



# **AGENDA**

## **REGULAR MEETING**

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### **CLAYTON CITY COUNCIL**

\*\*\*

**TUESDAY, October 2, 2012**

**6:00 p.m.**

*Hoyer Hall, Clayton Community Library  
6125 Clayton Road, Clayton, CA 94517*

**Mayor:** Howard Geller

**Vice Mayor:** Joseph A. Medrano

#### **Council Members**

Julie K. Pierce

David T. Shuey

Hank Stratford

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at [www.ci.clayton.ca.us](http://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 \***

**October 2, 2012**

**6:00 P.M.**

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Geller.
2. **CLOSED SESSIONS**
  - (a) *Government Code Section 54956.9 (a), Conference with Legal Counsel.  
Pending Litigation: City of Clayton and Oakhurst Geological Hazard Abatement District v. Municipal Pooling Authority of Northern California, Case No. MSC10-03626, Superior Court of California, Contra Costa County.*
  - (b) *Government Code Section 54956.8, Conference with Real Property Negotiator  
Real Properties: 6055 Main Street, Clayton (APNs 118-560-010 & 119-011-003)  
Instructions to City Negotiators (Council Members Pierce and Shuey) concerning terms and conditions.  
Negotiating Party: Clayton Community Church.*

**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. Request by Clayton Club Saloon business owners for the City to initiate an update and amendment to Chapter 9.30 of the *Clayton Municipal Code* and Noise Element of the City General Plan concerning allowable noise decibel levels in the Clayton Town Center area. ([View Here](#))
  - (b) Approve the minutes of the regular meeting of September 18, 2012. ([View Here](#))
  - (c) Approve the Financial Demands and Obligations of the City. ([View Here](#))

- (d) Adopt a Resolution establishing and approving Local California Environmental Quality Act ("CEQA") Guidelines for the City of Clayton and superseding prior locally-adopted CEQA Guidelines. ([View Here](#))
- (e) First year Status Report on the effectiveness of the City's Vandalism Accountability Rewards Program. ([View Here](#))
- (f) Approve the declaration of Police vehicle no. 1723 (2001 Ford Crown Victoria) as capital equipment surplus to the City's needs, and authorize the City Manager to sell the surplus vehicle at public auction. ([View Here](#))
- (g) Adopt a Resolution approving an amendment to the Mitchell Creek Place Development Plan Permit conditions of approval to allow for on-site replacement trees to be minimum 15-gallons rather than 24-inch box size trees (DP 01-05). ([View Here](#))

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

**6. REPORTS**

- (a) Planning Commission – Vice Chairman Gregg Manning.
- (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 – Introduction of candidates present for City Council elected office.

**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 – None.**

**9. ACTION ITEMS**

- (a) Continued discussion and consideration of information submitted by the Contra Costa County Fire Protection District regarding fire protection, suppression, and first-responder emergency medical services provided by the Fire District, and consideration of a City Council position on Ballot Measure Q, a special fire district real property parcel tax on the November 6, 2012 local ballot.  
(City Council) ([View Here](#))

Staff recommendation: That Council provide any policy action regarding its position on Ballot Measure Q (Nov. 2012).

- (b) Consideration of a draft letter by the City Council to request state legislator submittal of a written request to the state attorney general seeking a legal opinion on whether it is an incompatible office for an elected member of the Clayton City Council to concurrently serve on the Clayton Valley Charter High School Executive [governing] Board. ([View Here](#))  
(City Attorney)

Staff recommendation: Following Council discussion and public comment, that Council provide policy direction regarding City Council submittal of a written request for a state attorney general legal opinion through a state legislator.

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

**11. ADJOURNMENT**– the next regularly scheduled City Council meeting is October 16, 2012.

# # # # #

Agenda Date: 10-2-12

Agenda Item: 4a

## MEMORANDUM

**To:** Gary Napper, City Manager  
City Council  
Planning Commission

**From:** David Woltering, Community Development Director *SW*

**Date:** September 21, 2012

**Re:** Clayton Club Recommendation to Modify City's Noise Regulations

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Over the past six months, Chief Dan Lawrence and I have been meeting with the operators of the Clayton Club, Steve Barton and Dennis Mitchell, to address noise complaints that have been received by the City regarding the operations of the Club. The complaints have been related to amplified music coming from the Club late at night (generally after 10:00 p.m.). During our visits to the Club regarding this matter, the Chief and I noted that a large number of patrons sometimes congregate outside in the rear garden area late at night, effectively expanding the capacity of the Club.

The staff's basis for evaluating the noise complaints were regulations found in Chapter 9.30 Noise of the Clayton Municipal Code (See **Attachment 1**) and the City's General Plan Noise Element. The regulations in Chapter 9.30 and, more specifically, Sections 9.30.030 and 9.30.040 allow for a more qualitative evaluation of circumstances to determine if there is a violation. For example, under Section 9.30.040.A.1, it states that there is a "prima facie violation if the noise is plainly audible at a distance of fifty (50) feet from the nearest property line...." The General Plan Noise Element states as a general goal that "[p]hysically harmful levels of noise [70 Ldn and above] shall be mitigated to below harmful levels and to levels of minimum annoyance [below 60 Ldn] where feasible. Hence, our objective in working with the Club operators was to identify a range of measures that could be readily achievable and without significant cost to the operators, yet effective to reduce noise levels to approximately 60 decibels.

Chief Lawrence and I visited the Club at various times, including after 10:00 p.m., when amplified music was being played and measured the decibel levels inside and outside of the Club. We noticed there was a tendency to keep the door open to the back yard area when the Club was full with patrons and/or indoor temperatures were high to allow the overflow crowd to move inside and outside the Club and to allow increased air flow. We also noticed that, when the door was closed and the amplified music did not exceed 95 decibels inside, the noise levels approximately 50 feet from rear property line did not exceed approximately 60-62 decibels (adjusting for other momentary noise incidents [clarification added 9/28/12]). Consequently, there was general agreement reached between staff and the operators that they would adjust the operations of the Clayton Club

as referenced in the attached September 13, 2012 letter (See **Attachment 2**) from Chief Lawrence and myself to Steve Barton and Dennis Mitchell addressing achievement of those thresholds. These measures included keeping the doors to the Club generally closed after 10:00 p.m., assuring that indoor decibel levels would not exceed 95 decibels, and adding indoor fans for better air circulation. After receiving their agreement to these measures, it was unexpected to then receive the attached letter (See **Attachment 3**) from the operators indicating that the effort had been deficient and their business was being harmed by the agreed to measures.

It should be noted that the Clayton Club's amplified music was the subject of complaints that the staff was reacting to and it is the only business in the Town Center area playing amplified music late at night (after 10:00 p.m.) without containing this noise to an enclosed building as part of regular operations. Chapter 9.30 of the CMC could be modified to include quantitative standards and thresholds, including standards and thresholds for mixed-use environments like the Town Center area. Likewise, the Noise Element of the General Plan could be similarly updated. This type of effort is likely to require at least one year to complete and would require hiring specialized consultants (e.g., acoustical consultants) to assist the City with this effort. Staff estimates the total cost of the effort would be in excess of \$25,000.

**Attachments:**

- 1 Chapter 9.30 Noise of the Clayton Municipal Code.
- 2 Letter from Community Development Director David Woltering and Police Chief Dan Lawrence to Steve Barton and Dennis Mitchell, dated September 13, 2012.
- 3 Letter from Steve Barton and Dennis Mitchell to City of Clayton, Clayton City Council, and Clayton Planning Commission, dated September 15, 2012.

Chapter 9.30NOISE

## SECTIONS:

|          |                           |
|----------|---------------------------|
| 9.30.010 | Definitions               |
| 9.30.020 | General Noise Regulations |
| 9.30.030 | Standards                 |
| 9.30.040 | Prohibitions              |
| 9.30.050 | Permits                   |
| 9.30.060 | Emergency Exemptions      |
| 9.30.070 | Enforcement               |
| 9.30.080 | Police Services Fees      |
| 9.30.090 | Appeals                   |
| 9.30.100 | Remedies and Penalties    |

9.30.010 Definitions. For the purpose of this ordinance, the following definitions shall apply:

A. Commercial purpose. This shall mean and include the use, operation, or maintenance of sound-amplifying equipment for the purposes of advertising business, goods, or services; or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage to or for a performance, show, entertainment, exhibition, or event; or for the purpose of demonstrating any such sound equipment; or for the purpose of paging employees or customers.

1. This section shall also include the actual performance of such equipment, whether inside or outside a commercial establishment, for purposes of entertainment.

B. Emergency Work. Emergency work means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger. Emergency work includes the operation of a generator during the time that electrical power service has been interrupted. (Ord. 411, 2007)

C. Motor vehicle. This term shall mean a motor vehicle as defined by the California Vehicle Code.

D. Non-commercial purpose. This term means and includes the use, operation, or maintenance of sound equipment for other than a commercial purpose. Non-commercial purpose includes philanthropic, political, community events, patriotic, and charitable purposes.

E. Sound-amplifying equipment. This term means a machine or device for the amplification of the human voice, music, or any other sound. Sound-amplifying equipment does not include:

1. A standard automobile radio when used and heard only by the occupant of the vehicle in which the radio is installed; or

2. A warning device on authorized emergency vehicle, or horn or other warning device used for traffic safety purposes.

F. Sound truck. This term shall mean a motor vehicle regardless of motive power, whether in motion or stationary, having sound-amplifying equipment mounted or attached to it. (Ord.349, 1999)

**9.30.020 General Noise Regulations.** Except as otherwise provided by this Chapter and Chapter 15.01 of this code, it is unlawful for a person to willfully make a loud, unnecessary or unusual noise, which disturbs the peace or quiet of a neighborhood or which causes discomfort or annoyance to a reasonable person or normal sensitiveness residing in the area. (Ord. 411, 2007)

**9.30.030 Standards.** The standards which shall be considered in determining whether a violation of Section 9.30.020 exists include, but are not limited, to the following:

- A. The volume of noise;
- B. Whether the nature of the noise is usual or unusual;
- C. The proximity of the noise to residential sleeping facilities;
- D. The nature and zoning of the area within which the noise emanates;
- E. The time of the day or night the noise occurs;
- F. The duration of the noise;
- G. Whether the noise is continuous, recurrent or intermittent;
- H. Whether the noise is produced by a commercial or non-commercial activity
- I. The number of persons in the neighborhood who have complained of the noise. (Ord. 349, 1999)

**9.30.040 Prohibitions.** Except as otherwise provided in this section, it is unlawful for a person to do any of the following acts:

A. Radios, television sets, and similar devices. A person may not operate or play a radio, television set, stereo, phonograph, receiving set, tape or compact disk payer, jukebox, musical instrument, or similar device in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants, or to do so with a louder volume than is necessary for convenient hearing for persons in the room, vehicle, or chamber in which the device is operated.

1. A prima facie violation has occurred if the noise is plainly audible at a distance of fifty (50) feet from the nearest property line of any yard, park, or outside activity area, or any building or structure from which the noise is emanating from or vehicle from which it is located, or a distance of fifty (50) feet from the device if outside.

B. Schools and churches. Creating noise on a street, sidewalk or public place adjacent to a school or church while in use if the noise unreasonably interferes with the working of the institution.

C. Machinery, Equipment, Fans, Air Conditioning and Power Equipment. It is unlawful to operate machinery, equipment, or a pump, fan, air-conditioner, spa or pool equipment or engine in a manner which causes excessive noise to nearby residents between the hours of 10:00 p.m. and 7:00 a.m. Additionally, the use of power equipment for home use or residential yard maintenance including power tools, lawn mowers and leaf blowers is prohibited except as set forth below in this section:

- (1) Weekdays. Monday through Friday between seven a.m. and eight p.m.

- (2) Saturdays, Sundays and City-observed Holidays between eight a.m. and eight p.m. (Ord. 411, 2007)

D. Construction or repair work. Such work which creates noise within or adjacent to a residential land use district or planned development is subject to time and other restrictions listed in the Clayton Municipal Code.

E. Loudspeakers or sound-amplifying equipment. A person may not install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted on a sound truck for the purpose of transmitting sound to a person in or on a street, sidewalk, park or public property without a permit.

F. Animals or birds in residential neighborhoods. No person shall keep or maintain an animal, fowl, or bird (otherwise permitted to be kept) which, by sound, cry, or audible behavior causes annoyance or discomfort or disturbs the repose of a reasonable person.

G. Garbage disposal and street sweeping. Unless otherwise permitted by franchise agreement or other City regulation, it shall be unlawful to perform these activities between 10:00 p.m. and 6:00 a.m. weekdays and 10:00 p.m. and 8:00 a.m. on weekends. (Ord. 349, 1999)

9.30.050 Permits: The Police Chief may grant a permit on an event(s) or seasonable basis allowing an exception to this Chapter for such activities as civic events, civic sponsored events, or youth sports and/or recreational events, or permitting the use of sound-amplification equipment, subject to the requirements of section. An application for either type of exemption must be submitted at least twenty-five (calendar days before the proposed activity and must be accompanied by an application fee in the amount set by Council resolution.

A. Exception permit. The Police Chief may grant a permit, subject to reasonable restrictions, allowing an exception to subsection on 9.30.020 or 9.30.040 for as short a period of time as is reasonable if the permit applicant notices nearby residences and businesses and demonstrates all of the following according to City policy:

1. Compliance with this chapter could be impractical or unreasonable;
2. Which mitigation measures will implemented to minimize the sound disturbance.

B. Permit for Sound-Amplification Equipment. The Police Chief may grant a permit to allow sound-amplification equipment, subject to reasonable restrictions regarding time, place and manner of use for the safety and convenience of the public. If the application is denied, the Police Chief shall advise the applicant in writing of the reasons for denial. The applicant shall submit an application containing the following information:

1. The name, address and telephone number of both the owner and user of the sound-amplifying equipment
2. The maximum wattage to be used, and the approximate distance for which sound will be audible from the sound-amplifying equipment;
3. The license number, if a sound truck is used;
4. A general description of the sound-amplifying equipment to be used;
5. Whether the sound-amplifying equipment will be used for a commercial or non-commercial purpose;

6. Which measures will be implemented to reduce noise to neighbors;

7. Where the equipment will be used; and

8. During which day(s) and hour(s) the equipment will be used.

C. Notwithstanding other provisions of this Chapter, if the City Manager determined that exceptional circumstances exist and the City and a property owner enter into a recordable noise abatement agreement with the land, the provisions of this Chapter shall not be applicable to the uses identified in the agreement. (Ord. 349, 1999, Ord 362, 2001)

**9.30.060 Emergency Exemptions.** Actions made necessary to protect the health, safety or general welfare of the public or of their property shall not be a violation of this Chapter. (Ord.349, 1999)

**9.30.070 Enforcement.** The person(s) responsible for the noise will be held liable for the cost of providing police services during a second or follow-up response by police, after a first warning (including an explanation of possible police service fee imposition if a second response is necessary to the person(s) responsible for the noise to control the specified threat to the public peace, health, safety, or general welfare. The second or follow-up response may also result in the arrest and/or citation of violators of the State Penal Code or other provisions of the Municipal Code. (Ord.349, 1999)

**9.30.080 Police Services Fees.** The police services fee shall include the cost of personnel and equipment, but shall not exceed Five Hundred Dollars (\$500.00) for a single incident, provided however that the City does not hereby waive its right to seek reimbursement for actual costs exceeding Five Hundred Dollars (\$500.00) through other legal remedies. The amount of the fees shall be deemed a debt owed to the City by the person responsible for the event, and if such person is a minor, the debt shall be the obligation of such minor and his/her parents or guardians. Such fees shall be due upon receipt of billing from the City. Any person owing such fees shall be liable in an action brought in the name of the City for recovery of such fees, including reasonable attorney fees.

A. Automatic adjustment in police services fees. Such fees may be adjusted each year, computing the adjustment on the Official Consumers Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for the San Francisco-Oakland Metropolitan Area. (Ord. 349, 1999)

**9.30.090 Appeal of Decision of Police Chief.** The decision of the Police Chief may be appealed within 10 calendar days of such decision to the City Manager. The decision of the City Manager shall be final. (Ord. 411, 2007)

**9.30.100 Remedies and Penalties for Violation**

A. Violation an infraction. A person who violates a provision of this section is guilty of an infraction and subject to the penalty set forth in Chapter 1.20.

B. Violation a public nuisance. A violation of this section is a public nuisance and may be abated by a civil action including a restraining order or injunction. (Ord. 349, 1999)



COMMUNITY  
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*City Council*  
**HOWARD GELLER, MAYOR**  
**JOSEPH A. MEDRANO, VICE MAYOR**  
**JULIE K. PIERCE**  
**DAVID T. SHUEY**  
**HANK STRATFORD**

**September 13, 2012**

**Steve Barton &  
Dennis Mitchell  
Clayton Club  
6096 Main Street  
Clayton, CA 94517**

**Re: Resolution of Noise Complaints at Clayton Club**

**Dear Mr. Barton and Mr. Mitchell:**

Over the past several months, Clayton Police Chief Dan Lawrence and I have met with the two of you on a number of occasions at the Clayton Club at 6096 Main Street to effectively address noise complaints the City had received regarding the operations of the Club. The focus of the complaints had to do primarily with late night (i.e., after 10:00 p.m.) amplified music coming from the Club.

The Chief and I appreciated the time and good faith efforts you both demonstrated in evaluating the operations of the Clayton Club and looking for reasonable, yet effective, adjustments to Club operations to address the noise complaints. We listened to a variety of types of amplified music — juke box, DJ with recorded music, and live musicians — and took noise measurements inside and outside of the Club of the music under different circumstances (e.g., doors open and doors closed). We observed nighttime operations on several occasions, including after 10:00 p.m. We noticed that, at times, there can be loud behavior in the outdoor garden area of the establishment. We noted, based on our observations and noise measurements, that not exceeding an interior noise level of 95 decibels, with doors closed, resulted in general conformance with the City's current noise standards and related provisions described in Chapter 9.30 of the Clayton Municipal Code (CMC) and the City's General Plan Noise Element. We also noted that additional monitoring and mitigation measures are needed in the open, outdoor yard area late at night to address loud behavior to avoid future noise complaints.

In a collaborative manner, staff discussed with the two of you operational adjustments needed to comply with the provisions of Chapter 9.30 and the General Plan Noise Element. These adjustments are listed in the attached Decibel Management document under the Sections titled, "Measures taken to date" and "Additional Measures to be taken." You also included in the schedule a section titled "Recommendations to the city for future consideration." Although

noted, it does not pertain to addressing the subject noise complaints received by the City, given the current, applicable CMC and General Plan provisions.

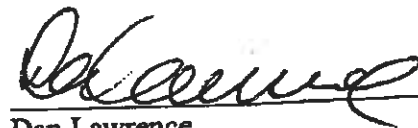
Important aspects of these two sections of the Decibel Management document cited include closing the doors to the Club after 10:00 p.m.; an interior noise meter (i.e., decibel alarm) will be placed at the bar to help assure that the interior noise level does not exceed 95 decibels; additional fans for improved ventilation will be placed inside the Club; and signage, increased monitoring, and limitations on how late the outside bar can stay open related to mitigating outdoor loud behavior. We understand that you agree to implement all of the measures mentioned in the two currently applicable Sections of the Decibel Management document.

Staff believes that if these agreed upon measures are consistently implemented by you and your staff, the operations of the Clayton Club should conform to the current provisions of Chapter 9.30 and the Noise Element Standards, Goals, and Objectives of the Clayton General Plan.

Again, we thank you for your time, efforts, and agreement to consistently implement the measures in the attached Decibel Management program.

Sincerely,

  
David Woltering, AICP  
Community Development Director

  
Dan Lawrence  
Chief of Police

Attachment: Decibel management – response to city concerns (7) document

c: Gary Napper, City Manager

comdev/Clayton Club/Ltr. To Barton and Mitchell.9.13.12

Decibel management - response to city concerns (7)

| Measures taken to date                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Status                |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|                                                      | Temporary "line of sight" sound absorption barrier place near rear exit to reduce sound transmission levels toward new housing. Given the limited success of this test, it will be removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Aug 1st               |
|                                                      | Ventilation window on dance floor sealed with sound absorption material. This closure will be made permanent                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Aug 1st               |
|                                                      | Signage has been place on entry/exit doors stating that doors must remain closed after 10 pm when musicians are performing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | complete              |
|                                                      | Bar staff have been provided with handheld Db meter to monitor sound levels during hours of musical performance and advised to instruct musicians when DB levels exceed 95.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | complete              |
| Additional Measures to be taken                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                       |
|                                                      | Current 8-1/2x11 signs stating that doors must be closed after 10 pm are deemed inadequate. City would like them readable from 30 feet away. Existing signs will be replaced with signage that is 11x17 with larger font than the 55 point currently used                                                                                                                                                                                                                                                                                                                                                                                      | complete              |
|                                                      | Mandatory door closure restrictions will be expanded to seven days a week after 10 pm, and not just on nights when musicians are not performing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | with immediate effect |
|                                                      | Multiple similarly large signs will be placed in the patio area to caution customers to avoid loud behavior. Signs must be visible from all gathering places and large enough to be read from 30 feet away.                                                                                                                                                                                                                                                                                                                                                                                                                                    | complete              |
|                                                      | The patio bar may not be operated after 10pm on weekdays unless a Temporary Use Permit has been obtained. Weekdays are defined as Sunday night through Thursday night excluding holiday eves.                                                                                                                                                                                                                                                                                                                                                                                                                                                  | with immediate effect |
|                                                      | The patio bar must be closed for business on or before 12:30 am on weekends. Use up to 12:30am on weekends will not require a Temporary Use Permit. For the purpose of this item, weekends are defined as Friday and Saturday nights and holiday eves.                                                                                                                                                                                                                                                                                                                                                                                         | with immediate effect |
|                                                      | When patio bar is in use Clayton Club must ensure that, in addition to the outside bartender, two doormen are present in patio area so one may circulate among patio customers to advise them to refrain from loud behavior.                                                                                                                                                                                                                                                                                                                                                                                                                   | with immediate effect |
|                                                      | Additional ventilation will be installed (i.e. portable fan and/or portable air conditioners) to replace lost ventilation arising from door closures and window elimination. City approval is required for types of equipment and measures to be taken.                                                                                                                                                                                                                                                                                                                                                                                        | complete              |
|                                                      | Additional surveillance will be provided to ensure door closures do not result in unobserved behavior at front entry. These measures may be installing windowed doors, additional camera monitors, additional doormen to position observers on both sides of closed doors. Final solution to be approved by city.                                                                                                                                                                                                                                                                                                                              | complete              |
|                                                      | A decibel alarm will be placed in view of the bartender to alert them when sound levels exceed 95 decibels inside the building. The bartender will advise musicians to reduce sound to below the 95Db threshold. 95Db was chosen because it allows a Db reading of 60 at the center street property line when doors are open.                                                                                                                                                                                                                                                                                                                  | complete              |
| Recommendations to the city for future consideration |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                       |
|                                                      | Allow the Clayton Club to have doors open if they remain in compliance with noise ordinance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                       |
|                                                      | Allow Clayton Club to keep patio bar open during normal licensing hours if in compliance with noise ordinance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                       |
|                                                      | City should determine sound violations solely based on Db level measurements which are specific. A business should not be held in violation of city ordinance for audible sounds which are at or below the acceptable decibel readings. The city noise ordinance should be modified to cite specific acceptable decibel readings rather than subjective audibility.                                                                                                                                                                                                                                                                            |                       |
|                                                      | City should consider ambient sound levels in the downtown areas in its determination of noise violations by a single business. Since ambient sound levels when downtown businesses are closed average about 65Db, citing violations between 60Db and 65Db seems impractical. City should consider adopting a standards in line with county standards for the downtown commercial district at 70Db during daytime hours and 65Db between 10pm and 7am. Alternatively, the city should undertake a study of ambient noise conditions at various times of day and evening and establish a noise ordinance which is achievable based on the study. |                       |
|                                                      | Review the disclosure signed by residents of Mitchell Canyon Place to determine if it is applicable to sounds emanating from existing downtown businesses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                       |



6096 Main Street, Clayton, CA 94517

September 15, 2012

City of Clayton  
Clayton City Council  
Clayton Planning Commission

Ref: Clayton Noise Ordinance

Attached is a recommendation to modify Chapter 9.30 of the Clayton Municipal Code and the Noise Element of the City Goals, Objectives, Policies and Implementation Measures document (Section VIII of the Clayton General Plan).

The current ordinance and policies do not reflect the actual conditions which can be achieved given the natural background noise levels that exist in the downtown commercial district. Further, no distinction is made between permissible noise levels in residential neighborhoods and the commercial district.

We at the Clayton Club recently had the opportunity to work closely with city officials to address noise mitigation measures attendant to a recent complaint. We saw this as an opportunity to work out a balanced approach to sound management which could satisfy neighbors, allow us to make informed decisions on sound emanating from the club and save the local Police time in addressing non-critical issues. We felt that we could intelligently manage levels with new equipment and collective understanding regarding those levels that produced too much transmitted sound.

Despite high hopes and diligent efforts on the part of city staff and Clayton Club managers, a balanced solution which addressed both the needs of the Commercial district and complies with the ordinance was not achieved. City staff worked hard to manage to an ordinance that seems reasonable on the surface. Clayton Club managers strived to implement a predictable and reproducible solution. The result was a set of measures taken by the Clayton Club to without regard to ambient conditions which are beyond our control. While we recognize that some sound mitigation measures were necessary, some of those implemented will have a continuing and long term financial impact on the Club. These measures involve curtailment of operations and loss of privileges by the Clayton Club. Despite these views, we continue to have the highest regard for the efforts and good intentions put forth by city staff during this project.

We all look forward to the day when the economy will be sufficiently robust to encourage new investment in our small downtown and the City can move forward with new development. If the City of Clayton is intent on attracting the additional businesses needed to create a vibrant downtown a viable noise ordinance must be devised.

Regards,

Steve Barton  
Dennis Mitchell

**RECEIVED**

SEP 14 2012

**CLAYTON COMMUNITY  
DEVELOPMENT DEPT**

## **CITY OF CLAYTON NOISE ORDINANCE RECOMMENDATION**

### **INTRODUCTION**

This is a recommendation to change to the current Chapter 9.30 of the Clayton Municipal Code, specifically the Noise Ordinance. Based on discussions with city staff, only one set of criteria exists within city code to govern noise management for both commercial and residential applications. It is our position that different criteria should be applied to commercial enterprises than is used for residential areas. The current code is not uniformly enforceable and is, in many respects, unreasonable when applied to the Town Center Commercial District. We offer two reasons for this assertion:

- 1) It is a violation of the Municipal Code if the sound emanating from a business is audible 50 feet from the property line.
- 2) It is a violation of the Noise Element of General Plan if property line decibel readings exceed 60Db.

Audibility alone should not be the basis for citing a violation as it is not a measurable criteria and leads to subjective interpretation. It is virtually unattainable to have an outdoor patio conversation area that cannot be detected from 50 feet away.

Second, and of greater importance, we have collected more than 100 decibel measurements at locations throughout the Town Center at various times of day, and it is clear that the decibel level used to determine that a violation has occurred is unachievable even before businesses are open. The ambient level of sound in the downtown area averages around 65Db and within a range between 60 and 75Db.

### **RECOMMENDATION**

We have the following recommendations to city government:

1. Modify Municipal Code to recognize specific decibel levels as the determining factor in citing violations of code. Audibility should be removed as a criterion for citing violations in commercial areas and, if used at all, be used as a trigger to take measurements following a complaint.
2. Modify code for commercially zoned areas to use decibel readings which take into account the ambient sound conditions which form a baseline for the area. Contra Costa County regulations recognize conditionally acceptable levels of 70Db during the day time and 65Db from 10pm to 7am. These could be applied to the commercial areas of Clayton. Alternatively, the city could undertake studies of its own to discover ambient sound levels in various conditions, locations and times to arrive at their own conclusion on appropriate regulatory levels.

The goal must be to achieve a balanced solution which affords businesses the ability to predictably manage noise compliance, to enable city officials to respond to complaints with objective data at their fingertips, and to ensure that we will be successful as the good neighbors we would like to continue to be.

Finally, unamplified voice sound should not be a violation of the ordinance downtown if it falls at or below the regulatory decibel levels.

In these austere times, it seems unreasonable to put the city to the sort of expense that sound engineers incur. We would be pleased to provide volunteer time to work at the city's direction to gather data to allow draft criteria to be developed.

**Attachments:**

1. **Decibel Management – Response to City Concerns:** Final Draft of the working document used to identify and track measures taken to resolve sound issues between City of Clayton and Clayton Club.
2. **Graphs** of recent extended time sound measurements taken at Clayton Club property lines: These graphs reflect sound measurements ranging from one half hour to one and a half hours at points where infractions were noted in recent discussions and represent the normal sound levels of the downtown. No audible sound was coming from the Clayton Club during these recording sessions with the exception of the measurement taken at 22:18 on 9/5. (recorded by Steve Barton)
3. **Clayton Club Noise Test - 6/13/12:** A set of 30 second average sound measurements taken by city staff with participation from owners of the Clayton Club recorded by Dave Woltering
4. **Decibel Readings – Clayton:** A collection of point in time measurements taken at various times of day and locations in the town center as recorded by Steve Barton

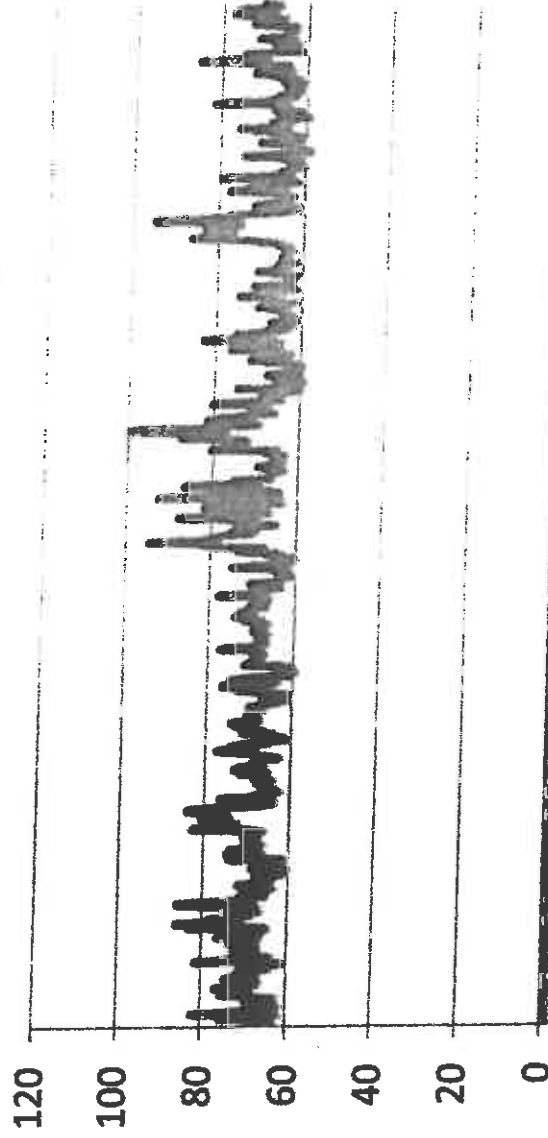
Decibel management - response to city concerns

| Measures taken to date                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Status                |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|                                                      | Temporary "line of sight" sound absorption barrier place near rear exit to reduce sound transmission levels toward new housing. Given the limited success of this test, it will be removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                    | complete              |
|                                                      | Ventilation window on dance floor sealed with sound absorption material. This closure will be made permanent                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | complete              |
|                                                      | Signage has been place on entry/exit doors stating that doors must remain closed after 10 pm when musicians are performing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | complete              |
|                                                      | Bar staff have been provided with handheld Db meter to monitor sound levels during hours of musical performance and advised to instruct musicians when DB levels exceed 95.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | complete              |
| Additional Measures to be taken                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                       |
|                                                      | Current 8-1/2x11 signs stating that doors must be closed after 10 pm are deemed inadequate. City would like them readable from 30 feet away. Existing signs will be replaced with signage that is 11x17 with larger font than the 55 point currently used                                                                                                                                                                                                                                                                                                                                                                                      | complete              |
|                                                      | Mandatory door closure restrictions will be expanded to seven days a week after 10 pm, and not just on nights when musicians are not performing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | with immediate effect |
|                                                      | Multiple similarly large signs will be placed in the patio area to caution customers to avoid loud behavior. Signs must be visible from all gathering places and large enough to be read from 30 feet away.                                                                                                                                                                                                                                                                                                                                                                                                                                    | complete              |
|                                                      | The patio bar may not be operated after 10pm on weekdays unless a Temporary Use Permit has been obtained. Weekdays are defined as Sunday night through Thursday night excluding holiday eves.                                                                                                                                                                                                                                                                                                                                                                                                                                                  | with immediate effect |
|                                                      | The patio bar must be closed for business on or before 12:30 am on weekends. Use up to 12:30am on weekends will not require a Temporary Use Permit. For the purpose of this item, weekends are defined as Friday and Saturday nights and holiday eves.                                                                                                                                                                                                                                                                                                                                                                                         | with immediate effect |
|                                                      | When patio bar is in use Clayton Club must ensure that, in addition to the outside bartender, two doormen are present in patio area so one may circulate among patio customers to advise them to refrain from loud behavior.                                                                                                                                                                                                                                                                                                                                                                                                                   | with immediate effect |
|                                                      | Additional ventilation will be installed (i.e. portable fan and/or portable air conditioners) to replace lost ventilation arising from door closures and window elimination. City approval is required for types of equipment and measures to be taken.                                                                                                                                                                                                                                                                                                                                                                                        | complete              |
|                                                      | Additional surveillance will be provided to ensure door closures do not result in unobserved behavior at front entry. These measures may be installing windowed doors, additional camera monitors, additional doormen to position observers on both sides of closed doors. Final solution to be approved by city.                                                                                                                                                                                                                                                                                                                              | complete              |
|                                                      | A decibel alarm will be placed in view of the bartender to alert them when sound levels exceed 95 decibels inside the building. The bartender will advise musicians to reduce sound to below the 95Db threshold. 95Db was chosen because it allows a Db reading of 60 at the center street property line when doors are open.                                                                                                                                                                                                                                                                                                                  | complete              |
| Recommendations to the city for future consideration |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                       |
|                                                      | Allow the Clayton Club to have doors open if they remain in compliance with noise ordinance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                       |
|                                                      | Allow Clayton Club to keep patio bar open during normal licensing hours if in compliance with noise ordinance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                       |
|                                                      | City should determine sound violations solely based on Db level measurements which are specific. A business should not be held in violation of city ordinance for audible sounds which are at or below the acceptable decibel readings. The city noise ordinance should be modified to cite specific acceptable decibel readings rather than subjective audibility.                                                                                                                                                                                                                                                                            |                       |
|                                                      | City should consider ambient sound levels in the downtown areas in its determination of noise violations by a single business. Since ambient sound levels when downtown businesses are closed average about 65Db, citing violations between 60Db and 65Db seems impractical. City should consider adopting a standards in line with county standards for the downtown commercial district at 70Db during daytime hours and 65Db between 10pm and 7am. Alternatively, the city should undertake a study of ambient noise conditions at various times of day and evening and establish a noise ordinance which is acheivable based on the study. |                       |
|                                                      | Review the disclosure signed by residents of Mitchell Canyon Place to determine if it is applicable to sounds emanating from existing downtown businesses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                       |

