate insurance acceptable to SMD. SMD shall in return provide reasonable access upon reasonable notice for the purpose of maintenance of plantings.

3) Other than:
   - provision of access to Toll CA XIX, L.P. or its reasonably insured, licensed contractors for maintenance of tree plantings, and
   - acceptance of the parcel dedication,

   Save Mount Diablo is free of any obligation relative to the Diablo Estates project.

4) The purchase price will be $0. All title and other costs of transfer, including title insurance, shall be borne by Toll CA XIX, L.P. Save Mount Diablo will choose the Title Company (Linda A. Moore, Sr. Escrow Officer, North American Title Company - 1840 N. Broadway, Walnut Creek, CA 94596, Main Number: 925-927-6990 x 25, Fax: 925-927-6999, lamoore@nat.com).

5) Unrestricted legal access to the property shall be provided to Save Mount Diablo from Petar Court.

6) At the city's request, Toll CA XIX, L.P. will record a slope easement prohibiting the grading of the sloped area of Lot 25, prior to transfer of the property to Save Mount Diablo.

7) Per Condition 70, Toll CA XIX, L.P. will record the following notice on the deed:

   "This constitutes notice that the State of California and the Department of Parks and Recreation (Mount Diablo State Park) are not responsible for homeowner fire prevention. Property owners are hereby notified that they are solely responsible for providing their own fire breaks, buffers, and prevention measures, within the boundaries of their own properties, necessary to prevent the spread of fire."

8) Fire Prevention: Diablo Estates at Clayton Subdivision will be responsible for fire breaks on its property. Save Mount Diablo, as third party acceptor, will be responsible for any required fire breaks on Lot 25.

9) Public Access: It is Save Mount Diablo's intent to transfer this property to Mt. Diablo State Park as soon as the economy and State Park policy allows. Practically speaking this

property isn't at an obvious access location except for access by neighbors. Even when owned by the state and fully open to the public, the parcel is likely to receive limited public use. During the period in which SMD owns the parcel, our properties are generally accessible by guided tour, several times a year at a minimum. We anticipate a number of publicly accessible restoration work days per year as well.

These terms are acceptable to Save Mount Diablo, and we are prepared to accept the property when they are fulfilled.

Thank you,

Seth Adams, Land Programs Director
Save Mount Diablo
1901 Olympic Blvd. Suite 320
Walnut Creek, CA 94596

CC: Andrew Warner, Toll CA XIX, L.P. Inc.

Toll Brothers
America's Luxury Home Builder®

April 20, 2012

To:
David Woltering
Community Development Director, City of Clayton
City of Clayton City Hall
6000 Heritage Trail
Clayton, CA 94517-1250

From:
Andrew Warner
Toll Brothers, Inc.
2000 Crow Canyon Pl, Suite 200
San Ramon, CA 94583

Re: Dedication of Lot 25 at Diablo Estates, 52 Petar Court

David,

Upon the City Council's approval of Save Mt. Diablo as an acceptable 3rd party entity, as defined in Condition 4, to accept the dedication of Lot 25, Toll CA XIX, L.P. will work diligently to complete the dedication.

The terms of the letter dated April 20, 2012 from Seth Adams at Save Mt. Diablo to you are acceptable to us. There may be additional easements which need to be clarified to ensure that the facilities and improvements installed as part of the Diablo Estates Subdivision continue to work properly. Additionally, we need to see if the Shell Oil pipeline easement that Save Mt. Diablo required be removed can be removed from Title.

Thank you,

Andrew Warner, Project Manager
Toll Brothers, Inc.
2000 Crow Canyon Pl, Suite 200
San Ramon, CA 94583

CC: Seth Adams, Save Mt. Diablo

Attachment 3

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Agenda Date: 5-1-12

Agenda Item: 8a

Approved:

Gary A. Napper, City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 1, 2012

SUBJECT: CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 15.90 TO THE CLAYTON MUNICIPAL CODE REGARDING REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES (ZOA 01-12)

RECOMMENDATION

It is recommended the City Council approve Introduction and First Reading of Ordinance No. 441 (See **Attachment 1**) to add Chapter 15.90 to the Clayton Municipal Code (CMC) regarding reasonable accommodations for individuals with disabilities (ZOA 01-12).

BACKGROUND AND ANALYSIS

On April 20, 2010, the City Council approved the Clayton 2009-2014 General Plan Housing Element. Subsequently, on July 15, 2010, the State Department of Housing and Community Development (HCD) conditionally certified this Housing Element. This certification is based on the City of Clayton making a good faith effort toward enacting over 30 categories of implementation measures that are described in the Housing Element. One of the Housing Element implementation measures, Implementation Measure IV.3.1, states the following:

"The City will adopt a written reasonable accommodations ordinance to provide exception in zoning and land use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval of the Community Development Director applying the following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws;
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws;
- The requested accommodation would not impose an undue financial or administrative burden on the City;

- The requested accommodation would not require a fundamental alteration in the nature of the City's land use and zoning program." (Pages 123 and 124, Clayton 2009-2014 Housing Element).

The Clayton 2009-2014 Housing Element provides other information as cited below about the City's intention to encourage housing for those individuals with disabilities and to simplify the City's related review process:

- On page 46 of the document it is stated that "[o]n April 1, 2008, the City Council of the City of Clayton approved the Americans with Disabilities Act (ADA) Transition Plan. The plan includes an evaluation of current barriers for persons with disabilities and includes steps to remove such barriers. Included in the plan is a process to request accommodations for persons with disabilities. Accommodations are reviewed and approved by the ADA Coordinator on a case by case basis. The plan meets ADA compliance procedures and does not constrain the development of housing for persons with disabilities"; and, also on page 46,
- "Reasonable accommodations requests are processed on a case-by-case basis in Clayton. Information is provided to interested persons on an ad hoc basis. All ADA retrofit requirements are processed in the same manner as other types of improvements requiring building and/or planning permits. The City will incorporate a more formalized reasonable accommodations procedure through the development of the 2009-2014 Housing Element Implementation IV.3.1."

Additionally, the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act ("fair housing laws") prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities.

In 2011, the City of Clayton received a request for "reasonable accommodations" from residents regarding their son's Tourette Syndrome and an exception from Clayton Municipal Code Section 6.05.010.A, which prohibits the keeping of "fowl" in residential districts in the City of Clayton. The City did not have a formalized reasonable accommodations procedure in place nor specified evaluation criteria for decision-making at the time of the request. Staff and the Planning Commission did address the matter and the accommodations were granted with conditions under provisions of the Americans with Disabilities Act (ADA). Both Community Development Department staff and staff from the City Attorney's office researched the matter and developed a procedure and criteria to address the circumstance.

Ordinance No. 441

Staff, with the assistance of the City Attorney's office, has prepared draft Ordinance No. 441 to address the requirements of Implementation Measure IV.3.1. As directed in this implementation measure, this proposed Ordinance provides for a formalized procedure to consider reasonable accommodations requests and clear decision-making criteria. The review and approval process is proposed to be administrative (i.e., staff-level), subject to appeal to the Planning Commission.

Planning Commission Action

At its April 10, 2012 regular meeting, the Clayton Planning Commission considered and recommended City Council approval of proposed Ordinance No. 441 by adopting Resolution No. 02-12 (See **Attachment 2**). The Commission supported the proposed Ordinance, subject to adding to the list of information an applicant must submit for a reasonable accommodations request the expected timing and duration of the need for the accommodation(s) (**See Attachment 3**).

FISCAL IMPACT

The directive in Implementation Measure IV.3.1 is that there be minimal or no processing fee for the reasonable accommodations requests. Staff is recommending the fee for these requests be $154 for the Fiscal Year 2011-2012, the same fee charged for administratively approved Home Occupation Permits, Temporary Use Permits, and Noise Permits. It is anticipated that reasonable accommodations requests are likely to be more involved, and will require research, findings, and notice. Given the anticipated level of effort, it is likely these applications will involve, typically, at least a 100% subsidy from a cost recovery standpoint.

Should Ordinance No. 441 be adopted, staff will subsequently process an amendment to the City's Master Fee Schedule to incorporate this new fee by City council Resolution.

Attachments:

1 Ordinance No. 441
2 Planning Commission Resolution No. 02-12
3 Minutes Excerpt from the April 10, 2012 Planning Commission Meeting

ORDINANCE NO. 441

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA, ADDING CHAPTER 15.90 TO THE CLAYTON MUNICIPAL CODE REGARDING REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES
(ZOA 01-12)

WHEREAS, the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act ("fair housing laws") prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities;

WHEREAS, fair housing laws require that cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of land use and zoning regulations;

WHEREAS, cities are required to identify constraints to providing housing for individuals with disabilities and develop strategies for removing those constraints, and to have a program that removes constraints on, or provides reasonable accommodation for, such housing;

WHEREAS, among other things, the following provisions of the City of Clayton 2009-2014 General Plan Housing Element reflect the City's intention to encourage housing for those individuals with disabilities and to simplify the City's related review process:

- "On April 1, 2008, the City Council of the City of Clayton approved the Americans with Disabilities Act (ADA) Transition Plan. The plan includes an evaluation of current barriers for persons with disabilities and includes steps to remove such barriers. Included in the plan is a process to request accommodations for persons with disabilities. Accommodations are reviewed and approved by the ADA Coordinator on a case-by-case basis. The plan meets ADA compliance procedures and does not constrain the development of housing for persons with disabilities." (Page 46).
- "Reasonable accommodation requests are processed on a case-by-case basis in Clayton. Information is provided to interested persons on an ad hoc basis. All ADA retrofit requirements are processed in the same manner as other types of improvements requiring building and/or planning permits. The City will incorporate a more formalized reasonable accommodations procedure through the development of the 2009-2014 Housing Element Implementation IV.3.1" (Page 46).
- Implementation Measure IV.3.1 states the following: "The City will adopt a written reasonable accommodation ordinance to provide exception in zoning and land use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval of the Community Development Director applying the following decision-making criteria:
    - The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
    - The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
    - The requested accommodation would not impose an undue financial or administrative burden on the city.
    - The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program." (Pages 123 and 124)

WHEREAS, Government Code section 65583 requires that the Housing Element address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for individuals with disabilities. This Ordinance, as described in the implementation measure above, will remove constraints to, and provide reasonable accommodations in housing for individuals with disabilities;

WHEREAS, this ordinance is exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code section 15061(b)(3) because it does not have the potential for causing a significant adverse effect on the environment;

WHEREAS, the Planning Commission held a duly-noticed public hearing on the proposed ordinance on April 10, 2012 and gave due consideration to all testimony, comments, and documents received regarding the Ordinance;

WHEREAS, based on its consideration of the information it received and its deliberation and discussion of the Ordinance, the Planning Commission adopted Resolution No. 02-12 on April 10, 2012, recommending that the City Council adopt the proposed Ordinance;

WHEREAS, on _____ and _____, 2012 the City Council held a duly-noticed public hearings and gave due consideration to all testimony, comments and documents received regarding the Ordinance; and

WHEREAS, the City Council finds that the proposed ordinance is in general conformance with the General Plan and that the public necessity, convenience, health, safety, and general welfare require the adoption of the proposed Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above Recitals are true and correct and hereby incorporated in this Ordinance as if restated in full.

SECTION 2. Chapter 15.90 entitled "Reasonable Accommodations" is hereby added to the Clayton Municipal Code to read as follows:

"Chapter 15.90

REASONABLE ACCOMMODATIONS

Sections:

15.90.010 Purpose.
15.90.020 Applicability.
15.90.030 Definitions.
15.90.040 Application process.
15.90.050 Review authority.
15.90.060 Review procedure.
15.90.070 Findings and decision.
15.90.080 Appeals.
15.90.090 Expiration, revocation, termination.

15.90.010 Purpose.

The purpose of this Chapter is to establish a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning, or building standards, regulations, policies, and procedures and to establish relevant criteria for the City to use when considering such requests.

15.90.020 Applicability.

Any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, may seek relief from any land use, zoning, or building standard, regulation, policy, or procedure found in Title 15 or Title 17 of this Code to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation in the manner prescribed in Section 15.90.040.

15.90.030 Definitions.

For the purposes of this Chapter, the following definitions apply:

A. "Applicant" means an individual who files an application for a reasonable accommodation under this Chapter.

B. "Department" means the Clayton Community Development Department.

C. "Director" means the Community Development Director or the Director's designee.

D. "Fair housing laws" means the federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sect. 3601 *et seq.*), the California Fair Employment and Housing Act (Government Code Sect. 12900 *et seq.*), and Civil Code Sect. 54, together with published judicial decisions interpreting such laws.

E. "Individual with a disability" means an individual with a qualifying disability as defined by the fair housing laws, and generally includes any individual who has, or is regarded as having, any mental or physical impairment, disorder, or condition, which substantially limits one or more major life activities, including physical, mental, and social activities and working. "Disabled or individual with a disability" does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

F. "Reasonable accommodation" means a modification or exception to the standards, regulations, policies, and procedures contained in Title 15 or Title 17 of this Code for the siting, development, and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental alteration of the City's planning and zoning program.

15.90.040 Application process.

A. Application. Requests for a reasonable accommodation must be submitted on an application form provided by the Department, or in the form of a letter addressed to the Director, and must contain the following information:
   1. The name, address, and telephone number of the applicant.
   2. The name, address, and telephone number of the individual with the disability for which the reasonable accommodation is being requested.
   3. The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made.
   4. The address and current use of the property for which the reasonable accommodation is being made.
   5. If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made.
   6. The basis for the claim that the individual to be reasonably accommodated is disabled within the meaning of the fair housing laws.
   7. A description of the reasonable accommodation request and the land use, zoning, or building standard, regulation, policy, or procedure to be modified or waived.
   8. A statement of the reason why the requested accommodation is necessary for the individual with a disability to use and enjoy the dwelling.
   9. An indication of the timing and anticipated duration for needing the reasonable accommodation.

B. Other Discretionary Permits. If the project for which the request for a reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for the discretionary permit or approval. The processing procedures applicable to the discretionary permit will govern the joint processing of both the reasonable accommodation and the discretionary permit.

C. If an individual needs assistance in making a request for a reasonable accommodation, the City will provide assistance to ensure that the process is accessible.

D. A request for a reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with all other applicable regulations that are not being modified in response to the requested accommodation.

15.90.050 Review authority.

A. The Director may approve, conditionally approve, or deny an application for a reasonable accommodation for an existing use or a proposed new use that only requires a ministerial permit or approval.

B. If the project for which the request for a reasonable accommodation is made requires a discretionary permit or approval, then the application for a reasonable accommodation will be heard at the same time as the other discretionary permit or approval.

15.90.060 Review procedure.

A. Director Review. The Director will issue a written determination to approve, conditionally approve, or deny a request for a reasonable accommodation within thirty (30) days of acceptance of a complete application. The written determination must explain in detail the basis of the decision, including the Director's findings required by Section 15.90.070. The Director must mail written notice of the determination to the applicant, and, as part of such notice, advise the applicant of the right to appeal the determination.

B. Review By Planning Commission or City Council. If the application for a reasonable accommodation is heard simultaneously with the application for another discretionary approval, the decision to approve, conditionally approve, or deny a request for a reasonable accommodation will be made by the authority taking action on the other discretionary approval. The Planning Commission or City Council must make their decision in accordance with Section 15.90.070.

15.90.070 Findings and decision.

A. Findings. The written decision to approve, conditionally approve, or deny a request for a reasonable accommodation must be based on the following findings, all of which are required for approval:

1. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the fair housing laws.
2. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
3. The requested accommodation will not impose an undue financial or administrative burden on the City, as defined in the fair housing laws.
4. The requested accommodation will not result in a fundamental alteration in the nature of the City's Zoning Code, as defined in the fair housing laws.
5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

B. Conditions of Approval. In granting a request for a reasonable accommodation, the Director, Planning Commission, or City Council may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection A above.

15.90.080 Appeals.

A. Director Decision. Any person who is dissatisfied by the decision made by the Director on an application for a reasonable accommodation may appeal the Director's decision to the Planning Commission. The appeal must be filed within ten days of the mailing of the Director's decision. Upon the filing of a notice of appeal, the Director will set the matter for a hearing before the Planning Commission to occur not later than forty-five (45) days from the date of filing. Notice of the appeal hearing will be given to the applicant by mail at least ten days prior to the hearing. The appeal hearing will be conducted in accordance with the application procedures of Section 17.68.010 of this Code. Any person who is dissatisfied by the decision of the Planning Commission may make a further appeal to the City Council in accordance with applicable procedures of Sections 17.68.020 and 17.68.030 of this code. The Planning Commission's decision will be final absent an appeal timely filed with the City Council.

B. Planning Commission Decision. A decision of the Planning Commission on an application for a reasonable accommodation considered concurrently with another application for a discretionary approval is subject to the same appeal rights and procedures that apply to the other discretionary approval.

15.90.090 Expiration, revocation, termination.

A. Expiration. Any reasonable accommodation approved under this Chapter will expire within twelve (12) months from the effective date of approval or at such alternative time specified as a condition of approval unless:
   1. A building permit has been issued and construction has commenced;
   2. A certificate of occupancy has been issued;
   3. The use is established; or
   4. A time extension has been granted.

B. Revocation. Any reasonable accommodation approved under this Chapter may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or City ordinance is violated in connection with the reasonable accommodation. The revocation procedures in Section 17.64.050 *et seq.* of this Code will be followed to revoke a reasonable accommodation.

C. Termination. If the individual with a disability who initially occupied the applicable dwelling ceases to reside at the premises, the reasonable accommodation will automatically terminate, and the property owner or occupant shall be responsible for modifying the applicable premises so that it conforms to Code as directed by the City, unless the Director determines that: (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, or (2) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. The Director may request that any successor-in-interest to the property provide documentation that subsequent occupants are individuals with disabilities who also require the previously-established reasonable accommodation. Failure to provide such documentation within ten days of the date of a request by the Director will result in the termination of a previously-approved reasonable accommodation and the property owner or occupant shall be responsible for modifying the applicable premises so that it conforms to Code as directed by the City."

SECTION 3. If any provision of this Ordinance, or the application thereof to any person or circumstance, is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provision or clause of the Ordinance or application thereof which can be implemented without the invalid provision(s), clause, or application, and to this end each provision and clause of the Ordinance is declared to be severable.

SECTION 4. This Ordinance shall become effective thirty (30) days after it is adopted by the City Council. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the 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 meeting of the City Council of the City of Clayton on _____, 2012, and passed, adopted and ordered posted at a regular meeting of the City Council of the City of Clayton on _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

_____
Howard Geller, Mayor

ATTEST

_____
Laci J. Jackson, City Clerk

APPROVED AS TO FORM

_____
Malathy Subramanian
City Attorney

APPROVED BY ADMINISTRATION

_____
Gary A. Napper
City Manager

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

_____
Laci J. Jackson, City Clerk

ComDev/ZOA/2012/Clayton_01-12 ord reasonable accommodation rtf.doc

CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 02-12

AMENDMENT OF THE CLAYTON MUNICIPAL CODE TO ADD CHAPTER 15.90 REGARDING REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES (ZOA 01-12)

WHEREAS, the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act ("fair housing laws") prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities; and

WHEREAS, fair housing laws require that cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of land use and zoning regulations; and

WHEREAS, cities are required to identify constraints to providing housing for individuals with disabilities and develop strategies for removing those constraints, and to have a program that removes constraints on, or provides reasonable accommodations for, such housing; and

WHEREAS, the following provisions of the City of Clayton 2009-2014 General Plan Housing Element reflect the City's intention to encourage housing for those individuals with disabilities and to simplify the City's review process for such housing:

- "On April 1, 2008, the City Council of the City of Clayton approved the Americans with Disabilities Act (ADA) Transition Plan. The Plan includes an evaluation of current barriers for persons with disabilities and includes steps to remove such barriers. Included in the plan is a process to request accommodations for persons with disabilities. Accommodations are reviewed and approved by the ADA Coordinator on a case by case basis. The plan meets ADA compliance procedures and does not constrain the development of housing for persons with disabilities." (Page 46).
- "Reasonable accommodations requests are processed on a case-by-case basis in Clayton. Information is provided to interested persons on an ad hoc basis. All ADA retrofit requirements are processed in the same manner as other types of improvements requiring building and/or planning permits. The City will incorporate a more formalized reasonable accommodations procedure through the development of the 2009-2014 Housing Element Implementation IV.3.1." (Page 46).
- Implementation Measure IV.3.1 states the following: "The City will adopt a written reasonable accommodations ordinance to provide exception in zoning and land use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval of the Community Development Director applying the following decision-making criteria:
    - The request for reasonable accommodations will be used by an individual with a disability protected under fair housing laws.
    - The requested accommodations are necessary to make housing available to an individual with a disability protected under fair housing laws.
    - The requested accommodation would not impose an undue financial or administrative burden on the City.

- The requested accommodations would not require a fundamental alteration in the nature of the City's land-use and zoning program." (Pages 123 and 124); and

WHEREAS, Government Code section 65583 requires that the Housing Element address and, where appropriate and legally possible, remove governmental constraints on the maintenance, improvement, and development of housing for individuals with disabilities. This Ordinance, as described in the implementation measure above, will remove constraints to, and provide reasonable accommodations in housing for individuals with disabilities; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on the proposed Ordinance on April 10, 2012 and gave due consideration to all testimony, comments, and documents received regarding the Ordinance; and

WHEREAS, the Planning Commission determined that the proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code section 15061(b)(3) because it does not have the potential for causing a significant adverse effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council approve the attached Ordinance, based on the following:

SECTION 1. The Planning Commission finds and affirms the above-noted recitals are true and correct.

SECTION 2. The Planning Commission finds the following regarding the amendment of the Clayton Municipal Code to add Chapter 15.90 regarding Reasonable Accommodations:

A. Conforms with the General Plan by satisfying the Clayton 2009-2014 Housing Element Implementation Measure IV.3.1 by establishing a more formalized Reasonable Accommodations procedure with specified evaluation criteria for considering and processing reasonable accommodations requests as defined herein.
B. Is needed for the public necessity, convenience, and general welfare.

Adopted by the Planning Commission on April 10, 2012.

