

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

TUESDAY, March 5, 2013

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Pierce in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Stratford, Councilmembers Diaz, Geller, and Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Engineer Rick Angrisani, and City Clerk Laci Jackson
2. **CLOSED SESSION**- None.
3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.
4. **CONSENT CALENDAR**- It was moved by Vice Mayor Stratford, seconded by Councilmember Geller, to approve the Consent Calendar as submitted (Passed; 5-0 vote).
 - (a) Approved the minutes of the regular meetings of February 5, 2013 and February 19, 2013.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Adopted Resolution 06-2013 awarding a 3-year contract (with options for three 1-year extensions) to D&H Landscaping in the amount of \$138,600 (\$46,200/year) for abatement of noxious weeds in the Oakhurst open space parcels, funded by the Citywide Landscape Maintenance District (CFD 2007-1).
 - (d) Adopted Resolution 07-2013 approving a proposed adjustment in the City's 2010 Census Urbanized Area Boundary for the Metropolitan Transportation Commission's purposes.
 - (e) Approved the rejection of a liability claim filed against the City by Mr. Eric Feldhusen.
5. **RECOGNITIONS AND PRESENTATIONS**
 - (a) Presentation of a Proclamation declaring March 2013 as "American Red Cross Month" in the City of Clayton. Mayor Pierce stated the Red Cross representative was unable to attend the meeting but would pick up the Proclamation from City Hall.
 - (b) Presentation by District Attorney Mark Peterson regarding areas of mutual concern. Mayor Pierce stated District Attorney Peterson had a scheduling conflict and would be available at the April 16th City Council meeting.
6. **REPORTS**
 - (a) Planning Commission –Commissioner Dave Bruzzone stated at its February 26th meeting the Commission took action on two items. The first was a Site Plan Review for a balcony in Peacock Creek that was deferred to the Commission's next meeting due to a last-minute neighbor concern. The second was the review and approval of the City's Real Property acquisition in the downtown area for conformity with the General Plan.

- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager stated the City received 16 applications for the Community Development Director position. He noted the Interim Community Development Director Ken Craig did not apply for the position. He stated staff narrowed down the application pool to six applicants and interviews are set for March 21st and 22nd.
- (d) City Council
 - Councilmember Geller attended the East Bay League of Cities meeting.
 - Councilmember Diaz attended two Library Foundation meetings, the CBCA meeting, and attended the Chili Cook-off at the Clayton Club Saloon. Lastly, he noted the Fire Services Ad-hoc Committee will be meeting in the next two weeks.
 - Vice Mayor Stratford stated the “Do the Right Thing” trait of the month is “Integrity.”
 - Mayor Pierce attended a Transportation Authority meeting, and multiple ABAG meetings. She also attended the ABAG Administrative Committee policy retreat, and noted 18 years ago this day the Clayton Community Library opened.
- (e) Other – None.

7. PUBLIC COMMENTS

Herb Yonge, Clayton CERT member, stated a CPR and AED training class will be held March 17th, and on March 23rd a class will be held to teach citizens how to use their fire extinguishers. He noted the Clayton CERT is also helping the City obtain status as a Heartsafe Community.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

- (a) Consideration of a Resolution awarding contract to MCK Services, Inc. in the amount of \$1,380,034.35 as low bidder for the City’s 2013 Neighborhood Street Repaving Project (CIP No. 10417) with inclusion of deductive bids for the resurfacing of public parking lots at City Hall, the Clayton Community Library and Lydia Lane Park, and repaving designated segments of Clayton’s Trail System.

The City Engineer presented the staff report and stated at its January 15th meeting, the City Council approved going out to bid for paving project with deductive bids for the City Hall, Library and the Lydia Lane Park parking lots, and trail repairs. He stated bid information was requested by 10 contractors but only two bids were received. He stated the bid results will allow for the repaving of 30 residential streets, and Regency Drive. He stated the bid prices were reasonable but in order to meet the budget for this project Zinfindal Drive and Mt. Olive Place will not be paved in this project. He stated the parking areas at City Hall, Library, and Lydia Lane park, including striping and new signage, will have a total project cost of \$90,000. Staff recommends paying for this from the Clayton Financing Authority fund balance. He stated the unit prices for the trail grinding and repaving came in much lower than expected and staff recommends repaving more trails with this cost savings by repaving the remainder of the Donner Creek Trail and adding the El Molino trail segment to the scope of work. This work would be paid for out of the Landscape Maintenance District fund.

