



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

TUESDAY, October 1, 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 ***

October 1, 2013

6:00 P.M.

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

2. **CLOSED SESSIONS**

(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.

(b) *Government Code Section 54956.8*, Conference with Real Property Negotiator

1. Real Properties: Oak Street Properties (APNs 119-050-008, 119-050-009, & 119-050-034). Instructions to City Negotiator (City Manager) concerning terms and conditions.

Negotiating Party: Luckfield Real Estate Investment Fund, LLC

2. Real Property: 1.67 acre vacant parcel off Main Street, Clayton (APN 118-560-010). Instructions to City Negotiator (City Manager) concerning terms and conditions.

Negotiating Party: Luckfield Real Estate Investment Fund, LLC

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 September 17, 2013. ([View Here](#))

(b) Approve Financial Demands and Obligations of the City. ([View Here](#))

(c) Approve the proposed schedule for the 2014 Saturday “Concerts in The Grove” series. ([View Here](#))

- (d) Adopt a Resolution approving a three (3) month Addendum No. 7 to the base Memorandum of Understanding with the Clayton Police Officers' Association (CPOA), effective October 1, 2013 through December 31, 2013. ([View Here](#))

5. RECOGNITIONS AND PRESENTATIONS

- (a) Proclamation declaring October 2013 as "Sudden Cardiac Arrest Awareness Month". ([View Here](#))
- (b) Certificates of Recognition to "Do The Right Thing" public school students chosen for exemplifying the character trait of "Responsibility".
- (c) Presentation by Cal Fire Battalion Chief Mike Marcucci and Contra Costa County Fire Protection District Fire Chief Daryl Louder regarding the recent Morgan Fire. ([View Here](#))

6. REPORTS

- (a) Planning Commission – Commissioner Keith Haydon.
- (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 when each item is considered by the City Council.

8. PUBLIC HEARING

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance to amend portions of Title 17 – Zoning of the *Clayton Municipal Code* to establish a definition and regulations for cottage food operations as home-based businesses in Clayton, pursuant to new State law (AB 1616). ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion or any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 450 by title and number only and waive further reading; and **5)** By motion, approve Ordinance No. 450 for Introduction with findings the action does not constitute a project under CEQA.

9. ACTION ITEMS

- (a) Second Reading and Adoption of a proposed City-initiated Ordinance to amend Title 17 - Zoning of the *Clayton Municipal Code* by establishing regulations for emergency shelters (ZOA -04-13). ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Following Council discussion or any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 449 by title and number only and waive further reading; and **4)** By motion, adopt Ordinance No. 449 with findings the action does not constitute a project under CEQA.

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

11. ADJOURNMENT– the next regularly scheduled City Council meeting is October 15, 2013.

#

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

Agenda Date: 10-1-13

Agenda Item: 4a

TUESDAY, September 17, 2013

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:04 p.m. by Mayor Pierce in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Stratford (arrived during Closed Session), Councilmembers Diaz, Geller, and Shuey (left meeting after Closed Session). Staff present: City Manager Gary Napper, Assistant City Attorney Chris Diaz, Community Development Director Charlie Mullen, and City Clerk Laci Jackson.
2. **CLOSED SESSION** On call by Mayor Pierce the Council adjourned into Closed Session for the following purpose:
 - (a) Conference with Labor Negotiator
Government Code Section 54957.6
Instructions to City-designated labor negotiator: City Manager.
 1. Employee Organization: Clayton Police Officers Association (CPOA).
 2. Employee Organization: Undesignated City Employees Unit.

7:12 p.m. Report out of Closed Session: Mayor Pierce reported the Council discussed and gave direction to the labor negotiator.

Mayor Pierce noted Councilmember Shuey had to leave the meeting after Closed Session.
3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.
4. **CONSENT CALENDAR**- It was moved by Councilmember Geller, seconded by Councilmember Diaz, to approve the Consent Calendar (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of August 20, 2013.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Approved a Defense and Indemnification Agreement related to the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan revised implementation/mitigation fees.
5. **RECOGNITIONS AND PRESENTATIONS**
 - (a) Mayor Pierce presented a Proclamation declaring September 2013 as "Personal and Community Preparedness Month" to the Clayton CERT team. CERT is providing training for Hands Only CPR and emergency preparedness. Pam Dodson, from County Emergency Medical Services stated Clayton has done an outstanding job and has attained status as a "Heart Safe Community." She presented the City of Clayton with signs showing the City has reached its goal of becoming "Heart Safe Community".
 - (b) Mayor Pierce stated the Proclamation declaring September 17-23, 2013 as "Constitution Week" would be mailed to the Daughters of the American Revolution chapter.

- (c) Mayor Pierce read the Proclamation declaring September 23-28, 2013 as "Fall Prevention Awareness Week" to representatives from Meals on Wheels and the Fall Prevention Coalition.
- (d) Mayor Pierce presented Certificates of Recognition to "Do The Right Thing" public school students chosen for exemplifying the character trait of "Courage". Vice Mayor Stratford stated there are 6 Character traits the Council has been recognizing the students for the last two years; the Program is looking at ways to include community members too.

Mayor Pierce and Mt. Diablo Elementary School teacher Mrs. Kerr and Diablo View Middle School Principal Patti Banister recognized students Jason Downs and Haley Morrison.

Mayor Pierce and Clayton Valley High School teacher Kat Marzel recognized Clayton Valley Charter High School students Brody Rogers, Kyra Ortiz, and Kyle Metz; Celine Jusup was unable to attend the meeting.

6. **REPORTS**

- (a) Planning Commission- Commissioner Sandy Johnson reported on the Planning Commission meetings of August 27th and September 10th. The Commission approved a Site Plan Review Permit on Douglas Court, reviewed the CIP Budget for conformance with the General Plan, and recommended the Cottage Food Industries Ordinance move forward to the City Council.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager thanked the many people who helped keep the community safe during the Morgan Fire. He stated the fire was extremely scary for the community. He noted staff and the Council responded as well as CalFire, the Contra Costa Fire District, ambulance services and many volunteers. He stated no homes were lost and animals were moved by volunteers. He thanked Police Chief Thorsen for his work, Assistant to the City Manager Laura Hoffmeister for manning the Evacuation Center, Maintenance personnel for manning the barricades, and the City Clerk uploading information to the City's website from home. He stated communication was difficult because the City was not directly affected by the fire. He stated one of the lessons the City learned is that social media a great way to keep in touch with people and the City's emergency operations plan should be updated to make certain social media outreach is provided during emergencies. Again he thanked everyone for jobs well done.

Tamara Steiner, thanked Police Officer Rich Enea who went above and beyond the call of duty in providing information to her when the roads were opened and she could return home.

- (d) City Council

Councilmember Diaz attended a briefing from Fitch and Associates on August 21st regarding the Fire District. He attended the CBCA meeting, the Clayton Community Church's Labor Day Derby, the Thursday Night Concert, and noted he will be attending CERT training beginning on September 23rd.

Vice Mayor Stratford held a committee meeting for the "Do The Right Thing" program and they are trying to think of ways to promote the traits. He stated the current trait is "Responsibility."

Councilmember Geller attended the KOPS for Kids Golf Fundraiser, the Volunteer Fair at Clayton Valley Charter High School, the Farmers' Market, the Clayton Labor Day Derby, and the last two Concerts in The Grove which featured the Chicago Tribute Authority, and East Bay Mudd. He stated the audience donations raised \$18,000 this year which will help fund next year's concerts.

Mayor Pierce stated there is no City money that pays for the Concerts and donations along with sponsors (CBCA or Republic Services) fund the concerts without tax dollars. She thanked the Red Cross and Salvation Army for their response to the Morgan Fire. She attended several meetings for ABAG, the Transportation Authority, attended the Fitch Fire Services meeting, and the Mayors' Conference.

City Manager introduced Christopher Diaz from Best, Best and Krieger, LLP who is filling in for the City Attorney at tonight's meeting.

- (e) Other

7. PUBLIC COMMENTS

8. PUBLIC HEARINGS

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance to amend portions of Title 17 - Zoning of the *Clayton Municipal Code* to establish regulations for emergency shelters and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District (ZOA -04-13).

The Community Development Director presented the staff report and noting the State of California Housing and Community Development Department (HCD) has mandated the City initiate an Ordinance to establish regulations for Emergency Shelters as permitted facilities within the City limits. In July 2010, HCD conditionally certified the City's 2009-2014 Housing Element. Since the conditional certification, staff has brought forward many amendments to meet the required of the certification. He stated staff did research and prepared the draft Ordinance to allow Emergency Shelters in the Public Facilities (PF) district. He stated this zoning district was selected after analysis and a Land Availability Study. He stated the Keller Ranch House Property could be a potential site for this type of use. Staff and the Planning Commission thought this was the best approach and gives the City the most discretion in reviewing the planning applications.

Mayor Pierce opened the Public Hearing at 8:18 p.m. and closed the Public Hearing at 8:19 p.m. No comments were presented.

It was moved by Vice Mayor Stratford, seconded by Councilmember Geller, to have the City Clerk read Ordinance No. 449 by title and number only and waive further reading (Passed; 4-0 vote).

The City Clerk read Ordinance No. 449 by title and number only.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to approve Ordinance No. 449 for Introduction with findings the action does not constitute a project under CEQA. (Passed; 4-0 vote).

9. **ACTION ITEMS**

- (a) Consider a Resolution establishing new fees and adjusting existing fees in the City Master Fee Schedule for certain user-benefit City services and rental of City facilities or parks in FY 2013-14.