APPROVED

Dan Richardson
Chair

ATTEST

David Woltering, AICP
Community Development Director

Attachment: Ordinance No. ~~439~~ 441

Excerpt
Draft Minutes
Clayton Planning Commission Meeting
Tuesday, April 10, 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 Sandra Johnson, and Commissioner Gregg Manning
Absent: Commissioner Bob Armstrong
Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Public Hearing

3. **ZOA 01-12, Reasonable Accommodations Ordinance, City of Clayton.** Consideration of proposed Ordinance No. 439 that would add Chapter 15.90 to the Clayton Municipal Code which establishes a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning, or building standards, regulations, policies, and procedures, and to establish relevant criteria for the City to use when considering such requests.

Director Woltering presented the staff report. During his presentation, he described the various proposed Chapter 15.90 sections pertaining to applicability, definitions, application process, review authority, review procedure, State-allowed conditions of approval, findings, decision, and appeal process, as well as highlighting the following:

- As part of the adopted Housing Element, the City needs to establish a reasonable accommodations ordinance.
- The City needs to establish reasonable accommodations as a ministerial request.
- If a reasonable accommodations request is submitted concurrently with a companion entitlement request such as a site plan review permit, use permit, home occupation permit, then the reasonable accommodation would be handled with the related entitlement review process.
- If a reasonable accommodation request is submitted individually and not associated with another entitlement request, then the reasonable accommodation request would be reviewed with a decision rendered by the Community Development Director.
- The Director's decision may be appealed to the Planning Commission and, in turn, the City Council.
- If the need for the reasonable accommodation is no longer there, then three outcomes may occur:
  - The structure/land use related to the reasonable accommodation may be removed;
  - If the structure/land use related to the reasonable accommodation is part of the standard operating procedure of the residence, then the structure/land use related to the reasonable accommodation may remain; or
  - If another party moves into the residence and needs the structure/land use related

to the reasonable accommodation, then the structure/land use related to the reasonable accommodation may remain.

Vice Chair Haydon asked the following:

- Would it be good in the required application materials to have the applicant address when the reasonable accommodation would be needed and for how long?
- In the draft Ordinance it is indicated there is a 12 month period for vesting a reasonable accommodation; could staff clarify the meaning of that statement?

Director Woltering responded, yes, having the applicant provide information as to when and for how long the reasonable accommodation may be needed would be useful and that staff could add that requirement to the list of application materials in the draft Ordinance. Mr. Woltering also provided clarification regarding the12-month period for vesting a reasonable accommodation in the draft Ordinance. He stated that once a reasonable accommodation is approved, the applicant would have 12 months to establish the request. As an example, if approval were granted for a ramp, the applicant would need to obtain a building permit and make substantial progress if not complete the construction of the ramp within the 12-month period from the date of approval or the reasonable accommodation approval would become null and void.

Commissioner Manning asked if Fair Housing Laws are absolutely defined or if there is the opportunity for some interpretation? *Director Woltering responded that the Fair Housing Laws allow the governing jurisdiction some latitude in interpreting applicable local regulations related to the reasonable accommodation.*

Commissioner Manning asked how the staff determined which of the 30 categories of the Housing Element implementation measures were selected to focus on and was staff comfortable with the City making a good faith effort toward addressing the large breadth of implementation measures in the Housing Element?

Director Woltering responded by indicating that, prior to the State-mandated dissolution of the Clayton Redevelopment Agency, staff had identified a scope of work for enacting a number of the implementation measures (i.e., the Housing Element Implementation Project). It was clear this scope of work would require the preparation of an environmental document. Fortunately, the City was able to secure a contract with Raney Planning and Management to prepare the environmental document and assist with other research to move forward for consideration the implementation measures prior to the dissolution of the Redevelopment Agency.

A key concern of the State Department Housing and Community Development (HCD) during the review of the City's Housing Element was the City having enough land designated for high density multi-family residential development to facilitate the construction of more affordable housing in Clayton. Consequently, the initial bundle of implementation measures staff selected related to General Plan and Zoning amendments to facilitate high density multi-family and related housing opportunities. And, given the community had recently needed to handle a reasonable accommodation request without the benefit of an ordinance with related procedures and evaluation criteria, it seemed timely given the familiarity with that subject to move forward

with an ordinance addressing that subject. Finally, yes, staff believes these efforts, in terms of the Housing Element Implementation Project and the Reasonable Accommodations Ordinance, clearly demonstrate a good faith effort on the part of the City to implement its Housing Element.

Chair Richardson indicated that he was very happy with the Reasonable Accommodations Ordinance since it provides the City the authority and process needed to address reasonable accommodation issues and gives us a good check-and-balance system.

Vice Chair Haydon moved and Commissioner Manning seconded a motion to adopt Resolution No. 02-12, with amendments to have the applicant indicate when and for how long a reasonable accommodation may be needed as part of the application requirements, which recommends City Council approval of Ordinance No. 441 for ZOA 01-12, Reasonable Accommodations Ordinance. The motion passed 4-0.

Plng Comm\Minutes\2012\0410-excerpt-reasonable accommodations ordinance

Agenda Date: 5-1-12

Agenda Item: 9a

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: **HONORABLE MAYOR AND COUNCILMEMBERS**

FROM: **Laura Hoffmeister, Asst. to the City Manager**

MEETING DATE: **May 1, 2012**

SUBJECT: **Consideration of the Trails and Landscaping Recommendation regarding the incorporation of the Landscape Maintenance District of Daffodil Hill, installation of new landscaping and its ongoing maintenance.**

TRAILS AND LANDSCAPE COMMITTEE RECOMMENDATION

1) Approve the incorporation of Daffodil Hill as part of the Landscape Maintenance District, (CFD 2007-1)
2) Approve the expenditure of up to 50% of the Daffodil Hill $52,000 bid price, not to exceed $26,000 to be paid for from the Landscape Maintenance District reserve fund balance; provided Clayton Business and Community Association provides the other 50%.
3) The City General Fund to reimburse the Landscape Maintenance District the annual maintenance costs (estimated $12,000) of the Daffodil Hill area.

BACKGROUND

This item was referred to the TLC from the City Council's April 3, 2012 meeting. The TLC received a comprehensive report with the history and background of the project (Attached).

The TLC was asked to make recommendation to the City Council if Daffodil Hill should be added to the Landscape Maintenance District; consideration of funding or shared funding of the construction of the CBCA landscape plan for Daffodil Hill, especially in light of other District previously established projects; and if to be a part of the District consider contracting out the maintenance.

TLC MEETING SUMMARY

At the TLCs meeting there were representatives from the CBCA including the President, Keith Haydon, Treasurer, John Garrett, Daffodil Hill the co-chair MaryAnn Lawrence, and Steven Lane landscape designer for CBCA.

The TLC members reviewed the Measure B definitions and discussed the intent of the voters when approving the tax. The TLC members also reviewed the TLC's guiding principles and strategic focus and how this proposal would fit.

The TLC members generally agreed the property location is a main focal point but expressed concern with the ongoing maintenance costs that already burden the existing District and its current planted areas. Committee members also noted concerns with the lack of input into the plans and would have liked to have the time to have reviewed the actual planting and design prior to the City Council approving the project plans. Specifically noted by TLC members was concern that some of the plant types are not currently used elsewhere and preference would be to utilize plant types for consistency and maintenance purposes. The TLC thoroughly considered the pros and cons of incorporating the property into the District and the timing of moving forward with the project to take advantage of contractor bid pricing for economies of scale doing the Clayton Road Median project.

The TLC discussion also focused on one of their guiding principles: "To take care of what we have already planted in the district and replant those areas before adding new landscape areas"; and the concern of additional ongoing maintenance costs. All of these concerns were discussed in context of the timing of the opportunity to do this project with the adjacent Clayton Road Median re-landscaping, its more prominent location on major roadway/entryway, and opportunity to share equally in the full cost of installation with CBCA.

The TLC reviewed the language of the definitions of landscape areas and open space areas contained within the DFD 2007-1. The TLC agreed that the "Daffodil Hill" area meets the definition to be incorporated as part of the Landscape District in that the area is adjacent to major roadways (Clayton Road and Marsh Creek Roads), as well as open space trail and open space of Black Diamond. The TLC also determined that the timing of planting the Daffodil Hill area as part of the Clayton Road Median and Retaining Wall projects was appropriate – if not done, it would be an obvious void in the overall re-landscaping improvements of the area.

The TLC voted unanimously to recommend that the area be included in the Landscape District, with the condition of the planting costs be shared 50-50 with the CBCA with a total not to exceed $26,000; that the funding come from the fund balance (District reserve)- not to postpone any previously authorized projects to add it in; and that due to limited Landscape District Funds, to pay for maintenance of existing areas, that the added area be considered by the City Council to have the City General Fund reimburse the District for the maintenance costs. The TLC also asked staff to move forward with getting more information on contracting out the maintenance of this area, as additional new landscape areas will further stretch the fixed level of maintenance staff and they would have to reduce their already limited time elsewhere in the District to attend to the maintenance of this high visibility corner.

CBCA PARTNERSHIP ON PROJCET

The CBCA President reported to City staff that at the CBCA's April 26, 2012 General Membership meeting the membership voted to approve expenditure of up to $29,000 for the 50/50 shared costs of the Daffodil Hill landscape project with the City.

DISCUSSION

Staff agrees with the TLC recommendations to incorporate the area into the Landscape Maintenance District, and to share in the construction costs of up to $26,000; however staff can not support the reimbursement of the annual operations and maintenance costs from the General Fund. Although there is a $12,000 increase in annual cost that could further reduce the maintenance costs available for use throughout the District, the District is the proper place to fund the on-going maintenance. The City General Fund is also constrained and cutting $12,000 more from an already strained General Fund is not supported by the City Manager.

FISCAL IMPACT

The fiscal impact to the LMD budget would be an additional one-time expense of up to $26,000 from the Landscape District Reserve Fund Balance. The estimated fund balance is expected to be $134,169 prior to any expenditure for this project. Annual maintenance costs are estimated at $12,000. This would be new ongoing costs. The LMD assessments are $213.42 per single family parcel. To recapture these new ongoing costs a total of 56 new housing units would need to be constructed. There may also be the potential for future unknown and unexpected cost savings that may occur within the Landscape Maintenance District operations that would offset this increase.

STAFF RECOMMENDATION

City staff agrees with the TLC recommendations **except for** the reimbursement of ongoing maintenance operations from the General Fund to the LMD.

Staff therefore recommends the City Council take the following Actions:

1) Approve the incorporation of Daffodil Hill as part of the Landscape Maintenance District, (CFD 2007-1)

2) Share the costs 50/50 with CBCA for the Daffodil Hill planting/inspection project including inspections, with the City share to not exceed $29,000 and be paid by the Landscape Maintenance District Fund Balance.

3) That the General Fund **not** reimburse the Landscape Maintenance District the ongoing maintenance costs – (The ongoing maintenance of the area to be paid as part of the overall Landscape Maintenance District to which this area is incorporated)

Attachment: TLC draft meeting minutes April 16 2012
City Council minutes of April 16, 2012 TLC Report information

Agenda Item 6(a)
Consider recommendation to City Council if Daffodil Hill is to be a part of the Landscape maintenance District; consideration of funding or shared funding of the CBCA council approved landscape plan for Daffodil Hill;

City staff presented this agenda item. Staff noted that this item was referred to the TLC from the City Councils last meeting (April 2, 2012). Staff noted that the agenda packet included a comprehensive report with the history and background of the project. Staff pointed out and the representatives from the CBCA at the meeting including the President, Keith Haydon, Treasurer, John Garrett, the co-chair Maryanne Lawrence, Steven Lane landscape designer for CBCA.

City staff explained the main items for the TLC were to make recommendation to the City Council if Daffodil Hill to be added to the Landscape Maintenance District; consideration of funding or shared funding of the construction of the CBCA landscape plan for Daffodil Hill; and if to be in the District, should the ongoing maintenance be contracted out.

The TLC had a very robust and thoughtful discussion of the items. Some of the issues discussed included the TLC being asked to consider a plan for adding into the district including construction funding and ongoing maintenance outside of the normal deferred maintenance/budget process; not being included earlier on in the project proposed design before the City Council approved.

Committee member Kelly Marshall noted concerns that if the project had earlier input from the TLC certain types of plants changed and the number of plantings reduced to minimize overall ongoing landscape maintenance costs and keeping with plants that are consistent with those within the district and have similar maintenance needs. The other TLC members agreed with this comment. TLC members noted that some of the plants have a shorter life time frame (3-5 years) and expressed concern about having voids when they die out due to age, as not sufficient funds to replant all areas now in the district when plants die out.

Chair Pauline and Committee member Marshall noted one of the approved guiding principles of the TLC was to take care of what we have already planted in the district and replant those areas before adding new landscape areas. The adding of new area before finishing replanting other LMD areas would not be in conflict with this guidance.

The TLC members discussed these concerns in context of the timing of the opportunity, its location on major roadway/entryway, doing with the already approved and soon to be under construction Clayton Road median replanting, and opportunity to not pay full cost of installation as could be shared with CBCA.

After concluding their discussion the TLC agreed that the area meets the definition of the Landscape District in that the area is adjacent to major roadways (Clayton Road and Marsh Creek Rds), as well as open space trail and open space of Black Diamond -- both situations meet the definition of the definition of the Landscape District that the voters approved. The TLC further noted that the timing of planting the area as part of the Clayton Road median and retaining wall was appropriate – if not done, it would be an obvious void in the overall re-landscaping improvements.

Additional discussion by the TLC members addressed the ongoing maintenance of the area if done by City staff. Concerns were noted as the new landscape area will further stretch the fixed level of maintenance staff and they would have to reduce their already limited time elsewhere in the District to attend to the maintenance of this high visibility corner. There was interest in obtaining more information on how contracting out the maintenance would work and what kind of cost it might be – noting that the $12,000 estimate staff provided was for city staff (in house costs).

Motion by Committee member Steiner, seconded by Committee member Erich, to include the "Daffodil Hill" area as part of the Landscape Maintenance District, in that the area meets the LMD definitions as stipulated in the language of CFD 2007-1 approved by the voters. Motion passed (Vote: 7-0).

Motion by Committee member Casagrande, seconded by Committee member Steiner, to recommend to the City Council that the area planting costs be shared 50-50 with the CBCA with a total not to exceed $26,000. Motion passed (Vote: 7-0).

Motion by Committee member Erich, seconded by Committee member Casagrande, that the funding come from the fund balance (district reserve)- not to postpone any previously authorized projects to add it in. Motion passed (Vote: 7-0).

Motion by Committee member Casagrande, seconded by Committee member Steiner, that due to limited Landscape District Funds to pay for maintenance of existing areas, that the added area be considered by the City Council to have the City General Fund reimburse the District for the maintenance cost. Motion passed (Vote 7-0).

Motion by Committee member Smith, seconded by Committee member Chippero to have staff to move forward with getting more information on contracting out the maintenance of this area and provide information back to the TLC on contracting out the maintenance of the area.

DRAFT

City of Clayton

Agenda Date: April 16, 2012

Agenda Item: 6(a)

Memo

To: Trails and Landscape Committee

From: **Maintenance Staff**

Date: **April 16 2012**

Re: **Consider recommendation to City Council if Daffodil Hill to be a part of the Landscape Maintenance District; consideration of funding or shared funding of the CBCA landscape plan for Daffodil Hill.**

BACKGROUND:

Note staff has tried to compile an overall order and chronology of this site /project– however there have been a variety of staff and community representatives involved over time at various stages. We hope the following is generally correct. We apologize if there is an error – any errors or omissions are unintentional.

Daffodil Hill is located at the corner of Clayton Road and Marsh Creek Road. It is City owned property and has been a natural area with a sign originally constructed by Presley Development (Oakhurst Developer) at the top of the Hill. There was a temporary irrigation put in by Presley and plantings. Presley maintained the area until the homes were mostly sold. Since it was City property it became the City maintenance obligation. Not much was needed for maintenance as the weeds were cut annually, and a few shrubs and plants existence on natural rain water. In about 2000 the Clayton Clean Up had daffodil bulbs donated and worked with scouts and the CV Garden Club members to plant them on the hill since they would not need irrigation water. These plantings created the moniker Daffodil Hill; after additional improvements in the downtown were finished (Center Street, Endeavor Hall, Black Diamond Plaza, Grove Park) some members of the CBCA and CV Garden Club expressed interest in improving the appearance of this site, especially noting that is a gateway entrance area to the downtown.

In 2007, a subcommittee of the CBCA approached the City to see if the City was agreeable to CBCA preparing and paying for the replanting of Daffodil Hill. The City Council agreed to the concept arrangement, and CBCA hired Diana's Designs, to prepare a plan. The plan had 4 trees, and 73 shrubs. The plants proposed were drought tolerant evergreen with some seasonal flowers, the remainder of the hill was to be seeded with native wildflower mix. The City maintenance staff estimated that the costs to construct was $28,000 and to maintain this planting plan were apx. $2400 yr.as most of the work would be for irrigation repairs and the plants would not need much if any maintenance. The CBCA plan however was not a plan designed to the detail of construction installation for bidding purposes, it also did not include detail irrigation. Additionally it was determined that the old stucco sign at the top of Daffodil Hill could not be renovated, that if desired by CBCA it would need to be demolished and rebuilt. Separate from the landscaping and sign at the top, the City was preparing a path extension plan and sign for the bottom of the hill. City staff then prepared an overall landscape irrigation and sign construction detail/bidding plans and held meetings with the CBCA Committee representatives to obtain

their input and make revisions. The City obtained one quote to contract out the construction work at about $50,000 which was not accepted by CBCA. CBCA then tried to obtain its own quotes/bidd and was not satisfied that they only received on bid. Shortly thereafter, the drought and water rationing by Contra Costa Water District was established thus halting any new planting installation project work. The project hardscape was installed with CBCA paying for the boulders, new sign at top of hill and irrigation stub out. The City paid for the path and the sign at the bottom of the hill. The remainder of the planning and irrigation work was tables until after the drought was over.

After the drought was over CBCA began to look to see how to complete the project, they were concerned that the last set of plans had not received many or favorable quotes. CBCA then hired their Steven Lane to relook and prepare plans that could be completed. During this time Steven Lane received additional input from the CBCA committee to the design plan. Over time the planting plan evolved with the various input and became more extensive, both in terms of the amount of plantings, but also in the uniqueness in the plantings in that the plants were not plantings that the City was already using or experienced with maintaining. In 2011CBCA planting plans (prepared by Steven Lane and Nicole Hackett), was presented and approved by the City Council in fall of 2011. At this time it was expected that CBCA would pay for the entire planting project construction. CBCA was ready to go out and obtain their own bids, however upon learning of the City moving forward to public bid for he Clayton Road Re-Landscape project / CVS Retaining Wall landscaping project, CBCA felt that including the Daffodil Hill as a separate additive alternative may bring in more and better bids than a stand-alone project.

The City Council approved adding the project for the purpose of bidding, with the expectation that CBCA would pay for the portion related to Daffodil Hill. The City must award to the lowest bidder, and because of the nature of the project portions being separate items, it was determined the lowest bidder would be based solely on the bid price for the Clayton Road re-landscape project. The City received 3 bids. The lowest bid for the Clayton Road re-landscaping was the middle bid price for Daffodil Hill.

At its April 3 2012 meeting, the City Council awarded the bid to the lowest bidder for the Clayton Road median portion and retaining wall landscaping. At this meeting the CBCA President stated that the CBCA was not authorized to approve funding the cost of $51,931 for the Daffodil Hill portion. The President expressed concern in the bid price being the middle of the three bids for their project, the other two bids had priced this portion out at $29,031 and $68,913, more of a concern in how much higher the mid-price was over the lowest bid. However it should be noted that the Clayton Road portions of these other two bids were much higher. The CBCA President asked the City Council if they would be interested participating or sharing in the cost of the landscape plan construction for Daffodil Hill. The CBCA President also asked who would be paying for the on-going maintenance.

City staff noted that the area has not been improved and not been approved to be paid for using Landscape Maintenance District Funds; the LMD budget would need to be reviewed; the City maintenance staff would need to create an annual maintenance estimate, also noted was there may be a need to contract out maintenance of this area due to limited and stretched staff in the LMD. The City Council then referred various questions to the TLC to review and provide a recommendation.

The Maintenance Department has put together an estimate for the yearly maintenance of the 'Daffodil Hill' This estimate was put together for budgeting maintenance costs for this site if this site was to be included into the Clayton Landscape District. Staff took the maintenance information that was provided on the plans prepared by the landscape architect Steven Lane, that had been hired by the CBCA. These costs are just estimates and can vary widely do to the site location, Clayton resident expectations on up keep, and how well the plant life thrives.

The monthly labor cost to maintain per plan is $924.20. Or a yearly labor cost of $11,090.40. There are also material costs that come in at an estimated cost of $1,740.00 a year for a total yearly cost of $12,830.40. Below is a break out of all these costs:

1. Plant trimming; this plan calls for hand trimming almost every month which would be a cost of $374.68 per month. Under the Clayton Landscape District level of service we trim twice a year using mostly power trimmer and low cost seasonal workers. The hand trimming would need to be done by a trained full time employee.

2. Litter Pick Up; twice a week using a seasonal employee cost $120.00 per month

3. Graffiti Clean Up; 2hr a month by seasonal employee cost $30.00 per month. This site has not had the problems other areas in the downtown area have experiences so far, so the annual cost may be lower

4. Spot Spray Weeds; 4hrs a month by a full time spray license holder employee would cost $190.96 per month

5. Irrigation Repair; 2hrs a month by full time employee would cost $95.48 per month

6. Electrical Repair; 1hr month by full time employee $56.54 per month. This site has seen some damage to the lighting systems so cost could become higher over time

7. Vandalism Repair; 1 hr. month by full time employee $56.54 per month. So far this site has had minimal vandalism except as noted above with the lighting.

There is also material, electrical, and water cost. Under the maintenance irrigation schedules that was provided by the architect the schedule was calling for watering the site a minimum of three days a week. This cost in extra water during the summer months for this site is estimated to be about $75.00 month for a total cost of $450.00 per year in extra water usage. Water costs could be lower when using the well water from the Library put there would still be pumping cost (electricity) and wear on the pump running the extra time.

Also on the site has spot lighting which is estimated to cost $240.00 a year in electricity to operate.