Mayor Pierce asked about the portion of pavement on Clayton Road near the Middle School that had been sinking. The City Engineer stated that portion of the road was repaired temporarily until the City receives Federal Funding in 2014 to fully address it.

Vice Mayor Stratford asked if the trails should be done now? The Maintenance Supervisor stated these are the next trails on the approve Trails and Landscaping Committee list to be repaired.

Vice Mayor Stratford asked if using Clayton Financing Authority funds would dip into the principal of the money collected from the property sale for the CVS pharmacy site. The City Manager stated this allocation would use principal money and stated the Council had previously used money from this fund to upgrade the Clayton Community Park picnic areas and tot lots.

No public comments were received.

Councilmember Shuey stated he has not heard complaints about the El Molino trail and stated he does not believe it is worth repaving because it is more of a rugged trail. He would like to keep the savings in the Landscape District budget and not spend monies just because it is available.

Vice Mayor Stratford asked if this trail is currently paved? The Maintenance Supervisor responded it was chip sealed but the goal was to make it a multi-use trail and it is currently very uneven and it has a lot of cracking. This paving would make it a hard flat surface. Vice Mayor Stratford asked what is the life expectancy for a trail like this? The City Engineer stated the trails last longer and could last 20 years. Councilmember Geller noted it is hard to push a baby stroller on chip seal surface.

Mayor Pierce stated this is preventive maintenance and the cost is significantly less than it was previously. She stated the trail is 20 years old and maybe the pavement will attract additional users.

Councilmember Geller stated better to do it now than piece meal.

It was moved by Councilmember Shuey, seconded by Councilmember Diaz, to adopt the Resolution with the additional trail work of \$26,000 removed from the contract.

It was moved, as a substitute motion, by Councilmember Geller, seconded by Vice Mayor Stratford, to adopt the Resolution including the additional trail work expense of \$26,000.

After further discussion, Councilmembers Shuey and Geller withdrew the original motions from the floor.

It was moved by Vice Mayor Stratford, seconded by Councilmember Geller, to adopt Resolution 08-2013 awarding contract to MCK for the 2013 Neighborhood Street Repaving Project (CIP No. 10417) to include the deductive bid work, and to further instruct staff to prepare for approval an allocation of \$90,000 from the Clayton Financing Authority for payment of the public parking lots resurfacing (Passed; 5- 0 vote).

It was moved by Vice Mayor Stratford, seconded by Councilmember Geller, to add the additional Trails System segment work (El Molino trail) as outlined in the staff report (Passed; 4-1 vote; No-Shuey).

- (b) Consider the analysis report prepared by Brandis Tallman, LLC on the options to retire the City's CalPERS Unfunded Side-Fund Liability for its Tier 1 Pension Plan (Public Safety and Miscellaneous contracts).

The City Manager stated when Councilmember Geller was Mayor he brought up the idea of examining options to pay-off the City's unfunded liability in the CalPERS pension plans. At the Council's February 5th meeting, staff presented a report outlining options for refinancing. The Council directed staff to obtain more detailed financial information on the options and staff contacted Brandis Tallman, LLC to perform the financial analysis. He introduced Ms. Nicki Tallman from Brandis Tallman, LLC to present the staff report.

Ms. Tallman stated Brandis Tallman is an investment banking firm with a public finance department, and an active trading department for municipal bonds. She stated their company became involved with the side-fund refinancing in fall 2010 and have worked with many small to medium size cities. She stated the company has closed 18 side-fund refinancings the last few years.

Ms. Tallman described how and why the side-funds were created and stated CalPERS set-up an amortization schedule for paying off these unfunded liabilities similar to a mortgage. She stated there are factors that effect the side fund payments paid to CalPERS including the interest rate and growth rates expected by the amortization schedule. She stated most recently CalPERS changed their interest rate and growth rate by a quarter percent. She noted CalPERS had expected employers payrolls to grow and that has not been the case in Clayton or in several other jurisdictions. She stated the City has a Miscellaneous employees plan and a Safety Plan for their Tier I employees. She stated the Miscellaneous employees plan has a side-fund balance of \$411,654 and is being paid off as a percentage of payroll.

Councilmember Shuey asked if the earnings rate of 7.5% is realistic? Ms. Tallman stated that is the rate CalPERS believes they can still earn smoothed over the next 20 years. She noted recently they reported earnings of 13%.

