



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

TUESDAY, August 20, 2013

6:00 P.M.

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

Mayor: Julie K. Pierce
Vice Mayor: Hank Stratford

Council Members

Jim Diaz
Howard Geller
David T. Shuey

- 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
- 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 ***

August 20, 2013

6:00 P.M.

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Pierce.

2. **CLOSED SESSION**

- (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.

Report out from Closed Session: Mayor Pierce.

7:00 P.M.

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

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) Approve the minutes of the regular meeting of July 30, 2013. ([View Here](#))
 - (b) Approve Financial Demands and Obligations of the City. ([View Here](#))
 - (c) Approve the City's response letter to Civil Grand Jury Report No. 1311, "Assessing Fiscal Risk- Who is Minding the Store?" and authorize the Mayor to sign the letter. ([View Here](#))
 - (d) Adopt a Resolution authorizing the filing of an application for funding assigned to the Metropolitan Transportation Commission and committing necessary matching funds and stating the assurance to complete the FY 2014-15 Collector Street Rehabilitation Project (CIP No. 10425). ([View Here](#))
 - (e) Approve modifications to the Job Classification for the Finance Manager position. ([View Here](#))

5. RECOGNITIONS AND PRESENTATIONS

- (a) Certificate of Recognition to Emma Hall for planning and organizing the “Clayton Family Faire and Picnic” held on June 29, 2013.

6. REPORTS

- (a) Planning Commission – No meeting held.
- (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

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 at the time each item is considered by the City Council.

8. PUBLIC HEARINGS

- (a) Public Hearing to consider a request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing and developed residential properties located on a private driveway off east Marsh Creek Road (8106, 8114, 8118, 8130 and 8140 Marsh Creek Road) in the Marsh Creek Road Specific Plan area (DP-01-13; Matt Mazzei, Applicant). (Community Development Director) ([View Here](#))

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing; **3)** Receive public comments; **4)** Close Public Hearing; **5)** Adopt a Resolution approving the Development Plan Permit and establishing Planned Development (PD) Zoning District standards, with CEQA Findings there is no possibility the proposal may have a significant effect on the environment.

9. ACTION ITEMS

- (a) Consider the Second Reading and Adoption 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) ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Approve a motion to have the City Clerk read Ordinance No. 448 by title and number only and waive further reading; and **4)** By motion, adopt Ordinance No. 448 with findings the action does not constitute a project under CEQA.

- (b) Consider actions related to the upcoming League of California Cities' 2013 Annual Conference in Sacramento. ([View Here](#))
(City Clerk and City Manager)

1. Consideration of the designation of the City's Voting Delegate and Alternate to the League of California Cities 2013 Annual Conference to be held September 18 thru September 20, 2013 in Sacramento, CA.

2. Consideration of City Council position and voting instructions on the two (2) proposed General Resolutions at the 2013 Annual Conference of the League of CA Cities.

Staff recommendations: Following staff report and public comments: **1)** Determine if an elected official will attend the Annual Conference, and if so select the City's Voting Delegate and identify budget funds by motion; and **2)** If appropriate, provide voting guidance to its Voting Delegate on each of the two General Resolutions.

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

11. ADJOURNMENT– the City Council regular meeting of September 3, 2013 was cancelled; therefore, the next regularly scheduled City Council meeting is September 17 2013.

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

TUESDAY, July 30, 2013

Agenda Date: 8-20-13

Agenda Item: 4a

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 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 Shuey. Councilmember absent: Councilmember Geller. Staff present: City Manager Gary Napper 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 Shuey, to approve the Consent Calendar (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of July 16, 2013.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Approved the City's response letter to Civil Grand Jury Report No. 1305, "Getting to Clean Water in Contra Costa County - What's The Plan and Where's the Money," and authorized the Mayor to sign the letter.
 - (d) Approved a Consulting Services Agreement with Raney Planning and Management to prepare the Environmental Analysis of the Silver Oak Estates Residential Development Project; DP-01-10; Map-01-10 & ENV-02-10.
5. **RECOGNITIONS AND PRESENTATIONS-** None.
6. **REPORTS**
 - (a) Planning Commission- Commissioner Dave Bruzzone reported on the July 23rd Commission Meeting. He stated the Commission reviewed Planned Development (PD) zoning standards for an area near the pumpkin farm. The Commission established set back and building height setbacks where none currently exist. He noted the changes are consistent with the other PD standards in the community.
 - (b) Trails and Landscaping Committee – No meeting held.
 - (c) The City Manager stated after 13 years of employment with the City, the Finance Manager Merry Pelletier will retire on December 31st. He announced recruitment for a replacement will begin by the end of August. He noted for those who frequent The Grove park, the City is aware of a hole in the resilient surface at the play apparatus. He stated staff has contacted the repair company but they are extremely busy this time of the year. He stated staff is hoping to replace the entire resilient surface with newer technology sometime this fiscal year.

(d) City Council

Councilmember Diaz attended the CERT hands-only CPR training, the Mayors' Cook-off in Concord, the CBCA meeting, and the 60th anniversary of the Korean War Veterans group in Concord.

Councilmember Shuey stated Clayton Valley Charter High School is doing well financially and student registration is next week. Lastly he stated the Charter High School is always looking for more volunteers.

Mayor Pierce attended the joint ABAG and MTC meeting and approved the Sustainable Communities Strategy. She attended the Saturday night concert and noted the next Thursday night concert is August 8th. She attended a meeting with the central county mayors' and discussed pooling bids for street paving. She stated the Caldecott Tunnel is moving forward within the original budget, ahead of schedule, and should open to traffic by October.

(e) Other-None.

7. **PUBLIC COMMENTS** – None.

8. **PUBLIC HEARINGS**

(a) Public Hearing on the proposed City of Clayton Budget for Fiscal Year 2013-2014 and its 5-Year Capital Improvement Project Budget (CIP) for Fiscal Years 2013-2018.

The City Manager presented the staff report and noted that General Fund revenues and expenses are flat. He noted the CIP spending is down because in FY 2012-13 the City completed a \$1.4 million street pavement project. He also noted Successor Agency only has revenue of \$991,506 for debt payments only.

He noted property taxes are the largest source of revenues to the General Fund and Franchise Fees are the second largest source. He noted the City only receives \$250,000 total of annual sales tax revenue.

He stated last year the approved budget projected a \$200,000 deficit but it appears the loss will only be approximately \$32,532 at the close of FY 2012-13. He noted no equipment will be replaced this year with the Capital Equipment Replacement Fund (CERF). He reviewed the expenditures in the Gas Tax Fund, Landscape Maintenance District, and the CIP budget. He also noted the Development Impact Funds were augmented this year due to the construction of the Diablo Estates sub-division.

He stated the City has a CalPERS unfunded liability of \$1.2 million as of June 2012. He stated that debt is being retired as part of the existing rates for Tier I employees. He noted annual pension system costs are down \$106,989 due to staff turnover and the requirements of new pension plans. He also noted the statewide CalPERS pension system had earnings of 12.5% last year.

He noted the City of Clayton has an available tax revenue gap is \$4,584,977 or 47% of the Gann tax limit.

Lastly, the City Manager showed the re-distribution of Clayton's Redevelopment Agency funds which were released back to other taxing entities in the County and the State.

Mayor Pierce opened the Public Hearing at 7:37 p.m.; no public comments were provided, and closed the Public Hearing at 7:38 p.m.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to adopt Resolution 28-2013 approving a City Budget for FY 2013-2014 and a 5-Year CIP Budget for FY 2013-2018 (Passed; 4-0 vote).

9. **ACTION ITEMS** – None.

10. **COUNCIL ITEMS** – None.

11. **ADJOURNMENT**– on call by Mayor Pierce the meeting adjourned at 7:40 p.m.

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Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie K. Pierce, Mayor



Agenda Date 8/20/2013

Agenda Item: 46



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MERRY PELLETIER, FINANCE MANAGER
DATE: 8/20/2013
SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

8/16/2013 Cash Requirements Report	\$659,391.46
<u>Checks Cut Prior to City Council Meeting:</u>	
7/22/2013 Postage Added (ACH)	\$ 300.00
7/31/2013 CCC Sheriff -Forensic Svc Div.	\$ 700.00
8/5/2013 Permco	\$ 14,057.69
8/7/2013 Crossman Country (Thursday Concert)	\$ 500.00
8/7/2013 Ken Joiret (Sound Thursday Concert)	\$ 500.00

Total: \$675,449.15

Attachments:

Cash Requirements Report dated 8/16/2013 (7 pages)

Copies of Checks and Invoices – Checks Cut Prior to City Council Meeting (13 pages)

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Ace Sierra Tow								
Ace Sierra Tow	8/20/2013	6/30/2013	3159	Service order # 45271 6/27/13	\$25.00	\$0.00		\$25.00
				Totals for Ace Sierra Tow:	\$25.00	\$0.00		\$25.00
American Fidelity Assurance Company								
American Fidelity Assurance Company	8/20/2013	7/25/2013	845257A	Flex Account August 2013	\$849.10	\$0.00		\$849.10
				Totals for American Fidelity Assurance Company:	\$849.10	\$0.00		\$849.10
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	8/20/2013	7/29/2013	August 2013	Library Volunteer Coordinator August 2013	\$900.00	\$0.00		\$900.00
				Totals for Arlene H. Kikkawa-Nielsen:	\$900.00	\$0.00		\$900.00
AT&T/ CalNet 2								
AT&T/ CalNet 2	8/20/2013	7/22/2013	4550182	Phone service July 2013	\$1,843.23	\$0.00		\$1,843.23
				Totals for AT&T/ CalNet 2:	\$1,843.23	\$0.00		\$1,843.23
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	8/20/2013	8/1/2013	0296662-IN	Barricades	\$226.72	\$0.00		\$226.72
				Totals for Bay Area Barricade Serv.:	\$226.72	\$0.00		\$226.72
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	8/20/2013	7/31/2013	0000662496	classified ads	\$294.16	\$0.00		\$294.16
				Totals for Bay Area News Group East Bay (CCT):	\$294.16	\$0.00		\$294.16
Bay Area Service Company								
Bay Area Service Company	8/20/2013	7/15/2013	21667	EH replace thermostat	\$186.56	\$0.00		\$186.56
				Totals for Bay Area Service Company:	\$186.56	\$0.00		\$186.56
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	8/20/2013	8/8/2013	707933	Retainer	\$8,000.00	\$0.00		\$8,000.00
Best Best & Kreiger LLP	8/20/2013	8/8/2013	707934	Retainer	\$467.50	\$0.00		\$467.50
Best Best & Kreiger LLP	8/20/2013	8/8/2013	707935	Retainer	\$1,072.50	\$0.00		\$1,072.50
Best Best & Kreiger LLP	8/20/2013	8/8/2013	707936	Retainer	\$2,695.00	\$0.00		\$2,695.00
				Totals for Best Best & Kreiger LLP:	\$12,235.00	\$0.00		\$12,235.00
CalPERS Health								
CalPERS Health	8/20/2013	8/14/2013	1067	Health Benefits September 2013	\$31,585.93	\$0.00		\$31,585.93
				Totals for CalPERS Health:	\$31,585.93	\$0.00		\$31,585.93
CalPERS Retirement								
CalPERS Retirement	8/20/2013	8/9/2013	08/04/2013	Retirement PPE 8/4/13	\$21,467.62	\$0.00		\$21,467.62
				Totals for CalPERS Retirement:	\$21,467.62	\$0.00		\$21,467.62
CCC Library								
CCC Library	8/20/2013	7/26/2013	CLA1213	CCC - Clayton Library Extra Hours 4/1/13-6	\$3,915.64	\$0.00		\$3,915.64
				Totals for CCC Library:	\$3,915.64	\$0.00		\$3,915.64

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CCC Police Chiefs' Assoc.								
CCC Police Chiefs' Assoc.	8/20/2013	7/9/2013	13-01	FY 2013/14 CCC Police Chiefs' Assn. Dues	\$650.00	\$0.00		\$650.00
				Totals for CCC Police Chiefs' Assoc.:	\$650.00	\$0.00		\$650.00
CCC Sheriff - Forensic Svc Div (Lab)								
CCC Sheriff - Forensic Svc Div (Lab)	8/20/2013	6/25/2013	CLPD-1305	Toxicology/Alcohol May 2013	\$1,700.00	\$0.00		\$1,700.00
CCC Sheriff - Forensic Svc Div (Lab)	8/20/2013	7/11/2013	CLPD-213	Blood withdrawal services April-June 2013	\$1,192.80	\$0.00		\$1,192.80
CCC Sheriff - Forensic Svc Div (Lab)	8/20/2013	7/16/2013	CLPD-1306	Drug/Toxicology/Alcohol June 2013	\$1,010.00	\$0.00		\$1,010.00
CCC Sheriff - Forensic Svc Div (Lab)	8/20/2013	7/15/2013	CLPD-CHP2	CHP Testing 4/1/13-6/30/13	\$110.00	\$0.00		\$110.00
				Totals for CCC Sheriff - Forensic Svc Div (Lab):	\$4,012.80	\$0.00		\$4,012.80
CCC Sheriff-Coroner (CLETS)								
CCC Sheriff-Coroner (CLETS)	8/20/2013	7/2/2013	11/12	CLETS 11/12 annual fee - message switch, s	\$788.27	\$0.00		\$788.27
				Totals for CCC Sheriff-Coroner (CLETS):	\$788.27	\$0.00		\$788.27
Christopher Stewart								
Christopher Stewart	8/20/2013	8/13/2013	0060	Deposit refund CAP 0060	\$500.00	\$0.00		\$500.00
				Totals for Christopher Stewart:	\$500.00	\$0.00		\$500.00
City of Concord								
City of Concord	8/20/2013	7/5/2013	33675	Dispatch/Computer Services	\$13,285.00	\$0.00		\$13,285.00
City of Concord	8/20/2013	8/2/2013	34095	Dispatch Services Prior Periods 2/12, 5/12, 6/	\$39,855.00	\$0.00		\$39,855.00
City of Concord	8/20/2013	8/9/2013	34123	Printing Services - Envelopes	\$106.00	\$0.00		\$106.00
				Totals for City of Concord:	\$53,246.00	\$0.00		\$53,246.00
Clean Street								
Clean Street	8/20/2013	7/31/2013	71406	Sweep Fee July 2013	\$3,500.00	\$0.00		\$3,500.00
				Totals for Clean Street:	\$3,500.00	\$0.00		\$3,500.00
Cole Supply Company								
Cole Supply Company	8/20/2013	7/23/2013	923489-2	30-11L4247250/Liner	\$2,034.05	\$0.00		\$2,034.05
				Totals for Cole Supply Company:	\$2,034.05	\$0.00		\$2,034.05
Concord Trailer World & Sport								
Concord Trailer World & Sport	8/20/2013	7/31/2013	771218	Work Order 1104435	\$453.71	\$0.00		\$453.71
				Totals for Concord Trailer World & Sport:	\$453.71	\$0.00		\$453.71
Contra Costa Water Dist.								
Contra Costa Water Dist.	8/20/2013	8/6/2013	B Series	Irrigation 6/4/13-8/2/13	\$36,889.78	\$0.00		\$36,889.78
				Totals for Contra Costa Water Dist.:	\$36,889.78	\$0.00		\$36,889.78
Cora Bohacek								
Cora Bohacek	8/20/2013	8/7/2013	6/22/13	Deposit refund EH 6/22/13	\$500.00	\$0.00		\$500.00
				Totals for Cora Bohacek:	\$500.00	\$0.00		\$500.00
CR Fireline Inc								
CR Fireline Inc	8/20/2013	7/19/2013	96689	semi annual fire alarm test, Qtrly sprinkler te	\$310.00	\$0.00		\$310.00

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CR Fireline Inc	8/20/2013	7/19/2013	96691	semi-annual alarm test, Qtrly sprinkler test, Q	\$310.00	\$0.00		\$310.00
CR Fireline Inc	8/20/2013	7/19/2013	96690	semi-annual alarm test, Qtrly sprinkler test, Q	\$310.00	\$0.00		\$310.00
CR Fireline Inc	8/20/2013	7/31/2013	96784	WO 96730	\$475.00	\$0.00		\$475.00
CR Fireline Inc	8/20/2013	6/1/2013	96760	WO 76216	\$515.00	\$0.00		\$515.00
				Totals for CR Fireline Inc:	\$1,920.00	\$0.00		\$1,920.00
Dan & Cathie Provinse								
Dan & Cathie Provinse	8/20/2013	8/5/2013	CAP 0072	Deposit Refund	\$1,904.55	\$0.00		\$1,904.55
				Totals for Dan & Cathie Provinse:	\$1,904.55	\$0.00		\$1,904.55
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	8/20/2013	8/10/2013	18958340	Konica Contract August 2013	\$432.68	\$0.00		\$432.68
				Totals for De Lage Landen Financial Services, Inc.:	\$432.68	\$0.00		\$432.68
Dyna Systems								
Dyna Systems	8/20/2013	7/26/2013	20700438	Order # 20624519-1	\$302.59	\$0.00		\$302.59
				Totals for Dyna Systems:	\$302.59	\$0.00		\$302.59
Element Interior Designs								
Element Interior Designs	8/20/2013	8/13/2013	CAP 0013	Deposit refund	\$500.00	\$0.00		\$500.00
				Totals for Element Interior Designs:	\$500.00	\$0.00		\$500.00
Entenmann-Rovin Co								
Entenmann-Rovin Co	8/20/2013	7/22/2013	0091653-JN	Clayton PD 154-R TT Badge, Code Enforcement	\$112.62	\$0.00		\$112.62
				Totals for Entenmann-Rovin Co:	\$112.62	\$0.00		\$112.62
Envrontech Enterprises								
Envrontech Enterprises	8/20/2013	6/15/2013	001A	Thistle Abatement through May 30	\$10,200.00	\$0.00		\$10,200.00
Envrontech Enterprises	8/20/2013	6/15/2013	A001B-B1-13	Mustard and yellow star thistle abatement th	\$13,000.00	\$0.00		\$13,000.00
Envrontech Enterprises	8/20/2013	7/30/2013	A001A-2A-13	Thistle Abatement July 2013	\$8,800.00	\$0.00		\$8,800.00
Envrontech Enterprises	8/20/2013	7/30/2013	A001B-2B-13	Mustard and yellow star thistle abatement July	\$18,000.00	\$0.00		\$18,000.00
				Totals for Envrontech Enterprises:	\$50,000.00	\$0.00		\$50,000.00
Ghiglieri Family Trust								
Ghiglieri Family Trust	8/20/2013	8/13/2013	8023	Deposit refund CAP 0024	\$500.00	\$0.00		\$500.00
				Totals for Ghiglieri Family Trust:	\$500.00	\$0.00		\$500.00
Globalstar LLC								
Globalstar LLC	8/20/2013	7/16/2013	1000000004896078	service 6/16/13-7/15/13	\$43.73	\$0.00		\$43.73
				Totals for Globalstar LLC:	\$43.73	\$0.00		\$43.73
Graybar Electric Co, Inc								
Graybar Electric Co, Inc	8/20/2013	8/7/2013	967927838	1-LP8S-8-115 Wattstopper 8 relay LTG Cont	\$1,068.89	\$0.00		\$1,068.89
				Totals for Graybar Electric Co, Inc:	\$1,068.89	\$0.00		\$1,068.89
Hammons Supply Company								
Hammons Supply Company	8/20/2013	7/24/2013	78713-1	supplies	\$68.83	\$0.00		\$68.83

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount Expires On	Net Amount Due
Health Care Dental Trust							
Health Care Dental Trust	8/20/2013	8/7/2013	163452	Dental for September 2013	\$3,068.80	\$0.00	\$3,068.80
				Totals for Health Care Dental Trust:	\$3,068.80	\$0.00	\$3,068.80
Ian McLaughlin							
Ian McLaughlin	8/20/2013	8/5/2013	Admin Citation #100	Hearing Officer Services July 2013	\$1,200.00	\$0.00	\$1,200.00
				Totals for Ian McLaughlin:	\$1,200.00	\$0.00	\$1,200.00
Interviews & Interrogations Inst							
Interviews & Interrogations Inst	8/20/2013	8/12/2013	POST 2013	5 day POST Seminar 8/26-8/30/13 - Billing	\$764.00	\$0.00	\$764.00
				Totals for Interviews & Interrogations Inst:	\$764.00	\$0.00	\$764.00
Jaweed Shaghasi							
Jaweed Shaghasi	8/20/2013	8/13/2013	CAP 0080	deposit refund	\$500.00	\$0.00	\$500.00
				Totals for Jaweed Shaghasi:	\$500.00	\$0.00	\$500.00
JFB Properties, LLC							
JFB Properties, LLC	8/20/2013	8/13/2013	CAP 0033	deposit refund	\$500.00	\$0.00	\$500.00
				Totals for JFB Properties, LLC:	\$500.00	\$0.00	\$500.00
Kimberly Medrano							
Kimberly Medrano	8/20/2013	8/6/2013	6/8/13	deposit refund	\$167.00	\$0.00	\$167.00
				Totals for Kimberly Medrano:	\$167.00	\$0.00	\$167.00
LarryLogic Productions							
LarryLogic Productions	8/20/2013	8/4/2013	1349	City Council Meeting 7/30/13	\$300.00	\$0.00	\$300.00
				Totals for LarryLogic Productions:	\$300.00	\$0.00	\$300.00
Local Government Consultants							
Local Government Consultants	8/20/2013	8/5/2013	162	SB90 Claiming Service 1st Pmt FY 13/14	\$1,050.00	\$0.00	\$1,050.00
				Totals for Local Government Consultants:	\$1,050.00	\$0.00	\$1,050.00
MailFinance (Neopost Leasing)							
MailFinance (Neopost Leasing)	8/20/2013	8/6/2013	N4315481	Lease pmt 9/7/13-10/6/13	\$113.60	\$0.00	\$113.60
				Totals for MailFinance (Neopost Leasing):	\$113.60	\$0.00	\$113.60
Main Fire Protection							
Main Fire Protection	8/20/2013	8/4/2013	1025	wo # 312322	\$163.56	\$0.00	\$163.56
				Totals for Main Fire Protection:	\$163.56	\$0.00	\$163.56
Marken Mechanical Services Inc							
Marken Mechanical Services Inc	8/20/2013	7/23/2013	413-1147-7	EH Maintenance July 2013	\$247.00	\$0.00	\$247.00
Marken Mechanical Services Inc	8/20/2013	7/23/2013	413-1146-7	Library Maintenance July 2013	\$502.17	\$0.00	\$502.17
Marken Mechanical Services Inc	8/20/2013	8/1/2013	413-1152-8	Library Maintenance August 2013	\$150.00	\$0.00	\$150.00
Marken Mechanical Services Inc	8/20/2013	8/1/2013	413-1151-8	City Hall Maintenance August 2013	\$150.00	\$0.00	\$150.00

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Marken Mechanical Services Inc	8/20/2013	7/31/2013	413-1148-7	City Hall Maintenance July 2013	\$332.50	\$0.00		\$332.50
				<i>Totals for Marken Mechanical Services Inc:</i>	<i>\$1,381.67</i>	<i>\$0.00</i>		<i>\$1,381.67</i>
Michael Tabacco								
Michael Tabacco	8/20/2013	8/13/2013	CAP 0031	deposit refund	\$500.00	\$0.00		\$500.00
				<i>Totals for Michael Tabacco:</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Nancy Formoso								
Nancy Formoso	8/20/2013	8/6/2013	6/8/13	deposit refund	\$167.00	\$0.00		\$167.00
				<i>Totals for Nancy Formoso:</i>	<i>\$167.00</i>	<i>\$0.00</i>		<i>\$167.00</i>
Neopost (add postage)								
Neopost (add postage)	8/20/2013	8/15/2013	8/15/13	Postage added	\$300.00	\$0.00		\$300.00
				<i>Totals for Neopost (add postage):</i>	<i>\$300.00</i>	<i>\$0.00</i>		<i>\$300.00</i>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	8/20/2013	7/24/2013	554102	Courtyard Pay Phone August 2013	\$73.00	\$0.00		\$73.00
				<i>Totals for Pacific Telemanagement Svc:</i>	<i>\$73.00</i>	<i>\$0.00</i>		<i>\$73.00</i>
PERMCO, Inc.								
PERMCO, Inc.	8/20/2013	8/12/2013	10047	Retainer General Service	\$3,507.15	\$0.00		\$3,507.15
PERMCO, Inc.	8/20/2013	8/12/2013	10050	Silver Oaks Estates New Submittal	\$980.00	\$0.00		\$980.00
PERMCO, Inc.	8/20/2013	8/12/2013	10051	Diablo Pointe Construction Inspection	\$1,259.25	\$0.00		\$1,259.25
PERMCO, Inc.	8/20/2013	8/12/2013	10052	Construction Activity Permit Inspection, non-	\$83.00	\$0.00		\$83.00
PERMCO, Inc.	8/20/2013	8/12/2013	10052	Construction Activity Permit Inspection, non-	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/20/2013	8/12/2013	10052	Construction Activity Permit Inspection, non-	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	8/20/2013	8/12/2013	10053	2013 Pavement Rehabilitation Project	\$209.69	\$0.00		\$209.69
PERMCO, Inc.	8/20/2013	8/12/2013	10054	Diablo View Middle School Safety Signage	\$975.00	\$0.00		\$975.00
PERMCO, Inc.	8/20/2013	8/12/2013	10055	Oak Creek Canyon	\$375.00	\$0.00		\$375.00
				<i>Totals for PERMCO, Inc.:</i>	<i>\$7,472.09</i>	<i>\$0.00</i>		<i>\$7,472.09</i>
PG&E								
PG&E	8/20/2013	7/23/2013	6/21/13-7/22/13	Service 6/21/13-7/22/13	\$3,637.08	\$0.00		\$3,637.08
				<i>Totals for PG&E:</i>	<i>\$3,637.08</i>	<i>\$0.00</i>		<i>\$3,637.08</i>
Pinnacle Construction Services, Inc								
Pinnacle Construction Services, Inc	8/20/2013	7/26/2013	1735	management for Diablo Estates for August 20	\$4,099.00	\$0.00		\$4,099.00
				<i>Totals for Pinnacle Construction Services, Inc:</i>	<i>\$4,099.00</i>	<i>\$0.00</i>		<i>\$4,099.00</i>
PMC (Planning)								
PMC (Planning)	8/20/2013	8/6/2013	38049	Professional services 6/29/13-7/26/13	\$792.50	\$0.00		\$792.50
PMC (Planning)	8/20/2013	7/15/2013	37946	Professional services 6/1/13-6/28/13	\$3,043.75	\$0.00		\$3,043.75
				<i>Totals for PMC (Planning):</i>	<i>\$3,836.25</i>	<i>\$0.00</i>		<i>\$3,836.25</i>
Raney Planning & Management, Inc.								
Raney Planning & Management, Inc.	8/20/2013	8/12/2013	1322E-1	Labor July 2013 - Project initiation	\$943.10	\$0.00		\$943.10
				<i>Totals for Raney Planning & Management, Inc.:</i>	<i>\$943.10</i>	<i>\$0.00</i>		<i>\$943.10</i>