# Center Street Property Line

9/5/2012 18:35 0:35:00

Average 68.50



<CEL-242 Data> 035-07 <Run>  
9/5/2012 18:35 0:35:00  
621950 3 30-100 dB Yes No

CONDITIONS

No Audible Sound  
From Clayton Club

9/5/2012 18:37  
9/5/2012 18:38  
9/5/2012 18:40  
9/5/2012 18:42  
9/5/2012 18:44  
9/5/2012 18:46  
9/5/2012 18:47  
9/5/2012 18:49  
9/5/2012 18:51  
9/5/2012 18:53  
9/5/2012 18:54  
9/5/2012 18:56  
9/5/2012 18:58  
9/5/2012 19:00  
9/5/2012 19:01  
9/5/2012 19:03  
9/5/2012 19:05  
9/5/2012 19:07  
9/5/2012 19:09

# Center Street Property Line

9/5/2012 22:18 0:33:11

Average 65.85



— <CEL-242 Data> 035-07

<Run> 9/5/2012 22:18

0:33:11 621950 4 30-100 dB

No No

CONDITIONS

LIGHT AUDIBLE

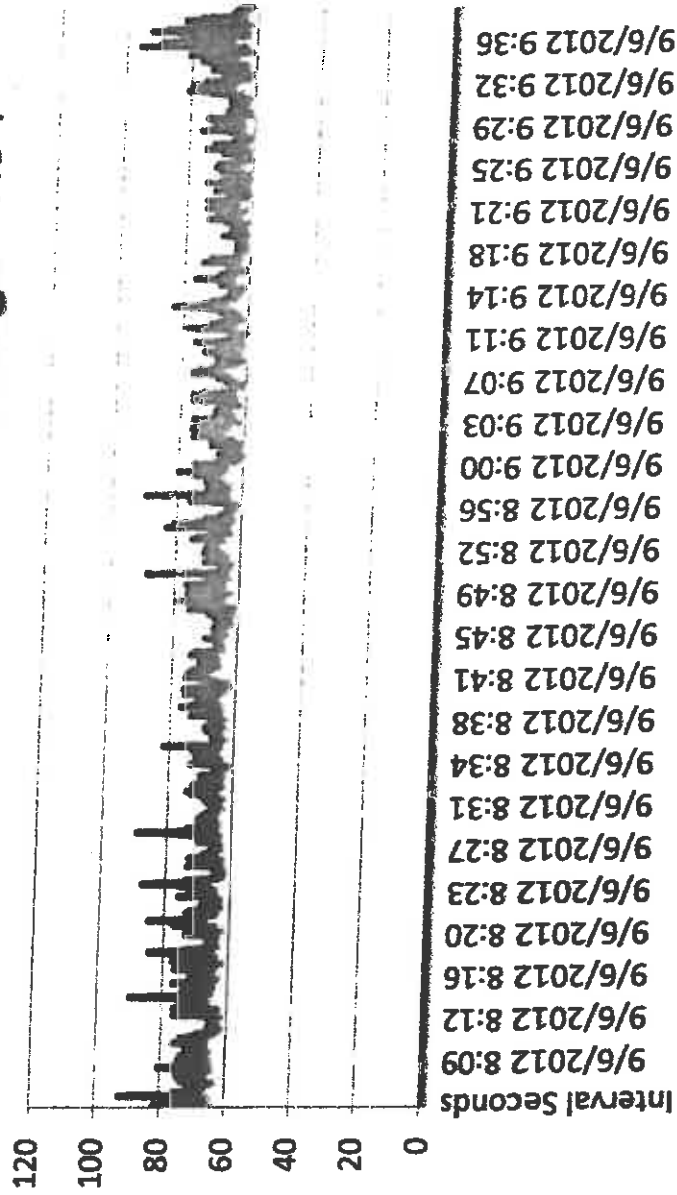
CONVERSATION FROM  
CLAYTON CLUB

# Center Street Property Line

9/6/2012 8:05 a.m.

Duration 1:34:00

Average 66.94



<CEL-242 Data> 035-07 <Run>

9/6/2012 8:05 1:34:00 621950 5 30-

100 dB No No

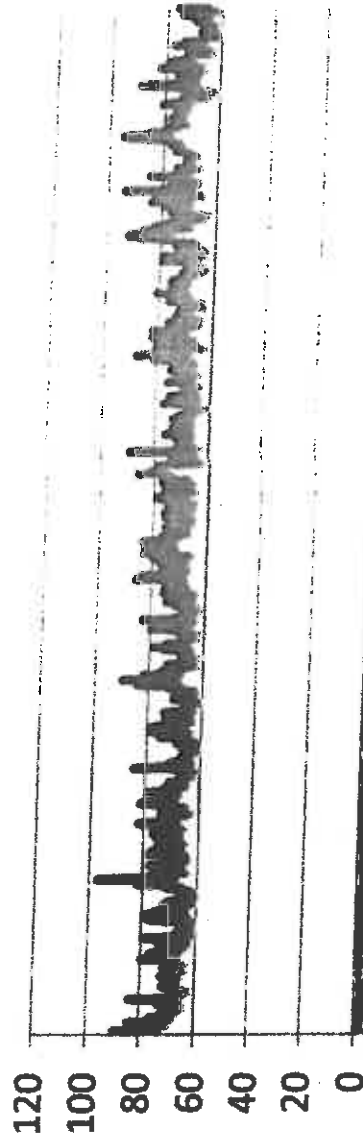
CONDITIONS

BUSINESSES CLOSED

# Main Street Property Line

9/6/2012 12:01 1:08:00

Average 70.29



<CEL-242 Data> 035-07 <Run>

9/6/2012 12:01 1:08:00

621950 6 30-100 dB No No

CONDITIONS

No Audible Sound

FROM CLAYTON CLUB

# **Clayton Club Noise Test**

## **(6/13/12)**

These noise tests were conducted from approximately 10:20 p.m. until 10:50 p.m. on Wednesday evening, June 13, 2012. These tests were conducted by Clayton Police Chief Dan Lawrence, Clayton Community Development Director David Woltering, Clayton Club Operator Steve Barton, and Clayton Club Operator Dennis Mitchell.

### **First Set of Tests**

**1. Approx. 50' from rear property line on Center Street:**

- **Door open (Condition)**
- Interior Noise - 93 dbh (30 Second Weighted Average)
- Exterior Noise - 65 dbh (30 Second Weighted Average)

**2. Approx. 50' from rear property line on Center Street:**

- **Door open (Condition)**
- Interior Noise - 93 dbh (30 Second Weighted Average)
- Exterior Noise - 62 dbh (30 Second Weighted Average)

**3. At rear property line:**

- **Door open (Condition)**
- Interior Noise - 93 dbh (30 Second Weighted Average)
- Exterior Noise - 60 dbh (30 Second Weighted Average)

-----

**4. At property line:**

- **Door closed (Condition)**
- Interior Noise - 97 dbh (30 Second Weighted Average)
- Exterior Noise - 60 dbh (30 Second Weighted Average)

**5. Approx. 50' from rear property line on Center Street:**

- **Door closed (Condition)**
- Interior Noise - 96 dbh (30 Second Weighted Average)
- Exterior Noise - 63 dbh (30 Second Weighted Average)

## **Second Set of Tests**

**1. Approx. 50' from rear property line on Center Street:**

- **Door open (Condition)**
- Interior Noise - 100 dbh (30 Second Weighted Average)
- Exterior Noise - 62 dbh (30 Second Weighted Average)

**2. At rear property line:**

- **Door open (Condition)**
  - Interior Noise - 99 dbh (30 Second Weighted Average)
  - Exterior Noise - 59 dbh (30 Second Weighted Average)
- 

**3. At property line:**

- **Door closed (Condition)**
- Interior Noise - 101 dbh (30 Second Weighted Average)
- Exterior Noise - 62 dbh (30 Second Weighted Average)

**4. Approx. 50' from rear property line on Center Street:**

- **Door closed (Condition)**
- Interior Noise - 101 dbh (30 Second Weighted Average)
- Exterior Noise - 62 dbh (30 Second Weighted Average)

| Time of event            |            | Conditions |          | Town       |                                           | Center                          |              | Data    |          | Clayton |          | Club      |        | Property |         |            |
|--------------------------|------------|------------|----------|------------|-------------------------------------------|---------------------------------|--------------|---------|----------|---------|----------|-----------|--------|----------|---------|------------|
| Date                     | Time Start | Time End   | Device   | Settings   | CC Cond                                   | Ambient Cond                    | Main/Mor     | Main/PK | Marsh Ck | Ctr/Mor | Ctr/Diab | Main/Diab | Inside | Patlo    | Mid Pkg | Pkg at Ctr |
| Sunday, June 03, 2012    | 10:46 AM   | 11:15 AM   | Iphone   | n/a        | CLOSED                                    | calm                            | 58           | 65      | 64       | 60-61   | 63       | 60-65     |        | 55       | 60      | 59-63      |
| Sunday, June 03, 2012    | 2:22 PM    | 2:40 PM    | Iphone   | n/a        | No Music                                  | light breeze                    |              | 63      | 63-70    | 60-63   | 65-80    | 70-85     |        | 65       | 60-65   | 70         |
| Sunday, June 03, 2012    | 9:39 PM    | 9:49 PM    | Iphone   | n/a        | Music, dr open                            | modest breeze                   | 67           | 65      | 67       | 68-73   | 63       | 65-75     |        |          | 80      | 75         |
| Sunday, June 03, 2012    | 10:05 PM   | 10:16 PM   | Iphone   | n/a        | Music, dr open                            | modest breeze                   | 70-71        | 65      | 63       | 68-70   | 62       | 60        |        |          | 78      | 68-70      |
| Sunday, June 03, 2012    | 10:30 PM   |            | Iphone   | n/a        | Music, dr closed                          | modest breeze                   | 69           |         | 60       | 58-63   | 68-70    | 62        |        |          | 67      | 63         |
| Sunday, June 03, 2012    | 11:05 PM   |            | Iphone   | n/a        | Band off, dr open                         | modest breeze                   | 61           | 64-65   |          | 58      | 58       | 58        |        |          | 63      | 57         |
| Wednesday, June 06, 2012 | 2:30 PM    | 2:45 PM    | Db Meter | continuous | no music, dr open                         | calm                            | 66-72        | 64-68   | 64-66    | 64-67   | 68-72    | 66-67     |        |          |         | 62-67      |
| Wednesday, June 06, 2012 | 3:00 PM    | 4:15 PM    | Db Meter | 2 min avg  | 5 people                                  | calm                            | 63           |         | 67       | 63      | 69       | 66        |        |          |         | 64         |
| Wednesday, June 06, 2012 | 4:40 PM    |            | Db Meter | 3 min avg  |                                           | calm                            |              |         |          |         |          |           |        | 83       |         | 63         |
| Wednesday, June 06, 2012 | 9:40 PM    | 10:15 PM   | Db Meter | 3 min avg  | Kar-2lts, dr open                         | calm                            |              |         |          |         |          |           |        | 73       |         |            |
| Wednesday, June 06, 2012 | 10:45 PM   | 11:15 AM   | Db Meter | 3 min avg  | Kar-3lts, dr open, 65 people in, 41 out   | calm                            |              |         |          |         |          |           | 100    | 82       | 88      | 84         |
| Wednesday, June 06, 2012 | 11:20 PM   | 11:40 PM   | Db Meter | 3 min avg  | Kar-3/4lts, dr open, 65 people in, 50 out | calm                            |              |         |          |         |          |           |        |          |         |            |
| Wednesday, June 06, 2012 | 11:50 PM   |            | Db Meter | 3 min avg  |                                           | calm                            |              |         |          |         |          |           |        |          |         |            |
| Thursday, June 07, 2012  | 9:45 AM    |            | Db Meter | 3 min avg  | Kar-3/4lts, dr clsd                       | calm                            |              |         |          |         |          |           | 95     | 83       | 71      | 63         |
| Wednesday, June 13, 2012 | 9:00 PM    |            | Db Meter | 30 sec avg | CLOSED                                    | light breeze                    |              |         |          |         |          |           |        |          | 83      | below 50   |
| Wednesday, June 13, 2012 | 9:10 PM    |            | Db Meter | 30 sec avg | 10 ppl                                    | calm                            |              |         |          |         |          |           |        |          |         | 65         |
| Wednesday, June 13, 2012 | 9:30 PM    |            | Db Meter | 30 sec avg | Kar-1-2, dr open, 10 ppl                  | calm                            |              |         |          |         |          |           | 74     | 68       | 66      | 64         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | Kar-2, dr open, 12 ppl                    | calm                            |              |         |          |         |          |           | 87     | 81       | 84      | 81         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door open                                 | calm                            |              |         |          |         |          |           | 88     | 74       | 62      | 66         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door open                                 | official test A                 |              |         |          |         | 63       |           | 93     |          |         |            |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door open                                 | official test B                 |              |         |          |         |          |           | 93     |          |         |            |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door closed                               | official test C                 |              |         |          |         |          |           | 97     |          |         | 60         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door closed                               | official test D                 |              |         |          |         | 63       |           | 98     |          |         | 60         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door open                                 | official test E                 |              |         |          |         |          |           | 100    |          |         | 59         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door open                                 | official test F                 |              |         |          |         |          |           | 99     |          |         | 62         |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door closed                               | official test G                 |              |         |          |         | 62       |           | 101    |          |         |            |
| Wednesday, June 13, 2012 | 10:00 PM   | 11:00 PM   | Db Meter | 30 sec avg | door closed                               | official test H                 |              |         |          |         | 62       |           | 101    |          |         |            |
| Saturday, June 30, 2012  | 9:00 AM    | 9:15 PM    | Db Meter | 30 sec avg | door open                                 | farmers mkt                     | 70           | 67      | 65       | 75      | 79       | 68        |        |          |         |            |
| Sunday, July 01, 2012    | Noon       | 12:10 PM   | Db Meter | 30 sec avg | door open                                 | slight breeze, no audible voice | 68           | 79      | 73       | 72      | 85       | 72        |        |          |         |            |
| Sunday, July 01, 2012    | 1:00 PM    | 1:15 PM    | Db Meter | 30 sec avg | 5 cust, do                                | slight breeze, no audible voice | 71           | 79      | 73       | 77      | 74       | 70        |        | 61       | 66      | 74         |
| Sunday, July 01, 2012    | 2:30 PM    | 2:45 PM    | Db Meter | 30 sec avg | 17 cust, do                               | slight breeze, no audible voice | 74           | 70      | 64       | 71      | 83       | 71        |        |          |         |            |
| Sunday, July 01, 2012    | 10:40 PM   | 11:00 PM   | Db Meter | 30 sec avg | 14 cust, dc                               | calm                            | 64           | 57      | 55       | 59      | 64       | 64        |        | 62       | 69      | 70         |
| Saturday, July 07, 2012  | 10:00 PM   |            | Db Meter | 30 sec avg | 55 out, patio bar                         | calm                            | 77 door ajar | 60      | 72       | 85      | 61       | 63        |        | 58       | 58      | 57         |
| Saturday, July 07, 2012  | 11:00 PM   |            | Db Meter | 30 sec avg | 77 out, patio bar                         | calm                            | 63           | 62      | 61       | 61      | 67       | 67        |        | 70       | 63      | 62         |
| Saturday, July 07, 2012  | Midnite    |            | Db Meter | 30 sec avg | 31 out, patio bar                         | calm                            | 66           | 58      | 64       | 58      | 58       | 60        |        | 85       | 82      | 63         |
|                          |            |            |          |            |                                           |                                 |              |         |          |         |          |           | 92     | 81       | 59      | 55         |

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

**Agenda Date:** 10-2-12

**Agenda Item:** 4b

**TUESDAY, September 18, 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, and Councilmembers Pierce, Shuey, and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Engineer Rick Angrisani (7:00 p.m.), Community Development Director David Woltering (7:00 p.m.), and City Clerk Laci Jackson.
  2. **CLOSED SESSION** – Mayor Geller announced the following purposes for Closed Session and then adjourned into Closed Session at 6:00 p.m.
    - (a) City Council
      1. *Government Code Section 54956.9 (c)*, Conference with Legal Counsel.  
Consider Initiation of Litigation: One (1) Potential Case.
      2. *Government Code Section 54956.9 (a)*, Conference with Legal Counsel.  
Pending Litigation: *City of Clayton and Oakhurst Geological Hazard Abatement District v. Municipal Pooling Authority of Northern California*, Case No. MSC10-03626, Superior Court of California, Contra Costa County.
      3. *Government Code Section 54956.8*, Conference with Real Property Negotiator  
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 of Closed Session:** Mayor Geller reported the Council received information and gave directions to staff and legal counsel, and would return to Closed Session at the conclusion of the regular meeting.
3. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.
  4. **CONSENT CALENDAR-** Councilmember Pierce pulled Item 4(e) for public comment.

Keith Haydon, CBCA President stated the Daffodil Hill beautification project was a great example of teaming with City staff to make a long term project happen. He said the idea initially was driven by the Clayton Garden Club but the CBCA had interest in the project and took advantage of the City's bid process with the Clayton Road Median project. He is happy the Landscape Maintenance District will be taking over the maintenance of the hill and stated this project completes the center section of the beautification project just in time for Oktoberfest.

Steven Lane, CBCA project designer, stated he was part of the subcommittee for the Daffodil Hill project. He echoed thanks to City staff in seeing this project through and stated the Clayton Garden Club now wants donate daffodil bulbs to be planted around the upper hill monument sign.

Mayor Geller pulled Item 4(f) for discussion. He stated Mr. Van Brusselen is seeking a full refund for the 27 stormwater inspections on his property.

Mr. Van Brusselen stated the inspections may have been done but he does not feel it was warranted. He stated inspections were done October to April and he was charged for 27 inspections. He did not start his project before 9 inspections were already charged.

Councilmember Shuey asked Mr. Van Brusselen if he notified the City Engineer that he would not be starting his project until later. Mr. Van Brusselen responded he called City the PERMCO office and he never saw the City inspector.

Councilmember Stratford stated you were required to call the Engineer, and you said you called. He asked what the other requirements are for these types of projects?

The City Engineer stated once ground is broken staff has to make inspections every week and before, during, and after storm events (due to the NPDES permit). He stated this must be done until the time the project is complete. He stated the requirement is to call if you are not going to start work for a while after the approval of the project. He stated he has no record of Mr. Van Brusselen calling his office on this and if staff had received a phone call they would not have started inspections.

The City Engineer stated the Regional Water Quality Control Board (RWQCB) has many requirements and conditions for projects. He stated for example straw waddles must be placed at drains downstream from the project but Mr. Van Brusselen's case is unique because the project was below the grade of everything around it. He stated as far as the inspections go there is not much leeway. He stated in March he used discretion and stopped doing the inspections because he felt if he was questioned by the RWQCB he could argue the reason he stopped inspections.

Councilmember Shuey stated the inspections started in May 2011 and lasted until March 2011. The City Engineer stated the last inspection was on March 1<sup>st</sup> when he met with Mr. Van Brusselen on site and made the decision to stop the inspections.

The City Engineer stated notwithstanding the NPDES requirements, he used discretion to stop the inspections. He stated had he not done that the weekly inspections would have continued and Mr. Van Brusselen would have been billed and required to pay.

The City Manager noted that because of that discussion, Mr. Van Brusselen had already received relief.

Vice Mayor Medrano stated the total at issue is \$676.00.

Councilmember Shuey stated he would like to put this item on the next meeting. He stated unfortunately the RWQCB makes the rules and it seems as though the City Engineer was trying to do the right thing, but he wants more information on the requirements.

Vice Mayor Medrano suggested instead of spending more staff time preparing this item to just split the cost with Mr. Van Brusselen (\$334.08).

**It was moved by Vice Mayor Medrano, seconded by Councilmember Geller, to split the cost of the claim with Mr. Van Brusselen for \$334.08 (Passed; 4-0-1, Pierce abstained for conflict of interest because of her home's proximity to Mr. Van Brusselen's).**

**It was moved by Councilmember, seconded by Councilmember Shuey, seconded by Councilmember Stratford to approve the Consent Calendar excluding Item 4(f) (Passed; 5-0 vote).**

- (a) Approve the minutes of the regular meeting of August 7, 2012.
- (b) Approve the Financial Demands and Obligations of the City.
- (c) Adopted Resolution 58-2012 approving an amended City of Clayton Conflict of Interest Code pursuant to the Political Reform Act of 1974.
- (d) Adopted Resolution 59-2012 approving a 9 month Addendum No. 5 to the base MOU with the Clayton Police Officers Association (CPOA) to end June 30, 2013.
- (e) Adopted Resolution 60-2012 approving a Notice of Completion for the Clayton Road Median and Daffodil Hill Landscaping Projects (CIPs No. 10430 & 10431) and ordering the filing of the Notice of Completion.
- (f) Did not approve the rejection of a liability claim filed against the City by Mr. Jon Van Brusselen regarding stormwater inspection fees at 5851 Pine Hollow Road.
- (g) Adopted Resolution 61-2012 awarding and approving a 3-year contract in the initial amount of \$49,188.00 through December 31, 2013 with Pinnacle Residential Services for the property management and maintenance services of the Diablo Estates at Clayton Development (Subd. 8719), funded by the Diablo Estates at Clayton Benefit Assessment District.

## **5. RECOGNITIONS AND PRESENTATIONS**

- (a) Proclamation declaring September 22-28, 2012 as "Fall Prevention Awareness Week.

Emily Hopkins of the Fall Prevention Program for Contra Costa County accepted the Proclamation and invited citizens to the Walk for Fall Prevention in Pleasant Hill on September 22, 2012.

## **6. REPORTS**

- (a) Planning Commission – Commission Chair Keith Haydon reported on the September 11<sup>th</sup> Planning Commission meeting. He stated the Commission approved a Use Permit for AT&T antennas at a residence after the presentation of an acoustical study. He stated the second item was a development plan amendment by the Mitchell Creek Place Home Owners Association because they want to replace size and type of the trees in the property. He stated the third item was approval of exterior signage for the new Sherman Williams paint store in Clayton Station.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager had no report.
- (d) City Council

Councilmember Stratford met with the "Do The Right Thing" committee and the monthly trait is "Responsibility" in September and "Respect" in October. He stated at the October 16<sup>th</sup> Council meeting they would recognizing the selected students.

Vice Mayor Medrano attended a committee meeting of the Charter High School and noted student attendance rate is at 98% so far this school year.

Councilmember Pierce attended the Concerts in The Grove, the Mayors' Cook-off, ABAG meetings, two California Council of Cities meetings, a Transportation Authority meeting, a TRANSPAC meeting, the parade in honor of our Olympians, and lastly the Clayton Valley Charter High School ribbon cutting.

Councilmember Shuey attended the volunteer faire at the Charter High School and attended its Student Services Committee meeting.

Mayor Geller attended the Mayors' Conference and the Olympian Parade. He thanked Councilmember Pierce for working with the families of the Olympians and staff. He also thanked Jim Diaz for working with DVR to set up barricades and do crowd control. He stated the final Concert of the season raised nearly \$2200 making a total of nearly \$16,000 in community donates from the concerts this year. He also noted he got married.

(e) Other – Introduction of candidates present for City Council elected office.

Kevin Liberman stated he is running for City Council and has lived in the community for four years. He stated he is thrilled to live in a City that fosters an environment of culture and recreation. He stated he is running for City Council because he admires the culture that presents itself as a place to raise a family and he wants to maintain and enhance that culture. In addition he wants to promote and support the events and the overall landscape and business of Clayton. He stated he is well equipped to work with the Council and serve the best interests of Clayton.

Jim Diaz stated he is running for City Council. He thanked Mayor Geller for recognizing DVR for its help they continue to provide the City and CBCA. He stated he is a 33 year member of the community and a local business man. He stated his involvement started as a Clayton Police Department Reserve Officer. He is a member of the CBCA and the Vice President of Membership. He has been involved with the Art and Wine Festival, Oktoberfest, the Rib Cook-off, and the Clayton Classic golf tournament. He stated he has also been involved with the Concerts in The Grove Saturday and Thursday night concerts. He thanked the community for their support.

The seated incumbents declined to speak.

## **7. PUBLIC COMMENTS**

Deborah Mason stated she is running for the Mt. Diablo Unified School District School Board. She stated she attended the meetings last year regarding the Charter High School and did not believe that was the way to run business. She asked for the community's support.

8. **PUBLIC HEARINGS-** None.

9. **ACTION ITEMS**

- (a) Presentation of information by the Contra Costa County Fire Protection District regarding fire protection, suppression, and first-responder emergency medical services provided by the Fire District, and consideration of a City Council position on Ballot Measure Q, a special fire district parcel tax on the November 6, 2012 local ballot.

District Fire Chief Daryl Louder thanked the Council for the opportunity to be here this evening. He stated his presentation was to focus on the challenges the district is facing. He presented a powerpoint presentation outlining the services provided by the district and the fiscal problems the district is experiencing.

Councilmember Pierce asked why the redevelopment return to source money was not being included in the analysis? Chief Louder stated the District took a conservative approach because they do not know how much or when the money will be returned to them from redevelopment agencies. He also noted the numbers provided do not include savings from the Governor's pension reform.

Mayor Geller questioned the cost of the insurance increases for homes. Chief Louder stated the Insurance Services Organization (ISO) evaluates fire protection and unfortunately they do not have an exact formula for the rate increases. He stated it is believed the ISO will re-evaluate area insurance rates if the District closes stations.

Vice Mayor Medrano stated Clayton residents may not have insurance impacts due to other nearby situations.

Councilmember Shuey asked if this was just a stop-gap measure? Chief Louder stated the District has taken action to reduce their structural costs by having lower starting salary steps and there will be a significant impact based on the Governor's pension reform.

Councilmember Shuey asked for a response to the Contra Costa County Tax group's opposition to the measure. Chief Louder stated the District has made changes in pension, there has been a substantial reduction in benefits, and the County has been working on OPEB reductions. He stated the pension obligation bond will be paid of in year 10.

Chief Louder stated one station works well for medical responses but major fire events require multiple units, typically five. He stated if 10 fire stations close no community will be immune because the resources will have to be shifted.

Supervisor Karen Mitchoff stated she sits on Clayton's Oversight Board. She stated the County cannot use resources to promote the ballot measure but she stated if you have any questions please do not hesitate to contact her. She stated the Contra Costa Taxpayers Association is wrong. She stated Measure Q will not address structural issues but hopefully property taxes will rise. She stated the State has too found there is no money in Redevelopment and the goal of the District was to provide very conservative information as a way to see what the implications are. She stated in East County residents saw huge increase in their fire insurance premiums. She stated Contra Costa County has been a leader in pension reform. She stated all employees in the District have taken a 10% pay cut, and firefighters pay 25% of their gross pay towards their pension.

Councilmember Shuey noted he has not made up his mind on this issue.

Supervisor Mitchoff stated the Board is committed to continuing to make changes to benefits. She stated more information could be obtained at the following sites: [www.cccfpd.org](http://www.cccfpd.org) and [www.protectccfire.com](http://www.protectccfire.com)

Jack Verderame, local fireman, thanked the Chief for fighting to keep people safe. He stated he was uncomfortable listening to the conversation tonight. He stated the numbers can be twisted to make them look any which way but he is making the same salary he was in 2005. He also stated the District is very lean and he suggested the Council and citizens be informed and ask questions.

Carol Johlen and Laurie Gomez stated they are in support of Measure Q. She stated if stations close there will be slower response times and you cannot appreciate the speed of the response until you are waiting for it to arrive. Carol stated there was a Labor Day Fire on Margo Lane in Concord and because of the loss of a company at Station 6 there was an 8 minute response time and the home could not be saved. She stated people need to understand the slower response times have an impact.

Councilmember Pierce suggested the Council obtain additional information and bring it back to next meeting, though she is not sure it is the Council's job to take a position on this ballot measure.

This item was continued to the next meeting date to obtain more information.

- (b) Consideration of the award of contract to Everbrite, LLC in the amount of \$18,449.05 for the purchase of three (3) replacement multi-sport scoreboards for installation at the three sports fields in Clayton Community Park.

Maintenance Supervisor Johnston presented the staff report and stated the Council asked staff to research multi-sport scoreboards in January. He stated staff researched the cost of the scoreboards and the installation and included the costs of having each league using the boards having their own remote control.

Councilmember Shuey asked what the range was on the remotes? Maintenance Supervisor Johnston stated approximately 400 feet.

No public comments were received.

Councilmember Shuey asked how much money had been in the Deferred Maintenance Fund because he was not sure if this was the best use of the money?

The City Manager stated there was \$300,000 in the fund which was created by a General Fund excess in previous years. He stated staff did not prepare a prioritization list for this item: he stated it is coming back because the Council asked staff to research the options of the multi-sport scoreboards. He stated it comes down to what the Council wants the fields and park to look like. He stated the parking project was completed and the park is more attractive to the community and new scoreboards might enhance paid users.

In response to Council question, Maintenance Supervisor Johnston stated the lower field boards will get used but the scoreboards on the upper fields may not be used as much.

Councilmember Shuey stated the discussion for Little League has never been about where to play because of the scoreboards. He stated playing in Clayton is more expensive than the district schools which have no functioning scoreboards. He stated travel ball teams pay more and want scoreboards.

Councilmember Medrano asked if the Council would be opposed to having sponsors? The Council consensus was that sponsors could be sought to pay for the expense of the scoreboards.

The Council recessed at 9:35 p.m. and returned at 9:40 p.m.

The City Manager stated staff will go back and research adding panels for sponsors and the Council can continue to network for possible sponsors in the City for the lower-field scoreboard.

No action was taken.

- (c) Consideration of a Council Member request for the City Council to authorize the City Attorney to prepare for state legislator submittal a written request to the state attorney general seeking a legal opinion on whether it is an incompatible office for an elected member of the Clayton City Council to concurrently serve on the Clayton Valley Charter High School Executive [governing] Board.

Councilmember Shuey stated last year he started working on the Charter High School conversion process and was on its Steering Committee. That Committee would eventually become the Board. He was given an opinion by the City Attorney that serving on the Board and the Council would be incompatible offices but that the final determination would need to be made by the Attorney General. He stated he and Vice Mayor Medrano have been to all Executive Board meetings and feels it is important to get a definitive ruling. He stated he wants the City Attorney to draft the letter so that the right questions are asked. He stated you have to get elected to the board but he wants Councilmembers to have that opportunity.

Vice Mayor Medrano asked if the letter could be written under the retainer hours? The City Attorney responded yes.

Councilmember Stratford asked how Boardmembers are elected? Councilmember Shuey stated the parent/community seats are elected by the parents.

Councilmember Pierce stated she is torn on this. She stated she understands the passion for the Charter but asked if there a position for a City Council/ School District Liaison vs. a formal position.

Councilmember Shuey stated he just wants to get the opinion from the Attorney General. Vice Mayor Medrano stated it would not cost anything to have the City Attorney draft the letter.

**It was moved by Vice Mayor Medrano, seconded by Councilmember Shuey, to have the City Attorney draft a letter addressed to the Attorney General and bring it back to the Council for approval before submitting it to a State Legislator for transmittal (Passed; 5-0 vote).**

10. **COUNCIL ITEMS** – None.

11. **RECESS-** 10:17 p.m. The Council recessed the meeting until the conclusion of the Successor Agency meeting.

12. **CLOSED SESSION-** Mayor Geller announced the following purposes for Closed Session and then adjourned into Closed Session at 10:25 p.m.

(a) City Council

1. *Government Code Section 54956.9 (c)*, Conference with Legal Counsel.  
Consider Initiation of Litigation: One (1) Potential Case.

2. *Government Code Section 54956.9 (a)*, Conference with Legal Counsel.  
Pending Litigation: *City of Clayton and Oakhurst Geological Hazard Abatement District v. Municipal Pooling Authority of Northern California*, Case No. MSC10-03626, Superior Court of California, Contra Costa County.

3. *Government Code Section 54956.8*, Conference with Real Property Negotiator  
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 10:57 p.m.:** Mayor Geller reported the Council received information and gave direction to staff.

13. **ADJOURNMENT**– On call by Mayor Geller the meeting adjourned at 10:58 p.m.