Ms. Tallman stated CalPERS gives the employer credit for the amortization schedule whether or not they actually make this payment. She noted Clayton is paying less than they are getting credit for from CalPERS. She stated it is to the City's advantage to let this formula take place. The City Manager stated this formula is beneficial to Clayton because our employees have had furloughs, and no Cost of Living or merit increases; since this is only for Tier I employees and the number of employees paying into the plan has decreased with attrition. He stated the City Council could increase employee pay by 6% per year before this CalPERS amortization formula would be a disadvantage for the City.

Councilmember Shuey asked what happens when CalPERS realizes the shortfall in the fund? Ms. Tallman responded it is unknown what CalPERS will do, but the thought is that CalPERS will require a fixed dollar amount be paid annually to retire the debt.

Ms. Tallman the Public Safety side-fund is \$647,887 and is paid off as a percentage of payroll, currently 17.39%.

Ms. Tallman stated refinancing has worked for some agencies but for Clayton it is not a good option because it would cost more than continuing to pay-off the side-fund through the fixed schedule. She stated if CalPERS moved to the fixed payments it might be time to reexamine the side-fund.

Councilmember Shuey asked if other small cities have paid off their side-fund obligations? Ms. Tallman stated the smallest side-fund her company has helped refinance is \$1.5 million and she stated every agency is unique.

Vice Mayor Stratford stated hopefully we will be able to increase payroll for employees at some point. He asked if the pool of employees was shrinking. The City Manager stated each time a Tier I employee leaves a new employee comes in at either Tier II or Tier III status for pensions. He stated as long as CalPERS does not change the rules this formula works advantageously for the City.

In response to a question, Ms. Tallman stated the pay-off amount should not change because in the past when the CalPERS Board changed the rates the principal pay-off amounts were not changed. The City Manager stated CalPERS has done a lot of different things over the years and it is difficult to predict what they will do in the future. For example, there is nothing that prevents CalPERS from creating a new side-fund.

No action was taken at this time but the Council may reexamine the side-fund at a later time if CalPERS changes its amortization payment schedules for Tier I side-fund liabilities.

- (c) Consider a staff report on estimated energy savings for retrofitting the water/geyser pumps on the Clayton Fountain (Landscape Maintenance District).

Maintenance Supervisor Mark Janney presented a report about the pumps at the Clayton Fountain. He stated the fountain was constructed by the developer of Oakhurst in 1992 and was given to the City to operate and maintain. The fountain was part of the Oakhurst Landscape Assessment District until that District merged into the City-wide Landscape Maintenance district in 1997. Shortly thereafter it was determined that running the fountain was more expensive than the district could afford and it was turned off. In 2002 the Council established a policy for running the fountain on 11 special events and/or holidays each year. In 2003 the Blue Ribbon Committee was charged with examining the Landscape District. After many meetings a ballot measure was presented to Council that included running the fountain on weekends only. When Measure M put to a vote of the citizens, it failed. The Committee came back to the voters with another Measure which included the Council's previous policy for running the fountain. That Measure, Measure B, was approved in 2007.

Staff had a technician come out of examine the pumps of the fountain for possible updates for energy efficiency. As shown in the staff report there is very little savings on energy and the initial expense of installing the new pumps would be costly. He noted if the City Council wanted to run the fountain daily the cost would be a minimum of \$60-\$80,000/year which equates to 10% of the Landscape District's budget. He stated if the fountain ran every weekend it would cost an additional \$21,240 per year plus additional maintenance expenses.

The City Manager noted the energy costs alone are \$177 per day for operation of the fountain.

Councilmember Geller suggested running it every weekend in the spring and summer.

Mayor Pierce stated when citizens ask her why the fountain does not run daily she explains the cost, and then they understand. She stated she not sure running the fountain every weekend is necessary.

Councilmember Diaz commented an increase over the current operation schedule would be nice.

The City Manager stated there was a lot of talk during the Blue Ribbon Committee meetings about the desire to run the fountain but he cautioned the Council from turning the fountain on more unless they plan to continually run it for the long term. He suggested the Council could refer the item to the Trails and Landscaping Committee but that the fountain is not high on the priority list for the District or its oversight committee.

Mayor Pierce stated the Council should hold off on taking action on this item. The City Manager stated if the item is given to the Trails and Landscaping Committee for information it might have dialogue on the topic.

No action was taken. Staff will send the report to the Trails and Landscaping Committee for information only.

10. COUNCIL ITEMS

Councilmember Diaz asked that the Thursday Night Concerts in The Grove be added to a future agenda when his ready to proceed.

11. ADJOURNMENT— on call by Mayor Pierce the meeting adjourned at 8:52 p.m.

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Respectfully submitted,


Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL


Julie K. Pierce, Mayor