The architect is also calling for fertilization of the plants during different times of the year and using different types of fertilizers depending on plant material. This cost is estimated for labor and material to be $400.00 a year.

Material cost for irrigation parts, herbicides, and any equipment damaged and needing replacement (i.e. lighting, signs). These have all been included in the above $1,740.00 yearly cost for materials which is currently based on the damage seen at the site. If this site was to experiences an increase in vandalism over what we have seen since the installation of the new signs and lights then these numbers would increase.

This is just an estimate of maintenance costs using City staff. If City staff were used for the maintenance of this site the majority of the work would have to be done by the current full time staff. (The city has only 5 full time staff). The use of city staff would have the effect of taking resources away from the existing Landscape District tasks and duties, which would then cause reduced service levels within other Landscape District areas. If the TLC recommends that Daffodil Hill this area be added to the existing LMD, the Maintenance Staff would recommend that since this is such a highly visible site, with lots of different species of plants that are not used elsewhere in the LMD, plus the added strain in staff time that will adversely impact other maintenance levels in the district, that a outside contractor should be hired to maintain the site. This would necessitate the City going out and getting three written quotes under City purchasing guide lines to be able to hire the contractor. The cost of using outside contractor could be higher in costs than the above amounts that have been estimated using City Personal.

TLC Consideration

The City Council referred to the TLC to review and provide a recommendation on:

Should the area be included as a part of the Landscape Maintenance District?

The Landscape District includes all the City roadways landscaping, including Clayton Road and Marsh Creek Road. It also includes Open Space Trails, which are publically owned creekside, intra community and open space trails within the boundaries of the District. There are no legal issues with the ballot measure language to include this area. The area is about 15,000 sq. ft in size, is adjacent to and has frontage on both Clayton Road and Marsh Creek Road. It also has connectivity to the creekside and open space areas at Black Diamond Plaza.

Should the Landscape District fund or share funding the CBCA landscape project (the current bid of $51,931) for construction of the landscape planting and irrigation improvements on Daffodil Hill? **If so how much (ie: all =100% or some other %).**

If the TLC recommends construction funding either all or shared with CBCA from the LMD, how would the TLC recommend the timing of the funding? ie: in context with the overall LMD financial status, and how this project would fit with other already identified priorities and needs of the LMD

If it is part of the District should the city contract the maintenance of Daffodil Hill?

Attachments:

Landscape District Budget Status with currently approved deferred projects

Description of Services to be Financed by the CFD (Clayton Citywide Landscape Maint. District)

TLC adopted Standards, Priorities and Strategic Focus

TLC/City Council approved Landscape Maintenance District Improvement Plan Criteria (Nov 2009)

Site Aerial Photo

CBCA City Council approved Planting Plan for Daffodil Hill

Landscape Mainteance District

adopted budget deferred maint projects FY11/12

Clayton Rd Median Landscaping	230,000	actual contract cost incl city inspec	319,711 diff=$89,711
Trail Resurfacing (remainder of Bruce Lee Trail)	50,000		
Irrigation Controls Master Remote	30,000	($10,000 spent)	
Trail Crack Sealing Minor Repairs	10,000		
Misc Tree Replacment and Trimming	10,000		
Cardinet Trail erosion- Mt Diablo Creek repairs	50,000		

budget FY 11/12 ending Fund Balance	221,480	
	-16,600	prior year aallocation for Keller Ridge Tree replacement
	-2,500	prior year allocation for Jeffry Ranch Ct island replanting
	-89,711	CL Rd relandscaping amount above approved allocation
	-18,500	CL Rd relandscaping project design/bid package
	94,169	estimated fund balance FY 11/12
	40,000	estimated one time FY dist wide irrigation water savings
	134,169	new estimated fund bal FY 11/12 (June 30 2012)

planting/irrig. Daffidol Hill landscape proposed proj	51,931
actual contractor public bid received	
as add on to Clayton Rd median project	
city inspections of contruction work	2,500

EXHIBIT A

CITY OF CLAYTON
Community Facilities District 2007-1
(Citywide Landscape Maintenance)

DESCRIPTION OF SERVICES TO BE FINANCED BY THE CFD

The Services to be financed by the special taxes of the City of Clayton Community Facilities District 2007-1 (Citywide Landscape Maintenance) (the "CFD") shall include the Maintenance of:

A. Public Roadway Landscaping – which includes but is not limited to the following improved rights-of-way:

Atchinson Stage Road – from Pine Hollow Road to Caulfield Drive
Black Point Place – center median island.
Caulfield Court – center median island.
Center Street – from Oak Street to Clayton Road.
Clayton Road – from the western city limits to the southern Marsh Creek Road intersection.
Cul-de-sacs: landscaped areas at end of Ahwanee Lane, Wawona Court, Tuyshtak Court, Antelope Court, Obsidian Court, Blue Oak Lane, Falcon Place, Windmill Canyon Place, Hummingbird Place, Raven Place, and Golden Eagle Place.
Diablo Parkway – from Marsh Creek Road to El Portal Drive.
Eagle Peak Avenue – from the east intersection with Oakhurst Drive to just west of the Ohlone Heights intersection, and including the west intersection with Oakhurst Drive.
Indianhead Way – entrance area at Oakhurst Drive
Indian Wells Way – both entrance areas with Oakhurst Drive, and center medians up to Anizume Court and Jalalon Place.
Jeffry Ranch Court – center median island.
Keller Ridge Drive – to Golden Eagle Place intersection.
Lydia Lane – from intersection of Clayton Road to Lydia Lane Park.
Main Street – from Clayton Road to (old) Marsh Creek Road.
Marsh Creek Road – from the northern intersection of (old) Marsh Creek Road to the eastern city limits.
Oakhurst Drive – form the western city limits to Clayton Road intersection.
Peacock Creek Drive – from Clayton Road to approximately the Pebble Beach Drive intersection.
Pine Hollow Road – from Atchinson Stage Road to Panadero Way.
Regency Drive – median entrance from Marsh Creek Road.
So. Mitchell Canyon Road – from approx. Del Trigo Lane to Herriman Court intersection.

B. Open Space and Trails – which include but are not limited to:

Publicly-owned creek-side, intra-community and open space trails located within the boundaries of the CFD.

C. Clayton Fountain – which includes but is not limited to:

Maintenance to the fountain itself, rock structure and all attendant appurtenances, including the geyser and water pump system as well as the surrounding public landscaped area located at east side of the intersection of Oakhurst Drive, Center Street and Clayton Road.

Definitions

"Maintenance" means the furnishing of services and materials for the ordinary and usual operation, maintenance and care of the public landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any landscaping and appurtenant facilities providing for the life, growth, health and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid wastes; and the eradication of landscape pests, including but not limited to vermin and rodents, ground squirrels, gophers, moles and wild pigs. "Maintenance" also includes the furnishing of water for irrigation of the public landscaping, and the supply of electricity to operate the attendant irrigation systems.

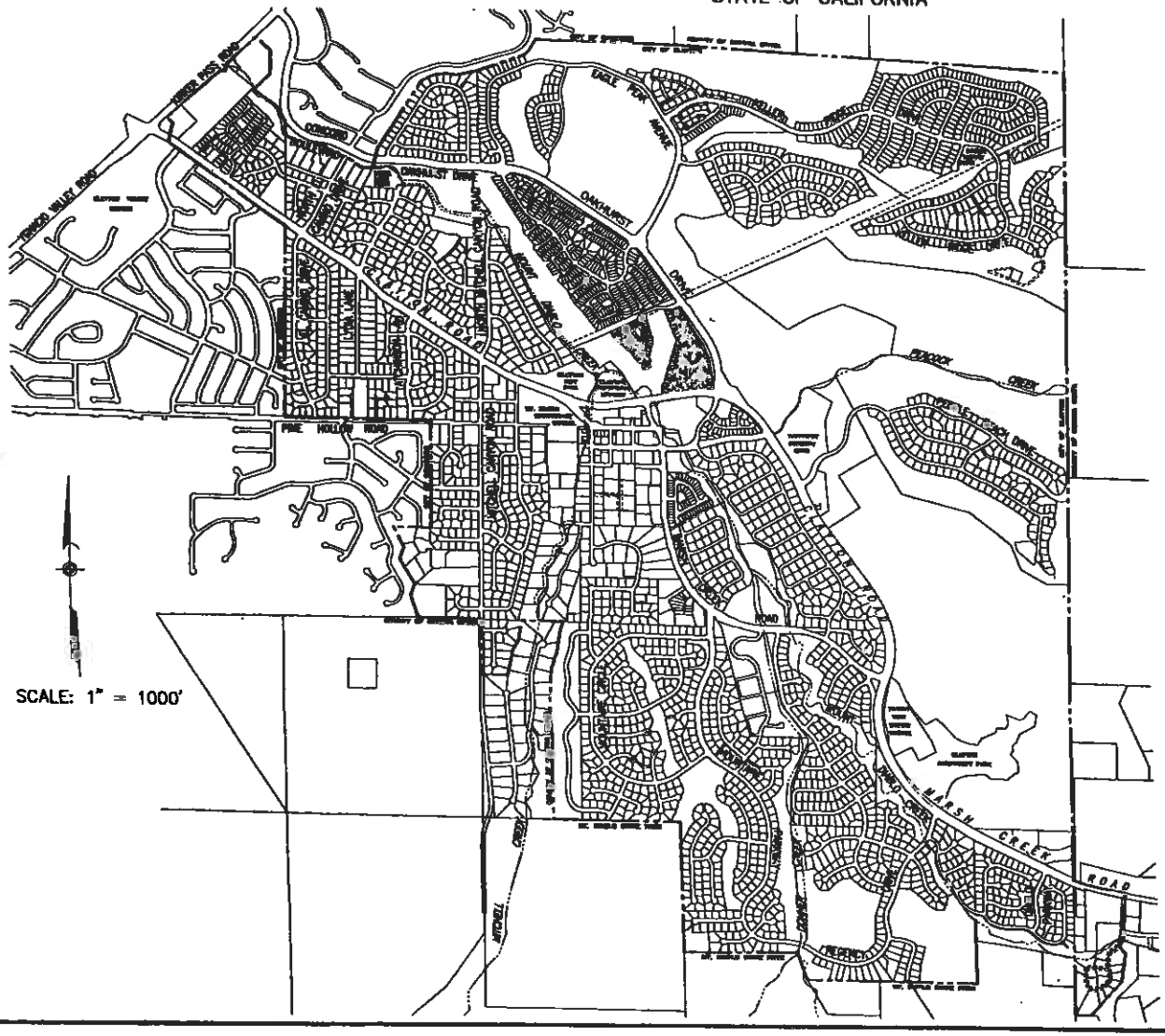
The foregoing services shall be provided through and by the City of Clayton, either with its own labor forces or by contract with third parties, or any combination thereof, as determined solely by the City of Clayton.

"Costs" means the costs and expenses directly or indirectly incurred by the City in connection with the Maintenance described above. Allowable Costs payable from special taxes of the District also include the County's imposed cost to levy and collect the District's assessment through the annual property tax bill, the City's shared equipment and facilities charges, City prorated overhead charges to administer and manage the District and collect the special taxes, and District reserve funds for replacement and major repairs.

PROPOSED BOUNDARIES OF

COMMUNITY FACILITIES DISTRICT NO. 2007-1
(DOWNTOWN PARK OPERATION AND MAINTENANCE DISTRICT)

CITY OF CLAYTON, COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA



CITY RECORDER'S STATEMENT:

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF CLAYTON, THIS 4th DAY OF January, 2007.

BY: Dai J. Jackson
CITY CLERK
CITY OF CLAYTON

CITY CLERK'S STATEMENT:

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NUMBER 2006-1 IN THE CITY OF CLAYTON, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON AT A REGULAR MEETING THEREOF, HELD ON THE 16th DAY OF January, 2007, BY ITS RESOLUTION NO. 04-2007

BY: Dai J. Jackson
CITY CLERK
CITY OF CLAYTON

RECORDER'S CERTIFICATE:

FILED THIS 23rd DAY OF January 2007, AT THE HOUR OF 2:04 O'CLOCK P M. IN BOOK 81 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 15, AND AS INSTRUMENT NUMBER 07-22014 IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

BY: STEPHEN L. WEIR
COUNTY RECORDER
COUNTY OF CONTRA COSTA

BY: K Mordlal
DEPUTY COUNTY RECORDER

LEGEND

——·—— CITY LIMIT LINE AND COMMUNITY FACILITY DISTRICT BOUNDARY

1-23-07 2:04 PM 81-15

IMPORTANT INFORMATION

FROM YOUR

CLAYTON TRAILS and LANDSCAPE COMMITTEE

2011

WHAT are the STANDARDS and PRIORITIES of the District and the TLC?

- Firebreaks are Mandatory.
- Weeds are now cut along major trails and creeks twice yearly.
- Trees are trimmed for safety purposes first.
- Irrigation breaks are repaired as needed.
- Public roadway landscaping is trimmed twice yearly.
- Landscape areas are now fertilized one time a year as needed.
- Limited funds for targeted improvements of $20,000 each year.

TLC'S STRTATEGIC FOCUS

- Take Care of what we have before planting something new
- Remove unwanted expenditures and control costs with strict oversight.
- Create Equity in the District.
- Implement Cost-Effective measures to improve irrigation and infrastructure and functions.
- Invest in improved equipment as a means to increase maintenance efficiency and effectiveness.
- Implement Seasonal and situational based labor to minimize costs.

excerpt : TLC minutes Nov. 16, 2009

5. NEW BUSINESS

(a) General Discussion of next steps after drought for Landscape Maintenance District – potential improvement areas in the Landscape Maintenance District

Maintenance Supervisor Janney explained that a LMD improvements process plan has been prepared by staff in keeping with the TLC prior discussion on future "Vision" of the District. He stated specifically what improvements might be able to be considered, what criteria should be used to prioritize the areas, what would be the prioritization of areas, and what could be done in the areas. There are some funds available in the District to begin to look into these, however with the water restrictions from CCWD any replanting would need to wait until the restrictions are lifted. The plan is based upon two general criteria: Areas that give the District the largest savings offer the long term in reduced water usage and maintenance while enhancing the landscape appearance; and plant replacement opportunities caused by drought where no other over tiding factor exists such as substandard irrigation, substandard soil, or mass loss of plant life prior to the drought.

Using this criteria there were 5 levels or steps that were recommended. The first step would be areas that would reduce maintenance issues and have little or no irrigation upgrades needed, and could be more easily implemented in the short term. The last step or level, step 5, includes areas that would have major cost or changes needed in order to implement and are more long term to address.

After some discussion the Committee agreed with the criteria provided by staff and the steps outlined. The committee thanked maintenance staff for the work in preparing the information and found it very helpful as to what the next steps might be for the LMD in going forward with any improvements as funds allow. Committee members also stated that it is helpful in terms of assisting them to focus on the next steps that the TLC could be working toward as part of the Vision process. The Committee was interested in obtaining more information regarding two areas or projects in the first level: potential hardscape of Oakhurst Blvd. median noses, and options for replanting the Clayton Fountain Water Feature. Maintenance Supervisor Janney stated that he could prepare some cost information on options for these two areas and bring it back at the next meeting.

There was consensus by the Committee to accept the staff report of criteria and "next" steps of potential improvement areas for the District as a working document which could be modified as new, different or more information becomes available; and for staff to return at the next meeting with cost information on options for the Oakhurst Blvd. median island noses and the Clayton Fountain Water Feature.

CITY OF CLAYTON

Agenda Date: 11-16-09

Agenda Item: 5(a)

Memo

To: Trails and Landscaping Committee

From: Mark Janney, Maintenance Supervisor

Meeting Date: November 16, 2009

Re: Potential Improvement Areas in the Landscape Maintenance District

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Recommendation: Hear report and discuss then provide direction to staff

Background:

The passage of the Landscape Maintenance Assessment did not include funds for replanting or reworking of the irrigation in the landscape district. Funds included for that work were in a prior assessment vote that was not passed by the voters. The measure the voters did pass was just enough to keep status quo and to enhance trimming and possibly more fertilization. If other costs savings occurred it was possible that some funds might be available to consider replanting and irrigation reworking.

This past May the Contra Costa Water District established mandatory water reductions (allocations) to users, including the City landscape areas. The reduction required in our landscape district was 40%. Trails and Landscape Committee reviewed and the City Council approved an irrigation priority strategy that gave priority to trees, then shrubs and eliminated water to lawn areas in the District. (Park lawns are not part of the District and were still watered although watering reduced especially in non active play areas).

The impact of the reduced watering can be seen in the District as it added somewhat to the loss of plant materials that we were already experiencing. Prior to this we had already been experiencing plant loss impacts as many were at the end of their life, or had grown to where their roots were into poor underlying soil materials, and others struggling as the soils the developers used when installing were not well amended. Additionally some plant species used many years ago when installed have now been found to have issues with pests, fungus or not as well suited to this climate and soil area as once were thought. Adding to this is that the some of the irrigation systems are also at or near the end of their life span and have leaks requiring repairs, and although may have been appropriate at the time, there is newer state of the art irrigation systems on the market today.

DISUSSION:

Given the current status of the many plantings throughout the District and the likelihood of either continued drought restrictions by CCWD reducing water allocations and the recent passage of State bills that will further require water districts to impose additional water conservation and reductions to users it seems it is time to evaluate the future of the District planted areas and determine what our next steps should be.

The City has experienced some cost savings since the passage of the Landscape Measure, and there are some funds available in the reserve that could be used to make modifications in some of the District landscape areas. This information is being provided to help assist the TLC as part of its vision process and provide direction to staff in how to address this issue.

Criteria:

- Areas that give the District the largest savings over the long term in reduced water usage and maintenance while enhancing the landscape.

- Plant Replacement caused by drought only in areas where no over riding factor has been detected i.e. substandard irrigation, wrong type of plants, substandard soil, or mass loss of plant life before drought. (see below)

Using the above criteria the maintenance staff has provided a partial list of areas that should be considered for improvement and the general type of changes:

First step would be to improve the following areas:

Water Feature

Replace turf area with a smaller lawn in front of the fountain and plant trees and shrubs on out side areas along fence lines (concept plan to be provided at the meeting)

Oakhurst Drive median noses

Hardscape the narrow median noses along Oakhurst Drive removing remaining shrubs (seven narrow noses and three wider noses)

Entry Medians and sides

Re-landscape entry medians to the following areas Eagle Peak, Indian Wells, Indian Head, Keller Ridge, and Peacock Creek with a standard plan and low maintenance design.

City Entries

Re-Landscape entry sign areas into the City with a standard plan and low maintenance design

Peacock Drive Median

Hardscape the median keeping only the existing trees.

Second step would be to establish a replanting program in the following order:

Trees Citywide

Continue to replace street trees as they die out this include the trees in the medians and along City streets.

Clayton Greens Lawns

Replace with shrubs or lawns

Third step Fill in landscape areas that have already been upgraded been upgraded within the Landscape District using only shrubs or trees.

Old Marsh Creek Rd
Oakhurst Drive Southside
Center Street Trail

Fourth step Fill in older landscape areas of the Landscape District that have adequate or need minimal irrigation upgrades and using only shrubs and trees

Clayton Road from City limits to Oakhurst Drive
Clayton Road from horse trail along sound wall on Marsh Creek Road

Fifth step and Long term goals for the Landscape District

Upgrade irrigation where the systems are substandard
Centralize the irrigation system district wide
Planting plans for the following areas
- Eagle Peak Drive
- City wide medians
- Keller Ridge Drive
- Regency Meadows
- Clayton Greens

Marsh Creek Rd
© 2012 Google
Google earth

© 2012 Google
Google earth
Imagery Date: 10/29/2012
Eye alt 349 ft

DAFFODIL HILL IMPROVEMENTS

SITE PHOTO

EXISTING SITE CONDITIONS - LOOKING EAST FROM DIRECTIONAL SIGN @ CLAYTON ROAD; PHOTO TAKEN AUGUST 5, 2011 BY STEVEN LANE.

SITE SATELLITE MAP

GOOGLE SATELLITE MAP ca. SUMMER, 2010

PROJECT SUMMARY STATEMENT

SUMMARY OF THE 'DAFFODIL HILL IMPROVEMENTS' PROJECT

Fall 2005: Several Clayton Business and Community Association (CBCA) members formed an ad-hoc committee to investigate a civic project with the City to landscape the site at the corner of Clayton & Marsh Creek Road where the "Clayton" Town Center sign is located.

2006: The CBCA Executive Board approved $500.00 for a set of concept plans from Diana Kostik. These plans covered electrical and irrigation. These plans were never used.

The scope of the original project only envisioned upgrading the area in the immediate vicinity of the 'Town Center' sign. The City of Clayton then committed redevelopment funds to construct a new trail and new Directional Signs on the Site. By adding additional funds from CBCA the entire hill could also be landscaped.

Spring 2009: A bid was awarded to Maxicrete Construction for approximately $155,000*. This funding was split between the City (Redevelopment funds of about $90,000) and CBCA ($65,000). The landscaping piece of the bid was approximately $6,000, but due to the drought situation that phase of the project was deferred. A supplemental request to CBCA for $9,500 for landscaping at a future date was put on hold until drought conditions ended

February 2010: The water restrictions were lifted. Two CBCA committee members, Susan Fossan and Shannon Seven looked over the final plans, and agreed to what the City had designed, to get the project completed.

2011: CBCA's support was needed to finish the project. Mary Ann Lawrence agreed to represent CBCA.

Early in the year - Preliminary meetings with City Staff, sub-committee members Shannon Seven and Mary Ann Lawrence, Clayton Landscape Designer Nicole Hackett, and Clayton Drafting & Design / Project Management Consultant Steven Lane took place - to discuss & agree-upon some proposed planting revisions, and the City of Clayton granting permission to the CBCA to bid the project to an outside Landscape Contractor; and to oversee that the proposed planting & irrigation work be designed, reviewed and installed to current City Requirements, Ordinances, Standard Specifications and Standard Plans. City Maintenance Staff will ultimately maintain the landscaping on Site, which remains to be City of Clayton property, and is irrigated by a split system of well water and municipal water.