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Red Cloud Wireless Voice & Data								
Red Cloud Wireless Voice & Data	8/20/2013	7/23/2013	30856	service call #1732, report 11123	\$190.00	\$0.00		\$190.00
Red Cloud Wireless Voice & Data	8/20/2013	7/26/2013	30877	Dual Battery Conv #1102	\$806.88	\$0.00		\$806.88
				<i>Totals for Red Cloud Wireless Voice & Data:</i>	<u>\$996.88</u>	<u>\$0.00</u>		<u>\$996.88</u>
Riso Products of Sacramento								
Riso Products of Sacramento	8/20/2013	7/22/2013	111676	Contract 7/18/13-8/17/13	\$94.86	\$0.00		\$94.86
				<i>Totals for Riso Products of Sacramento:</i>	<u>\$94.86</u>	<u>\$0.00</u>		<u>\$94.86</u>
Rock & Waterfall Co								
Rock & Waterfall Co	8/20/2013	7/28/2013	112-86	waterfall maintenance	\$650.00	\$0.00		\$650.00
				<i>Totals for Rock & Waterfall Co:</i>	<u>\$650.00</u>	<u>\$0.00</u>		<u>\$650.00</u>
Roto- Rooter Sewer-Drain Service								
Roto- Rooter Sewer-Drain Service	8/20/2013	8/13/2013	CAP 0077	deposit refund	\$500.00	\$0.00		\$500.00
				<i>Totals for Roto- Rooter Sewer-Drain Service:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	8/20/2013	7/31/2013	11937	maintenance 6/1/13, 6/27/13	\$225.00	\$0.00		\$225.00
SPRAYTEC (Sprayer Sales Co)	8/20/2013	7/31/2013	11938	maintenance 7/24/13	\$225.00	\$0.00		\$225.00
				<i>Totals for SPRAYTEC (Sprayer Sales Co):</i>	<u>\$450.00</u>	<u>\$0.00</u>		<u>\$450.00</u>
Sprint Comm (PD)								
Sprint Comm (PD)	8/20/2013	7/29/2013	703335311-140	June 26-July 25, 2013	\$260.89	\$0.00		\$260.89
				<i>Totals for Sprint Comm (PD):</i>	<u>\$260.89</u>	<u>\$0.00</u>		<u>\$260.89</u>
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	8/20/2013	7/29/2013	531409315-135	service 6/26/13-7/25/13	\$627.40	\$0.00		\$627.40
				<i>Totals for Sprint Comm (PW & ADM):</i>	<u>\$627.40</u>	<u>\$0.00</u>		<u>\$627.40</u>
Stericycle Inc								
Stericycle Inc	8/20/2013	8/1/2013	3002322907	Qtrly Billing 8/2013-10/2013	\$247.17	\$0.00		\$247.17
				<i>Totals for Stericycle Inc:</i>	<u>\$247.17</u>	<u>\$0.00</u>		<u>\$247.17</u>
Theresa & Antonio Ruscitti								
Theresa & Antonio Ruscitti	8/20/2013	8/13/2013	CAP 0054	deposit refund	\$452.27	\$0.00		\$452.27
				<i>Totals for Theresa & Antonio Ruscitti:</i>	<u>\$452.27</u>	<u>\$0.00</u>		<u>\$452.27</u>
Theresa & Joseph Nelms								
Theresa & Joseph Nelms	8/20/2013	8/13/2013	CAP 0053	deposit refund	\$500.00	\$0.00		\$500.00
				<i>Totals for Theresa & Joseph Nelms:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
US Bank Corp Pymt System (Cal Card)								
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	Admin 7/22/13	Central Storage - Rental	\$88.00	\$0.00		\$88.00
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	Admin 7/22/13	GeoConsultants, Well Monitoring	\$1,546.50	\$0.00		\$1,546.50
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	Admin 7/22/13	Supplies	\$231.79	\$0.00		\$231.79
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	Supplies	\$360.58	\$0.00		\$360.58

City of Clayton

Cash Requirements Report

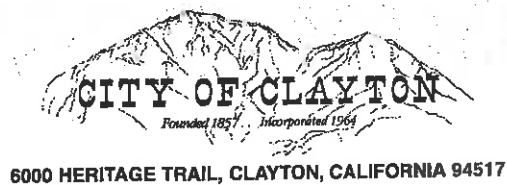
Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	Landscape Supply	\$672.65	\$0.00		\$672.65
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	Tractor fittings	\$22.11	\$0.00		\$22.11
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	oil, battery terminal	\$44.05	\$0.00		\$44.05
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	OSH - jigsaw	\$126.42	\$0.00		\$126.42
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	4x4 posts for signs	\$86.99	\$0.00		\$86.99
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	Vehicle gas	\$800.99	\$0.00		\$800.99
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PW 7/22/13	Landscape fuel	\$1,597.27	\$0.00		\$1,597.27
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	supplies	\$101.00	\$0.00		\$101.00
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	badge holder for Jessica	\$21.75	\$0.00		\$21.75
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	blank DVDs	\$29.75	\$0.00		\$29.75
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	Vehicle gas	\$2,859.05	\$0.00		\$2,859.05
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	car washes, battery, auto parts	\$166.26	\$0.00		\$166.26
US Bank Corp Pymt System (Cal Card)	8/20/2013	7/22/2013	PD 7/22/13	Postage	\$66.89	\$0.00		\$66.89
Totals for US Bank Corp Pymt System (Cal Card):					<u>\$8,822.05</u>	<u>\$0.00</u>		<u>\$8,822.05</u>
US Bank Trust National Assoc								
US Bank Trust National Assoc	8/20/2013	8/14/2013	#1990-1	Debt Service #1990-1 Special Tax BDS RFD	\$376,558.33	\$0.00		\$376,558.33
Totals for US Bank Trust National Assoc:					<u>\$376,558.33</u>	<u>\$0.00</u>		<u>\$376,558.33</u>
Waraner Brothers Tree Service								
Waraner Brothers Tree Service	8/20/2013	7/19/2013	10537	Trail by Lydia Lane - Clean up broken oak li	\$600.00	\$0.00		\$600.00
Waraner Brothers Tree Service	8/20/2013	7/19/2013	10538	Peacock Creek, Pruned oak trees	\$2,112.00	\$0.00		\$2,112.00
Waraner Brothers Tree Service	8/20/2013	7/19/2013	10539	Main St - Pruned olive and pepper trees	\$1,200.00	\$0.00		\$1,200.00
Waraner Brothers Tree Service	8/20/2013	7/19/2013	10540	Main St - pruned oak tree	\$1,200.00	\$0.00		\$1,200.00
Totals for Waraner Brothers Tree Service:					<u>\$5,112.00</u>	<u>\$0.00</u>		<u>\$5,112.00</u>
Western Exterminator								
Western Exterminator	8/20/2013	7/31/2013	1461015	July Service	\$342.00	\$0.00		\$342.00
Totals for Western Exterminator:					<u>\$342.00</u>	<u>\$0.00</u>		<u>\$342.00</u>
Wingard Construction, Inc.								
Wingard Construction, Inc.	8/20/2013	8/13/2013	CAP 0023	deposit refund	\$500.00	\$0.00		\$500.00
Totals for Wingard Construction, Inc.:					<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
YP (Advertising - yellow pages)								
YP (Advertising - yellow pages)	8/20/2013	7/23/2013	Directory Listing	Directory Listing	\$84.00	\$0.00		\$84.00
Totals for YP (Advertising - yellow pages):					<u>\$84.00</u>	<u>\$0.00</u>		<u>\$84.00</u>
GRAND TOTALS:					\$659,391.46	\$0.00		\$659,391.46

To: CCC Sheriff - Forensic Svc Div (Lab)
1960 Muir Road, #201
Martinez, CA 94553

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
CLPD-1303	4/22/2013	Toxicology/Alcohol Tests	\$700.00	\$0.00	\$700.00
		Totals:	\$700.00	\$0.00	\$700.00

Item # FH35 To reorder, please call Blackboard Forms at our toll free number 800-223-3770

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BANK OF AMERICA, NA
11-35/1210

029639

CHECK DATE CHECK NO.

7/31/2013 29639

CHECK AMOUNT

\$** 700.00

VOID AFTER 6 MONTHS

PAY **Seven hundred and 00/100 Dollars**

TO THE
ORDER
OF

CCC Sheriff - Forensic Svc Div (Lab)
1960 Muir Road, #201
Martinez, CA 94553

AUTHORIZED SIGNATURE

⑈029639⑈ ⑆121000358⑆ 09825⑈04799⑈

Forensic Services Division
Office of the Sheriff
Contra Costa County
Invoice

12/13

RECEIVED

APR 25 2013

Clayton Police Department

Billing Period: 3/1/2013

P.O. Number:

Invoice No.: CLPD-1303

Invoice Date: 4/22/2013

Agency: Clayton Police Department
6000 Heritage Trail
Clayton, CA 94517

Remit to: Forensic Services Division
Office of the Sheriff
Contra Costa County
1960 Muir Road, #201
Martinez, CA 94553

Toxicology

Validation Date	Case No.	Subject	Forensic Case No.	Examination	Cost
03/07/13	13-1933	Campbell	13-001579 1	3 Panel Screen - Blood	150.00
03/07/13	13-1933	Campbell	13-001579 1	Methamphetamine/Amphetamine	250.00
					\$400.00

Alcohol

Validation Date	Case No.	Subject	Forensic Case No.	Examination	Cost
03/19/13	13-2066	Sheringov	13-001580 1	Blood	100.00
03/27/13	13-2479	Hunter	13-002083 1	Blood	100.00
03/27/13	13-2391	Giovacchini	13-002085 1	Blood	100.00
					\$300.00
					\$700.00

Total Due This Invoice:

\$700.00

Clayton 4/22/13
AUTHORIZED BY DATE
641 101.7425.06
VENDOR # ACCOUNT #
\$700.00
AMOUNT CITY MANAGER APPROVAL 7/31/13

☒ ENTERED

To: PERMCO, Inc.
5375 Clayton Road
Concord, CA 94521

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
10032	7/29/2013	Retainer - General Services	\$6,817.00	\$0.00	\$6,817.00
10033	7/29/2013	CCWD Minor EP	\$103.75	\$0.00	\$103.75
10034	7/29/2013	Silver Oaks Estates Subd. 8516 Environmental Studies	\$450.00	\$0.00	\$450.00
10035	7/29/2013	Diablo Pointe Construction Inspection	\$830.00	\$0.00	\$830.00
10036	7/29/2013	CAP Inspection	\$41.50	\$0.00	\$41.50
10036	7/29/2013	CAP Inspection - Deposit already refunded	\$41.50	\$0.00	\$41.50
10037	7/29/2013	2013 Pavement Rehabilitation Project	\$1,475.44	\$0.00	\$1,475.44
10038	7/29/2013	PG&E Replace Gas Lines - Dana Hills	\$518.75	\$0.00	\$518.75
10039	7/29/2013	2013/2014 Street Light AD	\$1,200.00	\$0.00	\$1,200.00
10040	7/29/2013	Diablo View Middle School Safety Signage - CIP 10433	\$2,579.75	\$0.00	\$2,579.75
Totals:			\$14,057.69	\$0.00	\$14,057.69

Item # P835 To reorder, please call Blackwood Farms at our toll free number 855.422.8176

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BANK OF AMERICA, NA
11-35/1210

029641

6000 HERITAGE TRAIL, CLAYTON, CALIFORNIA 94517

CHECK DATE CHECK NO.

8/5/2013 29641

CHECK AMOUNT

Fourteen thousand fifty seven and 69/100 Dollars

PAY

\$** 14,057.69

TO THE
ORDER
OF

PERMCO, Inc.
5375 Clayton Road
Concord, CA 94521

VOID AFTER 6 MONTHS

AUTHORIZED SIGNATURE

MP

⑈029641⑈ ⑆121000358⑆ 09825⑈04799⑈

Check Request

Vendor #116

PERMCO Engineering

5375 Clayton Rd
Concord, CA 94521



Invoice Date:

7/29/2013

Invoice # Range:

10032-10040

Period Covering:

7/6/13-7/26/13

Project Description	Invoice #	Invoice Amt	New Acct #	Project ID	City 15% Overhead
Retainer - General Svc	10032	\$ 6,817.00	101-7411-08		\$ -
CCWD Minor EP	10033	\$103.75	601-2740-00	0097	\$ 15.56
Silver Oaks Estates Subd. 8516 - environmental studies	10034	\$450.00	601-2740-00	0083	\$ 67.50
Diablo Pointe Construction Inspection	10035	\$ 830.00	601-2740-00	1003	\$ 124.50
Construction Activity Permit Insp - Non-utility	10036	\$ 41.50	601-2735-00	5074	\$ 6.23
Construction Activity Permit Insp - Non-utility	10036	\$ 41.50	101-7411-08	8079	
2013 Pavement Rehabilitation Project	10037	\$ 1,475.44	303-7520-00	3018	
PG&E Replace Gas Lines Dana Hills	10038	\$ 518.75	601-2752-00	8067	\$ 77.81
2013/2014 Street Light AD	10039	\$ 1,200.00	214-7412-00		
DVMS Signage - CIP 10433	10040	\$ 2,579.75	303-7520-00	3024	
Total		\$ 14,057.69			

already closed out

Merry Ralston

Authorized Signature

8/5/13

Date

City Manager Approval

08-05-13

Date



FILED

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
8/7/13	8/7/13	Concert 8/8/13	\$500.00		\$500.00

Item # P-35 To reorder, please call Blue Bird Books at our toll free number 800-25-2976

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6000 HERITAGE TRAIL, CLAYTON, CALIFORNIA 94517

BANK OF AMERICA, NA
11-35/1210

029642

CHECK DATE 8/7/13
CHECK NO. 29642

CHECK AMOUNT

PAY Crossman Country/ Earl (Butch) Crossman Five Hundred & no/100---- \$500.00
TO THE 5376 Saddlewood Court
ORDER Concord, CA 94521
OF

VOID AFTER 6 MONTHS

AUTHORIZED SIGNATURE MP

⑈029642⑈ ⑆121000358⑆ 09825⑈04799⑈

8/7/2013

To: Earl Crossman
5376 Saddlewood Court
Concord, CA 94521

8813	8/8.2013	8/8/13 Thursday Night Concert		\$500.00	\$0.00	\$500.00
			Totals:	\$500.00	\$0.00	\$500.00

8/7/2013 29642

Five hundred and 00/100 Dollars

\$** 500.00

Earl Crossman
5376 Saddlewood Court
Concord, CA 94521

AUTHORIZED BY Yan Jackson DATE 8/7/13 CITY OF CLAYTON, CA
 3179 601-2760-00 # 7029 CONCERTS IN THE GROVE
 VENDOR # ACCOUNT MUSIC PERFORMANCE SERVICES AGREEMENT
 500.00 080713
 AMOUNT CITY MANAGER APPROVAL



(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and Crossman Country [insert performers'/band's name] ("Band") (collectively, the "parties" and each individually a "party"), do mutually agree and promise as follows:

1.) Performance Information

- A. The Band shall perform as specified in this Agreement ("Performance") on Thursday August 8, 2013 ("Performance Date") in the "The Grove," which is an approximately 1-acre outdoor public park located at 6100 Main St., on (old) Marsh Creek Road between Main and Center Streets, in Clayton, California ("Property").
- B. Performance Time: 7:00 p.m. ("Performance Start Time") to 8:30 p.m. ("Performance End Time").
- C. Performance Requirements: 2 sets, approximately 40 minutes each; 1 break of 10 minutes in duration between the two sets; and one encore of 15 minutes.
- D. General Description of Music Genre: (i.e., Classical, Jazz, Rock and Roll, etc.)
Country / Rock & Roll
- E. The Band includes: (i.e., singers/pieces/instruments/etc.)
Five (5) performers: Singer / Rhythm Guitar, Lead Guitar, Bass, Drums and Guitar
- F. Full Payment Amount: \$500.00 ("Performance Fee")
 Payee name (*must be same as that on W-9*)
Crossman Country / Earl (Butch) Crossman
 Payee Address (*must be same as that on W-9*)
5376 Saddlewood Court
Concord, CA 94521-1505
- G. Band Address: 5376 Saddlewood Court, Concord, CA 94521-1505
 Phone: (707) 718-5778
 Band Primary Contact Person:
 Name: Butch Crossman Cell (707) 718-5778 email: butchs.painting@astound.net

- 2.) Set Up and Clean Up. The Band shall arrive for set-up no earlier than 4:00 p.m. on the Performance Date. The Band shall completely remove all equipment from Property within one and one half hours following the Performance End Time, and in no event later than 9:30 p.m. on the Performance Date. The Band shall be solely responsible for its own set-up and tear-down of all personal property and

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT	DISCOUNT	NET AMOUNT
872013	8/7/2013	Concert 8/8/13	\$500.00		\$500.00

Item # F805 To reorder, please call 800-444-4444 or visit our website at 800-444-4444

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BANK OF AMERICA, NA
11-35/1210

029643

CHECK DATE 8/7/13 CHECK NO. 29643

6000 HERITAGE TRAIL, CLAYTON, CALIFORNIA 94517

PAY Ken Joiret
TO THE ORDER OF 1549 Lavetta Way
Concord, CA 94521-1739

Five Hundred & no/100-----

CHECK AMOUNT
\$500.00

VOID AFTER 6 MONTHS

Ken Joiret
AUTHORIZED SIGNATURE

029643 121000358 0982504799

8/7/2013

To: Ken Joiret
1542 Lavetta Way
Concord, CA 94521

8813	8/7/2013	Concert 8/8/13- Sound Teck		\$500.00	\$0.00	\$500.00
		Totals:		\$500.00	\$0.00	\$500.00

8/7/2013 29643

Five hundred and 00/100 Dollars

\$** 500.00

Ken Joiret
1542 Lavetta Way
Concord, CA 94521

CITY OF CLAYTON

Gary Napper 8/7/13
AUTHORIZED BY DATE

CONSULTING SERVICES AGREEMENT

(General)

VENDOR #

ACCOUNT #

500.00

AMOUNT

CITY MANAGER APPROVAL

For 8/8/13
concert

3042 601-2750-00 #702

08-07-13

1. Special Conditions:

- A) Consultant's Name & Address: Ken Joiret
Address: 1549 Lavetta Way, Concord, CA 94521-1739
- B) Effective Date: July 11, 2013 C) Payment Limit: \$2,500.00 D) Expense Limit: \$0
- E) Completion Date: September 19, 2013
- F) Federal Tax ID or SSN: W-9 Completed and on file with the City of Clayton Finance Dept.

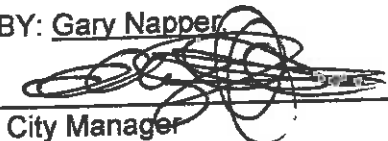
2. Signatures: These signatures attest the parties' agreement hereto:

CITY OF CLAYTON

CONSULTANT

BY: Gary Napper

BY: Ken Joiret


City Manager


(owner)

07-10-13

3. Parties: Effective on the above date, the City of Clayton ("City") and Consultant mutually agree and promise as follows.
4. Employment: City hereby employs MD Productions, as an independent agent, and Consultant accepts such employment, to perform the professional services described in Exhibit A included herein by reference, upon the terms and in consideration of the payments stated herein.
5. Scope of Service: Scope of services shall be as described in Proposal for 2013 Concerts in the Grove for the City of Clayton dated March 8, 2013 Exhibit A, attached hereto and made a part hereof by this reference.
6. Insurance: Consultant shall, at no cost to the City obtain and maintain during the term hereof: (a) Workers' Compensation Insurance as may be applicable pursuant to State Law (if applicable), and (b) Commercial General Liability Insurance and Automobile Liability Insurance including coverage for owned and non-owned automobiles. Both liability policy's shall have combined single limit coverage of at least \$1 million per occurrence for all damages due to bodily injury, sickness or disease, or death to any person and damage to property, including the loss of use thereof, arising out of each accident or occurrence. Consultant shall furnish evidence of such coverage, naming the City of Clayton, its agents, officers and employees as additional insured and requiring 30 days written notice of policy lapse or cancellation.
7. Payment: The City of Clayton shall pay the Consultant for professional services performed at the rate of \$500 per concert per schedule shown on Exhibit B, which include all overhead and incidental expenses, for which no additional compensation shall be allowed. In no event shall the total amount paid to the Consultant exceed the payment limit specified in Sec. 1 C) and D) without prior written approval of the City Manager. Payment shall be provided by the City at each concert at the conclusion of each concert date.
8. Status: Ken Joiret and any of its assistants or independent assistants and independent contractor(s) shall not be considered an employee of the City of Clayton.

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Earl Crossman								
Earl Crossman	8/8/2013	8/8/2013	8813	8/8/13 Thursday Night Concert	\$500.00	\$0.00		\$500.00
				Totals for Earl Crossman:	\$500.00	\$0.00		\$500.00
Ken Joiret								
Ken Joiret	8/7/2013	8/7/2013	8813	Concert 8/8/13- Sound Teck	\$500.00	\$0.00		\$500.00
				Totals for Ken Joiret:	\$500.00	\$0.00		\$500.00
				GRAND TOTALS:	\$1,000.00	\$0.00		\$1,000.00

CITY OF CLAYTON CHECK REQUEST

Vendor Number: 2100	Vendor Name: Neopost - Postage Added
---------------------	--------------------------------------

[illegible]

Department Approval:	Date:
----------------------	-------

City Manager Approval:	Date:
------------------------	-------

POWERED

Batch Validation Report

Batch 2779 - General Ledger - 7/29/2013

Batch number: 2779

Description: Neopost Postage Added

Batch validated successfully

Transactions: 4

Balance: \$ 0.00

Status: Open

Date posted: Not Posted

Posted by:

Created on: 7/29/2013

Created by: JenniferG

Last changed on: 7/29/2013

Notes:

Trans.	Account Number	Journal	Reference	Date	Debit Amount	Credit Amount	Project ID
1 (R)	101-7314-05	General Journal	Neopost - Postage added to machine	7/22/2013	\$300.00		
2 (R)	999-1101-00	General Journal	Neopost - Postage added to machine	7/22/2013		\$300.00	
3 (R)	101-1199-00	General Journal	Interfund Balancing Entry	7/22/2013		\$300.00	
4 (R)	999-1199-00	General Journal	Interfund Balancing Entry	7/22/2013	\$300.00		
Total Regular Transactions:					\$600.00	\$600.00	
Total Encumbered Transactions:					\$0.00	\$0.00	

Balancing Information

Fund(Type)	Fiscal Year	Period	Total Debits	Total Credits	Message
101 (R)	2013-14	1	\$300.00	\$300.00	
999 (R)	2013-14	1	\$300.00	\$300.00	
Journal(Type)			Total Debits	Total Credits	Message
General Journal (R)			\$600.00	\$600.00	
Class - Fund(Type)			Total Debits	Total Credits	Message
General - 101 (R)			\$300.00	\$300.00	
Internal Service - 999 (R)			\$300.00	\$300.00	



Agenda Date: 8-20-13

Agenda Item: 4c

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 20 AUGUST 2013

SUBJECT: CITY RESPONSE TO CIVIL GRAND JURY REPORT NO. 1311

RECOMMENDATION

It is recommended the City Council review the prepared City response letter regarding Civil Grand Jury Report No. 1311, "Assessing Fiscal Risk – Who is Minding the Store?"; and then subject to any Council modifications to the proposed response, by minute motion approve the letter as the City's official response and authorize Mayor Pierce to sign.

BACKGROUND

A Civil Grand Jury is commissioned annually in Contra Costa County to investigate city and county governments, special districts and certain non-profit corporations to ensure functions are performed in a lawful, economical and efficient manner. Pursuant to *California Government Code* Section 933.5(a), whenever a civil grand jury issues a report that involves matters within a particular municipality's jurisdiction or area of responsibility, the respective city is required to respond in writing and in accord with a specific response format.

On 06 June 2013, the FY 2012-13 Contra Costa Civil Grand Jury released a Report directed to cities, other public agencies school districts and special districts within Contra Costa County. Report No. 1311 considered the audited financial statements and auditor management letters of the various public entities and rendered an opinion that internal fiscal controls of an agency are an important element in establishing and maintaining integrity in financial reporting and safeguarding assets on behalf of the citizens in the County.

Civil Grand Jury Report No. 1311 concluded with nine (9) Findings and three (3) Recommendations requiring structured responses by each of the listed respondents. Attached is staff's recommended draft letter for the City Council to consider and approve constituting our City's response to Civil Grand Jury Report No. 1311. The City's response is due by 04 September 2013.

FISCAL IMPACT

None directly. However, there are certainly indirect staff costs and direct time incurred in responding to Civil Grand Jury Reports, Findings and Recommendations.

Attachments: 1. Proposed City Response Letter [5 pp.]
 2. Civil Grand Jury Report No. 1311 and Cover Letter [19 pp.]



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
JULIE K. PIERCE, MAYOR
HANK STRATFORD, VICE MAYOR
JIM DIAZ
HOWARD GELLER
DAVID T. SHUEY

August 21, 2013

Contra Costa Civil Grand Jury, 2012-2013
Attn: Marc Hamaji, Foreperson
725 Court Street
P O Box 431
Martinez, CA 94553-0091

DRAFT

Re: Contra Costa County Civil Grand Jury Report No. 1311, FY 2012-13
“Assessing Fiscal Risk – Who is Minding the Store?”

Dear Mr. Hamaji:

In behalf of the Clayton City Council, this letter responds to the Contra Costa Civil Grand Jury’s Report No. 1311 regarding its review and critique on how local governments in this county are establishing and maintaining a proper system of fiscal controls, including financial and physical oversight, in order to safeguard the public assets. The Clayton City Council met in a regular public meeting on August 20, 2013 to consider Report No. 1311 and therein authorized this written response.

Pursuant to California Government Code section 933.5(a), the City of Clayton does hereby respond to the Civil Grand Jury’s required Findings (Nos. 1 thru 9) and Recommendations No. 1, 2, 3b and 3g, as contained within Report No. 1311:

FINDINGS

Finding # 1: *Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls each year as reported by the external auditors.*

The City agrees with this finding to the extent we did not conduct our own research into the fiscal control practices and audit results of other cities, yet the Civil Grand Jury has given us no cause to disbelieve its Finding.

Finding # 2: *In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.*

The City agrees with this finding to the extent the Finding meant to read, “... as reported ...” by the external auditors. In that regard, the City did not conduct any independent

analyses of the various audit results of other cities yet we have no cause to disbelieve this Finding of the Civil Grand Jury.

Finding # 3: Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), in accurate or faulty financial reporting and decision-making based on the incomplete or inaccurate information.

The City agrees with this finding.