The Assistant to the City Manager presented the staff report. She stated the last fee update Resolution was approved in July 2012. She stated staff did the analysis and used the April-April CPI (2.4%) and rounded up or down to the nearest whole dollar. She stated for field rental fees the fees are only adjusted every two years and this is the year for the increase. She noted this does not affect renters who already paid their fees. She also noted these fees are not in-lieu or Development Impact fees. She noted one amendment was benched for the Council's consideration and was to decrease the fee for a Solicitation permit from \$218 to \$87 due to potential solicitors paying for their own fingerprint screening directly with the outside vendors.

No public comments were received.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to adopt Resolution 31-2013 as amended setting City fee rates for FY 2013-14 (Passed; 4-0 vote).

10. **COUNCIL ITEMS**

Councilmember Geller asked for the 2014 Concerts in the Grove Schedule to be placed on the next Council agenda for approval.

11. **ADJOURNMENT**– on call by Mayor Pierce the meeting adjourned at 8:25 p.m.

#

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

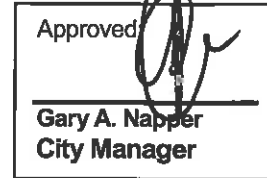
Julie K. Pierce, Mayor



Agenda Date 10/1/2013

Agenda Item: 4b

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MERRY PELLETIER, FINANCE MANAGER
DATE: 10/1/2013
SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

9/27/2013 Cash Requirements Report	\$ 161,416.77
Checks Cut in Advance of Meeting:	
9/18/2013 Best, Best, & Kreiger, LLP	\$ 9,730.00
9/18/2013 Ken Joiret - Sound Concert 9/19/13	\$ 500.00
9/18/2013 Robert Castell-Branch - Concert 9/19/13	\$ 700.00

Total: \$ 172,346.77

Attachments:

Cash Requirements Report dated 9/27/2013 (3 pages)
Advance Checks/Invoices (6 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	10/1/2013	8/31/2013	3216	Services 8/8/13 & 8/19/13	\$60.00	\$0.00		\$60.00
				<i>Totals for Ace Sierra Tow:</i>	<i>\$60.00</i>	<i>\$0.00</i>		<i>\$60.00</i>
All City Management Services, Inc.								
All City Management Services, Inc.	10/1/2013	8/30/2013	32345	School Crossing Guard Services 8/18/13-8/31	\$140.31	\$0.00		\$140.31
				<i>Totals for All City Management Services, Inc.:</i>	<i>\$140.31</i>	<i>\$0.00</i>		<i>\$140.31</i>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	10/1/2013	9/12/2013	0297878-IN	3 signs - Mayors Conference	\$155.33	\$0.00		\$155.33
Bay Area Barricade Serv.	10/1/2013	9/4/2013	0297879-IN	trash grabbers, brooms	\$285.80	\$0.00		\$285.80
				<i>Totals for Bay Area Barricade Serv.:</i>	<i>\$441.13</i>	<i>\$0.00</i>		<i>\$441.13</i>
Blackbaud								
Blackbaud	10/1/2013	5/31/2013	90579567	Sales Tax for Maintenance Plan 7/1/13-6/30/1	\$111.16	\$0.00		\$111.16
				<i>Totals for Blackbaud:</i>	<i>\$111.16</i>	<i>\$0.00</i>		<i>\$111.16</i>
CalPERS Health								
CalPERS Health	10/1/2013	9/16/2013	1158	Medical Insurance October 2013	\$31,183.43	\$0.00		\$31,183.43
				<i>Totals for CalPERS Health:</i>	<i>\$31,183.43</i>	<i>\$0.00</i>		<i>\$31,183.43</i>
CalPERS Retirement								
CalPERS Retirement	10/1/2013	9/18/2013	09/15/2013	Retirement PPE 9/15/13	\$21,463.14	\$0.00		\$21,463.14
				<i>Totals for CalPERS Retirement:</i>	<i>\$21,463.14</i>	<i>\$0.00</i>		<i>\$21,463.14</i>
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	10/1/2013	9/13/2013	1384774	Contract 8/15/13-9/14/13	\$344.23	\$0.00		\$344.23
				<i>Totals for Caltronics Business Systems, Inc:</i>	<i>\$344.23</i>	<i>\$0.00</i>		<i>\$344.23</i>
Cheyenne Electric Inc.								
Cheyenne Electric Inc.	10/1/2013	8/31/2013	8/31/13	Investigate prob. at GFI receptacle	\$139.00	\$0.00		\$139.00
				<i>Totals for Cheyenne Electric Inc.:</i>	<i>\$139.00</i>	<i>\$0.00</i>		<i>\$139.00</i>
City of Concord								
City of Concord	10/1/2013	9/5/2013	34530	Dispatch services September 2013	\$14,053.00	\$0.00		\$14,053.00
City of Concord	10/1/2013	9/13/2013	34689	PBX Maint/VM Service 2011, 2012, 2013	\$5,134.25	\$0.00		\$5,134.25
				<i>Totals for City of Concord:</i>	<i>\$19,187.25</i>	<i>\$0.00</i>		<i>\$19,187.25</i>
Contra Costa County Police Chiefs' Assoc.								
Contra Costa County Police Chiefs' Ass	10/1/2013	9/9/2013	13-04	2013 Fall workshop meals	\$179.21	\$0.00		\$179.21
				<i>Totals for Contra Costa County Police Chiefs' Assoc.:</i>	<i>\$179.21</i>	<i>\$0.00</i>		<i>\$179.21</i>
Cropper Accountability Corp								
Cropper Accountability Corp	10/1/2013	8/31/2013	783	First Progress Billing for Audit 6/30/12	\$7,500.00	\$0.00		\$7,500.00
				<i>Totals for Cropper Accountability Corp:</i>	<i>\$7,500.00</i>	<i>\$0.00</i>		<i>\$7,500.00</i>
Diablo View Cleaning								

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
Diablo View Cleaning	10/1/2013	9/13/2013	MorganFire-RedCross	Clean Carpet in Library from Red Cross - Mor	\$292.00	\$0.00		\$292.00
				Totals for Diablo View Cleaning:	\$292.00	\$0.00		\$292.00
J & R Floor Services								
J & R Floor Services	10/1/2013	10/1/2013	Nine	August Billing	\$4,910.00	\$0.00		\$4,910.00
				Totals for J & R Floor Services:	\$4,910.00	\$0.00		\$4,910.00
John Deere Landscapes Inc								
John Deere Landscapes Inc	10/1/2013	9/13/2013	66057122	Order # 73181019 - supplies	\$3,204.97	\$0.00		\$3,204.97
				Totals for John Deere Landscapes Inc:	\$3,204.97	\$0.00		\$3,204.97
LarryLogic Productions								
LarryLogic Productions	10/1/2013	9/18/2013	1359	City Council Meeting 9/17/13	\$350.00	\$0.00		\$350.00
				Totals for LarryLogic Productions:	\$350.00	\$0.00		\$350.00
Legal Defense Fund								
Legal Defense Fund	10/1/2013	9/4/2013	79304	Clayton Reserve Dues October 2013	\$15.00	\$0.00		\$15.00
				Totals for Legal Defense Fund:	\$15.00	\$0.00		\$15.00
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	10/1/2013	9/4/2013	313-17618	Library - replace VFD on Fan Coil #3	\$4,790.00	\$0.00		\$4,790.00
Marken Mechanical Services Inc	10/1/2013	9/4/2013	413-1151-9	City Hall Maintenance September 2013	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	10/1/2013	9/4/2013	413-1152-9	Library - Maintenance September 2013	\$150.00	\$0.00		\$150.00
				Totals for Marken Mechanical Services Inc:	\$5,090.00	\$0.00		\$5,090.00
MPA								
MPA	10/1/2013	9/20/2013	October 2013	Life/LTD Insurance October 2013	\$1,402.55	\$0.00		\$1,402.55
MPA	10/1/2013	8/19/2013	B1303-A	Installment #2 Worker's Comp Premium 13/1	\$16,535.75	\$0.00		\$16,535.75
				Totals for MPA:	\$17,938.30	\$0.00		\$17,938.30
NBS Govt. Finance Group								
NBS Govt. Finance Group	10/1/2013	9/17/2013	91300057	Interim Arbitrage Rebate Analysis - 6/7/07-9/	\$1,200.00	\$0.00		\$1,200.00
NBS Govt. Finance Group	10/1/2013	9/20/2013	91300226	CFD Admin Fees 10/1/13-12/31/13	\$5,134.80	\$0.00		\$5,134.80
				Totals for NBS Govt. Finance Group:	\$6,334.80	\$0.00		\$6,334.80
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	10/1/2013	9/25/2013	574148	Courtyard pay phone October	\$73.00	\$0.00		\$73.00
				Totals for Pacific Telemanagement Svc:	\$73.00	\$0.00		\$73.00
Paramount Elevator Corp.								
Paramount Elevator Corp.	10/1/2013	9/18/2013	187138	Oil & Grease for September 2013	\$220.00	\$0.00		\$220.00
				Totals for Paramount Elevator Corp.:	\$220.00	\$0.00		\$220.00
Peace Officers Research Assoc of CA								
Peace Officers Research Assoc of CA	10/1/2013	9/13/2013	70137	Clayton PRA Dues October 2013	\$10.00	\$0.00		\$10.00
				Totals for Peace Officers Research Assoc of CA:	\$10.00	\$0.00		\$10.00