From preliminary meetings - discrepancies in original plans and "As-built" conditions were discovered. In addition - a new City Landscape Water Ordinance was put into effect. Steve Lane was hired by the CBCA to do paid and volunteer work to produce a corrected 'As-Built' plan of the Site, and the necessary Construction Documents for City review and potential approval.

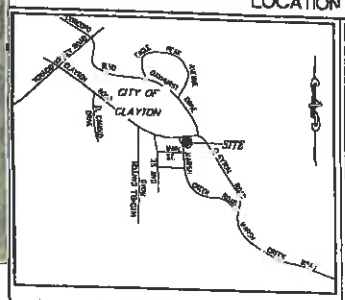
August 25, 2011: CBCA member meeting. Daffodil Hill Committee presented design as submitted for preliminary bid and City Water Ordinance Staff review; Preliminary bid presented to membership, and vote in support of CBCA funding the current, proposed 'Daffodil Hill Improvements' took place.

September 20, 2011: City Staff-reviewed 'Daffodil Hill Improvements' Proposal (including detailed Construction Drawings and Project Specifications) to be presented at City Council Meeting. Ideally, Council approves proposal.

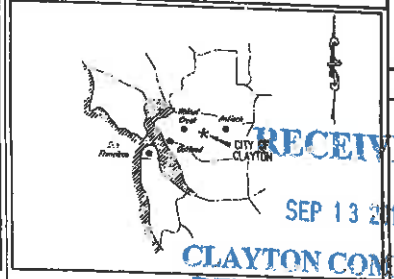
September 29, 2011: CBCA Board and Membership vote to approve project funding based on second-round bids.

Early October 2011: Ideally, CBCA President, Ed Hartley signs contract with winning Landscape Contractor bidder; project breaks ground shortly after, and is completed within 45 days – ultimately, providing the citizens and visitors of Clayton a truly 'Signature' landscape at one of the most prominent locations within the City's Town Center.

LOCATION and VICINITY MAPS



VICINITY MAP
N.T.S.



LOCATION MAP
N.T.S.

STANDARD ABBREVIATIONS

&	AND	FT	FOOT OR FEET	REQ'D	REQUIRED
@	AT	GA	GAUGE	RWD	REDWOOD
℄	CENTER LINE	GALV	GALVANIZED	SF	SQUARE FEET/FOOT
ø	DIAMETER	IRRIG	IRRIGATION	SIM	SIMILAR
ADJ	ADJUSTABLE	MAX	MAXIMUM	SQ	SQUARE
BLDG	BUILDING	MFR	MANUFACTURER	TYP	TYPICAL
CLR	CLEAR	MIN	MINIMUM	UON	UNLESS OTHERWISE NOTED
CONC	CONCRETE	MISC	MISCELLANEOUS	VERT	VERTICAL
CONT	CONTINUOUS	(N)	NEW	VF	VERIFY IN FIELD
D.G.	DECOMPOSED GRANITE	NIC	NOT IN CONTRACT	W/	WITH
EQ	EQUAL	NTS	NOT TO SCALE	W/O	WITHOUT
(E)	EXISTING	OC	ON CENTER	WP	WATERPROOF
FIN	FINISH	RELO	RELOCATE(D)		

DESCRIPTION OF WORK

A. VISUAL AND OPERATIONAL INSPECTION / 'SURVEY' OF EXISTING IRRIGATION SYSTEM AND RELATED EQUIPMENT.

B. CLEARING, GRUBBING AND GRADING AS REQUIRED TO CONFORM TO ORIGINAL SITE [GRADE] PLAN, DATED 3/20/09, SHEET 5 OF THIS PLAN SET

C. REMOVAL, ALTERATION, REPAIRS AND INSTALLATION OF NEW IRRIGATION COMPONENTS AS INDICATED AND NOTED WITHIN THESE PLAN SHEETS AND IN THE PROJECT SPECIFICATIONS.

D. INSTALLATION OF NEW PLANTING AND LANDSCAPE MATERIALS AS INDICATED AND NOTED WITHIN THESE PLAN SHEETS AND IN THE PROJECT SPECIFICATIONS.

E. ALTERATIONS AND REPAIRS OF EXISTING LANDSCAPE AND DIRECTIONAL SIGN LIGHTING AS INDICATED AND NOTED WITHIN THESE PLAN SHEETS AND IN THE PROJECT SPECIFICATIONS.

CODE INFO AND REQUIREMENTS

ALL NEW WORK SHALL COMPLY WITH 2010 CALIFORNIA PLUMBING CODE (CPC), 2010 CALIFORNIA ELECTRICAL CODE (CEC), COUNTY AND LOCAL CODES, INCL.:

CITY OF CLAYTON 'LANDSCAPE WATER CONSERVATION STANDARDS'

CITY OF CLAYTON 'STANDARD SPECIFICATIONS AND 'STANDARD PLANS'

PROJECT SITE INFO

APN:	118-360-009
ZONING:	PD (PLANNED DEVELOPMENT)
LOT AREA:	10,715 SF (~1/4 ACRE) (PER ASSESSOR'S DATA)
LANDSCAPE IRRIGATION AREA:	TBD (~8,500 SF)

PROJECT CONTACTS

PROJECT DEVELOPER:
CLAYTON BUSINESS and COMMUNITY ASSN. (CBCA)
P.O BOX 436
CLAYTON, CA 94517
CONTACT: MARY ANN LAWRENCE
PH: (925) 672-8555
CONTACT: SHANNON SEVEN
PH: (925) 672-7598

PROPERTY OWNER / REVIEWING AGENCY:
CITY OF CLAYTON
6000 HERITAGE TRAIL
CLAYTON, CA 94517
CONTACT: GARY NAPPER, CITY MGR.
PH: (925) 673-7300
CONTACT: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR
PH: (925) 673-7340

LANDSCAPE DESIGNER:
NICOLE HACKETT
528 MOUNT DELL DRIVE
CLAYTON, CA 94517
PH: (925) 673-1748
EMAIL: gardengirl94517@yahoo.com

PROJECT Co-DESIGNER / DRAFTING / DESIGN and Co-PROJ. MGMT. CONSULTANT:
STEVEN M. LANE
245 MOUNTAIRE CIRCLE
CLAYTON, CA 94517
PH: (925) 686-7057
EMAIL: slane23@mac.com

CITY OF CLAYTON MAINTENANCE SUPERVISORS:
JOHN JOHNSTON and MARK JANNEY
PH: (925) 673-7300

SHEET INDEX

L-0 COVER SHEET

L-1 PROPOSED PLANTING PLAN

L-2 PROPOSED PLANTING KEY, DETAILED PLANT INFO, WUCOLS III INFO & RATINGS, REFERENCE SHEETS, PLANTING & DESIGN SUMMARY, DESIGNER'S RESUMES

L-3 PROPOSED IRRIGATION ALTERATIONS PLAN / LIGHTING ALTERATIONS PLAN, LIGHTING DETAILS & NOTES

L-4 PLANTING and IRRIGATION DETAILS & NOTES

S ORIGINAL SITE [GRADE] PLAN, DATED 3/20/09

RECEIVED
SEP 13 2011
CLAYTON COMMUNITY DEVELOPMENT DEPT

REVISIONS | BY

Nicole Hackett
dba Clayton "Garden Girl"
Landscape and Garden Consultation at Your Home
2700 Mount Diablo Court
Clayton, CA 94517
(925) 673-1748

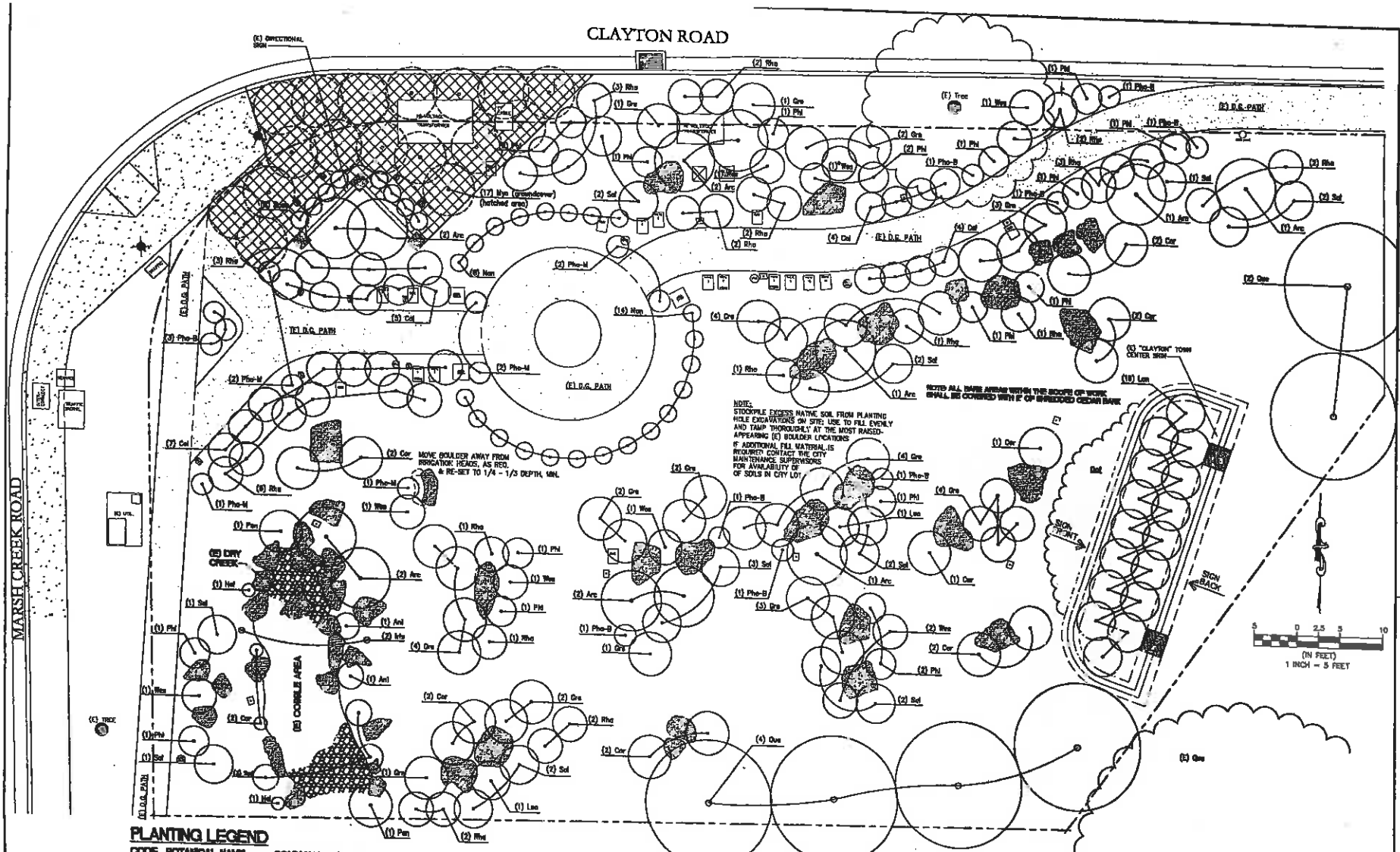
Landscape - Technical Drawing Services
StevenLane
Drafting / Design / Project Management Consultant
245 Mountaire Circle, Clayton, CA 94517
(925) 686-7057 slane23@mac.com

COVER SHEET

DAFFODIL HILL IMPROVEMENTS
MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
FOR: CLAYTON BUSINESS AND COMMUNITY ASSN. (CBCA)

DATE: 9/13/11
DESIGNED: NICOLE HACKETT and STEVEN LANE
DRAWN: STEVEN LANE
SCALE: AS NOTED
SHEET: L-0
OF:

CITY COUNCIL SUBMITTAL



PLANTING LEGEND

CODE	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
Que	Quercus Agrifolia	California Live Oak	36" Box
SHRUBS			
Arc	Arctostaphylos 'Howard McMinn'	Red Kangaroo Paw Manzanita	5 Gal. 5 Gal.
Cor	Coreopsis Verticillata 'Sunset Gold'	Gold Breath of Heaven	5 Gal.
Cor	Correa 'Dusky Bells'	Australian Fuchsia	5 Gal.
Dei	Deitelli	Deitelli	Bulbs
Dra	Cordyline Longissima 'Crested Cam'	Cordyline	5 Gal.
Gra	Grevillea Lanigera 'Coastal Gem'		
Hel	Helichrysum Petiolare		
Iris	Iris 'Benvenuto'		
Lan	Lantana Montevidensis		
Lav	Lavandula Lanata		
Mon	Monarda d. 'Stevia Scarlet'		
Pen	Pennisetum 'Rubrum'		
Phl	Phlomis Fruticosa		
Pho-B	Phormium 'Platt's Black'		
Pho-M	Phormium 'Maori Maiden'		
Rha	Rhaphiolepis Indica 'Jack Evans'		
Rhe	Rhaphiolepis Indica 'Snow White'		
Rhy	Rhaphiolepis Umbellata		
Rib	Ribes Viburnifolium		
Rom	Rosmarinus Officinalis 'Prostratus'		
Sal	Salvia Leucantha		
Sed	Sedum 'Autumn Joy'		
Wes	Westringia Fruticosa		
GROUNDCOVER			
Hyp	Hypoestes		
Ros	Ros. 'Red Ribbons'		
Gra	Gravel		

CODE	BOTANICAL NAME	COMMON NAME	SIZE
SHRUBS (cont'd.)			
Sal	Salvia Leucantha	Mexican Sage	5 Gal.
Sed	Sedum 'Autumn Joy'	Stone Crop	1 Gal.
Wes	Westringia Fruticosa	Coast Rosemary	5 Gal.
GROUNDCOVER			
Hyp	Hypoestes	Hypoestes	1 Gal.
Ros	Ros. 'Red Ribbons'	Groundcover Rose	1 Gal.

PLANTING NOTES:

1. SEE L-2 FOR PLANTING KEY, DETAILED PLANT INFO, AND MUCOLS II INFO
2. SEE L-3 FOR PLANTING DETAILS & NOTES

LIGHTING LEGEND:

- DIRECTIONAL SIGN LIGHT
- POST-MOUNT LANDSCAPE LIGHT

GENL. LIGHTING NOTES:

1. ADJUST ALL LIGHT FIXTURES FOR MAXIMUM ILLUMINATION OF SIGNS AND LANDSCAPE FEATURES.
2. REPLACE LIGHT BULBS AS NEEDED.

GENERAL EXISTING UTILITY NOTES:

1. ALL UTILITIES INDICATED ARE EXISTING U.O.N
2. CONTRACTOR SHALL VERIFY LOCATION OF ALL (E) UTILITY LINES AT AREAS OF WORK
3. SEE SHEET 5 FOR ADDT'L. UTILITY ITEMS NOT INDICATED ON THIS SHEET

REVISIONS | BY

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Tel (925) 254-0227

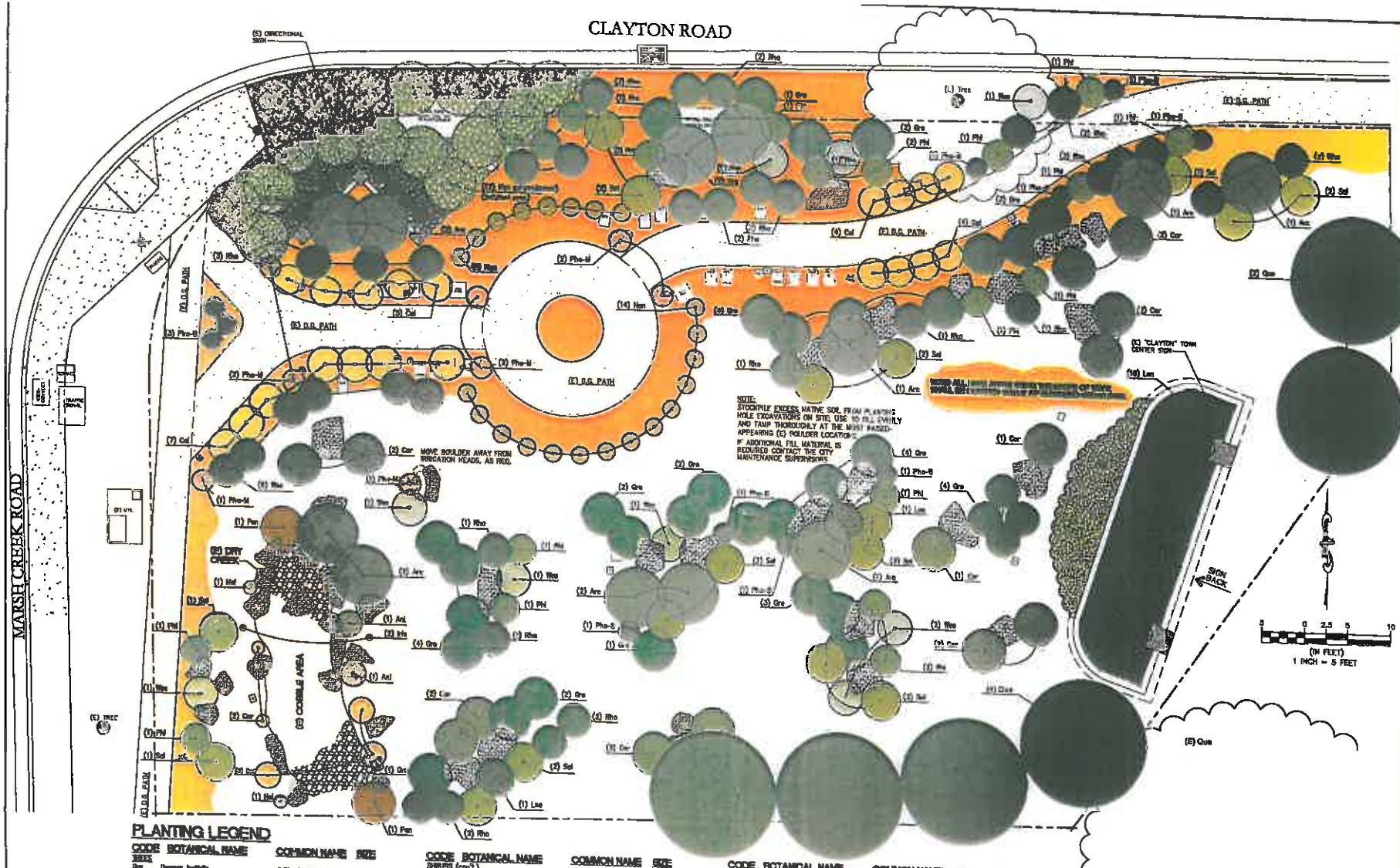
Steven Lane
Landscape Architecture

PROPOSED PLANTING PLAN

DAFFODIL HILL IMPROVEMENTS
MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
FOR: CLAYTON BUSINESS AND COMMUNITY ASSN. (CBCA)

DATE: 9/13/19
DESIGNED: NICOLE HACKETT and STEVEN LANE
DRAWN: STEVEN LANE
SCALE: AS NOTED
SHEET: L-1
OF:

CITY COUNCIL SUBMITTAL



PLANTING LEGEND

CODE	BOTANICAL NAME	COMMON NAME	SIZE
TREES			
Cer	Cercis Aphylla	California Live Oak	36" Box
ARBUTUS			
Arc	Arbutus 'Marina'	Red Kangaroo Paw	5 Gal.
Arc	Arctostaphylos 'Howard McMinn'	Manzanita	5 Gal.
Car	Carex tumulicola	Ornamental Grass	5 Gal.
Cal	Calamagrostis Pulchrum 'Karl Foerster'	Gold Breath of Heaven	5 Gal.
Cor	Cornus 'Ruby Sato'	Australian Fuchsia	5 Gal.
Def	Delfinii	Delfinii	Bulbs
Gre	Grevillea Lanigera 'Coastal Gem'	Grevillea	5 Gal.

CODE	BOTANICAL NAME	COMMON NAME	SIZE
SHRUBS (cont'd.)			
Hel	Helianthemum Stamperinus	Blue Oat Grass	5 Gal.
Iris	Iris 'Germanica'	Bearded Iris	1 Gal.
Lan	Lantana Montevidensis	Lantana	1 Gal.
Lau	Laurelia Laurance	Lau's Tail Sage	5 Gal.
Nan	Nandina d. 'Stone Stanza'	Heavenly Bamboo	5 Gal.
Pen	Penstemon 'Rubrum'	Red Fountain Grass	5 Gal.
Phl	Phlomis Fruticosa	Jerusalem Sage	5 Gal.
Pho-D	Phormium 'Platt's Black'	New Zealand Flax	5 Gal.
Pho-M	Phormium 'Maori Maiden'	New Zealand Flax	5 Gal.
Rho	Rhaphiolepis Indica 'Jack Evans'	Indian Hawthorne	5 Gal.

CODE	BOTANICAL NAME	COMMON NAME	SIZE
SHRUBS (cont'd.)			
Sal	Salvia Lavandulifolia	Wooton Sage	5 Gal.
Sed	Sedum 'Autumn Joy'	Stone Crop	1 Gal.
Wes	Westringia Fruticosa	Coast Rosemary	5 Gal.
GROUNDCOVER			
Hyp	Hypericum	Hypericum	1 Gal.
Rosa	Rosa 'Red Ribbons'	Groundcover Rose	1 Gal.

PLANTING NOTES:
1. SEE L-2 FOR PLANTING KEY, DETAILED PLANT INFO, AND MODELS N INFO
2. SEE L-4 FOR PLANTING DETAILS & NOTES

LIGHTING LEGEND:
- DIRECTIONAL SIGN LIGHT
- POST-MOUNT LANDSCAPE LIGHT

GEN'L. LIGHTING NOTES:
1. ADJUST ALL LIGHT FIXTURES FOR MAXIMUM ILLUMINATION ON SIGNS AND LANDSCAPE FEATURES.
2. REPLACE LIGHT BULBS, AS REQ'D.

