

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

TUESDAY, August 21, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:00 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 (arrived at 6:08 p.m.), and Councilmembers Pierce and Stratford. Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Engineer Rick Angrisani (7:00 p.m.), and City Clerk Laci Jackson.
2. **JOINT CLOSED SESSION** – Mayor Geller announced the following purposes for Closed Session and then adjourned into Closed Session at 6:01 p.m.
 - (a) Conference with Labor Negotiator
Government Code Section 54957.6
Instructions to City-designated labor negotiator: City Manager
 1. Employee Organization: Clayton Police Officers Association (CPOA).
 - (b) Conference with Real Property Negotiator
Government Code Section 54956.8
Real Properties: 6055 Main Street, Clayton (APNs 118-560-010 & 119-011-003)
Instructions to City Negotiator (City Manager) concerning terms and conditions.
Negotiating Party: Clayton Community Church

Report Out from Closed Session 7:05 p.m.: Mayor Geller reported the Council received information and gave direction to staff.
3. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.
4. **CONSENT CALENDAR**– Damien Bibeau asked a question about Item 4(d) and how the Diablo Estate Benefit Assessment District was voted in when the homes were not sold at the time to the ultimate home buyers? The City Engineer stated the current owner of the property (the developer) voted and that process is the standard practice for a developer to establish this type of District.
 - Damien Bibeau asked a second question about the adoption of the easements. He stated one of the conditions was to set aside 150 feet worth of conservation easement. The Community Development Director stated the easements, including the one mentioned by Mr. Bibeau, have been recorded and they prohibit development in the uphill and downhill areas beyond the buildable pads of the lots within the subdivision.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted (Passed; 4-0 vote).

 - (a) Information Only
 - 1). General Resolutions for the League of California Cities' Annual Conference.
 - (b) Approved the minutes of the regular meeting of July 17, 2012.
 - (c) Approved the Financial Demands and Obligations of the City.

- (d) Adopted eleven (11) Resolutions accepting and rejecting various easements within the Diablo Pointe (aka Diablo Estates at Clayton) development, Subdivision 8719, as follows:

1. Resolution 47-2012 accepting easements dedicated to the public on the Final Map for Subdivision 8719 including public utility easements, sanitary sewer easements, storm drain easements, and emergency vehicle access easements, but rejecting the offers of dedication for the Landscape Maintenance Easements and Conservation Easements delineated thereon;
2. Five (5) Resolutions accepting various grants of easements over the property known as the "Seeno Strip" along Regency Drive and Rialto Drive including landscape maintenance easement (Resolution 48-2012), sanitary sewer easement (Resolution 49-2012), emergency vehicle access easement (Resolution 50-2012), storm drain easement (Resolution 51-2012) and public utility easement (Resolution 52-2012);
3. Four (4) Resolutions accepting various grants of easements over portions of the lots including an access easement across lot 1 (Resolution 53-2012) and storm drain easements on portions of Lots 6 (Resolution 54-2012), 9 (Resolution 55-2012) and 11 (Resolution 56-2012); and
4. Adopted Resolution 57-2012 summarily vacating the offers of dedication of a Landscape Maintenance Easement and Conservation Easements as shown on the Final Map of Subdivision 8719 in accordance with Section 8333(c) of the Streets and Highways Code as these easements have been superseded by other easements accepted above.

5. RECOGNITIONS AND PRESENTATIONS

- (b) Mayor Geller presented a Certificate of Recognition to retiring 94517 zip code U.S. Postal Service, Tony Oliver. Mr. Oliver thanked the people in Clayton for their support the past 22 years.
- (a) Mayor Geller recognized the new Clayton Valley Charter High School Executive Director David Linzey, Executive Staff, and the CVCHS Executive Board on commencement of its inaugural 2012-13 school year. Executive Director Linzey provided a PowerPoint presentation on the goals of the Charter High School. Executive Board President Neil McChesney presented information on the faulty expenditure analysis of the Mt. Diablo School District that the charter high school costs the District \$1.7 million per year

6. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager reported the Secretary of State announced the alpha listing for the November elections. The City Clerk read the Clayton ballot order of the qualified candidates: Jim Diaz, Howard Geller, Joe Medrano, Kevin Liberman, and Julie Pierce.