Finding # 4: Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.

The City agrees with this finding to the extent we did not duplicate a review and analysis of the Civil Grand Jury's selected cities awarded certain grants yet the City has no cause to disbelieve the reported Finding. This City has not experienced any non-compliance findings in grants.

Finding # 5: Unresolved problems with grants could potentially result in the loss of future grants and required payment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).

The City agrees with this finding in general terms but notes it does not have any independent knowledge of other cities (nor this City) having to repay grant funds or using general fund monies to do so.

Finding # 6: There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.

The City partially disagrees with this finding as it cannot address the fiscal control practices of County organizations or ascertain the level of importance placed on their outside auditor's control and grant compliance findings.

Finding # 7: Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.

The City agrees with this finding that inaccurate or untimely financial information throughout a fiscal year [and beyond] may indeed impact the budgetary controls, decision-making and oversight conducted by management or governing bodies.

Finding # 8: Based on the entities reviewed, the County Board of Supervisors, the City Councils, and the governing boards in the case of school districts and special districts, are not providing adequate oversight over the entities that they govern to ensure that Material Weaknesses, Significant Deficiencies and other deficiencies in regard to Internal Controls and outside grant compliance are being remedied in a timely manner. Most County Organizations do not have an Audit Committee, independent of the organization's financial management, which is chartered to provide financial oversight.

The City disagrees with this finding as it pertains to this City's fiscal and audit practices (note: this response tailored to Clayton as so admonished by the Civil Grand Jury in its note on Page 14: "*Each County Organization needs to respond only in regards to its own practices.*"). This City has always accepted the serious charge by its electorate to carefully monitor and review the fiscal affairs of its local government, plus it uses a functioning Audit Committee comprised of two members of the City Council (membership subject to rotation by the mayor each year) which is wholly independent of the City's financial management. Members of the Audit Committee meet each year with the independent outside auditor to discuss the financial control and fiscal practices of this City. In addition, this City has a City Council-appointed City Treasurer who also autonomously reviews financial and fiscal matters of the City's finance department.

CIVIL GRAND JURY RECOMMENDATIONS

Recommendation # 1: Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.

The recommendation has been implemented or will not be implemented as it is unreasonable due to insufficient budgetary resources to hire additional finance/accounting personnel.

For public transparency purpose, the following summation outlines the most recent four (4) years of audit reports and management letters for the City of Clayton:

A. Fiscal Year 2007-08. No Material Weaknesses or deficiencies reported. Internal Control observations in the Management Letter were corrected or addressed.

B. Fiscal Year 2008-09. No Material Weaknesses or deficiencies reported. Internal Control observations were corrected or addressed, with the exception of a recommendation to employ additional finance personnel for separation of duties, which is deemed infeasible to implement due to constrained budgetary resources and lower priority than hiring additional public safety personnel should funds be available.

C. Fiscal Year 2009-10. No Material Weaknesses reported. One (1) Significant Deficiency identified in "Controls over Financial Reporting" and those particular deficiencies were corrected.

D. Fiscal Year 2010-11. Three (3) Material Weaknesses were identified by the auditors:

1. Controls over Financial Reporting;
2. Conversion to a new accounting software package; and
3. Controls over the Reporting Process.

The Material Weaknesses have been addressed for correction through the City's temporary employment of a former local government Account Manager familiar and versed in the applications of the City's new financial management software package. In addition, the current Finance Manager recently announced retirement effective 31 December 2013 and the City is recruiting and will be selecting a qualified replacement.

The sole Significant Deficiency noted of "Segregation of Duties" is only curable by the hiring of additional finance personnel, which action will not be implemented as being infeasible given the City's constrained annual budgetary resources.

Recommendation # 2: *County Organizations maintain or add audit report results to appropriate financial managements' performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports, and consider the legality of maintaining or adding such performance goals on audit reports to financial managements' evaluations.*

The recommendation has been implemented. The results of audit reports are part of the City Finance Manager's performance indicators, goals and objectives. Results of an audit report are one of many criteria involved in the performance of the Finance staff.

Recommendation # 3b: *The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens' committee to ensure that Internal Control deficiencies are promptly remedied.*

The recommendation has been partially implemented and will partially not be implemented as it is not warranted. The City has an established and functioning Audit Committee comprised of two (2) members of the Clayton City Council which meets routinely with the auditor each year as well as City management and financial management personnel. Any Internal Control deficiencies can be and are sufficiently

addressed by this Audit Committee and there is no history of recalcitrance by City staff that would suggest the necessity to establish a citizens' oversight committee given the City's legacy of "unqualified" audit reports regarding fiscal condition and transactions.

Recommendation # 3g: *The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.*

The recommendation has been implemented. The Council Audit Sub-Committee reports to the full City Council, not to financial management staff. The independent outside auditor provides and presents its audit report and findings publicly to the City Council at a regular public meeting. The annual Audited Financial Statement prepared by the independent auditor is part of the Agenda Packet and remains uploaded on the City's website for public disclosure and review.

We appreciate the time and effort the Civil Grand Jury spent researching and considering these matters, and we trust this response will be helpful in its endeavors.

Sincerely,


Julie K. Pierce
Mayor



June 4, 2013

Received

JUN 06 2013

City of Clayton

Gary A. Napper, City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Mr. Napper:

Attached is a copy of **Grand Jury Report No. 1311, "Assessing Fiscal Risk"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

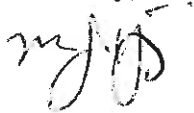
1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 4, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,

A handwritten signature in black ink, appearing to read 'Marc Hamaji', with a stylized flourish at the end.

Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

Received
JUN 06 2013
City of Clayton

A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

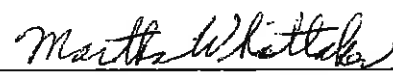
REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

APPROVED BY THE GRAND JURY:

Date: 5/30/13


MARTHA WHITTAKER
GRAND JURY FOREPERSON- PRO TEM

ACCEPTED FOR FILING:

Date: 6/3/13


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report

REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

TO: Contra Costa County, Cities, School Districts and other Special Districts in Contra Costa County, LAFCO (Local Agency Formation Commission)

SUMMARY

Contra Costa County ("County"), its cities, school districts and other special districts (collectively "County Organizations") have an obligation to establish and maintain a proper system of fiscal controls ("Internal Controls"), including financial and physical oversight, in order to safeguard the public assets. Any financial loss or additional expenditure as a result of lack of oversight is never acceptable.

Internal Controls include but are not limited to: adequate segregation of duties, physical control over assets and records, proper financial reporting and independent checks/oversight on performance. These controls are important when it comes to grant administration. The County, cities and most school districts vie for state and federal grants which require separate reporting and performance according to grant terms. Proper controls are critical to ensuring that grant funds are expended as intended, program activities are carried out in accordance with the terms of the grant, and there is no required repayment to the grantor.

As part of the annual financial statement audit, independent auditors evaluate Internal Controls to the extent that they believe necessary to issue their audit opinion. In doing so, they will report to the organization any problems or findings identified with Internal Controls (including more serious problems which they characterize as "Material Weaknesses" and "Significant Deficiencies") and instances of non-compliance with grant programs. The reaction of the governing body to any deficiencies in terms of Internal Control Material Weaknesses or Significant Deficiencies and grant non-compliance reported as part of the audit is significant. If the deficiencies are taken seriously and corrected quickly and an environment exists of not allowing repetitive findings, then a robust control environment is promoted. Where reaction is lax and accountability weak, the potential exists for further abuse. This is particularly important in the case of the County, cities and special districts which lack other independent, direct oversight (unlike the relationship of the County Office of Education to the school districts).

A review of auditor reports on Internal Controls and grant compliance from the County, selected cities, school districts and other special districts suggests that the control environment is far from optimum among County Organizations. The majority of County Organizations reviewed had problems with Internal Controls and/or grant compliance identified by the independent auditors, including Material Weaknesses and Significant Deficiencies. In a number of instances, these findings were recurring over multiple years. Furthermore, there is a significant difference among officials interviewed regarding the importance of establishing and maintaining a rigorous Internal Control environment and responding to/fixing findings raised by the independent auditors.

The Grand Jury considers Internal Controls an important element in establishing and maintaining integrity in financial reporting and safeguarding assets on behalf of the citizens of the County.

METHODOLOGY

In evaluating the Internal Control environment maintained by County Organizations, the following tasks were performed:

- Interviews with financial and management officials from selected County Organizations;
- Interviews with representatives from the California State Controller's Office ("SCO");
- Review of audited financial statements for selected County Organizations for the Fiscal Years ("FY") 2011 and 2012;
- Review of auditor communication letters for selected County Organizations related to their audits for the FY2008-FY2012 periods;
- Review of auditor "Management Letters" and/or "Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards" for selected County Organizations related to their audits for the FY2008-2012 periods;
- Review of auditor-prepared Single Audit Reports and/or "Independent Auditors' Report on Compliance with Requirements that could have a Direct and Material Effect on Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133" for selected County Organizations related to their audit for the FY2008-2012 periods;
- Preparation of a detailed control questionnaire and survey of selected County Organizations;
- Review of State Controller Office Audit report to assess the adequacy of the system of Internal Controls at both the City of Hercules and the Hercules Redevelopment Agency (SCO.ca.gov);
- Review of Contra Costa County internal audit reports and City of Richmond internal audit report – 'Internal Audit of Library and Cultural Services Department' dated

February 2013;

- Review of selected outside grant audit reports provided by selected County Organizations;
- Review of requirements for preparation of the Single Audit report, as maintained by the California State Controller's Office (SCO.ca.gov); and,
- Review of selected Government Accounting Standards as promulgated by the Government Accounting Standards Board ("GASB").

BACKGROUND

There have been a number of high-profile financial problems involving local government entities documented in the media over the past several years. From a state perspective this includes The City of Bell in Southern California – where there are allegations of massive corruption, and the bankruptcy filings of Vallejo, Stockton and San Bernardino. In Contra Costa County, the State authorities have intervened in the cities of Richmond and Hercules and the West Contra Costa Unified School District. In certain of these instances, the underlying problems were a lack of financial resources, exacerbated by inadequate financial reporting. In other instances, the problems were caused by a lack of controls over the financial operations of the affected organization.

See Appendix 1 for a glossary of key terms used throughout this report.

Internal Controls

County Organizations have a responsibility to the citizens they serve to safeguard their organizations' assets and report the results of their operations. Internal Controls are the policies and procedures established by an organization to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A system of Internal Controls should encompass both the control environment and specific control activities.

The management style and the expectations of management, particularly their control policies, determine the control environment. An effective control environment helps to ensure that established policies and procedures are followed. The control environment includes independent oversight provided by a governing board (including audit committees); independent audit of the organization's finances; management's integrity, ethical values, and philosophy; a defined organizational structure with competent and trustworthy employees; and the assignment of authority and responsibility within the organization.

An effective control environment includes the following:

- **Adequate segregation of duties.**

This requires that different individuals be assigned responsibility for different elements of related activities, particularly those involving authorization, custody, or recordkeeping. For example, the same person who is responsible for an asset's recordkeeping should not be responsible for physical control of that asset. Having different individuals perform these functions creates a system of checks and balances.

- **Proper authorization of transactions and activities.**

This helps ensure that all of an organization's activities adhere to established guidelines unless variances are properly authorized by management.

- **Adequate documents and records which provide evidence that financial statements are accurate.**

- **Controls designed to ensure adequate recordkeeping.**

This includes the creation of invoices and other documents that are easy to use and sufficiently informative; the use of pre-numbered, consecutive documents, such as receipt logs; and the timely preparation of documents and financial reports including actual versus budgeted results.

- **Physical controls over assets and records.**

This helps protect an organization's assets. These control activities may include electronic or mechanical controls (such as a safe, employee ID cards, cash registers, and fireproof files) or computer-related controls dealing with system access privileges or established backup and recovery procedures.

- **Independent checks on performance.**

This includes checks which are carried out by employees who did not do the work being checked and will help ensure the accuracy and reliability of accounting information and the efficiency of operations. For example, a supervisor verifies the accuracy of an accounting clerk's account reconciliations. Internal auditors may also verify that the supervisor performed the required review.

In order to identify and establish effective controls, management must continually assess the risk, monitor control implementation, and modify controls as needed.

Survey and Report Review Results

A detailed survey covering certain Internal Controls was sent by the Grand Jury to selected County Organizations. This survey focused on identifying the size of finance/accounting functions within the organizations, the adequacy of segregation of duties and what impact, if any, recent budgetary constraints may have had on the size of accounting and finance functions. The surveyed County Organizations were Contra Costa County; the cities of Richmond, Pinole, Antioch and Walnut Creek; the Acalanes Unified, West Contra Costa Unified, Mount Diablo Unified and Pittsburg Unified school districts; Pleasant Hill Recreation District; Contra Costa Water District and Kensington Police and Community Services District. A review of the survey responses and reports from the independent auditor for the five most recent fiscal years (2008-2012) identified the following items:

- Three organizations - City of Richmond, Richmond Housing Authority and West Contra Costa USD - received "qualified" audit opinions from the independent accountants in 2011. The qualifications with respect to the City of Richmond and Richmond Housing Authority relate to the Housing Authority's ability to continue as a going concern due to its current dire financial position. The qualification on the 2011 West Contra Costa USD financial statements related to the improper exclusion in the financial statements of certain trust/agency activities. The West Contra Costa USD corrected the exclusion in 2012.
- In approximately 75% of the entities reviewed, there was communication from the auditors indicating that a significant number of audit adjustments (for example, approximately 120 separate adjustments in the case of Richmond for 2011) were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
- A majority of the entities reviewed had at least one Internal Control issue noted as Material Weaknesses/Significant Deficiencies. The total number of control issues identified for the five-year period ranged from 1 (Contra Costa Water District and City of Antioch) to greater than 125 (City of Richmond). In many instances, the issues identified were recurring.
- A majority of the entities reviewed had at least one grant compliance finding over the past five fiscal years. The total number of findings ranged from 0 (Contra Costa Water District) to greater than 40 (City of Richmond). In many instances, the issues identified were recurring.

Annual Audit Internal Control Reporting

Each year, as part of the annual financial statement audit, the independent auditors evaluate those Internal Controls they feel are necessary for them to issue their audit opinion (this could range from a comprehensive review of controls to no review of controls). The auditors do not look at all Internal Controls (for example, the outside auditors for the City of Richmond did not report on any findings with regard to the library, while a separate internal audit found multiple issues and proposed 29 corrective recommendations). At the conclusion of their audit, the auditors are required to communicate with management as to certain key information involved with the audit (often referred to as “Required Communications”) and communicate any findings with regard to Internal Controls (often referred to as a “Management Letter”).

Since the outside auditors’ review is by its nature limited in scope, when the outside auditors describe an inadequate Internal Control environment, a more detailed or thorough review may be required to determine if even more serious or pervasive issues exist (which, if not corrected, could potentially lead to major financial reporting errors, fraud, or other fiscal problems in the future). In addition, for those organizations that received federal funds in excess of \$500,000, the auditors also issue a report on the organization’s compliance with the grants (often referred to as “Single Audit Report”).

The auditors’ control findings are typically categorized as “Material Weaknesses”, “Significant Deficiencies” and “Other Matters or Findings”. The professional literature provides the following definitions:

- “Material Weakness” is “a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.”
- “Significant Deficiency” is “a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.”
- “Other Matters or Findings”, while not specifically defined, refers to any additional issues which the independent auditor wishes to communicate to the governing body of the organization.

Both Material Weaknesses and Significant Deficiencies are considered serious conditions by the outside auditors that warrant immediate attention and correction. An organization’s management is required to formally respond to these findings. An entity can receive a “clean” or unqualified opinion on its financial statements and still have problems with its Internal Controls.

- In the smaller cities and special districts there is not a sufficient number of staff to achieve an adequate segregation of duties.

Contra Costa County has an internal audit group that currently formally reports to the County Auditor-Controller and informally to an "Audit Committee" that includes two County supervisors and representatives from the Auditor-Controller's Office. The internal audit group reviews the various operating County departments on a 2-5 year cyclical basis (more frequently where problems have been identified). The scope and plans for these audits are determined by the Auditor-Controller, with input from the Audit Committee. The professional literature indicates that the internal audit function should have direct reporting responsibility to the governing board of an organization.

Material Weaknesses/Significant Deficiencies

A more detailed view of the number of Material Weaknesses/Significant Deficiencies identified by the independent auditors for the County Organizations reviewed, including the recurring nature of some of the findings, is presented below in Table 1.

Table 1- Summary of Material Weaknesses/Significant Deficiencies -

Entity	Material Weaknesses/Significant Deficiencies by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	1	1	2	0	0	Yes
City of Richmond/Richmond Housing Authority	*	15	18	12	11	Yes
City of Antioch	0	1	0	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	0	0	0	0	No
City of Hercules	(2)	(2)	(2)	(2)	(2)	
Pleasant Hill Recreation	0	0	0	0	0	No
Kensington Police (KPPCSD)	1(1)	0	0	0	0	Yes
Contra Costa Water Dist.	0	0	0	0	0	No
Acalanes USD	0	0	0	1	1	Yes
Mt. Diablo USD	2	2	1	3	1	Yes
West Contra Costa USD	1	2	0	0	0	Yes
Pittsburg USD	2	1	5	11	0	Yes

Legend / Notes –

* Reporting for 2012 not yet completed

- (1) KPPCSD has not completed a timely audit for either 2011 or 2012 due to the credit card charges allegations and investigations. Due to the inability to produce audited financial statements on a timely basis– there is deemed to be a Material Weakness.
- (2) City of Hercules/Hercules RDA – Information based on separate State Controller Office Audit Report of Controls for 2005-2010.

With respect to the school districts, there has been noted improvement in Internal Controls measured by a reduction in auditor findings in the last five years. The Contra Costa Office of Education has regular involvement with the various school districts to assist them in confronting their internal control issues. The County Office of Education has, at times, inserted monitors or consulting experts to assist the districts. The majority of the recent findings relate to identified inadequacies in the controls over cash receipts (most often student/parent donations or contributions) and timely recordkeeping/reconciliation in the area of “Associated Student Funds” – student clubs and organizations for which the school districts have oversight and accounting responsibility.

A number of the organizations reviewed had recurring findings of Material Weaknesses/Significant Deficiencies. The repetition of significant findings from year to year could call into question a management’s or governing board’s commitment to the control environment. Additional background on certain of the information reviewed is as follows:

- **Kensington Police Protection and Community Services District –**

In 2010, the independent auditor identified as an internal control weakness the issue of unsubstantiated credit card purchases. Subsequently, there were allegations of improper credit-card spending. . The District had to incur approximately \$25,000 in costs related to an additional independent, forensic audit of the spending allegations as a result of the lack of functioning of internal controls.

- **The City of Hercules (including the Hercules Redevelopment Agency) -**

An audit by The State Controller’s Office found “control deficiencies were serious and pervasive – in effect, non-existent. In addition, the City Council did not appear to exercise any oversight over the City’s operations.” (SCO Audit Report). The audit (which covered the period 2005-2010) indicates that there were millions of dollars of questionable spending and property transfers by the RDA, misuse of city-issued credit cards, improper budgeting and a lack of competitive bidding on public contracts.

- **The City of Richmond -**

Significant issues were identified in regard to library operations, including inadequate controls over purchases, improper credit card use, significant shrinkage or theft of library materials, unauthorized purchases, lack of control over cash receipts and inadequate controls over fines/billings for lost items. These items could aggregate as much as \$450,000 in losses (2013 City of Richmond Library Internal Audit Report).

- **The City of Richmond/Richmond Housing Authority -**

There are an excessive number of issues noted from an overall perspective. While many of the issues deal with the accuracy and timeliness of financial reporting, there are many which document losses (or potential losses) due to inadequate controls, including: unauthorized city credit card usage, significant levels of uncollectible employee/other loans (which aggregate to approximately \$1 million over the period reviewed), and significant disallowed grant/program costs requiring the city to fund activities initially to be covered under grants (several million dollars).

- **Contra Costa County –**

The Contra Costa County Auditor-Controller department is currently operating at approximately 6-9 headcount below its budgeted headcount level, primarily due to a high level of unplanned retirements (which did not leave time for adequate succession planning) and employee turnover. Additionally, as longer-term employees have retired/left, they have been replaced by less-experienced personnel with an attendant loss of cumulative institutional knowledge.

Internal Audit Reports for the past four years prepared by Contra Costa County internal audit staff identify a number of different internal control issues at the various County operating departments. The majority of issues relate to proper safeguarding of assets and controls associated with ensuring the integrity of financial reporting. The issues at various County departments include:

- A lack of compliance with County credit card guidelines, including personal use, charges for non-permitted items, exceeding transaction authority limits, and missing approvals (primarily for travel) and documentation. According to the internal audit reports there have been instances where the non-compliance resulted in unreimbursed losses.
- Instances where there was a lack of segregation of duties at the operating department level.
- Controls over cash receipts in terms of depositing funds on a timely basis and maintaining adequate control logs over all receipts.
- Concerns with respect to petty cash funds and the timely reconciliation of these funds.
- Controls over various “trust funds” and the timely reconciliation and correction of identified reconciling items, processing disbursement/refunds of such funds and the necessity for proper tax reporting related to certain of these funds.
- Results of periodic inventory observations by the internal audit staff that show both overages and shortages (including items such as medical supplies/pharmacy inventories, fuel inventories, and various supplies).
- Failure to properly and fully reconcile various accounts, many of which show differences between the general ledger system and the related subsidiary systems. This included the

timely resolution (and correction where necessary) of differences identified when reconciliations were performed, rather than just carrying these differences forward. These differences could result in undetected errors or losses and/or inaccurate financial reporting.

- Failure to properly use asset tags to safeguard County equipment and properly certify equipment inventories at fiscal year-ends.

In the case of the County, cities and independent special districts, responsibility for remedy and oversight of findings with respect to Internal Controls lies with management and the related governing board. There is no additional on-going oversight over the County, cities and independent special districts by a supervising entity, similar to the role played by the Contra Costa Office of Education with regard to school districts. According to representatives from the California State Controller's Office, that organization may intervene in extreme situations including those where state funds are required to be provided as part of a temporary solution to a crisis situation.

In the smaller cities and special districts (such as Kensington Police Protection and Community Services District, Pleasant Hill Recreation District and the City of Pinole) there is not sufficient staff to achieve an adequate segregation of duties. In instances such as these, the professional literature describes the need for additional "compensating controls" – typically a person(s) independent of the day-to-day processes who can exercise a meaningful level of supervisory oversight (including check signatory control for large expenditures). This supervisory oversight could include someone from the related governing board.

Single Audit/Grant Findings

A summary of the Single Audit Report Findings – which focuses on compliance with Federal and State grants, is presented below in Table 2.

Table 2 – Single Audit Report (Grant) Findings (FY2008-2012) -

Entity	Single Audit Report (Grant Findings) Total Grant Issues Identified by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	6	5	3	0	2	Yes
City of Richmond/Richmond Housing Authority	*(1)	12	9	7	11	Yes
City of Antioch	1	0	3	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	N/A	0	1	N/A	No
Pleasant Hill Recreation	N/A	N/A	N/A	N/A	N/A	N/A

Entity	Single Audit Report (Grant Findings)					
	Total Grant Issues Identified by Fiscal Year					
Kensington Police (KPPCSD)	N/A	N/A	N/A	N/A	N/A	N/A
Contra Costa Water Dist.	0	0	0	0	0	N/A
Acalanes USD	0	1	0	1	0	Yes
Mt. Diablo USD	1	3	3	2	5	Yes
West Contra Costa USD	0	1	2	1	3	Yes
Pittsburg USD	0	2	2	3	4	Yes

Legend / Notes –

* Reporting for FY12 not yet complete

N/A – Not applicable

- (1) An employee in the City of Richmond has identified issues with a Library Grant, including allegations of improper accounting and this has been acknowledged by the City per media reports. This is not included in the totals for this year. A separate internal audit of the library function revealed multiple Internal Control weaknesses and 29 corrective recommendations.

Single Audit Report Findings represent identified instances of non-compliance with a grant or award. While the report does not necessarily cover all grants and awards – it does cover those the auditor believes are most significant. The impact of non-compliance instances on grants typically ranges from required remediation to repayment of disallowed grant funds. This could potentially involve the loss of the grant or impact the ability to receive future grants. There were a number of instances where costs charged to grants were disallowed and had to be repaid or entities were not able to identify grant disallowances or required repayments. Specific examples include:

- The City of Richmond 2011 Single Audit Report identified multiple instances aggregating in excess of \$200,000 where repayment of grant funds was required. Additionally information suggests that there are Richmond Library grant funds in excess of \$50,000 which were improperly charged to a grant. Many of these instances related to control problems that were identified for multiple, consecutive years by the independent auditors.
- The 2011 financial statement audit report for the Richmond Housing Authority states that “the allowance for HUD disallowed costs was increased to \$2.4 million” and this was one of the reasons for the auditors questioning the ability of this entity to continue as a going concern or financially-viable entity.
- Contra Costa County was unable to identify the level of disallowed grant or program costs for the past two years.

Single Audit Reports are submitted to the California State Controller's Office which notifies the relevant state agency involved in the grant of any issues raised and it is the individual agency's responsibility to resolve the findings with the grant recipient. Granting agencies may also perform their own audits of grant activity and compliance.

Significant differences exist between County Organizations in the level of importance placed on the various auditor findings in regard to Internal Controls and grant compliance and the control environment considered as a whole. The views ranged from "not important at all" to significant importance coupled with immediate efforts to ensure the findings were corrected and were not recurring.

FINDINGS

1. Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls each year as reported by the external auditors.
2. In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.
3. Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), inaccurate or faulty financial reporting and decision-making based on incomplete or inaccurate information.
4. Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.
5. Unresolved problems with grants could potentially result in the loss of future grants and required repayment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).
6. There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.
7. Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
8. Based on the entities reviewed, the County Board of Supervisors, the City Councils, and the governing boards in the case of school districts and special districts, are not providing adequate oversight over the entities that they govern to ensure that Material Weaknesses, Significant Deficiencies and other deficiencies in regard to Internal Controls and outside grant compliance are being remedied in a timely manner. Most County Organizations do not have an Audit Committee, independent of the organization's financial management, which is chartered to provide financial oversight.

9. A recurring finding by the independent auditors with respect to school districts related to the need for improved controls over “Associated Student Body Funds” – the various student clubs and organizations for which the districts have financial oversight and accounting responsibility. The improved control recommendations involved controls over cash receipts, timely accounting and reconciliation of funds held by the organizations and controls over disbursements. Continued and significant problems in this area could result in both losses and negative publicity (reputational risk).