GENERAL EXISTING UTILITY NOTES:
1. ALL UTILITIES INDICATED ARE EXISTING to O.N
2. CONTRACTOR SHALL VERIFY LOCATION OF ALL (E) UTILITY LINES AT AREAS OF WORK
3. SEE SHEET 5 FOR ADDTL UTILITY LINES NOT INDICATED ON THIS SHEET

REVISIONS | BY

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(925) 325-0287

Stewart Engineering

PROPOSED PLANTING PLAN

DAFFODIL HILL IMPROVEMENTS
MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
FOR: CLAYTON BUSINESS AND COMMUNITY ASSN. (CBCA)

DATE: 9/13/11
DESIGNED: NICOLE HACKETT and STEVEN LANE
DRAWN: STEVEN LANE
SCALE: AS NOTED
SHEET: L-1
OF:

CITY COUNCIL SUBMITTAL

"DAFFODIL HILL" - PROPOSED PLANTING KEY (SHEET 1 OF 3)

IMAGE	ABBREVIATION ON PLAN	SCIENTIFIC NAME / COMMON NAME / PLANT SIZE / WUCOLS RATING PLANT TYPE – COMMENTS	QUANTITY	POT SIZE
	Ani	Anigozanthos 'Red Cross' / *Red Kangaroo Paw* / 4-5' Tall and 4' Wide / Perennial / WUCOLS III water-use rating: Low Tall Flowering Plant - Hardy, water-wise evergreen w/ 4-5' Tall flower stalks; Burgundy-red flowers May-October; Full sun, Clayton tolerant, very low maintenance	2 plants	5 Gal.
	Arc	Archtostaphylos 'Howard McMinn' / *Manzanita* / 5-6' Tall and 7' Wide / Shrub - Small Tree / WUCOLS III water-use rating: Very Low Large Bush / Small Tree - Hardy, water-wise evergreen; Clusters of white flowers touched with pink from March-May; Full sun; Clayton tolerant; Very low maintenance	12 plants	5 Gal.
	Car	Carex testacea / *Ornamental Grass* / 1-2' Tall and Wide / Perennial / WUCOLS III water-use rating: Moderate Ornamental Grass - Hardy, water-wise ornamental; Intense orange foliage all year long; Full sun, Clayton tolerant, low maintenance	2 plants	5 Gal.
	Col	Coleonema pulchrum 'Sunset Gold' / *Gold Breath of Heaven* / 2-1/2' Tall and 4' Wide / Shrub / WUCOLS III water-use rating: Moderate Low Spreading Plant - Hardy, water-wise evergreen; Soft bright chartreuse yellow foliage, Insignificant flowers; Full sun, Clayton tolerant, very low maintenance	20 plants	5 Gal.
	Cor	Correa 'Dusky Bells' / 2-1/2-3' Tall and 4-6' Wide / Shrub / WUCOLS III water-use rating: Low Flowering Plant - Hardy, water-wise evergreen; Carmine pink flowers from September-December; Full sun, Clayton tolerant, very low maintenance	14 plants	5 Gal.
	Daf	Daffodils 'King Alfred' / *Daffodils* / 2' Tall / Perennial / WUCOLS III water-use rating: n/a Flowering Bulb Plant - Tall selection of daffodils; February blooms	as req. for area on plan	Bags of bulbs to be donated
	Gre	Grevillea Lanigera 'Coastal Gem' / 1' Tall and 4-5' Wide / Shrub / WUCOLS III water-use rating: Low Low Flowering Plant - Hardy, water-wise evergreen; Sprawling growth, blooms September-December; Full sun, Clayton tolerant, very low maintenance	34 plants	5 Gal.
	Hel	Helictotrichon sempervirens / *Blue Oat Grass* / 20-24" Tall and 8-12" Wide / Perennial / WUCOLS III water-use rating: Low Ornamental Grass - Hardy, water-wise ornamental grass; Bluish foliage June-December; Full sun, Clayton tolerant, low maintenance	2 plants	5 Gal.
	Iris	Iris 'Germanica' / *Bearded Iris* / 8"-4' Tall and 8" Wide / Perennial / WUCOLS III water-use rating: Low Flowering Bulb or Plant - Spring bloomers in red, blue, pink, purple, reddish white, yellow and bi-color, bluish foliage; Hoyer selections	2 plants	1 Gal.

NOTE: WUCOLS III RATING BASED ON 'WATER USE CLASSIFICATION OF LANDSCAPE SPECIES' 1999 EDITION PUBLISHED BY THE UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION, TYPICAL FOR ALL.

"DAFFODIL HILL" - PROPOSED PLANTING KEY (SHEET 2 OF 3)

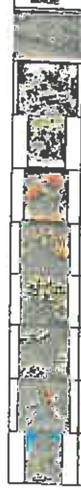


IMAGE	ABBREVIATION ON PLAN	SCIENTIFIC NAME / COMMON NAME / PLANT SIZE / WUCOLS RATING PLANT TYPE – COMMENTS	QUANTITY	POT SIZE
	Lan	Lantana Montevidensis / *Lantana* / 2' Tall and 3-6' Wide / Groundcover, Perennial / WUCOLS III water-use rating: Low Low groundcover - Hardy, water-wise with rosy-lilac flowers flowers Spring - Fall; Full sun, Clayton tolerant, low maintenance	15 plants	1 Gal.
	Leo	Leonotis leonurus / *Lions Tail Sage* / 4-5' Tall and Wide / Shrub / WUCOLS III water-use rating: Low Large Flowering Bush - Hardy, water-wise evergreen with orange whorls of flowers July-November; Full sun, Clayton tolerant, low maintenance	3 plants	5 Gal.
	Myo	Myoporum Parvifolium / *Myoporum* / 3-6" High and 9' Wide / Shrub, Groundcover / WUCOLS III water-use rating: Low Evergreen Groundcover - Hardy, water-wise evergreen; Tiny white Summer flowers; Full sun, Clayton tolerant, very low maintenance	17 plants	1 Gal.
	Nan	Nandina d. 'Seinna Sunrise' / *Heavenly Bamboo* / 3-4' Tall and 2' Wide / Shrub / WUCOLS III water-use rating: Low Evergreen Plant - Hardy, water-wise evergreen; Fabulous fall like colors October-February; Full sun, Clayton tolerant, very low maintenance	22 plants	5 Gal.
	Pen	Pennisetum Rubrum / *Red Fountain Grass* / 4-5' Tall and Wide / Perennial / WUCOLS III water-use rating: Moderate Tall Ornamental Grass - Hardy, water-wise ornamental grass; Red foliage topped with purple plumes August-December; Full sun, Clayton tolerant, low maintenance	2 plants	5 Gal.
	Phl	Phlomis Fruticosa / *Jerusalem Sage* / 2-3' Tall and 3-4' Wide / Shrub, Perennial / WUCOLS III water-use rating: Low Flowering Bush - Hardy, water-wise evergreen; flower stalks stand 18"; Deep yellow two-lipped shaped blossoms cluster in whorl shape May-July; Full sun, Clayton tolerant, low maintenance	10 plants	5 Gal.
	Pho-B	Phormium 'Platt's Black' / *New Zealand Flax* / 2-1/2' Tall and Wide / WUCOLS III water-use rating: Low Flax Plant - Hardy, water-wise; Strappy dark foliage all year long; Full sun, Clayton tolerant, very low maintenance	12 plants	5 Gal.
	Pho-M	Phormium 'Maori Maiden' / *New Zealand Flax* / 2-3' Tall and Wide / WUCOLS III water-use rating: Low Flax Plant - Hardy, water-wise; Apricot-pink to Rose-red colored leaves with thin Green margins; Full sun, Clayton tolerant, very low maintenance	7 plants	5 Gal.
	Que	Quercus Agrifolia / California *Live Oak* / 20-70' Tall and Wide / WUCOLS III water-use rating: Very Low Large Oak Tree - Native to Clayton area, very low maintenance	6 trees	36" box

"DAFFODIL HILL" - PROPOSED PLANTING KEY (SHEET 3 OF 3)

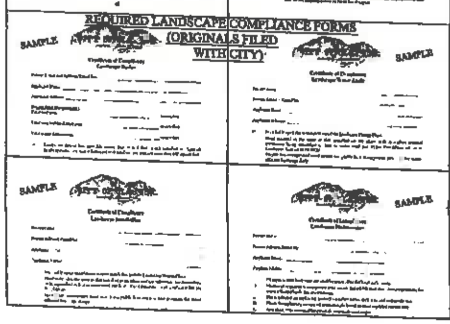
IMAGE	ABBREVIATION ON PLAN	SCIENTIFIC NAME / COMMON NAME / PLANT SIZE / WUCOLS RATING PLANT TYPE – COMMENTS	QUANTITY	POT SIZE
	Rha	Rhaphiolepis Indica 'Jack Evans' / *Indian Hawthorne* / 4-5' Tall and 4' Wide / WUCOLS III water-use rating: Low Large Flowering Shrub - Hardy, water-wise evergreen; Dark leathery leaves, clusters of star-shaped pink-white flowers late Fall to Spring; Small purple berries late summer; Full sun, Clayton tolerant, low maintenance	34 plants	5 Gal.
	Rose	Rosa / *Red Ribbons Rose* / Low Groundcover / WUCOLS III water-use rating: Moderate Low Groundcovering Rose - Hardy, water-wise deciduous groundcover rose; excellent disease and pest tolerance; Red blooms April-November, Full sun, Clayton tolerant, low maintenance	5 plants	1 Gal.
	Sal	Salvia Leucantha / *Mexican Bush Sage* / 2-4' Tall and Wide / WUCOLS III water-use rating: Low Flowering Bush - Hardy, water-wise perennial; Dark purple spires August-December; Full sun, Clayton tolerant, low maintenance	17 plants	5 Gal.
	Sed	Sedum 'Autumn Joy' / *Stonecrop* / 2' Tall and Wide / WUCOLS III water-use rating: Low Low Flowering Succulent Plant - Hardy, water-wise perennial; Fleshy foliage, topped with tiny bronze flowers that age to brick red; Full sun, Clayton tolerant, low maintenance	9 plants	1 Gal.
	Wes	Westringia Fruticosa 'Wynyabbie Gem' / *Coast Rosemary* / 6-8' Tall and 4-6' Wide / WUCOLS III water-use rating: Low Medium size flowering plant - Hardy, water-wise evergreen; Soft ferny foliage, periwinkle flowers all summer long; Full Sun, Clayton tolerant, very low maintenance	9 plants	5 Gal.

Part 2
PLANTING SELECTION and WATER-USE RATING REFERENCE

WUCOLS III*

CITY OF CLAYTON MUNI. CODE REFERENCE

REQUIRED LANDSCAPE COMPLIANCE FORMS (ORIGINALS FILED WITH CITY)



"DAFFODIL HILL" - PLANTING SELECTION and DESIGN SUMMARY

Plants for this project have been selected primarily based on their hardy drought-tolerance and low-maintenance requirements. Most of the plants originally selected by John Johnston, City of Clayton Maintenance Supervisor, for the original 2008 "Daffodil Hill Beautification" project design, remain in this revised 2011 proposal. The proposed design is the result of meetings and agreements among John Johnston, current Designers - Nicole Hackett and Steven Lane, Mark Janney - City Maint. Supervisor, Howard Geller - Vice Mayor, Gary Napper - City Manager, and CBCA sub-committee members - Mary Ann Lawrence and Shannon Seven.

In addition to being beautiful, low in maintenance, and rated between 'Very Low' ("VL) and 'Moderate' ("M") in the WUCOLS III guide, 1999 ed.; the design will be in full compliance with the City of Clayton's current - 'Landscape Water Conservation Standards' ordinance requirements.

NOTE: Many of the proposed planting selections are not currently found in any other planting within the City landscape - making this a truly 'Signature' landscape at one of the most prominent locations within the City's Town Center.

"DAFFODIL HILL" - DESIGNER'S RESUMES:

Original Project (as approved by the City of Clayton, 2008) Designer:
John Johnston, City of Clayton Maintenance Supervisor

Proposed 'Improvements' Planting Designer:
Nicole Hackett aka "Garden Girl"
15+ year Clayton Resident,
Graduate of Clayton Valley High School, Class of 1982
Diablo Valley College - Horticulture Program
15+ years experience as a Nursery Professional at Clayton's R&M Nursery
13+ years experience as a local area Planting and Landscape Design Consultant
'Clayton Pioneer' newspaper's "Garden Girl" columnist since 2003
Volunteer Work: Current, 2011 'Clayton Valley Garden Club' President / Current CVGC-Clayton Community Library Beds Revitalization Projects co-Designer / Clayton Historical Society - Annual 'Garden's Tour' Program Writer, since 2007 / 2011 'Daffodil Hill Improvements' Project

Proposed 'Improvements' Project Co-Designer / Drafting & Design Consultant / Co-Project Manager:
Steven Lane Steven M Lane (SML) Drafting & Design, Clayton, CA
37+ year Clayton Resident
Mt Diablo Elementary, Pine Hollow Int. Clayton Valley High School, Class of 1968
Diablo Valley College - 1987 Architecture Program transfer to:
UC Berkeley - Bachelor of Arts in Architecture, Class of 19[illegible]3
24+ years paid and volunteer drafting & design experience
12+ years professional Building & Landscape Design / Drafting / Project Management experience in Medical, Religious, Commercial and Residential work
Volunteer Work: Current, 2011 Clayton Valley Garden Club VP / Current Library Beds Revitalization Projects co-Designer / Current Clayton Historical Society - 'Native and Historic Garden' Revitalization Projects Committee Member / 2011 'Daffodil Hill Improvements' Project

REVISIONS	BY

Nicole Hackett
the Clayton "Garden Girl"
Landscape and Garden Plant Consultation & Sales
@
R & M Pool, Patio, Garden, Gifts
6780 Marsh Creek Road
Clayton, CA 94517
(925) 672-0207

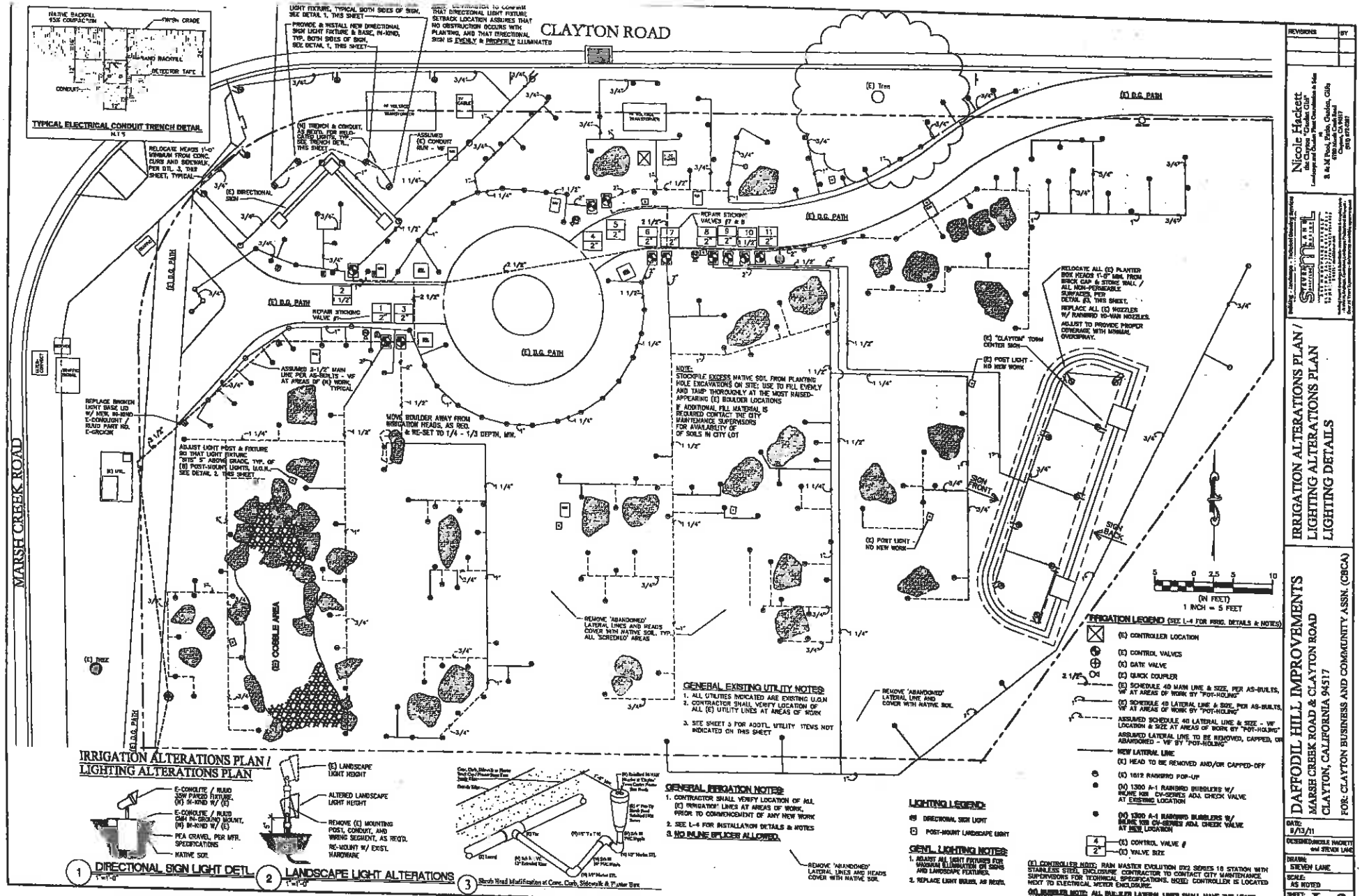
Steven M Lane — Landscape - Technical Drafting Services

PLANTING KEY & DETAILED PLANT INFO., WUCOLS III RATINGS PLANTING SELECTION SUMMARY, DESIGNER'S RESUMES

DAFFODIL HILL IMPROVEMENTS
MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
FOR: CLAYTON BUSINESS AND COMMUNITY ASSN. (CBCA)

DATE: 9/13/11
DESIGNED: NICOLE HACKETT and STEVEN LANE
DRAWN: STEVEN LANE
SCALE: AS NOTED
SHEET: L-2
OF:

CITY COUNCIL SUBMITTAL



REVISIONS | BY

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dba Cayuse "Garden Club"
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3 & M Pond, Point, Garden, Gifts
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Clayton, CA 94517
(925) 672-2281

Planning - Landscape - Horticultural Consulting Services
STEVEN LANE

IRRIGATION ALTERATIONS PLAN / LIGHTING ALTERATIONS PLAN
LIGHTING DETAILS

DAFFODIL HILL IMPROVEMENTS

MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
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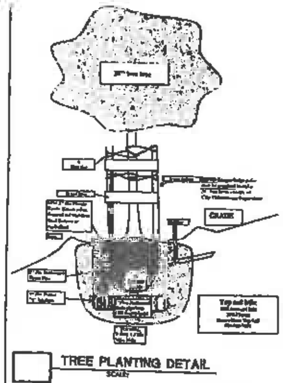


TREE PLANTING INSTRUCTIONS

1. ALL TREES INTENDED FOR INSTALLATION SHALL BE INSPECTED AND APPROVED BY A CITY MAINTENANCE SUPERVISOR PRIOR TO PLANTING. CONTRACTOR SHALL REPLACE, AT NO COST TO THE CBCA, ANY TREE REJECTED BY THE CITY MAINTENANCE SUPERVISOR.
2. ALL TREES SHALL BE PLANTED AS CLOSE AS POSSIBLE TO THE LOCATIONS INDICATED ON THE DRAWINGS. ANY CHANGES TO TREE INSTALLATION LOCATIONS SHALL BE APPROVED BY A CITY MAINTENANCE SUPERVISOR AND A CBCA DESIGN AGENT PRIOR TO INSTALLATION OF THE TREE.
3. NO SUBSTITUTIONS SHALL BE MADE FOR TOP SOIL MIX FOR TREE PLANTING. EXISTING SOILS SHALL BE REMOVED AND REPLACED WITH TOP SOIL MIX PER DETAIL ABOVE.
4. PLANTING HOLES FOR TREE INSTALLATION SHALL HAVE A MINIMUM DEPTH OF 4 FEET AND A MINIMUM DIAMETER OF 3 FEET. WHERE IN THE SOLE OPINION OF THE CITY, EXISTING SOIL, ROCKS, OR CLAY MATERIAL MAY LIMIT FAVORABLE GROWTH, THE CONTRACTOR SHALL INCREASE THE DIAMETER AND/OR DEPTH OF THE PLANTING HOLE AS DIRECTED BY THE CITY MAINTENANCE SUPERVISOR.
5. SCARIFY ALL SIDES OF PLANTING HOLES EVERY 6 INCHES.
6. CONTRACTOR SHALL CAREFULLY BREAK UP ROOT BALL BEFORE PLANTING.
7. FERTILIZER TABLETS SHALL BE EVENLY DISTRIBUTED AROUND THE TREE ROOT BALL.
8. ALL TREE BERMS SHALL BE CONSTRUCTED OF NATIVE SOIL, AND SHAPED TO PRESENT A PLEASANT APPEARANCE.
9. TREE BUBBLERS SHALL BE LOCATED WITHIN THE TREE BERM, BUT AWAY FROM THE TREE ROOT BALL.
10. TREE BUBBLERS SHALL BE LOCATED ABOVE GRADE WHILE THE PERFORATED DRAIN AND GRATE SHALL BE LOCATED BELOW GRADE.
11. ALL RUBBER TREE TIES SHALL BE EVENLY WRAPPED AROUND THE TREE STAKE AND BE CUT TO PRESENT A PLEASANT APPEARANCE.
12. TREE STAKES SHALL BE EVENLY SPACED FROM THE TREE TRUNK, AND SHALL BE PLUMB. NOTE: LARGER LODGE POLES MAY BE REQUIRED BY CITY MAINTENANCE SUPERVISOR TO STAKE 36" BOX TREES.
13. TREES LOCATED WITHIN LOOSE SOIL WILL REQUIRE EXTRA STAKING.

CITY OF CLAYTON - LANDSCAPE WATER CONSERVATION STANDARDS

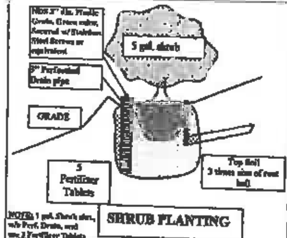
THE LANDSCAPE PLANTING AND IRRIGATION PLANS FOR THE DAFFODIL HILL IMPROVEMENTS WERE DESIGNED IN ACCORDANCE WITH THE CITY OF CLAYTON MUNICIPAL CODE CHAPTER 17.80 - 'LANDSCAPE WATER CONSERVATION STANDARDS' (LWCS) AND A 'CERTIFICATE OF COMPLIANCE - LANDSCAPE DESIGN' IS ON FILE IN THE CITY OF CLAYTON MAINTENANCE DEPARTMENT.

