

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

TUESDAY, July 16, 2013

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:04 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 and Geller (left meeting at 8:15 p.m.). Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Engineer Rick Angrisani, Police Chief Chris Thorsen, Finance Manager Merry Pelletier, and City Clerk Laci Jackson

2. **CLOSED SESSION** On call by Mayor Pierce the Council adjourned into Closed Session for the following purpose:
 - (a) Conference with Labor Negotiator
Government Code Section 54957.6
Instructions to City-designated labor negotiator: City Manager.
 1. Employee Organization: Clayton Police Officers Association (CPOA).
 2. Employee Organization: Undesignated City Employees Unit.

7:12 p.m. Report out of Closed Session: Mayor Pierce stated the Council discussed and gave direction to its City Negotiator.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.

4. **CONSENT CALENDAR**- It was moved by Councilmember Geller, seconded by Vice Mayor Stratford, to approve the Consent Calendar (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of July 2, 2013.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Adopted Resolution 20-2013 ordering the annual levy of a Special Tax within the High Street Permanent Road Division (Fund 217) for FY 2013-2014.
 - (d) Adopted Resolution 21-2013 ordering the annual levy of a Special Tax within the Oak Street Permanent Road Division (Fund 218) for FY 2013-2014.
 - (e) Adopted Resolution 22-2013 authorizing the levy of annual assessments for the Lydia Lane Sewer Assessment District in FY 2013-2014.
 - (f) Adopted Resolution 23-2013 authorizing the levy of annual assessments for the Oak Street Sewer Assessment District in FY 2013-2014.
 - (g) Adopted Resolution 24-2013 authorizing the levy of annual tax assessments for Community Facility District No. 2007-1 (Landscape Maintenance District; Fund No. 210) in FY 2013-2014.

- (h) Adopted Resolution 25-2013 authorizing the levy of annual tax assessments for Community Facility District No. 2006-1 (Downtown Park O & M; Fund No. 211) in FY 2013-2014.
- (i) Accepted a \$40,000.00 grant from the 511 Contra Costa County "*Street Smarts Infrastructure Program*" for the purchase and installation of two (2) solar-powered traffic signs with flashing beacons and speed readouts along Marsh Creek Road adjacent to the Diablo View Middle School with City agreement to maintain and repair the traffic control devices.

5. **RECOGNITIONS AND PRESENTATIONS**- None.

6. **REPORTS**

- (a) Planning Commission- Commissioner Gregg Manning reported on the June 25th meeting of the Planning Commission. The Commission discussed the Mazzei property assessor structure issue and has recommended to the City Council the Medical Marijuana Ordinance.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager had no report.
- (d) City Council

Councilmember Diaz participated in the 4th of July Parade and the Concert in The Grove. He attended the Fire Services Ad-hoc Sub-committee meeting and noted the Committee is drafting letters to the Board of Supervisors and the Fire District. He attended a CBCA Rib Cook-off meeting, a Budget Sub-committee meeting, and organized the first Thursday night concert of the year. He noted the next Thursday night concert will be held on August 8th.

Vice Mayor Stratford thanked City staff and Mayor Pierce for their work on the 4th of July Parade. He stated he also met with the Budget Sub-committee and added the "Do the Right Thing" trait of the month for May, June and July is "Courage."

Councilmember Geller participated in the 4th of July Parade, attended Concord's Singing Flag and the Clayton Farmers' Market. He stated the last Concert in The Grove featuring "Livin' in the USA" brought in a huge crowd. He noted the next concert features "Mixed Nuts." He thanked everyone for attending the concerts and for their generous donations.

Mayor Pierce reported the 4th of July Parade had a great turnout. She noted she and the City Manager met with a potential business owner in Clayton and provided encouragement and guidance. She attended a meeting of TRANSPAC, the Mayor's Conference, and several ABAG meetings.

- (e) Other

7. PUBLIC COMMENTS

Ed Clealand, resident, stated the Clayton Community Church is starting a new outreach project called Building Bridges CCC. He stated the program is intended to help residents and is modeled after a similar program by the San Ramon Presbyterian Church. He asked that the City provide information to citizens in need of help cleaning up or rectifying a code enforcement problem that their church is willing to assist with labor and other aid to cure the problem. He stated the programs kick-off is targeted for October 26th.

8. PUBLIC HEARINGS

- (a) Public Hearing to consider the Introduction and First Reading of Ordinance No. 448 amending Title 17 of the *Clayton Municipal Code* establishing Prohibited Uses and Activities, and specifically prohibiting medical marijuana dispensaries and certain cultivation activities (ZOA-02-13).