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
Sugely Pereira								
Sugely Pereira	10/1/2013	9/24/2013	026098	Deposit refund due to rain 9/21/13	\$180.00	\$0.00		\$180.00
				Totals for Sugely Pereira:	<u>\$180.00</u>	<u>\$0.00</u>		<u>\$180.00</u>
PERMCO, Inc.								
PERMCO, Inc.	10/1/2013	9/23/2013	10077	Retainer - General Services	\$2,793.00	\$0.00		\$2,793.00
PERMCO, Inc.	10/1/2013	9/23/2013	10078	General Stormwater Tasks/Inspections	\$76.25	\$0.00		\$76.25
PERMCO, Inc.	10/1/2013	9/23/2013	10079	Diablo Pointe Construction Inspection	\$269.75	\$0.00		\$269.75
PERMCO, Inc.	10/1/2013	9/23/2013	10080	Construction activity permit inspections	\$83.00	\$0.00		\$83.00
PERMCO, Inc.	10/1/2013	9/23/2013	10081	2013 Pavement Rehabilitation Project	\$76.25	\$0.00		\$76.25
PERMCO, Inc.	10/1/2013	9/23/2013	10082	PG&E Replace Gas Lines in Dana Hills	\$83.00	\$0.00		\$83.00
				Totals for PERMCO, Inc.:	<u>\$3,381.25</u>	<u>\$0.00</u>		<u>\$3,381.25</u>
PG&E								
PG&E	10/1/2013	9/16/2013	09/16/2013	Services 8/15/13-9/15/13	\$19,311.45	\$0.00		\$19,311.45
PG&E	10/1/2013	9/17/2013	9/17/13	Services 8/16/13-9/16/13	\$3,806.76	\$0.00		\$3,806.76
				Totals for PG&E:	<u>\$23,118.21</u>	<u>\$0.00</u>		<u>\$23,118.21</u>
Raney Planning & Management, Inc.								
Raney Planning & Management, Inc.	10/1/2013	9/18/2013	1322E-2	Labor - August 2013	\$11,237.25	\$0.00		\$11,237.25
				Totals for Raney Planning & Management, Inc.:	<u>\$11,237.25</u>	<u>\$0.00</u>		<u>\$11,237.25</u>
Bonnie Stetkin								
Bonnie Stetkin	10/1/2013	9/20/2013	HOP 11-13	Refund for HOP Application 11-13	\$158.00	\$0.00		\$158.00
				Totals for Bonnie Stetkin:	<u>\$158.00</u>	<u>\$0.00</u>		<u>\$158.00</u>
Sprint Comm (PD)								
Sprint Comm (PD)	10/1/2013	8/29/2013	703335311-141	Service 7/26/13-8/25/13	\$260.69	\$0.00		\$260.69
				Totals for Sprint Comm (PD):	<u>\$260.69</u>	<u>\$0.00</u>		<u>\$260.69</u>
Warner Brothers Tree Service								
Warner Brothers Tree Service	10/1/2013	8/9/2013	10585	Clayton/Old Marsh Creek - Tree Work	\$3,600.00	\$0.00		\$3,600.00
				Totals for Warner Brothers Tree Service:	<u>\$3,600.00</u>	<u>\$0.00</u>		<u>\$3,600.00</u>
West Coast Sign and Install								
West Coast Sign and Install	10/1/2013	9/27/2013	Sherwin-Williams	Deposit refund Sherwin-Williams Sign Permit	\$294.44	\$0.00		\$294.44
				Totals for West Coast Sign and Install:	<u>\$294.44</u>	<u>\$0.00</u>		<u>\$294.44</u>
				GRAND TOTALS:	<u>\$161,416.77</u>	<u>\$0.00</u>		<u>\$161,416.77</u>

9/18/2013

To: Best Best & Kreiger LLP
2001 North Main St, Ste 390
Walnut Creek, CA 94596

709500	9/6/2013	Retainer - August	\$8,000.00	\$0.00	\$8,000.00
709501	9/6/2013	Legal Services - Reimbursables	\$547.50	\$0.00	\$547.50
709502	9/6/2013	Legal Services - PD	\$1,182.50	\$0.00	\$1,182.50
Totals:			\$9,730.00	\$0.00	\$9,730.00

9/18/2013 29725

Nine thousand seven hundred thirty and 00/100 Dollars

\$** 9,730.00

Best Best & Kreiger LLP
2001 North Main St, Ste 390
Walnut Creek, CA 94596

Vendor #3091
Best Best & Krieger
PO Box 1028
Riverside, CA 92502

Invoice Date: 9/6/2013
Invoice Numbers: 709500
709501
709502

Month of: August

		Reimb.							
	Invoice #	Fees	Costs	ADJ	Billing	Totals	Account #	Project #	
General Retainer	709500	\$ 4,346.00	\$ 79.82	\$ 1,027.26	\$	5,453.08	\$5,453.08	101-7411-02	
Admin/Finance	709500	\$ 80.00		\$ 18.91	\$	98.91	\$98.91	101-7411-02	
Engineering	709500	\$ 620.00		\$ 146.55	\$	766.55	\$766.55	101-7411-08	
Community Development	709500	\$ 400.00		\$ 94.55	\$	494.55	\$494.55	101-7411-04	
Code Enforcement	709500	\$ 960.00		\$ 226.91	\$	1,186.91	\$1,186.91	101-7411-04	
Legal Services - Mazzei	709501	\$ 150.00			\$	150.00	\$150.00	601-2740-00	1028
Legal Services - Oak Creek Canyon	709501	\$ 397.50			\$	397.50	\$397.50	601-2740-00	0077
Police Dept - Labor/Employment	709502	\$ 1,182.50			\$	1,182.50	\$1,182.50	101-7411-06	

9/18/2013

To: Ken Joiret
1542 Lavetta Way
Concord, CA 94521

09/19/2013	9/18/2013	Concert in the Park - Sound - 9/19/13		\$500.00	\$0.00	\$500.00
		Totals:		\$500.00	\$0.00	\$500.00

9/18/2013 29770

Five hundred and 00/100 Dollars

\$** 500.00

Ken Joiret
1542 Lavetta Way
Concord, CA 94521



CITY OF CLAYTON

CONSULTING SERVICES AGREEMENT
(General)

Lauren 9/18/13
AUTHORIZED BY DATE
3042 601-2750-00 # 702
\$500.00
AMOUNT CITY MANAGER APPROVAL

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.

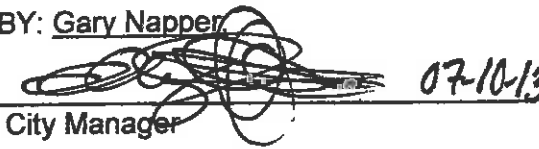
2. Signatures: These signatures attest the parties' agreement hereto:

CITY OF CLAYTON

CONSULTANT

BY: Gary Napper

BY: Ken Joiret


City Manager


(owner)

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.

9/18/2013

To: Robert Castell-Blanch
318 Ginger Way
Napa, CA 94558-1311

09/19/2013	9/18/2013	Concert in the Park 9/19/2013		\$700.00	\$0.00	\$700.00
			Totals:	\$700.00	\$0.00	\$700.00

9/18/2013 29771

Seven hundred and 00/100 Dollars

\$** 700.00

Robert Castell-Blanch
318 Ginger Way
Napa, CA 94558-1311

Latina 9/18/13
DATE

☒ ENTERED

2439 601-2750-00 ^{Town} CITY OF CLAYTON, CA
VERBOS CONCERTS IN THE GROVE

\$700.00
AMOUNT PHD's
APPROVAL



☒ ENTERED

(925) 673-7300

In entering into this Music Performance Service Agreement ("Agreement"), the City of Clayton ("City") and PHD's [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 September 19, 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.)
Latin Rock & Jazz

E. The Band includes: (i.e., singers/pieces/instruments/etc.)
Seven (7) performers: Vocal, Lead Guitar, Percussion, Keyboard, Bass, and Drums

F. Full Payment Amount: \$700.00 ("Performance Fee")

Payee name (**must be same as that on W-9**)

PHD's / Bob Castell-Blanch

Payee Address (**must be same as that on W-9**)

318 Ginger Way

Napa, CA 94558-1311

G. Band Address: 318 Ginger Way, Napa, CA 94558-1311

Phone: (707) 927-5200

Band Primary Contact Person:

Name: Bob Castell-Blanch Cell (925) 864-2646 email: bobcastellblanch@gmail.com

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



Agenda Date: 10-1-13

Agenda Item: 4c

Approved:

Gary A. Nappel
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: October 1, 2013

SUBJECT: APPROVAL OF 2014 CALENDAR "CONCERT IN THE GROVE" SERIES

2014 CONCERT SCHEDULE

Every other Saturday from 6:00 p.m. to 9:00 p.m. in The Grove park on the following dates:

May- 10, 24

June- 7, 21

July- 5, 19

August- 2, 16, 30

September- 13

RECOMMENDATION

Approve the recommended concert dates.

Attachments: 1. Councilmember Geller's email

Laci Jackson

From: hgeller@ci.clayton.ca.us
Sent: Wednesday, September 25, 2013 9:16 PM
To: ljackson@ci.clayton.ca.us
Subject: Re: Concert Dates

Laci,

We start on the Saturday before Mother's day which is on the 11th and then it is every other Saturday. Please check you calendar to confirm my dates.

May 10, 24
June 7, 21,
July 5, 19
Aug 2, 16, 30
Sept 13.

Howard Geller
City Councilman
925-323-4913

> -----Original Message-----
> From: Laci Jackson <ljackson@ci.clayton.ca.us>
> To: hgeller@ci.clayton.ca.us
> Subject: Concert Dates
> Sent: Sep 25 '13 14:34
>
> Can you send us the concert dates so that can put in on the next agenda?
>
> Thanks
>
>
> Laci J. Jackson
>
> City Clerk
>
> City of Clayton
>
> 6000 Heritage Trail
> Clayton, CA 94517
>
> 925-673-7304
>
> [LINK: <mailto:ljackson@ci.clayton.ca.us>] ljackson@ci.clayton.ca.us



Agenda Date: 10-1-13

Agenda Item: 4d

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 01 OCTOBER 2013

**SUBJECT: PROPOSED 3-MONTH TIME EXTENSION TO EMPLOYMENT TERMS
CLAYTON POLICE OFFICERS ASSOCIATION (CPOA)**

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution approving a second three (3) month extension to the existing terms and conditions of employment and compensation with the Clayton Police Officers' Association (CPOA), effective 01 October 2013 through 31 December 2013.