Respectfully submitted,

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Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

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Howard Geller, Mayor



Agenda Date: 10/2/2012

Agenda Item: 4c

Approved:

Gary A. Napper  
City Manager/Executive Director

# STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: 9/28/2012

SUBJECT: INVOICE SUMMARY

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**RECOMMENDATION**

Approve the following Invoices.

|           |                                                |              |
|-----------|------------------------------------------------|--------------|
| 9/28/2012 | Cash Requirements Report                       | \$141,893.80 |
| 9/28/2012 | Invoices Paid in Advance of Meeting            | \$ 69,218.06 |
|           | CalPERS – Postings not paid in FY11/12 (audit) |              |

TOTAL REQUEST \$ **211,111.86**

Attachments:

Cash Requirements Report dated 9/28/2012 (5 pages)

CalPERS worksheets (7 pages)

# City of Clayton

## Cash Requirements Report

### City Council Meeting 10/2/12

| Vendor Name                                                  | Due Date  | Invoice Date | Invoice Number | Invoice Description                                                      | Invoice Balance    | Potential Discount | Discount Expires On | Net Amount Due     |
|--------------------------------------------------------------|-----------|--------------|----------------|--------------------------------------------------------------------------|--------------------|--------------------|---------------------|--------------------|
| <b>All City Management Services, Inc.</b>                    |           |              |                |                                                                          |                    |                    |                     |                    |
| All City Management Services, Inc.                           | 10/2/2012 | 8/31/2012    | 28133          | school crossing guard services                                           | \$139.50           | \$0.00             |                     | \$139.50           |
| All City Management Services, Inc.                           | 10/2/2012 | 9/14/2012    | 28297          | school crossing guard services                                           | \$395.25           | \$0.00             |                     | \$395.25           |
|                                                              |           |              |                | <b>Totals for All City Management Services, Inc.:</b>                    | <b>\$534.75</b>    | <b>\$0.00</b>      |                     | <b>\$534.75</b>    |
| <b>CalPERS Health</b>                                        |           |              |                |                                                                          |                    |                    |                     |                    |
| CalPERS Health                                               | 10/2/2012 | 9/17/2012    | 782            | health premium October 2012                                              | \$26,764.92        | \$0.00             |                     | \$26,764.92        |
|                                                              |           |              |                | <b>Totals for CalPERS Health:</b>                                        | <b>\$26,764.92</b> | <b>\$0.00</b>      |                     | <b>\$26,764.92</b> |
| <b>CalPERS Retirement</b>                                    |           |              |                |                                                                          |                    |                    |                     |                    |
| CalPERS Retirement                                           | 10/2/2012 | 9/19/2012    | 9/16/12        | retirement PPE 9/16/12                                                   | \$21,720.76        | \$0.00             |                     | \$21,720.76        |
|                                                              |           |              |                | <b>Totals for CalPERS Retirement:</b>                                    | <b>\$21,720.76</b> | <b>\$0.00</b>      |                     | <b>\$21,720.76</b> |
| <b>CCC Office of the Sheriff (ARIES)</b>                     |           |              |                |                                                                          |                    |                    |                     |                    |
| CCC Office of the Sheriff (ARIES)                            | 10/2/2012 | 9/4/2012     | 12/12 Clym     | ARIES Maintenance FY 12/13                                               | \$8,350.00         | \$0.00             |                     | \$8,350.00         |
|                                                              |           |              |                | <b>Totals for CCC Office of the Sheriff (ARIES):</b>                     | <b>\$8,350.00</b>  | <b>\$0.00</b>      |                     | <b>\$8,350.00</b>  |
| <b>CCC Office of the Sheriff, Forensic Services Division</b> |           |              |                |                                                                          |                    |                    |                     |                    |
| CCC Office of the Sheriff, Forensic Se                       | 10/2/2012 | 9/18/2012    | CLPD-1208      | toxicology/alcohol tests                                                 | \$1,000.00         | \$0.00             |                     | \$1,000.00         |
|                                                              |           |              |                | <b>Totals for CCC Office of the Sheriff, Forensic Services Division:</b> | <b>\$1,000.00</b>  | <b>\$0.00</b>      |                     | <b>\$1,000.00</b>  |
| <b>Cheyenne Electric Inc.</b>                                |           |              |                |                                                                          |                    |                    |                     |                    |
| Cheyenne Electric Inc.                                       | 10/2/2012 | 6/29/2012    | 6/22/12        | electrical work - lighting controller Main/Mars                          | \$695.00           | \$0.00             |                     | \$695.00           |
|                                                              |           |              |                | <b>Totals for Cheyenne Electric Inc.:</b>                                | <b>\$695.00</b>    | <b>\$0.00</b>      |                     | <b>\$695.00</b>    |
| <b>Christine Sheppard</b>                                    |           |              |                |                                                                          |                    |                    |                     |                    |
| Christine Sheppard                                           | 10/2/2012 | 9/26/2012    | EH Rental      | deposit refund                                                           | \$500.00           | \$0.00             |                     | \$500.00           |
|                                                              |           |              |                | <b>Totals for Christine Sheppard:</b>                                    | <b>\$500.00</b>    | <b>\$0.00</b>      |                     | <b>\$500.00</b>    |
| <b>City of Concord</b>                                       |           |              |                |                                                                          |                    |                    |                     |                    |
| City of Concord                                              | 10/2/2012 | 9/7/2012     | 29697          | dispatch and computer services for September                             | \$13,285.00        | \$0.00             |                     | \$13,285.00        |
| City of Concord                                              | 10/2/2012 | 9/20/2012    | 29728          | vehicle maintenance                                                      | \$264.52           | \$0.00             |                     | \$264.52           |
| City of Concord                                              | 10/2/2012 | 9/20/2012    | 29709          | printing services                                                        | \$39.00            | \$0.00             |                     | \$39.00            |
|                                                              |           |              |                | <b>Totals for City of Concord:</b>                                       | <b>\$13,588.52</b> | <b>\$0.00</b>      |                     | <b>\$13,588.52</b> |
| <b>Comcast</b>                                               |           |              |                |                                                                          |                    |                    |                     |                    |
| Comcast                                                      | 10/2/2012 | 9/5/2012     | 9/5            | high speed internet                                                      | \$392.48           | \$0.00             |                     | \$392.48           |
|                                                              |           |              |                | <b>Totals for Comcast:</b>                                               | <b>\$392.48</b>    | <b>\$0.00</b>      |                     | <b>\$392.48</b>    |
| <b>Concord Garden Equipment</b>                              |           |              |                |                                                                          |                    |                    |                     |                    |
| Concord Garden Equipment                                     | 10/2/2012 | 5/7/2012     | 426781         | rope                                                                     | \$7.56             | \$0.00             |                     | \$7.56             |
| Concord Garden Equipment                                     | 10/2/2012 | 12/1/2011    | 419186         | STihl stick hedger                                                       | \$51.00            | \$0.00             |                     | \$51.00            |
| Concord Garden Equipment                                     | 10/2/2012 | 12/1/2011    | 419185         | Stihl line trimmer                                                       | \$97.50            | \$0.00             |                     | \$97.50            |
| Concord Garden Equipment                                     | 10/2/2012 | 12/1/2011    | 419184         | Stihl stick hedger and labor                                             | \$211.04           | \$0.00             |                     | \$211.04           |
| Concord Garden Equipment                                     | 10/2/2012 | 12/1/2011    | 419183         | Stihl stick hedger76.16                                                  | \$76.16            | \$0.00             |                     | \$76.16            |

# City of Clayton

## Cash Requirements Report

### City Council Meeting 10/2/12

| Vendor Name                                 | Due Date  | Invoice Date | Invoice Number | Invoice Description                                     | Invoice Balance   | Potential Discount Expires On | Net Amount Due    |
|---------------------------------------------|-----------|--------------|----------------|---------------------------------------------------------|-------------------|-------------------------------|-------------------|
| Concord Garden Equipment                    | 10/2/2012 | 8/21/2012    | 432969         | filler caps, purge bulb                                 | \$53.96           | \$0.00                        | \$53.96           |
| Concord Garden Equipment                    | 10/2/2012 | 8/16/2012    | 432721         | chainsaw/blower                                         | \$672.61          | \$0.00                        | \$672.61          |
| Concord Garden Equipment                    | 10/2/2012 | 7/25/2012    | 431427         | Stihl hedgetrimmer/labor                                | \$540.88          | \$0.00                        | \$540.88          |
| Concord Garden Equipment                    | 10/2/2012 | 7/25/2012    | 431428         | parts                                                   | \$225.91          | \$0.00                        | \$225.91          |
| Concord Garden Equipment                    | 10/2/2012 | 12/1/2011    | 419188         | grinding stones, articulating hedger                    | \$545.12          | \$0.00                        | \$545.12          |
| Concord Garden Equipment                    | 10/2/2012 | 6/26/2012    | 429905         | T wrench 19mmx10mm                                      | \$16.15           | \$0.00                        | \$16.15           |
|                                             |           |              |                | <b>Totals for Concord Garden Equipment:</b>             | <b>\$2,497.89</b> | <b>\$0.00</b>                 | <b>\$2,497.89</b> |
| <b>Cop Shop Installations Inc</b>           |           |              |                |                                                         |                   |                               |                   |
| Cop Shop Installations Inc                  | 10/2/2012 | 9/19/2012    | 4575           | vehicle # 1723 removal of all public safety eq          | \$350.00          | \$0.00                        | \$350.00          |
|                                             |           |              |                | <b>Totals for Cop Shop Installations Inc:</b>           | <b>\$350.00</b>   | <b>\$0.00</b>                 | <b>\$350.00</b>   |
| <b>CSAC Excess Insurance Authority</b>      |           |              |                |                                                         |                   |                               |                   |
| CSAC Excess Insurance Authority             | 10/2/2012 | 10/2/2012    | 1340773-JN     | October-December 2012                                   | \$312.00          | \$0.00                        | \$312.00          |
|                                             |           |              |                | <b>Totals for CSAC Excess Insurance Authority:</b>      | <b>\$312.00</b>   | <b>\$0.00</b>                 | <b>\$312.00</b>   |
| <b>Delta Bay Concrete Cutting</b>           |           |              |                |                                                         |                   |                               |                   |
| Delta Bay Concrete Cutting                  | 10/2/2012 | 8/16/2012    | 31103          | core drill concrete slab hole                           | \$325.00          | \$0.00                        | \$325.00          |
|                                             |           |              |                | <b>Totals for Delta Bay Concrete Cutting:</b>           | <b>\$325.00</b>   | <b>\$0.00</b>                 | <b>\$325.00</b>   |
| <b>Diablo View Construction</b>             |           |              |                |                                                         |                   |                               |                   |
| Diablo View Construction                    | 10/2/2012 | 9/18/2012    | 05298G         | deposit refund                                          | \$500.00          | \$0.00                        | \$500.00          |
|                                             |           |              |                | <b>Totals for Diablo View Construction:</b>             | <b>\$500.00</b>   | <b>\$0.00</b>                 | <b>\$500.00</b>   |
| <b>EC Builders Inc</b>                      |           |              |                |                                                         |                   |                               |                   |
| EC Builders Inc                             | 10/2/2012 | 9/18/2012    | 025617         | refund deposit                                          | \$500.00          | \$0.00                        | \$500.00          |
|                                             |           |              |                | <b>Totals for EC Builders Inc:</b>                      | <b>\$500.00</b>   | <b>\$0.00</b>                 | <b>\$500.00</b>   |
| <b>Jarvis Fay Doporto &amp; Gibson, LLP</b> |           |              |                |                                                         |                   |                               |                   |
| Jarvis Fay Doporto & Gibson, LLP            | 10/2/2012 | 9/21/2012    | 9/21/12        | Chevron Property Tax Refund Dispute August              | \$57.23           | \$0.00                        | \$57.23           |
|                                             |           |              |                | <b>Totals for Jarvis Fay Doporto &amp; Gibson, LLP:</b> | <b>\$57.23</b>    | <b>\$0.00</b>                 | <b>\$57.23</b>    |
| <b>John Deere Landscapes Inc</b>            |           |              |                |                                                         |                   |                               |                   |
| John Deere Landscapes Inc                   | 10/2/2012 | 8/30/2012    | 62592322       | 3 x 2 reducer bushing flush                             | \$280.28          | \$0.00                        | \$280.28          |
|                                             |           |              |                | <b>Totals for John Deere Landscapes Inc:</b>            | <b>\$280.28</b>   | <b>\$0.00</b>                 | <b>\$280.28</b>   |
| <b>LarryLogic Productions</b>               |           |              |                |                                                         |                   |                               |                   |
| LarryLogic Productions                      | 10/2/2012 | 9/19/2012    | 1275           | city council meeting 9/18/12                            | \$450.00          | \$0.00                        | \$450.00          |
| LarryLogic Productions                      | 10/2/2012 | 8/23/2012    | 1270           | City Council Meeting 8/21/12                            | \$400.00          | \$0.00                        | \$400.00          |
|                                             |           |              |                | <b>Totals for LarryLogic Productions:</b>               | <b>\$850.00</b>   | <b>\$0.00</b>                 | <b>\$850.00</b>   |
| <b>Marken Mechanical Services Inc</b>       |           |              |                |                                                         |                   |                               |                   |
| Marken Mechanical Services Inc              | 10/2/2012 | 9/12/2012    | 412-1148-7     | city hall maintenance July 2012                         | \$332.50          | \$0.00                        | \$332.50          |
| Marken Mechanical Services Inc              | 10/2/2012 | 9/12/2012    | 412-1151-9     | City Hall Maintenance September 2012                    | \$150.00          | \$0.00                        | \$150.00          |
| Marken Mechanical Services Inc              | 10/2/2012 | 9/12/2012    | 412-1152-9     | Community Library Maintenance September 2               | \$150.00          | \$0.00                        | \$150.00          |

# City of Clayton

## Cash Requirements Report

### City Council Meeting 10/2/12

| Vendor Name                           | Due Date  | Invoice Date | Invoice Number | Invoice Description                               | Invoice Balance    | Potential Discount Expires On | Discount | Net Amount Due     |
|---------------------------------------|-----------|--------------|----------------|---------------------------------------------------|--------------------|-------------------------------|----------|--------------------|
| Marken Mechanical Services Inc        | 10/2/2012 | 9/12/2012    | 412-1147-7     | Endeavor Hall maintenance July 2012               | \$247.00           | \$0.00                        | \$0.00   | \$247.00           |
| Marken Mechanical Services Inc        | 10/2/2012 | 9/12/2012    | 412-1146-7     | Clayton Comm Library Maintenance July 201         | \$502.17           | \$0.00                        | \$0.00   | \$502.17           |
|                                       |           |              |                | <i>Totals for Marken Mechanical Services Inc:</i> | <i>\$1,381.67</i>  | <i>\$0.00</i>                 |          | <i>\$1,381.67</i>  |
| <b>Municipal Pooling Authority</b>    |           |              |                |                                                   |                    |                               |          |                    |
| Municipal Pooling Authority           | 10/2/2012 | 8/20/2012    | B1203A         | Installment #2 Workers' Compensation Premi        | \$16,372.00        | \$0.00                        | \$0.00   | \$16,372.00        |
|                                       |           |              |                | <i>Totals for Municipal Pooling Authority:</i>    | <i>\$16,372.00</i> | <i>\$0.00</i>                 |          | <i>\$16,372.00</i> |
| <b>NBS Govt. Finance Group</b>        |           |              |                |                                                   |                    |                               |          |                    |
| NBS Govt. Finance Group               | 10/2/2012 | 9/20/2012    | 91200176       | CFD Administration                                | \$4,970.53         | \$0.00                        | \$0.00   | \$4,970.53         |
|                                       |           |              |                | <i>Totals for NBS Govt. Finance Group:</i>        | <i>\$4,970.53</i>  | <i>\$0.00</i>                 |          | <i>\$4,970.53</i>  |
| <b>Neopost Leasing (Mail Finance)</b> |           |              |                |                                                   |                    |                               |          |                    |
| Neopost Leasing (Mail Finance)        | 10/2/2012 | 9/23/2012    | N3544516       | lease pmt Oct-Nov 2012                            | \$222.02           | \$0.00                        | \$0.00   | \$222.02           |
|                                       |           |              |                | <i>Totals for Neopost Leasing (Mail Finance):</i> | <i>\$222.02</i>    | <i>\$0.00</i>                 |          | <i>\$222.02</i>    |
| <b>Pacific Telemanagement Svc</b>     |           |              |                |                                                   |                    |                               |          |                    |
| Pacific Telemanagement Svc            | 10/2/2012 | 9/1/2012     | 433246         | October Pay Phone Bill - Courtyard                | \$73.00            | \$0.00                        | \$0.00   | \$73.00            |
|                                       |           |              |                | <i>Totals for Pacific Telemanagement Svc:</i>     | <i>\$73.00</i>     | <i>\$0.00</i>                 |          | <i>\$73.00</i>     |
| <b>PERMCO, Inc.</b>                   |           |              |                |                                                   |                    |                               |          |                    |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9834           | Retainer - General Services                       | \$2,596.00         | \$0.00                        | \$0.00   | \$2,596.00         |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9835           | CCWD - EP                                         | \$41.50            | \$0.00                        | \$0.00   | \$41.50            |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9836           | General Stormwater Tasks/Inspections              | \$915.00           | \$0.00                        | \$0.00   | \$915.00           |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9837           | Diablo Pointe Plan Check                          | \$539.50           | \$0.00                        | \$0.00   | \$539.50           |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9838           | Diablo Pointe Construction Inspection             | \$1,909.00         | \$0.00                        | \$0.00   | \$1,909.00         |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9839           | Clayton Road Median Landscape Project             | \$1,769.00         | \$0.00                        | \$0.00   | \$1,769.00         |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9840           | Dafodil Hill                                      | \$366.00           | \$0.00                        | \$0.00   | \$366.00           |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9841           | Diablo Estates BAD Admin                          | \$2,175.00         | \$0.00                        | \$0.00   | \$2,175.00         |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9842           | KellerRidge Sidewalk Drains                       | \$114.38           | \$0.00                        | \$0.00   | \$114.38           |
| PERMCO, Inc.                          | 10/2/2012 | 9/21/2012    | 9843           | GHAD - Kelok Wells                                | \$431.75           | \$0.00                        | \$0.00   | \$431.75           |
|                                       |           |              |                | <i>Totals for PERMCO, Inc.:</i>                   | <i>\$10,857.13</i> | <i>\$0.00</i>                 |          | <i>\$10,857.13</i> |
| <b>PG&amp;E</b>                       |           |              |                |                                                   |                    |                               |          |                    |
| PG&E                                  | 10/2/2012 | 9/14/2012    | 09/12          | September billing 1199663768-9                    | \$566.99           | \$0.00                        | \$0.00   | \$566.99           |
| PG&E                                  | 10/2/2012 | 9/21/2012    | 9/2012         | September Service #1218096305-5                   | \$2,740.51         | \$0.00                        | \$0.00   | \$2,740.51         |
| PG&E                                  | 10/2/2012 | 9/20/2012    | 9/12           | service                                           | \$356.99           | \$0.00                        | \$0.00   | \$356.99           |
|                                       |           |              |                | <i>Totals for PG&amp;E:</i>                       | <i>\$3,664.49</i>  | <i>\$0.00</i>                 |          | <i>\$3,664.49</i>  |
| <b>Prosperitas Wealth Management</b>  |           |              |                |                                                   |                    |                               |          |                    |
| Prosperitas Wealth Management         | 10/2/2012 | 9/26/2012    | 025608         | deposit refund                                    | \$101.00           | \$0.00                        | \$0.00   | \$101.00           |
|                                       |           |              |                | <i>Totals for Prosperitas Wealth Management:</i>  | <i>\$101.00</i>    | <i>\$0.00</i>                 |          | <i>\$101.00</i>    |
| <b>Quill Corp.</b>                    |           |              |                |                                                   |                    |                               |          |                    |
| Quill Corp.                           | 10/2/2012 | 9/17/2012    | 54039          | cash receipt books                                | \$129.79           | \$0.00                        | \$0.00   | \$129.79           |

# City of Clayton

## Cash Requirements Report

### City Council Meeting 10/2/12

| Vendor Name                                  | Due Date  | Invoice Date | Invoice Number | Invoice Description                                      | Invoice Balance    | Potential Discount | Discount Expires On | Net Amount Due     |
|----------------------------------------------|-----------|--------------|----------------|----------------------------------------------------------|--------------------|--------------------|---------------------|--------------------|
| <b>Raney Planning &amp; Management, Inc.</b> |           |              |                |                                                          |                    |                    |                     |                    |
| Raney Planning & Management, Inc.            | 10/2/2012 | 9/11/2012    | 1108P-10       | Labor - August 2012                                      | \$4,590.00         | \$0.00             |                     | \$4,590.00         |
|                                              |           |              |                | <i>Totals for Raney Planning &amp; Management, Inc.:</i> | <i>\$4,590.00</i>  | <i>\$0.00</i>      |                     | <i>\$4,590.00</i>  |
| <b>Riso Products of Sacramento</b>           |           |              |                |                                                          |                    |                    |                     |                    |
| Riso Products of Sacramento                  | 10/2/2012 | 9/13/2012    | 96714          | SH-10 Staples                                            | \$72.53            | \$0.00             |                     | \$72.53            |
|                                              |           |              |                | <i>Totals for Riso Products of Sacramento:</i>           | <i>\$72.53</i>     | <i>\$0.00</i>      |                     | <i>\$72.53</i>     |
| <b>Rock &amp; Waterfall Co</b>               |           |              |                |                                                          |                    |                    |                     |                    |
| Rock & Waterfall Co                          | 10/2/2012 | 9/5/2012     | 107-98         | replacement breaker                                      | \$356.08           | \$0.00             |                     | \$356.08           |
|                                              |           |              |                | <i>Totals for Rock &amp; Waterfall Co:</i>               | <i>\$356.08</i>    | <i>\$0.00</i>      |                     | <i>\$356.08</i>    |
| <b>US Bank Corp Pymt System (Cal Card)</b>   |           |              |                |                                                          |                    |                    |                     |                    |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Neopost - lease payment                                  | \$222.02           | \$0.00             |                     | \$222.02           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Supplies                                                 | \$914.16           | \$0.00             |                     | \$914.16           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Chief Recruitment fees and supplies                      | \$910.08           | \$0.00             |                     | \$910.08           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Abadar.com - band replacement tent - concert             | \$1,250.40         | \$0.00             |                     | \$1,250.40         |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Geoconsultants - well monitoring 7/12                    | \$1,546.50         | \$0.00             |                     | \$1,546.50         |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | CA Newspapers - ad for affordable housing                | \$350.00           | \$0.00             |                     | \$350.00           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | OSH - supplies, brushes, drain opener, cable t           | \$260.63           | \$0.00             |                     | \$260.63           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Home Depot/Autozone - streetlight supplies               | \$172.82           | \$0.00             |                     | \$172.82           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | AutoZone, Monument, WC Ford - auto suppl                 | \$511.38           | \$0.00             |                     | \$511.38           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | Vehicle Gas                                              | \$1,367.81         | \$0.00             |                     | \$1,367.81         |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | National Sign - parts - arrowboards                      | \$1,616.96         | \$0.00             |                     | \$1,616.96         |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | landscape fuel                                           | \$850.81           | \$0.00             |                     | \$850.81           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | spare keys, batteries, fingerprint ink                   | \$198.43           | \$0.00             |                     | \$198.43           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | certified letters, postage                               | \$116.79           | \$0.00             |                     | \$116.79           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | CA Dept of Gen Svcs - Legal sourcebook                   | \$85.00            | \$0.00             |                     | \$85.00            |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | flashlight parts, camera clips                           | \$169.80           | \$0.00             |                     | \$169.80           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | car washes, battery jump starter, seat belt exte         | \$341.94           | \$0.00             |                     | \$341.94           |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | vehicle gas                                              | \$2,934.90         | \$0.00             |                     | \$2,934.90         |
| US Bank Corp Pymt System (Cal Card)          | 10/2/2012 | 8/22/2012    | 8/22/12        | supplies- landscape tools, batteries, sawzall bl         | \$622.30           | \$0.00             |                     | \$622.30           |
|                                              |           |              |                | <i>Totals for US Bank Corp Pymt System (Cal Card):</i>   | <i>\$14,442.73</i> | <i>\$0.00</i>      |                     | <i>\$14,442.73</i> |
| <b>Warner Brothers Tree Service</b>          |           |              |                |                                                          |                    |                    |                     |                    |
| Warner Brothers Tree Service                 | 10/2/2012 | 7/30/2012    | 9921           | Tree work - CCP - Poplar Treea                           | \$2,400.00         | \$0.00             |                     | \$2,400.00         |
| Warner Brothers Tree Service                 | 10/2/2012 | 7/30/2012    | 9922           | Tree work - Old Marsh Creek Road & Clayton               | \$600.00           | \$0.00             |                     | \$600.00           |
| Warner Brothers Tree Service                 | 10/2/2012 | 7/30/2012    | 9923           | Tree work - Clayton Road and Myrick Court                | \$1,600.00         | \$0.00             |                     | \$1,600.00         |
|                                              |           |              |                | <i>Totals for Warner Brothers Tree Service:</i>          | <i>\$4,600.00</i>  | <i>\$0.00</i>      |                     | <i>\$4,600.00</i>  |
| <b>Western Exterminator</b>                  |           |              |                |                                                          |                    |                    |                     |                    |
| Western Exterminator                         | 10/2/2012 | 8/31/2012    | 660465         | August 2012                                              | \$342.00           | \$0.00             |                     | \$342.00           |

**City of Clayton**  
**Cash Requirements Report**  
City Council Meeting 10/2/12

| Vendor Name            | Due Date  | Invoice Date | Invoice Number | Invoice Description         | Invoice Balance     | Potential Discount | Discount Expires On | Net Amount Due      |
|------------------------|-----------|--------------|----------------|-----------------------------|---------------------|--------------------|---------------------|---------------------|
| <b>William Orlando</b> |           |              |                |                             |                     |                    |                     |                     |
| William Orlando        | 10/2/2012 | 9/17/2012    | 9/15/12        | rental deposit refund       | \$500.00            | \$0.00             |                     | \$500.00            |
|                        |           |              |                | Totals for William Orlando: | \$500.00            | \$0.00             |                     | \$500.00            |
|                        |           |              |                | <b>GRAND TOTALS:</b>        | <b>\$141,893.80</b> | <b>\$0.00</b>      |                     | <b>\$141,893.80</b> |

9/19/2012

To: CalPERS  
400 P Street  
Sacramento, CA 95809 1982

|                |                      |                    |               |                    |
|----------------|----------------------|--------------------|---------------|--------------------|
| 9/4/2011       | CalPers PPE 9/4/11   | \$4,115.33         | \$0.00        | \$4,115.33 ✓       |
| 9/4/2011       | CalPers PPE 9/4/11   | \$2,387.98         | \$0.00        | \$2,387.98 ✓       |
| 9/4/2011       | CalPers PPE 9/4/11   | \$1,213.08         | \$0.00        | \$1,213.08 ✓       |
| 9/4/2011       | CalPers PPE 9/4/11   | \$13,453.00        | \$0.00        | \$13,453.00 ✓      |
| 9/4/2011       | CalPers PPE 9/4/11   | \$992.98           | \$0.00        | \$992.98 ✓         |
| 9/4/2011       | CalPers PPE 9/4/11   | \$10.23            | \$0.00        | \$10.23 ✓          |
| 9/4/2011       | CalPers PPE 9/4/11   | \$13.02            | \$0.00        | \$13.02 ✓          |
| 12/25/2011     | CalPers PPE12/25/11  | \$4,090.76         | \$0.00        | \$4,090.76 ✓       |
| 12/25/2011     | CalPers PPE12/25/11  | \$2,387.98         | \$0.00        | \$2,387.98 ✓       |
| 12/25/2011     | CalPers PPE12/25/11  | \$1,213.08         | \$0.00        | \$1,213.08 ✓       |
| 12/25/2011     | CalPers PPE12/25/11  | \$15,501.71        | \$0.00        | \$15,501.71 ✓      |
| 12/25/2011     | CalPers PPE12/25/11  | \$1,194.84         | \$0.00        | \$1,194.84 ✓       |
| 12/25/2011     | CalPers PPE12/25/11  | \$10.23            | \$0.00        | \$10.23 ✓          |
| 12/25/2011     | CalPers PPE12/25/11  | \$13.02            | \$0.00        | \$13.02 ✓          |
| 1/8/2012       | CalPers PPE 01/08/12 | \$4,090.76         | \$0.00        | \$4,090.76 ✓       |
| 1/8/2012       | CalPers PPE 01/08/12 | \$2,387.98         | \$0.00        | \$2,387.98 ✓       |
| 1/8/2012       | CalPers PPE 01/08/12 | \$1,213.08         | \$0.00        | \$1,213.08 ✓       |
| 1/8/2012       | CalPers PPE 01/08/12 | \$13,486.18        | \$0.00        | \$13,486.18 ✓      |
| 1/8/2012       | CalPers PPE 01/08/12 | \$988.22           | \$0.00        | \$988.22 ✓         |
| 1/8/2012       | CalPers PPE 01/08/12 | \$10.23            | \$0.00        | \$10.23 ✓          |
| 1/8/2012       | CalPers PPE 01/08/12 | \$13.02            | \$0.00        | \$13.02 ✓          |
| 1/8/2012       | CalPers PPE 01/08/12 | \$426.72           | \$0.00        | \$426.72 ✓         |
| 1/8/2012       | CalPers PPE 01/08/12 | \$4.63             | \$0.00        | \$4.63 ✓           |
| <b>Totals:</b> |                      | <b>\$69,218.06</b> | <b>\$0.00</b> | <b>\$69,218.06</b> |

PAID-EFT/ACH

Initial

Initial

\* 9/19/2012 9100175

\*\*Sixty nine thousand two hundred eighteen and 06/100 Dollars\*\*

\$\*\* 69,218.06

CalPERS  
400 P Street  
Sacramento, CA 95809 1982

06 ✓



Home Profile Reporting Person Information Education Other Organizations  
Manage Reports Billing and Payments Payroll Schedule Member Requests Health Reconciliation

Common Tasks

Menu

Billing and Payments  
Super Funded Accounts  
Payment Accounts

Name: City of Clayton CalPERS ID: 2376421225

Payment Request Acceptance

Your request for payment has been accepted.

- Please print this page for your records.
- If you need to contact us with questions regarding this payment, please have your Payment Confirmation Number for faster access.
- Your payment will be reflected in your CalPERS account once the payment has been received by CalPERS.
- Your payment account may take longer to post, depending upon your Financial Institution. Once your payment is processed, CalPERS will send a confirmation email to the email address in your profile.