The Community Development Director presented the staff report. He stated in 2005 the City Council considered Ordinance No. 387 to ban medical marijuana dispensaries. The City Council introduced but did not adopt the Ordinance due to the pending court cases. He stated since that time a number of court cases and the federal government have clarified their enforcement position on medical marijuana. He stated Ordinance No. 448 was considered and recommended by the Planning Commission on June 25th. He stated the purpose of the City Ordinance is to prohibit medical marijuana dispensaries, and to establish local control and regulation. He stated the Ordinance does not prohibit personal medical marijuana use or indoor cultivation and is not intended to impinge on the personal rights of qualified users. He suggested the Council move forward with introduction of the Ordinance.

Mayor Pierce opened the Public Hearing at 7:35 p.m.

Andrew Miller asked if there had been any applications for these types of businesses in Clayton? The Community Development Director responded no. He asked why then is the City doing this? Mayor Pierce responded for preventative purpose and to give the City the authority to deny any land use application of this type.

Mayor Pierce closed the Public Hearing at 7:37 p.m.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to have the City Clerk read Ordinance No. 448 by title and number only and waive further reading (Passed; 4-0 vote).

The City Clerk read Ordinance No. 448 by title and number only.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to approve Ordinance No. 448 for Introduction (Passed; 4-0 vote).

- (b) Public Hearing to consider the adoption of a Resolution approving the Diablo Estates at Clayton Benefit Assessment District (BAD) proposed real property assessment and rates for FY 2013-2014.

The City Engineer stated at the June 18th City Council meeting the Engineer's Report was presented which suggested a 2.4% increase to the Benefit Assessment District

rates for FY 2013-2014. He stated the meeting tonight is to hear comments or protests from the affected real property owners. He stated if a majority protest does not exist the Council can approve the Resolution.

Mayor Pierce opened the Public Hearing at 7:40 p.m.

Andrew Miller, resident, stated he felt property owners were in the dark as to how the \$72,000 per year was arrived at. He noted the report stated the fees were based on Toll Brothers' assessments and he stated he would like to propose the numbers be scrutinized again to see if a lower dollar amount could be arrived at. He stated the fund already has a \$19,000 balance which will increase as the years go by and he wants to know if it is earmarked.

The City Engineer stated the numbers were put together by Toll Brothers but last year prior to proposing the assessment the City went out to bid and the numbers came in amazingly tight to what is in the budget. He noted the balance or extra money is for future replacement of large items such as street lights, trees, and storm drainage facilities.

Mayor Pierce stated people who live in a Homeowners Association (HOA) are required to have reserves because it would be difficult for property owners to replace these items on their own. Because the developer did not want an HOA, a Benefit Assessment District was formed to care for these private property benefits.

The City Engineer stated this is not a Homeowners Association and the scope of the work of the district is specific to what is outlined in the Engineers Report. He stated unlike a Homeowners Association private fences are not repaired by this assessment.

Andrew Miller asked if the CPI increase is warranted by actual costs? The City Engineer stated the contract with the property management company has an automatic increase for the CPI and that covers the increase that will happen every year.

Mayor Pierce closed the Public Hearing at 7:50 p.m.

Vice Mayor Stratford asked if the homeowners can give input on the District? The City Engineer responded the District was set up with a very specific scope of work and everything that is being done was a requirement to approve the subdivision.

Vice Mayor Stratford asked how it works if the majority of the property owners protest. The City Engineer stated the rates would stay the same from the previous year but eventually inadequate monies will exist to maintain the improvements.

It was moved by Vice Mayor Stratford, seconded by Councilmember Geller, to determine the lack of majority property owner protests exists and adopt Resolution 26-2013 approving and authorizing the levy of the Diablo Estates at Clayton Benefit Assessment District rates for FY 2013-14 (Passed; 4-0 vote).

- c) Public Hearing on the Engineer's Report and proposed levy of annual assessments on real property for operation and maintenance of street lights in the Street Lighting Assessment District for FY 2013-2014; pursuant to Streets and Highways Code 18070 and CA Government Code 54954.6.

The City Engineer presented the staff report. He stated the assessment levy rate has stayed the same since 1996, and this pays for street lights in residential neighborhoods.

He noted after reviewing the procedures with the new City Attorney it was determined that notices were not required by Proposition 218 because there was no increase to the assessment rates. He stated there is no provision for a majority protest and without this assessment the City would have to fund the cost of the street lights out of the General Fund. Staff recommended the Council adopt the Resolution.

Mayor Pierce opened the Public Hearing at 7:55 p.m., no public comments were offered, and she closed the Public Hearing at 7:56 p.m.

It was moved by Councilmember Geller, seconded by Vice Mayor Stratford, to adopt Resolution 27-2013 setting the annual street lighting real property assessments for FY 2013-2014 (Passed; 4-0 vote).

9. ACTION ITEMS

- (a) Introduction of the proposed City of Clayton Budgets for Fiscal Year 2013–2014 and the Capital Improvement Program (CIP) for Fiscal Years 2013-2018.