BACKGROUND

By state law the City and its recognized employee bargaining units must meet and confer over matters related to compensation, benefits and terms of public employment. In September 2012, the City and the CPOA (i.e. sworn law enforcement personnel, except the chief of police) agreed to a nine (9)-month extension of existing terms and conditions of employment that included a continuing freeze on salary merit advances and suspension of premium pay when working various City holidays. The latter concession equated to a continuous 4.1% pay reduction for all employees of this unit.

That nine month extension expired on 30 June 2013. In anticipation of its expiration the parties expectantly rely on the release of the proposed City Budget each year to determine the financial status of the City for framework during the collective bargaining process. Due to organizational delays, the proposed City Budget for FY 2013-14 was not yet prepared for release and the parties recognized its delay impacts the opportunity for meaningful negotiation as to new or revised terms of public employment in FY 2013-14.

Consequently, on 04 June 2013 both parties agreed to extend the existing terms and conditions of employment for ninety (90) days to expire on 30 September 2013. During that time period the City enacted its budget for FY 2013-14 but for similar organizational complications, availability of Audited Financial Statements for FY 2011-12 and FY 2012-13 have not been completed or initiated, respectively.

The City Manager and CPOA representatives discussed the current negotiation status and each has agreed it would be beneficial to extend the existing terms and conditions of public employment (set to expire on 30 September 2013) for an additional three (3) month time period through 31 December 2013. It is expected this extension should allow adequate time for each party to determine respective positions on a subsequent Memorandum of Understanding (MOU) without disrupting current compensation and employment terms.

FISCAL IMPACT

The expiring MOU contains a number of CPOA concessions as well as City [Employer] continuation of compensation and Employer-paid benefits. During the past and current transitional periods, the parties recognize the least-disruptive approach would be to maintain the status-quo, including members of this Unit agreeing to accept the approximate 4.1% reduction to employee compensation relative to the suspension of premium pay for the eleven (11) City-recognized holidays per fiscal year (note: sworn police personnel must work holidays, 24/7 operation). In addition, employees of this Unit have experienced frozen pay advancements for meritorious performance adjustments over the last four years (5 of 11 officers).

The upcoming negotiations between the parties must still address the issue of retroactivity of compensation and benefits to 01 July 2013 for any modifications to the MOU.

Attachments: 1. City Resolution and Exhibit [4 pp.]

RESOLUTION NO. - 2013

**A RESOLUTION APPROVING A THREE (3) MONTH ADDENDUM NO. 7
TO THE BASE MEMORANDUM OF UNDERSTANDING WITH
THE CLAYTON POLICE OFFICERS' ASSOCIATION
EFFECTIVE OCTOBER-DECEMBER 2013**

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

WHEREAS, authorized representatives of the City of Clayton and the Clayton Police Officers' Association (CPOA) have been meeting and conferring in good faith regarding the status of certain matters including, but not limited to, wages, hours, and terms and conditions of employment with the City, pursuant to *California Government Code* Section 3500, et. seq.; and

WHEREAS, due to organizational delays in assembling and providing financial data for preparation and consideration of Audited Financial Statements for FY 2011-12 and FY 2012-13, both parties mutually acknowledge it is beneficial to await the outcome of the City's current financial status before negotiating and obligating oneself to new or revised terms and conditions of public employment and compensation with the City of Clayton; and

WHEREAS, in consideration thereof the parties to the aforementioned discussions have set forth a three (3) month Addendum No. 7 to bridge the expiration of Addendum No. 6 to the base Memorandum of Understanding (MOU), which document does encompass the full and complete agreements reached between the parties for the time period of October 1, 2013 through December 30, 2013, unless a mutually-agreeable contract is achieved and approved within that time frame; and

WHEREAS, the City Manager, as the City's designated labor negotiator, does herein recommend approval of proposed Addendum No. 7 to this Unit's base MOU, as outlined in its entirety in "Exhibit A".

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby accept and approve Addendum No. 7 ("Exhibit A") to the underlying Memorandum of Understanding between the City and the Clayton Police Officers' Association during the term thereof, effective October 1, 2013 through December 31, 2013, unless replaced sooner by mutual agreement, and does duly authorize and instruct its City Manager to implement the agreed-upon terms and conditions accordingly.

Resolution No. - 2013
3-Month Addendum No. 7 to Base MOU with Clayton Police Officers' Association
01 October 2013

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 1st day of October 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

ADDENDUM NO. 7

This Addendum No. 7 is a three (3) month time extension to that 1-year underlying Memorandum of Understanding (MOU) entered into by and between the City of Clayton ("City") and the Clayton Police Officers' Association ("CPOA"), previously approved and authorized by the Clayton City Council at a regular public meeting thereof held on the 18th day of September 2012, and as further amended by Addenda Nos. 1-6 adopted by the City Council.

WHEREAS, by California Government Code section 3500, et seq., the City is required by law to negotiate in good faith with recognized collective bargaining units and groups of the City organization concerning certain public employment matters including, but not limited to, wages, hours, benefits, and other terms and conditions of employment with the City; and

WHEREAS, the Clayton Police Officers Association (CPOA) is a recognized public employee collective bargaining unit within the City public agency covering the sworn law enforcement employees of the City (except for the Chief of Police); and

WHEREAS, by City Resolution No. 13-2013 the Clayton City Council did adopt, at a regular public meeting thereof on 04 June 2013, Addendum No. 6 by and between the City and the CPOA that modified or restated specific employment terms and conditions for the CPOA for a three (3) month period of time to commence on 01 July 2013; and

WHEREAS, terms and conditions of public sector employment by and between the City and the CPOA contained in Addendum No. 6 will expire on 30 September 2013, potentially causing expense to both the City and members of the CPOA; and

WHEREAS, while the City and CPOA representatives have met together on several occasions as required by California Government Code section 3500, et seq., to discuss or negotiate in good faith matters involving the continuation or modification of terms and conditions of public employment for the CPOA, such discussions have not resulted in a mutually-agreeable employment contract before the expiration of Addendum No. 6 occurs on 01 October 2013; and

WHEREAS, each party to the underlying MOU and Addenda desires to continue to meet in good faith and are willing within the next three (3) month time period to negotiate and hopefully arrive at acceptable successor terms and conditions of public employment between the City and the CPOA on or before 31 December 2013.

NOW, THEREFORE, BE IT RESOLVED by and between the City of Clayton and the Clayton Police Officers' Association (CPOA) as follows:

1. ARTICLE 20: TERM

Addendum No. 7 is effective on 01 October 2013 and continues through 31 December 2013, at which time it ends effective midnight on 31 December 2013 unless terminated sooner by mutual agreement and approval of both the City and the CPOA.

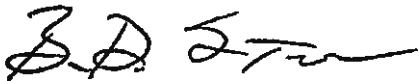
2. All other and existing terms and conditions of the underlying MOU and Addenda Nos. 1-6 by and between the parties remain in full force and effect through 31 December 2013 to the extent each are not in conflict with Addendum No. 7 provisions recited above. In the event such a conflict arises, Addendum No. 7 does and shall prevail in effect and implementation.

IN WITNESS THEREOF, this Addendum No. 7 is entered into this ____ day of September 2013 pursuant to the provisions of California Government Code section 3500, et seq., for presentation and recommendation for approval by the City Council of Clayton, CA at its regular public meeting thereof to be held on 01 October 2013.

CLAYTON POLICE OFFICERS ASSOCIATION (CPOA)

By:

Allen White, CPOA President



Bud Stone, CPOA Labor Representative

Date: _____

Date: 9/27/2013

CITY OF CLAYTON, CA (CITY)

By:



Gary A. Napper, City Manager

Date: 27 SEPT. 2013

#

Agenda Date: 10-1-13

Agenda Item: 5a

declaring
October 2013
"Sudden Cardiac Arrest Awareness Month"

WHEREAS, approximately 350,000 out-of-hospital cardiac arrests occur each year in the United States; and

WHEREAS, the national survival rate from cardiac arrest is a dismal 7%; and

WHEREAS, sudden cardiac arrest can happen to any person regardless of age, education, race or socio-economic background; and

WHEREAS, individuals and families can take simple steps to avoid the tragedy of the unnecessary loss of life; and

WHEREAS, become aware of the symptoms of sudden cardiac arrest: An Adult has Collapsed and Can Not Be Awakened; and

WHEREAS, know what actions to take: Call 9-1-1 and Push Hard and Fast in the middle of the chest – Hands Only CPR (cardiopulmonary resuscitation); and

WHEREAS, apply an AED (automated external defibrillator) if one is available; and

WHEREAS, by taking these actions one can double the chances of survival; and

WHEREAS, Clayton has been designated a *HeartSafe Community* and it continues to raise awareness of the elements of a healthier community; and

WHEREAS, as the number of citizens who know the signs of cardiac arrest, know to call 9-1-1, do CPR, and apply an AED increases, so will the survival rate of our citizens.

NOW THEREFORE, I Julie. K. Pierce, Mayor, on behalf of the Clayton City Council, do hereby proclaim the month of October 2013 as "Sudden Cardiac Arrest Awareness Month," urge all to recognize that increasing awareness will save lives, and encourage our citizens to observe this month with appropriate programs, education, and activities.

**CALIFORNIA DEPARTMENT
OF FORESTRY AND FIRE PROTECTION**

in grateful appreciation
for its effective
response and containment
of the

"Morgan Fire"

September 8-13, 2013

Agenda Date: 10-1-13

Agenda Item: 5c

**CONTRA COSTA COUNTY
FIRE PROTECTION DISTRICT**

in grateful appreciation
for its effective
response and containment
of the

"Morgan Fire"

September 8-13, 2013



Agenda Date: 10-1-13

Agenda Item: 8a

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 
MILAN J. SIKELA, JR., ASSISTANT PLANNER 

DATE: OCTOBER 1, 2013

SUBJECT: PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING PORTIONS OF TITLE 17 OF THE CLAYTON MUNICIPAL CODE, ESTABLISHING A DEFINITION AND REGULATIONS FOR COTTAGE FOOD OPERATIONS FOR HOME-BASED BUSINESSES IN CLAYTON (ZOA-03-13).