Payment Setup Total

Total Payment Amount: \$69,218.06

Payment Summary

| Payment Confirmation Number | Payment Authorization Date | Receivable ID   | Receivable Description                          | Payment Method | Payment Account Nickname | Selected Payment Amount |
|-----------------------------|----------------------------|-----------------|-------------------------------------------------|----------------|--------------------------|-------------------------|
| 1000242433                  | 09/18/2012                 | 100000010003464 | Employer Contribution, 9223, CalPERS, 2011/2012 | EFT - Debit    | Paying ACH               | \$20,160.58             |
| 1000242434                  | 09/18/2012                 | 100000010003465 | Employer Contribution, 9225, CalPERS, 2011/2012 | EFT - Debit    | Paying ACH               | \$49,057.48             |

9/100/175

| City of Clayton             |                 |                |                 |         |             |               |            |                |
|-----------------------------|-----------------|----------------|-----------------|---------|-------------|---------------|------------|----------------|
| CALPERS Retirement Payments |                 |                |                 |         |             |               |            |                |
| PPE                         | Amount          |                | Paid Date       | ACH#    | REF#        |               |            |                |
| 7/16/2011                   | \$ 24,735.45    |                | 8/3/2011        | 9100089 | 10039239056 | Manual Ck     |            |                |
| 7/24/2011                   | \$ 22,204.36    |                | 8/22/2011       | 9100899 | 1003455056  | Manual Ck     |            |                |
| 8/9/2011                    | \$ 22,824.64    |                | 8/23/2011       | 9100897 | 11038536056 | Manual Ck     |            |                |
| 8/23/2011                   | \$ 22,121.15    |                | 9/2/2011        | 9100102 | 11099982056 | Manual Ck     |            |                |
| 9/18/2011                   | \$ 22,144.46    |                |                 | 9100113 |             |               |            |                |
| 10/2/2011                   | \$ 22,159.70    |                |                 | 9100114 | 1000023093  | \$ 58,942.16  |            |                |
| 10/2/2011                   | \$ 426.72       |                |                 | 9100115 | 1000023094  | \$ 74,126.66  |            |                |
| 10/16/2011                  | \$ 22,128.02    |                |                 | 9100116 |             | \$ 133,068.82 |            |                |
| 10/30/2011                  | \$ 22,177.70    |                | 12/6/2011       | 9100117 |             |               |            |                |
| 11/13/2011                  | \$ 22,156.16    |                | 12/6/2011       | 9100119 |             |               |            |                |
| 11/27/2011                  | \$ 22,248.32    |                | 12/6/2011       | 9100120 |             |               |            |                |
| 12/1/2011                   | \$ (372.26)     |                |                 |         |             |               |            |                |
| 12/11/2011                  | \$ 22,146.10    |                | 12/20/2011      | 9100121 | 1000074012  | 1000074011    |            |                |
| 12/13/2011                  | \$ 22,185.41    |                | 12/20/2011      | 9100122 |             |               |            |                |
| 12/13/2011                  | \$ 22,185.41    |                | 12/20/2011      | 9100123 |             |               |            |                |
| 12/13/2011                  | \$ 426.72       |                | 12/20/2011      | 9100124 |             |               |            |                |
| 1/22/2012                   | \$ 21,993.32    |                | 4/5/2012        | 9100136 |             |               |            |                |
| 2/5/2012                    | \$ 21,993.32    |                | 4/5/2012        | 9100136 |             |               |            |                |
| 2/19/2012                   | \$ 21,993.32    |                | 4/5/2012        | 9100136 | 1000196253  | \$ 41,345.72  |            |                |
| 3/4/2012                    | \$ 21,993.32    |                | 4/5/2012        | 9100136 | 1000196254  | \$ 83,000.43  |            |                |
| 3/18/2012                   | \$ 21,993.32    |                | 4/5/2012        | 9100136 |             | \$ 111,847.15 |            |                |
| 4/1/2012                    | \$ 21,993.32    |                |                 | 9100139 | 1000199325  |               |            |                |
| 4/1/2012                    | \$ 21,993.32    |                |                 | 9100139 | 1000993353  | \$ 20,401.95  | 1000199326 |                |
| 4/15/2012                   | \$ 21,993.32    |                | 4/18/2012       | 9100138 | 1000199354  |               |            |                |
| 4/29/2012                   | \$ 21,986.44    |                | 5/15/2012       | 9100146 | 1000207322  | 1000207321    |            |                |
| 5/13/2012                   | \$ 21,993.32    |                | 6/28/2012       | 9100149 | 100216601   |               | \$ 321.43  | 9224           |
| 5/27/2012                   | \$ 21,993.32    |                | 6/28/2012       | 9100149 | 1000216600  | 1000216602    |            |                |
| 6/10/2012                   | \$ 21,124.90    |                | 7/6/2012        | 9100150 | 1000219821  | 1000219822    | 1000219823 | \$ 157.20 9224 |
| 6/24/2012                   | \$ 21,105.87    |                | 7/12/2012       | 9100152 | 10002879    | 10003464      | 10003465   | \$ 157.20 9224 |
|                             |                 |                |                 |         |             |               | \$ 635.83  | 9224           |
|                             | \$ 511,384.65   | \$ 69,213.41   | \$ 580,598.06   |         |             |               |            |                |
| CalPERS                     | \$ (511,384.65) | \$ (69,218.06) | \$ (580,602.71) |         |             |               |            |                |
| Difference                  | \$ -            | \$ (4.65)      | \$ (4.65)       |         |             |               |            |                |

**Vendor #201****CalPERS - Retirement**

(State of California Public Employee's Retirement System)

Earned Period Dates: 8/22/11 9/4/11

Debit Date:

Pay date: 09/07/11

Paid Reference #:

Payment Due  
to PERS by: 09/22/11**City Council****Dept Totals Account #****Admin**

|                    |          |                 |             |
|--------------------|----------|-----------------|-------------|
| Cupit, Lynn        | 259.88   |                 |             |
| Hoffmeister, Laura | 645.82   |                 |             |
| Howe, Rita         | 391.82   |                 |             |
| Jackson, Laci      | 571.88   |                 |             |
| Napper, Gary       | 1,479.91 |                 |             |
| Pelletier, Merry   | 766.03   | <b>4,115.33</b> | 101-7220-02 |

**Public Works**

|                |        |                 |             |
|----------------|--------|-----------------|-------------|
| Arias, Sandro  | 398.55 |                 |             |
| Bryce, Edward  | 472.29 |                 |             |
| Janney, Mark   | 572.38 |                 |             |
| Johnston, Dan  | 372.37 |                 |             |
| Johnston, John | 572.38 | <b>2,387.98</b> | 101-7220-03 |

**Comm Dev**

|                  |        |                 |             |
|------------------|--------|-----------------|-------------|
| Sikela, Milan    | 343.13 |                 |             |
| Woltering, David | 869.95 | <b>1,213.08</b> | 101-7220-04 |

**Police Dept**

|                   |          |                  |             |
|-------------------|----------|------------------|-------------|
| Billington, Daren | 1,022.40 |                  |             |
| Christ, Lynn      | 442.78   |                  |             |
| Dansie, Scott     | 1,429.82 |                  |             |
| DeCoite, Shanna   | 1,002.67 |                  |             |
| Enea II, Rich     | 1,228.03 |                  |             |
| Lawrence, Dan     | 1,913.96 |                  |             |
| Marchut, Tim      | 1,257.10 |                  |             |
| McEachin, Rich    | 1,288.69 |                  |             |
| Pike, Allan       | 1,160.93 |                  |             |
| Roden, Wendy      | 360.00   |                  |             |
| Shaw, Jason       | 1,149.80 |                  |             |
| White, Allen      | 1,196.81 | <b>13,453.00</b> | 101-7220-06 |

|               |        |               |                                |
|---------------|--------|---------------|--------------------------------|
| Sorrell, Todd | 992.98 | <b>992.98</b> | 230-7220-06 #6020 Other / COPS |
|---------------|--------|---------------|--------------------------------|

|                   |      |       |              |             |
|-------------------|------|-------|--------------|-------------|
| Survivor Benefits | PD   | 10.23 | <b>10.23</b> | 101-2206-00 |
| Survivor Benefits | Misc | 13.02 | <b>13.02</b> | 101-7246-02 |

**Total****22,185.61**

Merry Pelletier 9-19-12  
Authorized By Date

[Signature] 09-26-12  
City Mgr Approval Date

Vendor #201

**CalPERS - Retirement**

(State of California Public Employee's Retirement System)

Earned Period:

~~12/26/11~~ ~~01/08/12~~  
12/12/11 - 12/25/11

Debit Date: \_\_\_\_\_

Pay date

01/11/12

Payment Due  
to PERS by

01/26/12

Paid Reference #: \_\_\_\_\_

**Admin**

|                    |                 |             |
|--------------------|-----------------|-------------|
| Cupit, Lynn        | 235.31          |             |
| Hoffmeister, Laura | 645.82          |             |
| Howe, Rita         | 391.82          |             |
| Jackson, Laci      | 571.88          |             |
| Napper, Gary       | 1,479.91        |             |
| Pelletier, Merry   | 766.03          |             |
|                    | <b>4,090.76</b> | 101-7220-02 |

**Public Works**

|                |                 |             |
|----------------|-----------------|-------------|
| Arias, Sandro  | 398.55          |             |
| Bryce, Edward  | 472.29          |             |
| Janney, Mark   | 572.38          |             |
| Johnston, Dan  | 372.37          |             |
| Johnston, John | 572.38          |             |
|                | <b>2,387.98</b> | 101-7220-03 |

**Comm Dev**

|                  |                 |             |
|------------------|-----------------|-------------|
| Sikela, Milan    | 343.13          |             |
| Woltering, David | 869.95          |             |
|                  | <b>1,213.08</b> | 101-7220-04 |

**Police Dept**

|                   |                  |             |
|-------------------|------------------|-------------|
| Billington, Daren | 1,224.26         |             |
| Christ, Lynn      | 442.78           |             |
| Dansie, Scott     | 1,633.44         |             |
| DeCoite, Shanna   | 1,204.53         |             |
| Enea II, Rich     | 1,422.79         |             |
| Lawrence, Dan     | 2,115.82         |             |
| Marchut, Tim      | 1,458.96         |             |
| McEachin, Rich    | 1,485.80         |             |
| Pike, Allan       | 1,382.52         |             |
| Roden, Wendy      | 360.00           |             |
| Shaw, Jason       | 1,372.12         |             |
| White, Allen      | 1,398.67         |             |
|                   | <b>15,501.71</b> | 101-7220-06 |

|               |          |                 |             |                    |
|---------------|----------|-----------------|-------------|--------------------|
| Sorrell, Todd | 1,194.84 | <b>1,194.84</b> | 230-7220-06 | #6020 Other / COPS |
|---------------|----------|-----------------|-------------|--------------------|

|                   |      |       |              |             |
|-------------------|------|-------|--------------|-------------|
| Survivor Benefits | PD   | 10.23 | <b>10.23</b> | 101-2206-00 |
| Survivor Benefits | Misc | 13.02 | <b>13.02</b> | 101-7246-02 |

|             |                  |
|-------------|------------------|
| 9223 Misc   | 8,507.62         |
| 9224 Safety | 15,903.99        |
|             | <b>24,411.61</b> |

**Total****24,411.61**

*Merry Pelletier* 9-19-12  
 \_\_\_\_\_  
 Authorized By Date

\_\_\_\_\_  
 City Mgr Approval

09-26-12  
 \_\_\_\_\_  
 Date

**Vendor #201****CalPERS - Retirement**

(State of California Public Employee's Retirement System)

Earned Period: **12/26/2011 1/8/2012**

Debit Date: \_\_\_\_\_

Paid Reference #: \_\_\_\_\_

Pay date

01/11/12

Payment Due  
to PERS by

01/26/12

**Admin**

|                    |                 |             |
|--------------------|-----------------|-------------|
| Cupit, Lynn        | 235.31          |             |
| Hoffmeister, Laura | 645.82          |             |
| Howe, Rita         | 391.82          |             |
| Jackson, Laci      | 571.88          |             |
| Napper, Gary       | 1,479.91        |             |
| Pelletier, Merry   | 766.03          |             |
|                    | <b>4,090.76</b> | 101-7220-02 |

**Public Works**

|                |                 |             |
|----------------|-----------------|-------------|
| Arias, Sandro  | 398.55          |             |
| Bryce, Edward  | 472.29          |             |
| Janney, Mark   | 572.38          |             |
| Johnston, Dan  | 372.37          |             |
| Johnston, John | 572.38          |             |
|                | <b>2,387.98</b> | 101-7220-03 |

**Comm Dev**

|                  |                 |             |
|------------------|-----------------|-------------|
| Sikela, Milan    | 343.13          |             |
| Woltering, David | 869.95          |             |
|                  | <b>1,213.08</b> | 101-7220-04 |

**Police Dept**

|                   |                  |             |
|-------------------|------------------|-------------|
| Billington, Daren | 1,022.40         |             |
| Christ, Lynn      | 442.78           |             |
| Dansie, Scott     | 1,435.10         |             |
| DeCoite, Shanna   | 1,002.67         |             |
| Enea II, Rich     | 1,220.93         |             |
| Lawrence, Dan     | 1,913.96         |             |
| Marchut, Tim      | 1,257.10         |             |
| McEachin, Rich    | 1,288.00         |             |
| Pike, Allan       | 1,180.66         |             |
| Roden, Wendy      | 360.00           |             |
| Shaw, Jason       | 1,165.77         |             |
| White, Allen      | 1,196.81         |             |
|                   | <b>13,486.18</b> | 101-7220-06 |

|               |        |               |             |                    |
|---------------|--------|---------------|-------------|--------------------|
| Sorrell, Todd | 988.22 | <b>988.22</b> | 230-7220-06 | #6020 Other / COPS |
|---------------|--------|---------------|-------------|--------------------|

|                   |      |       |              |             |
|-------------------|------|-------|--------------|-------------|
| Survivor Benefits | PD   | 10.23 | <b>10.23</b> | 101-2206-00 |
| Survivor Benefits | Misc | 13.02 | <b>13.02</b> | 101-7246-02 |

**Total****22,189.47**

+ 4.63 Miscellaneous  
difference between  
AMT. Due from pers  
and worksheet  
for PPE 9/4, 12/25.  
1/8

|             |                  |
|-------------|------------------|
| 9223 Misc   | 8,507.62         |
| 9224 Safety | 13,681.85        |
|             | <b>22,189.47</b> |

Authorized By

Date

City Mgr Approval

Date

|                                           |       |                                                                                                                                                                 |                  |
|-------------------------------------------|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <b>Vendor #201</b>                        |       | <b>CalPERS - Retirement</b><br>(State of California Public Employee's Retirement System)                                                                        |                  |
| Earned Period: <b>12/26/2011 1/8/2012</b> |       | Debit Date: _____                                                                                                                                               |                  |
|                                           |       | Paid Reference #: _____                                                                                                                                         |                  |
|                                           |       | <div style="border: 1px solid black; padding: 2px; float: right; text-align: center;"> Pay date<br/>01/11/12<br/>Payment Due<br/>to PERS by<br/>01/26/12 </div> |                  |
| <b>City Council</b>                       |       | <b>Dept Totals</b>                                                                                                                                              | <b>Account #</b> |
| Geller, Howard                            | 85.34 |                                                                                                                                                                 |                  |
| Medrano, Joseph                           | 85.34 |                                                                                                                                                                 |                  |
| Pierce, Julie                             | 85.34 |                                                                                                                                                                 |                  |
| Shuey, David                              | 85.34 |                                                                                                                                                                 |                  |
| Stratford, Hank                           | 85.34 | <b>426.72</b>                                                                                                                                                   | 101-7220-01      |
| <i>Mary Pelletier</i> 1-19-12             |       | 01-26-12                                                                                                                                                        |                  |
| Authorized By                             |       | City Mgr Approval                                                                                                                                               |                  |
| Date                                      |       | Date                                                                                                                                                            |                  |

CITY COUNCIL Included in:

| Rate Plan 9223  |            | Monthly<br>Pay Rate |
|-----------------|------------|---------------------|
| Miscellaneous   | CalPERS ID |                     |
| Geller, Howard  | 7870097971 | 390.00              |
| Medrano, Joseph | 5491021761 | 390.00              |
| Pierce, Julie   | 4914701685 | 390.00              |
| Shuey, David    | 5270210455 | 390.00              |
| Stratford, Hank | 1212617113 | 390.00              |
| <b>TOTALS:</b>  |            | <b>1,950.00</b>     |

Member Cont

| EE Paid*      | Employer      |
|---------------|---------------|
| EPMC          | Contributions |
| 0 07          | 0 14883       |
| 27 30         | 58 04         |
| * 27 30       | 58 04         |
| * 27 30       | 58 04         |
| 27 30         | 58 04         |
| * 27 30       | 58 04         |
| <b>136.50</b> | <b>290.22</b> |
| Total         | <b>426.72</b> |



Agenda Date: 10-2-12

Agenda Item: 4d

Approved:

Gary A. Napper  
City Manager

# AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: OCTOBER 2, 2012

SUBJECT: LOCAL CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)  
GUIDELINES (ENV 02-12)

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## RECOMMENDATION

Approve the attached Resolution adopting Local CEQA Guidelines for the City of Clayton.

## BACKGROUND

In 1970, the California State Legislature enacted the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.) for the purpose of requiring public agencies to consider the potential environmental impacts of their discretionary actions. Subsequently, CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) were prepared and adopted to implement this body of law. Pursuant to CEQA Section 21082 and the adopted State CEQA Guidelines Section 15022, all public agencies are required to adopt regulations, objectives, criteria, and procedures for the evaluation of projects, and for the preparation of environmental impact reports and negative declarations under the provisions of CEQA. The local adopted Guidelines must be consistent with the provisions of CEQA and with the State CEQA Guidelines. In this context, staff considered it necessary to re-examine the City's Local CEQA Guidelines to ascertain compliance and consistency.

Staff has reviewed the matter of Clayton's compliance with the requirement to adopt local CEQA Guidelines and determined the City last formally adopted Local CEQA Guidelines in 1987. The approach at that time was essentially to adopt the State Guidelines, with some clarifications. As the City considers updating its Local CEQA Guidelines, staff believes this approach continues to be appropriate for the City of Clayton. A clear benefit of this approach is as the State Guidelines may be amended from time to time, Clayton would not need to amend its Local CEQA Guidelines to maintain consistency.

Examples of areas of clarification that have been and/or are proposed to be the focus of Clayton's Local Guidelines relate to matters such as responsibility for charges for preparing environmental documents, consultant selection processes, authority for determining the level CEQA documentation for a proposed project, and whether specified non-discretionary

actions would be exempt from CEQA. These are areas that have been left to the local jurisdictions to address in their Local CEQA Guidelines.

## **DISCUSSION**

The attached resolution has been reviewed by the City Attorney's office and is expected to satisfy both the previously mentioned CEQA and State CEQA Guidelines requirements for public agencies to adopt Local CEQA Guidelines. The approach of this resolution is that the City of Clayton adopts the current State CEQA Guidelines and all future revisions to the State CEQA Guidelines without the need for further action by the City of Clayton, except as addressed in the clarifications specified in the resolution. These clarifications are summarized below:

1. Section 2.1 – The City's Community Development Department shall maintain a pre-approved "Consultant List."
2. Section 2.2 – The City shall be reimbursed for all expenses and costs by private applicants for the administration, preparation, and processing of their environmental documentation.
3. Section 2.3 – The City shall adhere to the following rules for utilizing outside consultants to prepare environmental documents: for small projects under \$20,000., the Community Development Director, based on prior approval of the City Manager, may hire a consultant from the Consultant List; for larger project of \$20,000. or more, a Request for Proposals (RFP) process shall be used with prospective consultants receiving the RFP from the Consultant List. The City Council will award a contract for consultant work exceeding \$20,000.00.
4. Section 2.4 – The Community Development Director, as the City's Environmental Officer, and the individual responsible for administering and coordinating the procedures of these Local CEQA Guidelines, shall have the final decision-making authority over which type of CEQA document is to be prepared for a project.
5. Section 2.5 – The City shall hold public hearings as required by CEQA and other applicable laws. The City may also hold additional public hearings or public meetings as deemed appropriate.
6. Section 2.6 – The City identifies a partial (i.e., representative) list of approvals it considers ministerial and not subject to environmental review under CEQA as follows:
  - Tree Removal Permits (Administrative Review)
  - Building Permits
  - Home Business Permits (Administrative Review)
  - Reasonable Accommodation Permits (Administrative Review)
  - Noise Permits (Administrative Review)
  - Temporary Use Permits (Administrative Review)

7. Section 2.7 –The Community Development Director is the final decision-making body, unless appealed to a higher body as provided for in accordance with City Municipal Code Chapter 17.68, for the following partial (i.e., representative) list as follows:

- Tree Removal Permits (Administrative Review)
- Building Permits
- Home Business Permits (Administrative Review)
- Reasonable Accommodation Permits (Administrative Review)
- Fence Height Use Permits (Administrative Review)

### **FISCAL IMPACT**

It is anticipated that private applicants will pay all expenses and costs associated with CEQA compliance for their proposed projects. The City will have to pay all costs and expenses associated with CEQA compliance for its public projects.

Attachment: Resolution Adopting Local CEQA Guidelines

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION ADOPTING LOCAL CEQA GUIDELINES AND  
SUPERSEDING PRIOR LOCALLY ADOPTED CEQA GUIDELINES**

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

**WHEREAS**, in 1970 the California Legislature enacted the California Environmental Quality Act ("CEQA") (Public Resources Code, § 21000 et seq.) to require public agencies to consider the environmental impacts of their discretionary actions; and

**WHEREAS**, the State CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.) were prepared and adopted by the Secretary of the Natural Resources Agency to implement the provisions of CEQA; and

**WHEREAS**, pursuant to CEQA section 21082 and State CEQA Guidelines section 15022, all public agencies are required to adopt by ordinance, resolution, rule or regulations, objectives, criteria, and procedures for the evaluation of projects, and the preparation of environmental impact reports and negative declarations under the provisions of CEQA; and

**WHEREAS**, CEQA section 21082 and State CEQA Guidelines section 15022 further require that the objectives, criteria, and procedures adopted by a public agency shall be consistent with the provisions of CEQA and with the State CEQA Guidelines; and

**WHEREAS**, State CEQA Guidelines section 15022, subdivision (d) states that a public agency may adopt the State CEQA Guidelines as its local guidelines through incorporation by reference; and

**WHEREAS**, the City of Clayton previously adopted Local CEQA Guidelines pursuant to Resolution Number 43-87 on August 10, 1987; and

**WHEREAS**, the City of Clayton desires to supersede the previously adopted Local CEQA Guidelines and to adopt the State CEQA Guidelines as its local guidelines, with the exceptions and clarifications set forth herein, to ensure consistency with the current provisions and interpretations of CEQA;

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

**Section 1.** All recitals are true and correct and shall be incorporated herein.

**Section 2.** With the following exceptions and clarifications, the City of Clayton hereby adopts the State CEQA Guidelines adopted by the Secretary of the Natural Resources Agency of the State of California and codified in Title 14 of the California Code of Regulations commencing with Section 15000, as they may be amended from time to time, as its local CEQA Guidelines:

Section 2.1 – Maintenance of Consultant List: The City's Community Development Department shall maintain a pre-approved "Consultant List" of environmental, planning, and/or consulting firms that are acceptable to the City. The Consultant List shall be derived from a routinely updated list of consultants compiled by the City's Community Development Department upon consideration of the following:

- 1) Direct requests by consultants to be listed, accompanied by a Statement of Qualifications (SOQ) and resumes;
- 2) Lists from professional organizations, including the Association of Environmental Professionals and the American Planning Association; or
- 3) Past experience with a specific firm or consultant.

Section 2.2 – Reimbursement for Private Projects: CEQA section 21089 permits public agencies to charge a reasonable fee to private applicants in order to recoup the anticipated costs of completing the CEQA process. In furtherance of this provision, any applicant for a private project shall enter into a written agreement with the City. This agreement shall establish the terms governing the payment of fees and costs associated with the CEQA process (including but not limited to those required for the preparation and circulation of any CEQA document, for any advertising or public hearing/meeting proceedings, and for any administrative or other activities) and shall require the private applicant to reimburse the City for all such expenses and costs. This agreement may also require the private applicant to provide an advance deposit to the City to cover the anticipated costs of completing the CEQA process.

Section 2.3 - Consultant Selection: The City may utilize outside consultants to prepare Environmental Impact Reports ("EIR") and other CEQA compliance or planning documents. The City shall adhere to the following rules for retaining consultants and shall further comply with the provisions and restrictions within the City's Purchasing Guidelines Policy, as it may be amended from time to time:

- a) For small projects (generally including those with a total contract value of less than \$20,000), the City's Community Development Director may directly select a consultant from the Consultant List. The Community Development Director shall obtain prior approval for any such selection from the City Manager, if required, and shall also comply with any other requirements (such as obtaining multiple quotes) set forth in the City's Purchasing Guidelines Policy.
- b) For large projects (generally including those with a total contract value of \$20,000 or more), a Request for Proposals (RFP) shall be distributed to pre-qualified firms or individuals on the Consultant List and as otherwise required by law. The City Council shall award a contract for consultant work exceeding \$20,000. The RFP shall provide a detailed description of the project, and shall identify subjects to be covered as identified in the Initial Study. Additional subjects may be identified during the preparation

of the EIR, and contract adjustments shall be made as needed. The RFP shall further provide a suggested schedule, number of public hearings, and level of detail of background materials and resources available. If the EIR or other CEQA document is to be prepared through a grant or specific budget, it shall be stated in the RFP. The RFP process shall comply with California law and all other requirements for issuing and awarding contracts.

A written agreement shall be drawn up between the consultant and the City, which shall include the scope of work, schedule, budget, statement of insurance, procedures and methodologies, and other pertinent elements.

Section 2.4 – CEQA Documentation: The Community Development Director, as the City’s Environmental Officer, and the individual responsible for administering and coordinating the procedures in these Local CEQA Guidelines, shall have the final decision-making authority over which type of CEQA document is to be prepared for a project. Such decisions shall be made within the Director’s good faith discretion based upon all available information, and is not appealable. This authority extends to all CEQA documentation to be completed by the City of Clayton, including any of the City’s subdivisions and/or departments.

Section 2.5 – Public Hearings: The City shall hold public hearings as required by CEQA and other applicable laws. The City may also hold additional public hearings or public meetings as deemed appropriate.

Section 2.6 – Ministerial Determinations: CEQA section 21080, subdivision (b)(1) provides that ministerial projects are not subject to environmental review under CEQA. State CEQA Guidelines section 15268, subdivision (a) further states that the “determination of what is ‘ministerial’ can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such a determination as a part of its implementing regulations, or on a case-by-case basis.” Pursuant to this authority and based upon a review of the City’s own laws, the following is a partial list of those approvals which the City considers “ministerial”:

- Tree Removal Permits (Administrative Review)
- Building Permits
- Home Business Permits (Administrative Review)
- Reasonable Accommodation Permits (Administrative Review)
- Noise Permits (Administrative Review)
- Temporary Use Permits (Administrative Review)

Section 2.7 – Approvals by Staff: For purposes of certain approvals and permits, the Community Development Director is the final decision-making body, unless appealed to a higher decision-making body as provided for in accordance with City Municipal Code Chapter 17.68. A partial list of approvals for which final decision-making authority is held by the Community Development Director includes:

- Tree Removal Permits (Administrative Review)
- Building Permits
- Home Business Permits (Administrative Review)
- Reasonable Accommodation Permits (Administrative Review)
- Fence Height Use Permits (Administrative Review)

Section 3. All future revisions to the State CEQA Guidelines shall hereafter automatically be made a part of the City's local CEQA guidelines, without the need for any further action by the City of Clayton. To the extent that those future revisions conflict with the exceptions and clarifications set forth in Section 2 herein, the State CEQA Guidelines provisions shall control.

Section 4. This Resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Howard Geller, Mayor

**ATTEST:**

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Laci J. Jackson, City Clerk



Agenda Date: 10-2-12

Agenda Item: 4e

Approved:

Gary A. Napper  
City Manager

# AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: October 2, 2012

SUBJECT: ONE-YEAR STATUS REPORT ON THE EFFECTIVENESS OF THE VANDALISM ACCOUNTIBILITY REWARDS PROGRAM FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF PERSON(S) RESPONSIBLE FOR VANDALISM TO CITY FACILITIES, ASSETS, AND PROPERTY

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## RECOMMENDATION

Receive the staff report and authorize staff to continue the Vandalism Accountability Rewards Program that was established last year (Resolution No. 41-2011).

## BACKGROUND

Last year, The Grove Park and Endeavor Hall occasionally suffered acts of vandalism as well as littering. These relatively minor acts of vandalism usually occurred after dark when no one was around to witness these criminal acts. As a result, the City Council held three public discussions about this problem and focused on two possible strategies, or solutions, to address the problem of vandalism to city owned property. The first strategy discussed was the establishment of a rewards program that would provide a monetary incentive for witnesses and encourage them to provide suspect information to the Police Department. The second strategy discussed involved the installation of a camera security system that would record criminal acts as they occur and provide possible suspect information to the Police Department.

Due to the high costs of camera security systems, the City Council decided a monetary rewards program would be the more cost effective way to address Clayton's persistent minor vandalism problem. During the final public meeting held on October 4, 2011, the City Council adopted Resolution No. 41-2011 that established a Vandalism Accountability Rewards Program for a one-year pilot period. The one-year pilot program was implemented as part of the rewards program to gauge the program's effectiveness as an incentive for witnesses to provide information to the police department.

## DISCUSSION

Last year as the Vandalism Accountability Rewards Program was adopted, twelve (12) vandalism cases to City owned property were reported to the Police Department over a 12-month period prior to August 2011. During the similar period of time following the adoption of the Rewards Program, seven (7) vandalism cases to City owned property were reported to the Police Department, or five (5) fewer cases. These latest cases included: 1) one report of graffiti on the pedestrian tunnel walls; 2) a report of damage to the slats of the wooden fence located along the perimeter of the Endeavor Hall parking lot; 3) several reports of damage to gazebo slats in The Grove Park. Because of a brief delay in repairing the damage to the gazebo, it was discovered that two of the reports to the gazebo were duplicate reports on the same damage from separate persons.

Despite the establishment of the Vandalism Accountability Rewards Program, staff has received no information, or suspect information, from potential witnesses regarding acts of vandalism to City owned property. The lack of suspect information during the one-year pilot period may be due to inadequate publicity of the program or the mere fact most vandalism occurs during hours when potential witnesses are not around. As a result, all of these vandalism cases have been suspended pending the development of any actionable investigative information.

Even though the Vandalism Accountability Rewards Program has produced no suspect information to date, staff still believes that a well-publicized rewards program is capable of providing an incentive for a reluctant public to report suspect information to the Police Department. In addition, staff believes the rewards program is also a deterrent, preventing further acts of vandalism to City property. The program broadens the Police tools to address more comprehensive vandalism crimes that could occur in the future.

Staff recommends the City Council continue to offer the Vandalism Accountability Rewards Program as a permanent rewards program, coupled with a more robust publicity program accomplished by staff through news articles and blog sites.

### **FISCAL IMPACT**

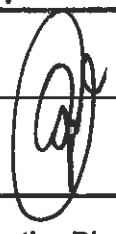
The fiscal impact is unknown at this time if the permanent rewards program is approved. If approved for continuance, the reward amounts would remain at the same level as during the one-year pilot period. A monetary reward of up to \$1000 would be paid to witnesses who provide information leading to the successful resolution of each vandalism case to City facilities, assets, or property. A successful resolution would require the convicted suspect(s) to pay for the damage they caused, as well as reimburse the City for the monetary reward paid to the witness or witnesses.



Agenda Date: 10-2-12

Agenda Item: 4f

Approved:

  
Gary A. Napper  
City Manager/Executive Director

# STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: OCTOBER 2, 2012

**SUBJECT: DECLARATION OF EQUIPMENT SURPLUS TO THE CITY'S NEEDS**

## RECOMMENDATION

Declare one Police Department patrol vehicle, 2001 Ford Crown Victoria (vehicle #1723), as property surplus to the City's needs, and authorize the City Manager to dispose of the surplus and unserviceable vehicle through public auction.

## DISCUSSION

A 2001 Ford Crown Victoria (#1723) was purchased in order to provide patrol services activities for the Police Department. The department vehicle has aged and accumulated approximately 92,000 miles during its serviceable life. The vehicle is in poor condition and has reached the age where the vehicle is not dependable to provide reliable transportation or public safety response. As a result, the vehicle has been taken out of service, and has been replaced with a new 2011 Ford Crown Victoria sedan. The new police vehicle was purchased with Capital Equipment Replacement Funds (CERF) from the adopted FY 2012-2013 Budget, which was approved by the City Council in June 2012.

The Clayton Police Department currently has a maintenance agreement with the City of Concord's Maintenance Department for general maintenance. As part of the agreement, the City of Concord acts as our agent and arranges a public auction in order to liquidate ours and its own surplus vehicles. There is no cost to the City. The City of Concord utilizes the services of First Capital of Vallejo to conduct the auction, which occurs once a quarter. Disposal of property in this manner is an accepted practice under the law.

Staff recommends that the City Council authorize the City Manager to dispose of the described surplus and unserviceable property through public auction.

**FISCAL IMPACT**

The Kelly Blue Book trade-in value (fair condition) for a 2001 Ford Crown Victoria is estimated at \$2,625. However, there is not a large resale market for these types of vehicles, particularly those in poor mechanical condition and appearance. The vehicle will likely bring in less than this amount at auction.

All proceeds from the sale of this surplus vehicle belong to the taxpayers (City) and will be placed into the City's Capital Equipment Replacement Fund (CERF).



Agenda Date: 10-2-12

Agenda Item: 4g

Approved: \_\_\_\_\_

Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR**

**DATE: OCTOBER 2, 2012**

**SUBJECT: MITCHELL CREEK PLACE DEVELOPMENT PLAN PERMIT AMENDMENT TO CONDITIONS OF APPROVAL TO ALLOW FOR ON-SITE REPLACEMENT TREES TO BE A MINIMUM 15-GALLONS IN SIZE RATHER THAN 24-INCH BOX IN SIZE (DP 01-05)**

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## **RECOMMENDATION**

Adopt the attached Resolution (See **Attachment 1**) approving an amendment to the Mitchell Creek Place Development Plan Permit Conditions of Approval to allow on-site replacement trees to be a minimum 15-gallons in size rather than 24-inch box in size.

## **BACKGROUND/DISCUSSION**

Recently, it came to staff's attention that 12 ornamental pear trees at the Mitchell Creek Place residential development on High Street at Oak Street were suffering from fire blight and need to be replaced. The project Conditions of Approval and approved landscape plan require on-site trees to be a minimum of 24-inch box in size. The Mitchell Creek Place Homeowners Association (HOA) requested relief from that requirement, citing that mature landscaping already exists and that smaller 15-gallon replacement trees would result in less disturbance to the existing planted and developed areas, could more readily adapt to the soils and current environmental conditions, and would be less expensive. Although Condition of Approval 1.e allows for modifications to the approved landscape plan to be considered with guidance criteria by the Community Development Director, staff determined it to be appropriate to bring the request forward to the Planning Commission and City Council.

The matter was considered by the Planning Commission at its meetings of September 11, 2012 and September 25, 2012. Staff has attached the minutes and the staff report from the September 25, 2012 meeting (See **Attachments 2 and 3**). Staff and the Planning Commission agreed with the rationale presented by the HOA for allowing 15-gallon size replacement trees and, accordingly, the Planning Commission, by minute order at its September 25, 2012 meeting, recommended City Council approval of the HOA request.

The Planning Commission, separately, worked with staff and the HOA on the selection of the trees to replace the ornamental pear trees that are to be removed.

Subject: Mitchell Creek Place Amendment to Conditions of Approval to Allow On-site Replacement Trees to be Minimum 15-Gallons Rather than 24-inch Box Trees (DP 01-05)

Date: October 2, 2012

Page 2

**FISCAL IMPACT**

None.