RECOMMENDATIONS

The Grand Jury recommends that:

1. Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.
2. County Organizations maintain or add audit report results to appropriate financial managements’ performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports, and consider the legality of maintaining or adding such performance goals on audit reports to financial managements’ evaluations.
3. The County Organizations improve direct financial oversight and assessment of the control environment including:
 - a. The Board of Supervisors more actively provide oversight in the case of the County and appoint a formal Audit Committee from among their members to ensure that Internal Control and grant compliance deficiencies are promptly remedied and there are sufficient direct and detailed discussions between the Board and the outside auditors.
 - b. The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens’ committee to ensure that Internal Control deficiencies are promptly remedied.
 - c. The governing boards of school districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied.
 - d. The governing boards of special districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied. In instances where the size of the entity precludes an adequate segregation of duties, governing board members need to consider direct involvement in key financial processes.
 - e. The Superintendent of the County Office of Education continue to provide oversight over governing boards of school districts and continue to use the power of this office to compel remediation of Internal Control deficiencies.
 - f. LAFCO (Local Agency Formation Commission) encourage governing boards of special districts to promptly remedy Internal Control deficiencies that are identified.
 - g. The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of

other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

REQUIRED RESPONSES

Each County Organization needs to respond only in regards to its own practices.

	Findings	Recommendations
Contra Costa County Board of Supervisors	1-8	1,2,3a,3g
City of Antioch	1-8	1,2,3b,3g
City of Brentwood	1-8	1,2,3b,3g
City of Clayton	1-8	1,2,3b,3g
City of Concord	1-8	1,2,3b,3g
Town of Danville	1-8	1,2,3b,3g
City of El Cerrito	1-8	1,2,3b,3g
City of Hercules	1-8	1,2,3b,3g
City of Lafayette	1-8	1,2,3b,3g
City of Martinez	1-8	1,2,3b,3g
Town of Moraga	1-8	1,2,3b,3g
City of Oakley	1-8	1,2,3b,3g
City of Orinda	1-8	1,2,3b,3g
City of Pinole	1-8	1,2,3b,3g
City of Pittsburg	1-8	1,2,3b,3g
City of Pleasant Hill	1-8	1,2,3b,3g
City of Richmond	1-8	1,2,3b,3g
City of San Pablo	1-8	1,2,3b,3g
City of San Ramon	1-8	1,2,3b,3g
City of Walnut Creek	1-8	1,2,3b,3g

	Findings	Recommendations
Acalanes Union High School District	1-9	1,2,3c,3g
Antioch Unified School District	1-9	1,2,3c,3g
Brentwood Union School District	1-9	1,2,3c,3g
Byron Unified School District	1-9	1,2,3c,3g
Canyon School District	1-9	1,2,3c,3g
Contra Costa Community College District	1-9	1,2,3c,3g
John Swett Unified School District	1-9	1,2,3c,3g
Knighten Elementary School District	1-9	1,2,3c,3g
Lafayette School District	1-9	1,2,3c,3g
Liberty Union High School District	1-9	1,2,3c,3g
Martinez Unified School District	1-9	1,2,3c,3g
Moraga School District	1-9	1,2,3c,3g
Mount Diablo Unified School District	1-9	1,2,3c,3g
Oakley Union Elementary School District	1-9	1,2,3c,3g
Orinda Union School District	1-9	1,2,3c,3g
Pittsburg Unified School District	1-9	1,2,3c,3g
San Ramon Valley Unified School District	1-9	1,2,3c,3g
Walnut Creek School District	1-9	1,2,3c,3g
West Contra Costa Unified School District	1-9	1,2,3c,3g
Contra Costa County Office of Education	1-9	1,2,3e
Local Agency Formation Commission (LAFCO)	1-8	1,2,3f
Kensington Police Protection and Community Services District	1-8	1,2,3d,3g
Pleasant Hill Recreation and Park District	1-8	1,2,3d,3g
Contra Costa Water District	1-8	1,2,3d,3g

Appendix 1 – Glossary of Key Terms

Audit Committee – An operating committee of an organization’s governing board charged with oversight of the organization’s audit and control functions.

Management Letter- The required communication of the independent auditor and those charged with governance of an organization in regards to deficiencies identified during the audit in the system of internal controls. In the Public Sector, these are also commonly referred to as “Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements performed in Accordance with Government Auditing Standards.”

Material Weakness -A deficiency or a combination of deficiencies, in internal controls such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.

Required Communications – The independent auditor is required to formally communicate with those charged with governance in relation to an audit of financial statements. This typically involves a governing board and any audit committee established by such governing board. The communication typically includes the auditor’s responsibilities under generally accepted auditing standards, an overview of the planned scope and timing of the audit and significant findings from the audit.

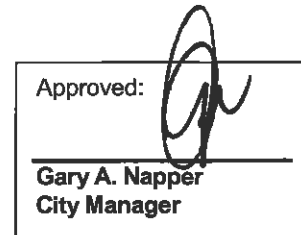
Significant Deficiency - A deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Single Audit Report – All non-federal government entities that expend \$500,000 or more of Federal awards or grants are required to obtain an annual audit in accordance with the Single Audit Act and rules set forth by the Office of Management and Budget (OMB). This audit, typically done in conjunction with the annual financial statement audit, focuses primarily on grant/award compliance. This report is often titled “Independent Auditors’ Report on Compliance with Requirements that could have a Direct And Material Effect on Each Major Program an on Internal Control over Compliance in Accordance with OMB CircularA-133.”

System of Internal Accounting Controls or Internal Controls – The policies and procedures established by an organization designed to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A System of Internal Accounting Controls should encompass both the control environment and specific control activities.



Agenda Date: 8-20-13
Agenda Item: 4d



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 20, 2013

SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO MTC, COMMITTING ANY NECESSARY MATCHING FUNDS, AND STATING ASSURANCE TO COMPLETE THE COLLECTOR STREET REHABILITATION PROJECT (CIP No. 10425).

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The City has been allocated \$385,000 in federal funds from the Surface Transportation Program (STP) funding for Collector Street Rehabilitation Project (CIP No. 10425) in fiscal year 2014-15. All of the federal program funds have now been assigned to the Metropolitan Transportation Commission (MTC) for distribution under the One Bay Area Grant (OBAG) program. Originally intended for use to repave Regency Drive, which was done in the 2013 Neighborhood Street Repaving Project instead, the funds will be allocated for pavement resurfacing and treatment on other various collector streets in the City.

MTC has set up procedures that require agencies to file various documents in order to receive the promised funding. One item is the passage of a resolution approving the filing of an application, committing the required matching funds, and assuring completion of the project. The project is already in the CIP for FY 2013-18 being approved by the Council.

FISCAL IMPACT

Failure to pass the submitted resolution will result in the loss of federal funds for the project.

CONCLUSION

Based upon the above, staff recommends the City Council approve this Resolution approving the filing of an application, committing the required matching funds, and assuring completion of the project.

Attachments: Resolution [4 pp.]

RESOLUTION NO. - 2013

**A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR
FUNDING ASSIGNED TO THE METROPOLITAN TRANSPORTATION
COMMISSION AND COMMITTING ANY NECESSARY MATCHING
FUNDS AND STATING THE ASSURANCE TO COMPLETE THE PROJECT**

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

WHEREAS, the City of Clayton (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$385,000 in funding assigned to MTC for programming discretion, including but not limited to federal funding administered by the Federal Highway Administration (FHWA) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding and/or Transportation Alternatives (TA) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Collector Street Rehabilitation – CIP No. 10425 (herein referred to as PROJECT) for the Local Streets and Roads Preservation Funding (herein referred to as PROGRAM); and

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141, July 6, 2012) and any extensions or successor legislation for continued funding (collectively, MAP 21) authorize various federal funding programs including, but not limited to the Surface Transportation Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives Program (TA) (23 U.S.C. § 213); and

WHEREAS, state statutes, including California Streets and Highways Code 182.6 and 182.7 provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to MAP-21, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal funds for a project shall submit an application first with the appropriate MPO for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of federal funds; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. the commitment of any required matching funds; and
2. that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
3. that the project will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. the assurance of the sponsor to complete the project as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. that the project will comply with all project-specific requirements as set forth in the PROGRAM; and
6. that the project (transit only) will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 for continued funding; and be it further

RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide any required matching funds; and

-
2. APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
 3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation projects, and has assigned, and will maintain a single point of contact for all FHWA-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans and FHWA on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA-funded transportation projects implemented by APPLICANT; and
 4. PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
 5. APPLICANT and the PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and
 6. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866, revised; and therefore be it further

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's federal TIP.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton at a regular public meeting thereof held on August 20, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie K. Pierce, Mayor

ATTEST:

Laci J. Jackson, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a special public meeting held on August 20, 2013.

Laci J. Jackson, City Clerk



Agenda Date: 8-20-13

Agenda Item: 4e

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: August 20, 2013

SUBJECT: Approve the amended job description for the Finance Manager position.

BACKGROUND

On December 31, 2013 the current Finance Manager Merry Pelletier will retire after 13 years of employment with the City. As staff started to prepare for the recruitment it became apparent the job description should be updated. The new job description better reflects the actual duties after 13 years of evolution in the management posting and it will provide a baseline for performance expectations. Staff reviewed job descriptions from other cities and had the current Finance Manager review the attached job description.

RECOMMENDATION

By motion, approve the amended Job Description for the Finance Manager.

FISCAL IMPACT

None.

Attachments: Finance Manager Job Description (3 pages)

FINANCE MANAGER CITY OF CLAYTON

Class specifications are only intended to present a descriptive summary of the range of duties and responsibilities associated with specified positions. Therefore, specifications may not include all duties performed by individuals within a classification. In addition, specifications are intended to outline the minimum qualifications necessary for entry into the class and do not necessarily convey the qualifications of incumbents within the position.

DEFINITION

Under administrative direction, plans, manages and performs duties relating to the process, control, maintenance and review (audit) of all City financial records and transactions; coordinates department activities with other City officials, departments or outside agencies; provides responsible and complex financial staff support to the City Manager; performs related duties as required.

DISTINGUISHING CHARACTERISTICS

The Finance Manager is a management level class responsible for the hands-on process, control, maintenance and review of all City and Successor Agency funds and financial activities. The incumbent works closely with the City Manager and appointed City Treasurer to ensure funds are managed in a manner that provides the City with the best cash and investment position.

SUPERVISION RECEIVED/EXERCISED

Position is hired by and reports to the City Manager. Administrative direction is received from the City Manager. The incumbent exercises technical and functional supervision over assigned staff.

ESSENTIAL FUNCTIONS *(include but are not limited to the following)*

- Participates in and accepts full responsibility for all Finance operations activities and services including activities associated with payroll, accounts payable, and accounts receivable; reconciles accounts and ensures accuracy of data.
- Develops, implements and maintains Finance operation goals, objectives, policies and priorities for appropriate service areas; ensures that established goals and priorities are achieved.
- Manages and oversees the development and administration of the City's overall annual budget; prepares, implements, presents and controls the City's operating and capital budget; identifies and analyzes revenue sources/projections, expenditure patterns, amortization schedules, fixed assets, and service delivery alternatives; directs the forecast of additional funds needed for staffing, equipment, materials, and supplies; directs the monitoring of an approved expenditure plan; directs the preparation of and implements budgetary adjustments and journal entries as necessary. Works with and advises City department heads during the annual budgetary process.
- Exercises the full range of supervisory authority over assigned staff (Accounting Technician and Office Assistant/ Code Enforcement Officer). Sets work priorities, selects, trains, motivates and evaluates work performance of staff; provides or coordinates staff training; works with employees to correct deficiencies.

- Prepares and presents various comprehensive financial reports and statements, including narrative, financial, and statistical data; prepares and directs the preparation of records and reports for submission to various regulatory bodies, auditors and other governmental agencies.
- Prepares and submits all required documentation for the City's Successor Agency and Successor Housing Agency.
- Establishes, supervises and directs the planning, organizing and maintenance of general and cost accounting systems, including pre-audit, internal audit, posting of expenditures and revenues, payroll, assessments, and other related fiscal activities.
- Coordinates and conducts municipal and assessment district bond sales; maintains all bond administration and accounting; administers and oversees grant agreements between the City and other agencies, private organizations, and individual members of the public; reconciles bond and grant financing.
- Provides professional financial advice and analyses to City Manager, City Council, City departments, and City commissions and committees on City financial and accounting matters; prepares and presents written and verbal staff reports and other necessary correspondence.
- Reviews and evaluates internal support service delivery methods and systems including administrative and support systems and internal relationships; identifies opportunities for improvement and implements changes to standard operating procedures to enhance services.
- Prepares monthly, mid-year, and yearly revenue and expenditure reports, audit reports, state financial transaction reports, and other financial reports.
- Coordinates with the City Manager and appointed City Treasurer to oversee and manage the City's investment portfolio and practices; manages the City's cash position; performs tax reconciliations.
- Oversees the City's Business License and Public Facility Rental programs.
- With the Human Resources Department, manages the City's employee benefit programs; provides data information to employees and employer regarding benefit programs; audits benefit program enrollment to ensure accuracy.
- Answers and responds to a variety of inquiries and provide information regarding the assigned Finance Department activities. Provides technical expertise to user departments regarding the financial system, budget questions, proper expenditure codings, document processing, laws and regulations, and other accounting related activities.
- May be assigned by the City Manager to special projects or task forces outside the normal scope of duties, and performs other related duties as assigned

WORKING CONDITIONS

Position requires prolonged sitting, standing, walking, reaching, twisting, turning, kneeling, bending, squatting, and stooping in the performance of daily activities. The position also requires grasping, repetitive hand movement, and hand-eye coordination in preparing statistical reports and data using a mouse and computer key board. Additionally, the position requires near vision in reading correspondence, statistical data and using a computer, and hearing is required when providing phone service and communication in person.

QUALIFICATIONS (The following are minimal qualifications necessary for entry into the classification)

Education and/or Experience

Any combination of education and experience that provides the knowledge, skills and abilities necessary for a Finance Manager. A typical pathway to obtain the required qualifications is to possess the equivalent of five (5) years of progressively responsible experience in municipal accounting and financial work, and a Bachelor's degree in accounting, finance, business administration or a related field.

License/Certificate

Possession of a valid class C California driver's license by date of appointment.

KNOWLEDGE/SKILLS/ABILITIES (The following are a representative sample of the KSA's necessary to perform essential duties of the position)

Knowledge of:

Principles and methods of finance administration, particularly in the areas of municipal accounting, budgeting and auditing; generally accepted accounting principles and reporting; laws regulating the financial administration of City government; principles and practices of budget preparation, program analyses and revenue forecasting; principles and practices of program development and administration; complex principles and practices of municipal finance; applicable Federal, State, and local laws, codes and regulations; modern office equipment including a computer and applicable software, particularly financial management software programs; methods and techniques for report preparation, writing and presentation; complex principles of mathematics.

Ability to:

Manage and perform the full range of finance related activities; develop, implement and maintain sound accounting and related financial systems and procedures; courteously respond to community issues, concerns and needs; analyze a complex issue and develop and implement an appropriate response; prepare clear and concise administrative and financial reports; analyze and evaluate new and existing service delivery methods and standard operating procedures; make adjustments to standard operating procedures as is appropriate; apply applicable laws, codes and regulations; establish and maintain effective working relationships.

Skill to:

Operate an office computer and a variety of word processing, financial management and other related software applications.



Agenda Date: 8-20-13

Agenda Item: 8a

Approved:

Laura Hoffmeister
Assistant to the City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: AUGUST 20, 2013

SUBJECT: PUBLIC HEARING TO CONSIDER APPROVING A DEVELOPMENT PLAN PERMIT TO ESTABLISH PLANNED DEVELOPMENT STANDARDS FOR FIVE EXISTING PROPERTIES LOCATED ON A PRIVATE STREET OFF OF MARSH CREEK ROAD; MAZZEI - PD STANDARDS; (DP-01-13).

RECOMMENDATION

Staff recommends the City Council conduct a public hearing, receive and consider the staff report and any public comment, and then adopt the attached Resolution approving the request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; (DP-01-13).

BACKGROUND

On June 25, 2013, the Planning Commission conducted a public hearing to consider a request to amend the Marsh Creek Road Specific Plan to establish residential accessory structure standards where currently no regulations or standards exist. Upon considering the matter and the four (4) options outlined in the June 25th staff report (attached), the Planning Commission gave direction to staff to develop and bring back Planned Development Standards to address this matter, rather than an amendment to the Marsh Creek Road Specific Plan as was originally proposed. The applicant agreed with this direction.

On July 23, 2013, the Planning Commission conducted a public hearing to consider the subject request for a Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards. One member of the public, Mr. Jeff Zorn resident/owner of 8106 Marsh Creek Road and located within the PD boundary requested

clarification on one of the proposed standards for accessory structures, which was satisfactorily addressed by staff. Upon the conclusion of the public hearing Commission voted 4-0-1 (Johnson absent) to adopt Resolution No. 04-13 recommending City Council approval of the below listed PD standards

The City Council is referred to the attached June 25th and July 23rd, 2013, Planning Commission staff reports for more details on the background history and discussions involved with the subject request.

DISCUSSION

The applicant, Matt Mazzei is requesting the City Council to consider a Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; (DP-01-13).

The approach to establish the proposed PD Standards is consistent with many of the approved residential PD's in Clayton that include varying standards for principal buildings and accessory structures which are unique and tailored to the individual PD (see attached Citywide PD Standards Table).

Mazzei – Planned Development Standards

Principal Building Setbacks (minimum)

Front	20', 15' for side-loaded garages
Interior Side	10', 25' aggregate
Rear	25'
Marsh Creek Rd.	80'

Principal Building Height 2 ½ stories, 35' max.

Accessory Structure Setbacks (minimum)

Front	65'
Side	5'
Rear	5'
Marsh Creek Rd.	30'
Separation to principal building	5' min. average and 4' min., provided all applicable Building Code Standards are complied with.

Accessory Structure Building Height 1 story, 16' max.

Other Standards

For other development standards or exceptions not listed or specified herein please refer to either the Marsh Creek Rd. Specific Plan or Zoning Code, whichever is deemed most applicable.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.

FISCAL IMPACT

None. All costs and staff time are being paid for by the applicant.

Attachments:

1. City Council Approval Resolution, with attached Exhibits:
 - Exhibit A – Mazzei – Planned Development Standards for DP-01-13
 - Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13
2. Vicinity Map
3. Citywide PD Standards Table
4. Planning Commission Resolution No. 04-13, (without Exhibits)
5. Draft Planning Commission Meeting Minutes of July 23, 2013
6. Planning Commission Meeting Minutes of June 25, 2013
7. Planning Commission Staff Report of July 23, 2013, (without Attachments).
8. Planning Commission Staff Report of June 25, 2013, (without Attachments).

RESOLUTION NO. ____-13

**APPROVING A DEVELOPMENT PLAN PERMIT TO ESTABLISH
PLANNED DEVELOPMENT (PD) ZONING DISTRICT STANDARDS
FOR FIVE EXISTING DEVELOPMENT RESIDENTIAL PROPERTIES
LOCATED OFF OF MARSH CREEK ROAD
MAZZEI - PLANNED DEVELOPMENT
(DP-01-13)**

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

WHEREAS, on August 20, 2013, the City of Clayton City Council held a duly noticed public hearing at a regular meeting to review and consider a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards propose to establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; and

WHEREAS, on July 23, 2013, the City of Clayton Planning Commission held a duly noticed public hearing at a regular meeting at which they adopted Resolution No. 04-13 recommending City Council approval of the subject Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that this zoning amendment to the Clayton Zoning Ordinance/Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date; and

NOW, THEREFORE, BE IT RESOLVED, that the Clayton City Council does hereby find the subject Development Plan Permit to establish Planned Development (PD) Zoning District standards meets the following findings as they apply to this project:

- a. That the application of the Development Plan Permit to establish Planned Development (PD) Zoning District standards as proposed will result in a significantly better quality development than would occur with a non-flexible zone.
- b. The application is consistent with the General Plan goals and policies for the land use designation of Single Family Low-Density Residential (LD) for the site.
- c. The general intent of standards of review in Section 17.28.160 of the Zoning Ordinance do not apply as the project site is already developed with single family homes and these PD

standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

- d. The application will result in the maintaining of this existing high quality development, than would otherwise occur with a traditional residential zoning district.
- e. The application will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.
- f. The application will not result in any significant effects on the environment as pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) as it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.
- g. The requirement to start construction within 18 months of City approval does not apply as the project site is already developed with single family homes and these PD standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Clayton based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby approve a Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 20th day of August 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Julie K. Pierce, Mayor

ATTEST:

Laci J. Jackson, City Clerk

ATTACHMENTS:

Exhibit A – Mazzei – Planned Development Standards for DP-01-13

Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13

Mazzei – Planned Development Standards

(DP-01-13)

Principal Building Setbacks

Front	20', 15' for side-loaded garages
Interior Side	10', 25' aggregate
Rear	25'
Marsh Creek Rd.	80'

Principal Building Height

2 ½ stories, 35' max.

Accessory Structure Setbacks

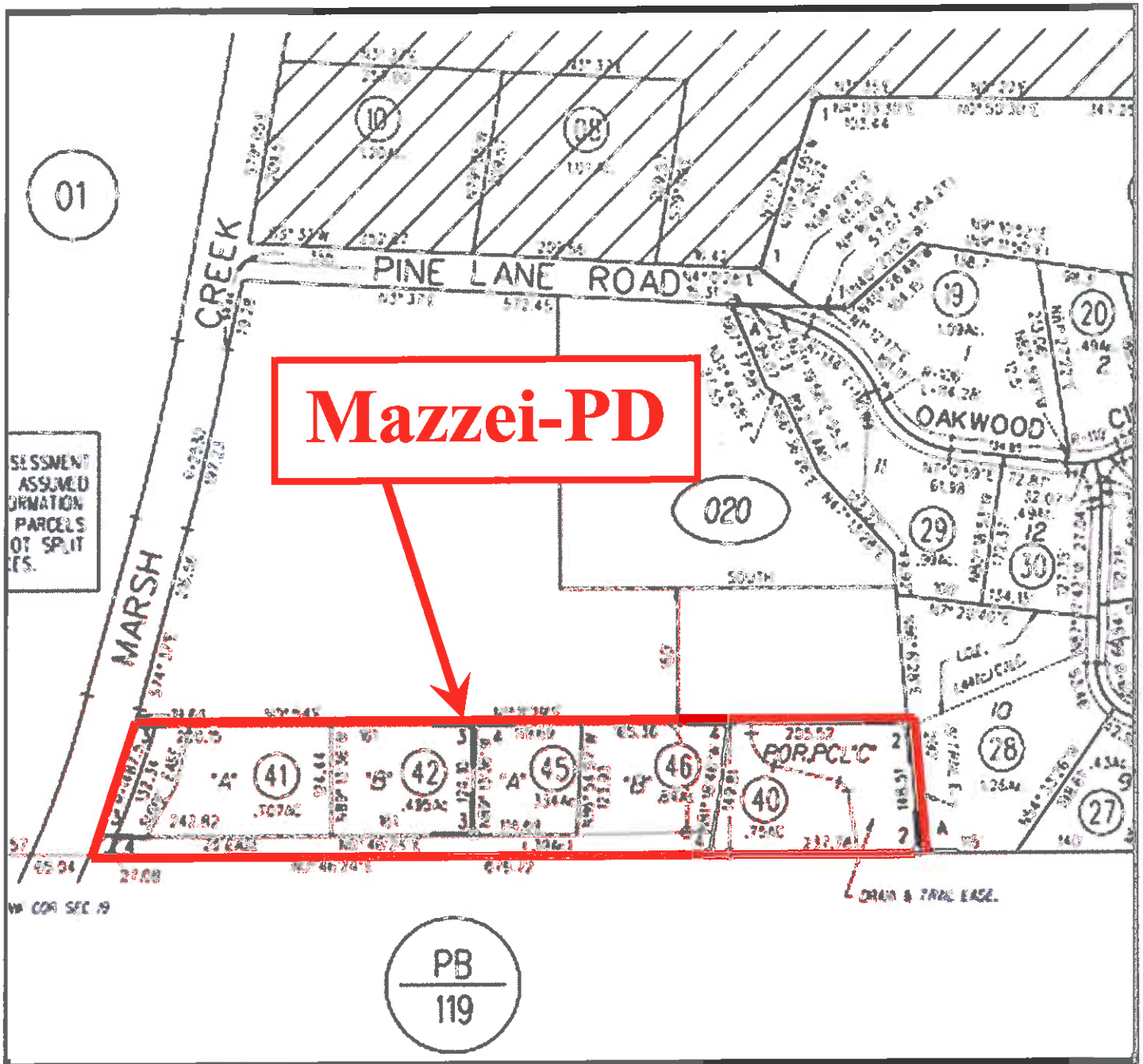
Front	65'
Side	5'
Rear	5'
Marsh Creek Rd.	30'
Separation to principal building	5' min. average and 4' min., provided all applicable Building Code Standards are complied with.

Accessory Structure Building Height

1 story, 16' max.

Other Standards

For other development standards or exceptions not listed or specified herein please refer to either the Marsh Creek Rd. Specific Plan or Zoning Code, whichever is deemed most applicable.



PLANNED DEVELOPMENT BOUNDARY MAP

 CITY OF CLAYTON	Mazzei – Planned Development DP-01-13 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road APN's: 078-020-041, 042, 045, 046 & 040.	 (Not to Scale)
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VICINITY MAP



**Mazzei – Planned Development
DP-01-13**
8106, 8114, 8118, 8130 &
8140 Marsh Creek Road
APN's: 078-020-041, 042, 045, 046 & 040.