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 (please 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

On January 1, 2013, Assembly Bill (AB) 1616 became effective. This legislation allows individuals to prepare and/or package certain foods in private residential kitchens. AB 1616 addresses flexibility in allowing individuals the ability to access healthier food choices (especially individuals that are subject to obesity and obesity-related diseases) as well as promoting increased economic opportunities through entrepreneur development and microenterprises. Some key components of AB 1616 include the following:

- Use of a residence for purposes of a cottage food operation shall not constitute a change of occupancy for the State Housing Law, or for purposes of local building and fire codes.
- A cottage food operation may have a maximum of one full-time cottage food employee not including a family member or household member of the cottage food operator.

- A cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that it conforms with the requirements of AB 1616, including the following requirements:
 - No cottage food preparation, packaging, or handling may occur in the home kitchen with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
 - No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
 - Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.
 - All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
 - All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.
 - Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.
- A cottage food product shall not be a potentially hazardous food. The State Public Health Officer may add or delete food products to or from the following list. The list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:
 - Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
 - Candy, such as brittle and toffee.
 - Chocolate-covered nonperishable foods, such as nuts and dried fruit.
 - Dried fruit.
 - Dried pasta.
 - Dry baking mixes.
 - Fruit pies, fruit empanadas, and fruit tamales.
 - Granola, cereals, and trail mixes.
 - Herb blends and dried mole paste.
 - Honey and sweet sorghum syrup.
 - Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
 - Nut mixes and nut butters.
 - Popcorn.
 - Vinegar and mustard.
 - Roasted coffee and dried tea.
 - Waffle cones and pizelles.

Furthermore, AB 1616 adds wording to the California Health and Safety Code that states a city “shall not prohibit a cottage food operation” and has provided the following three options for city approval of such operations:

- Classify a cottage food operation as a permitted use of the residential property for zoning purposes; or
- Grant a nondiscretionary permit to use a residence for any food operation that complies with local ordinances; or
- Require a cottage food operation to apply for a permit to use a residence for its operation.

Planning Commission Action

On August 27, 2013 and September 10, 2013, the Clayton Planning Commission held public hearings to consider the Ordinance. Upon review of the item at their meetings of August 27th and September 10th, the Planning Commission determined that requiring a cottage food operation to apply for a permit to use a residence for its operation would be the appropriate method of reviewing and approving this type of use in a residence since this would provide the highest level of review by the City and the public. The Planning Commission concluded that placing the threshold for review and approval of cottage food operations at the Planning Commission level would afford the City the highest level of scrutiny for such proposals and that the City’s home occupation permit process (which allows for home-based businesses) would be the vehicle to be used for review of cottage food operations.

DISCUSSION

In order to implement the State-mandated AB 1616 statutes, the Planning Commission and staff have recommended City Council approval of an Ordinance which would provide a definition for cottage food operations as well as regulations addressing home occupation permit requests for cottage food operations. The staff reports and minutes from the Planning Commission meetings of August 27, 2013 and September 10, 2013 are attached in order to provide more detail on the proposed Ordinance (please see **Attachments 3 – 6**).

These proposed amendments would show City compliance with the Health and Safety Code, as prescribed by AB 1616, while still allowing Planning Commission review of cottage food operation proposals.

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 costs have and will be associated with this Ordinance.

Attachments:

1. Ordinance No. 450 – Cottage Food Operations
2. Planning Commission Resolution No. 05-13 (without attachment)
3. September 10, 2013 Planning Commission Minutes (excerpt)
4. September 10, 2013 Planning Commission Staff Report (without attachments)
5. August 27, 2013 Planning Commission Minutes (excerpt)
6. August 27, 2013 Planning Commission Staff Report (without attachments)

ORDINANCE NO. 450

**AN ORDINANCE AMENDING PORTIONS OF TITLE 17
OF THE CLAYTON MUNICIPAL CODE
ESTABLISHING A DEFINITION AND REGULATIONS FOR
HOME-BASED COTTAGE FOOD OPERATIONS
(ZOA-03-13)**

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

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS
FOLLOWS:**

WHEREAS, California State Assembly Bill 1616 became effective on January 1, 2013; and

WHEREAS, Assembly Bill 1616 amends the California Health and Safety Code to allow for home-based cottage food operations; and

WHEREAS, Assembly Bill 1616 and the California Health and Safety Code require that cities not prohibit home-based cottage food operations; and

WHEREAS, currently no provisions exist in the Clayton Municipal Code that address home-based cottage food operations; and

WHEREAS, the home occupation permit process listed in Clayton Municipal Code Title 17 is the process administered by the City to review and approve home-based businesses; and

WHEREAS, Title 17 of the Clayton Municipal Code does not have a definition or regulations for home-based cottage food operations; and

WHEREAS, pursuant to Assembly Bill 1616 and the California Health and Safety Code, amendments to Title 17 of the Clayton Municipal Code are proposed in order to provide a definition and regulations for home-based cottage food operations; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on August 27, 2013, at which they continued the item to September 10, 2013, and then adopted Resolution No. 05-13 recommending City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code, establishing regulations for home-based cottage food operations; and

WHEREAS, the Planning Commission determined the proposed amendments to the Clayton Municipal Code are in general conformance with the Clayton General Plan; and

WHEREAS, the Clayton City Council, at regular public meetings on October 1, 2013 and October 15, 2013, held duly-noticed public hearings to review and consider an Ordinance amending Title 17 of the Clayton Municipal Code, establishing a definition and regulations for home-based cottage food operations; and

WHEREAS, the City Council has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that these amendments to Title 17 of the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

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

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this local matter.

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

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

Section 2. Section 17.04.070 of the Clayton Municipal Code, entitled “Building Height” is hereby renumbered as Section 17.04.062.

Section 3. Section 17.04.075 of the Clayton Municipal Code, entitled “Building – Main or Principal” is hereby renumbered as Section 17.04.064.

Section 4. Section 17.04.070 of the Clayton Municipal Code is hereby added to read in full as follows:

“17.04.070 Cottage Food Operation. “Cottage Food Operation” means an enterprise that is operated by a cottage food operator and may have a maximum of one (1) full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct or indirect sale to consumers, as defined in California Health and Safety Code section 113758, and is subject to all applicable regulations, standards, definitions, and requirements of the California Health and Safety Code. No more than one (1) employee may work at the cottage food operation at any one time.”

Section 5. Section 17.71.030.B.5 of the Clayton Municipal Code is hereby added to read in full as follows:

- “5. Any home occupation permit request for a cottage food operation shall also comply with the following standards:
- a. A maximum of one (1) full-time equivalent cottage food employee, not including a family member or household member, is allowed in the conduct of the cottage food operation. No more than one (1) employee may work at the cottage food operation at any one time.
 - b. Approval by the Contra Costa County Environmental Health Department of the self-certification checklist for the cottage food operation and its approval of the cottage food operation itself are required as part of the application materials.
 - c. The cottage food operation shall comply with all applicable regulations, standards, definitions, and requirements of the California Health and Safety Code.
 - d. The cottage food operation shall not be subject to 17.71.020.B.4 and 17.71.020.B.5.”

Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

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. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause 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. Further, the City Clerk is directed to cause Sections 2-5 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on October 1, 2013.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on October 15, 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

APPROVED AS TO FORM

APPROVED BY 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 October 1, 2013, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on October 15, 2013.

Laci J. Jackson, City Clerk

CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 05-13

RECOMMENDING CITY COUNCIL APPROVAL OF
AN ORDINANCE AMENDING PORTIONS OF TITLE 17
OF THE CLAYTON MUNICIPAL CODE
ESTABLISHING A DEFINITION AND REGULATIONS FOR
HOME-BASED COTTAGE FOOD OPERATIONS
(ZOA-03-13)

WHEREAS, the Planning Commission held a duly-noticed public hearing on August 27, 2013, at which they continued the item to September 10, 2013 in order to address the matters described herein to amend Title 17 of the Clayton Municipal Code; and

WHEREAS, California State Assembly Bill 1616 became effective on January 1, 2013; and

WHEREAS, Assembly Bill 1616 amends the California Health and Safety Code to allow for home-based cottage food operations; and

WHEREAS, Assembly Bill 1616 and the California Health and Safety Code require that cities not prohibit home-based cottage food operations; and

WHEREAS, currently no provisions exist in the Clayton Municipal Code for home-based cottage food operations; and

WHEREAS, the home occupation permit process listed in Clayton Municipal Code Title 17 is the process administered by the City to review and approve home-based businesses; and

WHEREAS, Title 17 of the Clayton Municipal Code does not have a definition and regulations for and does not address home-based cottage food operations; and

WHEREAS, pursuant to Assembly Bill 1616 and the California Health and Safety Code, amendments to Title 17 of the Clayton Municipal Code are proposed in order to provide a definition and regulations for home-based cottage food operations; and

WHEREAS, the Planning Commission has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that these amendments to Title 17 of the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

WHEREAS, the Planning Commission determined the proposed amendments to the Clayton Municipal Code are in general conformance with the Clayton General Plan; and

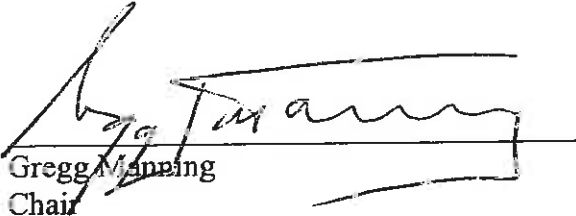
WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

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

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 the proposed Ordinance to amend Title 17 of the Clayton Municipal Code for the purpose of addressing home-based cottage food operations.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 10th day of September, 2013.