**Attachments:**

- 1 Resolution Approving an Amendment to the Mitchell Creek Place Development Plan Permit Conditions of Approval
- 2 Excerpt of Draft Minutes from September 25, 2012 Planning Commission Meeting
- 3 Planning Commission Staff Report, dated September 25, 2012

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING AN AMENDMENT TO THE MITCHELL CREEK  
PLACE DEVELOPMENT PLAN PERMIT CONDITIONS OF APPROVAL  
TO ALLOW ON-SITE REPLACEMENT TREES TO BE A MINIMUM 15-GALLONS IN  
SIZE RATHER THAN 24-INCH BOX IN SIZE  
(DP 01-05)**

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

**WHEREAS**, on October 3, 2006, the Clayton City Council held a duly-noticed public hearing and gave due consideration to all testimony, comments, and documents received, and approved Resolution No. 48-2006, thereby approving a Development Plan Permit for the Mitchell Creek Place residential development, subject to conditions of approval; and

**WHEREAS**, the *Mitchell Creek Place Residential Subdivision Initial Environmental Study/Negative Declaration* and the accompanying Mitigation Monitoring Plan (ENV 01-05), which was adopted by the City Council, found that the Mitchell Creek Place residential project (including Development Plan Permit DP 01-05) would not result in any significant adverse effects on the environment; and

**WHEREAS**, there is no evidence that the Mitchell Creek Place residential project will have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.; and

**WHEREAS**, on August 29, 2012, the City of Clayton officially received an application from the Mitchell Creek Place Homeowners Association (HOA) to be allowed to install 15-gallon size replacement trees at this development, whereas Conditions of Approval 1 and 23-29 of Resolution No. 48-4006 relate to requiring trees to be a minimum of 24-inch box in size; and

**WHEREAS**, the HOA indicated there is a present need to replace 12 ornamental pear trees on their property because these trees are suffering from “fire blight”; and

**WHEREAS**, the HOA cited the reasons for requesting the smaller 15-gallon replacement tree size as reduced disturbance to already established planted areas, better adaptation to existing soils and environmental conditions, and lesser cost; and

**WHEREAS**, this request of the HOA was presented to the Planning Commission at its duly noticed meetings of September 11, 2012 and September 25, 2012, and the Planning Commission considered all testimony, comments, and documents received, and, thereafter, recommended City Council approval of the request, based on the presented rationale of the HOA, at its September 25, 2012 meeting;

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES HERewith DETERMINE:**

**SECTION 1.** The City Council does hereby find and affirm the above noted Recitals are true and correct facts and information relative to the land use proceedings at hand.

**SECTION 2.** The City Council approves the requested amendment to cited Conditions of Approval 1 an 23-29 to allow on-site replacement trees to be a minimum of 15-gallons instead of 24-inch box in size, as recommended by the Planning Commission, based on the following findings:

- a. Is consistent with the *General Plan* designation and policies for the site.
- b. Meets the standards of review in Section 17.28.160 of the *Zoning Ordinance* regarding the protection of natural open spaces and features; vehicular access and parking; landscape design; site design for the residences and private yards; architectural design of the residences; and maintenance of common areas such as the project driveway.
- c. Will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.
- d. Will not result in any changes in the findings of the project's *Initial Environmental Study/Negative Declaration* that the project's potentially significant impacts are reduced to less-than-significant levels.

Passed, approved, and adopted by the City Council of the City of Clayton, California, at a regular meeting thereof held on October 2, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

\_\_\_\_\_  
Howard Geller, Mayor

ATTEST:

\_\_\_\_\_  
Laci J. Jackson, City Clerk

DP\2005\05-06-Resolution-approving Amendment to DP Permit COAs to allow 15-gallon replacement trees

**Excerpt**  
**Draft**  
**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, September 25, 2012**

**Call to Order**

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

Present: Chair Haydon, Vice Chair Gregg Manning, Commissioner David Bruzzone, Commissioner Sandra Johnson, Commissioner Dan Richardson

Absent: None

Staff: Community Development Director David Woltering

**Public Hearing**

3. **DP 01-05, Development Plan Amendment, Mitchell Creek Place Homeowners Association**, Mitchell Creek Place residential subdivision located at the southeast corner of High Street and Oak Street in Clayton's Town Center. An amendment to the Mitchell Creek Place Development Plan Permit landscaping and irrigation conditions of approval (Conditions of Approval 1 and 23 – 29) in City Council Resolution No. 48-2006 to allow for on-site replacement trees to be a minimum of 15-gallons instead of 24-inch box in size. *Continued from the meeting of September 11, 2012.*

Community Development Director Woltering presented the staff report and stated that the Planning Commission had indicated general support for the use of 15-gallon replacement trees at the meeting on September 11, 2012, but had requested that staff work with the applicant to bring back suggested replacement trees for Commission review and approval at the September 25, 2012 meeting. Director Woltering explained that the applicant's certified arborist had suggested tree options for the Commission to consider and that staff had reviewed these options and made recommendations in the staff report from the arborist's list.

There were no questions of clarification by the Commissioners for the Community Development Director.

Chair Haydon opened the public hearing.

Karen Haas, the applicant and a resident of the Mitchell Creek Place Homeowners Association, indicated that she was satisfied with the staff report and had no further comments to make at that time.

Chair Haydon closed the public hearing.

Commissioner Johnson indicated she is familiar with the work of the applicant's landscape contractor, Landscape Care Company, and that the firm does reputable, high quality work.

Commissioner Richardson stated that the recommendations by staff from the applicant's proposed list of trees were acceptable.

Vice Chair Manning asked Director Woltering why staff had recommended the *Carpinus Fastigiata Frans Fontaine* instead of the *Acer Platanoides Crimson Sentry* for the "A" Location. *Mr. Woltering indicated this location is relatively narrow and separates the subject property from a larger lot single-family residence on the adjoining property to the south. He said the growing characteristics of the Frans Fontaine are that it is more narrow and dense than the Acer Platanoides Crimson Sentry; the narrowness of the Frans Fontaine would make the tree a more appropriate fit for the space while its density would provide screening between the properties.*

**Commissioner Richardson moved and Vice Chair Manning seconded a motion to recommend to the City Council that pertinent conditions of approval in Resolution 48-2006 be amended to allow replacement trees in the Mitchell Creek Place residential development to be a minimum of 15-gallon in size rather than 24-inch box in size. The Commission also accepted the *Acer Platanoides Globosum* tree as the replacement tree for the "C" and "B" locations and the *Carpinus Fastigiata Frans Fontaine* as the replacement tree for the for the "A" location on the map submitted by the applicant's landscape contractor, Landscape Care Company.**

P:\ng Comm\Minutes\2012\0925-excerpt-mitchell.creek.place.rplc.trees

## PLANNING COMMISSION STAFF REPORT

**Meeting Date:** September 25, 2012

**From:** David Woltering, Community Development Director *JW*

**Subject:** Mitchell Creek Place Residential Subdivision  
Development Plan Amendment (DP 01-05)

### REQUEST

The applicant is requesting *(Continued from the September 11, 2012 Planning Commission meeting)* to amend conditions of approval of this now-constructed project that require trees, both at the time of original installation and replacement trees, to be 24-inch box in size. The originally installed trees were 24-inch box in size; the applicant is requesting the option to install replacement trees that are 15-gallon in size (See Attachment 1). *Since the September 11, 2012 meeting, the applicant has submitted suggested replacement tree types for consideration and approval, as requested by the Planning Commission.*

### PROJECT INFORMATION

**Applicant:** Mitchell Creek Place Homeowners Association (HOA)

**Location/Acreage:** High Street at Oak Street/1.22 Acres

**General Plan Designation**  
**Existing:** Multi-Family Low Density Residential (7.6 - 10 units per acre)

**Zoning District**  
**Existing:** Planned Development (PD)

**Surrounding General Plan Designations:**  
North: Town Center Commercial  
South: Single Family Low Density Residential  
East: Single Family Low Density Residential  
West: Medium Low Density Residential

**Surrounding Zoning and Land Uses:**  
North: Planned Development District/Residential; Parking Lot  
South: Single Family Residential R-15 and R-40-H District/Residential  
East: Single Family Residential R-40-H District / Residential  
West: Planned Development/Vacant

**Environmental Review:** Initial Environmental Study/Negative Declaration (ENV 01-05)

**Public Notice:** On August 30, 2012, a public hearing notice was mailed to interested parties and property owners within 300 feet of the project site.

**Authority:** Section 17.28.140 of the Zoning Ordinance authorizes the Planning Commission to make a recommendation to the City Council regarding a development plan permit.

## **BACKGROUND**

The nine-home Mitchell Creek Place single-family residential subdivision on High Street at Oak Street was approved by the City of Clayton in October of 2006 and subsequently constructed in 2007 and 2008. Conditions of project approval, including conditions 1 and 23-29, and specifically condition 23c, require that trees of a 24-inch box size be installed as part of the approved landscape plan (See **Attachment 2**). The objective was to have more mature landscaping within this subdivision earlier than might otherwise occur with smaller initial plantings. The 24-inch box trees were installed in accordance with the conditions of approval.

Recently, it was brought to staff's attention that the 12 ornamental pear trees within this subdivision have "fire blight" and must be removed. These trees were typically planted in locations where there was limited space and, generally, appear oversized for their respective locations. A smaller tree variety would be appropriate. Staff will work with the HOA representative to determine an appropriate replacement tree type. Staff has issued a tree removal permit to the HOA to remove the fire blighted trees. As described in the email (See **Attachment 1**) from the HOA representative, they desire to install smaller, 15-gallon in size, replacement trees. They indicate the smaller trees would result in less disturbance to established planted areas, adapt better to the soils and settings, and be substantially less expensive. Staff agrees with the HOA position on this matter.

At this time, there are established plantings within this subdivision. Therefore, the desire to have more mature landscaping to soften the appearance of the subdivision no longer is a concern. The 15-gallon trees would adapt better to the installation settings and result in less disturbance to the existing landscaping.

## **SEPTEMBER 11, 2012 MEETING**

*At the September 11, 2012 Planning Commission meeting, the Commission indicated general support for the smaller (i.e., 15 gallon in size) replacement trees, but requested that staff work with the HOA representative(s) and bring back to the Commission suggested replacement tree(s) by type for Planning Commission review and approval. Since the September 11<sup>th</sup> meeting, staff has worked with the HOA representative and received suggestions from that representative on replacement trees (See Attachment 3). Staff has reviewed this information and recommends the following:*

- *The Acer Platanoides Globosum for the "C" and "B" locations on the map submitted by the representative. This tree is slower growing, deciduous (yellow leaves in the Fall), and grows to between 20-25 feet in height. Staff is recommending this tree from the representative proposed list for the following reasons:*
  - *There are already Japanese Maple trees (an alternate proposed by the representative) along this frontage.*
  - *The Magnolia tree (another alternate proposed by the representative) tends to drop a lot of litter (i.e., seed pods, small branches, etc.)*

- *The Globosum is suited for the local growing zone, based on staff's research of the matter.*
- *The Globosum form, height, and leaves would provide an attractive contrast to the other existing trees and plant materials along this frontage and create an overall attractive pattern and mixture of trees and plant materials along this frontage.*
- *The Carpinus Fastigiata Frans Fontaine tree for the "A" locations on the map. This tree grows to about 35 feet in height and about 15 feet in width. This tree is deciduous and can be pruned to create more of a hedge appearance. In staff's opinion, this tree seems more suited than the alternate Acer Platanoides Crimson Sentry for the relatively narrow planting strip adjacent to an adjoining property for which it is proposed. Further, this tree is suited for the local growing zone, based on staff's research of this matter.*

#### **RECOMMENDATION**

Staff recommends the Planning Commission by minute order recommend to the City Council that pertinent conditions of approval in Resolution 48-2006 (See **Attachment 2**) be amended to allow replacement trees in the Mitchell Creek Place subdivision to be 15-gallon in size. *Additionally, staff recommends that the Commission accept the suggested replacement trees referenced above.*

#### **ATTACHMENTS**

- 1 Email request from Karen Haas, Mitchell Creek Place HOA representative, dated August 27, 2012
- 2 Excerpt of Resolution No. 48-2006, A Resolution Approving a Development Plan Permit for the Mitchell Creek Place Residential Project (DP 01-05)
- 3 *Email from Karen Haas, dated September 14, 2012, with suggested replacement trees.*

DP\2005\01-05.sr.pc.9.25.12

**Milan Sikela**

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**From:** Karen Haas <kmhaas@sbcglobal.net>  
**Sent:** Monday, August 27, 2012 11:31 PM  
**To:** msikela@ci.clayton.ca.us  
**Subject:** Mitchell Creek Place HOA-replacement of pear trees

Hi Milan,

Thank you for meeting with me August 17th. I appreciate that the city recognizes that the pear trees are diseased and need to be removed. I further appreciate the promptness in which the city granted the removal permit.

As you know, Mitchell Creek Place HOA has decided that we would like the city of Clayton to amend the original landscaping document to allow us to plant 15 gallon size trees instead of 24" box size.

We are requesting this change for the following reasons:

- 1) We are a young (only 3 years in development) and small, (only 9 member) association. This places a huge financial burden on our members. We did not expect the need for costly landscape replacement this early in our existence.
- 2) Our landscape company believes the 15 gallon trees will acclimate to the planting site more quickly than a 24" box tree. Faster root development means faster top growth. Over a short period of time our 15 gallon trees will be larger than the 24" box trees. This will supply the canopy and ambiance that a mature tree provides sooner for our HOA and our surrounding neighbors.
- 3) The larger excavation required for a 24" box tree will cause damage to our maturing landscape plants that surround these tree sites, which will need further restoration and increase the overall cost of the project creating a larger financial burden on us.

We understand we must choose trees that the city of Clayton has approved for this project. We further understand that the original, city approved pear trees, were too large for the designated sites and agree with replacing them with smaller trees. The HOA is waiting for more information from the landscape company for exact names and placement of the 12 new trees. As soon as the HOA comes to agreement, we will give this information to you for final approval.

Please let me know if you need more information and what is our next step for the Planning Commission.

Karen Haas, Treasurer  
Mitchell Creek Place HOA

## RESOLUTION NO. 48-2006

**A RESOLUTION APPROVING A DEVELOPMENT PLAN PERMIT  
FOR THE MITCHELL CREEK PLACE RESIDENTIAL PROJECT  
(DP 01-05)**

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

**WHEREAS**, the Clayton Planning Commission held several duly-noticed public hearings commencing on June 13, 2006 and concluding on August 29, 2006 on the Mitchell Creek Place residential project (including development plan permit DP 01-05) located at the southeast corner of Oak Street and High Street (APN 119-021-067 and 119-021-068); and

**WHEREAS**, on August 29, 2006, the Clayton Planning Commission recommended Clayton City Council approval of development plan permit DP 01-05 subject to various conditions of approval; and

**WHEREAS**, on October 3, 2006, the Clayton City Council held a duly-noticed public hearing and gave due consideration to all testimony, comments and documents received; and

**WHEREAS**, the *Mitchell Creek Place Residential Subdivision Initial Environmental Study/Negative Declaration* and the accompanying Mitigation Monitoring Plan (ENV 01-05), which has been adopted by the City Council, found that the Mitchell Creek Place residential project (including development plan permit DP 01-05) would not result in any significant adverse effects on the environment; and

**WHEREAS**, there is no evidence that the Mitchell Creek Place residential project will have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES HERewith DETERMINE:**

**SECTION 1.** The City Council does hereby find and affirm the above noted Recitals are true and correct facts and information relative to the land use proceedings at hand.

**SECTION 2.** The City Council determines that the Mitchell Creek Place development plan permit DP 01-05 for the "Preferred Lot Plan," subject to the attached conditions of approval, meets the following findings:

- a. Is consistent with the *General Plan* designation and policies for the site.
- b. Meets the standards of review in Section 17.28.160 of the *Zoning Ordinance* regarding the protection of natural open spaces and features; vehicular access and

**FILE COPY**

## RESOLUTION NO. 48-2006

Page 2

parking; landscape design; site design for the residences and private yards; architectural design of the residences; and maintenance of common areas such as the project driveway.

- c. Will result in a significantly higher quality development than would occur with a traditional residential zoning district.
- d. Will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.
- e. Will not result in any significant effects on the environment since compliance with the project's *Initial Environmental Study/Negative Declaration* will reduce the project's potentially significant impacts to less-than-significant levels.
- f. Will be initiated for construction within eighteen months after approval by the City Council, or will have obtained an extension of time in accordance with Section 17.28.090 of the *Zoning Ordinance*.

**SECTION 3.** The City Council approves development plan permit DP 01-05 for the "Preferred Lot Plan" of the Mitchell Creek Place residential project, subject to the attached conditions of approval.

**SECTION 4.** The City Council determines that the proposed "Alternative Lot Plan" for the Mitchell Creek Place development plan permit DP 01-05 is unacceptable since it would provide access to an open space parcel that would not be compatible with adjacent residential land uses. The development plan permit DP 01-05 for the "Alternative Lot Plan" of the Mitchell Creek Place residential project is not approved.

Passed, approved, and adopted by the City Council of the City of Clayton, California, at a regular meeting thereof held on October 3, 2006 by the following vote:

AYES: Mayor Shuey, Vice Mayor Walcutt, Councilmember Laurence, Councilmember Manning, and Councilmember Pierce

NOES: None

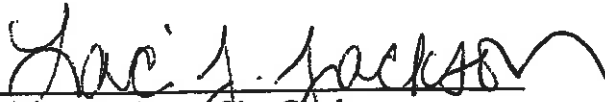
ABSENT: None

ABSTAIN: None

**THE CITY COUNCIL OF CLAYTON**

  
David T. Shuey, Mayor

**ATTEST:**

  
Laci J. Jackson, City Clerk

**Attachment: Mitchell Creek Place Residential Project Development Plan Permit DP 01-05  
Conditions of Approval**

DP\2006\05-06-Resolution-1

**ATTACHMENT TO RESOLUTION NO. 48 - 2006  
MITCHELL CREEK PLACE RESIDENTIAL PROJECT  
DEVELOPMENT PLAN PERMIT DP 01-05  
CONDITIONS OF APPROVAL**

These conditions apply to:

- *Mitchell Creek Place Vesting Tentative Map* [Preferred Lot Plan], *Preliminary Grading Plan*, *Preliminary Drainage Plan*, and *Development Plan* prepared by Aliquot & Associates Inc., date stamped March 21, 2006
- *Mitchell Creek Place Preliminary Landscape Plan*, prepared by Thomas Baak & Associates, Inc., date stamped June 7, 2006.
- Architectural elevations entitled "Mitchell Creek Place," prepared by Hollman & Bologna, date stamped June 7, 2006.
- Exterior Colors and Materials, date stamped September 1, 2005.

**Planning Conditions**

1. The project shall have covenants, conditions, and restrictions (CC&R's) which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval.
  - a. Property owners are responsible for the repair and maintenance of the required fences along their respective property lines, except the fence on Lots 1-4 along the south side of the project driveway which shall be responsibility of the homeowners association. The fences shall be maintained in a style consistent with the design approved by the City.
  - b. Lots 7, 8, and 9 receive runoff (in the project's pre-development condition) from adjoining private property. The owners of Lots 7, 8, and 9 shall be required to accept such runoff in perpetuity, shall maintain the swales and facilities that collect such runoff, and shall not construct any improvements that could block such runoff.
  - c. Parking is prohibited along the project driveway, except for the two guest parallel parking spaces south of Lots 3 and 4.
  - d. The homeowners association is solely responsible for replacement, maintenance, weeding, and irrigation of the landscaping in the following areas: the public right-of-way at the southeast corner of High Street and Diablo Street; the public right-of-way along Oak Street; and on Lots 1-4 along the south side of the project driveway.
  - e. The homeowners association and property owners shall maintain all landscaped areas in conformity with the approved landscape plans. Any modifications from the approved landscape plans requires the approval of the Community Development Director. The following criteria should be considered in reviewing modifications of the previously-approved plans:
    - i. Replacement plantings shall be of similar size, at maturity, to the original plants.
    - ii. Plantings may not impede or reduce the function of the on-site drainage swale system.
    - iii. Vegetative landscaping may not be replaced with impervious surfaces.

- f. The homeowners association is responsible for maintaining in perpetuity certain private improvements including, but not limited to, the project driveway, curb markings, street lights and street signage. In order to maintain a pavement condition comparable to a Pavement Condition Index (PCI) of 70 or better at all times, the homeowners association shall take the following actions:
    - i. Perform routine pavement maintenance including crack sealing and patching on an annual basis;
    - ii. Repaint the curb markings every second year;
    - iii. Slurry seal the pavement no less often than every seven (7) years; and
    - iv. Overlay or replace the pavement no less often than every thirty (30) years.
  - g. Solid waste containers shall be stored out of view and wholly contained in the side yard or garage, except as allowed by the *Municipal Code* (including any amendments) for solid waste collection times.
  - h. Solid waste containers shall be collected from the project driveway. Placement of solid waste containers along High Street, Diablo Street, or Oak Street is prohibited.
  - i. Property owners and residents shall park their vehicles in their garages. No garage may be used for any purpose that prevents its use for parking the vehicles it was designed to accommodate. Any property owner or resident who fails to maintain their garage in accordance with these provisions is subject to enforcement by the homeowners association and/or by the City, with costs of any enforcement action to be paid by the property owner. It is the intent of this condition that the City is a third party beneficiary to this condition.
  - j. A majority of the property owners may impose monetary penalties on any property owner who violates the CC&R's.
  - k. No provision in the CC&R's which is included as a result of these Conditions of Approval may be amended without the prior written approval of the City of Clayton.
2. This tentative map approval is not effective until the Zoning Map designation for the project site has been amended to Planned Development (PD) District [ZOA 01-05].
  3. The Developer shall file annual reports each January with the Community Development Department which indicate the number and price of new residences sold in the previous calendar year.
  4. The project is subject to development impact fees. At the time of the filing of the final subdivision map, the subdivider shall pay the in-lieu park fees determined by the City (pursuant to Chapter 16.12 of the Subdivision Ordinance).
  5. The Developer shall establish a homeowners association with dues. The homeowners association shall be maintained in perpetuity.
  6. The Development Plan shall comply with any amendments of Planned Development District open space regulations approved by the City Council (ZOA 01-05).
  7. The Developer shall pay a fair share contribution to the City of Clayton for impacts to police staffing directly related to impacts of the Mitchell Creek Place project for a five-year period.

The calculation and payment shall be made at the time of issuance of building permit for each of the Project's units and shall be approved in advance by the Clayton Police Chief and City Manager in accordance with the formula provided in Mitigation Measure 12, based upon eight (8) net additional units. [MM 12]<sup>1</sup>

8. Prior to issuance of a demolition permit by the City for any on-site structures, the Developer shall provide a site assessment, which determines whether any structures to be demolished contain asbestos or lead-based paint. If any structures contain these materials or any other hazardous materials, the Developer shall submit an abatement plan consistent with local, state, and federal standards, subject to approval of the Contra Costa County Building Inspection Department. [MM 5]
9. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.
10. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
11. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.
12. All mitigation measures set forth in the *Mitchell Creek Place Residential Subdivision Initial Environmental Study/Negative Declaration* are hereby incorporated into these Conditions of Approval, as if fully contained herein, except those found infeasible pursuant to Section 15091 of the California Environmental Quality Act Guidelines.
13. The Developer shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Game.
14. The Developer shall record disclosure statements with the deeds for the project's lots. The disclosure statements shall be reviewed and approved by the City Attorney and the Community Development Director and shall address the following issues.

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<sup>1</sup> Mitigation measures (MM) listed in the *Mitchell Creek Place Initial Environmental Study/Negative Declaration* are referenced by number (e.g., MM 2 for Mitigation Measure 2).

- a. Special events occur throughout the year in the downtown area and at Endeavor Hall, which may temporarily increase noise levels at the residential properties as well as increase traffic and demand for parking.
  - b. Special events occur throughout the year in the downtown area which result in the closure of adjacent streets except for emergency vehicle access. During these events vehicular access to and from High Street may be prohibited. Vehicular access to and from Oak Street will remain open.
  - c. Commercial land use and zoning designations on adjacent properties to the north of the project site allow a variety of commercial activities, including parking lots and multi-story commercial buildings. It is the policy of the City of Clayton to encourage commercial development of the commercially-zoned properties in the Town Center.
  - d. The City of Clayton owns the parcel (APN 119-016-005) at the northwest corner of High Street and Diablo Street. The property will initially be developed as a parking lot for the general public. In the future, the property may be developed as a multi-story parking structure or a multi-story commercial building.
  - e. Public parking spaces are located on High Street in front of Lots 1 through 7. In the future, the parking spaces on High Street in front of Lots 1 through 7 as well as the parking spaces on Diablo Street may be converted to diagonal parking spaces and/or parking spaces with time limits.
15. The development plan and final subdivision map shall show a conservation easement on the upslope portions of Lots 7 and 8. The easement area shall cover the northernmost forty-three (43) feet of Lot 7, as well as the easternmost forty (40) feet of Lots 7 and 8. The easement is intended to preserve an open and attractive visual character to the subject area. Grading (except for site grading by the Developer and drainage improvements) and the construction of all buildings and structures shall be prohibited within the easement area. In addition, landscaping (except existing and project trees) shall not extend above the 6-foot high fence along the eastern property lines of Lots 7 and 8.
16. At least thirty (30) days prior to any demolition or groundbreaking activities, the Developer shall retain an exterminator who shall evaluate the site and make recommendations for the control and/or eradication of any on-site rodents. The recommendations shall be subject to the review and approval of the Community Development Director. The Developer comply with the approved recommendations prior to initiation of any demolition or groundbreaking activities.
17. The project shall comply with the design guidelines of the *Town Center Specific Plan*.

#### **Architectural Conditions**

18. The Architectural Elevations shall be revised to include the following changes for the review and approval of the Community Development Director:
- a. The elevations for Lot 6 shall be revised as follows: a door shall be included on the right side of the Lot 6 residence garage allowing access into the side yard; a window shall be added to the garage on Lot 6; and a window shall be added to the left side of the residence on Lot 6 for Bedroom 2.

- b. On Lots 1-6, gates shall be provided on the rear fences of the side yards to allow access from the respective side yards to the project driveway. On Lots 7-9, at least one gate shall be provided on each lot to allow access from the respective rear yard to the project driveway. Concrete walkways shall also be provided to connect the trash bin storage pad located in the side yard to the driveway apron.
- c. On Lots 1-6, all windows facing the internal side-yards accessible by neighboring residents shall either be obscure or have a sill height of six feet or more above the floor.
- d. Architectural ornamentation shall be added above the garage door on Lot 5. The style of ornamentation shall be consistent with the overall theme of the residence.
- e. Stone wainscot shall be added on the rear elevations of the garages on Lots 5 and 6 from fence line to one foot from utility meter equipment on utility meter side of residence.
- f. Garage doors for the buildings on Lots 1 through 9 shall be of two types, solid raised panel design and raised panel design with windows. The garage door types shall be randomly used on the respective lots. The garage doors shall be painted to match the primary color of the respective residences.
- g. The residence on Lot 4 shall utilize either: wainscoting on the front elevation that extends around both side elevations to the fence line; or masonry elements on the columns supporting the front entryway canopy.
- h. Fence materials for the fences along the west side of Lot 1, the east side of Lot 6, and the west side of Lot 7 shall be the same horizontal lap siding proposed for the adjacent residences.
- I The fence columns on Lots 1, 6, and 7 shall be covered with stone facing.

19. The attached development standards (dated August 30, 2006) shall be listed on the final subdivision map and applicable to future improvements on the project site.

#### **Tree Protection Conditions**

20. Prior to the initiation of any construction activities, a tree protection plan shall be submitted to the Community Development Department for review and approval. The tree protection plan shall address trees numbered 3617, 3624, 3626, 3625, 3661, and 3658 as indicated in the Arborist Report prepared for the project by Joseph McNeil.
21. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
22. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

#### **Landscaping Conditions**

23. The improvement drawings shall include landscape and irrigation plans. The landscape and irrigation plans shall show the items listed below; meet the requirements of Chapter 17.80 of the *Zoning Ordinance*; and be submitted for review and approval by the Community Development Department, Maintenance Department, and City Engineer.

- a. Landscaped areas in the public right-of-way shall be planted at the following densities: trees shall be provided at an average density of 1 tree/25 feet; shrubs shall be 5-gallon size and provided at an average density of 1 shrub/5 feet.
  - b. Landscaped areas in the front yards (except turf areas) shall be planted at the following densities: trees shall be provided at an average density of 1 tree/25 feet; shrubs shall be 5-gallon size and provided at an average density of 1 shrub/5 feet; groundcover plants shall be 1-gallon size and provided at an average density of 1 plant/3 feet.
  - c. All trees shall be 24-inch box size.
  - d. Water meters and irrigation systems with automatic controls.
  - e. All anti-siphon water valves shall be screened.
  - f. All newly-graded areas in or adjacent to the public right-of-way shall not exceed a 2:1 (horizontal:vertical) ratio.
  - g. A layer of mulch two to four inches thick shall be applied in all landscape areas.
  - h. Trees shall be planted along the project's southern property line and on the graded upslope portions of Lots 7 and 8 at a spacing of 1 tree/25 feet. This shall include the area between the southern property line and the two parking spaces proposed within the swale area south of the project driveway and Lots 3 and 4.
24. Three sets of the landscape and irrigation plans shall be submitted with the grading and improvement plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be approved prior to issuance of grading or encroachment permits. The landscape and irrigation plans shall be prepared by a landscape architect; shall have overall dimensions of 24" x 36"; shall contain approval blocks for the Community Development Director, City Engineer, and Maintenance Department; and shall show all existing and proposed public utilities within the project limits.
25. Landscaping shall be installed (or, at the sole discretion of the City, bonded) in conformance with the approved plans prior to occupancy of the individual residences.
26. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.
27. Prior to the issuance of a building permit for the first residence (including model homes), the Developer shall offer the City legally-binding instruments (e.g., licenses, easements, permits) regarding maintenance of the landscaping in the right-of-way on the project's High, Diablo, and Oak Street frontages. The instruments shall obligate the homeowners association to be responsible for the maintenance of the landscaping in the right-of-way. In its sole discretion, the City may revoke the instruments and/or remove any or all landscaping installed following a minimum of ten (10) days notice to homeowners association. The project site will remain in and be assessed for the existing Citywide Landscape Maintenance District, as amended or replaced.

28. The height of fences, including any retaining walls located within three feet, shall conform with the requirements of Section 17.36.075.G of the *Zoning Ordinance* regarding maximum fence heights.
29. The homeowners association and property owners shall maintain all landscaped areas in conformity with the approved landscape plans. Any modifications from the approved landscape plans requires the approval of the Community Development Director. The following criteria should be considered in reviewing modifications of the previously-approved plans:
  - a. Replacement plantings shall be of similar size, at maturity, to the original plants.
  - b. Plantings may not impede or reduce the function of the on-site drainage swale system.
  - c. Vegetative landscaping may not be replaced with impervious surfaces.

#### **Grading Conditions**

30. The Grading Plan shall be amended as follows:
  - a. Actions listed in the tree protection plan (see Tree Protection Conditions) to retain identified native trees shall be incorporated into the grading plan.
  - b. A five-foot (minimum) high temporary chain link fence shall be installed on driven posts prior to any demolition or construction activities. The fence shall be installed at the locations around the trees to be retained (as shown on the preliminary grading plan) and shall remain in place until the project is completed. Weather-proof signs shall be installed on temporary fences indicating that the fences shall not be opened, moved, or removed without authorization of the project arborist. The telephone number of the arborist shall be listed on the signs.
  - c. All retaining walls in the project shall be constructed of masonry block or concrete. All retaining walls visible from public street or sidewalk areas shall be covered with a stone fascia. Retaining walls greater than three feet in height (e.g., Lots 7 and 8) shall be designed by a licensed engineer.
  - d. All side yards (i.e., side setbacks plus private access easements) shall contain at least five feet of flat, unoccupied area (except for the common side yard between Lots 5 and 6 in which an air conditioner pad may be installed). "Flat" means a cross-slope between 2% and 10%. "Unoccupied" means no encroachments by fireplaces, building pop-outs (with or without a foundation), air conditioner pads, and the like.
  - e. Two feet of flat area shall be provided between a property or right of way line and the top of slope.
  - f. Signature blocks shall be provided for the Community Development Director and the City Engineer.
  - g. The retaining wall on the west side of Lot 1 shall not exceed a height of three feet six inches.
31. The recommendations of the geotechnical report shall be incorporated into the construction plans.

## David Woltering

---

**From:** Karen Haas <kmhaas@sbcglobal.net>  
**Sent:** Friday, September 14, 2012 10:09 AM  
**To:** dwoltering@ci.clayton.ca.us  
**Subject:** Mitchell Creek Place tree replacement plan  
**Attachments:** mitcreektrees2.pdf

Hi David,

Attached please find a draft plan with tree options that our arborist came up with. Perhaps you could run these by Dan Richardson to make certain these trees are acceptable. If so, the HOA will get back to you with exactly what species will go where. The only homeowner that has a strong opinion is lot number 4-they would like a Japanese Maple Green Leaf. As you can see from Peter's recommendations, if that tree is chosen the other lots with that letter code would be the same.

On another note, I reported to the HOA the results of our Tuesday meeting. It is the consensus that because the only item we were asking to amend was the box to gallon size, we, the HOA, should not be charged for any extra work that the city has to do to plan/prepare for the September 25th meeting. As it clearly states in the documentation page 7, item 29, "Any modifications from the approved landscape plans requires the approval of the community Development Director", which is you. We are very understanding and appreciative that Dan (and other committee members) are concerned about which trees to plant, but feel that the HOA should not be penalized monetarily.

One member had a question that would like answered: If the newly planted trees don't survive after a year or two would the HOA incur more cost in terms of getting permits, going to council, etc?

Again, I do appreciate the city staff being behind our project. Please let me know as soon as possible if there are other items you need from us.