PLANNED DEVELOPMENT (PD) STANDARDS

DEVELOPMENT	SETBACKS						BUILDING HEIGHT		OTHER STANDARDS
	FRONT	INTERIOR SIDE	EXTERIOR SIDE ₁	REAR ₁	REAR YARD Useable area	ACCESSORY STRUCTURE	PRINCIPAL BUILDING	ACCESSORY STRUCTURE	
Pancho Creek	20'	7.5'	15'	15'	1500 sf	5' if structure is separated from residence by at least 10'	35'	16'	See Design Criteria (approved 9/10/91) for add'l info See Oakhurst Fencing Std's folder for fencing reqts Driveways - 20' min length * Side setbacks are 5'/12.5' aggregate for following lots (per Development Plan) 118-486-012 118-490-004 118-510-016 " -029 " -021 " -046 " -039 " -047
Chaparral Springs		10' single story; 20' 2-story ₁		15'		3' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing reqts
Black Diamond	Opposing 35' agg., 15 min.	15' agg. 5 min., 1	15' on street side	15'		3' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing reqts
Windmill Canyon	Opposing 35' agg., 15 min.	15' agg. 5 min. flat, 1	15' on street side	15'	1000 sf	3' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing reqts * 3' setbacks for accessory structures approved by P/C (Files 425-90 & 414-90).
Ironwood Falcon Ridge	Opposing 35' agg., 15 min.	15' agg. 5 min. flat, 1	15' on street side	15'	1000 sf	5' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing reqts
Eagle Peak	Opposing 35' agg., 15 min.	15' agg. 5 min. flat, 1	15' on street side	15'	1125 sf * 1200 sf **	5' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing reqts * 75' wide lot ** 80' wide lot
Oak Hollow	15'	5'	15'	15' flat*					* Minimum 10' flat area at one corner.
Diablo Ridge	20'	5'		15'; 10' golf course, 1					* 19' for Buildings F-2, F-13, F-15.
Oakwood Circle	20'	35' agg. 10' min		15'			2½ stories 35' max.		
Regency Woods	20'	15' agg. 5 min., *	15' bldg. 5' fence	20'					Original fence is minimum 5' from corner. No fencing in front setback. 35% lot coverage (as tempered by QP requirements) * Regency I Subdtn 4343; 5' min. side setbacks

DEVELOPMENT	SETBACKS						BUILDING HEIGHT		OTHER STANDARDS
	FRONT	INTERIOR SIDE ₁	EXTERIOR SIDE ₁	REAR ₂	REAR YARD Useable area	ACCESSORY STRUCTURE	PRINCIPAL BUILDING	ACCESSORY STRUCTURE	
Westwood	20' - 2 story 1.5' - 1 story	10' on one side, 8' otherwise*		1.5'			2 1/2 stories 35' max. **		* Minimum side setback per lot shall avg. 10' when the dwelling is placed on the opposite property line (0 side setback) & 8' otherwise. ** Lots 1,4,5,6,7 & 9 one story max. Lots 56-64 must be reviewed for 2 story.
Clayton Green (Use R-12)	20'	2.5' agg. 10' min.	20'	1.5'			2 1/2 stories 35' max.	1 story 16' max.	
Silver Creek II	20**	1.5' agg. 5' min.	1.5' street side 5' min./20' agg.	20' regular lot 1.5' cul-de-sac**			2 1/2 stories 35' max.	1 story 16' max.	Building coverage 35% * No fencing in front yard. ** 10' fencing setback on corner
Stranahan - West NE SE Center	20'	4' *		20'			23' 6"		* 8' min between residences Trellis & patio covers - 10' from rear P/L and no wider than residence (Staff Interpretation since construction)
		3' *		1.5'					
		3' *		20'					
		3' *		22'					
Greystone	20' front garage 1.5' side garage	1.5' agg. 5' min.		1.5'					Lots 1-8 no grading or earthwork on slopes.
Hays (File 52-76-108)	25'	3.5' agg. 1.5' min.	20'	1.5'		Side: 3' (if 6.5' from front P/L) Rear: 3'	2 1/2 stories 35' max.		Sids per 11/18/76 application submittal.
Hollinger (File 1257-02)	20'	1.5' agg. 5' min.	--	1.5'	--		2 1/2 stories 35' max.	1 story 16' max.	30% lot coverage 8,712 sq min lot size
Diablo Village	20' front garage 1.5' side garage	10' agg. 5' min.*	5'*	10'*	--		--	--	*Chimneys shall maintain a 5-foot setback from side and rear property lines.
Dana Ridge	CC&R's prohibit any structural changes. Two trellis designs are specified in CC&R's.								
Marsh Creek Villas	CC&R's prohibit any structural changes.								
Brimingham I	Standards were not established as part of project approval (File 52-72-44) R-40 standards have been used for lots with wide frontages.								

* See "OTHER STANDARDS" column

- Notes
- 1 A minimum 5' flat area, clear of all obstructions is required in the side setback, unless otherwise noted.
 - 2 Accessory structures can be 1' from P/L of any common walls. Gazebos must be 5' from P/L.
 - 3 Pools/spas: 5' from side & rear P/L, 10' from corner street side. Equipment must be 10' from any neighboring dwelling.

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 04-13**

**RECOMMENDING CITY COUNCIL APPROVAL OF
A DEVELOPMENT PLAN PERMIT TO ESTABLISH
PLANNED DEVELOPMENT (PD) ZONING DISTRICT
STANDARDS FOR FIVE EXISTING DEVELOPMENT
RESIDENTIAL PROPERTIES LOCATED OFF OF
MARSH CREEK ROAD
MAZZEI PLANNED DEVELOPMENT
(DP-01-13)**

WHEREAS, the City of Clayton Planning Commission held a duly noticed public hearing at a regular meeting on July 23, 2013 to review and consider a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that this zoning amendment to the Clayton Zoning Ordinance/Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Planning Commission has reviewed all written evidence and oral testimony presented to date; and

NOW, THEREFORE, BE IT RESOLVED, that the Clayton Planning Commission does hereby find the subject Development Plan Permit to establish Planned Development (PD) Zoning District standards meets the following findings as they apply to this project:

- a. That the application of the Development Plan Permit to establish Planned Development (PD) Zoning District standards as proposed will result in a significantly better quality development than would occur with a non-flexible zone.
- b. The application is consistent with the General Plan goals and policies the land use designation of Single Family Low-Density Residential (LD) for the site.
- c. The general intent of standards of review in Section 17.28.160 of the Zoning Ordinance do not apply as the project site is already developed with single family homes and these PD

RESOLUTION NO. 04-2013

Page 2

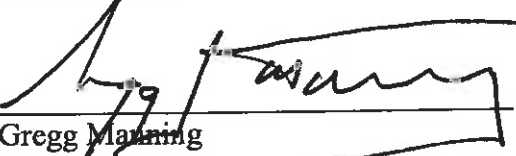
standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

- d. The application will result in the maintaining of this existing high quality development, than would otherwise occur with a traditional residential zoning district.
- e. The application will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.
- f. The application will not result in any significant effects on the environment as pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) as it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.
- g. The requirement to start construction within 18 months of City approval does not apply as the project site is already developed with single family homes and these PD standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

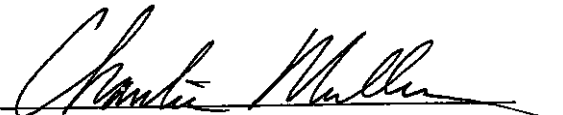
NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a Regular meeting on the 23rd day of July, 2013.

APPROVED:


Gregg Manning
Chair

ATTEST:


Charlie Mullen
Community Development Director

ATTACHMENTS:

Exhibit A – Mazzei – Planned Development Standards for DP-01-13

Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13

DRAFT

Minutes Clayton Planning Commission Meeting Tuesday, July 23, 2013

Call to Order

Chair Haydon called the meeting to order at 7:02 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon
Vice Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Dan Richardson
Absent: Commissioner Sandra Johnson (excused)
Staff: Community Development Director Charlie Mullen
Assistant Planner Milan Sikela, Jr.

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

1A. Selection of Chair and Vice Chair.

Commissioner Richardson moved and Commissioner Bruzzone seconded a motion to elect Vice Chair Gregg Manning as Chair of the Planning Commission. The motion passed 4-0-1.

Commissioner Haydon moved and Chair Manning seconded a motion to elect Commissioner Richardson as Vice Chair of the Planning Commission. The motion passed 4-0-1.

1B. Review of agenda items.

1C. Commissioner David Bruzzone to report at the special meeting of the City Council on July 30, 2013.

Public Comment

None.

Approval of Minutes

2. Approval of the minutes from the June 25, 2013 Planning Commission meeting.

Vice Chair Richardson moved and Commissioner Haydon seconded a motion to approve the minutes, subject to minor corrections. The motion passed 4-0-1.

Public Hearing

3. **DP-01-13, Development Plan Permit, Matt Mazzei.** A request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130, and 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APNs) of 078-020-041, -042, -045, -046 and -040. Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment, and therefore it is not subject to CEQA.

Director Mullen presented the staff report.

Commission questions included:

- Is the one-hour fire rating requirement included in the California Building Code that is enforced by the Contra Costa County Building Inspection Department? Director Mullen responded that was correct and added that the reason the fire-rating for the structure was not placed into the Development Plan Zoning District standards is because the Contra Costa County Building Inspection Department already ensures fire-rating compliance as part of their review and approval of the building permit.
- Why was a five-foot average minimum setback proposed? Director Mullen responded that a five-foot minimum was intended to establish some consistency with the five-foot setback standards in other Planned Development districts in Clayton.

The public hearing was opened.

Jeff Zorn, 8106 Marsh Creek Road, requested clarification regarding the five-foot average minimum setback and inquired that, if a property has several detached accessory structures located on it, would you average the total combined setbacks of all the accessory structures together?

Director Mullen responded that a separate setback analysis would occur for each structure individually, on a case-by-case basis. The five-foot average minimum setback would be applied to each individual structure and not as an aggregate for all structures combined.

Mr. Zorn inquired that, if a patio cover were attached to a residence, would the patio cover still be considered an accessory structure?

Director Mullen responded that, yes, the patio cover would be an accessory structure; however, if the patio cover were attached to the residence, the patio would cover would have to comply with the same setbacks that would be applied to the residence.

The public hearing was closed.

Commissioner Haydon moved and Commissioner Bruzzone seconded a motion to adopt Resolution No. 04-13, subject to minor typographical edits, recommending City Council approval of Development Plan Permit DP-01-13 to establish Planned Development (PD) Zoning District standards for five existing developed residential properties located on a private driveway off of Marsh Creek Road. The motion passed 4-0-1.

Vice Chair Richardson thanked staff for following up on the fire-rating requirements.

~~Old Business~~

4. None.

~~New Business~~

5. None.

**Minutes
Clayton Planning Commission Meeting
Tuesday, June 25, 2013**

Call to Order

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

Present: Chair Keith Haydon
Vice Chair Gregg Manning
Commissioner Sandra Johnson
Commissioner Dan Richardson
Absent: Commissioner David Bruzzone
Staff: Community Development Director Charlie Mullen
Assistant Planner Milan J. Sikela, Jr.

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Vice Chair Gregg Manning to report at the City Council meeting on July 2, 2013.

Public Comment

None.

Approval of Minutes

- 2. Approval of the minutes from the April 23, 2013 Planning Commission meeting.

Vice Chair Manning moved and Commissioner Richardson seconded a motion to approve the minutes, as submitted. The motion passed 4-0.

Public Hearing

- 3A. **SPA-01-13, Specific Plan Amendment, Matt Mazzei**, 8130 Marsh Creek Road, APN: 118-020-046. A request for consideration of an amendment to the Marsh Creek Road Specific Plan in order to establish residential accessory structure standards. An Environmental Impact Report (SCH# 95013014) was previously approved and certified for the Marsh Creek Road Specific Plan and pursuant to the California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment and, therefore, is not subject to CEQA.

The public hearing was opened.

Director Mullen presented the staff report and read into the record the email comments provided by Commissioner Bruzzone who was absent from tonight's meeting.

Chair Haydon confirmed that staff was looking for direction tonight and, based on Planning Commission direction, staff would return with a proposal for a decision to be rendered. Director Mullen indicated that was correct.

Commissioner Johnson indicated that, given that the project area is within the conflict-of-interest radius of her property, she could participate in tonight's meeting but, in accordance with Fair Political Practices Commission provisions, she could not participate in the decision-making component of the Commission review process.

The applicant, Matt Mazzei, provided comments and explained that a small detached accessory structure already existed in the right side yard area and he constructed an addition on the existing accessory structure which enlarged the total area of the accessory structure.

Chair Haydon asked Mr. Mazzei which option he preferred. Mr. Mazzei answered that he prefers Option 3 in the staff report, which would establish development standards for his Planned Development zone.

John Roskelley, 5675 Pine Hollow Road, indicated that he concurred with staff and Mr. Mazzei and was in support of Option 3 in the staff report in order to address the detached accessory structure.

Commissioner Johnson confirmed that development standards would be established for this particular Planned Development District that would address detached accessory structure setbacks. Director Mullen indicated that was correct.

Director Mullen indicated that he had been informed by the Contra Costa County Building Inspection Department (CCCBID) that if two buildings have less than a five-foot separation, the walls within the buildings must be one-hour fire-rated.

Commissioner Richardson had the following questions:

- Does the CCCBID measure distances from wall to wall or eave to eave?
- What are the required minimum fire-ratings for building separation distances of over five feet, between five feet and three feet, and less than three feet? Director Mullen responded that staff would research the issue further and return to the Commission with the requested information.

Chair Haydon indicated the following:

- I prefer Option 3 in the staff report.
- We need to ensure that the structure meets building code separation requirements.

Vice Chair Manning indicated the following:

- I was involved in the establishing of the Marsh Creek Road Specific Plan and there was a lot of work done and time spent on creation, review, and approval of the document.
- I support Option 3 in the staff report.

Commissioner Richardson indicated the following:

- I agree that Option 3 in the staff report is the best choice.
- We need to clarify the applicable fire safety requirements.

The public hearing was closed.

By consensus, the Planning Commission selected Option 3 in the staff report to have staff return to the Commission with a resolution to establish development standards for detached accessory buildings in the subject Planned Development district.

~~3B. ZOA-02-13, Municipal Code Amendment, City of Clayton.~~ Consideration of a City-initiated Ordinance amending the Clayton Municipal Code Title 17, establishing Prohibited Uses and Activities and specifically prohibiting medical marijuana dispensaries and certain cultivation activities.

The public hearing was opened.

Director Mullen presented the staff report.

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: July 23, 2013

From: Charlie Mullen
Community Development Director 

Subject: Public Hearing to consider a request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; (DP-01-13).

REQUEST

The applicant, Matt Mazzei is requesting the City to consider a Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road.

PROJECT INFORMATION

Applicant:	Matt Mazzei
Location:	8106, 8114, 8118, 8130 & 8140 Marsh Creek Road APN's: 078-020-041, 042, 045, 046 & 040.
General Plan Designation:	Single Family Low Density
Zoning Classification:	Planned Development
Specific Plan Designation:	Marsh Creek Road Specific Plan
Public Notice:	On July 12, 2013, a public hearing notice was advertised in the Contra Costa Times and notice was mailed to property owners within 300 feet of the site and posted at designated locations.

BACKGROUND

On June 25, 2013, the Planning Commission conducted a public hearing to consider a request to amend the Marsh Creek Road Specific Plan to establish residential accessory structure standards where currently no regulations or standards exist. Upon considering the matter and the four (4) options outlined in the June 25th staff report (attached), the Planning Commission gave direction to staff to develop and bring back Planned Development Standards to address this matter, rather than an amendment to the Marsh Creek Road Specific Plan as was originally proposed. The applicant agreed with this direction.

The Planning Commission also requested staff to consult with County Building Services on the separation requirements between an accessory structure (over 120 s.f. in area) and the principal building to see if there would be any Building Code compliance issues. Staff verified that a building separation between 3' to 10' would typically trigger 1-hour fire rating of an accessory structure (i.e. interior ½" sheet rock) and roof eaves with separations of 2' to 5' also required 1-hour fire rating. Any building separation less than 3' and any roof eave separation less than 2' may trigger additional fire rating depending on the construction and use of the accessory structure and the construction of the existing principal building. In summary the existing unauthorized accessory structure at 8130 Marsh Creek Road can most likely be brought up to Building Code standards during the County plan check process.

DISCUSSION

In accordance with Planning Commission direction staff has come back with Planned Development (PD) standards under the Development Plan permit process. This approach is consistent with many of the approved residential PD's in Clayton that include varying standards for principal buildings and accessory structures that are unique and tailored to the individual PD (see attached PD Summary Standards Table). In the case of the subject properties, they were all part of a 5-lot subdivision (originally 4 lots) that was created under the County. All the lots have one commonly shared private driveway access off of Marsh Creek Road. In 1990, when the adjacent Oakwood Subdivision Planned Development was annexed, these lots were included in the larger Oakwood annexation and were given a PD zoning designation at that time. However, because the lots already existed the City did not require a PD Development Plan permit for them.

However, in retrospect the establishment of PD standards would appear to have been beneficial in providing guidance and direction for principal building additions and new accessory structures. In order to address this current lack of clear standards, staff proposes the following PD standards to apply to subject 5 lots (see vicinity map).

Mazzei – Planned Development Standards

Principal Building Setbacks

Front	20', 15' for side-loaded garages
Interior Side	10', 25' aggregate
Rear	25'
Marsh Creek Rd.	80'

Principal Building Height

2 ½ stories, 35' max.

Accessory Structure Setbacks

Front	65'
Side	5'
Rear	5'
Marsh Creek Rd.	30'
Separation to principal building	5' min. average and 4' min., provided all applicable Building Codes Standards are complied with.

Accessory Structure Building Height

1 story, 16' max.

Other Standards

For other development standards or exceptions not listed or specified herein please refer to either the Marsh Creek Rd. Specific Plan or Zoning Code, whichever is deemed most applicable.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 04-13, recommending City Council approval of Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040.

ATTACHMENTS

1. Planning Commission Approval Resolution No. 04-13, with attached Exhibits:
Exhibit A – Mazzei – Planned Development Standards for DP-01-13
Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13
2. Vicinity Map
3. Citywide PD Development Standards Table
4. June 25, 2013, Planning Commission Staff (without attachments)

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**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: June 25, 2013

From: Charlie Mullen
Community Development Director 

Subject: Public Hearing to Consider a Request to Amend the Marsh Creek Road Specific Plan in Order to Establish Residential Accessory Structure Standards (SPA-01-13).

REQUEST

The applicant, Matt Mazzei is requesting the City to consider amending the Marsh Creek Road Specific Plan in order to establish residential accessory structure standards where currently no regulations/standards exist.

PROJECT INFORMATION

Applicant/Location:	Matt Mazzei 8130 Marsh Creek Road APN: 078-020-046
General Plan Designation:	Low Density Residential
Zoning Classification:	Planned Development
Specific Plan Designation:	Marsh Creek Road Specific Plan
Public Notice:	On June 14, 2013, a public hearing notice was advertised in the Contra Costa Times and notice was mailed to property owners within 300 feet of the site and posted at designated locations.

BACKGROUND

A complaint was filed with the Community Development Department on July 19, 2012 regarding possible construction activity at 8130 Marsh Creek Road. Upon investigation of the complaint by City staff, it was determined that the construction activity involved the unauthorized construction of an approximately 500 s.f. accessory structure addition onto a previously existing approximately 120 s.f. accessory structure located in the rear yard of the property behind the primary residence. The applicant indicates the use of the accessory structure is proposed for

personal storage. The accessory structure is almost completely constructed, with the exception of the decorative exterior siding, paint, and roof material to match the primary residence (see attached photos).

Upon researching City files and records it was confirmed that no City permits had been obtained and the Contra Costa County Building Services also confirmed that no Building Permits had been issued for the new accessory structure.

With regard to the previously existing 120 s.f. accessory structure, that structure was considered legal non-conforming, because it was constructed prior to and met all applicable Zoning standards prior to the small accessory building code amendments of 2007 (Ord. No. 406). An approved Tentative Parcel Map (File 1191-02) confirms that the previous 120 s.f. accessory structure existed as of October 2002. The applicant does not recall the exact date of construction.

DISCUSSION

On April 5, 2013, the applicant submitted an application to amend the Marsh Creek Road Specific Plan (MCRSP) with the intent to establish residential accessory structure standards, where currently no regulations/standards exist. However, the applicant's application did not include, recommend, or propose any specific wording or text that would be added to the MCRSP. Due to the new Community Development Director coming on board with the City at the end of April 2013, the applicant cooperatively agreed to allow the new Director time to research and get brought up to speed on the subject application and issues.

Upon conducting field inspections of the property and accessory structure, it has been determined that accessory structure does not meet the current applicable Zoning Code standards for accessory structures. Due to the absence of accessory structure standards in the MCRSP and the absence of any Planned Development standards for this property, the standards of the Zoning Code are then applied. The Zoning Code offers two alternative standards for accessory structures of this size (see attached Code Section 17.36.055).

One of the Code standards requires accessory structures to be separated from the main building by at least 12 feet (including roof overhangs). If this 12-foot separation can be provided then the accessory structure can be setback a minimum of 5 feet from the side and rear property lines. The subject "L" shape accessory structure does not meet the 12-foot separation standard (see attached Site Plan Diagram). It has a corner pinch-point separation of approximately 4 feet (wall to wall) and only provides a 7'6" separation along the front north side and a 5-foot separation along the west side. The accessory structure side yard setback of 16'10" and the rear setback of 6'6" exceed the minimum 5-foot setback requirements.

Alternatively, the second Code standard allows accessory structures of this size to provide a minimum 5-foot separation from the main building (including roof overhangs). In this situation the accessory structure must then meet the minimum side and rear setbacks of the main building. The MCRSP requires a minimum 25-foot rear setback and a minimum 10-foot side setback. The subject accessory structure does not meet these standards.

Upon reviewing the MCRSP, the Zoning Code standards for accessory structures and Planned Development (PD) standards for similar zoned PD projects; staff believes several different options may be available for the Planning Commission to consider. These options are discussed below.

Option 1 – Amend Marsh Creek Road Specific Plan

As currently applied for by the applicant, an option would be to amend the MCRSP that was first adopted in 1995 and later amended in 2005. Upon reviewing the MCRSP in detail, staff has confirmed that, while the MCRSP does provide development standards and direction for primary/main residential structures (see attached excerpt), the MCRSP is silent on development standards for residential accessory structures. It is staff's professional experience that the absence of residential accessory structure standards in a Specific Plan is not entirely uncommon, particularly in Specific Plans that are nearly 20 years old.

A potential downside of amending the MCRSP to add specific accessory structure standards is that the standards would then apply throughout the entire Plan area and this may not be desirable, given the varying topography, varying uses, and varying development goals that exist in the Plan area. While it would certainly be possible to amend the MCRSP to include residential accessory structure standards, it is staff's opinion that another more desirable and preferred option is available to consider, if so desired

Option 2 – Amend Zoning Code

A second available option would be to consider amending the Zoning Code, Accessory Buildings and Structures standards (Section 17.36.055). However, staff understands that a significant amount of community discussion and effort was spent on developing the current standards and it may not be desirable to modify these standards on a citywide basis. Similar to the discussion above in Option 1, a potential downside of amending the Zoning Code accessory structure standards is that such standards would apply throughout the entire City and this may not be desirable, given the varying zoning designations and varying development goals. Again, while it would certainly be possible to also amend the Zoning Code standards, it is staff's opinion that another more desirable and preferred option is available to consider, if so desired.

Option 3 – Create Planned Development Standards

A third option would be to create specific set of accessory structure standards under a Planned Development (PD). Many of the approved residential PD's in Clayton also included standards for specific accessory structures that are unique and tailored to the individual PD (see attached PD Summary Standards Table). In the case of the subject property, it is part of a 5-lot subdivision (originally 4 lots) that was created under the County. All the lots have one commonly shared private driveway access off of Marsh Creek Road. In 1990, when the adjacent Oakwood Subdivision Planned Development was annexed, these lots were included in the larger Oakwood annexation and were given a PD zoning designation at that time. However, because the lots already existed the City did not require a PD Development Plan permit for them.

Because many of the City PD's include standards for accessory structures in addition to standards for primary residences, if the Planning Commission so desires, Option 3 may be the preferred option to establish PD standards that would be specific and unique to these 5 lots. This

process would generally be consistent with the intent established behind our other existing PD's and could potentially allow for the creation of accessory structure standards that take into consideration the unique features and circumstances that exist at this specific location.

Staff believes Option 3 may be the preferred option as it would allow flexibility to establish standards for accessory structures that could be unique to these 5 lots, if so desired.

Option 4 – Make No Changes to Any Existing Plans, Codes, or Standards.

Lastly, the Planning Commission may feel that it is not desirable to make any changes or amendments to the MCRSP or Zoning Code or to create specific PD standards for accessory structures.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate provide input and/or direction to staff on a possible preferred Option to consider at a follow-up meeting. Staff could then coordinate the appropriate application with the applicant (if necessary), bring back specific information or text wording, and/or bring back an accompanying resolution consistent with the identified preferred Option at a future specified Planning Commission meeting.

It should be noted that staff is not requesting the Planning Commission to take an action at this meeting; staff is only seeking input and direction from the Commission on this matter.

ATTACHMENTS

- 1 Vicinity Map
- 2 Site Plan Diagram for 8130 Marsh Creek Rd.
- 3 Photographs of Accessory Structure at 8130 Marsh Creek Rd.
- 4 Marsh Creek Road Specific Plan (excerpt page 57)
- 5 Zoning Code Section 17.36.055, Accessory Buildings and Structures
- 6 PD Summary Standards Table

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Agenda Date: 8-20-13

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: AUGUST 20, 2013

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 448
AMENDING THE CLAYTON MUNICIPAL CODE TITLE 17,
ESTABLISHING PROHIBITED USES AND ACTIVITIES, AND
SPECIFICALLY PROHIBITING MEDICAL MARIJUANA DISPENSARIES
AND CERTAIN CULTIVATION ACTIVITIES (ZOA-02-13).

RECOMMENDATION

Staff recommends that the City Council receive any public comment; have the City Clerk read the Ordinance by title and number only and waive further reading; following the City Clerks reading the City Council may adopt the Ordinance (see Attachment 1).

BACKGROUND

At its July 16, 2013, City Council meeting the attached Ordinance was introduced (see attached report). One member of the public spoke requesting clarification on the applicability of the ordinance and then the City Council approved the introduction and first reading (by title only) establishing Prohibited Uses and Activities and specifically prohibiting medical marijuana dispensaries and certain cultivation activities, as recommended by staff and the Planning Commission.

DISCUSSION

The purpose of the proposed City-initiated Ordinance to amend the Clayton Municipal Code Title 17, is to specifically prohibit medical marijuana dispensaries and certain cultivation activities to comprehensively address this issue and establish local control and regulation, as permitted by State and Federal law, and as supported by the recent California Supreme Court case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, (2013) 56 Cal.4th 729.

In addition, please see the attached communication from the Contra Costa County District Attorney, dated July 25, 2013, which further supports our decision and position to prohibit medical marijuana dispensaries.

Attachments:

1. Ordinance No. 448 – Establishing Prohibited Uses and Activities.
2. Contra Costa County District Attorney communication, dated July 25, 2013
3. July 16, 2013, City Council Staff Report (without attachments).