THE LWCS IMPOSES ADDITIONAL REQUIREMENTS WHICH SHALL BE SATISFIED BY THE CONTRACTOR:

1. CERTIFICATE OF COMPLIANCE - LANDSCAPE INSTALLATION: THE CONTRACTOR SHALL COMPLETE A 'CERTIFICATE OF COMPLIANCE - LANDSCAPE INSTALLATION FORM (SEE PROJECT SPECIFICATIONS FOR ALL REQUIRED CERTIFICATE FORMS) CERTIFYING THAT THE LANDSCAPE HAS BEEN INSTALLED AS SPECIFIED IN THE LANDSCAPE PLANS, AND COMPLIES WITH THE CRITERIA OF CHAPTER 17.80 OF THE CITY OF CLAYTON MUNICIPAL CODE.

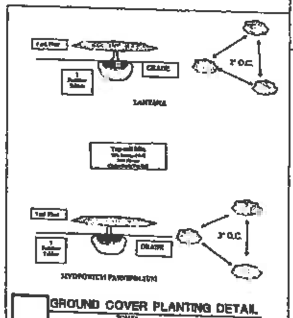
2. CERTIFICATE OF COMPLIANCE - WATER AUDIT: A WATER AUDIT SHALL BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 17.80.070, 'LANDSCAPE WATER AUDIT REQUIREMENTS', OF THE CITY OF CLAYTON MUNICIPAL CODE. UPON COMPLETION OF THE PROJECT, THE LANDSCAPE AUDITOR SHALL COMPLETE A 'CERTIFICATE OF COMPLIANCE - WATER AUDIT' FORM CERTIFYING THAT THE LANDSCAPE AND IRRIGATION SYSTEM HAVE BEEN INSTALLED AS SPECIFIED IN THE LANDSCAPE PLANS, AND COMPLY WITH THE CRITERIA OF CHAPTER 17.80 OF THE CITY OF CLAYTON MUNICIPAL CODE.

3. CERTIFICATE OF COMPLIANCE - LANDSCAPE MAINTENANCE: THE CONTRACTOR SHALL COMPLETE THE 'CERTIFICATE OF COMPLIANCE - LANDSCAPE MAINTENANCE' FORM, CERTIFYING THAT THE CONTRACTOR AGREES TO MANAGE THE PROPERTY USING LESS WATER THAN THE MAXIMUM APPLIED WATER ALLOWANCE (EFFECTIVE DURING THE CONTRACTOR'S REQUIRED 30-DAY MAINTENANCE PERIOD).



SHRUB PLANTING INSTRUCTIONS

1. ALL SHRUBS INTENDED FOR INSTALLATION SHALL BE INSPECTED AND APPROVED BY A CITY MAINTENANCE SUPERVISOR PRIOR TO PLANTING. CONTRACTOR SHALL REPLACE, AT NO COST TO THE CBCA, ANY SHRUBS REJECTED BY THE CITY MAINTENANCE SUPERVISOR.
2. ALL SHRUBS SHALL BE PLANTED AS CLOSE AS POSSIBLE TO THE LOCATIONS INDICATED ON THE DRAWINGS. ANY CHANGES TO SHRUB INSTALLATION LOCATIONS SHALL BE APPROVED BY A CITY MAINTENANCE SUPERVISOR AND A CBCA DESIGN AGENT PRIOR TO INSTALLATION OF THE SHRUB.
3. NO SUBSTITUTIONS SHALL BE MADE FOR TOP SOIL MIX FOR SHRUB PLANTING. EXISTING SOILS SHALL BE REMOVED AND REPLACED WITH TOP SOIL MIX PER DETAIL ABOVE.
4. PLANTING HOLES FOR SHRUB INSTALLATION SHALL HAVE A MINIMUM DIAMETER OF 3 TIMES THE ROOT BALL AND A MINIMUM DEPTH OF 2 TIMES THE ROOT BALL. WHERE IN THE SOLE OPINION OF THE CITY, EXISTING SOIL, ROCKS, OR CLAY MATERIAL MAY LIMIT FAVORABLE GROWTH, THE CONTRACTOR SHALL INCREASE THE DIAMETER AND/OR DEPTH OF THE PLANTING HOLE AS DIRECTED BY THE CITY MAINTENANCE SUPERVISOR.
5. SCARIFY ALL SIDES OF PLANTING HOLES EVERY 6 INCHES.
6. CONTRACTOR SHALL CAREFULLY BREAK UP ROOT BALL BEFORE PLANTING.
7. FERTILIZER TABLETS SHALL BE EVENLY DISTRIBUTED AROUND THE SHRUB ROOT BALL.
8. ALL SHRUBS SHALL HAVE A SMALL BERM CONSTRUCTED AROUND THEM TO PROVIDE FOR MAXIMUM WATER ABSORPTION DURING THE SHRUB ESTABLISHMENT PERIOD.
9. ALL SHRUB BERMS SHALL BE CONSTRUCTED OF NATIVE SOIL, AND SHAPED TO PRESENT A PLEASANT APPEARANCE.



GROUNDCOVER PLANTING INSTRUCTIONS

1. ALL GROUNDCOVER INTENDED FOR INSTALLATION SHALL BE INSPECTED AND APPROVED BY A CITY MAINTENANCE SUPERVISOR PRIOR TO PLANTING. CONTRACTOR SHALL REPLACE, AT NO COST TO THE CBCA, ANY GROUNDCOVER REJECTED BY THE CITY MAINTENANCE SUPERVISOR.
2. ALL GROUNDCOVER SHALL BE PLANTED AS CLOSE AS POSSIBLE TO THE LOCATIONS INDICATED ON THE DRAWINGS. ANY CHANGES TO GROUNDCOVER INSTALLATION LOCATIONS SHALL BE APPROVED BY A CITY MAINTENANCE SUPERVISOR AND A CBCA DESIGN AGENT PRIOR TO INSTALLATION OF GROUNDCOVER.
3. NO SUBSTITUTIONS SHALL BE MADE FOR TOP SOIL MIX FOR GROUNDCOVER PLANTING. EXISTING SOILS SHALL BE REMOVED AND REPLACED WITH TOP SOIL MIX PER DETAIL ABOVE, EXCEPT AT EXISTING PLANTER BOX LOCATION.
4. PLANTING HOLES FOR GROUNDCOVER INSTALLATION SHALL BE OF SUFFICIENT SIZE TO PROVIDE FOR MAXIMUM GROWTH. WHERE, IN THE SOLE OPINION OF THE CITY, EXISTING SOIL, ROCKS, OR CLAY MATERIAL MAY LIMIT FAVORABLE GROWTH, THE CONTRACTOR SHALL INCREASE THE DIAMETER AND/OR DEPTH OF THE PLANTING HOLE AS DIRECTED BY THE CITY MAINTENANCE SUPERVISOR.
5. CONTRACTOR SHALL CAREFULLY BREAK UP ROOT BALL BEFORE PLANTING.
6. FERTILIZER TABLETS SHALL BE EVENLY DISTRIBUTED AROUND THE PLANTING HOLE.
7. ALL GROUNDCOVER SHALL HAVE A SMALL BERM CONSTRUCTED AROUND THEM TO PROVIDE FOR MAXIMUM WATER ABSORPTION DURING THE GROUNDCOVER ESTABLISHMENT PERIOD.
8. ALL GROUNDCOVER BERMS SHALL BE CONSTRUCTED OF NATIVE SOIL, AND SHAPED TO PRESENT A PLEASANT APPEARANCE.
9. NO GROUNDCOVER SHALL BE PLANTED CLOSER THAN 2 FEET FROM ANY SIDEWALK OR WALKWAY.

GENERAL PLANTING NOTES AND MAINTENANCE SCHEDULE

- COVER ALL PLANTING AREAS WITH PRE-EMERGENT BEFORE PLANTING.
- ALL PLANTINGS SHALL BE 2 INCHES ABOVE GRADE.
- THOROUGHLY HAND-WATER ALL PLANTINGS UPON INSTALLATION.
- MAINTAIN BERMS AROUND ALL PLANTINGS.
- KEEP PLANTER FREE AND CLEAR OF ALL WEEDS.
- MAINTAIN PROPER STAKING OF ALL TREES.
- REPAIR ANY DAMAGED SPRINKLERS IMMEDIATELY.
- ADJUST IRRIGATION SYSTEM ROUTINELY TO ENSURE PROPER COVERAGE.
- CHECK FOR SIGNS OF EROSION.
- REPLACE ANY PLANTINGS THAT EXPIRE BEFORE THE WARRANTY PERIOD, OR WITHIN 1 MONTH OF PLANT LOSS.
- NO BARK SHALL BE PLACED INSIDE OF PLANTING BERMS.
- ALL BERMS IN NON-SLOPED AREAS SHALL BE KNOCKED-DOWN AND AREA SPREAD WITH BARK UPON COMPLETION OF MAINTENANCE PERIOD.

NOTE:
IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO PROPERLY POST AREA BEFORE ANY HERBICIDES OR PESTICIDES ARE USED. THIS IS A PUBLIC RIGHT OF WAY.

Daffodil Hill Pruning and Fertilizing Maintenance Schedule

Anigozanthos 'Red Cross': Evergreen foliage grass [illegible] blooms May – October. Expired stems of flowers need to be removed to the base of the plant in July and again in November. Bare foliage [illegible]. Fertilize once a year in March with a time released fertilizer, higher in nitrogen, low in phosphorus. Once established the plant will need regular light watering. Three times per week during the growing season from March-October.

Arctostaphylos 'Howard McMinn': This native needs little care. Encourage pruning from base to develop a tree shape or a bush shape. Any pruning needs to be done by hand. Fertilizer is not necessary. Once established this native manzanita will need very little water. Three times per week during the growing season from March to October the first 2-3 years.

Carex testacea: This ornamental grass will need a trimming by hand in early spring between late March and early April. The goal is to lighten up the length of the grass. Fertilizer can be used, but isn't necessary. Once established the ornamental grass will need regular, light watering three times per week during the growing season.

Coleonema pulchrum 'Sunset Gold': This evergreen needs annual pruning from the top, giving it a flat-top look. Pruning should be done in April, after the evergreen finishes bloom. Avoid pruning from the circumference, this will expose woody undergrowth. Feed with a time released fertilizer once a year in March. Once established this evergreen will need regular light water three times a week through the growing season from March-October.

Cuphea 'Dusky Belle': This evergreen will need annual pruning by hand on select branches. Pruning should be done after the shrub has finished blooming towards the end of April. Remove lengths from the branches do not shear. Fertilize once a year in March with a time released fertilizer, higher in nitrogen and low in phosphorus. Light regular water is needed three times a week through the growing season from March – October.

Daffodil Bulbs, Assorted: These simple to grow bulb plants will need to have yellowing blades cut back in April, after the bloom has faded. At installation, bone meal needs to be added. Additional water is not necessary for this plant. It will receive the water from the rains of winter.

Grevillea lanigera 'Coastal Gem': This evergreen groundcover should have selected branches of length pruned by hand after the blooms begin to fade towards the end of April. Do not shear this plant, you'll expose woody, unsightly undergrowth. Fertilize once a year in March with a time released fertilizer, higher in nitrogen and low in phosphorus. Regular light water is needed three times a week once established from March to October.

Helictotrichon Sempervirens: This ornamental grass needs little care. Prune to shape in March decreasing size of plant by at least half. Fertilize once a year in March with higher nitrogen, low phosphorus fertilizer. Once established, regular light water will be needed three times a week during the growing season from May-October.

Iris Germanica: Bearded irises have little care. The expired blooms will need to be removed in May. The plant goes dormant in September, so the foliage will need to be removed. Eventually clumps will have to be divided. Fertilize in March. Once established light regular watering will be needed three times a week during the growing season from May-October.

Leonotis leonurus: Lion's tail will need to have expired blooms cut down in March. [illegible] of last year's growth should be cut down as well. Prune by hand, do not shear. Feed with a time release fertilizer in March. Once established regular light water will be needed three times a week during the growing season from March to October.

Nandina d. 'Sienna Sunrise': This evergreen will need very little care. Cut back by hand as needed, every other year. Fertilize in March with a time released fertilizer. Once established light regular watering will be needed three times a week during the growing season from March – October.

Pennisetum 'Rubrum': This ornamental grass needs to have 2/3 of the entire growth removed in March. The dead foliage needs to remain through winter to protect this grass from too much water and the frost. Fertilize with a time release fertilizer in March after cutting. Regular light watering will be needed three times a week from March through October.

Phlomis Fruticosa: This plant needs to have expired blooms removed as well as [illegible] of the overall leaf growth in July. During the summer months, some old leaves will need to be stripped from the shrubs undersides. Feed with a time release fertilizer in March. Regular light watering will be needed three times a week from March through October.

Phormium 'Maori Maiden': This phormium will need to have any unstable blade sections removed occasionally. This plant will need no fertilizer. Once established regular light watering three times a week will be needed from March through October.

Phormium 'Platt's Black': This phormium will need to have any unstable blade sections removed occasionally. This plant will need no fertilizer. Once established regular light watering three times a week will be needed from March through October.

Rhaphiolepis Indica 'Jack Evans': This evergreen will need to be pruned by hand after bloom in May, waiting until the plant finishes blooming will eliminate the berry stage of this evergreen. Fertilize in March with a time release feeding. Once established regular light watering will be needed three times weekly during the growing season from March through October.

Salvia Leucantha: This perennial will need to have each of the expired blooming stems removed entirely by hand in March. Keeping expired stems throughout the winter months will protect root of plant from frost, or overwater damage. Feed with a time release fertilizer in March. Once established regular light watering will be needed three times weekly during the growing season from March through October.

Sedum 'Autumn Joy': This perennial will need to have each of the expired blooming stems removed entirely by hand in March. Keep expired stems throughout the winter months to protect plant roots from too much rain water. No dividing is necessary. Once established light watering regularly three times weekly from March through October.

Westringia F. 'Wynyabbie Gem': This evergreen will need to be naturally hand pruned, removing entire branches as it over grows. Hand pruning will ensure the shape isn't compromised. Pruning will only be needed occasionally. Don't shear this shrub. Fertilizing isn't necessary, but if done, a time released fertilizer low in phosphorus and higher in nitrogen should be used in March. Once established water regularly lightly three times weekly during the growing season from March through October.

Myoporum parv: This evergreen groundcover will need no maintenance. Regular water is needed once established. Water moderately three times weekly during the growing season.

Trailing Purple Lantana: This shrubby groundcover will need hard pruning in late March. Feed with a time release fertilizer in March. Once established regular light water three times weekly during the growing season from March-October.

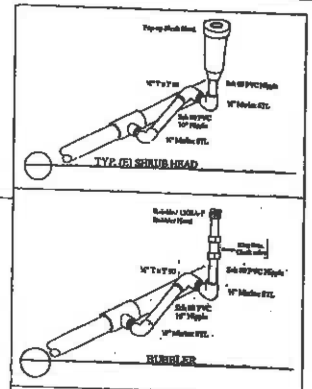
Red Carpet Roses: These will need a hard prune in late January, early February. Feed with a time released fertilizer then, and repeat in early August. Once established water three times weekly, moderately from March through October.

Quercus Agrifolia: This coastal native Oak will need no additional fertilizer or pruning. Once established light water will be needed occasionally.

IRRIGATION MATERIAL LIST

ITEM	SPECIFICATION	REMARKS
3/4" TO 2" IRRIGATION LATERALS	PVC, SCHEDULE 40	
FITTINGS	PVC, SCHEDULE AS NOTED	
NEW BUBBLER HEADS	RAINBIRD 1300 A-F	AS NOTED ON DETAILS AND PLANS
NEW VAN NOZZLES	RAINBIRD VAN-15, VARIABLE ARC NOZZLE (VAN)	AS NOTED ON DETAILS AND PLANS

NOTE: NO SUBSTITUTIONS ALLOWED FOR ABOVE MATERIALS

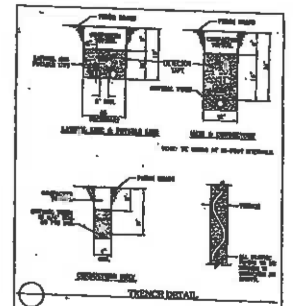


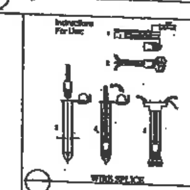
IRRIGATION NOTES

1. THE NEW IRRIGATION SYSTEM COMPONENTS AND SYSTEM ALTERATIONS SHALL BE INSTALLED AND ALTERED IN CONFORMANCE WITH THE DRAWINGS, THE SPECIAL PROVISIONS, THE CITY STANDARD SPECIFICATIONS & PLANS, AND ALL APPLICABLE STATE AND LOCAL CODES, AND ORDINANCES BY LICENSED CONTRACTORS AND EXPERIENCED PERSONNEL. CONTRACTOR IS ADVISED THAT THIS WORK IS SUBJECT TO THE REQUIREMENTS OF THE CITY OF CLAYTON 'LANDSCAPE WATER CONSERVATION STANDARDS' (CMC 17.80) – SEE CERTIFICATION REQUIREMENTS SPECIFIED HEREON. CONTRACTOR SHALL OBTAIN AND PAY FOR ALL PERMITS AND FEES RELATING TO THIS WORK.
2. CONTRACTOR SHALL BE MADE AWARE OF AND VERIFY ALL EXISTING FIELD CONDITIONS PRIOR TO COMMENCEMENT OF ANY WORK. IN ADDITION, THE CONTRACTOR SHALL BE MADE AWARE OF BY THE CITY MAINTENANCE SUPERVISOR AND UNDERGROUND SERVICE ALERT (USA) TO VERIFY THE LOCATION OF ALL UNDERGROUND UTILITIES AND STRUCTURES PRIOR TO THE COMMENCEMENT OF ANY WORK, ESP. TRENCHING OR EXCAVATION WORK. IF ANY DISCREPANCIES ARE FOUND BETWEEN THE DRAWINGS AND THE ACTUAL FIELD CONDITIONS, CONTRACTOR SHALL IMMEDIATELY NOTIFY A CBCA AUTHORIZED DESIGN AGENT FOR RESOLUTION AND WRITTEN AUTHORIZATION TO PROCEED. ANY WORK PERFORMED BY THE CONTRACTOR PRIOR TO RECEIPT OF SAID AUTHORIZATION TO PROCEED SHALL BE AT THE SOLE RISK AND COST BY THE CONTRACTOR.
3. ANY DAMAGE TO EXISTING UNDERGROUND UTILITIES OR SIGNAL WIRES SHALL BE REPAIRED BY THE CITY OR RELATED UTILITY REPRESENTATIVE AT THE CONTRACTOR'S EXPENSE WITH NO ADDITIONAL COST TO THE CITY NOR THE CBCA.
4. CONTRACTOR SHALL CONTACT THE CITY MAINTENANCE SUPERVISOR AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY IRRIGATION WORK. CONTRACTOR IS CAUTIONED NOT TO BACKFILL ANY TRENCHES UNTIL THE WORK HAS BEEN INSPECTED AND APPROVED BY THE CITY MAINTENANCE SUPERVISOR.
5. TRENCHING SHALL BE OF SUFFICIENT DEPTH TO PROVIDE AT LEAST 24" OF COVER OVER MAIN LINES AND CONTROL WIRES, AND 12" OF COVER OVER LATERAL LINES.
6. THE IRRIGATION PLAN IS DIAGRAMMATIC. PARALLEL PIPE LINES MAY BE INSTALLED IN A COMMON TRENCH, PIPES SHALL HAVE A MINIMUM 3" HORIZONTAL SEPARATION, AND ARE NOT TO BE INSTALLED DIRECTLY ABOVE ONE ANOTHER. ALL FITTINGS AND OFFSETS MAY NOT BE SHOWN. CONTRACTOR SHALL PROVIDE AND INSTALL ALL REQUIRED MATERIALS AND FITTINGS.
7. MAIN LINES SHALL BE PRESSURE TESTED FOR LEAKS AT LEAST 24 HOURS PRIOR TO ANY WORK ON ANY EXISTING REMOTE CONTROL VALVES OR EXISTING QUICK COUPLERS. SYSTEM SHALL BE PRESSURE TESTED AGAIN 24 HOURS AFTER ANY WORK ON ANY EXISTING REMOTE CONTROL VALVES OR EXISTING QUICK COUPLERS. LATERAL LINES ARE TO BE FLUSHED PRIOR TO INSTALLATION OF IRRIGATION HEADS.
8. CONTRACTOR TO VERIFY THAT EXISTING IRRIGATION CONTROL WIRES ARE 14GA., U.L. APPROVED FOR DIRECT BURIAL; THAT THE EXISTING "COMMON" WIRE IS WHITE AND ACCOMPANIED BY A YELLOW SPARE WIRE; AND THAT THE EXISTING CONTROL WIRE FOR EACH VALVE IS RED AND ACCOMPANIED BY A BLUE SPARE WIRE, AND, TO VERIFY THAT EACH WIRE IS MARKED WITH ITS VALVE DESIGNATION, VALVE SIZE AND FLOW, USING A SCOTCH CODE STD-0-9 WIRE MARKER TAPE DISPENSER. CONTRACTOR SHALL MAKE CORRECTIONS TO DEFICIENCIES FOUND IN EXISTING CONDITIONS TO COMPLY WITH THE ABOVE STATED REQUIREMENTS.
9. CONTRACTOR TO VERIFY ALL EXISTING WIRES ARE RUN TO IRRIGATION VALVE BOXES AS NOTED ON THE DRAWINGS; THAT ALL EXISTING & NEW WIRE SPLICES ARE MADE WITHIN A VALVE BOX OR 10" SPLICE BOX; THAT NO INLINE SPLICES EXIST AT EXPLORATORY / "POT-HOLE" AREAS; THAT ALL SPLICES ARE MADE WITH A 3-M EPOXY SPLICE KIT AND COPPER CRIMPING TYPE CONNECTION AS SHOWN IN 'WIRE SPLICE' DETAIL HEREON. CONTRACTOR SHALL MAKE CORRECTIONS TO DEFICIENCIES FOUND IN EXISTING CONDITIONS TO COMPLY WITH THE ABOVE STATED REQUIREMENTS. NO INLINE SPLICES ARE ALLOWED.
10. CONTRACTOR TO VERIFY THAT ALL EXISTING CONTROL WIRES ARE SECURELY CONNECTED TO THE EXISTING IRRIGATION CONTROLLER. CONTRACTOR SHALL MAKE CORRECTIONS TO DEFICIENCIES FOUND IN EXISTING CONDITIONS TO COMPLY WITH THE ABOVE STATED REQUIREMENTS.
11. CONTRACTOR TO VERIFY THAT ALL EXISTING BOXES WITHIN THE PLANTING AREAS ARE INSTALLED 2" MIN. ABOVE GRADE TO ALLOW FOR THE PLACEMENT OF SHREDDED CEDAR BARK. CONTRACTOR SHALL MAKE CORRECTIONS TO DEFICIENCIES FOUND IN EXISTING CONDITIONS TO COMPLY WITH THE ABOVE STATED REQUIREMENT.
12. CONTRACTOR TO INSTALL ALL IRRIGATION HEADS A MINIMUM OF ONE FOOT CLEAR OF ANY PAVEMENT EDGES OR OTHER NON-PERMEABLE SURFACES. ALL IRRIGATION HEADS SHALL BE EVEN WITH THE FINISHED SURFACE. CONTRACTOR TO MAKE MINOR ADJUSTMENTS IN HEAD LOCATIONS AND TO ADJUST HEADS FOR RADIUS (AND ARC, WHERE APPLICABLE) TO PROVIDE OPTIMAL COVERAGE WITH MINIMAL OVERSPRAY TO ALL ADJACENT AREAS.