Thank you,  
Karen Haas

----- Forwarded Message -----

**From:** Peter Vdovin <[petervlcc@earthlink.net](mailto:petervlcc@earthlink.net)>  
**To:** Karen Haas <[kmhaas@sbcglobal.net](mailto:kmhaas@sbcglobal.net)>; Norma Caro <[nmcaro@gmail.com](mailto:nmcaro@gmail.com)>  
**Sent:** Thu, September 13, 2012 2:09:15 PM  
**Subject:** More Trees

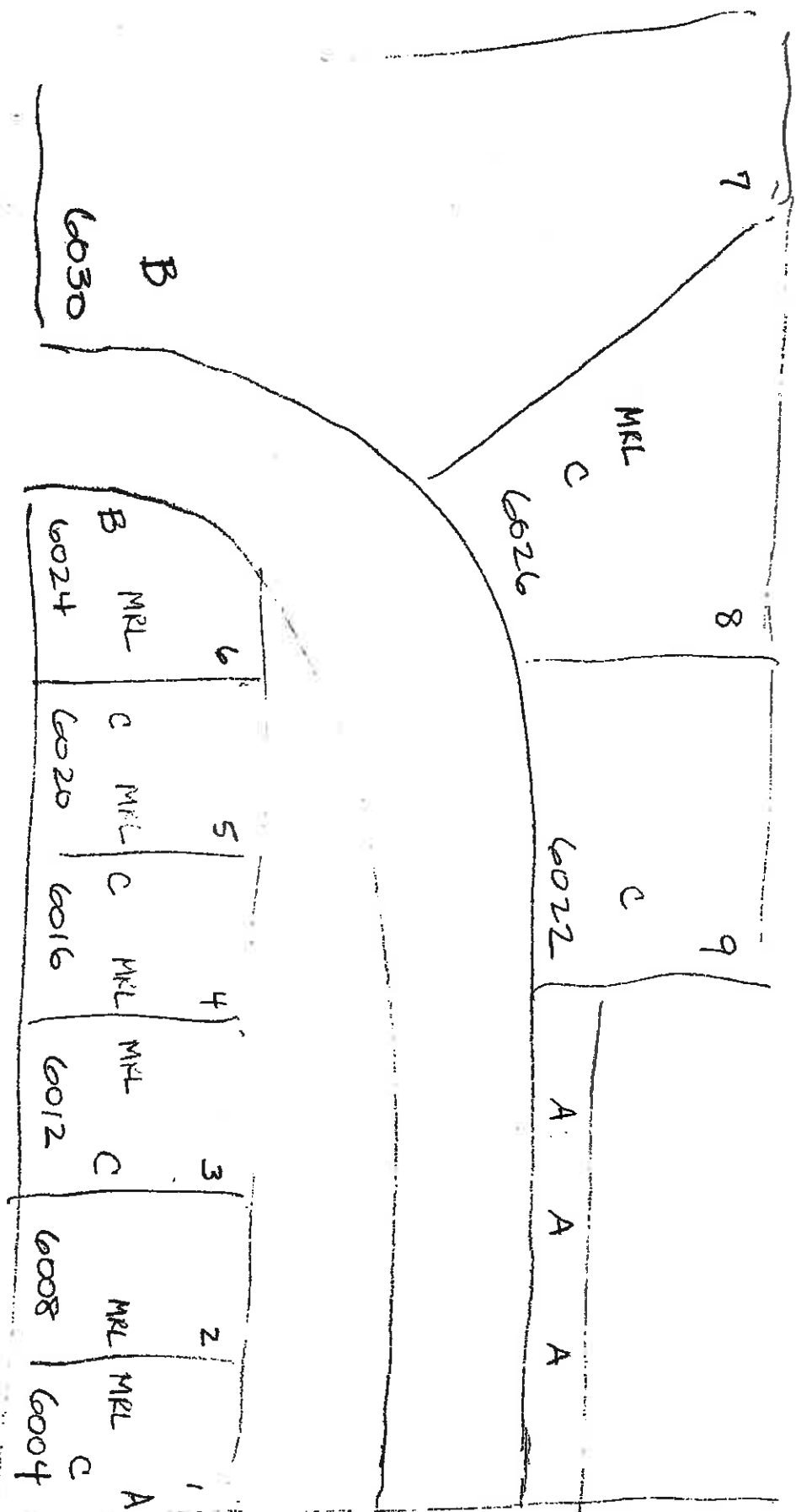
Hi Karen, please see attachments.  
I've coded the pear trees A, B, or C.  
Then I've given tree choices for each of those locations. I also added where the Japanese red leaf maples are now for reference.

In my opinion, all "A" and all "B" location trees should be the same.  
All "C" location trees should vary.

call me if you have any questions

A, B, C = BRASSIA PENTACEES  
 MRL = MARLE RED LEAF TO REMAIN

A - 4 TREES  
 B - 2 TREES  
 C - 6 TREES



MITCHELL CREEK



**Acer platanoides  
crimson sentry**



**Carpinus fastigiata  
frans fontaine**

**tree choices for "A" locations**



**Acer buegerianum**  
trident maple



**Magnolia**  
little gem

tree choices for "B" locations



**japanese maple  
green leaf**



**magnolia  
little gem**



**Acer platanoides  
globosum**

**tree choices for "C" locations**



Agenda Date: 10-2-12

Agenda Item: 9a

**PARCEL TAX MEASURE Q**

**CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT**

**2/3**

To provide local fire protection and emergency medical services and to ensure prompt response times for 9-1-1 emergency calls, shall an ordinance establishing an annual parcel tax of \$75 per single family home, with tiered rates for commercial and industrial property, for seven years with all money going to protect local fire and emergency medical services, be adopted?

**SUMMARY**

**OF**

**BALLOT MEASURE Q**

# Contra Costa Fire Protection District parcel tax, Measure Q (November 2012)

From Ballotpedia

(Redirected from Contra Costa Fire Protection District parcel tax (November 2012))

A **Contra Costa Fire Protection District parcel tax** ballot question is on the November 6, 2012 ballot for voters in the Contra Costa Fire Protection District in Contra Costa County.<sup>[1]</sup>

If the measure is approved, it will levy a parcel tax of \$75 each year on owners of single-family homes. Industrial and commercial landowners would pay \$75 per quarter-acre. Agricultural and vacant property owners would pay \$37.50 per parcel. Apartment owners would pay \$37.50 per unit.<sup>[1]</sup>

The proposed tax would go into effect July 1, 2013 and terminate on June 30, 2020.<sup>[1]</sup>

The tax, if approved, is expected to generate \$16.8 million a year in additional tax revenue for the district.<sup>[2]</sup>

Over 100 retired workers for the district are being paid in excess of \$100,000 each year in retirement benefits. 8 retired workers for the district receive an annual pension in excess of \$200,000.<sup>[3]</sup>

Measure S, a \$197/year parcel tax proposal for the East Contra Costa Fire Protection District, was on the June 5, 2012 ballot. It was decisively defeated, with 56.2% of voters rejecting it.

A 2/3rds supermajority vote is required for approval.

## Contents

- 1 Support
- 2 Opposition
- 3 About the district
- 4 Path to the ballot
- 5 See also
- 6 External links
- 7 References

## Support

- Fire chief Daryl Louder says that if the parcel tax fails, he will have to close seven fire stations in July 2013 and three in 2014.<sup>[1]</sup>
- Vince Wells, president of the United Professional Fire Fighters of Contra Costa County, says that the proposed tax "is a critical piece of the long term plan to make up for essential revenue lost from property taxes and to maintain the 9-1-1 emergency services that keep our community safe."<sup>[2]</sup>
- Tom Barnidge, a columnist for the *Contra Costa Times*, says, "If passed, the measure would cost each property owner \$75 per year, which works out to a whopping \$1.44 per week. With that windfall, you could buy a cup of coffee every Monday morning -- as long as you got it at McDonald's, not Starbucks."<sup>[4]</sup>

## Opposition

Opponents include:

- Bill Gram-Reefer, the editor of "Halfway To Concord". He says, "Despite the feints and public pronouncement made by Supervisors over the past year, budgets and expenses, and pension reform were never really seriously considered as Supervisors and union leaders joined forces to make mince meat of taxpayers, with intimidation, cries of calamity if the parcel tax is not passed, and the full force of the County machinery invested in the passage of the tax."<sup>[5]</sup>
- The editorial board of the *Contra Costa Times*. They say, "Residents of the Contra Costa Fire Protection District are being offered a false choice: Approve a \$75-a-year parcel tax on the Nov. 6 ballot or face the shutdown of nearly one-third of the district's stations. It's political blackmail. And it ignores potential savings that could have, and still could be, attained if fire district officials make meaningful pension changes and seriously examine ways to restructure, especially when it comes to providing emergency medical services. The Contra Costa Board of Supervisors, which runs the district, should have made every effort to find savings before going to voters. It didn't. There has been no serious evaluation of alternatives. Instead, voters are told to either pay more or watch homes burn. They're told the district plans to implement serious pension reform for new hires. In fact, the new pension formulas under discussion are just slightly less generous than the current ones and far more costly than the ones in effect a decade ago."<sup>[6]</sup>

## About the district

The Contra Costa Fire Protection District is often referred to as "ConFire."<sup>[1]</sup>

The district includes 28 fire stations. It serves 304 square miles in nine cities and several unincorporated areas throughout the central part of Contra Costa County.<sup>[1]</sup>

The fire protection district is "among the 14 largest metropolitan fire agencies" in California.<sup>[2]</sup>

It serves a population of approximately 600,000 people.<sup>[2]</sup>

## Path to the ballot

The parcel tax was referred to the ballot by a 4-1 vote of the governing body of the district.<sup>[5]</sup>

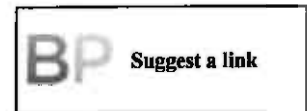
Supervisor Candace Andersen voted against the motion to place the tax on the ballot.<sup>[2]</sup>

## See also

- November 6, 2012 parcel tax elections in California

## External links

- Website of the Contra Costa Fire Protection District (<http://www.cccfpd.org/>)



## References

- <sup>1.0 1.1 1.2 1.3 1.4 1.5</sup> ↑ *Inside Bay Area*, "Contra Costa fire tax measure sent to voters", July 31, 2012 ([http://www.insidebayarea.com/news/ci\\_21201908/contracosta-fire-tax-measure-sent-voters](http://www.insidebayarea.com/news/ci_21201908/contracosta-fire-tax-measure-sent-voters))
- <sup>2.0 2.1 2.2 2.3 2.4</sup> ↑ *Pleasant Hill Patch*, "ConFire Places Parcel Tax Measure on Ballot", August 1, 2012 (<http://pleasanthill.patch.com/articles/confire-places-parcel-tax-measure-on-ballot-4238ab0d>)
- ↑ *Confire Pension Benefits Table* (<http://www.scribd.com/doc/101756751/Confire-Fire-Pensions-of-100-000-by-Pension-Total-as-of-June-1-2012>)
- ↑ *Contra Costa Times*, "Barnidge: Beware the consequences if Contra Costa fire tax fails", September 21, 2012 ([http://www.contracostatimes.com/news/ci\\_21604677/barnidge-beware-consequences-if-contracosta-fire-tax](http://www.contracostatimes.com/news/ci_21604677/barnidge-beware-consequences-if-contracosta-fire-tax))
- <sup>5.0 5.1</sup> ↑ *Halfway to Concord*, "The fix was in: CoCo Supervisors promised firefighters a parcel tax in July 2011", July 30, 2012 (<http://www.halfwaytoconcord.com/the-fix-was-in-coco-supervisors-promised-firefighters-a-parcel-tax-in-july-2011/>)
- ↑ *Contra Costa Times*, "Contra Costa Times editorial: District voters should reject false choice offered in fire tax", August 9, 2012 ([http://www.contracostatimes.com/news/ci\\_21274088/contracosta-times-editorial-district-voters-should-reject](http://www.contracostatimes.com/news/ci_21274088/contracosta-times-editorial-district-voters-should-reject))



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([http://ballotpedia.org/wiki/index.php?title=Contra\\_Costa\\_Fire\\_Protection\\_District\\_parcel\\_tax,\\_Measure\\_Q\\_\(November\\_2012\)&action=edit](http://ballotpedia.org/wiki/index.php?title=Contra_Costa_Fire_Protection_District_parcel_tax,_Measure_Q_(November_2012)&action=edit)) .

*title=Contra\_Costa\_Fire\_Protection\_District\_parcel\_tax,\_Measure\_Q\_(November\_2012)&action=edit* .

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*title=Contra\_Costa\_Fire\_Protection\_District\_parcel\_tax,\_Measure\_Q\_(November\_2012)&oldid=1436229*"

Categories: California ballot measure stubs | California parcel tax elections, 2012

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**INFORMATION**

**IN SUPPORT OF**

**BALLOT MEASURE Q**



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FAQ

## Why doesn't the Fire District have enough money to adequately fund our fire service?

Since the economic downturn in 2008, the District has lost \$32 million in revenue. 90% of the funding received by the District comes from property taxes, and as property tax assessments have gone down so has their revenue. Asking the District to live within its means is a fair request if the means had remained steady or even decreased slightly. Less money is coming in and the District is being asked to continue providing the same level of basic service. The District also faced in an attempt to balance the budget, they have already made severe cutbacks. They left positions unfilled, eliminated administrative positions, deferred critical repairs, and closed fire stations. The firefighters took a voluntary 10% decrease in salary and are currently working on reforms to their pension and benefits. The district has done the best they can with limited resources, but now they need help.

## How much does the Contra Costa County Fire Protection District cost to run compared to other departments?

By population (Cost per resident per year for fire services):

|                                  |          |
|----------------------------------|----------|
| CCCFFPD (\$117M/600K ppl):       | \$196.25 |
| Oakland (\$99M/397K ppl):        | \$249.33 |
| San Francisco (\$264M/744K ppl): | \$354.89 |
| San Jose (\$150M/895K ppl):      | \$167.61 |

By area (Cost per square mile per year):

|                                |             |
|--------------------------------|-------------|
| CCCYPD (\$117M/304sqmi):       | \$384,868   |
| Oakland (\$99M/56sqmi):        | \$1,767,857 |
| San Francisco (\$264M/46sqmi): | \$5,740,211 |
| San Jose (\$150M/174sqmi):     | \$862,069   |

## Is our local fire district changing with the times and exploring new service models to be effective and efficient?

Years ago, your fire department responded to fires. Period. Through building codes, inspections and enforcement, fire incidents are down. That is good news, but it does not mean that when fires occur (and they do) we no longer want firefighters to save lives and put fires out.

Countywide, building construction has spread. Though we have 2 more fire stations than we did 30 years ago, that was accomplished by stealing companies from other stations which used to house two companies. Countywide, our staffing has actually gone down even as the population has increased by 57%.

Our services have increased dramatically over the years, even as staffing has been cut:

- **Basic Life Support** All firefighters are, at a bare minimum, emergency medical technicians, trained to deliver initial lifesaving care, including the use of basic airway adjuncts, oxygen therapy, positive pressure ventilation, CPR, defibrillation, bleeding control, spinal immobilization to minimize risk of spinal injury after traumatic accidents and assaults.
- **Advanced Life Support** Many firefighters are also paramedics, trained to deliver advance life saving care, including the administration of cardiac, respiratory and pain medications, defibrillation, transcutaneous cardiac pacing, chemical and electrical cardioversion of uncontrolled tachycardia, intravenous ("IV") fluid resuscitation, and intubation.
- **Technical Rescue** The "technical" in technical rescue means a safe and professional approach to trapped victims, reducing the risk to both rescuers and the victim. Different hazards require different approaches and safety measures. Ropes, flotation devices, carabiners, respiratory equipment, hydraulic tools, etc. all have tolerances and limitations. Water rescue, high and low angle rope rescue, trench rescue, confined space rescue, rescue from collapse and vehicle extrication all require knowledge of hazards and potential hazards, as well as knowledge and training to defeat those hazards in order to successfully mitigate these emergencies. Your fire agencies and firefighters have worked hard to be prepared for these rescues.
- **Public education** On a daily basis firefighters are there to educate the public on fire prevention and accident avoidance. Station tours and fire engine demonstrations are our opportunity to teach children about fire safety and to reinforce lessons that kids learn from their teachers.
- **Prevention services** are key to reducing deaths, injury and property loss. Our fire prevention bureau, in conjunction with engine companies, inspects industry, commercial property and large occupancies (such as hotels and apartment buildings) annually to be sure safety measures and escape routes are as they should be.

Our services come with no copays or deductibles. We cover anyone in our response area, including your friend visiting from out of town.

## How does CCCYPD staffing compare to industry standards? Why?

Every day, 84 firefighters on 28 rigs protect 304 sq miles. Our average response time is longer than industry standards set forth in NFPA 1710.

NFPA has recommended a minimum of four firefighters on fire apparatus for years. This is an industry standard and recommendation, though it is not a law.

California's OES strike teams are required to have four firefighters on each apparatus. This is a requirement.

Oakland, San Francisco and San Jose all staff with a minimum of four, and, in some cases five. Overall, four person crews are nearly 25% faster than three person crews.

Critical, potentially life saving tasks require four firefighters for maximum efficiency. Though there are good arguments and data to support a minimum of five, this study showed little difference between four and five person crews.

Two and three person crews were unable to meet "industry standard achieved" goal under the testing parameters.

## Can we use volunteer and paid on-call firefighters to save money?

In the years past, communities used volunteers or paid-on-call firefighters for fire protection. This system was workable when the populations were sparse and the district was primarily farmland. With the significant growth in both population and commercial property, this system could not work as it did in the past.

To run a volunteer program, those who were able to do the job would be required to remain in the community at all times to be available to respond to emergencies. The lack of permanent staffing at a fire station would lead to increased response times or sometimes no response. This is because, depending on the system, the volunteers have to report to the station first and then can respond to the call. With the increases in traffic and congestion, this would have a significant impact on travel and response times. Furthermore, there are many laws that require annual or bi-monthly training for all fire fighters that are going to be involved in a fire attack or other life threatening emergencies. The maintenance of skills, need for emergency medical training, and requirement of annual physicals are also factors that have made an all volunteer/paid-on-call system undesirable.

## Why does the Fire District send fire engines to non-fire medical emergencies? Isn't this a waste of money? Can't we send an ambulance instead?

This is one of the largest misconceptions about the work of our firefighters. There are many important reasons that fire engines respond to non-fire medical emergencies. Using fire engines to respond to medical emergencies may mean the difference between life and death.

- Fire stations are strategically located throughout the community so that they are able meet adequate response times for a fire emergency to most of the community. National standards state that firefighters should reach a fire emergency in 5 minutes, so fire stations are positioned throughout the community. On the other hand, there are very few private ambulances located throughout the county at any time. As a result, a fire engine will often beat an ambulance to a call. The goal in emergency medical services is to get a paramedic to the scene of an incident within 4 to 6 minutes – the amount of time the brain can survive without oxygen. This is the industry standard and is what makes a difference between life and death. Our fire stations are already located in the community for fire protection services. It would be a waste of taxpayer dollars to utilize this resource for fires only.
- Firefighters in the Contra Costa Fire Protection District are trained up to the minimum level of Emergency Medical Technician (EMT) and each fire truck has a firefighter trained up to the level of paramedic. They are a resource to our community that is ready and able to provide the highest level of care in an emergency.
- Ambulances are staffed with just two people. If an ambulance responded to a medical call without the fire department, there would only be two people to provide emergency medical treatment on scene. With the variety of critical medical calls, this staffing is inadequate. Many patients require CPR, cardiac monitoring, intravenous medication, bleeding control, family intervention, lifting, and many other life saving services. If a traumatic injury or cardiac arrest occurs, often five qualified responders are not enough.
- An ambulance is out of service once it has just one patient on board. This means they are unavailable for another call until they unload the patient at an Emergency Room, which could take over 45 minutes. If fire engines didn't assist in responding to emergencies, response times would go up dramatically, creating an unsafe situation.
- Ambulance service is provided by a contract with a private for-profit company. Ambulance companies can put fewer ambulances on the street because the fire service responds to medicals. If fire service were removed from medical responses, the private companies cost would go up tremendously to provide enough medical personnel to respond to all the calls they are dispatched to.
- Responding to medical calls in a fire truck keeps that truck and its crew active and ready to respond to a fire. As soon as the patient has been treated, that truck can be dispatched to another incident. The district often receives multiple emergency calls at the same time. The ability to respond quickly and efficiently saves lives. The only cost to the taxpayer is a minimal gas cost, while ambulances can charge thousands of dollars for a pick up.

## Is it true that firefighters get paid to sleep?

Yes, firefighters are paid for the full 48 hours (or more) that they are on duty. The daily (24 hours) call volume is a wildly erratic variable. Some stations tend to slow down at night while some stations pick up. All stations, regardless of location, have days that buck trends. Either way, there is no way of predicting what and where the next emergency will be. The round the clock coverage assures that the closest resource is available to respond at a moments notice. Sleeping all night does happen, but more times than not firefighters are out in the middle of the night responding to emergencies. Some of the busier engine companies go on five or more calls between midnight and the end of shift at 08:00. The majority of people are not fully aware of what happens in their neighborhood, city and county during the nighttime hours unless it happens to make the morning news.

At night, when call volume allows, firefighters try to sleep. When an emergency occurs the alarm goes off, firefighters don their gear, get on the engine, respond to the emergency and mitigate the emergency. Once back at the station, firefighters restock and clean tools and equipment. All equipment must be restored to readiness immediately. Reports are also required for all incidents. This process start to finish can range from 30 minutes for a false alarm or "routine" medical call to several hours, depending on the emergency. The majority of fire stations respond to several emergencies every night.

## Are firefighters paid while they eat?

Firefighters are paid for the full 48 hours they are on duty. During this time we do prepare meals and eat. Because firefighters are always on duty, there is no out of service time for meals. What this means is that at any time firefighters must be readily available to respond to emergencies, even during meals. Emergency calls vary in length from about 30 minutes to several hours.

## How much do firefighters work in a week?

Each firefighter works on a rotating schedule of 48 straight duty hours followed by 96 hours off. This equates to 48 hours (2 days) for every six days. This averages out to a 56 hour work week. It is important to remember that 2 days of a firefighters work schedule (48 hours) is the same amount of time as 6 days work for most people. This schedule provides for 24/7/365 coverage of the communities we serve with only three shifts of personnel. If we were to move to 40-hour work weeks with eight hour shifts, that would require some combination of three shifts per day (24hrs/8hr shifts=3 shifts) during weekdays, leaving the weekends still in need of coverage. With 48 hours to cover over the weekend, the department would have to hire one full shift of personnel and still be short another eight hours of coverage).

So, moving firefighters to 40-hr shifts from 48-hr shifts would require more employees, which would be an additional cost to the taxpayer.

## Wouldn't it make more sense to reduce the service of a not-so-busy station?

While your Contra Costa Firefighters have NO SAY in stations closures, we can offer you these insights:

Your fire service is already stretched very thin. Any reduction to service due to closing stations or de-staffing units increases the risk to us all.

- Closing a slower station could seriously jeopardize safety depending on where next closest unit is coming from (and hopefully that unit is not assigned to another emergency).
- Closing a slower station is something you may be less willing to do if it's the closest station to your own house.
- Closing any station is a gamble. The odds would probably be better closing a slow station versus a busy station. The question then becomes, "how much do I have at stake and what are you willing to risk?"

Paid for by Committee to Protect Contra Costa Fire and Emergency Services, FPPC# 1345377.

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## FAQ Base Page

[How much does the county pay for fire services?](#)[How do fire services compare to other insurance costs?](#)[How much does CCCFPD cost compared to other departments?](#)[How has fire service changed over the years?](#)[How does the fire department influence fire insurance rates?](#)[How are fire stations and fire engines staffed? Why?](#)[How does \(CCCFPD\) staffing compare to industry standards?](#)[What do firefighters do at fires?](#)[What are the industry standards and laws regarding structural firefighting?](#)[Who are your Contra Costa County Firefighters?](#)

### "How much does the county pay for fire services?"

Last year, Contra Costa County spent \$138,595,870 on fire services, which is 5.882% of the \$2,356,164,293 total county budget.<sup>1, 2</sup>

CCCFPD's district-specific budget (salaries, benefits and all) is equivalent to 4.76% of the County's total appropriations.<sup>3</sup>

Individual cost to taxpayers:

The cost, on average, per resident of the District, is \$196 per year or \$16.35 per month.<sup>4</sup>

Please compare that with some of your monthly bills:

Concord residents' water costs are \$52.96/month.<sup>5</sup>

Pittsburg residents' water costs are \$71.65/month.<sup>5</sup>

Comcast phone/internet/cable bundle starts at \$99/month.<sup>6</sup>

Average Californian's electric bill is \$64.83/month.<sup>7</sup>

Contra Costa Times (S.J. Mercury) annual subscription is \$178.44, or \$14.87/month.<sup>8</sup>

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### "How do fire services compare to other insurance costs?"

Funding fire services is like paying insurance premiums. In Contra Costa, the "premium" is paid through taxes. We thought it worth while to compare our premiums to those paid by our firefighters for other insurance "products."

One captain's auto, home, and medical insurances cost him \$3000/yr.

Another captain's cost is \$2500/yr, adding spousal coverage adds \$1600/yr, so \$4100/yr.

One firefighter's auto, renter's and medical insurances come to \$1250+\$146+\$943 = \$2339/yr.

CCCFPD's cost to taxpayers, averaged over the population we serve is \$196 per year per person.

Please note that these numbers do not include deductibles or copays.

CCCFPD does not charge deductibles or copays. Also know that, contrary to insurance industry trends, our services have been increasing over the years (See "[How has fire service changed over the years?](#)").

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### "How much does CCCFPD cost compared to other departments?"

By population (Cost per resident per year for fire services):

|                                 |          |
|---------------------------------|----------|
| CCCFPD (\$117M/600Kppl):        | \$196.25 |
| Oakland (\$99M/397Kppl):        | \$249.33 |
| San Francisco (\$264M/744Kppl): | \$354.89 |
| San Jose (\$150M/895Kppl):      | \$167.61 |

By area (Cost per square mile per year):

|                                |             |
|--------------------------------|-------------|
| CCCFPD (\$117M/304sqmi):       | \$384,868   |
| Oakland (\$99M/56sqmi):        | \$1,767,857 |
| San Francisco (\$264M/46sqmi): | \$5,740,211 |
| San Jose (\$150M/174sqmi):     | \$862,069   |

Sources: Department web sites and US Census data.<sup>9</sup>

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### "How has fire service changed over the years?"

Years ago, your fire department responded to fires. Period. Through building codes, inspections and enforcement, fire incidents are down. That is good news, but it does not mean that when fires occur (and they do) we no longer want firefighters to save lives and put fires out.

Countywide, building construction has spread. Though we have 2 more fire stations than we did 30 years ago, that was accomplished by stealing companies from other stations which used to house two companies. Countywide, our staffing has actually gone down even as the population has increased by 57%.<sup>12</sup>

Our services have increased dramatically over the years, even as staffing has been cut:

- **Basic Life Support** All firefighters are, at a bare minimum, emergency medical technicians, trained to deliver initial lifesaving care, including the use of basic airway adjuncts, oxygen therapy, positive pressure ventilation, CPR, defibrillation, bleeding control, spinal immobilization to minimize risk of spinal injury after traumatic accidents and assaults.
- **Advanced Life Support** Many firefighters are also paramedics, trained to deliver advance life saving care, including the administration of cardiac, respiratory and pain medications, defibrillation, transcutaneous cardiac pacing, chemical and electrical cardioversion of uncontrolled tachycardia, intravenous ("IV") fluid resuscitation, and intubation.
- **Technical Rescue** The "technical" in technical rescue means a safe and professional approach to trapped victims, reducing the risk to both rescuers and the victim. Different hazards require different approaches and safety measures. Ropes, flotation devices, carabiners, respiratory equipment, hydraulic tools, etc. all have tolerances and limitations. Water rescue, high and low angle rope rescue, trench rescue, confined space rescue, rescue from collapse and vehicle extrication all require knowledge of hazards and potential hazards, as well as knowledge and training to defeat those hazards in order to successfully mitigate these emergencies. Your fire agencies and firefighters have worked hard to be prepared for these rescues.
- **Public education** On a daily basis firefighters are there to educate the public on fire prevention and accident avoidance. Station tours and fire engine demonstrations are our opportunity to teach children about fire safety and to reinforce lessons that kids learn from their teachers.
- **Prevention services** are key to reducing deaths, injury and property loss. Our fire prevention bureau, in conjunction with engine companies, inspects industry, commercial property and large occupancies (such as hotels and apartment buildings) annually to be sure safety measures and escape routes are as they should be.

Our services come with no copays or deductibles.

We cover anyone in our response area, including your friend visiting from out of town.

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### "How does the fire department influence fire insurance rates?"

One factor that goes into computing insurance premiums is structural firefighting capability. The Insurance Services Office, ISO, rates fire departments on a scale of 1 to 10, 1 being best. Water supply (hydrants), proximity of fire stations, quality of apparatus and staffing of fire stations all factor into the rating.

In the area covered by CCCFPD <sup>13</sup>:

91 firefighters protect 600,000 residents spread over 304 sq miles each day.

Our developed areas are stretched thin, but still are ISO Class 3.

Our wildland areas are relatively unprotected.

Outlying areas of the county are ISO Class 9.

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### "How are fire stations and fire engines staffed? Why?"

Three shifts, A, B and C shifts, provide "around the clock" coverage in a repeating AABCC pattern, resulting in a six-day cycle of 48hrs on and 96hrs off, which averages to a 56hr work week or an approximate 240hr work month.

CCCFPD Engines and quints each carry a minimum of three firefighters, at least one of whom is a paramedic. All suppression personnel are, at a bare minimum, emergency medical technicians:

1 Firefighter (nozzle person/work horse) +  
1 Fire Engineer (driver/pump operator/work horse) +  
1 Fire Captain (supervisor/Boss/Safety/work horse) =  
1 crew = 1 company

CCCPCD covers its area (304sqmi) with 30 Companies (in 28 stations) and one Training Captain = 91 total line personnel on duty per day

273 suppression employees would be "zero staffing." Our line firefighter staffing falls short of zero staffing by approximately 40 firefighters, due to attrition (as of October, 2010).

Sick Leave, Vacation, Work related injuries, and unfilled positions due to attrition create holes in staffing, resulting in overtime shifts to meet 91 firefighters per day.

Of the 30 companies, 24 companies are engine companies, which means that they are equipped with 500 gallons of water, 700+ feet of supply hose, 1200+ feet of attack hose, a 1500 gallon-per-minute pump for increasing pressure delivered by hydrants, minimal ladders, medical equipment, saws and hand tools.

The remaining six companies staff trucks (quints): Trucks are equipped with more saws, longer ladders, an aerial ladder (the big, long ladder on the top that is mechanically controlled), hydraulic tools for automotive extrication ("jaws of life") and many other tools that cannot be carried in the smaller fire engines. Trucks do not have a water tank or pump. At structure fires, "truck work" typically includes rooftop ventilation (often a critical task for saving civilian lives) and search and rescue operations, particularly in buildings greater than one story tall. CCCPCD currently has "quints" serving as trucks; quints are arguably more versatile than traditional trucks because they carry some water (~200 gal) and have high volume pumps.

Rooftop ventilation (creating a makeshift chimney to improve interior conditions) must be done quickly:

NIST roof study:



(Note that we often arrive 5-10 minutes after a fire has started).

Phoenix, AZ tile roof, firefighter falls through:



Engine and Truck work, FDNY:





#### Additional Engine work, FDNY video

Note that Contra Costa fire agencies are currently trying to accomplish the tasks described above with only three people on each engine and quint.

Our response for a residential structure fire (1st alarm) is four engines, a truck or quint and a battalion chief. This compliment results in 15 active firefighters for suppression activities and a battalion chief to help run the incident. For fires in commercial buildings (including apartment complexes), a second truck or quint is sent instead of one of the engines due to the anticipated need for more heavy equipment to ventilate and gain access to the fire building.

But our response time is hindered by our thin resources and our task completion time is hampered by our low staffing on each engine and quint.

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### **"How does (CCCFPD) staffing compare to industry standards? Why?"**

Every day, 90 firefighters on 30 rigs protect 304 sq miles.

Our average response time is longer than industry standards set forth in NFPA 1710.<sup>11</sup>

Countywide, building construction has spread. Though we have two more fire stations than 30 years ago, that was accomplished by stealing companies from other stations. Countywide, our staffing has actually gone down, as population has increased by 57%.<sup>12</sup>

NFPA has recommended a minimum of four firefighters on fire apparatus for years. This is an industry standard and recommendation, though it is not a law.<sup>13</sup>

California's OES strike teams are required to have four firefighters on each apparatus. This is a requirement.

Oakland, San Francisco and San Jose all staff with a minimum of four, and, in some cases five.

Scientific study of staffing and efficiency<sup>14</sup>:

NIST studied the effects of staffing levels on time efficiency for 22 fire-ground tasks and concluded that more is better. Overall, four person crews are nearly 25% faster than three person crews.

Critical, potentially life saving tasks require four firefighters for maximum efficiency. Though there are good arguments and data to support a minimum of five, this study showed little difference between four and five person crews.

Two and three person crews were unable to meet "industry standard achieved" goal under the testing parameters.

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### **"What do firefighters do at fires?"**

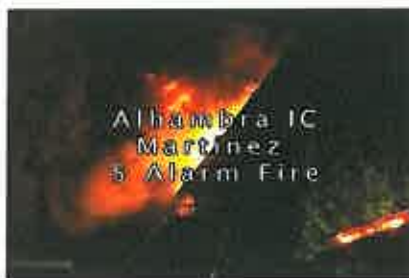
"The Contra Costa County Fire Protection District exists to provide you, your family and our community with professional services, dedicated to the preservation of life, property and the environment."

-CCCFPD Mission Statement

Structure fires are complex incidents that often threaten lives and property.

Our specific priorities at structure fires are to rescue lives that are in danger, prevent the spread of fire to rooms or buildings that are not currently involved in fire, extinguish the fire, and to overhaul the building to be sure that the fire is all the way out and that it did not extend through a wall or attic into another part of the building. Salvaging property is a priority that is addressed as soon as is feasible. An often critical task is to create ventilation openings such that super heated toxic gases leave the interior of the structure, giving trapped victims the best opportunity for survival and giving firefighters operating inside the fire building better conditions for rescuing trapped victims.

Martinez 5 Alarm fire on [YouTube](#):



Early in a fire incident, several specific tasks need to be accomplished immediately to quickly save lives and property:

Search for and rescue of people threatened by the fire is our primary mission at a structure fire; saving saveable lives is our first consideration, and time is usually critical. Obstacles to rescuing victims include the height of the building, the condition of the building, the amount and location of the fire in relation to victims, electrical wiring, housekeeping within the fire building, poor visibility, intense heat, and, possibly most importantly, the amount of rescuers (firefighters) on hand.