(d) City Council

Councilmember Stratford stated the "Do the Right Thing" program is getting back to work in the local schools, and he attended a Habitat Conservancy meeting.

Vice Mayor Medrano stated at the Thursday night Concert in The Grove the PHD's will be performing.

Councilmember Pierce attended ABAG meetings, the Mayors Conference and the Concerts in The Grove.

Mayor Geller attended the Relay for Life for the American Cancer Society which raised over \$48,000. He attended the CBCA Rib Cook-off and thanked the CBCA and the Clayton Club Saloon for their work on the event. He attended the Clayton Valley Charter High School campus clean-up. He noted the crowd donations at the Diamond Dave concert were \$1,958.50, and Rolling Heads brought in \$1,161.00. He stated Olympian Kara Kohler was in attendance at the concert. He attended the Mayors Council meeting and the meet and greet with Senator Mark DeSaulnier. He stated Clayton is organizing a Parade to host the two Olympic Bronze medal winners on September 15th at 5 p.m. on Main Street. He stated the Olympians will be honored with a key to the City.

- (e) Other – Introduction of candidates present for City Council elected office. None present expect the incumbents on the dais, who declined to speak.

7. PUBLIC COMMENTS

Bruce Albrect stated he was frustrated with ABAG and its housing requirements mandated for the City. He asked for clarification on the requirements.

Councilmember Pierce stated the State Housing and Community Development (HCD) department was created to help allocate the growth that will happen in the State and require, through a process, that every jurisdiction provides for their fair share of affordable homes. The way they do that is divide it up into each region. She stated ABAG negotiated that number down by over 250,000 units, for 2014-2022. She stated she has served on the housing methodology committee and their goal is to put the majority of the units near transit and a focused growth pattern. She stated this year SB 375 and AB 32 required ABAG to put together a Sustainable Communities Strategy with the goal of reducing greenhouse gases. She stated the housing has to be zoned for but there is no responsibility to build the units. She stated if Clayton didn't provide for the zoning HCD could sue and revoke the City's approved Housing Element on top of the threat of stopping all development in the City. She stated currently Clayton has a 151 unit requirement and has met that requirement. She also noted it looks like Clayton will not have to add more units in the next round of changes.

Vice Mayor Medrano stated the legislation has to change because the City had to spend \$80,000 for the Housing Element update but has no power to put the plan into action by developing private land.

Councilmember Pierce stated this is planning for where our children and grandchildren will live.

8. **PUBLIC HEARINGS**- None.

9. **ACTION ITEMS**

- (a) Consideration of a petition by Toll Brothers, Inc. for relief from a Condition of Approval to allow the developer the issuance of the 20th and subsequent building permits (24 total) due to the delayed conveyance of Lot 25 as a mitigation conservation parcel to a suitable land trust steward (Diablo Estates at Clayton; Subdivision 8719).

The Community Development Director stated Lot 25 is approximately a 5-acre piece of property in the Diablo Estates subdivision. He stated the developer planted it with 125 oak trees and it is considered a conservation parcel. The goal was to have the developer convey this property to the State Parks, a qualified 3rd party or incorporate it into the subdivision's Benefit Assessment District. At this point staff has released 19 building permits and the developer is petitioning the City Council to allow the release of the 20th and subsequent building permits. He stated staff is supportive of the request up to 22 building permits. He stated the developer is working in good faith with the accepted 3rd party, Save Mt. Diablo and staff believes they are close to achieving the acceptance of this agreement. He also noted as part of the project's conditions of approval, three affordable dwelling units need to be provided by the developer. He stated the third unit has not yet been satisfied and the 20th certificate of occupancy will not be issued until that condition is met or the Planning Commission provides relief of that condition.