ORDINANCE NO. 448

**AN ORDINANCE AMENDING CLAYTON MUNICIPAL CODE
TITLE 17, ESTABLISHING PROHIBITED USES AND ACTIVITIES,
SPECIFICALLY PROHIBITING MEDICAL MARIJUANA DISPENSARIES AND
CERTAIN CULTIVATION ACTIVITIES**

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

WHEREAS, the voters of the State of California approved Proposition 215 (codified as Health & Safety Code 11362.5 and entitled the Compassionate Use Act of 1996 ("Prop. 215")); and

WHEREAS, the State enacted SB 420 (codified as Health & Safety Code 11362.7 *et seq.*) in 2003 to clarify the scope of Prop. 215; and

WHEREAS, Prop. 215 and SB 420 provide for a limited defense to state law prohibitions on marijuana use, cultivation and possession for qualified patients and their primary caregivers; and

WHEREAS, while SB 420 entitles qualified patients and their primary caregivers to collectively cultivate medical marijuana, no provision of Prop. 215 or SB 420 grants qualified patients and their primary caregivers an absolute right to medical marijuana or otherwise restricts cities' ability to prohibit medical marijuana uses, including medical marijuana dispensaries; and

WHEREAS, the sale and distribution of all marijuana remains prohibited by federal law, specifically the Controlled Substances Act (the "Act"); and

WHEREAS, the United States Supreme Court, in *Gonzales v. Raich*, 545 U.S. 1 (2005), confirmed the validity of the Act's prohibition of marijuana sale and distribution and the application of the Act in California, notwithstanding the possible medicinal uses of marijuana and the limited authorization for sale and distribution of marijuana created by California state law. The Court noted that California's system of limited decriminalization for medical marijuana is susceptible to abuse, and confirmed that California's medical marijuana laws are superseded by the Act to the extent that they conflict with the Act; and

WHEREAS, the United States Supreme Court, in *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001), concluded that there is no exemption for medical necessity from the Act's prohibition on the sale and distribution of marijuana; and

WHEREAS, the cities where medical marijuana dispensaries have been permitted to operate have experienced significant problems, including burglaries and takeover robberies of dispensaries, robberies of customers leaving dispensaries, an increase in crime (especially thefts and robberies) in the vicinity of dispensaries, illegal re-selling of marijuana obtained from dispensaries, physicians issuing apparently fraudulent recommendations for the use of marijuana, dispensary staff selling marijuana to customers with obviously counterfeit patient identification cards, street dealers attempting to sell marijuana to dispensary customers, dispensary customers

using marijuana and then driving under the influence of marijuana, the sale of illegal drugs other than marijuana in the dispensaries and sales of marijuana to minors; and

WHEREAS, after studying the regulation of medical marijuana dispensaries, considering testimony from members of the public and reviewing the legal status of medical marijuana dispensaries under applicable law, the City Council finds that adoption of a ban on the establishment and operation of medical marijuana dispensaries is necessary to protect the public health, safety, and welfare; and

WHEREAS, the City Council's ability to exercise its land use authority to prohibit medical marijuana dispensaries was recently recognized by the California Supreme Court in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, (2013) 56 Cal.4th 729; and

WHEREAS, the City Council also wishes to regulate the cultivation of medical marijuana as set forth in this Ordinance; and

WHEREAS, medical marijuana cultivation, without certain safeguards, increases the risk of criminal activity, degradation of the natural environment and malodorous smells; and

WHEREAS, as marijuana plants begin to flower, and for a period of approximately two months or more during the growing season, they produce an extremely strong odor that is offensive to many people and detectable well beyond property boundaries upon which they are grown; and

WHEREAS, the strong odor of marijuana may create an attractive nuisance, alerting individuals to the location of plants, thereby creating the risk of potential crimes such as burglary, robbery, armed robbery, assault, attempted murder, and murder; and

WHEREAS, the limited right of qualified patients and their primary caregivers under state law to cultivate marijuana for medical purposes does not confer upon them the right to create or maintain a public nuisance or otherwise exempt these persons from local land use regulations; and

WHEREAS, it is the City Council's intention that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Act, nor to otherwise permit any activity that is prohibited under that Act. It is further the City Council's intention that nothing in this Ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is illegal under state law.

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The above recitals are hereby incorporated into this Ordinance.

Section 2. Section 17.04.137 of the Clayton Municipal Code, entitled "Lot, Through" is hereby renumbered as Section 17.04.136.

Section 3. Section 17.04.138 of the Clayton Municipal Code, entitled “Manufactured Home” is hereby renumbered as Section 17.04.137.

Section 4. Section 17.04.138 of the Clayton Municipal Code is hereby added to read in full as follows:

“17.04.138 Medical Marijuana Dispensary. A facility or location where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215).”

Section 5. Section 17.36.080 of the Clayton Municipal Code is hereby added to read in full as follows:

“17.36.080 Prohibited Uses and Activities.

The following uses and activities are prohibited in all zoning districts;

- (a) Any use or activity which is prohibited by local, regional, state, or federal law;
- (b) Establishment or operation of medical marijuana dispensaries, as defined in Section 17.04.138;
- (c) Outdoor cultivation or production of medical marijuana;
- (d) Indoor cultivation or production of medical marijuana, excepting medical marijuana cultivation or production in residential zones within a detached, fully-enclosed and secure secondary structure or within a primary residential structure at a location legally inhabited by a qualified patient or primary caregiver as defined in Health and Safety Code section 11362.7; and
- (e) Other use or activities as may be determined by the Planning Commission to be of the same general character as those specifically prohibited.”

Section 6. Action to Challenge This Ordinance

Any action or proceeding to attack, review, set aside, void or annul this ordinance must be commenced and the service made on the City no later than ninety (90) days after its effective date.

Section 7. Conflicting Ordinances Repealed

Any ordinance or part thereof, or regulations in conflict with the provisions of this ordinance, are hereby repealed. The provisions of this ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this ordinance.

Section 8. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase thereof be declared unconstitutional, invalid or ineffective.

Section 9. CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that this zoning amendment to the Clayton Zoning Ordinance/Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

Section 10. Notice of Exemption

The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this ordinance.

Section 11. Effective Date and Publication

This ordinance shall become effective thirty (30) days after its adoption by the city council. Within fifteen (15) days after the passage of the ordinance, the City Clerk shall cause a copy of the ordinance, including the names of the City Council members voting for and against it, to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on the 16th day of July 2013.

PASSED, ADOPTED AND ORDERED posted at a regular meeting of the City Council of the City of Clayton on the 20th day of August 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, California

Julie K. Pierce, Mayor

ATTEST:

Laci J. Jackson, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO ADMINISTRATION:

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on the 16th day of July 2013, and was duly adopted and ordered posted at a regular meeting of the City Council held on the 20th day of August 2013.

Laci J. Jackson, City Clerk



OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Received

AUG 08 2013

City of Clayton

Mark A. Peterson

DISTRICT ATTORNEY

July 25, 2013

To: City of Richmond Councilmembers

From: District Attorney Mark Peterson

Re: Marijuana Dispensaries

Dear Councilmembers:

I am aware that your city is grappling with the issue of marijuana dispensaries that are interested in operating in your jurisdiction. Several cities in the county have enacted moratoriums prohibiting their operation. You have chosen to enact city ordinances to regulate such dispensaries.

I have attached two letters to this communication. The first is a letter from Alameda County District Attorney Nancy O'Malley to Oakland Mayor Jean Quan regarding a proposed city of Oakland ordinance regulating marijuana dispensaries. The reason I have attached the letter is that I agree completely with District Attorney Nancy O'Malley's analysis of the issue. Therefore, I will be quoting extensively from her letter. Similar to her office, the Contra Costa District Attorney's Office has taken a very reasonable approach to enforcement of the marijuana laws in light of the Compassionate Use Act.

Like Alameda County, the Contra Costa County District Attorney's Office does not issue advisory opinions on city ordinances, in most circumstances. You have a City Attorney for that purpose, who provides you legal advice about your ordinances. However, as the chief law enforcement official in Contra Costa County charged with enforcing state laws regarding criminal activity, I feel compelled to share my own analysis with you regarding these marijuana dispensaries as they are currently operating, or propose to operate, in our county.

First, there are in fact storefronts, or dispensaries which are engaged in the sale of marijuana in your city. These dispensaries are authorized to operate in your city under permits and regulations, enacted by your city council. Whether characterized as a dispensary or a collective, the activity is the same, **the sale and distribution of marijuana.**

Through communications with representatives from the San Francisco branch of the United States Attorney's Office, Northern District of California, this office has confirmed that both the US Attorney General and the Department of Justice view the operation of marijuana dispensaries as a violation of federal law regardless of state law to the contrary. The US Department of Justice has repeatedly and publicly asserted that Congress, having determined that marijuana is a Schedule I controlled Substance in the Controlled Substances Act (CSA), has declared the **distribution of marijuana**, (other than as part of a federally authorized research program) a criminal offense irrespective of state law or local ordinances permitting such activity.

Furthermore, the U.S. Department of Justice affirmatively disapproves of proposals that are contrary to federal law such as licensing and permit schemes authorizing the cultivation and/or distribution of marijuana. Potential civil and criminal actions can be initiated against not only licensees, property owners, landlords and financiers who engage and/or aid the cultivation and distribution of marijuana, **but also against those who facilitate the actions of the above individuals, to wit: individuals who under the color of authority issue the licenses and allow the issuance of license that permit the violation of federal law.** (Attached is a letter from United States Attorney Melinda Haag, Northern District of California, setting forth the position of the federal government.)

Moreover, legal research of state law regarding attempts to license marijuana dispensaries similar to the licensing procedures that are currently being utilized in your city, confirms that not only are such schemes impermissible under federal law (as set forth by the U.S. Department of Justice), but have been subjected to criticism from the California Appellate Court as well.

In *Pack v. Superior Court*, (2011) 199 Cal.App. 4th 1070, the City of Long Beach enacted ordinances to "comprehensively regulate marijuana collectives." The ordinances were the exclusive means by which collectives were permitted to operate in the city. Among other things, the ordinances limited the number of collectives allowed to operate in the city and provided for the City of Long Beach to financially benefit through the establishment of authorized "collectives," i.e. dispensaries. Applicants were required to submit a non-refundable application fee of \$14,742 and participate in a lottery for a permit. To be eligible, the collective would have to commit to installing sound insulation, odor-absorbing ventilation, close circuit television monitoring and a centrally monitored fire and burglary alarm system. Prior to distribution, the collectives would also be required to submit samples of their medical marijuana to an independent laboratory to ensure the product is free of pesticide and other contaminants. Once a permit was issued, an annual fee starting at \$10,000 would be imposed with increases for collectives having more than 500 members.

The City of Long Beach ordinance is very similar to your ordinance and the same criticism outlined by the *Pack* court is equally applicable. The *Pack* court concluded that the City of Long

Beach ordinance regulating marijuana collectives, rather than decriminalizing specific acts, actually authorized the cultivation and distribution of marijuana, and therefore was **preempted by the federal law**. Among the *Pack* court's concerns were the required laboratory analysis of the medical marijuana and the charging of substantial application and renewal fees. The requirement to have an independent analysis of the marijuana would necessitate a transfer of marijuana and thus violate the federal prohibition against distributing marijuana. Additionally, requiring collectives to pay considerable fees created a situation for the city to gain financially by authorizing the operation of collectives. The issuance of permits, the Court reasoned, was nothing less than a **government authorization to cultivate marijuana** and thus a violation of federal statutes.

The strong similarity of the Long Beach marijuana licensing ordinance with your ordinance is inescapable. Consequently, the analysis in *Pack* is equally applicable to your local ordinance that attempts to regulate marijuana distribution. Such ordinances do not merely decriminalize the distribution of medical marijuana in certain circumstances, but in reality **authorize the illegal cultivation and sales of the drug**. The *Pack* case was recently dismissed by the California Supreme Court after the City of Long Beach rescinded the ordinance and enacted a moratorium on dispensaries. The issue regarding city approved regulation of dispensaries had been rendered moot in that city.

Although the *Pack* decision is no longer binding legal authority, the reasoning is sound and should be followed. If only sizeable fees paid to a city government can help secure the viability of a marijuana store, the result would be that the more marijuana dispensaries or collectives approved and in operation within a city, the more the city can profit financially from granting licenses. Inherent in such a system is the fiscal motivation for cities and other local municipalities to defy federal law.

Another California State Appellate Court decision that requires consideration is *City of Lake Forest v Evergreen Holistic Collective* (2012) 203 CalApp.4th 1413. The *Lake Forest* court found that a city could not ban a marijuana dispensary outright if it is located *at the site* where its members collectively and cooperatively cultivate marijuana. Highlighted in the decision was the court's affirmation that neither the Compassionate Use Act (Proposition 215, codified in §11362.5 of the Health and Safety Code) nor the Medical Marijuana Program Act (Health and Safety Code §11362.7, et. seq.) authorize dispensaries to operate independently of a cultivation site.

The information available to this office suggests that marijuana is not being cultivated at the physical sites of the collectives/dispensaries currently operating in Contra Costa County. Sales of cannabis at these locations are out of compliance with the reasoning and decision outlined in the *Lake Forest* opinion. To be forthright, the California Supreme Court just recently granted

review of the *Lake Forest* case and the case cannot be currently cited as legally binding authority. We will not know what specific points the State Supreme Court found necessary to address when granting review in *Lake Forest* until the decision is announced. Nevertheless, it's highly likely that other districts of the Court of Appeal will reach similar conclusions on cases presenting the same or similar related facts. It also does not preclude this office from voicing the opinion that the reasoning of that aspect of the *Lake Forest* decision is correct and logically sound.

The Compassionate Use Act (CUA), Health and Safety Code Section 11362.5, and the Medical Marijuana Program Act (MMPA), define a "primary caregiver" as the individual designated by a qualified patient who has *consistently assumed responsibility for the housing, health, or safety of that person*. A primary caregiver fitting the description would not be subject to criminal sanctions for cultivating for and providing marijuana to a qualified patient. The California Supreme Court in *People v. Menich*, (2008) 45 Cal. 4th 274 found that **operators of medical marijuana stores did not qualify as primary caregivers**, for providing marijuana to qualified patients, even when so designated by the patient, unless an established relationship as set forth in the above definition existed between them **before** marijuana was first distributed.

The MMPA provided that qualified patients and their primary caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes, shall not solely on that basis be subject to criminal sanctions. The Attorney General of California in crafting Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, suggests that a collective/cooperative means an entity or business, and contemplated formal organizations that operate according to a business model.

The Contra Costa District Attorney's Office does not subscribe to the definitions of collective/cooperative found in the Attorney General guidelines. The MMPA seems to envision a group of persons uniting to cultivate medical marijuana for their communal benefit or that of patients for which they are primary caregivers who fit the above definition. The MMPA does not suggest that a marijuana store can call itself a collective and then distribute marijuana to persons who merely make a "donation" to it so they can make a purchase. Doing so would allow an entrepreneur to avoid the legal requirements to qualify as a primary caregiver by simply calling his business a collective. The net result would be a distribution of marijuana without any relationship between the patient and the distribution other than the transaction itself.

The Contra Costa County District Attorney's Office would also like to make the point that enactment of a city ordinance does **not** provide a defense over and above that provided by the Compassionate Use Act or the Medical Marijuana Program to any criminal charge. In other words, *notwithstanding* pronouncements by city officials or the enactment of the Ordinances, the prosecuting agency in Contra Costa County is not providing any assurances that activities

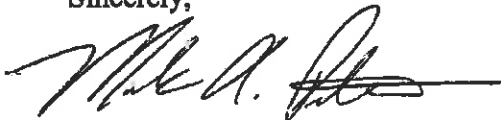
authorized by the Ordinances but not authorized under state law or federal law, are permissible. Persons should not rely solely upon them as providing any legal or equitable defense to a criminal prosecution. Nor should persons rely on pronouncements of city officials or the ordinances as an accurate **interpretation** of the state laws regarding marijuana cultivation, possession, sale, etc., and/or the defenses available to those charges.

Further, these marijuana dispensaries appear to be operating as "for profit" businesses, once again in violation of the Compassionate Use Act. The law is quite specific in what can and cannot be the basis of exchange of money from the primary caregiver and the patient as it pertains to marijuana. Businesses, such as dispensaries, which are violating statutes such as the Compassionate Use Act, are engaging in unfair business practices in violation of section 17200 of the Business and Professions Code. Such violations could subject the business, the owners, and the operators, to civil and criminal penalties.

Additionally, as District Attorney O'Malley pointed out, "It also remains an open question whether public officers or public employees who aid and abet or conspire to violate state or federal laws in furtherance of a city ordinance, are exempt from criminal liability." The Contra Costa District Attorney's Office will uphold and enforce the laws of this State. As is the policy of this Office, alleged violations of the law will be reviewed on a case-by-case basis.

In summary, federal law enforcement officials have indicated that these marijuana dispensaries are unlawful under federal law; state courts have ruled them illegal; and according to the standards set forth in the Compassionate Use Act, the marijuana dispensaries as currently operating in this county, or proposed, appear to be operating illegally. Thank you for your attention to this matter. If you would like to discuss this matter further, please don't hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Peterson', with a long horizontal flourish extending to the right.

Mark A. Peterson
District Attorney

**Office of the District Attorney
Alameda County
Nancy E. O'Malley, District Attorney**



**Rene C. Davidson Courthouse
1225 Fallon Street, Suite 900
Oakland, CA 94612**

December 8, 2010

Mayor-Elect Jean Quan
Oakland City Hall
Frank Ogawa Plaza
Oakland, CA 94607

Dear Mayor-Elect Quan:

Congratulations on your election. I hope this letter finds you well. I look forward to joining together in our work towards a safe, healthy and thriving Oakland in the New Year.

I am writing to you regarding Oakland's Ordinance amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses And Regulations, to add Chapter 5.81, pertaining to Medical Cannabis Cultivation Facility Permitting and amending the master fee schedule (Ordinance No. 9336, as Amended) to establish regulatory fees regarding this activity. The Alameda County District Attorney's Office has a long-standing policy of declining to issue advisory opinions as to the legality of any particular conduct. To that end, this letter is not, nor should it be interpreted, as an advisory opinion on the legality of the Ordinance, or any part contained therein.

I make the point that this Office has always taken a very reasonable approach to enforcement of the marijuana laws in light of the Compassionate Use Act and the Medical Marijuana Program. As a cancer survivor myself, I certainly understand the benefits for those in need of the medicinal use of marijuana in various forms. This reasonable policy and approach should not be taken as an endorsement of the Ordinance, or as a declaration that those engaging in conduct outside the parameters of the law as it pertains to marijuana will be ignored.

Earlier this year, my Staff was in discussion with Council staff regarding legal concerns the DA's Office had with the Ordinance, if it passed. At that time, we were told that with respect to the Ordinance, Council would wait until the outcome of Proposition 19. Obviously, Prop 19 failed to pass. It is my understanding that Council is now moving forward with your Ordinance. This letter is being written to alert you to legal concerns still held by the Alameda County District Attorney's Office regarding the Ordinance, particularly in light of recent case law opinions regarding the Compassionate Use Act (CUA) and the Medical Marijuana Program Act (MMP).

The CUA and MMP define "primary caregiver" as the individual designated by the person exempted under this section who has *consistently assumed responsibility for the housing, health, or safety of that person* (emphasis is mine). The definition becomes

very significant in terms of who is allowed by California law to cultivate and provide marijuana to others. I would point out that most recently, the California Court of Appeals, in *People v. Hochanadel* (2010) 176 Cal.App.4th 997, relying on the California Supreme Court case of *People v. Mentch* (2008) 45 Cal.4th 274, found that operators of storefront medical marijuana dispensary were not "primary caregivers" exempted from liability for certain narcotics offenses under Compassionate Use Act and Medical Marijuana Program Act, despite them being designated as such by medical marijuana patients who purchased medical marijuana from them. The Court found that where there was no evidence of an existing, established relationship providing for housing, health or safety independent of the administration of medical marijuana, the dispensary operators did not qualify as "caregivers" under the legal definition set forth in the law. The MMP set limits on the number of plants that could be possessed or cultivated. The same section of the code, but a different subsection, authorizes possession and/or cultivation in amounts for reasonable use for the patient. In striking down the "limits" language as it pertains to medicinal use or cultivation for medicinal use, the Supreme Court did not extend its ruling to H&S Sections 11359 and 11360 (possession for sale and sale of marijuana) outside the CUA and MMP. See *People v. Kelly*, (2010) 24 Cal.4th 1008.

The Alameda County District Attorney's office makes the point that enactment of this Ordinance does not provide a defense over and above the defense provided by the Compassionate Use Act (Health and Safety Code section 11362.5 aka Prop 215) or the Medical Marijuana Program (Health and Safety Code sections 11362.7 et seq.) to any criminal charge. In other words, *notwithstanding* pronouncements by city officials or the enactment of the Ordinance, the prosecuting agency in Alameda County is not providing any assurances that activities authorized by the Ordinance, but not authorized under state law or federal law, are permissible. Persons should not rely solely upon pronouncements by city officials or enactment of the Ordinance as providing any legal or equitable defense to a criminal prosecution. Nor should persons rely on pronouncements of city officials or the Ordinance as an accurate *interpretation* of the state laws regarding marijuana cultivation, possession, sale, etc., and/or the defenses available to those charges.

In California, as you know, cultivation of marijuana for medicinal or compassionate use must be 'not-for-profit'. The law is quite specific in what can and cannot be the basis of exchange of money from the primary caregiver and the patient as it pertains to marijuana. Potential difficulties might arise in assessing the appropriate amount of taxes that can be imposed on transactions undertaken by these large-scale marijuana growing operations. This concern is not only with potential difficulties in cases of tax evasion, but also persons relying on the Ordinance may be placed at risk of prosecution for tax evasion due to the lack of clear guidelines in assessing when and how much tax need be paid.

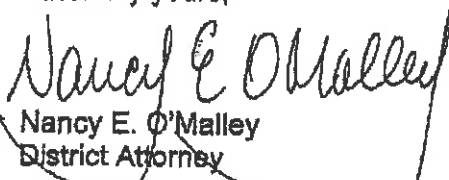
One important caveat is that notwithstanding the language of Section 5.81.100, it remains an open question whether public officers or public employees who aid and abet or conspire to violate state or federal laws in furtherance of a city ordinance, are

exempt from criminal liability.

The District Attorney's Office will uphold and enforce the laws of this State. As is the policy in this Office, alleged violations of the law will be reviewed on a case-by-case basis.

Thank you for your attention to these issues. I am not providing to you an advisory opinion on the legality of your Ordinance, that is the purview of your City Attorney. However, if you would like to discuss this further, please don't hesitate to contact me.

Sincerely yours,


Nancy E. O'Malley
District Attorney

Cc: City Attorney John Russo



U.S. Department of Justice

*United States Attorney
Northern District of California*

*Meiinda Haug
United States Attorney*

*11th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495*

*(415) 436-7200
FAX: (415) 436-7234*

February 1, 2011

John A. Russo, Esq.
Oakland City Attorney
1 Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

Dear Mr. Russo:

I write in response to your letter dated January 14, 2011 seeking guidance from the Attorney General regarding the City of Oakland Medical Cannabis Cultivation Ordinance. The U.S. Department of Justice is familiar with the City's solicitation of applications for permits to operate "industrial cannabis cultivation and manufacturing facilities" pursuant to Oakland Ordinance No. 13033 (Oakland Ordinance). I have consulted with the Attorney General and the Deputy Attorney General about the Oakland Ordinance. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such facilities.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we will enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21 Section 841 making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21 Section 856 making it

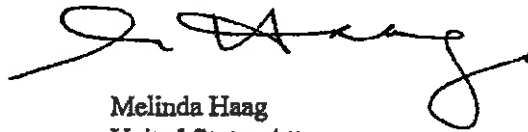
John A. Russo
February 1, 2011
Page 2

unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21 Section 846 making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the Oakland Ordinance's creation of a licensing scheme that permits large-scale industrial marijuana cultivation and manufacturing as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies regarding those who seek to set up industrial marijuana growing warehouses in Oakland pursuant to licenses issued by the City of Oakland. Individuals who elect to operate "industrial cannabis cultivation and manufacturing facilities" will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. Potential actions the Department is considering include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the City of Oakland and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Melinda Haag', with a stylized, flowing script.

Melinda Haag
United States Attorney
Northern District of California

cc: Kamala D. Harris, Attorney General of the State of California
Nancy E. O'Malley, Alameda County District Attorney



Agenda Date: 7-13-14

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR *CM*

DATE: JULY 16, 2013

SUBJECT: PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE CLAYTON MUNICIPAL CODE TITLE 17, ESTABLISHING PROHIBITED USES AND ACTIVITIES, AND SPECIFICALLY PROHIBITING MEDICAL MARIJUANA DISPENSARIES AND CERTAIN CULTIVATION ACTIVITIES (ZOA-02-13).

RECOMMENDATION

Staff recommends the City Council conduct a public hearing, receive and consider the staff report and any public comment; have the City Clerk read the Ordinance (see Attachment 1) by title and number only and waive further reading; and following the City Clerk's reading, the City Council approve the introduction and first reading of the Ordinance.

BACKGROUND

The discussion of prohibiting medical marijuana dispensaries was previously considered by the City in 2005, through the Introduction and First Reading of Ordinance No. 387 to similarly prohibit such dispensaries. However, the City deferred actual adoption of the Ordinance at that time due to the uncertainty of and risks associated with pending court cases and legal challenges. Since that time, a number of significant court cases have concluded and the federal government has more publicly clarified its enforcement position on medical marijuana.

On May 7, 2013 the City Council received an informational report from the City Attorney on a municipality's enhanced ability to exercise its land use authority to prohibit medical marijuana dispensaries pursuant to the recent California Supreme Court case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, (2013) 56 Cal.4th 729. At that public meeting the Council subsequently instructed staff to prepare a local ordinance on the matter.

Planning Commission Action

On June 25, 2013, the Planning Commission conducted a public hearing and after considering the proposed Prohibited Uses and Activities Ordinance, adopted Resolution No. 03-13 recommending City Council approval of an Ordinance, amending the Clayton Municipal Code Title 17, establishing Prohibited Uses and Activities and specifically prohibiting medical marijuana dispensaries and certain cultivation activities. One member of the public, Mr. John Roskelley, spoke in general favor of the Ordinance, but suggested consideration be given to allow outdoor medical marijuana cultivation at the homes of qualified patients.

The City Council is referred to the attached June 25, 2013, Planning Commission staff report for a thorough and detailed history and discussion of medical marijuana, including but not limited to federal law, state law, community crime and community impacts, medical benefits or impacts, marijuana impacts on children/teenagers, organizations supporting marijuana use, and organizations opposing marijuana use.

DISCUSSION

The purpose of the proposed City-initiated Ordinance to amend the Clayton Municipal Code Title 17, is to specifically prohibit medical marijuana dispensaries and certain cultivation activities to comprehensively address this issue and establish local control and regulation, as permitted by State and Federal law, and as supported by the recent California Supreme Court case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, (2013) 56 Cal.4th 729.

Proposed Ordinance Prohibiting Uses And Activities

The City Attorney has prepared the attached Ordinance amending the Clayton Municipal Code Title 17, establishing Prohibited Uses and Activities and specifically relating to prohibiting medical marijuana dispensaries and certain cultivation activities.

The proposed Ordinance includes a new definition for "Medical Marijuana Dispensary" to be added as Section 17.04.138, and a new Section 17.36.080 "Prohibited Uses and Activities" to be added to the Clayton Municipal Code. The following are the new sections in their entirety:

"17.04.138 Medical Marijuana Dispensary. A facility or location where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215); and

"17.36.080 Prohibited Uses and Activities.