APPROVED



Gregg Manning
Chair

ATTEST



Charlie Mullen
Community Development Director

Attachment:

Exhibit A – Draft Ordinance Establishing Regulations for Cottage Food Operations

**Excerpt
Minutes
Clayton Planning Commission Meeting
Tuesday, September 10, 2013**

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Manning called the meeting to order at 7:00 p.m. at the First Floor Conference Room, City Hall, 6000 Heritage Trail, Clayton.

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

Absent: None.

Staff: Community Development Director Charlie Mullen

5. PUBLIC HEARINGS

- 5.b. **(Continued Item) ZOA-03-13, Municipal Code Amendment, City of Clayton.** Public Hearing to consider a City-initiated Ordinance to Amend Portions of Title 17 of the Clayton Municipal Code, Establishing Regulations for Cottage Food Operations.

Community Development Director Mullen presented the staff report.

Commissioner Haydon requested a clarification on the definition reference to the Health and Safety Code. Director Mullen responded.

Commissioner Bruzzone requested a clarification on Section 7 of the Draft Ordinance. Director Mullen responded.

The public hearing was opened. There were no public comments. The public hearing was closed.

Commissioner Haydon moved and Commissioner Johnson seconded a motion to adopt Resolution No. 05-13 recommending City Council approval of an Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for the review and approval process for proposed cottage food operations as home-based businesses within the City of Clayton. The motion passed 5-0.

Com Dev\Plng Comm\Minutes\2013\0910-excerpt

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: September 10, 2013

Item Number: 5.b

From: Charlie Mullen, Community Development Director 
Milan J. Sikela, Jr., Assistant Planner 

Subject: (Continued Item) Public Hearing to Consider a State-Mandated City-Initiated Ordinance Amending Portions of Title 17 of the Clayton Municipal Code, Establishing a Definition and Regulations for Cottage Food Operations for Home-Based Businesses in Clayton (ZOA-03-13).

Applicant: City of Clayton

REQUEST

Continued Public Hearing item to consider a State-mandated City-initiated Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for Cottage Food Operations for home-based businesses in Clayton.

PROJECT INFORMATION

Location: Citywide

General Plan Designation: Citywide

Zoning Classification: Citywide

Public Notice: On August 16, 2013, a public hearing notice was posted at designated locations in the City and, on August 17, 2013, a public hearing notice was published in the Contra Costa Times.

BACKGROUND AND DISCUSSION

On August 27, 2013, the Clayton Planning Commission conducted a public hearing on this item to consider a State-mandated City-initiated Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for Cottage Food Operations for home-based businesses in Clayton. At that meeting the Commission received a detailed staff report and presentation, open and closed the public hearing with no public input being provided, and after discussion gave input and direction to staff to bring back a revised draft Ordinance to clarify the definition and regulations as they relate to a potential cottage food operation employee. Please see the draft meeting minutes from the August 27th meeting in this agenda packet for further reference.

ATTACHMENT – 4

In order to address the Planning Commission's direction and input, staff took a second look at the entire draft Ordinance and sought additional input from our City Attorney. As a result of this additional review and input, staff has prepared an amended and revised draft Ordinance for Cottage Food Operations.

Specifically, after further review of AB 1616 and input from the City Attorney, staff has amended the Ordinance to clarify that a maximum of one (1) full-time "equivalent" cottage food employee is allowed. This in essence means a cottage food operator could potentially have one (1) full time employee or several part-time employees provided that the combined employment hours of the part-time employees do not exceed one (1) full-time equivalent employee (i.e. 40 hours per week). However, staff and the City Attorney do believe we can limit the attendance of employees at any one time and therefore also recommend adding an additional provision that "No more than one (1) employee may work at the cottage food operation at any one time."

In addition, staff and the City Attorney identified an inconsistency with several of the existing home occupation provisions relating to the business area in the home and the employee prohibition and therefore have added the following additional provision that "The cottage food operation shall not be subject to 17.71.020.B.4 and 17.71.020.B.5."

Lastly, staff and the City Attorney made some additional minor technical editorial clean-ups to the draft Ordinance.

With these final revision edits, staff and the City Attorney believe the draft Ordinance establishes City compliance with the Health and Safety Code, as prescribed by AB 1616, while still maximizing our discretionary review authority by allowing the Planning Commission to review and approve future proposed cottage food operations in a public hearing forum.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that these zoning amendments to portions of Title 17 of the Clayton Municipal Code may have a significant effect on the environment, and therefore are not subject to CEQA.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider any additional public testimony and, if determined to be appropriate, adopt Resolution No. 05-13, recommending City Council approval of an Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for the review and approval process for proposed cottage food operations as home-based businesses within the City of Clayton.

Attachment:

1. Planning Commission Resolution No. 05-13, with attachment:
Exhibit A – Draft Ordinance Establishing Regulations for Cottage Food Operations

**Excerpt
Minutes
Clayton Planning Commission Meeting
Tuesday, August 27, 2013**

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

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

Present: Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Keith Haydon
Commissioner Sandra Johnson

Absent: Vice Chair Dan Richardson (excused)

Staff: Community Development Director Charlie Mullen
Assistant Planner Milan J. Sikela, Jr.

5. PUBLIC HEARINGS

- 5.b. **ZOA-03-13, Municipal Code Amendment, City of Clayton.** Public Hearing to consider a City-initiated Ordinance to Amend the Clayton Municipal Code Title 17, Establishing Regulations for Cottage Food Operations.

Assistant Planner Sikela presented the staff report.

Commissioner Haydon had the following comments and questions:

- Since there is a definition for the term “cottage food operation” provided in the draft Ordinance, a definition for the term “cottage food” should also be included to provide an intuitive connection between the two terms.
- Is there a maximum limit on the number of family members that are allowed to be involved in the cottage food operation? Assistant Planner Sikela responded no, there is no limit on the number of family members that can be involved.
- It appears as if it up to the applicant to self-enforce their own cottage food operation in accordance with Assembly Bill 1616 and the California Health and Safety Code. Director Mullen indicated that to some extent that was correct.

Commissioner Bruzzone had the following comments and questions:

- Asked if we should remove the term “full time” from the definition of “cottage food operation” so that it will not appear that we are regulating whether or not the one allowed employee will be part time or full time. We are only specifying the maximum number of employees, not the number of hours the employee works at the cottage food operation. Director Mullen indicated that could be better clarified.

Chair Manning had the following comments and questions:

- What constitutes a “small child” as it is used in the draft Ordinance? Director Mullen responded that the draft Ordinance was crafted to conform with State requirements while allowing the wording to be flexible enough to remain

consistent as future modifications that may be made by the State to the cottage food operation regulations in the Health and Safety Code. As a result, no definition is provided for "small child." However, as home occupation requests for cottage food operations are submitted to the City in the future, we would require the applicant to provide information about household size, number of people involved in the operation, hours and days of operations, type of food being produced, etc. in order to get a better understanding of what is proposed and to provide conditions, as needed, to ensure the highest level of compliance with State regulations. The intent of this State mandate is to encourage cottage food operations and not prohibit them. From staff's perspective, these types of operations would survive by the product it produces, which would assist in the self-enforcing aspect of the operation.

- Who decides what type of foods can be produced by a cottage food operation and who do we petition to initiate changes to the foods that are allowed to be produced? Assistant Planner Sikela responded that the State Public Health Officer has the authority to decide what types of foods can be produced by a cottage food operation and can change the types of foods allowed to be produced.
- Does the County Environmental Health Department have a form that cottage food operation applicants fill out? Assistant Planner Sikela responded that for City approved cottage food operations the County will then provide approval documentation and a registration number. As part of the Planning Commission review of a home occupation permit request for a cottage food operation, staff will include a condition that requires the applicant to provide this approval documentation and registration number to the City prior to commencing the cottage food operation.
- How are issues related to enforcement addressed? Assistant Planner Sikela responded that City staff, including the Code Enforcement Officer, would work with the County Environmental Health Department to address complaints and/or violations committed by a cottage food operation.

Commissioner Johnson had the following comments and questions:

- Will the cottage food operation be required to get a City business license? Assistant Planner Sikela explained yes and that a condition would be included in the Home Occupation Permit requiring the applicant to obtain a business license prior to commencing the cottage food operation, which is standard procedure for the permitting of all home occupation permits.
- We want to make sure that preparation of food is conducted in a manner allowed by the Health and Safety Code.
- I do not see a cottage food operation as being any different than a normal food-preparing business in terms of cleanliness, safety, and licensing.

The public hearing was opened. There were no public comments. The public hearing was closed.

By consensus, the Planning Commission directed staff to amend the draft Ordinance based on Commission input, return with a revised draft, and continued the public hearing for Municipal Code Amendment ZOA-03-13 to the regular meeting on September 10, 2013.

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: August 27, 2013

Item Number: 5.b

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Public Hearing to consider a State-mandated City-initiated Ordinance amending Clayton Municipal Code Title 17, establishing regulations for Cottage Food Operations for home-based businesses in Clayton (ZOA-03-13)

Applicant: City of Clayton

REQUEST

Public Hearing to consider a State-mandated City-initiated Ordinance amending Clayton Municipal Code Title 17, establishing regulations for Cottage Food Operations for home-based businesses in Clayton.

PROJECT INFORMATION

Location: Citywide

General Plan Designation: Citywide

Zoning Classification: Citywide

Public Notice: On August 16, 2013, a public hearing notice was posted at designated locations in the City and, on August 17, 2013, a public hearing notice was published in the Contra Costa Times.

