

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

TUESDAY, May 15, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey (arrived at 7:14 p.m.), and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director David Woltering, City Engineer Rick Angrisani, and City Clerk Laci Jackson.

2. **CLOSED SESSION** – None.

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

4. **CONSENT CALENDAR**- It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of May 1, 2012.
 - (b) Approved the Financial Demands and Obligations of the City.
 - (c) Adopted Resolution 20-2012 approving the Engineer's Report and declaring intention to levy and collect assessments for the Clayton Street Lighting Assessment District for Fiscal Year 2012-2013, and giving notice of the time and place for hearing on the levy of the proposed real property assessments.
 - (d) Adopted Resolution 21-2012 approving an Agreement reentering into reimbursement of two previous Loan Agreements by and between the City of Clayton and the Successor Agency to the former Redevelopment Agency of the City.
 - (e) Adopted Resolution 22-2012 ordering the annexation of Lots 1 through 24, inclusive, of Subdivisions 8719 (Diablo Pointe) to the Citywide Street Lighting Assessment District.

5. **RECOGNITIONS AND PRESENTATIONS**
 - (a) Mayor Geller presented a Certificate of Recognition to Joshua Harmon for his Eagle Scout Project installing three bicycle racks and associated concrete pad at the North Valley Park. Joshua thanked Troop 494, his family and his Scoutmaster for their help with the project.
 - (b) Certificates of Recognition to "Do The Right Thing" students of the month for exemplifying "Integrity" during March and April 2012: Mt. Diablo Elementary School- Lucas Lauricelli and Haley Morrison; Diablo View Middle School: Ben Schoffstall and Sarah Fine; and Clayton Valley High School: Maggie Trees-Keenan and Derek Weinman.

6. REPORTS

- (a) Planning Commission – Commissioner Bob Armstrong reported on the May 8th meeting of the Planning Commission. He stated the Commission and approved reviewed the Safeway proposed architectural exterior design changes.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager reported the Amgen Tour of California came through the City of Clayton. He thanked the Police Chief, the Community Development Director, and the CEMEX Quarry for sweeping the Clayton Road before the race.
- (d) City Council

Councilmember Shuey attended the Concert in The Grove.

Councilmember Stratford thanked staff for working on the Amgen Tour and noted the Do the Right Thing trait of the month for May, June, July is "Courage." He also attended the Mayors' Conference and the East Contra Costa Habitat Conservancy meeting.

Vice Mayor Medrano stated he has been working on the HR Committee for the Charter School and stated they had over 1,000 applications for school teacher positions. He attended the Concert and before 4pm the park was filled with blankets. He reminded people they cannot set blankets out until 4pm.

Councilmember Pierce attended the Mayors' Conference, the Art and Wine Festival, an ABAG and MTC Joint meeting, an Eagle Court of Honor, watched the Amgen Tour, and remind everyone the Historical Society's Gardens Tour is this weekend.

Mayor Geller attended the Mayor's Conference, hosted the Mayors' Club meeting, and attended the meet and greet with Charter High School Executive Director Mr. Linzey. He stated the first Concert in The Grove received \$1,726.32 in community donations. He attended the Art and Wine Festival, and the season opening of the Clayton Farmers' Market.

- (e) Other – None.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS

- (a) Public Hearing on proposed real property assessments for the Diablo Estates at Clayton Benefit Assessment District (BAD), determination of lack of majority protest vote, and consideration of a Resolution ordering the levy of the real property assessments for operation and maintenance of the BAD in FY 2012-13.

The City Engineer presented the staff report and stated the City Council adopted a Resolution at its Feb. 7th meeting forming the Benefit Assessment District. He stated the Engineers report was approved at the March 20th meeting. He stated on May 1st the City

Council held its first public meeting and tonight is the required Public Hearing. He stated if the annual assessment is not approved there will be no funds to provide maintenance for the landscaping and the storm water treatment in the Diablo Estates subdivision.

Mayor Geller opened the Public Hearing at 7:56 p.m. No public comments were received and closed the Public Hearing at 7:57 p.m.

By consensus the Council directed the City Clerk open the sealed returned ballots and announce the vote results.

The City Clerk counted the ballots and stated there was no majority protest.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt the Resolution 23-2012 ordering the levy of the real property assessments for operation and maintenance of the BAD in FY 2012-13 (Passed; 5-0 vote).

9. ACTION ITEMS

- (a) Consider Second Reading and Adoption of 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).

The Community Development Director stated at its May 1st meeting the City Council introduced Ordinance No. 441 which adds Chapter 15.90 to the Clayton Municipal Code and establishes a process to land use, zoning, and building regulations regarding access to housing for individuals with disabilities. He noted this is a requirement of the City's Housing Element and modifications were made to include additional language that requires a deed restriction requirement.

No public comments were received.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to authorize the City Clerk to read Ordinance No. 441 by title and number only (Passed; 5-0 vote).