The following uses and activities are prohibited in all zoning districts;

(a) Any use or activity which is prohibited by local, regional, State, or Federal law;

(b) Establishment or operation of medical marijuana dispensaries, as defined in Section 17.04.138;

- (c) Outdoor cultivation or production of medical marijuana;
- (d) Indoor cultivation or production of medical marijuana, excepting medical marijuana cultivation or production in residential zones within a detached, fully-enclosed, and secure secondary structure, or within a primary residential structure at a location legally inhabited by a qualified patient or primary caregiver as defined in Health and Safety Code section 11362.7; and
- (e) Other use or activities as may be determined by the Planning Commission to be of the same general character as those specifically prohibited.”

The above proposed Ordinance language does not prohibit personal medical marijuana use or indoor cultivation of medical marijuana by a qualified patient or primary caregiver in residential zones within a detached, fully-enclosed and secure secondary structure or within a primary residential structure at a location legally inhabited by a qualified patient or primary caregiver (as defined in Health and Safety Code section 11362.7).

It is the opinion of staff and the City Attorney the proposed Ordinance language is legally defensible and does not impinge on the personal individual rights of a qualified patient to use medical marijuana as envisioned under the Compassionate Use Act (Proposition 215). Further, after evaluation of the information accumulated on the controversial subject and in consideration of the recent California Supreme Court ruling upholding local authority to regulate or prohibit medical marijuana dispensaries and cultivation, it is staff's professional recommendation the proposed Ordinance should be approved for implementation in the City of Clayton.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that this zoning amendment to the Clayton Zoning Ordinance/Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

FISCAL IMPACT

Negligible. Some staff time as well as printing cost have and will be associated with this Ordinance.

Attachments:

1. Ordinance No. 448 – Establishing Prohibited Use and Activities.
2. Planning Commission Resolution No. 03-13.
3. June 25, 2013, Planning Commission Staff Report (without attachments).
4. Clayton Chief of Police memo, dated May 23, 2013.



Agenda Date: 8-20-13

Agenda Item: 9b(1)

STAFF REPORT

Approved:	
Gary A. Napper City Manager	

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: August 20, 2013

SUBJECT: Designation of Voting Representative and Alternate for League of California Cities 2013 Annual Conference being held September 18 thru 20, in Sacramento.

RECOMMENDATION

If budgetary action allows, it is recommended the City Council consider designating one of its members as the Voting Delegate and one member as the Alternate to represent the City of Clayton during the 2013 League of California Cities Annual Business Meeting.

BACKGROUND

The League of California Cities' "Annual Conference" is scheduled for Wednesday, September 18 through Friday, September 20 in Sacramento. A Business Meeting will take place on Friday, September 20, 2013 at noon. Councilmember Shuey is the City Council's delegate to the East Bay Division of the League of California Cities (Councilmember Geller is the alternate). Mayor Pierce serves on the League's Transportation, Communications and Public Works Policy Committee.

League bylaws provide that each City is entitled to one vote in matters affecting municipal or League policy. Per the attached Annual Conference Voting Procedures, a City official must have in possession the City's Voting Card and be registered with the Credentials Committee to cast that City's vote. A voting card will be issued to the City officials designated by the City Council on the attached Voting Delegate Form.

Conference registration is required for voting delegates.

FISCAL IMPACT

During the last 5 fiscal years the vast majority of conference and training budget for the City Council was eliminated except for League Division and Mayors' Conference attendance. If the Council wishes to send a delegate, funds will need to be allocated. The cost of conference registration is \$525 for the full event plus transportation.



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Annual Conference Voting Procedures 2013 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2013 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, August 23, 2013. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail: _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, August 23, 2013

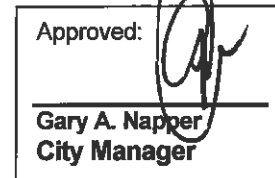
League of California Cities
ATTN: Mary McCullough
1400 K Street
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: mmccullough@cacities.org
(916) 658-8247



Agenda Date: 8-20-13

Agenda Item: 9b(2)



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 20 AUGUST 2013

**SUBJECT: CONSIDERATION OF PROPOSED GENERAL BUSINESS RESOLUTIONS
2013 ANNUAL CONFERENCE, LEAGUE OF CA CITIES**

RECOMMENDATION

It is recommended the City Council consider and provide direction to its Voting Delegate as to the Clayton City Council's position on the two (2) general business resolutions submitted for action at the General Assembly during the upcoming 2013 Annual Conference of the League of CA Cities in Sacramento, CA (September 18th – 20th).

BACKGROUND

Each year the membership of the League of CA Cities assembles in an annual conference to consider matters of municipal and local concern within the state of California. Issues are discussed and debated in various forums and workshop sessions, general meetings, and departmental meetings of elected and appointed city officials. Delegates at the Conference receive and share a wide variety of information and news about the latest technologies and program services available to cities. They also examine state legislation and laws/practices employed by other cities to enhance the effectiveness of their public agencies to improve the quality of life for citizens and businesses.

The League's Annual Conference culminates at an Annual Business Meeting wherein matters of legislative and policy concerns are voted on to direct the course of work and affairs in the ensuing year for the League of CA Cities. Each city in California with a registered delegate in attendance at the Conference gets one (1) vote to cast in behalf of its city on each general resolution submitted before the General Assembly.

Council Member Pierce was appointed to and serves on the League's Transportation, Communication and Public Works Policy Committee (9 years), which would normally meet during the Conference to consider general resolutions or discuss other matters as assigned. However, the substance of the submitted two (2) general resolutions do not involve the scope of her Policy Committee so at this time that Policy Committee is not scheduled to

meet (ref. Page 4). Should a valid Petition Resolution surface at the Conference itself, the Petition Resolution is funneled directly to the General Resolutions Committee.

The Annual Conference registration fee of \$525 has not been paid, a financial pre-requisite in order for a city's delegate to vote. A one-day registration fee is also available for a city delegate at \$250, should the City Council decide to send a delegate to the Business Session to cast the City's vote on the general resolutions on Friday, September 20th. Due to the proximity of this year's Annual Conference being held in nearby Sacramento within commute distance, no prior arrangements have been made by staff for lodging reservations.

PROPOSED GENERAL RESOLUTIONS

The General Assembly will meet in its Annual Business Meeting in Sacramento on Friday, September 20th (noon) to consider the filed general resolutions. "Petition Resolutions" may also surface at the Conference itself by delegates over the three (3) day conference, and the authorized city delegate must critique such general resolutions while in attendance at the Business Session to cast a vote in our City's best interest. At this time, two (2) general resolutions have been tendered in advance for General Assembly action.

The two (2) General Resolutions submitted for consideration are:

A. ENVIRONMENTAL QUALITY POLICIES (1 Resolution)

1). *Resolution calling upon the Governor and the Legislature to work with the League of CA Cities in providing adequate funding and to prioritize water bonds to assist local governments in water conservation, ground water recharge and reuse of stormwater and urban runoff programs.*

Submitted by the Los Angeles Division of the League plus five (5) or more cities, the proponents lament the well-known aggravation of all municipalities with the state regulatory unfunded mandates arising from the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit and associated stormwater infrastructure expenses (e.g. drainage inlet "diapers"). Lacking revenue sources to address the increasing costs, the proponents seek provisions in upcoming state water bonds to dedicate source of funds to meet the unfunded mandates.

The Resolution calls for the Governor and State Legislature to work with the League and other stakeholders to provide adequate funds in the water bond issue for water conservation, ground water recharge and reuse of stormwaters.

Staff recommendation: Support the Resolution.

Staff concurs with the intent and objective for local governments to secure a new dedicated source of funds to manage the stormwater programs and infrastructures arising from the unfunded mandates foisted by the Regional Water Quality Control Boards (state regulatory bodies).

B. PUBLIC SAFETY POLICIES (1 Resolution)

2). *Resolution calling upon the Governor and Legislature to enter into discussions with the League and California Police Chiefs' Association representatives to identify and enact strategies that will ensure the success of Public Safety Realignment from a local municipal law enforcement perspective.*

Originating from the League's Public Safety Policy Committee and the concurrent support of at least five (5) cities or city officials, this Resolution identifies a host of implementation and funding problems arising from the Governor's budgetary act (October 2011; AB 109 & AB 117) to push certain public safety tasks from state prisons to local governments. The state's objective was to address pressing judicial orders to alleviate state prison overcrowding and to reduce state expenditures. Despite the Governor's statement the realignment would be fully funded with constitutionally-protected source of funds, insufficient monies and inadequate liability protections to local agencies have resulted, including the disconcerting release of prison inmates back into local communities.

The Resolution calls for the Governor and State Legislature to immediately enter into discussions with League representatives and the California Police Chiefs' Association to address eight (8) issues enumerated in the Resolution to adequately fund and address the real-world consequences of the Public Safety Realignment Act of the state.

Staff recommendation: Support the Resolution.

FISCAL IMPACT

There is no direct impact to the City of Clayton, its operations or financial condition, relative to the recommended voting position on the General Resolutions being proposed for the 2013 Annual Conference of the League of CA Cities. There are indeed negative fiscal and public safety impacts to our community and the City Budget associated with each of the topics raised in the Resolutions.

Attendance of our City delegate at the Annual Conference would necessitate some expense of unbudgeted City funds for a registration fee plus commute expenses.



Received

JUL 29 2013

City of Clayton

*Annual Conference
Resolutions Packet*

115th Annual Conference



*Sacramento
September 18 - 20, 2013*

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees.

POLICY COMMITTEES: Two policy committees will meet at the Annual Conference to consider and take action on resolutions referred to them. The committees are Environmental Quality and Public Safety. These committees will meet on Wednesday, September 18, 2013, at the Sheraton Grand Hotel in Sacramento. The sponsors of the resolutions have been notified of the time and location of the meetings.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 19, at the Sacramento Convention Center, to consider the reports of the two policy committees regarding the two resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:00 p.m. on Friday, September 20, at the Hyatt Regency Hotel.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (47 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Session of the General Assembly. This year, that deadline is 12:00 p.m., Thursday, September 19. If the petitioned resolution is substantially similar in substance to a resolution already under consideration, the petitioned resolution may be disqualified by the General Resolutions Committee.

Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

LOCATION OF MEETINGS

Policy Committee Meetings

Wednesday, September 18, 2013
Sheraton Grand Hotel
1230 J Street, Sacramento

Public Safety: 9:00 a.m. – 10:30 a.m.
Environmental Quality: 10:30 a.m. – 12:00 p.m.

General Resolutions Committee

Thursday, September 19, 2013, 1:00 p.m.
Sacramento Convention Center
1400 J Street, Sacramento

Annual Business Meeting and General Assembly Luncheon

Friday, September 20, 2013, 12:00 p.m.
Hyatt Regency Hotel
1209 L Street, Sacramento

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

ENVIRONMENTAL QUALITY POLICY COMMITTEE

		1	2	3
1	Water Bond Funds			

PUBLIC SAFETY POLICY COMMITTEE

		1	2	3
2	Public Safety Realignment			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: www.cacities.org. The entire Resolutions Packet will be posted at: www.cacities.org/resolutions.

KEY TO ACTIONS TAKEN ON RESOLUTIONS (*Continued*)

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

KEY TO ACTIONS TAKEN

- A - Approve
- D - Disapprove
- N - No Action
- R - Refer to appropriate policy committee for study
- a - Amend
- Aa - Approve as amended
- Aaa - Approve with additional amendment(s)
- Ra - Amend and refer as amended to appropriate policy committee for study
- Raa - Additional amendments and refer
- Da - Amend (for clarity or brevity) and Disapprove
- Na - Amend (for clarity or brevity) and take No Action
- W - Withdrawn by Sponsor

Action Footnotes

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

Procedural Note: Resolutions that are approved by the General Resolutions Committee, as well as all qualified petitioned resolutions, are reported to the floor of the General Assembly. In addition, League policy provides the following procedure for resolutions approved by League policy committees but *not* approved by the General Resolutions Committee:

Resolutions initially recommended for approval and adoption by all the League policy committees to which the resolution is assigned, but subsequently recommended for disapproval, referral or no action by the General Resolutions Committee, shall then be placed on a consent agenda for consideration by the General Assembly. The consent agenda shall include a brief description of the basis for the recommendations by both the policy committee(s) and General Resolutions Committee, as well as the recommended action by each. Any voting delegate may make a motion to pull a resolution from the consent agenda in order to request the opportunity to fully debate the resolution. If, upon a majority vote of the General Assembly, the request for debate is approved, the General Assembly shall have the opportunity to debate and subsequently vote on the resolution.

2013 ANNUAL CONFERENCE RESOLUTIONS

RESOLUTION REFERRED TO ENVIRONMENTAL QUALITY POLICY COMMITTEE

1. **RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO WORK WITH THE LEAGUE OF CALIFORNIA CITIES IN PROVIDING ADEQUATE FUNDING AND TO PRIORITIZE WATER BONDS TO ASSIST LOCAL GOVERNMENT IN WATER CONSERVATION, GROUND WATER RECHARGE AND REUSE OF STORMWATER AND URBAN RUNOFF PROGRAMS.**

Source: Los Angeles County Division

Concurrence of five or more cities/city officials: Cities of Alhambra; Cerritos; Claremont; Glendora; Lakewood; La Mirada; La Verne; Norwalk; Signal Hill; Mary Ann Lutz, Mayor, city of Monrovia.

Referred to: Environmental Quality Policy Committee

Recommendations to General Resolutions Committee: Approve

WHEREAS, local governments play a critical role in providing water conservation, ground water recharge and reuse of stormwater infrastructure, including capture and reuse of stormwater for their citizens, businesses and institutions; and

WHEREAS, local governments support the goals of the Clean Water Act to ensure safe, clean water supply for all and the U.S. Environmental Protection Agency has encouraged local governments to implement programs to capture, infiltrate and treat stormwater and urban runoff with the use of low impact development ordinances, green street policies and programs to increase the local ground water supply through stormwater capture and infiltration programs; and

WHEREAS, local governments also support the State's water quality objectives, specifically Section 13241 of the Porter-Cologne Water Quality Control Act, on the need to maximize the use of reclaimed and water reuse and the Regional Water Quality Control Boards and the State Water Resources Board encourage rainwater capture efforts; and

WHEREAS, the State's actions working through the water boards, supported by substantial Federal, State and local investments, have led to a dramatic decrease in water pollution from wastewater treatment plants and other so-called "point sources" since 1972. However, the current threats to the State's water quality are far more difficult to solve, even as the demand for clean water increases from a growing population and an economically important agricultural industry; and

WHEREAS, the State's Little Hoover Commission found in 2009 that more than 30,000 stormwater discharges are subject to permits regulating large and small cities, counties, construction sites and industry. The Commission found that a diverse group of water users – the military, small and large businesses, home builders and local governments and more – face enormous costs as they try to control and limit stormwater pollution. The Commission concluded that the costs of stormwater clean up are enormous and that the costs of stormwater pollution are greater, as beach closures impact the State's economy and environmental damage threatens to impair wildlife; and

WHEREAS, at the same time that new programs and projects to improve water quality are currently being required by the U.S. EPA and the State under the National Pollution Discharge Elimination System (NPDES) permits and the Total Daily Maximum Load (TMDL) programs, many local governments find that they lack the basic infrastructure to capture, infiltrate and reuse stormwater and cities are facing difficult economic challenges while Federal and State financial assistance has been reduced due to the impacts of the recession and slow economic recovery; and

WHEREAS, cities have seen their costs with the new NPDES permit requirements double and triple in size in the past year, with additional costs anticipated in future years. Additionally, many local businesses have grown increasingly concerned about the costs of retrofitting their properties to meet stormwater and runoff requirements required under the NPDES permits and TMDL programs; and

WHEREAS, the League of California Cities adopted water polices in March of 2012, recognizing that the development and operation of water supply, flood control and storm water management, among other water functions, is frequently beyond the capacity of local areas to finance and the League found that since most facilities have widespread benefits, it has become the tradition for Federal, State and local governments to share their costs (XIV, Financial Considerations); and the League supports legislation providing funding for stormwater and other water programs; and

WHEREAS, the Governor and the Legislature are currently contemplating projects for a water bond and a portion of the bond could be directed to assist local government in funding and implementing the goals of the Clean Water Act and the State's water objectives of conserving and reusing stormwater in order to improve the supply and reliability of water supply; and now therefore let it be

RESOLVED by the General Assembly of the League of California Cities, assembled in Sacramento on September 20, 2013, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate funding for water conservation, ground water recharge and capture and reuse of stormwater and runoff in the water bond issue and to prioritize future water bonds to assist local governments in funding these programs. The League will work with its member cities to educate federal and state officials to the challenges facing local governments in providing for programs to capture, infiltrate and reuse stormwater and urban runoff.

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Background Information on Resolution No. 1

Source: Los Angeles County Division

Background:

In order to meet the goals of both the Federal Clean Water Act and the State's Porter-Cologne Water Quality Control Act, which seek to ensure safe clean water supplies, cities provide critical water conservation, ground water recharge and reuse of stormwater infrastructure, including capture and reuse of stormwater for their citizens, businesses and institutions.

Working with the State's Regional Water Quality Control Boards and the State Water Resources Board through the National Pollution Discharge Elimination System (NPDES) permitting process and Total Maximum Daily Load (TMDL) Programs, California's cities implement programs to capture, infiltrate and treat stormwater and urban runoff with the use of low impact development ordinances, green streets policies and other programs to increase the local ground water supply.

These actions have led to a dramatic decrease in water pollution from wastewater treatment plants and other so-called "point sources" since the adoption of the Clean Water Act in 1972. However, current threats to the State's "non-point sources" of pollution, such as stormwater and urban runoff are far more difficult to solve, even as the demand for clean water increases from a growing population and an economically important agricultural industry.

Current Problem Facing California's Cities

The Little Hoover Commission found in 2009 that more than 30,000 stormwater discharges are subject to permits regulating large and small cities, counties, construction sites and industry. The Commission found that a diverse group of water users – the military, small and large businesses, home builders and local governments and more – face enormous costs as they try to control and limit stormwater pollution. The Commission concluded that the costs of stormwater clean up are enormous and that the costs of stormwater pollution are greater as beach closures impact the state's economy and environmental damage threatens to impair wildlife.

Additionally, new programs and projects to improve water quality are currently being required by the U.S. EPA and the State under the NPDES permits and the TMDL programs. Many local governments find that they lack the basic infrastructure to capture, infiltrate and reuse stormwater and the cities are facing difficult economic challenges while Federal and State financial assistance has been reduced due to the impacts of the recession and slow economic recovery.

Cities have seen their costs with the new NPDES permit requirements triple in size in the past year, with additional costs anticipated in future years. Additionally, many local businesses have grown increasingly concerned about the costs of retrofitting their properties to meet stormwater and runoff requirements required under the NPDES permits and TMDL programs.

In Los Angeles County alone, reports commissioned by the Los Angeles County Flood Control District estimate the costs of achieving region-wide compliance for implementing TMDL programs in the NPDES permits required by the Los Angeles Regional Water Quality Control Board (LARWQCB) will be in the tens of billions of dollars over the next twenty years. Additionally, failure to comply with the LARWQCB's terms could result in significant Clean Water Act fines, state fines and federal penalties anywhere from \$3,000- \$37,500 per day. Violations can also result in third-party litigation. Such costs are not confined to Los Angeles County and are being realized statewide.

Clearly, compliance with the NPDES permit and TMDL programs will be expensive for local governments over a long period of time and cities lack a stable, long-term, dedicated local funding source to address this need. Many cities are faced with the choice of either cutting existing services or finding new sources of revenue to fund the NPDES and TMDL programs.

Los Angeles County Division Resolution

The Division supports strong League education and advocacy at both the State and Federal levels to help cities face the challenges in providing programs to capture, infiltrate and reuse stormwater and urban runoff. While Los Angeles County cities and other regions seek to secure local funding sources to meet the Clean Water Act and the State's water objectives, it will simply not be enough to meet the enormous costs of compliance. The Los Angeles County Division strongly believes that State and Federal cooperation are necessary to fund programs to secure and reuse stormwater in order to improve water supply and reliability throughout the state.

The Division calls for the League to engage in discussions on 2014 State Water Bond to assist cities in funding and implementing the goals of the Clean Water Act and the State's Water objectives. This resolution does not support the 2014 bond issue, since the League and individual cities will need to make this decision at a later time upon review of the final language. However, the Governor and Legislature have reopened discussions for the 2014 water bond and funding of urban runoff and stormwater programs has taken a back seat in past bond issues, such as Proposition 84. In May, Assembly Speaker John Perez appointed a Water Bond Working Group which recently outlined a new set of Priorities and Accountability Measures for developing a water bond that would gain the support of 2/3 of the Legislature and voters. One of the priorities identified by the committee included, "Regional Self Reliance/Integrated Regional Water

Management,” posing the question if stormwater capture should be included in any future bonds. The Division believes the opportunity to advocate for funding in the bond is now.

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League of California Cities Staff Analysis on Resolution No. 1

Staff: Jason Rhine; (916) 658-8264

Committee: Environmental Quality

Summary:

This resolution seeks to call upon the Governor and the Legislature to work with the League of California Cities in providing adequate funding and to prioritize water bonds to assist local governments in water conservation, ground water recharge and reuse of stormwater and urban runoff programs.

Background:

In 2009, the State Legislature passed and Governor Arnold Schwarzenegger signed a package of legislation that included four policy bills and an \$11.1 billion water bond (The Clean, and Reliable Drinking Water Supply Act). The water bond included the following major spending proposals:

- \$455 million for drought relief projects, disadvantaged communities, small community wastewater treatment improvements and safe drinking water revolving fund
- \$1.4 billion for "integrated regional water management projects"
- \$2.25 billion for projects that "support delta sustainability options"
- \$3 billion for water storage projects
- \$1.7 billion for ecosystem and watershed protection and restoration projects in 21 watersheds
- \$1 billion for groundwater protection and cleanup
- \$1.25 billion for "water recycling and advanced treatment technology projects"

The \$11.1 billion bond also included nearly \$2 billion in earmarks. Projects slated for funding included:

- \$40 million to educate the public about California's water
- \$100 million for a Lake Tahoe Environmental Improvement Program for watershed restoration, bike trails and public access and recreation projects
- \$75 million for the Sierra Nevada Conservancy, for public access, education and interpretive projects
- \$20 million for the Baldwin Hills Conservancy to be used to buy more land
- \$20 million for the Bolsa Chica Wetlands for interpretive projects for visitors

The water bond was originally scheduled to appear on the 2010 ballot as Proposition 18. However, due to significant criticism over the size of the bond, the amount of earmarked projects, and a lack of public support, the Legislature has voted twice to postpone the ballot vote. The water bond is now slated for the November 4, 2014 ballot.

It is unclear whether or not the water bond will actually appear on the November 2014 ballot. In recent months, pressure has been mounting to postpone the water bond yet again or significantly rewrite the water bond to drastically reduce the overall size of the bond and remove all earmarks. The Legislature has until the summer of 2014 to act.

Fiscal Impact:

Unknown. This resolution does not seek a specified appropriation from a water bond.

Existing League Policy:

In 2008, the League formed a new Water Task Force to consider updates and revision to the Water Guidelines the League drafted and adopted 20 years earlier. These new Guidelines were formally approved by the League board of directors in Feb. 2010. Below are the most pertinent policy and guiding principles related to the proposed resolution. To view the entire water policy guidelines, go to www.cacities.org/waterpolicyguidelines.

General Principles

- The League supports the development of additional groundwater and surface water storage, including proposed surface storage projects now under study if they are determined to be feasible, including but not limited to: environmentally, economically, and geographically relating to point of origin. Appropriate funding sources could include, but are not limited to user fees, bonds and federal funding.
- The League supports state water policy that allows undertaking aggressive water conservation and water use efficiency while preserving, and not diminishing, public and constitutional water rights.

Water Conservation

- The League supports the development of a statewide goal to reduce water use by 20% by 2020 through the implementation of fair and equitable measures consistent with these principles.
- Accomplishing water conservation and water use efficiency goals will require statewide action by all water users, including residential, commercial, industrial and agricultural water users, local and regional planning agencies, state and federal agencies, chambers of commerce, and business, commercial and industrial professional and trade associations.

Water Recycling

- Wherever feasible, water recycling should be practiced in urban, industrial and agricultural sectors. This includes increasing the use of recycled water over 2002 levels by at least one million acre-feet/year (afy) by 2020 and by at least two million afy by 2030.
- Increased recycling, reuse and other refinements in water management practices should be included in all water supply programs.

Water Storage

- The development of additional surface facilities and use of groundwater basins to store surface water that is surplus to that needed to maintain State Water Resource Control Board (SWRCB) Bay-Delta estuary water quality standards should be supported.

Groundwater

- The principle that local entities within groundwater basins (i.e., cities, counties, special districts, and the regional water quality control boards) working cooperatively should be responsible for and involved in developing and implementing basin wide groundwater, basin management plans should be supported. The plans should include, but not be limited to: a) protecting groundwater quality; b) identifying means to correct groundwater overdraft; c) implementing better irrigation techniques; d) increasing water reclamation and reuse; and e) refining water conservation and other management practices.
- Financial assistance from state and federal governments should be made available to requesting local agencies to develop and implement their groundwater management plans.

Financial Considerations

- It is recognized that the development and operation of water supply, water conveyance, flood control and stormwater management, water storage, and wastewater treatment facilities is frequently beyond the capability of local areas to finance;

- The League supports legislation to provide funding for stormwater, water and wastewater programs, including a constitutional amendment which would place stormwater fees in the category of water and wastewater fees, for the purposes of Proposition 218 compliance.

Support:

New this year, any resolutions submitted to the General Assembly must be concurred in by five cities or by city officials from at least five or more cities. Those submitting resolutions were asked to provide written documentation of concurrence. The following letters of concurrence were received: cities of Alhambra; Cerritos; Claremont; Glendora; Lakewood; La Mirada; La Verne; Norwalk; Signal Hill; and Mary Ann Lutz, Mayor, city of Monrovia. A letter of support was also received from the California Contract Cities Association.

RESOLUTION REFERRED TO PUBLIC SAFETY POLICY COMMITTEE

2. RESOLUTION CALLING UPON THE GOVERNOR AND LEGISLATURE TO ENTER INTO DISCUSSIONS WITH THE LEAGUE AND CALIFORNIA POLICE CHIEFS' ASSOCIATION REPRESENTATIVES TO IDENTIFY AND ENACT STRATEGIES THAT WILL ENSURE THE SUCCESS OF PUBLIC SAFETY REALIGNMENT FROM A LOCAL MUNICIPAL LAW ENFORCEMENT PERSPECTIVE.