IRRIGATION NOTES (cont'd.)

13. ALL NEW TRENCH EXCAVATIONS ARE TO BE BACKFILLED WITH WITH SPECIFIED MATERIALS AND COMPACTED TO A MINIMUM 95% RELATIVE COMPACTION (90% UNDER PAVEMENT AREAS). CONTRACTOR SHALL REPAIR ALL SETTLED NEW TRENCHES, WITHIN 7 CALENDAR DAYS OF RECEIPT OF NOTICE FROM THE CBCA OR CITY, FOR A PERIOD OF ONE YEAR AFTER THE ACCEPTANCE OF THE WORK BY THE CBCA. IN ADDITION, CONTRACTOR SHALL WARRANT THAT THE NEW IRRIGATION WORK AND ALTERATIONS WILL BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP FOR A PERIOD OF ONE YEAR AFTER ACCEPTANCE OF THE WORK BY THE CBCA. CONTRACTOR SHALL WITHIN 7 CALENDAR DAYS OF RECEIPT OF NOTICE FROM THE CBCA OR CITY, PERFORM ANY REPAIRS REQUIRED UNDER THIS WARRANTY.





Daffodil Hill - PROPOSED Valve Chart

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Daffodil Hill - PROPOSED Irrigation Schedule

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

NOTE: CONTRACTOR TO COORDINATE FINAL IRRIGATION SCHEDULE W/ CITY MAINTENANCE SUPERVISOR

Nicole Hackett
the Clayton "Garden Girl"
Landscape and Garden Plant Consultation & Sales
at
R & M Pool, Patio, Garden, Gifts
6780 Marsh Creek Road
Clayton, CA 94517
(925) 672-0207

STEVEN M. LANE
Drafting • Landscape • Technical Drawing Services

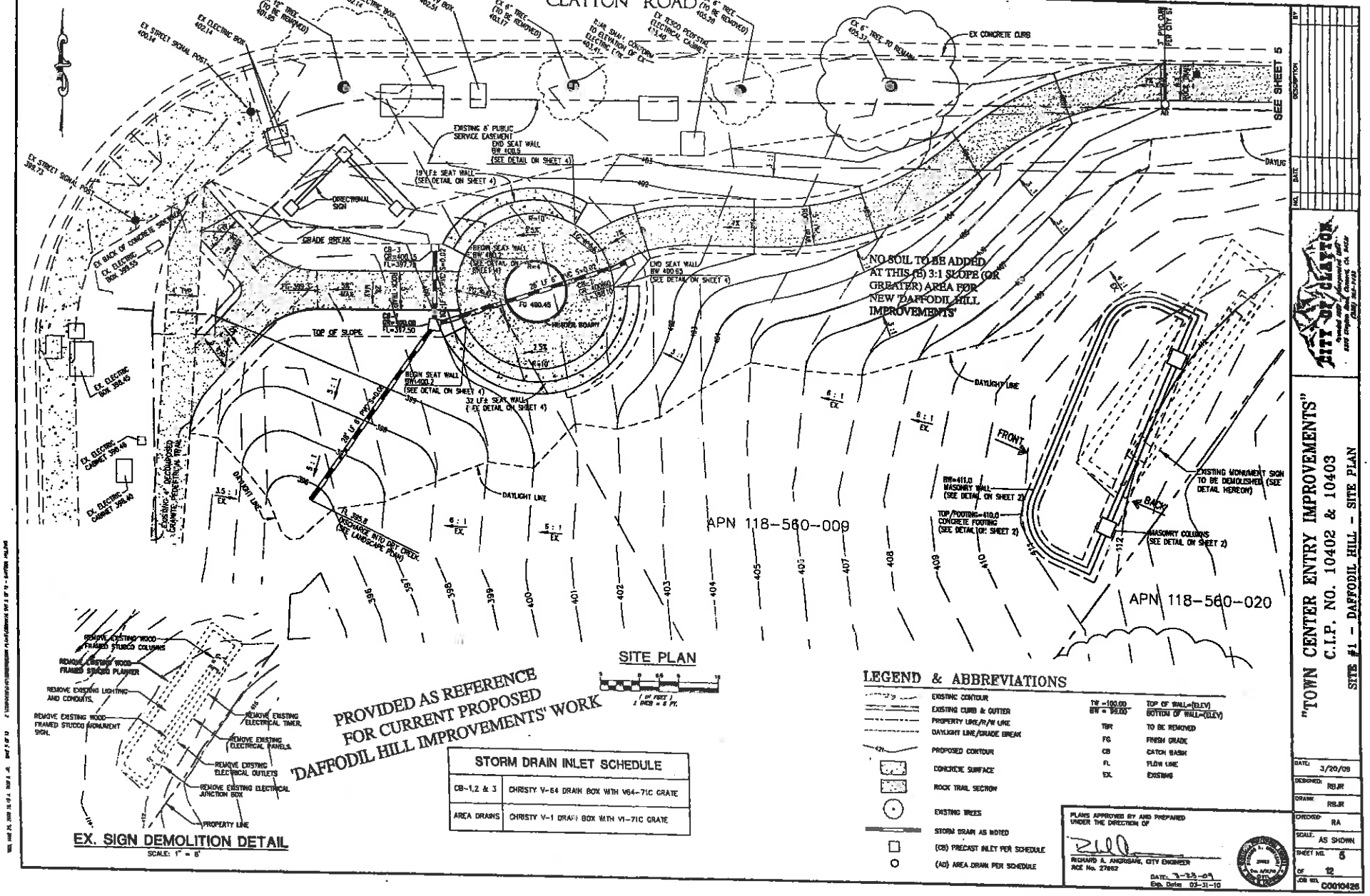
PLANTING DETAILS & NOTES,
IRRIGATION DETAILS & NOTES

DAFFODIL HILL IMPROVEMENTS

MARSH CREEK ROAD & CLAYTON ROAD
CLAYTON, CALIFORNIA 94517
FOR: CLAYTON BUSINESS AND COMMUNITY ASSN. (CBCA)

REVISIONS	BY
DATE:	8/13/11
DESIGNED:	NICOLE HACKETT and STEVEN LANE
DRAWN:	STEVEN LANE
SCALE:	AS NOTED
SHEET:	L-4
OF:	

CITY COUNCIL SUBMITTAL



SITE PLAN

PROVIDED AS REFERENCE FOR CURRENT PROPOSED 'DAFFODIL HILL IMPROVEMENTS' WORK

STORM DRAIN INLET SCHEDULE	
CB-1,2 & 3	CHRISTY V-64 DRAIN BOX WITH V64-71C GRATE
AREA DRAINS	CHRISTY V-1 DRAIN BOX WITH V1-71C GRATE

EX. SIGN DEMOLITION DETAIL

SCALE: 1" = 6'

LEGEND & ABBREVIATIONS

EXISTING CONTOUR
EXISTING CURB & GUTTER
PROPERTY LINE/R/W LINE
DAYLIGHT LINE/GRADE BREAK
PROPOSED CONTOUR
CONCRETE SURFACE
ROCK TRAIL SECTION
EXISTING TREES
STORM DRAIN AS NOTED
(CB) PRECAST INLET PER SCHEDULE
(AD) AREA DRAIN PER SCHEDULE

TW =100.00 / BW = 99.00 — TOP OF WALL=(ELEV) / BOTTOM OF WALL=(ELEV)
TBR — TO BE REMOVED
FG — FINISH GRADE
CB — CATCH BASIN
FL — FLOW LINE
EX. — EXISTING

PLANS APPROVED BY AND PREPARED UNDER THE DIRECTION OF

RICHARD A. ANGRISANI, CITY ENGINEER
RCE No. 27662
DATE: 7-23-09
Exp. Date: 03-31-10

CITY OF CLAYTON

"TOWN CENTER ENTRY IMPROVEMENTS"
C.I.P. NO. 10402 & 10403
SITE #1 - DAFFODIL HILL - SITE PLAN

DATE: 3/20/09
DESIGNED: RBJR
DRAWN: RBJR
CHECKED: RA
SCALE: AS SHOWN
SHEET NO. 5
OF 12
JOB NO. C0010425

ATTACHMENT 4

Daffodil Hill - PROPOSED Irrigation Schedule

ZONE	PROGRAM	EXPOSURE	PLANT TYPE	WUCOLS	HEAD TYPE	Area Description
1	1		Shrub & Perennial	L & M	Adj Bubbler / RB 1300-AF	Shrub & Perennial / Far West Site & Dry Creek Area
2	2		Ground Cover	L & M	6" POP-UP / RB (Exist)	Myoporum & Rose Ground Cover / Northwest corner of Site
3	3		Shrub & Perennial	L	Adj Bubbler / RB 1300-AF	Shrubs & Perennials / West Site around Boulders
4	1		Shrub & Perennial	L & M	Adj Bubbler / RB 1300-AF	Shrub & Perennial / Far West Site & North side of Path
5	1		Shrub & Perennial	L & M	Adj Bubbler / RB 1300-AF	Shrub & Perennial / Middle North & Norteast Site (North side of Path)
6	1		Shrub & Perennial	L & M	Adj Bubbler / RB 1300-AF	Shrub & Perennial / Far West Site & South side of Path
7	3		Shrub & Perennial	L	Adj Bubbler / RB 1300-AF	Shrubs & Perennials / Middle Site (South side of Path)
8	3		Shrub & Perennial	L	Adj Bubbler / RB 1300-AF	Shrubs & Perennials / Middle & East Site (South side of Path)
9	4		Trees	VL	Adj Bubbler / RB 1300-AF	Oak Trees / Northeast and South-Southeast corners of Site
10	5		Ground Cover	L	6" POP-UP / RB VAN-10	Lantana Ground Cover / "Clayton" Town Center Planter Box
11	2		Shrub & Perennial	L & M	Adj Bubbler / RB 1300-AF	Shrub & Perennial / Northeast Boulders & Site (South side of Path)

Program	Days	Start Times	Station - Time				
1	Mon / Fri	12:35 pm & 3:00am	1-15	4-15	5-15	6-15	11-15
2	Su / Tue / Thur	8:00 pm & 10:00 am	2-15				
3	Mon / Fri	1:30 am	3-15	7-15	8-15		
4	Su / Tue / Thur	1:45 am	9-5				
5	Su / Tue / Thur	1:15 am & 3:35am	10-10				

RECEIVED

SEP 13 2011

CLAYTON COMMUNITY DEVELOPMENT DEPT

Daffodil Hill - PROPOSED Water Chart

ZONE	GPM	PRECIP RATE	EXPOSURE	PLANT TYPE	WUCOLS	PROGRAM	VALVE SIZE	HEAD TYPE	AREA DESCRIPTIVE
1	TBD	0.4 in/hr		Shrub & Perennial	L & M	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Far West Site & Dry Creek Area
2	TBD	0.61 in/hr		Ground Cover	L & M	TBD	1-1/2"	6" POP-UP RB (Existing)	Myoporum & Rose Ground Cover / Northwest Corner of Site
3	TBD	0.4 in/hr		Shrub & Perennial	L	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / West Site around Boulders
4	TBD	0.4 in/hr		Shrub & Perennial	L & M	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Far West Site & North side of Path
5	TBD	0.4 in/hr		Shrub & Perennial	L & M	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Mid-North & Northeast Site (North side of Path)
6	TBD	0.4 in/hr		Shrub & Perennial	L & M	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Far West Site & South side of Path
7	TBD	0.4 in/hr		Shrub & Perennial	L	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Mid-Site (South side of Path)
8	TBD	0.4 in/hr		Shrub & Perennial	L	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Mid & East Site (South side of Path)
9	TBD	N/A		Trees	VL	TBD	2"	Adj. Bubbler RB 1300-AF	Oak Trees / Northeast and South-Southeast corners of Site
10	TBD	0.4 in/hr		Ground Cover	L	TBD	1-1/2"	6" POP-UP RB VAN-10	Lantana Ground Cover / "Clayton" Town Center Planter Box
11	TBD	0.4 in/hr		Shrub & Perennial	L & M	TBD	2"	Adj. Bubbler RB 1300-AF	Shrubs & Perennials / Northeast Boulders & Site (South of Path)

RECEIVED

SEP 13 2011

CLAYTON COMMUNITY
DEVELOPMENT DEPT

ATTACHMENT 5

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.

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Agenda Date: 5-1-12

Agenda Item: 9b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: MAY 1, 2012

SUBJECT: DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT – PUBLIC MEETING

RECOMMENDATION

Receive public testimony and close public meeting. City Council action is not requested or required on this matter until after the Public Hearing being held on May 15, 2012.

BACKGROUND

At its March 20th, the City Council approved the Engineer's Report for the Diablo Estates at Clayton Benefit Assessment District for the Diablo Pointe Subdivision (Subdivision 8719). In accordance with the requirements of Proposition 218, the City Council also scheduled a public meeting for May 1st to receive any public comment. In addition, a public hearing was scheduled for May 15th to again receive public comment and to count the ballots for and against imposition of the proposed assessments..

The Engineer's Report recommended an initial assessment amount of $3,072.62 on each parcel and an annual increase in accordance with the increase in the Consumer Price Index subject to an maximum increase of 4%.

The purpose of tonight's meeting is to receive public testimony this first levy of the proposed assessment. There is no action required by the City Council until closing of the public hearing scheduled for May 15th. As of the writing of this Staff Report, no written objections/protests to this assessment had been received.

FISCAL IMPACT

None.

Attachments: Engineer's Report

CITY OF CLAYTON

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT
FOR LANDSCAPE AND LIGHTING AND BENEFIT ASSESSMENT

ENGINEER'S REPORT
FISCAL YEAR 2012-13

MARCH 2012

PURSUANT TO
THE LANDSCAPING AND LIGHTING ACT OF 1972,
THE BENEFIT ASSESSMENT ACT OF 1982, AND
ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:
SCIConsultingGroup
4745 MANGELS BOULEVARD
FAIRFIELD, CALIFORNIA 94534
PHONE 707.430.4300
FAX 707.430.4319
www.sci-cg.com

CITY OF CLAYTON

MAYOR

Howard Geller

CITY COUNCIL

Joseph A. Medrano
Julie K. Pierce
David T. Shuey
Hank Stratford

CITY MANAGER

Gary Napper

CITY ENGINEER

Rick Angrisani

CITY ATTORNEY

Malathy Subramanian

CITY CLERK

Laci Jackson

ENGINEER OF WORK

SCI Consulting Group

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INTRODUCTION

BACKGROUND

Formation of the "Diablo Estates at Clayton Benefit Assessment District" (the "Assessment District") within the City of Clayton (the "City") is proposed to provide funding for the maintenance, operation and improvement of the landscaping, street lighting, drainage and stormwater treatment facilities to benefit the properties in the Diablo Estates at Clayton subdivision that forms the Assessment District. The Diablo Estates at Clayton subdivision consists of 24 parcels east of Regency Drive and north of Rialto Drive with an approximate area of 19 acres.

This Engineer's Report (the "Report") was prepared to establish the budget for the services and improvements that would be funded by the proposed 2012-13 assessments and to determine the benefits received from the maintenance and improvements by property within the Assessment District and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts") and Article XIIID of the California Constitution (the "Article").

Following submittal of this Report to the City of Clayton City Council (the "City Council") for preliminary approval, the City Council may call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the improvements.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the City Council may take action to form the Assessment District and approve the levy of the assessments for fiscal year 2012-13. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2012 for inclusion on the property tax roll for Fiscal Year 2012-13.

LEGISLATIVE ANALYSIS

PROPOSITION 218

The Right to Vote on Taxes Act was approved by the voters of California on November 6, 1996, and is now Article XIIIC and XIIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property. This Assessment District will be balloted and approved by property owners in accordance with Proposition 218.

SILICON VALLEY TAXPAYERS ASSOC., INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. vs. Santa Clara County Open Space Authority (*SVTA*). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits.
- The services and/or improvements funded by assessments must be clearly defined.
- Assessment districts must be drawn to contain all parcels that receive a special benefit from a proposed public improvement.
- Assessments paid in the assessment district must be proportional to the special benefit received by each such parcel from the improvements and services funded by the assessment.

This Engineer's Report and the process used to establish these proposed assessments for fiscal year 2012/2013 are consistent with the *SVTA* decision and with the requirements of Article XIIIC and XIIID of the California Constitution based on the following factors:

1. The Assessment District is narrowly drawn to include only the properties that receive special benefit from the specific Improvements and Services. Thus, zones of benefit are not required and the assessment revenue derived from real property in each Assessment District is extended only on the Services in the Assessment District.

2. The Improvements which are constructed and/or maintained with assessment proceeds in the Assessment District are located in close proximity to the real property subject to the assessment. The Improvements and Services provide illumination to streets and sidewalks

enabling improved access to the owners, residents, and guests of such assessed property. The proximity of the Improvements to the assessed parcels and the improved access and increased safety provided to of the residents of the assessed parcels by the Improvements provides a special benefit to the parcels being assessed pursuant to the factors outlined by the Supreme Court in that decision.

3. Due to their proximity to the assessed parcels, the Improvements and Services financed with assessment revenues in the Assessment District benefit the properties in the Assessment District in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements and Services, and the benefits conferred on such property in the Assessment District are more extensive than a general increase in property values.

4. The assessments paid in the Assessment District are proportional to the special benefit that each parcel within that Assessment District receives from the Services because:

   a. The specific lighting Improvements and maintenance Services and utility costs thereof in the Assessment District and the costs thereof are specified in this Report; and

   b. The cost of the Services in the Assessment District is allocated among different types of property located within the Assessment District, and equally among those properties which have similar characteristics, such as single-family residential parcels, multi-family residential parcels, commercial parcels, or industrial parcels.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of

the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIIC and XIIID of the California Constitution and with the *SVTA* decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements and Services provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with Beutz and Dahms because the Improvements and Services will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with Bonander because the Assessments have been apportioned based on the overall cost of the Improvements and Services and proportional special benefit to each property.

PLANS & SPECIFICATIONS

The work and improvements proposed to be undertaken by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District (the "Assessment District"), and the costs thereof paid from the levy of the annual assessments, provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts"), the work, services and improvements are generally described as follows:

Maintenance and servicing of public improvements, including but not limited to, storm drain system, landscaping and lighting and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, and incidental costs as applicable, for property within the Assessment District that is owned or maintained by the City of Clayton (the "Improvements"). Any plans and specifications for these improvements will be filed with the City Engineer of the City of Clayton and are incorporated herein by reference. More specifically the improvements and associated plans are the storm drain system in the Improvement Plans, Diablo Pointe by David Evans and Associates Inc., the lighting in the Joint Trench Composite Plan, Diablo Pointe by Lighthouse Design Inc., and the shared landscaping, fencing, irrigation and entry monument in the Diablo Estates at Clayton Landscape Improvements plan by Thomas Bank and Associates LLP.

As applied herein, "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste; the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti; the cleaning and replacement of storm drain pipes, drop inlets, catch basins and manholes.

"Servicing" means the cost of maintaining any facility used to provide any service, the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; or water for the irrigation of any landscaping, or the maintenance of any other improvements.

The figure shown below displays the improvements, maintenance, replacement costs and services to be provided with the Diablo Estates at Clayton Benefit Assessment District.