"Fire attack," or, "putting enough water on the fire to put it out" is of great importance because rapid extinguishment of the fire could be the fastest way to save lives and property. Obstacles include all of the obstacles listed above plus the added difficulty of maneuvering heavy hose through the building (and up the stairs) if these difficulties can be alleviated with more hands to help. Another factor is the amount of fire present usually needs more water than is typically carried on a fire engine; securing a water supply is therefore very important.

Providing a continuous water supply is an early priority for the first-arriving engine company. Fire hydrants are usually not far in well developed areas of the county, but some fires require lots of supply hose to be stretched from the fire engine to the hydrant, or vice versa. This can be a time consuming, labor intensive step (especially in outlying areas) that is critical to the resolution of most structure fires.

Ventilation of the fire building is the systematic replacement of super-heated toxic gases contained in a building with fresh air. In most homes, this is best done by cutting a hole in the roof immediately above the fire to direct the hostile atmosphere out of the building and away from victims and firefighters operating within the structure.

Best practices and federal and state laws require that firefighters that are not actively seeking to rescue a victim cannot enter a structure with a hostile atmosphere alone and that they cannot do so without at least two firefighters fully equipped and ready to initiate a rescue of the entry firefighters. This means that, in Contra Costa County, a fire that is destroying a building but not threatening lives will not get the benefit of interior firefighting operations until a second unit arrives. Put another way:

With current staffing levels in Contra Costa, the first arriving engine can not legally enter your house to extinguish a fire, unless there is a known rescue, until a second engine arrives to back up the first crew.

That second crew can be many minutes away. If there is a rescue, our three person search crews are 6% slower than a four person crews. A two person search crew is 25% slower than a crew of three. In an increasingly hostile and toxic interior environment, time works against trapped and/or incapacitated victims. Seconds truly count in these situations.

(Source: NIST study).

#### Local 1230 video:

Rescue time comparison, in house, with 3- and 2-person crews resulted in a two minute difference in rescue time. (4:54 vs. 7:12, respectively):



#### Our low staffing is a problem:

Our technology in communications and dispatching, apparatus and opticom traffic signal control have resulted in our ability to get the first engine to the scene pre-flashover in some cases, giving us a maximum chance for loss control. But, our staffing limits our ability to act once onscene.

Our current area coverage and staffing levels are sub-par. We need to be looking at expanding coverage with additional stations, additional companies and adding a fourth firefighter to all companies.

(NIST study: April 2010 NIST Technical Note 1661 Report on Residential Fireground Field Experiments)

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**"What are the industry standards and laws regarding structural firefighting?"**

29 CFR 1910.134, and CCR Title 8 Section 5144: address use of respirators in IDLH ("Immediately dangerous to life and health") environments, including structure fires. The law requires us to work in teams of at least two firefighters when in an IDLH environment. It also requires a minimum of two firefighters outside of the IDLH environment that are ready to initiate a rescue of the interior crew(s).

**Rapid Intervention Crew (RIC):**

A dedicated company of at least three firefighters equipped and ready to rescue downed firefighters. At CCCFPD, this is an assignment made on-scene as soon as is practicable. Establishing a RIC is an industry standard. It is our Insurance policy, should things go horribly wrong.

NFPA has recommended a minimum of four firefighters on fire apparatus for years. This is an industry standard and recommendation, though it is not a law. <sup>13</sup>

NFPA also sets the industry standard for response times, with the first arriving engine expected to arrive within 5 minutes of a fire call, or all units to arrive within 9 minutes, 90% of the time. Our thin area coverage (28 staffed fire stations for 304 square miles) is insufficient. Our 90% percentile "code 3" response time for In-district 911 calls was 10min47sec, excluding dispatch time. Our median response time was 6min52sec. <sup>11</sup>

California's OES strike teams are required to have four firefighters on each apparatus. This is a requirement. When called to staff our OES issued fire engine, we currently add a fourth firefighter to that rig to meet the requirement.

Oakland, San Francisco and San Jose all staff with a minimum of four, and, in some cases, five firefighters per fire apparatus.

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**"Who are your Contra Costa County Firefighters?"**

Your firefighters are part of your community.

Your firefighters are your neighbors, friends and family.

Your firefighters are dedicated to provide the community with the best possible emergency & non-emergency services.

Your firefighters are and have always been part of the solution, doing more with less.

Your firefighters are ready to respond to any emergency 24 hours a day, 365 days a year.

Your firefighters are prepared to risk their lives for you and your family.

Your firefighters love what they do.

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1. Total FIRE PROTECTION Total Available Financing = \$138,595,870  
[Fiscal Year 2009-10 Special Districts Budget, p.1](#)
2. SUMMARY OF SPECIAL DISTRICT BUDGETS, County budget form Schedule 13. Appropriation Grand Total = \$2,356,164,293  
[Fiscal Year 2009-10 Recommended Budget, p.10](#)
3. SUMMARY OF SPECIAL DISTRICT BUDGETS, County budget form Schedule 13.  
[Fiscal Year 2010-2011 Recommended Budget, p.10](#)
4. \$117,752,070 proposed budget for CCCFPD: [Fiscal Year 2010-2011 Recommended Budget, p.10](#)  
600,000 residents: [CCCFPD Chief's Message](#)
5. <http://www.ci.antioch.ca.us/CityGov/PublicWorks/Water/>
6. <https://www.comcast.com/shop/buyflow2/products.csp?SourcePage=Bundle&Inflow=1>
7. [http://www.eia.doe.gov/cneaf/electricity/epav2/html\\_tables/epav2t2p1.html](http://www.eia.doe.gov/cneaf/electricity/epav2/html_tables/epav2t2p1.html)
8. CcTimes subscriber services 1-800-598-4637
9. Department web sites and US Census data.
10. LAAFCO MSR p. 136
11. LAAFCO Fire MSR, p.164
12. US Census reports and estimates
13. NFPA 1710, 1st Ed, 2001
14. [NIST Technical Note 1661, Report on Residential Fireground Field Experiments](#)

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**INFORMATION**

**IN OPPOSITION TO**

**BALLOT MEASURE Q**

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CoCoTAX has a goal for ConFire of excellent firefighting services and the long term sustainability of those services. To that end, CoCoTAX has raised the following issues to the Board thus far:

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**Contra Costa Fire  
Protection District**

ConFire 2011 Salary Data  
ConFire Pensions of  
\$100,000 and above as of  
June 1, 2012

**East Contra Costa  
Fire Protection  
District Measure S**

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- Only 3.3% of the District's calls are for fires. The vast majority of their calls are for medical calls. They send a full truck and crew to these events where an ambulance with a fully trained paramedic will also be sent. This is a very expensive form of duplicative care. It is up to the district to determine how to best provide services but there are a number of models out there that should be considered and questions that should be asked including where stations are located (two are a mile and a half apart). Attached is the incident summary from 2011 from ConFire. [2011 Incident Summary \(3\).pdf](#)

- The \$75 tax being proposed does not meet the financial needs of the District as it is currently delivering services. As shown on the attached document, using Chief Louder's own presentation, I have included the District's projected revenue from that tax. By the second year of the tax reserves are down to only \$700,000 and the next year they go negative. And that continues to underfund needed capital expenses and we believe understates the pension costs. [5 YEAR COST PROJECTION with notes.pdf](#)

- There has been a lot of talk about declining revenues for the District but in the peak year of the property tax boom (FY 2007-08) the District still spent 5 million more than it took in. That property tax maximum was \$89.5 million. Now the District is receiving \$77.2 million. Yes it is less but what has also changed? Pension costs are now (including pension bonds) \$26 million and continue to grow. Retiree health expenses make up another \$7.6 million. It is the Chief who wrote in his budget statement: **"In real terms, the rate increase adds \$5.5 million in costs to the District's FY 2011-12 operating budget. The employer pension rates for FY 2012-13 continue to INCREASE AT AN UNSUSTAINABLE RATE (emphasis added) - from 32.3% in FY 2011-12 to 40.8% in FY 2012-13 for Safety Tier A."** [10 Year CON FIRE Financial Summary from Twa.pdf](#)

- We have also raised concerns about the viability of the sustainability of the District's delaying replacement of trucks and investment in structures.

These concerns have not been met with support by the Fire Board. They seem to want to continue as before even though this is not financially viable even with the tax increase.

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**CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT**  
**FIVE YEAR PROJECTION WITH MULTIPLE TIERED TAX RATES**  
(Projections Rounded to Nearest Thousand)



|                                                              | 28 Functional Units |                 |                 |                 |                 |                 |
|--------------------------------------------------------------|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                                                              | FY 12/13            | FY 13/14        | FY14/15         | FY15/16         | FY16/17         | FY17/18         |
|                                                              | Projection          | Projection      | Projection      | Projection      | Projection      | Projection      |
| <b>BEGINNING FUND BALANCE:</b>                               | \$ 16,000,000       | \$ 3,983,000    | \$ -            | \$ -            | \$ -            | \$ -            |
| <b>REVENUE:</b>                                              |                     |                 |                 |                 |                 |                 |
| Property Tax                                                 | \$ 77,156,000       | \$ 77,928,000   | \$ 79,487,000   | \$ 81,077,000   | \$ 82,699,000   | \$ 84,353,000   |
| SAFER Grant                                                  | \$ 3,170,000        |                 |                 |                 |                 |                 |
| Other (Fees, Pass Through Pymts, CSA FM-1, etc.)             | \$ 7,340,000        | \$ 7,413,000    | \$ 7,561,000    | \$ 7,712,000    | \$ 7,866,000    | \$ 8,023,000    |
| Fund Balance                                                 | \$ 12,017,000       | \$ 3,983,000    | \$ -            | \$ -            | \$ -            | \$ -            |
| <b>Total Projected Revenue</b>                               | \$ 99,683,000       | \$ 89,324,000   | \$ 87,048,000   | \$ 88,789,000   | \$ 90,565,000   | \$ 92,376,000   |
| <b>EXPENDITURES:</b>                                         |                     |                 |                 |                 |                 |                 |
| Salaries & Benefits (not including Retirement)               | \$ 63,481,000       | \$ 63,429,000   | \$ 64,019,000   | \$ 64,605,000   | \$ 65,229,000   | \$ 65,879,000   |
| Retirement Expense ②                                         | \$ 14,517,000       | \$ 17,000,000   | \$ 20,100,000   | \$ 20,900,000   | \$ 20,800,000   | \$ 20,900,000   |
| Services & Supplies                                          | \$ 7,513,000        | \$ 7,000,000    | \$ 7,000,000    | \$ 7,000,000    | \$ 7,000,000    | \$ 7,000,000    |
| Interagency Charges                                          | \$ 2,671,000        | \$ 2,700,000    | \$ 2,754,000    | \$ 2,809,000    | \$ 2,865,000    | \$ 2,922,000    |
| Fixed Assets (i.e., Capital Investment) ③                    | \$ -                | \$ 250,000      | \$ 250,000      | \$ 250,000      | \$ 250,000      | \$ 250,000      |
| Pension Obligation Bond (POB) P&I Payments                   | \$ 11,501,000       | \$ 12,104,000   | \$ 12,731,000   | \$ 13,383,000   | \$ 14,070,000   | \$ 14,782,000   |
| <b>Total Projected Expenditures</b>                          | \$ 99,683,000       | \$ 102,483,000  | \$ 106,854,000  | \$ 108,951,000  | \$ 110,214,000  | \$ 111,733,000  |
| <b>SURPLUS/(DEFICIT):</b>                                    |                     |                 |                 |                 |                 |                 |
| Total Revenue Less Total Expenditures                        | \$ -                | \$ (13,159,000) | \$ (19,806,000) | \$ (20,162,000) | \$ (19,649,000) | \$ (19,357,000) |
| \$75 Parcel Tax                                              |                     | \$ 16,837,350   | \$ 16,837,350   | \$ 16,837,350   | \$ 16,837,350   | \$ 16,837,350   |
| <b>ENDING FUND BALANCE:</b>                                  | \$ 3,983,000        | \$ 3,678,350    | \$ 709,700      | \$ (2,614,150)  | \$ (5,426,600)  | \$ (7,946,250)  |
| <b>Projected Station Closures Without Additional Revenue</b> |                     | 7               | 10              | 10              | 10              | 10              |

**NOTES:**

- 1 - Source is Chief Louder's June 26, 2012 presentation to the Contra Costa County Fire Board.
- 2 - The projected pension expense is understated given the increases forecast by the actuaries. Chief Louder wrote in his Fiscal Year 2012-13 Recommended Budget message about pensions: "In real terms, the rate increase adds \$5.5 million in costs to the District's FY 2011-12 operating budget. The employer pension rates for FY 2012-13 continue to INCREASE AT AN UNSUSTAINABLE RATE (emphasis added) - from 32.3% in FY 2011-12 to 40.8% in FY 2012-13 for Safety Tier A.
- 3 - The Chief has admitted that there has been, and continues to be, an inadequate amount budgeted for vehicle replacement and other capital improvements. The fact that the Lafayette station had to be closed recently due to mold and rat infestation calls into question the adequacy of the maintenance budget as well.

# Contra Costa Fire Protection District

## 10 Year Financial Summary

|                                                | FY 01/02<br>Actual   | FY 05/06<br>Actual   | FY 06/07<br>Actual   | FY 07/08<br>Actual    | FY 08/09<br>Actual   | FY 09/10<br>Actual   | FY 10/11<br>Actual   | FY 11/12<br>Projection | FY 12/13<br>Projection | FY 13/14<br>Projection | FY 14/15<br>Projection |
|------------------------------------------------|----------------------|----------------------|----------------------|-----------------------|----------------------|----------------------|----------------------|------------------------|------------------------|------------------------|------------------------|
| <b>BEGINNING FUND BALANCE:</b>                 |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| CCCFPD General Operating Fund                  | \$ 19,970,360        | \$ 25,547,342        | \$ 20,577,569        | \$ 24,171,392         | \$ 18,689,561        | \$ 19,938,778        | \$ 17,610,427        | \$ 12,630,196          | \$ (955,405)           | \$ -                   | \$ -                   |
| POB Stabilization Fund                         |                      | \$ -                 | \$ 6,004,061         | \$ 176,572            | \$ 478               | \$ 2,748,944         | \$ 5,396,182         | \$ 8,040,575           | \$ 10,670,575          | \$ -                   | \$ -                   |
| <b>Total Beginning Fund Balance</b>            | <b>\$ 19,970,360</b> | <b>\$ 25,547,342</b> | <b>\$ 26,581,629</b> | <b>\$ 24,347,964</b>  | <b>\$ 18,690,038</b> | <b>\$ 22,687,722</b> | <b>\$ 23,006,609</b> | <b>\$ 20,670,771</b>   | <b>\$ 9,715,170</b>    | <b>\$ (2,864,567)</b>  | <b>\$ (21,541,656)</b> |
| <b>REVENUE:</b>                                |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| Property Tax                                   | \$ 59,307,264        | \$ 78,174,462        | \$ 88,860,331        | \$ 89,547,992         | \$ 88,770,426        | \$ 80,211,236        | \$ 79,436,030        | \$ 77,330,000          | \$ 77,330,000          | \$ 78,103,300          | \$ 78,884,333          |
| SAFER Grant                                    |                      |                      |                      |                       |                      |                      |                      | \$ 2,447,224           | \$ 3,262,965           |                        |                        |
| Other                                          | \$ 2,762,632         | \$ 8,183,919         | \$ 8,142,050         | \$ 10,522,575         | \$ 10,622,763        | \$ 8,618,660         | \$ 6,148,482         | \$ 8,364,480           | \$ 8,000,000           | \$ 8,000,000           | \$ 8,000,000           |
| <b>Total Revenue</b>                           | <b>\$ 62,069,896</b> | <b>\$ 86,358,381</b> | <b>\$ 97,002,381</b> | <b>\$ 100,070,567</b> | <b>\$ 99,393,189</b> | <b>\$ 88,829,896</b> | <b>\$ 85,584,511</b> | <b>\$ 88,141,704</b>   | <b>\$ 88,592,965</b>   | <b>\$ 86,103,300</b>   | <b>\$ 86,884,333</b>   |
| <b>EXPENDITURES:</b>                           |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| Salaries & Benefits (not including Retirement) | \$ 41,436,166        | \$ 59,294,297        | \$ 62,180,395        | \$ 68,624,875         | \$ 64,969,545        | \$ 63,783,601        | \$ 62,768,230        | \$ 65,273,257          | \$ 65,676,858          | \$ 66,181,908          | \$ 66,712,211          |
| Retirement Expense                             | \$ 4,485,141         | \$ 7,268,148         | \$ 7,389,352         | \$ 7,852,126          | \$ 7,689,173         | \$ 5,907,179         | \$ 5,889,938         | \$ 11,875,000          | \$ 14,000,000          | \$ 16,500,000          | \$ 19,000,000          |
| Services & Supplies                            | \$ 6,746,874         | \$ 6,361,333         | \$ 7,913,862         | \$ 9,658,193          | \$ 7,621,558         | \$ 5,121,510         | \$ 5,746,022         | \$ 7,602,889           | \$ 7,000,000           | \$ 7,000,000           | \$ 7,000,000           |
| Interagency Charges                            | \$ 1,866,589         | \$ 2,952,269         | \$ 3,227,489         | \$ 3,900,407          | \$ 3,175,216         | \$ 2,942,743         | \$ 2,791,120         | \$ 2,771,550           | \$ 2,771,550           | \$ 2,771,550           | \$ 2,771,550           |
| Fixed Assets (i.e., Capital Investment)        | \$ 5,512,727         | \$ 1,607,879         | \$ 1,699,541         | \$ 3,270,059          | \$ 2,722,076         | \$ 918,827           | \$ 389,389           | \$ 676,980             | \$ 250,000             | \$ 250,000             | \$ 250,000             |
| Pension Obligation Bond (POB) P&I Payments     |                      | \$ 8,007,317         | \$ 8,397,947         | \$ 8,861,357          | \$ 9,342,412         | \$ 9,848,930         | \$ 10,375,054        | \$ 10,925,455          | \$ 11,501,185          | \$ 12,104,161          | \$ 12,730,727          |
| Transfer Out to POB Stabilization Fund         |                      | \$ 5,836,911         | \$ 2,599,972         | \$ 2,600,671          | \$ 2,600,931         | \$ 2,603,450         | \$ 2,600,740         | \$ 2,602,174           | \$ 2,603,109           | \$ 2,602,770           | \$ 2,600,383           |
| Other Gov/Gov Transfers                        | \$ 50,000            | \$ -                 | \$ -                 | \$ -                  | \$ 784,709           | \$ 32,009            | \$ 4,249             | \$ -                   | \$ -                   | \$ -                   | \$ -                   |
| <b>Total Expenditures</b>                      | <b>\$ 60,097,496</b> | <b>\$ 91,328,155</b> | <b>\$ 93,408,557</b> | <b>\$ 105,552,399</b> | <b>\$ 98,143,971</b> | <b>\$ 91,158,248</b> | <b>\$ 90,564,742</b> | <b>\$ 101,727,305</b>  | <b>\$ 103,802,702</b>  | <b>\$ 107,410,389</b>  | <b>\$ 111,064,871</b>  |
| <b>SURPLUS/(DEFICIT):</b>                      |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| Total Revenue Less Total Expenditures          | \$ 1,972,399         | \$ (4,969,773)       | \$ 3,593,824         | \$ (5,481,832)        | \$ 1,249,217         | \$ (2,328,351)       | \$ (4,980,230)       | \$ (13,585,601)        | \$ (15,209,737)        | \$ (21,307,089)        | \$ (24,180,538)        |
| <b>OTHER:</b>                                  |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| Transfers In to POB Stabilization Fund         |                      | \$ 6,004,061         | \$ 2,764,092         | \$ 2,793,773          | \$ 2,748,466         | \$ 2,647,238         | \$ 2,644,393         | \$ 2,630,000           | \$ 2,630,000           | \$ 2,630,000           | \$ 2,630,000           |
| Payment of New UAAL Obligations                |                      | \$ -                 | \$ 8,591,581         | \$ 2,969,867          |                      |                      |                      |                        |                        |                        |                        |
| <b>BEGINNING FUND BALANCE:</b>                 |                      |                      |                      |                       |                      |                      |                      |                        |                        |                        |                        |
| CCCFPD General Operating Fund                  | \$ 21,942,760        | \$ 20,577,569        | \$ 24,171,392        | \$ 18,689,561         | \$ 19,938,778        | \$ 17,610,427        | \$ 12,630,196        | \$ (955,405)           | \$ -                   | \$ -                   | \$ -                   |
| POB Stabilization Fund                         |                      | \$ 6,004,061         | \$ 176,572           | \$ 478                | \$ 2,748,944         | \$ 5,396,182         | \$ 8,040,575         | \$ 10,670,575          | \$ (2,864,567)         | \$ -                   | \$ -                   |
| <b>Total Ending Fund Balance</b>               | <b>\$ 21,942,760</b> | <b>\$ 26,581,629</b> | <b>\$ 24,347,964</b> | <b>\$ 18,690,038</b>  | <b>\$ 22,687,722</b> | <b>\$ 23,006,609</b> | <b>\$ 20,670,771</b> | <b>\$ 9,715,170</b>    | <b>\$ (2,864,567)</b>  | <b>\$ (21,541,656)</b> | <b>\$ (43,092,194)</b> |

SOURCE: "ON TARGET" PRESENTATION TO BOARD  
BY DAVID TWA JAN/12 PAGE 51

**MATERIALS**

**FROM**

**SEPTEMBER 18<sup>TH</sup>**

**CITY COUNCIL MEETING**

Agenda Date: 9-18-12

Agenda Item: 9 a

# CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

Fire and EMS

Special Tax

Presentation:

## What We Do – “All Hazards” Organization

- ❑ Population Served – 600,000
- ❑ Service Area – 304 square miles.

Con Fire is first to respond to:

- ❑ Medical Emergencies
- ❑ Structure Fires
- ❑ Vehicle Accidents
- ❑ Vegetation Fires
- ❑ Other Emergencies



## Community Risks/Threats:

- ❑ Refineries and Chemical Plants
- ❑ Wildland/Vegetation Fires
- ❑ Hazardous Materials (Pipelines, Rail, Highway)
- ❑ BART and Passenger Railroad (Mass Casualty Incidents)
- ❑ High-Rise Buildings, Industrial, Commercial/Malls, and Large Apartment Complexes
- ❑ Airport
- ❑ Interstate Highways
- ❑ Ships and Water Rescue
- ❑ Specialized Rescue – Confined Space, Trench, Swift Water
- ❑ Earthquakes, Floods, Mudslides



## What We Do

- ❑ Fire Prevention:
  - ❑ Code Enforcement Inspections
  - ❑ Engineering – Plan Review/Approval
  - ❑ Fire System Testing
  - ❑ Vegetation Management/Enforcement
- ❑ Life Safety Education for “at risk” (young children and mature adults) population
- ❑ Smoke Detector Program
- ❑ Maintain Fire Trails for Access/Fire Suppression
- ❑ Community Emergency Response Teams (CERT)
- ❑ Water Safety and Drowning Prevention Program

## Financial Outlook

- ❑ The District's revenue is primarily based (approximately 90%) on property tax assessments
- ❑ The District does not receive Prop-172 or other sales tax revenue
- ❑ This revenue has decreased by approximately \$32 million dollars from 2008 to 2012
- ❑ Health care costs increased
- ❑ Pension contributions increased due to de-pooling and market losses
- ❑ Chevron payment of almost \$1M
- ❑ Diversion of \$12M per year to RDAs

## How Have We Reduced Expenditures?

- ❑ Concessions by all personnel - (10% salary reduction, lower starting salaries, increased health care and pension contributions)
- ❑ Non-operational positions held vacant
- ❑ Eliminated positions and laid off employees
- ❑ Controlled non-minimum staffing overtime
- ❑ Deferred capital (fleet and facilities) purchases
- ❑ Reduced operating costs and discretionary spending
- ❑ Leveraged grants for staffing and equipment
- ❑ De-staffed two operational units
- ❑ Local-1230 negotiating new pension tier

## What Will Happen Without Additional Revenue?

- ❑ Reserve funds have been exhausted. The District is unable to maintain current service levels.
- ❑ Fire Stations – 7 to 10 Closed
- ❑ On-Duty Staffing – 30% Fewer Firefighters/Paramedics
- ❑ Response Times – Critical Delays in Emergency Response
- ❑ ISO Rating – 5?
- ❑ Insurance Increases - \$230 annually for a \$250,000 home (GA study) Increase 4-11% (SC study)

## Response Times Are Critical:

- ❑ Goal: Arrive on the scene within 5-minutes 90 % of the time.
- ❑ NFPA recommends a response time of 6-minutes 90% of the time.
- ❑ NFPA requires an adequate firefighting force (16-personnel) on-scene within 8-minutes.
- ❑ Current response time with 28 companies is 6:36 minutes. 90 percentile time is over 8:30 minutes.

## Response Time is Critical - Fires

- ❑ Fires double in size every 2-minutes
- ❑ Structure fires reach “flashover” in less than 8-minutes.
- ❑ Rapid fire growth to complete involvement.
- ❑ Victims will not survive.
- ❑ Fires will extend to surrounding structures.



## Response Time is Critical - EMS

- ❑ Fire-based paramedics are an integral part of the County EMS Plan.
- ❑ Clinical brain damage occurs in 4–6 minutes without oxygen.
- ❑ Emphasis on STEMI and Stroke response.
- ❑ Medical emergencies
- ❑ Trauma – Golden Hour



## Industry Standards and Best Practices:

- ❑ ICMA recommends 1-firefighter per 1,000 population or 600 personnel. Current staffing is 265 or 44% of recommended staffing level.
- ❑ NFPA recommends 4-person staffing per unit. The District currently has 3-person staffing.
- ❑ NIST (structure fire) and San Diego State University (wildland fire) studies show that it takes 30% longer to complete critical tasks with 2-person staffing.

## Measure Q - November 6<sup>th</sup> Election:

- ❑ Type – Parcel Tax
- ❑ Methodology – Flat for residential properties and tiered per quarter acre of land area for commercial and industrial properties
- ❑ Amount - \$75
- ❑ Sunset Provision – 7- years
- ❑ Revenue Generated – \$16.8M Annually
- ❑ By law, all money generated must stay in the District to fund Fire and Emergency Medical Services

## Criticality of Measure Q

### With Parcel Tax Approval:

- ❑ Revenue - \$103M
- ❑ Fire Stations – 28
- ❑ On-Duty Staffing – 89 fire fighters/paramedics per shift
- ❑ Response Times – 6:36 average. Achieve 6-minute goal < 21% of time.
- ❑ ISO Rating – 3
- ❑ Not all needs will be met

### Without Parcel Tax Approval:

- ❑ Revenue - \$86M
- ❑ Fire Stations – 7 to 10 Closed
- ❑ On-Duty Staffing – 30% Fewer Firefighters/Paramedics
- ❑ Response Times – Critical Delays in Emergency Response
- ❑ ISO Rating – 5?
- ❑ Insurance Increases - \$230 annually for a \$250,000 home (GA study) Increase 4-11% (SC study)

## Summary:

- ❑ Sharply declining property tax revenue and increasing costs have created a “fiscal crisis.”
- ❑ Numerous cost-cutting efforts have already been implemented. Reserve funds are exhausted.
- ❑ Up to 7 fire stations could be closed in FY-13/14 and 10 in subsequent years. Service delivery will drop significantly.
- ❑ Response times will increase dramatically.
- ❑ Staffing will be inadequate to protect the community.
- ❑ Fire insurance rates may be impacted.
- ❑ **Adequate fire and EMS protection and service cannot be maintained without additional revenue.**

**From:** Kris Hunt [<mailto:krishunt@cocotax.org>]

**Sent:** Thursday, September 06, 2012 1:28 PM

**To:** Kris Hunt, Executive Director

**Subject:** CoCoTAX Issues Update: this is an article by former County Treasurer-Tax Collector Bill Pollacek regarding Measure Q



**Good Afternoon:**

**With the election season heating up, probably the most controversial Contra Costa ballot measure will be Measure Q, the Contra Costa Fire Protection District Parcel Tax. The issue was placed on the ballot with a 4 to 1 vote, with Supervisor Candace Andersen voting no. The CoCoTAX board unanimously opposed the measure and authorized me, as Executive Director, to prepare the ballot arguments. It comes down to a math problem – due to pension, repayment of pension obligation bonds, retiree health care, and other personnel costs, this measure does not solve the District’s problems.**

**To help educate everyone on the background of the, here an article by former Treasurer-Tax Collector Bill Pollacek who shares his knowledge regarding the impression being given that firefighters pay most, if not all, of their pension costs.**

## **Exposing Contra Costa County’s Pension Myths**

**by Bill Pollacek on August 7, 2012**

**During the current debate over a proposed parcel tax for Contra Costa Fire Protection District, firefighters and their allies have claimed that firefighters pay most, if not all, of their pension costs.**

**Nothing could be further from the truth.**

Based upon approved Employer contribution rates by the Contra Costa County Employees' Retirement Association (CCCERA) Board of Trustees on October 12, 2011, Con Fire's employer contribution rate, which is paid by the taxpayers, will be 49.56% of salary while firefighters will pay 15.14% of salary for fiscal 2012-13.

Firefighters claim they pay 9% of the Employer's share, and while this is a technically correct statement, they fail to disclose all the facts. In late 2002 the Board of Supervisors approved the 2% at 55 for General members (2% of salary for each year worked), and 3% at 50 for Safety members (3% of salary for each year worked) enhanced retirement benefits

As part of the agreement, General members received pay raises of 2%-3% per year while Safety members were granted four annual pay raises of 5% less a 2.25% deduction for retirement benefits. In other words, the Board of Supervisors gave the firefighters the raise to pay for those enhanced retirement benefits (See Board Resolution 2002 608 dated October 1, 2002).

The upcoming Pension Obligation Bond payment of \$11.5 million comes directly from taxpayers through Con Fire's property tax allocation.

Looking at the big picture, in 2010 all of CCCERA's employers paid a total of \$183,950,930 as their contribution into the retirement system while employees paid \$64,330,484. Employers, and ultimately the taxpayers, paid 74.09% of all contributions (See CCCERA's 2010 Actuarial Valuation, pg 71).

Management has known about the implosion of Con Fire's finances for over three years, yet nothing has been done to fix the pension and employee benefit debacle. Based on Con Fire's own financial projections, the proposed parcel tax is only a short term solution. By fiscal 2015-16, Con Fire will be back in the red and will need more of your tax dollars to maintain current service levels.

Instead of a parcel tax, what is needed is a serious discussion on how we solve Con Fire's financial crisis. Until that is done and the union completely agrees to benefit and wage concessions, including a new retirement tier for new employees, any short term funding solution only allows them and current Supervisors to kick the can down the road.

~ Bill Pollacek, served as Contra Costa County Treasurer-Tax Collector, and is retired.

This article first appeared on [halfwaytoconcord.com](http://halfwaytoconcord.com) Used by permission

<http://www.halfwaytoconcord.com/exposing-contra-costa-countys-pension-myths/>

## **Contra Costa County Fire Protection District Service Delivery Model Evaluation**

Since 2007, the nation has been gripped by an unprecedented recession. The Contra Costa County Fire Protection District (District) has not been immune from this challenging economic environment. From 2007 to 2011, the District's revenue which is primarily based on property tax assessments has decreased by approximately \$32M. Additionally, approximately \$12M per year of property tax revenue was diverted to various Redevelopment Agencies prior to dissolution by the Legislature. During this period, the District has been utilizing reserve funds in an effort to continue to provide critical emergency services to the community. Unfortunately, at the current "burn rate" of the reserve fund, the District will deplete the entire reserve fund during the FY-2013-2014 budget period.

The budget process is very dynamic and has many variables. Tax revenue projections continue to decline gradually or remain flat. Pension costs continue to rise as a result of investment losses and de-pooling. Health care costs increase 5 – 10% annually.

As a result of these tax revenue decreases, the District has enacted efficiencies and reduced expenditures by millions of dollars. To achieve these savings, the District has eliminated 15 positions and laid off non-operational staff, managed vacancies, controlled overtime costs, reduced discretionary spending in all areas, deferred capital purchases and improvements (i.e., replacement apparatus, fire station repairs and remodeling), leveraged federal grants, and eliminated entire programs. As a last resort, a functional unit was de-staffed in January 2011 and a second unit was de-staffed in July 2012. De-staffing the two units has reduced the overall capacity of the response system and reduced the number of firefighters/paramedics that are on-duty to respond to emergency incidents. In June of 2011, the International Association of Firefighters Local 1230 agreed to eliminate two awarded 2.5% raises and accept an additional two 2.5% salary reductions. Two new lower starting salary steps were also implemented for new employees. Local-1230 is currently in negotiations to accept a new pension tier for new employees that will begin to reduce current and further costs. Other labor groups have taken similar concessions that include salary reductions, increased payments for health care, increased pension contributions, etc. Additionally, the County has eliminated the ability to sell terminal leave, reduced the "leave sell back" option and continues to reduce the unfunded liability for other post employment benefits. Admittedly, there is a "structural imbalance" between revenue and expenditures for the District. However, a combination of current cost saving efforts, temporary revenue enhancements, an improvement in the general economy, and longer-term solutions such as benefit cost controls are necessary to ensure the long-term sustainability of the District.

Prior to any discussion regarding service alternatives or cuts, community threat/risk must be addressed. The area served by the District contains a number of high risk occupancies including, refineries and bulk storage facilities, chemical plants, hazardous materials transportation (rail, ship, pipeline, and highway), high rise buildings, large commercial and industrial buildings,

multiple family dwellings, health care facilities, and institutional and educational facilities. Additionally, the area presents a significant wildland fire-urban interface threat, as well as potential for natural disasters such as floods and earthquakes. The District also routinely responds to residential structure fires, medical emergencies, vehicle accidents, rescue calls, utility emergencies, etc. To this end, the District is an “all-hazards” organization that provides structural and wildland fire suppression, rescue, emergency medical services, hazardous material response, fire prevention, and dispatch services.