Source: Public Safety Policy Committee

Concurrence of five or more cities/city officials: Cities of Arroyo Grande, Covina; Fontana; Glendora; Monrovia; Ontario; Pismo Beach; and Santa Barbara

Referred to: Public Safety Policy Committee

Recommendation to General Resolutions Committee: Approve

WHEREAS, in October 2011 the Governor proposed the realignment of public safety responsibilities from state prisons to local government as a way to address recent court orders in response to litigation related to state prison overcrowding, and to reduce state expenditures; and

WHEREAS, the Governor stated that realignment needed to be fully funded with a constitutionally protected source of funds if it were to succeed; and

WHEREAS, the Legislature enacted the realignment measures, AB 109 and AB 117, and the Governor signed them into law without full constitutionally protected funding and liability protection for stakeholders; and

WHEREAS, California currently has insufficient jail space, probation officers, housing and job placement programs, medical and mental health facilities, lacks a uniform definition of recidivism; and utilizes inappropriate convictions used to determine inmate eligibility for participation in the realignment program; and

WHEREAS, since the implementation of realignment there have been numerous issues identified that have not been properly addressed that significantly impact municipal police departments' efforts to successfully implement realignment; and

WHEREAS, ultimately many of these probationers who have severe mental illness are released into communities where they continue to commit crimes that impact the safety of community members and drain the resources of probation departments and police departments throughout the state; and

WHEREAS, an estimated 30 counties were operating under court-ordered or self-imposed population caps before realignment, and the current lack of bed space in county jails has since led to many convicted probationers being released early after serving a fraction of their time; with inadequate to no subsequent supervision, leaving them free to engage in further criminal offenses in our local cities; and

WHEREAS, there is increasing knowledge among the offender population which offenses will and will not result in a sentence to state prison, and many offenders, if held in custody pending trial, that would be sentenced to county jail are ultimately sentenced to time served due to overcrowding in county facilities; and

WHEREAS, there are inadequate databases allowing local police departments to share critical offender information among themselves, with county probation departments, and with other county and state law enforcement entities; and

WHEREAS, local police departments have not received adequate funding to properly address this new population of offenders who are victimizing California communities; and now therefore let it be

RESOLVED by the General Assembly of the League of California Cities, assembled in Sacramento on September 20, 2013, to request the Governor and State Legislature to immediately enter into discussions with League representatives and the California Police Chiefs' Association to address the following issues:

1. The need to fully fund municipal police departments with constitutionally protected funding to appropriately address realignment issues facing front-line law enforcement;
2. Amend appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates (N3) inmates to include their total criminal and mental history instead of only their last criminal conviction;
3. Establish a uniform definition of recidivism with the input of all criminal justice stakeholders throughout the state;
4. Enact legislation that will accommodate the option for city police officers to make ten (10) day flash incarcerations in city jails for probationers who violate the conditions of their probation;
5. Establish oversight procedures to encourage transparency and accountability over the use of realignment funding;
6. Implement the recommendations identified in the California Little Hoover Commission Report #216 dated May 30, 2013;
7. Provide for greater representation of city officials on the local Community Corrections Partnerships. Currently AB 117 provides for only one city official (a police chief) on the seven-member body, six of which are aligned with the county in which the partnership has been established. As a result, the counties dominate the committees and the subsequent distribution of realignment funds.
8. Provide, either administratively or by legislation, an effective statewide data sharing mechanism allowing state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.

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Background Information on Resolution No. 2

Source: Public Safety Policy Committee

Background:

In October 2011 the Governor proposed the realignment of public safety tasks from State Prisons to local government as a way to address certain judicial orders dealing with State prison overcrowding and to reduce State expenditures. This program shifts the prisoner burden from State prisons to local counties and cities.

When the Governor signed into law realignment he stated that realignment needed to be fully funded with constitutionally protected source of funds to succeed. Nonetheless, the law was implemented without full constitutional protected funding for counties and cities; insufficient liability protections to local agencies; jail space; probation officers; housing and job placement programs; medical and mental health facilities; and with an inappropriate definition of N3 (non-serious, non-sexual, non-violent) criminal convictions used to screen inmates for participation in the program.

Two-thirds of California's 58 counties are already under some form of mandated early release. Currently, 20 counties have to comply with maximum population capacity limits enforced by court order, while another 12 counties have self-imposed population caps to avoid lawsuits.

At this time no one knows what the full impact of realignment will ultimately be on crime. We hope that crime will continue to drop, but with the current experience of the 40,000 offenders realigned since October 2011, and an estimated additional 12,000 offenders being shifted from State prison to local jails and community supervision by the end of fiscal year 2013-14, it will be very difficult to realize lower crime rates in the future.

Beginning in October 2011, California State prisons began moving N3 offenders into county jails, the county probation and court systems, and ultimately funneled them into community supervision or alternative sentencing program in cities where they will live, work, and commit crime.

Note: There is currently no uniform definition of recidivism throughout the state and no database that can deliver statistical information on the overall impact realignment has had on all cities in California. Because of this problem we have used data from Los Angeles County.

The March 4, 2013 report to the Los Angeles County Criminal Justice Coordination Committee (CCJCC) shows a strong effort and progress in addressing the realignment mandate. However, there is insufficient funding.

The report also states the jail population continues to be heavily influenced by participants housed locally. On September 30, 2012, the inmate count in the Los Angeles County Jail was 15,463; on January 31, 2013, the count was 18,864. The realignment population accounted for 32% of the Jail population; 5,743 offenders sentenced per Penal Code Section 1170 (h) and 408 parole violations.

By the end of January 2013, 13,535 offenders were released on Post Release Community Supervision (PRCS) to Los Angeles County including prisoners with the highest maintenance costs because of medical and drug problems and mental health issues costing counties and local cities millions of dollars in unfunded mandates since the beginning of the program. Prisoners with prior histories of violent crimes are also being released without proper supervision. That is why sections of **AB 109 must be amended to change the criteria used to justify the release of N3 inmates to include an offender's total criminal and mental history instead of only their last criminal conviction.** Using the latter as the key criteria does not provide

an accurate risk assessment of the threat these offenders pose to society if they are realigned to county facilities, or placed on Post Release Community Supervision.

Chief Jerry Powers from the Los Angeles County Probation Department recently stated the release criteria for N3 offenders “has nothing to do with reality.” He said initially the State estimated the population of released PRCS offenders would be 50% High Risk, 25% Medium Risk and 25% Low Risk. The reality is 3% are Very High Risk, 55% are High Risk, 40% are Medium Risk and only 2% are Low Risk offenders. He said the High Risk and serious mentally ill offenders being released “are a very scary population.” One of the special needs offenders takes the resources of 20-30 other offenders.

Assistant Sheriff Terri McDonald who is the county Jail Administrator recently stated the Jail has only 30 beds for mentally ill offenders being released – when in fact she actually needs 300 beds to accommodate the volume of serious mentally ill offenders being released that require beds.

Los Angeles County data shows 7,200 released offenders have had some sort of revocation. This number is expected to increase because of a significant increase in the first four months of year two of realignment that totals 83% of the entire first year of the program; 4,300 warrants were issued for offenders; 6,200 offenders have been rearrested; and 1,400 prosecuted. Data reveals one in 10 offenders will test positive for drugs during the first 72 hours after being released knowing they are required to report to a probation officer during that time. Only one in three offenders will successfully complete probation.

There are more than 500 felony crimes that qualify State prison inmates for release under realignment. They will be spending their time in cities with little, if any, supervision.

////////

League of California Cities Staff Analysis on Resolution No. 2

Staff: Tim Cromartie (916) 658-8252

Committee: Public Safety Policy Committee

Summary:

This Resolution seeks to outline the deficiencies in the State’s current public safety realignment policy, as implemented in 2011 by AB 109, and to identify policy changes that will assist State, county and municipal law enforcement entities to cope with the expanded universe of offenders that are now being directed to county facilities, resulting in increased related impacts on both local communities and municipal law enforcement.

Background:

This resolution was brought to the Public Safety Policy Committee by individual members of that committee who are increasingly concerned about municipal public safety impacts resulting from county jail overcrowding, a problem that has intensified with realignment, resulting in certain categories of offenders doing no jail time or being sentenced to time served. This has created a climate in which some offenses receive little or no jail time, accompanied by a growing body of anecdotal evidence that property crimes have correspondingly increased, with some, such as auto theft, being committed in serial fashion. Increased criminal activity has strained the resources of many local police departments already struggling to more closely coordinate information sharing with county probation offices to effectively monitor offenders on post-community release supervision.

In addition, there is growing concern about the criteria established for determining which offenders are eligible for post-release community supervision (the non-violent, non-serious, non-sex offenders). There is so much concern that a May 2013 report of California’s Little Hoover Commission recommended adjusting

the criteria to examine an offender's total criminal history rather than merely his or her last known offense, as a means of more accurately assessing the risk he or she might pose to the community.

Implementation of the realignment policy is handled in part by the Community Corrections Partnerships established by AB 109, which currently have only one city representative, compared to at least four county-level representatives.

Fiscal Impact:

Unknown impact on the State General Fund. This resolution seeks to establish increased and constitutionally protected funding for city police departments (and county sheriff's departments, to the degree they are contracted to provide police services for cities), but does not specify a dollar amount for the revenue stream. At a minimum, it would entail an annual revenue stream of at least the amount provided for cities for front-line law enforcement in the State's 2013-14 Budget, \$27.5 million, indefinitely – although that revenue stream has never been formally identified by the Brown Administration as having any direct connection to realignment.

Existing League Policy:

Related to this resolution, existing policy provides:

- The League supports policies establishing restrictions on the early release of state inmates for the purpose of alleviating overcrowding, and limiting parole hearing opportunities for state inmates serving a life sentence, or paroled inmates with a violation.
- The League supports increasing municipal representation on and participation in the Community Corrections Partnerships, which are charged with developing local corrections plans.
- In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, included the promotion of local control for strong cities. The resolution's objectives of locking in ongoing funding for front-line municipal law enforcement, and increasing city participation in the Community Corrections Partnerships, are consistent with promoting local control.

Support:

New this year, any resolutions submitted to the General Assembly must be concurred in by five cities or by city officials from at least five or more cities. Those submitting resolutions were asked to provide written documentation of concurrence. The following cities/city officials have concurred: cities of Arroyo Grande; Covina; Fontana; Glendora; Monrovia; Ontario; Pismo Beach; and Santa Barbara.

LETTERS OF CONCURRENCE
Resolution #1
Water Bond Funds

City of Alhambra

Office of the Mayor and City Council

July 1, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

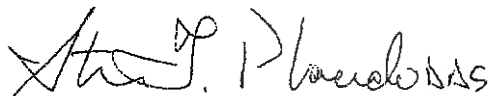
Dear President Bogaard:

The City of Alhambra supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. The City of Alhambra is anticipating spending \$24,101.96 this year to start the development of the Enhanced Watershed Plan and monitoring plan. Prior to 2016, the City anticipates spending \$1,169,000 for full capture device on our storm drain catch basins. In the future, it is estimated the city may need \$34 million dollars to finance the required infrastructure to meet the new permit guidelines. We also anticipate needing to hire additional staff to monitor and maintain the program. None of these costs have a dedicated funding source.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Mary Chavez, Director of Public Works, at (626) 570-5067 if you have any questions.

Very truly yours,



Steven Placido, DDS
Mayor

cc: Jennifer Quan, League of California Cities



Gateway
to the
San Gabriel Valley

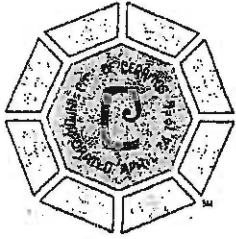
111
South First Street
Alhambra
California
91801

626
570-5010

FAX
281-2248



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CITY OF CERRITOS™

CIVIC CENTER • 18125 BLOOMFIELD AVENUE
P.O. BOX 3130 • CERRITOS, CALIFORNIA 90703-3130
PHONE: (562) 916-1310 • FAX: (562) 468-1095
CELL PHONE: (562) 547-1732
E-mail: bbarr90703@aol.com
WWW.CERRITOS.US



OFFICE OF THE MAYOR
BRUCE W. BARROWS

July 8, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

President Bogaard: *Bill*

The City of Cerritos supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. The City of Cerritos expended \$866,000 in the Fiscal Year 2011-2012 for compliance with required stormwater programs. Future expenditures are expected to be over \$1.5 million annually, as the City will be required to begin construction of costly stormwater capital improvements.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Art Gallucci, City Manager at (562)916-1301 or agallucci@cerritos.us, if you have any questions.

Sincerely,

Bruce W. Barrows
MAYOR

cc: Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division, robb@laciities.org



CITY OF CLAREMONT

City Hall
207 Harvard Avenue
P.O. Box 880
Claremont, CA 91711-0880
Fax: (909) 399-5492
Website: www.ci.claremont.ca.us
Email: contact@ci.claremont.ca.us

City Council • (909) 399-5444
Corey Calaycay
Joseph M. Lyons
Opanyi K. Nasiali
Sam Pedroza
Larry Schroeder

July 1, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

President Bogaard:

**RE: Los Angeles County Division Proposed Resolution for LCC Approval
At The 2013 Annual Conference**

The City of Claremont supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond.

As members of the League, our City values the policy development process provided to the General Assembly and appreciates your time on this issue. If you have any questions, please feel free to contact Tony Ramos, City Manager, at (909) 399-5441.

Sincerely,

Opanyi Nasiali
Mayor

c: Jennifer Quan, League of California Cities



CITY OF GLENDORA CITY HALL

(626) 914-8200

116 East Foothill Blvd., Glendora, California 91741
www.ci.glendora.ca.us

July 15, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

President Bogaard:

The City of Glendora supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact me, if you have any questions.

Sincerely,

Joe Santoro, Mayor

cc: Ling-Ling Chang, President, Los Angeles County Division c/o Robb Korinke,
Executive Director, Los Angeles County Division, robb@lacitycities.org
Jennifer Quan, Regional Public Affairs Manager, League of California Cities -
jquan@lacitycities.org

PRIDE OF THE FOOTHILLS

Todd Rogers
Vice Mayor

Jeff Wood
Council Member

Diane DuBois
Council Member

Ron Piazza
Council Member

July 2, 2013

CITY OF LAKEWOOD

CALIFORNIA
Steve Croft
Mayor

Mr. Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Los Angeles County Division Annual Conference Resolution - Support

Dear President Bogaard:

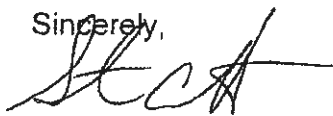
The City of Lakewood supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond.

For Lakewood, the initial cost alone to prepare the Watershed Management Plan (WMP), Coordinated Integrated Management Plan (CIMP), and Reasonable Assurance Modeling for the three watersheds that Lakewood is a part of is estimated to be \$153,167. This cost does not include administration costs, monitoring costs, construction costs, or inspection costs, which are estimated to be in the millions of dollars.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Paolo Beltran, Senior Management Analyst, at (562) 866-9771, extension 2140, or email at pbeltran@lakewoodcity.org, if you have any questions.

Sincerely,



Steve Croft
Mayor

cc: Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division,
robb@iacities.org

Lakewood



CITY OF LA MIRADA
DEDICATED TO SERVICE

13700 La Mirada Boulevard
La Mirada, California 90638

P.O. Box 828
La Mirada, California 90637-0828

Phone: (562) 943-0131 Fax: (562) 943-1464
www.cityoflamirada.org

July 15, 2013

LETTER OF SUPPORT

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

SUBJECT: LOS ANGELES COUNTY DIVISION ANNUAL CONFERENCE RESOLUTION

Dear President Bogaard:

On behalf of the City of La Mirada, I am writing to express support for the League of California Cities, Los Angeles County Division's effort to submit a resolution for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for local governments working to meet Federal and State objectives to protect water resources and storm water management plans. The resolution also provides direction for the League to educate State leaders and advocates for the inclusion of storm water funding in the State's proposed 2014 Water Bond.

Like many cities, the City of La Mirada does not have the basic infrastructure to capture, filter, and reuse storm water, and Federal and State funding to assist in providing this infrastructure has been reduced in recent years as a result of the economic recession. Compliance with the MS-4 permit and other storm water regulations could cost the City millions, and reduce funding for other vital City services such as infrastructure and public safety. The City could also face steep fines, penalties, and third party lawsuits if it is unable to meet the National Pollutant Discharge Elimination Systems (NPDES) permit requirements. Receiving State funding could help alleviate the financial burden placed on local governments to meet storm water requirements.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Jeff Boynton, Deputy City Manager, at (562) 943-0131 if you have any questions.

Sincerely,

CITY OF LA MIRADA

Steve De Ruse
Mayor

TER:jb:vdr

cc: Ling-Ling Chang, President, Los Angeles County Division
Robb Korinke, Executive Director, Los Angeles County Division



CITY OF LA VERNE CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.ci.la-verne.ca.us

July 2, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

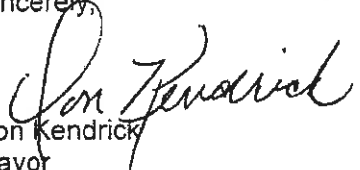
President Bogaard:

The City of La Verne supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. While the City is still in the process of identifying the costs associated with meeting the new requirements of the MS-4 PERMIT, it is expected these measures will far exceed existing local resources.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, Bob Russi at 909-596-8726, if you have any questions.

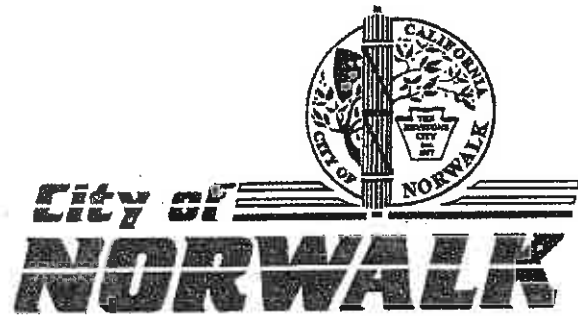
Sincerely,


Don Kendrick
Mayor

cc: Jennifer Quan, League of California Cities
JR Ranells, Senior Management Analyst

U:\My Documents\CITY COUNCIL\DON KENDRICK\Support 2013 League Conf Reso.doc

LUIGI VERNOLA
Mayor
MARCEL RODARTE
Vice Mayor
CHERI KELLEY
Councilmember
MICHAEL MENDEZ
Councilmember
LEONARD SHRYOCK
Councilmember
MICHAEL J. EGAN
City Manager



12700 NORWALK BLVD., P.O. BOX 1030, NORWALK, CA 90651-1030 * PHONE: 562/929-5700 * FACSIMILE: 562/929-5773 * WWW.NORWALKCA.GOV

July 2, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

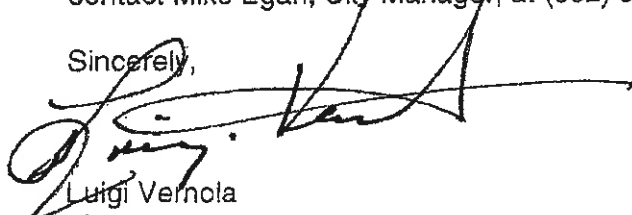
Dear President Bogaard:

The city of Norwalk supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. The cost of compliance with the new storm water permit is in the millions of dollars. The Watershed Management Plan alone will cost close to \$1M. Implementation of projects in the near future based on that Watershed Management Plan could potentially cost the City of Norwalk \$5 - \$10 million annually.

As members of the League our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Mike Egan, City Manager, at (562) 929-5772 if you have any questions.

Sincerely,



Luigi Vernola
Mayor

cc: Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division, robb@lacies.org



CITY OF SIGNAL HILL

2175 Cherry Avenue • Signal Hill, California 90755-3799

June 27, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

President Bogaard:

The city of Signal Hill supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. The city of Signal Hill currently budgets for \$755,000 annually for compliance with required stormwater programs, which represents over 4% of the entire General Fund. Future expenditures are expected to be over \$1.5 million annually, as the City will be required to begin construction of costly stormwater capital improvements.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Ken Farfsing, City Manager at (562) 989-7302 or kfarfsing@cityofsignal.org, if you have any questions.

Sincerely,

Michael J. Noll
Mayor

CC: Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division, robb@lacity.org

City of MONROVIA

1887



Office of the Mayor and the City Council

July 2, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

SUBJECT: Los Angeles County Division Annual Conference Resolution

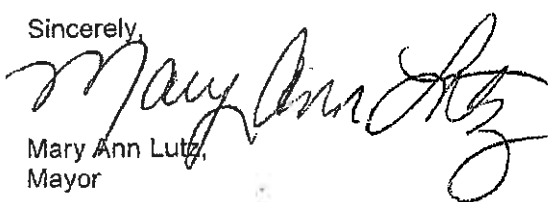
Dear President Bogaard:

As Mayor of the City of Monrovia, I support the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. The City is anticipating millions of dollars in stormwater permit compliance costs over the next five years – funds the City currently does not have available. Funding assistance is vital in order for the City to meet stormwater permit requirements.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Heather Maloney, Senior Management Analyst, at (626) 932-5577 or hmaloney@ci.monrovia.ca.us, if you have any questions.

Sincerely,


Mary Ann Lutz,
Mayor

cc: City Council
Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division, robb@lacity.org
Laurie K. Lile, City Manager
Ron Bow, Director of Public Works



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Rolling Hills Estates

EXECUTIVE DIRECTOR
SAM OLIVITO

June 20, 2013

Bill Bogaard
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Los Angeles County Division Annual Conference Resolution

President Bogaard:

The California Contract Cities Association supports the Los Angeles County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2013 Annual Conference in Sacramento.

The Division's resolution seeks to address a critical funding need for cities working to meet the State's water quality objectives and storm water management plans by providing direction for the League to educate state leaders and advocate for funding during discussions on the 2014 Water Bond. All of the 58 cities we represent can ill afford this increasingly expensive ongoing cost.

As members of the League our association values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our office at (562) 622-5533 if you have any questions.

Sincerely,

Steve Tye
CCCA President

CC: Ling-Ling Chang, President, Los Angeles County Division c/o
Robb Korinke, Executive Director, Los Angeles County Division, robb@lccities.org

LETTERS OF CONCURRENCE
Resolution #2
Public Safety Realignment

OFFICE OF THE
MAYOR



300 East Branch Street
Arroyo Grande, CA 93420
Phone: (805) 473-5400
FAX: (805) 473-0386
agcity@arroyogrande.org
www.arroyogrande.org

July 17, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Public Safety Realignment Resolution

Dear President Bogaard:

On behalf of the City of Arroyo Grande, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact our City Manager, Steve Adams, at (805)473-5404, if you have any questions.

Sincerely,

Tony Ferrara

Mayor, City of Arroyo Grande



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

www.covinaca.gov

July 17, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Public Safety Realignment Resolution

Dear President Bogaard:

On behalf of the City of Covina, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Daryl Parrish, City Manager, at (626) 384-5410, if you have any questions.

Sincerely,

Walter Allen III
Mayor, City of Covina

*The City of Covina provides responsive municipal services and manages
public resources to enhance the quality of life for our community.*



Mayor Acquanetta Warren



July 17, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Public Safety Realignment Resolution

Dear President Bogaard:

On behalf of the City of Fontana, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Ken Hunt City Manager, at (909)350-7654, if you have any questions.

Sincerely,

Mayor, City of Fontana

AW/ac



CITY OF GLENDORA CITY HALL

(626) 914-8201

116 East Foothill Blvd., Glendora, California 91741

FAX (626) 914-8221

www.ci.glendora.ca.us

OFFICE OF THE MAYOR

July 19, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Public Safety Realignment Resolution

Dear President Bogaard:

On behalf of the City of Glendora, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Chris Jeffers, City Manager, at cjeffers@ci.glendora.ca.us or (626) 914-8201, if you have any questions.

Sincerely,

City of Glendora

Joe Santoro
Mayor

PRIDE OF THE FOOTHILLS



Office of the Mayor and the City Council

July 19, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: PUBLIC SAFETY REALIGNMENT RESOLUTION

Dear President Bogaard:

As Mayor of the City of Monrovia, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Laurie Lile, City Manager, at (626) 932-5501, if you have any questions.

Sincerely,

Mary Ann Lutz
Mayor

cc: City Council
James Hunt, Police Chief

CITY OF



ONTARIO

303 EAST "B" STREET, CIVIC CENTER

ONTARIO

CALIFORNIA 91764-4105

(909) 395-2000
FAX (909) 395-2070

PAUL S. LEON
MAYOR

CHRIS HUGHES
CITY MANAGER

JIM W. BOWMAN
MAYOR PRO TEM

July 18, 2013

MARY E. WIRTES, MMC
CITY CLERK

ALAN D. WAPNER
DEBRA DORST-PORADA
PAUL VINCENT AVILA
COUNCIL MEMBERS

JAMES R. MILHISER
TREASURER

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Public Safety Realignment Resolution

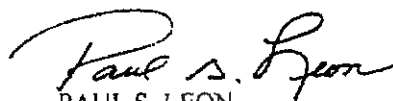
Dear President Bogaard:

On behalf of the City of Ontario, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision; i.e., a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact Chris Hughes, City Manager, at (909) 395-2010, if you have any questions.

Sincerely,


PAUL S. LEON
Mayor



From the Office of the Mayor

Shelly Higginbotham

760 Mattie Road

Pismo Beach, CA 93449

(805) 235-6604

shigginbotham@pismo-beach.org

July 18, 2013

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

RE: Public Safety Realignment Resolution

Dear President Bogaard:

On behalf of the City of Pismo Beach, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

As a member of the League, our City values the policy development process provided to the General Assembly. Please contact James R. Lewis, City Manager, at (805) 773-7007, if you have any questions.

Sincerely,

Shelly Higginbotham
Shelly Higginbotham
Mayor



City of Santa Barbara

Office of Mayor

HSchneider@SantaBarbaraCA.gov

www.SantaBarbaraCA.gov

July 19, 2013

Helene Schneider
Mayor

Bill Bogaard, President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

City Hall
735 Anacapa Street
Santa Barbara, CA
93101-1990

RE: Public Safety Realignment Resolution

Dear President Bogaard:

Mailing Address:
P.O. Box 1990
Santa Barbara, CA
93102-1990

Tel: 805.564.5323
Fax: 805.564.5475

On behalf of the City of Santa Barbara, I am writing to express support for the League of California Cities' Public Safety Resolution, which will be submitted for consideration by the League's General Assembly at the September 2013 Annual Conference in Sacramento.

The League's Resolution seeks to highlight a number of deficiencies with the current public safety realignment policy, and what funding and policy changes need to occur in response. The resolution specifically calls out the need for ongoing local law enforcement funding related to realignment, as well as modification of the criteria for which offenders are eligible for post-release community supervision, i.e. a non-violent, non-serious, non-sex offender criteria that focuses on total criminal history rather than merely the last recorded offense.

It is important to our City, that such state-mandated programs remain fully-funded and that the regulations do not impede our law enforcement officers' ability to use their professional discretion in protecting our community.

As a member of the League, our City values the League's leadership and policy direction on this issue.

Sincerely,

Helene Schneider,
Mayor

cc: Dave Mullinax, League of California Cities



Please consider the environment before printing this letter.