The City Clerk read Ordinance No. 442 by title and number only.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to adopt Ordinance 442 (Passed; 5-0 vote).

- (b) Consider Second Reading and Adoption 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.

The City Attorney presented the staff report and stated Ordinance No. 442 requires an individual to pay the City fee before challenging it.

No public comments were received.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to authorize the City Clerk to read Ordinance No. 442 by title and number only (Passed; 5-0 vote).

The City Clerk read Ordinance No. 442 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to motion adopt Ordinance 442 (Passed; 5-0 vote).

- (c) Review and determine the scope of work for the 2012 Annual Neighborhood Street Repaving Project (CIP No. 10411) plus inclusion of deductive bids for the resurfacing of the parking lots at City Hall, the Clayton Community Library and Lydia Lane Park, and repaving part of Clayton's Trail System (Bruce Lee Trail segment).

The City Engineer presented the staff report and stated the current CIP program includes a 2012 pavement rehab project. The funding sources for this project include Gas Tax, Measure J, and federal Local Streets & Roads Shortfall ("LS&RS") funds. He stated the federal funding is only allowed to be used on arterial and collector streets and the approval process is lengthy. He stated staff recommends combining the available City funding for the 2012 pavement rehabilitation project and use the federal funding for a separate 2013 collector street project. He stated staff prepared a spreadsheet with the road condition pavement index scores of 70 or below. He outlined several options for the Council: 1) pave 18 local streets including Regency Drive; 2) pave 18 local streets without Regency Drive, reserve \$76,000 for the repaving of Regency Drive from El Molino Drive to its westerly terminus (the portion of Regency Drive not eligible for federal funding) and add the repaving of all of Regency Drive to the 2013 collector street project. 3) add money from the GHAD reserves and pave 23 local streets including all of Regency Drive and 4) add money from GHAD reserves, repave 22 local streets without Regency Drive, reserve \$76,000 for the repaving of Regency Drive from El Molino Drive to its westerly terminus (the portion of Regency Drive not eligible for federal funding) and add the repaving of all of Regency Drive to the 2013 collector street project. He stated the Lydia Lane Park parking area, the Mt. Diablo Creek Trail from Center Street to Grenache Circle, and the City Hall and Library parking lot repaving projects will included as deductive bid items and can be removed if the price is too high or funding is not available.

He stated if the public parking lots are repaved there may be an impact to the General Fund but staff will bring back recommendations for funding at the July 3rd meeting when the contract is awarded.

The City Manager stated the trail paving project is already budgeted in the Landscape Maintenance District. He noted the City cannot use General Fund money to repave streets like it can with parking lots. Once a city uses General Fund money for street maintenance, the city has obligated itself to continue same amount of funds each and every year thereafter ("Maintenance of Effort" state law).

Councilmember Pierce stated we want to do as much as we possibly can and asked what staff's recommendation was? The City Manager responded that option two was the recommendation of staff. Staff cannot recommend drawing down the GHAD reserves.

Councilmember Shuey noted he agreed using the GHAD reserves is not a good option.

Councilmember Stratford stated he would like to Regency Drive repaved now with this round of street projects. Repaving this street has been delayed too long.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce to move forward with Option 2 and include the deductive bid projects (Passed; 4-1 vote, No- Stratford).

(d) **Action Item of City serving as Successor Agency to the former Clayton RDA**

Consideration of an Agreement reentering into reimbursement of two previous Loan Agreements by and between the City of Clayton and the Successor Agency to the former Redevelopment Agency of the City, as recommended by the Oversight Board of the Successor Agency of the City of Clayton.

The City Manager stated this item is on the Council's agenda in its capacity as the Successor Agency to the former Clayton Redevelopment Agency. He stated a similar item was on the Consent Calendar for approval by the City Council. He stated the Redevelopment Agency owes the City money for two loans. He stated the first is a loan for the County Fire Station property. He stated the Redevelopment Agency was to repay \$475,000 before Jan 2023, and until they did so it would make interest payments. He stated the second loan was for the 2% Election payments discovered in February 2010 which were never paid to the City in the amount of \$501,000. He stated in 2010 the State took \$1.96 million from the Agency therefore the Council and Agency agreed to pay those monies back in a 4 year time period. He stated unfortunately the State then passed the Dissolution Act. He noted ROPS I & II have been submitted to the Department of Finance and they have not responded yet. He stated there is a section in the law which allows the Oversight Board to re-enter in to loan agreements and therefore this action would allow that to take place as the Oversight Board unanimously approved this action.

Council thanked the City Manager for putting this complex item together.

No public comments were received.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce to adopt Resolution 24-2012 (Passed; 5-0 vote).

10. **COUNCIL ITEMS**- Vice Mayor Medrano asked that an item be added to a future agenda for discussion of the 4 p.m. no blanket or chair rule for the Concerts in The Grove.

11. **ADJOURNMENT**- On call by Mayor Geller the meeting adjourned at 8:34 p.m.

Respectfully submitted,


Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL


Howard Geller, Mayor