FIGURE 1 – SUMMARY OF ESTIMATED ANNUAL COSTS FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Summary of Estimated Annual Cost
Fiscal Year 2012-13

Installation, Maintenance & Servicing Costs		
Common Landscaping	$19,426.99	
Weed Abatement (On-lot)	$11,910.00	
Storm Drain System	$27,966.00	
Street Lighting	$1,460.00	
Subtotal - Installation, Maintenance and Servicing		$60,762.99
Incidental Expenses and Administration Costs		$11,900.00
Totals for Installation, Maintenance, Servicing and Incidentals		$72,662.99
Net Cost of Maintenance, Servicing and Incidentals (Net Amount to be Assessed)		$72,662.99
Budget Allocation to Property		
Total Assessment Budget		**$72,662.99**
Single Family Equivalent Benefit Units		24
Assessment per Single Family Equivalent Unit		$3,027.62

ESTIMATE OF COST AND BUDGET – FISCAL YEAR 2012-13

FIGURE 2 – COST ESTIMATE BREAKDOWN FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Estimate of Maintenance, Replacement, and Administrative Costs

Item	Units	Unit Cost	Service Life (years)	Annual Cost	Annual Cost per Lot
Common Landscaping					
Landscape Maintenance	24,600 SF	$0.30		$7,380.00	
Landscape Replacement	24,600 SF	$0.05		$1,230.00	
Tree Maintenance	33 EA	$95.00		$3,135.00	
Tree Replacement - Materials	33 EA	$285.00	40	$235.13	
Water Usage	1,476 100CF	$2.86		$4,221.36	
Meter Charges	12 Mo	$51.00		$612.00	
Irrigation Maintenance & Repair	24,600 SF	$0.03		$738.00	
Fence Maintenance & Repair	1,870 LF	$0.65		$1,215.50	
Entry Monument Maintenance	1 EA	$500.00		$500.00	
Entry Monument Repair	1 LF	$4,000.00	25	$160.00	
				$19,426.99	$809.46
Weed Abatement (On-lot)					
Weed Abatement	397,000 SF	$0.03		$11,910.00	
				$11,910.00	$496.25
Storm Drain System					
Ditch - debris removal & maint	1 LS	$1,000.00		$1,000.00	
Ditch Repair	2,038 LF	$50.00	25	$4,076.00	
Vortsentry Maintenance	1 LS	$1,500.00		$1,500.00	
Vortsentry Replacement	1 LS	$100,000.00	100	$1,000.00	
Bio-Retention Basin Maintenance*	48 EA	$ -		$0.00	
Bio-Retention Basin Replacement	48 EA	$2,000.00	10	$9,600.00	
Stormwater Reporting Fee	1 LS	$5,000.00		$5,000.00	
Annual City Report Fee	1 LS	$2,000.00		$2,000.00	
Catch Basin/Manhole Cleaning	15 EA	$200.00		$3,000.00	
CB/MH/pipe repair	1 LS	$79,000.00	100	$790.00	
				$27,966.00	$1,165.25
Street Lighting					
Maintenance and Repair	1 LS	$500.00		$500.00	
Electricity	4 EA	$240.00		$960.00	
				$1,460.00	$60.83
Annual Administration					
Property Manager	12 Mo	$600.00		$7,200.00	
Annual City Engineer Services	1 LS	$2,500.00		$2,500.00	
Legal Notice/Mailing	1 LS	$100.00		$100.00	
County Collection	1 LS	$100.00		$100.00	
General Reserve	1 LS	$2,000.00		$2,000.00	
				$11,900.00	$495.83
Total				**$72,662.99**	**$3,027.62**
Number of Lots:				24	
Cost per Lot				$3,027.62	

*homeowner responsibility

**assumes covenant with Toll Brothers, Inc. for 5 year maintenance period

Unit costs per direction of City of Clayton City Engineer

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of improvements and the methodology used to apportion the total assessment to properties within the Assessment District.

The Diablo Estates at Clayton Benefit Assessment District consists of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the properties in the Diablo Estates at Clayton Benefit Assessment District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process: the first step is to identify the types of special benefit arising from the Improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the District's storm drain system, streets and sidewalks, corridor landscaping, lighting, or a property owner's specific demographic status. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

> *"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the Improvements."*

The Benefit Assessment Act of 1982 states in Government Code Section 54711:

"The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of service"

Proposition 218, as codified in Article XIIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of the improvements to be provided with the assessment proceeds. These categories of special benefit are derived in part from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from the installation, maintenance and servicing of improvements such as those proposed by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District. These types of special benefit are summarized as follows:

- Creation of individual lots for residential use that, in absence of the services and improvements to be funded by the assessments, would not be created.
- Improved utility and usability of property
- Improved safety and security lighting for property
- Enhanced visual experience, and desirability of the area.
- Protection of views, scenery and other resources values and environmental benefits enjoyed by residents and guests and preservation of public assets maintained by the City
- Moderation of temperatures, dust control, and other environmental benefits.

These benefit factors, when applied to property in the Assessment District, specifically increase the utility of the property within the Assessment District. For example, the assessments will provide funding to maintain lighting that improves safety and access to the property after dark and landscaping that provides visual and environmental benefits to the properties within the Assessment District. Such improved and well-maintained public facilities enhance the overall usability, quality, desirability and safety of the properties. Moreover, funding for the maintenance and servicing of such public facilities is a condition of development of Diablo Estates at Clayton that is needed to mitigate the negative impacts of this development on the City. Without the Assessment District, this condition of development would not be satisfied, which could affect the approval of new homes on the property. This is another special benefit to the properties in the Assessment District.

GENERAL VERSUS SPECIAL BENEFIT

The proceeds from the Diablo Estates at Clayton Benefit Assessment District would be used to fund improvements and increased levels of maintenance to the public facilities that serve and benefit the properties in the Assessment District. In absence of the Diablo Estates at Clayton Benefit Assessment District, such Improvements would not be properly maintained. Therefore, the Assessment District is specifically proposed to ensure that the necessary and beneficial public facilities for property in the Assessment District are properly maintained and repaired over time. The assessments will ensure that landscaping and street lighting within and adjacent to the Assessment District are functional, well maintained, clean and safe. These public resources directly benefit the property in the Assessment District and will confer distinct and special benefits to the properties within the Assessment District.

In absence of the assessments, a condition of development would not be met and future home construction in the Assessment District could be denied. The creation of residential lots and the approval for the construction of homes in Diablo Estates at Clayton is the overriding clear and distinct special benefit conferred on exclusively on property in the Assessment District and not enjoyed by other properties outside the Assessment District. Moreover, benefits to the public at large, if any, will be offset by benefits residents within the Assessment District receive from the use of other similar public facilities not funded by the Assessment District. Therefore, the assessments solely provide special benefit to property in the Assessment District (100% special benefit) over and above the general benefits conferred to the public at large or properties outside the Assessment District.

METHOD OF ASSESSMENT

This process of apportioning assessments for each property involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalent dwelling units (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated an SFE value, which is each property's relative benefit in relation to a single family home on one parcel. In this case, the "benchmark" property is the single family detached dwelling which is one Single Family Equivalent unit or one SFE.

ASSESSMENT APPORTIONMENT

The proposed assessments for the Diablo Estates at Clayton Benefit Assessment District would provide direct and special benefit to properties in the Assessment District. Diablo Estates at Clayton is a residential single family development project consisting of a total of 24 single family homes, each on a separate parcel. As such, each residential property receives similar benefit from the proposed Improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all parcels is on a dwelling unit or single family residence basis. All improved properties or properties proposed for development are assigned an SFE factor equal to the number of dwelling units developed or planned for the property. In other words, developed parcels and vacant parcels with proposed development will be assessed 1 SFE. The assessments are listed on the Assessment Roll in Appendix A.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Clayton City Engineer or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Clayton City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City of Clayton City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City of Clayton City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any property owner who disagrees with the decision of the City of Clayton City Engineer or her or his designee may refer their appeal to the City Council of the City of Clayton and the decision of the City Council of the City of Clayton shall be final.

CERTIFICATES

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT

1. The undersigned respectfully submits the enclosed Engineer's Report and does hereby certify that this Engineer's Report, and the Assessment and Assessment Diagram herein, have been prepared by me in accordance with the order of the City Council of the City of Clayton.

Engineer of Work, License No. C052091

2. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the enclosed Engineer's Report, together with the Assessment and Assessment Diagram thereto attached, was filed and recorded with me on March 14, 2012.

City Clerk

3. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the Assessment in this Engineer's Report was approved and confirmed by the City Council on _____, 2012, by Resolution No. _____.

City Clerk

4. I, the City Clerk of the City of Clayton, County of Contra Costa, California, hereby certify that a copy of the Assessment and Assessment Diagram was filed in the office of the County Auditor of the County of Contra Costa, California, on _____, 2012.

City Clerk

5. I, the County Auditor of the County of Contra Costa, California, hereby certify that a copy of the Assessment Roll and Assessment Diagram for fiscal year 2012-13 was filed with me on _____, 2012.

County Auditor, County of Contra Costa

And I do hereby assess and apportion said net amount of the cost and expenses of said Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Diablo Estates at Clayton Benefit Assessment District in accordance with the special benefits to be received by each parcel or lot from the Improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within the Diablo Estates at Clayton Benefit Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for Urban Consumers (CPI-U) for the San Francisco Bay Area as of April of each succeeding year, with the maximum annual adjustment not to exceed 4%. In the event that the annual change in the CPI exceeds 4%, any percentage change in excess of 4% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4%.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Contra Costa for the fiscal year 2012-13. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Rolls, the amount of the assessment for the fiscal year 2012-13 for each parcel or lot of land within the said Diablo Estates at Clayton Benefit Assessment District.

Dated: March 6, 2012

Engineer of Work

By _____

John W. Bliss, License No. C052091

ASSESSMENT

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the assessment districts and an assessment of the estimated costs of the Improvements upon all assessable parcels within the assessment district;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Acts and the order of the City Council of the City of Clayton, hereby make the following assessment to cover the portion of the estimated cost of said Improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amounts to be paid for said Improvements and the expense incidental thereto, to be paid by the Diablo Estates at Clayton Benefit Assessment District for the fiscal year 2012-13, are generally as follows:

FIGURE 3 – SUMMARY COST ESTIMATES – FISCAL YEAR 2012-13

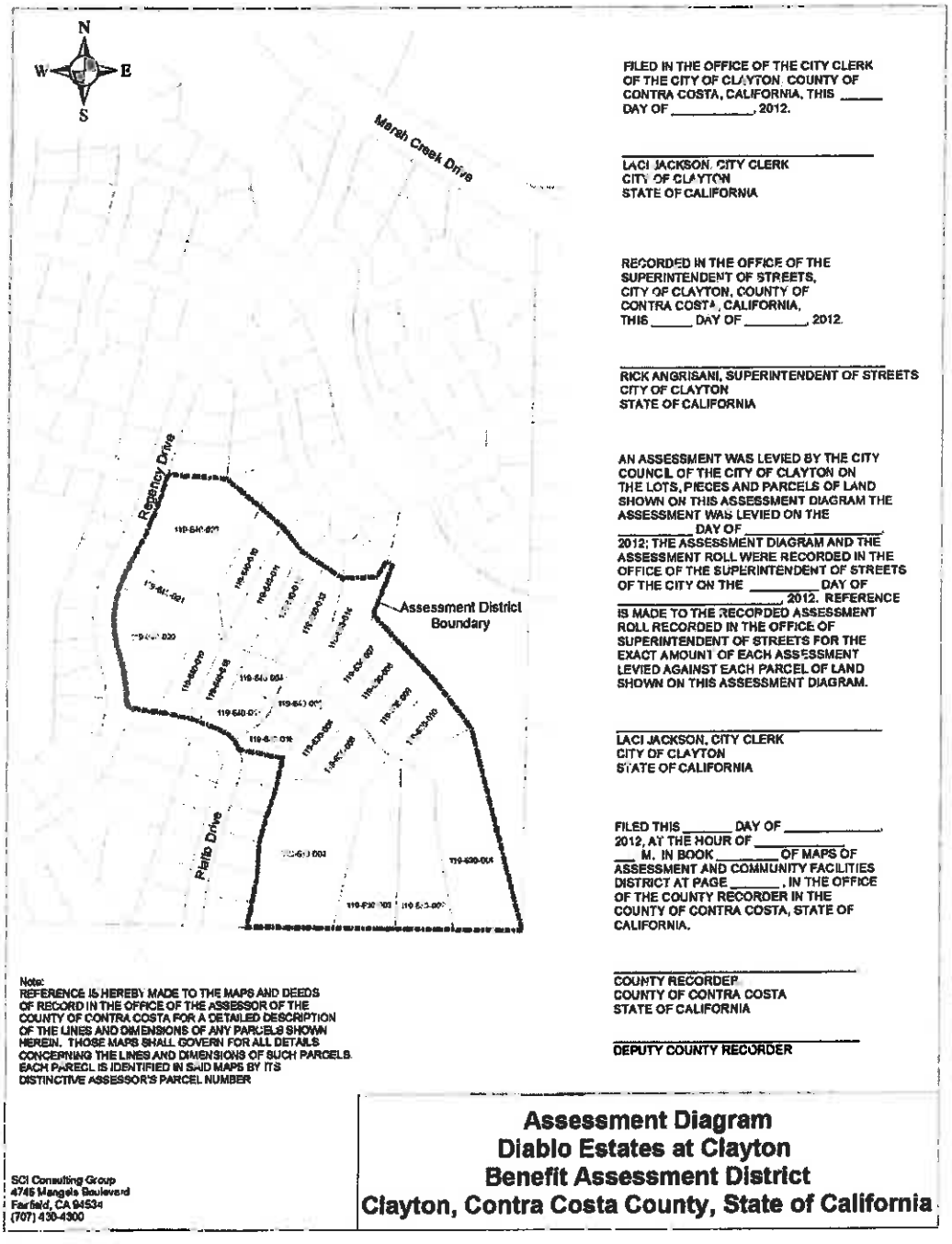
CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Summary Cost Estimate FY 2012-13

Installation, Maintenance & Servicing Costs	$60,763
Incidental Costs	$11,900
Total Budget	$72,663
Budget to Assessment	
Total Budget	$72,663
Total SFE Units	24
Rate per SFE Unit	$3,027.62

As required by the Acts, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Diablo Estates at Clayton Benefit Assessment District. The distinctive number of each parcel or lot of land in said Diablo Estates at Clayton Benefit Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

ASSESSMENT DIAGRAM

The boundaries of the Diablo Estates at Clayton Benefit Assessment District are displayed on the following Assessment Diagram.



APPENDICES

APPENDIX A – ASSESSMENT ROLL, FISCAL YEAR 2012-13

An Assessment Roll (a listing of all parcels assessed within the Assessment District and the amount of the assessment) will be filed with the City Clerk and is, by reference, made part of this Report and is available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.

FIGURE 4 – ASSESSMENT ROLL

CITY OF CLAYTON
Diablo Estates at Clayton Assessment District
Assessment Roll

PARCEL NUMBER	OWNER	SITUS	SFE Units	ASSESSMENT
119-630-001	TOLL CA XIX L P	27 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-002	TOLL CA XIX L P	26 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-003	TOLL CA XIX L P	22 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-004	TOLL CA XIX L P	18 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-005	TOLL CA XIX L P	14 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-006	TOLL CA XIX L P	10 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-007	TOLL CA XIX L P	9 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-008	TOLL CA XIX L P	15 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-009	TOLL CA XIX L P	19 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-010	TOLL CA XIX L P	23 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-001	TOLL CA XIX L P	6 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-004	TOLL CA XIX L P	7 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-010	TOLL CA XIX L P	16 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-011	TOLL CA XIX L P	12 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-012	TOLL CA XIX L P	8 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-013	TOLL CA XIX L P	4 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-014	TOLL CA XIX L P	5 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-016	TOLL CA XIX L P	2 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-017	TOLL CA XIX L P	3 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-018	TOLL CA XIX L P	11 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-019	TOLL CA XIX L P	17 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-020	TOLL CA XIX L P	21 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-021	TOLL CA XIX L P	24 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-022	TOLL CA XIX L P	20 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
			24	$72,662.88

Agenda Date: 5-1-12

Agenda Item: 9c

CITY OF CLAYTON

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CITY ATTORNEY

DATE: May 1, 2012

SUBJECT: "PAY FIRST" ORDINANCE

RECOMMENDATION

Authorize the City Clerk to read Ordinance No. 442 by title and number only and following that reading, approve Ordinance 442 for introduction.

BACKGROUND

The City has established various taxes, assessments and fees that provide failure to timely pay will result in interest or penalties being charged to the person owing the debt.

Article XIII, Section 32 of the California Constitution establishes what is known as the "pay first" rule, which requires a taxpayer wishing to challenge the assessment of a *State* tax to first pay the disputed charge, plus any interest and/or penalties that may be due, and then sue for a refund. In other words, payment of the tax is a condition to filing the lawsuit. The rule is based on the theory that revenue collection should continue during litigation so that the government can continue to operate.

However, in late 2009 in the case of *City of Anaheim v. Superior Court (Priceline.com)* (November 24, 2009),[1] the California Court of Appeal held that that several on-line travel companies such as Priceline.com, Travelocity.com and Orbitz.com were not required to pay the City of Anaheim more than $21 million in allegedly deficient transient occupancy taxes (commonly referred to as "hotel bed taxes"), before filing lawsuits challenging the City's tax, because the City's municipal code did not include a "pay first, litigate later" provision.

[1] *City of Anaheim v. Superior Court (Priceline.com)* (2009) 179 Cal.App.4th 825; *review denied, City of Anaheim v. Superior Court (Priceline.com)*, 2010 Cal. LEXIS 2241 (March 24, 2010).

Prior to the *City of Anaheim* case, it was considered well-settled law the "pay first" rule applied to cities, for a variety of reasons, including based on the sound public policy behind requiring a tax payer to pay a tax and then sue for a refund. (*Chodos v. City of Los Angeles* (2011) 195 Cal. App. 4th 675, 680.) However, the City of Anaheim case upset this assumption.

In *Chodos v. City of Los Angeles*, the Court of Appeal upheld the application of the City's pay first ordinance. The City prevailed based on its argument that the challenger failed to allege that he paid the tax and was challenging the tax by way of a refund action.

In order to be constitutional, a local "pay first" requirement must provide the taxpayer with a meaningful opportunity to contest the legality of the tax. This most often takes the form of a refund procedure provided for in the applicable statute.

DISCUSSION

The purpose of adding the provisions to the CMC provided for in the ordinance is to explicitly include the "pay first, litigate later" language suggested in the *City of Anaheim* case. This will ensure full collection of back taxes, assessments and fees, plus any interest and/or penalties that may be due on amounts owing, prior to and as a condition to the debtor seeking judicial review of liability.

By adding this provision broadly as Chapter 1.26, "Claims Against the City of Clayton," the intent is that this provision will apply broadly to any taxes, assessments and fees charged by the City, including those charged by agencies, districts and entities governed by or formed by the City. It is not limited to a single type of tax like in *Anaheim*. This will ensure that essential public services dependent on these funds are not unnecessarily interrupted.

The proposed ordinance will also add provisions to those subchapters of the municipal code governing local taxes that already exist (i.e., real property transfer tax, transient occupancy tax and sales and use tax) to clarify the procedure for seeking a refund of these taxes.

We recommend that you adopt the proposed ordinance to place this requirement in the Clayton Municipal Code in order to protect local tax revenue.

FISCAL IMPACT

None.

Attachments: Ordinance No. 442.

ORDINANCE NO. 442

AN ORDINANCE ADDING CHAPTER 1.26, SECTION 3.24.160 AND SECTION 3.28.160(E) TO THE CLAYTON MUNICIPAL CODE, AND AMENDING CLAYTON MUNICIPAL CODE SECTION 3.20.100, RELATING TO CLAIMS FOR REFUNDS OF TAXES AND ACTIONS CHALLENGING TAXES, ASSESSMENTS AND FEES

THE CITY COUNCIL
City of Clayton, California

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

Section 1. **Amendment**. Chapter 1.26, entitled "Claims Against the City of Clayton," is hereby added to Title 1 of the Clayton Municipal Code, entitled "General Provisions," to read as follows:

"Chapter 1.26

CLAIMS AGAINST THE CITY OF CLAYTON

Sections:

1.26.010 Payment/Collection of Taxes, Assessments or Fees as Condition Precedent to Seeking Judicial Review
1.26.020 Prohibition of Class Actions Challenging Taxes, Assessments and Fees

1.26.010 Payment/Collection of Taxes, Assessments or Fees as Condition Precedent to Seeking Judicial Review. Notwithstanding any other provision of this Code, no injunction, writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the City of Clayton or an officer thereof, to prevent or enjoin the collection of taxes, assessments or fees (whether established by ordinance, resolution or other action of the City Council), which are sought to be collected from any person/claimant, or are otherwise due and owing from any person/claimant to the City of Clayton pursuant to this Code or otherwise, and payment of all said taxes, assessments, fees, plus any interest and penalties shall be required as a condition precedent to seeking judicial review of any tax, assessment or fee liability. For purposes of this section, the term "City of Clayton" shall include, but not be limited to, any agency, district or entity formed or governed by the City of Clayton.

1.26.020 Prohibition of Class Actions Challenging Taxes, Assessments and Fees. No provision in this Code shall be deemed to permit the filing by or on behalf of a class or group, of a claim for refund of taxes, assessments or fees (whether established by ordinance, resolution or other action of the City Council), which have been paid to or collected by the City of Clayton. For purposes of this section, the term "City of Clayton" shall include, but not be limited to, any agency, district or entity formed or governed by the City of Clayton."

Section 2. **Amendment**. Section 3.20.100 of the Clayton Municipal Code, entitled "Claims for Refund," of Chapter 3.20 of the Clayton Municipal Code, entitled "Real Property Transfer Tax," is hereby amended to read as follows:

"3.20.100 Claims for Refund. Claims for refund of taxes imposed pursuant to this ordinance shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of

the Revenue and Taxation Code of the State of California, and shall be subject to the claim requirement set forth in Section 1.26.010 of this Code."

Section 3. **Amendment**. Section 3.24.160, entitled "Claims for Refund," is hereby added to Chapter 3.24 of the Clayton Municipal Code, entitled "Transient Occupancy Tax," to read as follows:

"3.24.160 Claims for Refund. Claims for refund of taxes imposed pursuant to this ordinance shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California, and shall be subject to the claim requirement set forth in Section 1.26.010 of this Code."

Section 4. **Amendment**. Subsection 3.28.160(E) is hereby added to Section 3.28.160 of the Clayton Municipal Code, entitled "Claims for Refund," of Chapter 3.28 of the Clayton Municipal Code, entitled "Sales and Use Tax," to read as follows:

"(E) Claims for refund of taxes imposed pursuant to this ordinance shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California, and shall be subject to the claim requirement set forth in Section 1.26.010 of this Code."

Section 5. **Action to Challenge This Ordinance**. 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 the effective date of this ordinance.

Section 6. **Severability**. Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 7. **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 provision of the Clayton Municipal Code that may be inconsistent with the provisions of this ordinance.

Section 8. **CEQA**. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 9. **Notice of Exemption**. The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this ordinance.

Section 10. **Effective Date and Publication**. This ordinance shall become effective thirty (30) days after it is adopted by the City Council. Within fifteen (15) days after the passage of the ordinance, the City Clerk shall cause a copy of the ordinance, 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 1st day of May, 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:

_____
Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION:

_____
Gary A. Napper, City Manager

Attachments:

1. Cited Amendments to Municipal Code Sections

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

_____
Laci J. Jackson, City Clerk