Salaries and benefits account for over 85% of the District budget. The only methodology available to achieve savings and balance the budget without additional revenue is to further reduce personnel costs. Unfortunately, due to previous cuts in every sector, any additional cuts will translate to front-line service delivery reductions. Obviously, the goal during any reductions is to minimize the adverse impact on service delivery and maintain the capacity to respond to significant and multiple emergency incidents. Any reduction in front-line fire companies will have a substantial impact on the District’s ability to protect the community and provide essential services.

It is important to note that while cost-cutting measures have been implemented, the District must still maintain both civilian and uniformed staff in a number of administrative positions in order to protect the public, meet statutory requirements, and support field operations personnel. This includes positions in the Fire Prevention Bureau, Training Division, Apparatus Shop, Supply, the Communications Center, etc. All of these areas have been targeted for reductions in the past and are at the minimum level necessary to perform critical external and internal services.

Fire and emergency medical service delivery is predicated on community threat/risk, local standards, industry standards, and best practices. Based on the County’s General Plan, the current performance measure for the District is to respond within five minutes 90 percent of the time for urban areas. This measure relates to travel time only. The Contra Costa County EMS Agency requires a 7.5 minute response time for medical emergencies. The National Fire Protection Association (NFPA) recommends a response time of six minutes 90 percent of the time. This includes dispatch, turnout, and travel time. In 2010 with 30 fire companies, our response time 6:16. Currently, with 28 companies, our average response time is 6:36. Although the time has increased by 20-seconds, more significant impacts have not been realized yet due to all 28 fire stations remaining open and staffed. These statistics also indicate that we do not meet the performance standards established by the General Plan or national standards.

Response times are a critical element for public safety. A standard time-temperature curve model indicates that a fire will double in size every two (2) minutes and flashover (rapid fire growth to full involvement of the structure with no chance of survival) will occur in less than eight (8) minutes. From an emergency medical services perspective, clinical brain damage occurs in four to six (4 – 6) minutes without oxygen and brain death occurs in eight (8) minutes. Certainly,

multiple incidents occurring simultaneously or large scale/long-term (multiple alarm) incidents will quickly deplete available resources and exacerbate the extended response times. Another factor that could adversely affect our response time and overall capacity is neighboring jurisdictions that are also reducing services at the same time. The East Contra Costa County Fire Protection District has recently taken three units out of service and reduced their capacity from a high of eight units to their current level of three. Additionally, both the City of Pinole and the Rodeo-Hercules Fire Protection District have de-staffed one engine company per agency and reduced their capabilities by 50%.

When discussing service delivery options, it is important to review industry standards and best practices and benchmark against other similar jurisdictions when evaluating staffing requirements and models. The International City/County Management Association (ICMA) recommends one firefighter per 1,000 population as a standard for adequate staffing levels. The LAFCO Municipal Service Review from August of 2009 indicated that the CCCFPD staffing level was .6 per 1,000 residents. This is below the County average of .7/1000 and the Bay area average of .9/1,000 residents. Due to the de-staffing of two units, the current ratio is .44 firefighters/1,000 residents. This is an extremely low percentage to try and protect 600,000 people especially considering the community risk and urban setting. Any reduction in fire companies and staffing will only exacerbate our current staffing deficiencies. Cities of comparable populations, (i.e., Denver, Portland, and Tucson) all have a ratio of 1.3 uniformed personnel per 1,000 residents. Smaller cities of approximately 500,000 population including Fresno, Oakland, Sacramento, Tulsa, Virginia Beach, Long Beach, Cleveland, and Kansas City all had ratios of 1.4 firefighters per 1,000 residents. This demonstrates the significant staffing shortages and lack of capacity that already exists within the District. A number of other jurisdictions across the nation have been forced to remove fire companies from service due to budget constraints; however, as noted, many of those jurisdictions have much greater depth and capacity as a baseline so the impact is not as severe. Organizationally, the District is flat and lean and does not meet industry standards or best practices. Although we provide excellent service to the community, there are a significant number of capacity and infrastructure needs that are unmet.

Any reduction in service delivery is a serious threat to the community. Every effort should be made to prevent this to the extent possible. If service delivery models change or reductions are unavoidable, it is important to note that a deliberative analytical process was utilized to determine the option that would have the least adverse impact. To this end, the District has explored the following service delivery options:

Service Delivery Model Evaluation  
Page Four

- Service adjustment based on emergency incidents that occur during different times of day and days of the week.
- Reduction in staffing per unit
- Different configurations to respond to emergency medical incidents
- Use of volunteers or reserve firefighters
- Station closures

**It should be noted that every option reduces the protection and service to the community and diminishes an already insufficient response capability.**

Service Adjustment Model (SAM):

The SAM would maintain minimum protection/service to all portions of the community until funding is available to restore full service. The statistics and data for the District indicate that 83% of our incidents were EMS related in 2010. Additionally, the majority of incidents occur from approximately 0800 hrs to 2000 hours on Monday through Friday with some peak periods on Saturday as well. Similar to many businesses, it is possible to align our resources with service delivery demands. However, this is not the ideal model for public safety agencies as the risk of miscalculations, deviations from statistical norms, or outliers will suffer much greater consequences than in the private sector. Additionally, the District must maintain some additional capacity in the event of significant incidents or multiple emergencies occurring simultaneously. Additionally, many residential fires occur during non-peak night time and early morning hours when the residents are most vulnerable. The District has experienced a number of fires where rescues were required during the time periods identified below. However, it is critical to maintain a presence in all areas of our community in order to provide protection and service and maintain acceptable response times. This is not a traditional approach for the fire service in light of our fixed resources and 24-hour shift. However, compared to station closures, it does demonstrate to the public that the District is trying to be responsive to their best interests and needs. It also demonstrates the ability to adapt to changing environments and subscribe to business principles. This model should only be a **temporary solution** that avoids fully closing fire stations. The five versions of the SAM provide financial savings ranging from \$1.5M to almost \$1.9M which is the equivalent to the closure of a fire station.

Certainly there are a number of specific challenges and risks related to the SAM. However, the basic concept of the SAM is outlined below:

- The SAM will not affect the number of permanent budgeted positions.

## Service Delivery Model Evaluation

### Page Five

- This is a temporary solution to a severe fiscal challenge. All units will be restored to a 3-person engine based platform as soon as fiscal conditions permit.
- All field operational positions will be filled to the best of our ability, i.e. recruitment, hiring process, etc.
- 28-Functional units will be staffed during peak service demand periods on Monday through Saturday from 0800 hours to 2000 hours.
- At 2000 hours on Monday through Saturday and all day Sunday, five (5) units will transition from engine companies to "squads" and be reduced to 2-person staffing. This service adjustment is based on service demands (call volume and type of incidents) in the affected areas.
- The reduction in staffing will be facilitated by releasing personnel on overtime at 2000 hours.
- All squads will be staffed with a minimum of one paramedic.
- Policies, procedures, training and management controls would be implemented to limit the risk and ensure the safety of the 2-person units.
- Squads will be prohibited from engaging in any interior fire operations (search and rescue and suppression) until the arrival of a fully-staffed engine company.

#### Pro:

- All stations remain staffed at some level 24/7
- Savings of \$1.5 - \$1.9M

#### Con:

- Many residential structure fires occur at night or non-peak hours. Residents are typically sleeping and at their most vulnerable time during this period. Recognition that the fire is occurring and subsequent notification may be delayed due to the public sleeping. This leads to more significant fire growth and need for search and rescue operations.
- 2-person squads are not permitted to conduct interior search and rescue or fire suppression operations.
- It will take a longer time period to assemble an adequate firefighting force and meet NFPA-1719 recommendations.

Reduction in Staffing Levels from 3 to 2 per Unit:

Pro:

- Each of the three positions on the apparatus equates to approximately \$500K to staff for a year. Reduction in staffing on all 28 functional units would save a maximum of \$14M per year.

Con:

NFPA-1710 recommends a staffing level of four persons per unit in order to provide safe and effective operations and assemble an adequate firefighting capability. Currently, the District staffs all functional units with three firefighters/paramedics.

In 2010, the National Institute of Standards and Technology (NIST) issued a study entitled Report on Residential Fireground Field Experiments. The study addressed 22 operational performance tasks based on staffing levels and response time to structure fires in a “typical” 2,000 square foot single family dwelling. The study concluded the following:

- A 2-person crew took 10% longer than a 3-person crew to apply hose streams to the seat of the fire.
- A 2-person crew took 25% longer than a 3-person crew to ladder and ventilate the structure.
- A 2-person crew took 25% longer than a 3-person crew to conduct search and rescue operations.
- A 2-person crew took 57-seconds longer than a 3-person crew to advance hose lines to the building.
- Both 3-person and 2-person crews failed to meet the NFPA-1710 recommendations of assembling an adequate firefighting force of 15-personnel on-scene within 8-minutes. However, the 2-person crew took a longer time period and required more units to assemble the 15-personnel. The 8-minute time frame is a critical factor in order to intervene before flashover of the structure when rapid fire spread with no chance of victim survival occurs.

- The fire will grow and intensify and the safety of the public and responders will be compromised as additional units and response time is required to attach the fire. Currently, we dedicate five units and a command officer to obtain the required firefighting force. With 2-person staffing, eight units and a command officer would be required to obtain the same staffing. Since these units would be required to respond from further distances so overall fire operations will be delayed.
- The NIST study only addresses residential fires in an average sized single family dwelling. The District serves a highly urban area with significant risk levels including heavy industry, hazardous materials, large commercial and high rise buildings, multiple family dwellings, etc. Currently, the Districts operates with only 44% of the recommended staffing levels and I am unaware of any urban department that protects a population of 600,000 that operates with this staffing level or 2-person fire crews.
- A study conducted by the San Diego State University in 2010 entitled Initial Attack Effectiveness addressed staffing for wildland firefighting. The study evaluated 2, 3, 4, and 5 persons on each hose line. This did not include the pump operator/officer in charge. They did not even attempt to study one person advancing the hose line which is what would occur with a 2-person crew due to safety concerns and failure to execute the task.

Different Configurations to Respond to Emergency Medical Incidents:

The Contra Costa County Emergency Medical Services (EMS) Plan identifies an integrated response with fire based first responders and private transportation providers. The two entities collaborate and complement each other to provide the highest quality and most reliable service to the public with acceptable response times. While this mission for the fire service is clearly articulated in the County EMS plan, it also provides added value by fire resources that are geographically distributed to provide fire protection for the community. All life-threatening medical emergencies such as cardiac arrest, heart attacks, difficulty breathing, allergic reactions, trauma, stroke, etc. require rapid response and medical intervention. Fire based EMS provides highly trained paramedics and EMTs for these patients in a timely manner. Additionally, the fire units stay in the community and are available for subsequent emergencies while the medic unit transports the patient to the hospital. In many cases, it can take an hour for the medic unit to transfer the patient to hospital staff, complete reports, clean and restock the units, etc. The fire based EMS units continues to provide services during this time period.

It is important to note that any transfer of service from the public sector to the private sector will result in additional costs for the consumers. None of the stakeholders have the additional capacity to absorb a loss of resources. Additionally, increases in private EMS units will be single dimensional as they cannot provide fire and rescue services.

The District is often asked why large fire apparatus is dispatched to emergency medical incidents. The justification for the response has articulated in the previous paragraph. However, some residents question the use of a fire engine or ladder truck for this response as opposed to a smaller more fuel efficient model. The large fire apparatus provides a very flexible and versatile platform to conduct our "all-hazards" mission. The entire team can respond to an incident and provide medical care. In many life threatening emergencies (cardiac arrest, trauma, etc.), when carrying heavy patients, or when dealing with limited access all three members of the crew as well as the medic unit personnel are needed to provide care. If another serious emergency occurs, (structure fire, rescue, etc.) while they are on the scene of the initial emergency, the entire crew can respond once the initial patient is stabilized and care is transferred to the medic unit. Again, this highlights the flexibility of the system when limited and inadequate resources are available.

Pro:

- Smaller units are more fuel efficient.
- Less mileage and maintenance on the large apparatus
- 2-person crews can treat many of the non-life threatening patients
- This is an effective model if the 2-person units are in addition to and augment the fire suppression units. These units could handle the majority of the EMS incidents and the suppressions would assist for life-threatening emergencies. During fire and rescue incidents both units may be available to respond to provide adequate staffing for operations.

Con:

- Need to purchase 28 light response vehicles equipped with emergency warning devices, radios, etc.
- Significant increase in fleet size, maintenance, insurance, etc.
- When a subsequent incident occurs, the crew will be fragmented. The smaller EMS vehicle may not be available and the fire apparatus will have to respond with one crew member. It is unsafe for a lone operator to drive under emergency conditions, talk on the radio, look at the map on the CAD display, etc. Additionally, once he/she arrives, operational effectiveness is either non-existent or delayed until the rest of the crew arrives.
- With a very low and lean baseline, the existing units must be flexible and able to respond from incident to incident and perform our all-hazard mission. Other jurisdictions have been able to implement innovative solutions; however, all of them are starting with a greater number of resources so the baseline is not eroded.

Use of Volunteers or Reserve Firefighters:

Volunteers or reserve firefighters could be utilized to staff out of service units, reduce overtime costs, or augment existing staffing levels. The District currently sponsors a reserve program; however, participation has been limited and unreliable.

**Pro:**

- Volunteers provide their services for free and reserves function at a lower per hour rate for training and emergency response.
- Additional resources or units may be available if the revenue measure fails and 7 – 10 fire stations are closed.
- Residents have an opportunity to contribute to and serve their community.
- Volunteers should be recruited to assist with administrative and other support functions that will reduce costs or free uniformed staff to work in front-line operational positions.

**Con:**

- Beginning in 2004, Senate Bill (SB) 1207 and Assembly Bill (AB) 2118 required extensive training for volunteers/reserves. SB 1207 mandates that all training required by Cal-OSHA for career personnel also applies to volunteer/reserve firefighters. AB 2118 provides for penalties for non-compliance. This includes initial as well as on-going refresher training which is required on an annual basis.
- Each volunteer/reserve must complete a physical examination prior to participating. The physicals cost \$750 each.
- Each volunteer/reserve must be equipped with structural and wildland personal protective clothing, fitted SCBA face piece, etc. The approximate cost is \$5,000 per person.
- Inconsistent attendance to training by our current reserve participants affects our ability to adequately train the personnel and maintain required standards.
- Generally, the number of volunteer and reserve programs have been declining across the nation. Due to training requirements, legal liability, general economic conditions and pressures, societal norms, the volunteer/reserve programs have not been reliable or cost effective in many instances.
- Again, this is an urban area with significant community threats/risks, and significant service delivery demands. Full-time, reliable resources are necessary to ensure a safe and effective public safety system.

Station Closures:

Due to the community threat/risk, current staffing levels, and system capacity, any station closures or additional service delivery cuts will adversely impact the safety of District residents and firefighters. As noted before, in 2010 with 30 fire companies in service, the average response time was 6 minutes and 16 seconds. However, response time in less than 5-minutes occurred only 25.5% of the time and less than 6-minutes only 47.3% of the time.

Our 90 percentile response time was almost 8.5 minutes. Obviously, any reduction of resources will have an adverse impact on response times which currently do not meet performance standards. Excessive response times and the inability to assemble an effective firefighting force within 8-minutes will allow exponential fire growth, reduce victim survivability, allow the fire to spread to adjoining structures or wildland acreage, and increase the dangers to firefighters. For medical emergencies, increased response time will result in a significant delay in providing medical intervention for life-threatening emergencies. The chart below depicts the impact of station closures and not meeting response goals necessary to protect and serve the community. It is important to note that station closures have an exponential effect on the response system as the remainder of the fire stations tries to absorb the emergency incidents. It is also important to note that the District has experienced numerous instances of simultaneous fires and/or greater alarm fires that require a substantial resource commitment concurrently.

## Impact of Closures on Fire Incidents

| Fire Station     | Response Time Open | Response Time Closed | Reduction in Ability to Meet Response Goals | Additional Factors |
|------------------|--------------------|----------------------|---------------------------------------------|--------------------|
| 16 (Lafayette)   | 58%                | 8%                   | -50                                         | Wildland           |
| 87 (Pittsburg)   | 66%                | 44%                  | -22                                         | BART               |
| 22 (Concord)     | 46%                | 25%                  | -21                                         | Wildland           |
| 12 (Martinez)    | 71%                | 49%                  | -21                                         | Refinery           |
| 82 (Antioch)     | 51%                | 10%                  | -41                                         | Apartments         |
| 69 (El Sobrante) | 90%                | 23%                  | -67                                         | Wildland           |
| 7 (Walnut Creek) | 86%                | 19%                  | -67                                         | Assisted Living    |

\* 6-minute

If it is absolutely necessary to close fire stations due to fiscal constraints, a number of factors must be considered. The factors include the impact on response time, call volume, proximity of automatic and mutual aid companies, and special threats or risks to the community.

In summary, the Contra Costa County Fire Protection District is facing a very challenging economic environment. At the same time, community threats/risk and calls for services continue to increase. The District is currently significantly understaffed and does not meet response time goals. Any degradation in resources and capability will endanger the public and the firefighting personnel.



## **Emergency Medical Services Agency**

August 8, 2012

### **Report to the Local Agency Formation Commission**

#### **The Relationship of Fire First Response to Emergency Medical Services**

On September 26, 2011, the Contra Costa Emergency Medical Services (EMS) Agency submitted a report to LAFCO on the accomplishments and challenges facing the EMS System. Since then the EMS agency has become actively involved in mitigating consequences of fire station closures in East Contra Costa County and is concerned about the potential erosion of fire first response countywide. In preparation for the August 8, 2012 LAFCO meeting the EMS Agency has been requested to submit the following report.

##### **The Challenge**

Fire services play a vital role in providing an engine "first response" to 9-1-1 medical emergencies. In some areas (Moraga-Orinda and San Ramon Valley) fire services also provide emergency ambulance response. In other areas of Contra Costa County, emergency ambulance response to 9-1-1 calls is provided by a private company, American Medical Response (AMR). The Contra Costa EMS Agency, a division of Contra Costa Health Services, is charged with overall coordination of the EMS system and administration of ambulance service contracts, as well as contracts with fire services providing paramedic service and with hospitals providing specialized emergency service. With significant budgetary pressures currently affecting nearly all public sector entities, Contra Costa County has already been impacted by cutbacks in fire service in some areas, and may see more cutbacks in service in the months ahead. Fire station closures mean fewer fire engines available for medical first response. The purpose of this document is to discuss the structure of the EMS system and the potential impacts of fire station closures.

##### **The EMS System at Work and the Role of First Responders**

When a medically-related 9-1-1 call occurs in Contra Costa, the call is routed to one of three designated fire/medical dispatch centers located at Contra Costa County Fire, San Ramon Valley Fire, and Richmond Police. There, specially-trained dispatchers systematically assess the medical needs based on information the caller provides, assigns a dispatch priority to the call, dispatches the appropriate EMS resources and may provide emergency first aid directions to the caller. A typical emergency call receives a fire engine first response and an ambulance, both dispatched immediately with lights and siren (Code 3). In some cases, where the dispatcher determines the call is less urgent and less complex, an ambulance alone may be dispatched without lights and siren.



All emergency ambulances and most fire first responder units are staffed with at least one paramedic-trained crewmember.<sup>1</sup> Other crewmembers are trained at the Emergency Medical Technician I (EMT-I) level. All responders, whether paramedic or EMT-I, are trained and equipped to perform most immediately needed life-saving first aid measures such as controlling bleeding, opening and maintaining an airway, providing cardio-pulmonary resuscitation (CPR), and performing cardiac defibrillation. Only paramedics can administer drugs and perform certain other advanced medical procedures.

Fire first responders typically arrive 2-5 minutes before an ambulance, but, depending on the location of the call and the location of the responding units, that interval can be 10 minutes or more. While a few minutes difference in response times do not affect the outcome for most patients, in certain critical cases – cardiac arrest, breathing difficulty, profuse bleeding – minutes, or even seconds, can make a difference in saving a life or avoiding serious complications. Fire first-responders provide emergency treatment on scene until care can be transferred to the ambulance crew, continue to assist in patient care when needed both on the scene and, in some cases, en route to the hospital. Importantly, fire first responders provide scene management, safety oversight, and rescue services (e.g., extricating patients from motor vehicle accidents). When patients require transport by helicopter (most often critical trauma patients), fire responders are required to manage the landing site. Fire personnel have all hazard capabilities not easily duplicated or replaced by other personnel.

While fire resources generally are station-based, AMR ambulance resources are “dynamically” deployed. Using a system known as “system status management,” ambulance units are moved to predefined post locations based on system status (number of units available) at any given time. Thus, when one ambulance is dispatched to a call, one or more other ambulance units may be moved to best cover the area. The goal is to post to locations where the best response times can be achieved for the next expected calls based on history, time of day, and day of week. While this system maximizes use of available resources, it does not provide the depth of resources generally associated with the fire services.

#### **Potential Patient Care Impacts of Reductions in Fire Service Resources**

Ambulance response time is unaffected by the changes in fire first response as emergency ambulance response time requirements are set by County contract. First responder response times are obviously affected in those areas where a fire station closure increases the response time from the next closest station. Additionally, first responder response times may be negatively impacted in all areas when the engine from the closest station is occupied on another call. Where first responder response times are delayed, critical interventions needed in the early stages of some calls may be delayed and, in the most serious cases, treatment delays may affect patient outcome. Also, transport times (time from 9-1-1 call

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<sup>1</sup> In areas without paramedic first response (East Contra Costa County Fire, Richmond, Crockett-Carquinez Fire), the County through its ambulance contract has required AMR to provide additional ambulance units or single-paramedic-staffed non-transporting “Quick Response Vehicles” to respond with the fire first responders.



until patient arrival at hospital) may be negatively impacted when the ambulance crew is required to spend more time treating the patient on the scene due to the delayed arrival of the first responder.

### **Disaster and Multi-Casualty Events**

Contra Costa County, like many communities in the Bay Area, has hazards related to industry, transportation, flood and wildfire, as well as urban and rural demographics. The Contra Costa EMS Agency plays a role in supporting emergency operations as part of a system of strong "all hazards" emergency response. Although large-scale emergency events occur infrequently, they predictably require numerous fire, ambulance and hospital resources to rapidly respond, triage, treat and transport victims. In these scenarios the importance of having an adequate first response capability to effectively mitigate these risks cannot be minimized. The "all hazard" capabilities of the fire services are part of the county's critical infrastructure to respond to a mass casualty event or disaster.

### **EMS Agency Role and Changes in Fire First Response**

Fire first response is provided by the county's six fire districts and three municipal fire departments and is supported primarily through local funding. Each of these services through its governing body, determines the level of service to be provided. The EMS Agency works in collaboration with Fire-EMS and Ambulance provider agencies to support a coordinated system of patient care pursuant to Section 1797.103 of the California Health and Safety Code.

### **Measure H Support for Fire First Responders and Fire Paramedic First Response**

In 1988, a countywide ballot measure (Measure H aka CSA-EM-1) enabled the Board of Supervisors (BOS) to establish an annual parcel charge (\$10 for a single family residence) to pay for enhancements to the County EMS system, including providing increased paramedic availability. From 1989-2004 this funding was primarily used to provide more paramedic ambulance availability.

In 2004 a County EMS system redesign plan was approved by the Board of Supervisors and since then Measure H funding has been used to subsidize the added cost of providing fire first responder paramedic service. The available Measure H funding has enabled the County to provide an annual subsidy of \$30,000 for paramedic-staffed fire engines. Since 2004 the majority of Measure H funding has been used to support Fire-EMS paramedic programs.

Measure H partially offsets the added cost to a fire service to upgrade its first responder units to the paramedic level, but, obviously, represents a small fraction of the actual cost of maintaining a station. In areas without paramedic engines, the County has provided additional paramedic coverage through AMR. In Emergency Response Zone A (Richmond) this is accomplished with AMR providing dual paramedic ambulances and in Emergency Response Zone E (East County) by providing single medic Quick Response Vehicles (QRVs) co-located with fire to provide a level of paramedic first response.



These accommodations were instituted in 2004 to provide an “equitable level” of prehospital care to all communities.

In 2010 the Contra Costa BOS approved a provision to preserve Measure H paramedic first response funding for fire agencies faced with “browning out or closing” fire stations due to budgetary constraints. Under this provision fire agencies continue to receive their same level of paramedic engine funding as long as “paramedic first response service” continues to the affected community. As the fire agencies are forced to reduce “paramedic engines,” funding for paramedic first response may be affected under the current paramedic first responder fund requirements. The EMS Agency believes that funding to preserve fire first response, regardless of level, is a priority for the Contra Costa EMS system.

#### **Other Support for Fire First Response from Measure H**

Measure H funds directly support the practice of medicine by prehospital personnel with the goal of improving patient outcome throughout the EMS System. Examples of fire agency support include:

1. Prehospital equipment, such as Automated External Defibrillators (AEDs), 12-lead (ECG) transmission-capable cardiac monitors, cardiac compression devices and mass casualty equipment.
2. Contra Costa Fire-EMS Training Consortium competency programs including patient care simulators that mimic real-life physiologic response to life threatening conditions.
3. Implementation of electronic prehospital patient data systems providing appropriate oversight of patient care to support improved outcomes in cardiac arrest, stroke, heart attack, and other conditions.
4. Fire-EMS clinical personnel responsible for agency level oversight of paramedic and EMT clinical performance required to support systems of care, e.g. Trauma, Stroke, STEMI and Cardiac Arrest.
5. Computer-aided dispatch upgrades and “smart” integrated dispatch automated programs supporting appropriate matching of resources to patient condition including bystander CPR, e.g. Emergency Medical Dispatch<sup>2</sup>, PulsePoint<sup>3</sup>.

#### **Summary:**

The coordinated response of fire and ambulance services is an essential partnership in the care of 9-1-1 patients. The EMS Agency will continue to work with each fire service to achieve optimal integration

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<sup>2</sup> Emergency Medical Dispatch (EMD) is a standardized dispatch interview approach to 9-1-1 medical calls consistent with national dispatching standards.

<sup>3</sup> PulsePoint is a dispatch linked GPS smartphone enabled application that advises bystanders trained in CPR where the nearest AED is located and advises them that they are near cardiac arrest victim.



and coordination of first responder and emergency ambulance service, but the level of fire first response is determined by the governing bodies of each fire service. The Contra Costa EMS Agency does not control the funding, configuration or response capability of fire first-responder services and does not have the resources to fill gaps that may result from cutbacks to fire services. **Although 9-1-1 ambulance response times are NOT impacted by these changes, ambulance service cannot duplicate fire first response times or activities.** Contra Costa EMS continues to carefully monitor EMS response and patient care as the capabilities of fire first response change.

At the same time emergency medical care is entering a period of dramatic change that requires the EMS system to “fully integrate” with the health care system to reduce cost and improve patient outcomes. Partnerships will include not only hospitals but health information systems, Accountable Care Organizations (ACOs), and Patient Safety Organizations (PSOs). EMS-Health Care integration will provide extraordinary enhancements in emergency care and opportunities for interested provider agencies to innovate using trained prehospital professionals. Examples include:

1. The current EMS System Trauma, STEMI, Stroke, Cardiac Arrest and *HeartSafe* programs.
2. Linking dispatch agencies to nurse call centers to better match patient need to resources.
3. The use of community paramedics to support in-home programs to prevent injuries, provide health maintenance, monitor medically fragile or discharged patients reducing the volume and cost of preventable emergencies.
4. Integrated health information record systems to support coordinated care between the field and the emergency department.
5. EMS provider agency and ACO partnerships to reduce or prevent hospital re-admissions.
6. Implementation of new pre-hospital care roles, e.g. Advanced EMT, Community paramedic.
7. Innovative programs to help support populations who use the EMS system because access to care is otherwise not available.
8. Creation of potential new revenue streams to support EMS providers interested in pursuing hospital and ACO partnerships.

Contra Costa EMS System provider agencies are all well positioned to partner with health care system providers to support efficient, safe and evidence-based patient care in this new environment. The EMS Agency is committed to working collaboratively within the capabilities of the community to help support these opportunities and fulfill its mission.

Agenda Date: 10-2-12

Agenda Item: 9b

[Insert on Legislature Letterhead]

October 3, 2012

Office of the Attorney General  
Opinion Unit  
455 Golden Gate Ave., Suite 11000  
San Francisco, California 94102  
Attn: Susan Duncan Lee, Supervising Deputy Attorney General

**DRAFT**

Re: Request for Opinion Regarding Whether the Offices of Charter School  
Board Member and City Council Member are Incompatible

Dear Ms. Lee:

On behalf of the City of Clayton ("City"), I am writing to request that the Attorney General consider the legal issues described in this letter and prepare an opinion addressing the question of law presented below. To my knowledge, this issue has never been addressed by a reported case or Attorney General Opinion.

#### Facts

The Clayton City Council has asked whether any one of its seated members could seek appointment as one of the two "community at-large members" on the Board of Directors for the Clayton Valley Charter High School ("CVCHS"). CVCHS is located in the adjacent City of Concord and shares no territory in common with the City; however, it is the public feeder high school for Clayton residents. The CVCHS attendance boundaries include all of the City's incorporated limits and therefore Clayton's student residents have first right to opt for attendance at this campus.

On several previous occasions the City Council took official action to support the establishment of the CVCHS, including agreeing to loan it City funds.<sup>1</sup> In addition, the City, in conjunction with the local schools, including CVCHS, conducts a "Do the Right Thing" campaign and provides certificates of recognition to selected public school students on a regular basis at City Council meetings.

It is not unrealistic to consider that the City Council will continue to be asked to take official action to support the CVCHS. As such, there is, at the very least, potential for future interaction between the City Council and the CVCHS Board and it is foreseeable that the

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<sup>1</sup> On May 17, 2011, the City Council authorized the City to provide up to an \$8,500 unsecured loan for the repayment of legal fees for the conversion of the CVCHS to a charter school. The City ultimately never made this loan as another organization provided the money.

CVCHS and the City will enter into agreements regarding the use of City facilities, or that some other direct relationship will develop between them, which could cause a clash of duties and loyalty for a City Council Member serving on the board of both entities.

The community at-large members of the CVCHS Board are appointed by the elected Board of Directors, through the following process, which is prescribed by the CVCHS bylaws enclosed for your reference. The elected Governing Board members appoint an ad hoc committee comprised of current CVCHS educators and community members, which then solicits nominations of qualified candidates to fill the two “community at-large” Board positions. Interested candidates submit a statement of candidacy (resume of experience, qualifications, interest and understanding of CVCHS history and goals, etc.) to the committee. The committee reviews statements of candidacy, interviews candidates, and recommends candidates for further consideration to the Board. These candidates then address the Board to respond to questions at a public meeting of the Board. Thereafter, the Board elects the two most qualified community at-large members. More information regarding CVCHS and the Board, can be found at <http://www.claytonvalley.org/index.jsp>.

#### Doctrine of Incompatible Public Offices

The common law doctrine of incompatible public offices prevents a person from holding two public offices simultaneously if the performance of the duties of either office could have an adverse effect on the other. (68 Ops.Cal.Atty.Gen. 337, 338-339 (1985).) This common law doctrine is codified as Government Code section 1099. (Cal. Gov. Code § 1099 (West 2012).) In order to violate the doctrine of incompatible offices, there must be two public offices, and the public offices must be incompatible. (68 Ops. Cal.Atty.Gen. at 338-339.) The incompatibility between the two offices need not be actual; the mere potential for incompatibility between the two offices is sufficient to violate the doctrine. (86 Ops.Cal.Atty.Gen. 205 (2003).)

#### Previous Related Decisions and Attorney General Opinions

The Attorney General has not opined on whether charter school board members hold public office for purposes of the doctrine of incompatible offices. At least one appellate court has determined that “charter school officials are officers of public schools to the same extent as members of other boards of education of public school districts. So long as they administer charter schools according to the law and their charters, as they are presumed to do, they stand on the same constitutional footing as noncharter school board members.” (*Wilson v. State Bd. of Education* (1999) 75 Cal.App.4th 1125, 1141.)

The Attorney General addressed a related issue in 65 Ops.Cal.Atty.Gen 606 (1982). There, the Attorney General concluded that the offices of a city councilmember and a school district board member are incompatible where the city and the school district have territory in common. The Attorney General found that although neither office is superior to the other, there could be clashes of duties and loyalties if the same person held both offices simultaneously and the two offices engaged in direct relationships or contracts with each other. (*Id.* at 606-607.) Such potential clashes included the following: (1) contracts between the school district and city authorized under various sections of the Education Code for child care centers, community

recreation, health supervision, conversion of a school library into a branch of the city library, sale or lease of real property, and sewage facilities; (2) in eminent domain proceedings either public body could condemn property of the other where a superior use can be shown; (3) the authority of school districts to dedicate real property to cities for public street or highway purposes; (4) in the establishment of a city master plan, the city could chart the location of future schools, pursuant to Government Code section 65303(g); and (5) city officials being charged with enforcement of health and safety regulations within schools. (*Id.* at 607.)

Here, in contrast to 65 Ops.Cal.Atty.Gen 606, we have a charter school, not a public school district, and the CVCHS campus/real property does not share any of the same physical boundaries as the City. Furthermore, unlike public school districts, charter schools are exempt from the laws governing school districts except for the Charter Schools Act of 1992 (Education Code § 47600 *et seq.*), and a few other requirements, none of which are relevant to the discussion at hand.

Question Presented

In light of this lack of clarity, I/we submit the following question of law for your consideration:

Are the offices of City council member and Charter School board member incompatible for purposes of the common law doctrine of incompatible offices, as codified in Government Code section 1099(a)?

Thank you for your assistance in this matter. Please contact the undersigned or Gary Napper, Clayton City Manager, at 925.673.7300, with any questions.

Sincerely,

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