BACKGROUND AND DISCUSSION

On January 1, 2013, Assembly Bill (AB) 1616 became effective. This legislation allows individuals to prepare and/or package certain foods in private residential kitchens. AB 1616 cites, in part, the need for flexibility in accessing healthier food choices as being the impetus behind the enactment. Given that many persons have limited access to healthier food options and are subject to obesity and obesity-related diseases, allowing home-based food production would provide the opportunity for people to eat healthier, thereby reducing obesity and obesity-related diseases. Also, there has been a growing progression in California toward supporting community-based food production, sometimes referred to as "cottage food," "artisanal food," "slow food," "locally based food," or "urban agriculture." Allowing cottage food operations would serve to support such movements toward healthier food production. Furthermore, increased opportunities for entrepreneur development through microenterprises can help to

supplement household incomes, prevent poverty and hunger, and strengthen local economies. Small businesses have played an important role in helping slow economies recover as an engine of job creation. Allowing food-oriented home occupations would help to strengthen our economy as current trends show that the economy is on a course to recovery.

AB 1616 adds wording to the California Health and Safety Code that states, in part, that a city “shall not prohibit a cottage food operation” and has provided the following three options for city approval of such operations:

- Option 1
Classify a cottage food operation as a permitted use of the residential property for zoning purposes.
- Option 2
Grant a nondiscretionary permit to use a residence for any food operation that complies with local ordinances.
- Option 3
Require any cottage food operation to apply for a permit to use a residence for its operation.

Given the potential impacts of cottage food operations, staff notes that Option 3 would be the appropriate method of reviewing and approving this type of use in a residence since Option 3 provides the highest level of review by the City and the public. Furthermore, staff is proposing to place the threshold for review and approval of cottage food operations at the Planning Commission level, which would afford the City the highest level of scrutiny for such proposals. Since a permitting process already exists in the form of the City’s home occupation permit process which allows review of home-based businesses, staff is proposing to amend the home occupation permit regulations in Chapter 17.71 of the Clayton Municipal Code to allow for review and approval of cottage food operations in accordance with the cottage food operations standards in the Health and Safety Code.

Previously, the City has used the home occupation permit process to approve a food-oriented home-based business, although the term “cottage food operation” was not used to describe the business at the time. In August 2010, the Planning Commission reviewed and approved a home occupation permit (HOP 14-10) to allow cooking classes to be conducted from a single-family residence. Although the home occupation was more instructional in nature, the Commission had discussed the food generated by the classes and the fact that the food could potentially be taken from the subject residence and distributed elsewhere. Now that AB 1616 exists, the City will now have a process that directly allows for food-oriented home-based businesses once the necessary amendments are made to the Clayton Municipal Code.

In compiling information to bring this matter forward to the Planning Commission, staff researched documentation prepared by the Pleasant Hill Community Development Department and Contra Costa County Environmental Health Department in order to facilitate this State-mandated amendment.

Staff has highlighted some additional key components of AB 1616 for Commission consideration:

- Use of a residence for purposes of a cottage food operation shall not constitute a change of occupancy for the State Housing Law, or for purposes of local building and fire codes.
- Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.
- A cottage food operation may have a maximum of one full-time cottage food employee not including a family member or household member of the cottage food operator.
- A cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that it conforms with the requirements of AB 1616, including the following requirements:
 - No cottage food preparation, packaging, or handling may occur in the home kitchen with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
 - No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
 - Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.
 - All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
 - All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.
 - Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.
- A cottage food product shall not be a potentially hazardous food. The State Public Health Officer may add or delete food products to or from the following list. The list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:
 - Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
 - Candy, such as brittle and toffee.
 - Chocolate-covered nonperishable foods, such as nuts and dried fruit.
 - Dried fruit.
 - Dried pasta.
 - Dry baking mixes.
 - Fruit pies, fruit empanadas, and fruit tamales.
 - Granola, cereals, and trail mixes.

- Herb blends and dried mole paste.
- Honey and sweet sorghum syrup.
- Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- Nut mixes and nut butters.
- Popcorn.
- Vinegar and mustard.
- Roasted coffee and dried tea.
- Waffle cones and pizelles.

As part of the self-certification checklist approval and enforcement of a cottage food operation, staff is proposing to require that any applicant submitting a home occupation permit request for a cottage food operation would need to submit a self-certification checklist as part of the application materials. If a home occupation permit for a cottage food operation were approved by the Planning Commission, staff would also provide a condition of approval that the applicant obtain Contra Costa County Environmental Health Department (CCCEHD) approval of the self-certification checklist and cottage food operation and provide documentation of CCCEHD approval to the City, to the satisfaction of the Community Development Director. Regarding enforcement, if complaints were received regarding the cottage food operation, the Clayton Code Enforcement Officer would refer the matter to CCCEHD in order to rectify any violations committed by the cottage food operation. The Code Enforcement Officer would coordinate with the CCCEHD to implement corrective actions in order to ensure compliance or to initiate discontinuance of the cottage food operation.

PROPOSED AMENDMENTS

In order to implement the State-mandated AB 1616 statutes, staff has prepared the following proposed amendments to the Clayton Municipal Code:

Section 17.04.070

No definition of cottage food operations is currently provided in the Clayton Municipal Code. Staff is proposing the following additional wording in newly-proposed Section 17.04.070 (proposed wording provided in underline):

“Cottage Food Operation. “Cottage Food Operation” means an enterprise that is operated by a cottage food operator and may have a maximum of one (1) full-time cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct or indirect sale to consumers, pursuant to all applicable regulations, standards, definitions, and requirements of Assembly Bill 1616 and the California Health and Safety Code.”

Section 17.71.030.B

Section 17.71.030.B does not currently address cottage food operations. Staff is proposing the following additional wording in newly-proposed Section 17.71.030.B.5 et al. to be added to Section 17.71.030.B (proposed wording is provided in underline):

“Any home occupation permit request for a cottage food operation shall also comply with the following standards:

- a. A maximum of one (1) cottage food employee, not including a family member or household member, is allowed in the conduct of the cottage food operation.
- b. Approval by the Contra Costa County Environmental Health Department of the self-certification checklist for the cottage food operation as well as the cottage food operation itself is required as part of the application materials.
- c. The cottage food operation shall comply with all applicable regulations, standards, definitions, and requirements of Assembly Bill 1616 and the California Health and Safety Code.”

These proposed amendments would show City compliance with the Health and Safety Code, as prescribed by AB 1616, while still allowing Planning Commission review and approval of cottage food operations as well as associated public review of such home-based business uses.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that these zoning amendments to Title 17 of the Clayton Municipal Code may have a significant effect on the environment, and therefore are 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. 05-13, recommending City Council approval of an Ordinance amending the Clayton Municipal Code Title 17, establishing a review and approval process for proposed cottage food operations as home-based businesses within the City of Clayton.

Attachment:

1. Planning Commission Resolution No. 05-13, with attachment:
Exhibit A – Draft Ordinance Establishing Regulations for Cottage Food Operations

ZOA\2013\Cottage Food Operations - ZOA-03-13\03-13.sr.pc.mtg.8.27.13



Agenda Date: 10-1-13

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: OCTOBER 1, 2013

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 449 AMENDING TITLE 17 OF THE CLAYTON MUNICIPAL CODE, ESTABLISHING REGULATIONS FOR EMERGENCY SHELTERS, AND SPECIFICALLY ESTABLISHING EMERGENCY SHELTERS AS A PERMITTED USE IN THE PUBLIC FACILITIES (PF) ZONING DISTRICT, PURSUANT TO STATE SENATE BILL 2 (ZOA-04-13).

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 September 17, 2013, City Council meeting the attached Ordinance was introduced (see Attachment 2). No members of the public spoke on the proposed ordinance. The City Council then approved the introduction and first reading (by title only) attached Ordinance amending a portion of Title 17 of the Clayton Municipal Code, establishing regulations for emergency shelters, and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District, establishing an emergency shelters definition and establishing objective development and management standards for emergency shelters, as recommended by staff and the Planning Commission.

DISCUSSION

The purpose of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code is to implement State Law (SB 2; 2007 statute) and implement a specific goal and policy of the Clayton 2009-2014 Housing Element, while maximizing our discretionary local oversight. Approval of the proposed Ordinance would complete this implementation measure, comply with State law, and allow the City of Clayton to proceed with the 2014-2022 Housing Element update cycle. By not doing so, the State HCD will not entertain the City's 2014-2022 draft Housing Element for necessary certification according to the City's Housing Element consultant (PMC).

Attachments:

1. Ordinance No. 449 – Establishing Regulations for Emergency Shelters.
2. September 17, 2013, City Council Staff Report (without attachments).

ORDINANCE NO. 449

AN ORDINANCE AMENDING A PORTION OF TITLE 17 OF THE CLAYTON MUNICIPAL CODE ESTABLISHING REGULATIONS FOR EMERGENCY SHELTERS AND SPECIFICALLY ESTABLISHING EMERGENCY SHELTERS AS A PERMITTED USE IN THE PUBLIC FACILITIES (PF) ZONING DISTRICT (ZOA-04-13)

THE CITY COUNCIL City of Clayton, California

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

WHEREAS, on April 20, 2010 the Clayton City Council adopted Resolution No. 12-2010 approving an Initial Study and Negative Declaration prepared for the Clayton 2009-2014 Housing Element pursuant to the provisions of the California Environmental Quality Act (CEQA) and approving the Clayton 2009-2014 Housing Element; and

WHEREAS, on July 15, 2010 the State Department of Housing and Community Development (HCD) conditionally certified the Clayton 2009-2014 Housing Element based on the City making a good faith effort toward enacting over 30 categories of implementation measures; and

WHEREAS, under Goal II, Implementation Measure II.1.1. of the Clayton 2009-2014 Housing Element and pursuant to State Senate Bill 2, the City committed to amending the Zoning Ordinance to allow emergency shelters by right and only subject to objective development and management standards, as required by applicable state law; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on August 27, 2013, at which it adopted Resolution No. 06-13 recommending City Council approval of the proposed Ordinance to amend a portion of Title 17 of the Clayton Municipal Code, establishing regulations for emergency shelters, and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District, establishing an emergency shelters definition and establishing development and management standards for emergency shelters; and

WHEREAS, the Clayton City Council at a regular public meeting on September 17, 2013, held a duly noticed public hearing to review and consider an Ordinance amending a portion of Title 17 of the Clayton Municipal Code, establishing regulations for Emergency Shelters, and specifically establishing Emergency Shelters as a permitted use in the Public Facilities (PF) Zoning District; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) an Initial Study and Negative Declaration was prepared and approved for the Clayton 2009-2014 Housing Element, including its implementation measures; and whereas, pursuant to CEQA Guidelines

Section 15061(b)(3) it can be seen with certainty there is no possibility the proposed amendment to the Clayton Municipal Code/Zoning Ordinance may have a significant effect on the environment, and it is therefore not subject to CEQA and no further environmental review is necessary; and

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

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter, expressly including evidence demonstrating there is sufficient acreage within the City's Public Facilities zoning district to accommodate an emergency shelter.