The City Manager stated this Budget is being presented late due to internal organizational issues. He noted there is a change on the first page of the budget message in the second line noting the 2013-14 "Other Funds" should read \$3,444,246. This revision resets the City's overall budget from a 6.2% annual increase to a 28% decrease.

He stated the Total budget for this year is \$8,512,696. He stated the City lost money in the Successor Agency and the CIP budget (due to a large streets rehab project in FY 2012-13). He stated staff and the Council Budget Sub-committee are recommending a status quo Budget.

He explained most of the City's revenue to the General Fund comes from local property tax money. Councilmember Geller asked how much the City receives in Sales Tax? He responded 1% of the total sales tax rate or approximately \$250,000 per year.

He stated the Expenditures side of the budget almost mirrors the revenues. He noted the Police Department makes up 48% of the expenditures for the General Fund. City Manager stated in FY 2012-13 the City received \$213,000 in unexpected revenue from the demise of redevelopment agencies, and also received a \$50,000 one-time rebate from excessive Property Tax Administration Fees assessed by the County.

He stated expenses are also down for employees as new employees were brought in for less compensation and are subject to the new CalPERS benefit plans, creating a savings for the City. He stated Franchise Fees make up 13% of the budget, and interest revenue was down.

He stated for the FY 2012-13 the approved Budget projected a General Fund deficit of year \$199,725 and at this time the estimated expected deficit is only expected to be \$32,532. He stated for FY 2013-14 there is an expected conditional surplus of \$24,320 but that is based on a status quo of continuing the labor concessions which includes no merit increases, 11 days of furloughs, no holiday premium time for public safety, and a loss in wages of 9.8% due to no CPI adjustments. He noted there have been no reductions in community services other than the few days when City Hall is closed for the unpaid furloughs.

He stated the Gas Tax Fund will have only \$45,822 because the City used this year's money to recently complete a \$1.4 million street project which will move the overall street condition from 79 to the mid-80's of "Very Good". He stated the money will be set aside for a 2014 street project which will include \$6,000 for installation of handicap ramps.

He stated Landscape Maintenance District collects almost a million dollars each year and this District is where Maintenance personnel spend most of their time. He noted the District recently completed several large projects and the reserve fund has been brought down to \$240,000. He stated the District will continue its open space fire prevention, Keller Ridge drive landscaping, replace the irrigation control system, and re-landscape the Jeffrey Ranch median.

He stated the Capital Equipment Replacement Fund (CERF) replaced two police vehicles last year, a riding mower, and purchased a trailer to carry the mower. The Maintenance Department does need a new tractor but it is not a recommended purchase this year at approximately \$50,000. He noted the General Fund has not been replenishing this fund annually at \$98,000 because of the tight budget situation.

He stated the Capital Improvement (CIP) Budget has no new projects for FY 2013-14 but many projects were completed last fiscal year. He stated those projects include: a \$1.27 street project; acquisition of a 1.66 acres of piece of land in the downtown area \$1,040,843; public parking lots resurfacing; and trail system repaving. He noted the City will receive a safety grant of \$40,000 to slow down and calm traffic by Diablo View Middle School.

He noted in regards to the Development Impact Funds, the fees are collected when development occurs in the City and are restricted for specific purposes.

He commented the City's CalPERS Unfunded Liability is now included in annual budget discussions since last year. The City has a \$1.2 million unfunded liability in part because of changing retirement system plans and also due to a 2001 CalPERS unilateral decision to put small employers in a pool for risk sharing. These actions created an unfunded liability for the City. Recently, the City Council reviewed a report on the paying off of the unfunded liability in March and learned it was best to do nothing but continue to pay the liability off over time as it has been. He stated within the rate structure for the employer the liability is retired by approximately \$100,000 per year. He also noted there are now three pension plans for employees and each of those plans cost less. He stated through attrition the City's annual pension expenses have gone down \$106,989. Lastly, he requested the Council to call a special meeting for July 30th for the Public Hearing and adoption of the Budget.

Vice Mayor Stratford thanked staff for their work on the Budget. Mayor Pierce thanked staff for keeping expenses down.

Mayor Pierce called for public comments on the City Budget. No comments were offered.

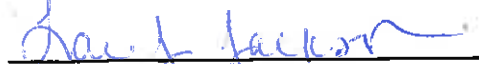
It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to call and set a Special Meeting of the City Council for Tuesday, July 30th at 7:00 p.m. in Hoyer Hall of the Clayton Community Library and instruct the City Manager to prepare a Public Hearing on said date, time and location for adoption of the FY 2013-14 City Budgets. (Passed; 3-0 vote).

10. COUNCIL ITEMS – None.

11. ADJOURNMENT– on call by Mayor Pierce the meeting adjourned at 8:40 p.m.

#

Respectfully submitted,



Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Julie K. Pierce, Mayor