Liela Duncan, and Sandy and Patrick Penner requested the City allow for the additional building permits to be pulled as requested by Toll Brothers so they could build their dream homes.

Pete Laurence stated he supported Toll Brothers request but liked staff's recommendation to release up to the 22nd building permit, holding back two permits to assure the Lot 25 conveyance would be completed.

Andrew Warner, Toll Brothers, thanked the City Council for considering this petition. He stated he believes they are very close to transferring the property. He stated City staff is recommending only three more building permits be released, but he would like to pull all remaining permits. Mr. Warner offered that Toll Brothers put the Lot 25 deed into escrow. He stated Toll Brothers has been working diligently to transfer the land to Save Mt. Diablo and to satisfy the affordable housing requirements

Jim Parsons, PA Design Resources, stated the developer has been trying for over a year to satisfy this condition and urged the City Council to allow for the issuance of all 5 building permits.

Councilmember Pierce asked about putting the Lot 25 deed into escrow. The City Attorney stated she did not believe that would assure the proper conveyance of Lot 25 as intended by the condition.

Councilmember Pierce stated it seems conveyance is imminent and she is inclined to go with staff's recommendation.

Vice Mayor Medrano stated the Council should release the 22 permits.

Councilmember Stratford asked if the Council could approve all 24 to be released? The City Manager stated, yes, but another condition of approval on the affordable homes would prevent occupancy unless it is satisfied. He cautioned the Council about allowing the developer a full release on permits given the uncertainty of the other condition; it could cause a mess of occupied homes without certificates of occupancy.

It was moved by Vice Mayor Medrano, seconded by Councilmember Pierce, to authorize staff to issue up to and including the 22nd building permit at the Diablo Estates at Clayton residential subdivision (Passed; 4-0 vote).

- (b) Consideration and discussion of a request to approve the East Bay Economic Development Alliance's "Open for Business" Pledge.

The Community Development Director stated in May of this year, East Bay Economic Development Alliance (EDA) asked the City to adopt a business friendly pledge to encourage business in the East Bay. The pledge lists various measures to promote excellent customer service. The pledge suggested how local agencies must allocate their local resources. The pledge must be adopted verbatim. He stated Clayton staff is business friendly and takes direction from the City Manager through the Council as to how resources should be used to serve the public. The City can only provide the services possible within its limited resources.

Councilmember Pierce mentioned she spoke with Linda Best, the President of the Contra Costa Council, who works with the East Bay EDA, and she did not know about the stated in the Pledge and the subsequent email.

Vice Mayor Medrano stated allocation of resources and monitoring to assure excellent service should be handled locally.

In response to question, the City Manager stated the City of Concord has an economic development sub-committee reviewing this pledge, and the Town of Danville adopted the pledge, but added a comma and said "to the extent possible" for each measure.

Mayor Geller stated staff resources are limited and their allocation should be handled locally.

No public comments were received.

It was moved by Vice Mayor Medrano, seconded by Mayor Geller, to decline to adopt the EDA Pledge "as-is" and authorize the City Manager to communicate the City's concerns in writing to the East Bay EDA (Passed; 3-1 No- Pierce).

- (c) Consideration of draft City responses to Civil Grand Jury Reports No. 1209 (City Retirement Plans) and No. 1213 (Financial Transparency).

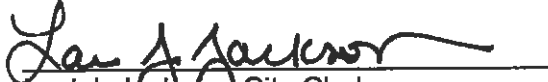
No public comments were provided.

It was moved by Councilmember Pierce, seconded by Vice Mayor Medrano, to approve the letters representing the City's submittal to the Civil Grand Jury on these topics (Passed; 4-0 vote).

10. COUNCIL ITEMS – None.

11. ADJOURNMENT– On call by Mayor Geller the meeting adjourned at 9:33 p.m.

Respectfully submitted,


Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL


Howard Geller, Mayor