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

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

Section 2. Section 17.04.089 of the Clayton Municipal Code, Chapter 17.04 Definitions is hereby added to read in full as follows:

"17.04.089 Emergency Shelter. As defined by the California Health and Safety Code Section 50801(e) "emergency shelter" is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter in this facility because of an inability to pay. However, emergency shelter providers are not obligated to accept individuals if the shelter is at maximum capacity."

Section 3. Subsection F. of the Clayton Municipal Code, Chapter 17.33 Public Facility (PF) District, Section 17.33.020 Permitted Use, is hereby added to read in full as follows:

"F. Emergency Shelter facility (subject to standards in Section 17.36.082)."

Section 4. Section 17.36.082 of the Clayton Municipal Code, Chapter 17.36 General Provisions is hereby added to read in full as follows:

"17.36.082 Emergency Shelters Standards.

Emergency shelters are only permitted in the Public Facilities (PF) zoning district subject to the development standards of the zone. In accordance with the authority granted to cities under State law (SB-2; 2007), emergency shelters must also meet the following objective development and management standards:

- A.** An emergency shelter building shall be located a minimum distance of at least 300 feet from any residential use building or public or private K-12 school.
- B.** An emergency shelter shall be located a minimum distance of at least 300 feet from another emergency shelter.
- C.** The maximum number of beds or persons permitted to be served nightly by the facility shall not exceed ten (10).

- D. The maximum length of stay by an individual shall not exceed one hundred and eighty (180) consecutive days in a consecutive 12-month period.
- E. Off-street parking shall be provided in the ratio of one (1) space for every three (3) beds, plus one (1) parking space for each staff member on the largest shift. Provisions for bicycle parking shall also be made.
- F. An on-site interior client intake and waiting area shall be provided that is at least 200 square feet in area. A client intake and waiting area less than 200 square feet in size may be considered if it can be demonstrated the size of the intake and waiting area is sufficient to accommodate the demand.
- G. On-site parking lot lighting and security lighting shall be provided in accordance with City standards.
- H. Laundry and Refuse areas. The plan shall include provisions for indoor laundry facilities and an exterior enclosed refuse area.
- I. An operational plan shall be provided prior to the issuance of a Certificate of Occupancy or commencement of use, for the review and approval of the Community Development Director. At a minimum the plan shall contain provisions addressing the following:
 - a. Security and Safety. The plan shall include provisions of 24-hour on-site management/security, facility rules, and procedures for maintaining a safe environment within and outside the shelter and addresses loitering.
 - b. Prohibited activities. The plan shall include provisions that clearly discourage and prohibit the consumption or use of alcohol, narcotics, illegal drugs, etc. and prohibits all smoking (including but not limited to tobacco, marijuana, etc.).
 - c. Management of outdoor areas. The plan shall describe procedures for admittance and discharge of clients, and describe measures aimed at minimizing the congregation of clients outside the shelter when not accepting clients.
 - d. Staff training. The plan shall describe the staffing required for the shelter and outline required training programs that provide staff with the knowledge and skills to assist clients in obtaining permanent shelter.
 - e. Referral services. The plan shall include provisions of a kiosk providing information on other programs available to clients for obtaining permanent shelter, mental and health counseling, job placement, educational, legal, and other supportive services.
 - f. Transportation services. The plan shall include provisions for public and/or private transportation services to assist clients.

Section 5. Schedule 17.37.030.A Off-Street Parking Space Requirements of the Clayton Municipal Code, Chapter 17.37, Off-Street Parking and Loading Regulations, Section 17.37.030 Parking and Loading Space Requirements is hereby amended to read in full as follows:

Emergency Shelter	As specified by use permit Section 17.36.082.
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Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

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. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Sections 2-5 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on September 17, 2013.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on October 1, 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

APPROVED AS TO FORM

APPROVED BY 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 September 17, 2013 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on October 1, 2013.

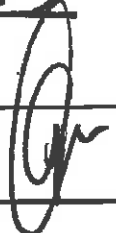
Laci J. Jackson, City Clerk

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Agenda Date: 9/17/13

Agenda Item: 8(a)

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: SEPTEMBER 17, 2013

SUBJECT: PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING PORTIONS OF TITLE 17 OF THE CLAYTON MUNICIPAL CODE, ESTABLISHING REGULATIONS FOR EMERGENCY SHELTERS, AND SPECIFICALLY ESTABLISHING EMERGENCY SHELTERS AS A PERMITTED USE IN THE PUBLIC FACILITIES (PF) ZONING DISTRICT, PURSUANT TO STATE SENATE BILL 2 (ZOA-04-13).

RECOMMENDATION

Staff recommends the City Council receive and consider the staff report, conduct a public hearing and receive any public comment; by motion 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 by motion approve the introduction and first reading of the Ordinance.

BACKGROUND

On April 20, 2010 the Clayton City Council adopted Resolution No. 12-2010 approving an Initial Study/Negative Declaration prepared for the Clayton 2009-2014 Housing Element pursuant to the provisions of the California Environmental Quality Act (CEQA) and approving the Clayton 2009-2014 Housing Element.

On July 15, 2010 the State Department of Housing and Community Development (HCD) conditionally certified the state-mandated Clayton 2009-2014 Housing Element based on the City enacting over 30 categories of implementation measures.

Some of the implementation measures require on-going voluntary City actions and commitments while other implementation measures are mandatory and require actual Zoning and General Plan amendments. Over the past several years City staff has brought forth most of the mandatory Zoning and General Plan amendments to the Planning Commission and City Council for consideration and approval.

However, under Goal II, Implementation Measure II.1.1. of the Clayton 2009-2014 Housing Element (see attached excerpts) and pursuant to State Senate Bill 2 (2007), the City committed to amending the Zoning Ordinance to allow emergency shelters by right and only subject to objective development and management standards, as required by applicable state law. The State's purpose behind this emergency shelter requirement is to make every community responsible for addressing their homeless person needs, regardless if it has any documented homeless persons, even though according to the "Homeless" section of our 2009-2014 Housing Element (see attached excerpts) there were no documented homeless individuals identified as residents of Clayton in the 2009 survey conducted by the Contra Costa County Homeless Program.

Recently, Pacific Municipal Consultants (PMC), the City's 2014-2022 Housing Element update consultant, identified the emergency shelter provision as the one remaining unresolved item that is still required to be completed before we can move forward with the mandatory 2014-2022 Housing Element update cycle. According to our consultant, to do otherwise (no action) would cause the reviewing state agency (HCD) to defer and delay consideration of our new Housing Element Update until the City completed this Implementation Measure from the 2009-2014 cycle.

This remaining outstanding implementation measure is a State mandate pursuant to Senate Bill 2, and requires all California cities (including Clayton) to amend their Zoning Ordinance to allow "Emergency Shelters" by right as a permitted use in at least one zoning district. The Bill also requires that "Emergency Shelters" be subject to the same base development standards of that zone; except that cities may, if they wish, establish objective development and management standards for emergency shelters.

Planning Commission Action

On August 27, 2013, the Planning Commission conducted a noticed public hearing and after considering the proposed Emergency Shelter Ordinance, adopted Resolution No. 06-13 recommending City Council approval of the Ordinance, amending a portion of Title 17 of the Clayton Municipal Code, establishing regulations for Emergency Shelters, and specifically establishing Emergency Shelters as a permitted use in the Public Facilities (PF) Zoning District, pursuant to State Senate Bill 2. No members of the public spoke on this matter.

The City Council is also referred to the attached August 27, 2013, Planning Commission staff report and meeting minutes for more detail on the proposed Emergency Shelter Ordinance.

DISCUSSION

The proposed City-initiated Ordinance to amend a portion of Title 17 of the Clayton Municipal Code will comprehensively address this State mandate and establish local control and regulation to the maximum extent permitted by State law. In preparation, staff has reviewed State Law (SB 2; 2007 statute), our current Housing Element and previous City staff reports and files. In addition, staff has researched what other communities have done in regards to emergency shelters. Specifically, staff has researched the local and regional communities of Concord, Mountain View, Pittsburg, Pleasant Hill, Santa Cruz, and Walnut

Creek, and statewide the communities of Costa Mesa, Laguna Hills, Mission Viejo, Orange, Red Bluff, and Ventura.

Based on that research staff has prepared the attached Ordinance amending a portion of Title 17 of the Clayton Municipal Code, establishing regulations for emergency shelters, and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District, establishing an emergency shelters definition and establishing objective development and management standards for emergency shelters. The Council is referred to the attached draft Ordinance No. 449 for the proposed new Ordinance sections and amendments in their entirety.

It is the opinion of staff and the City Attorney the proposed Ordinance language does not conflict with the requirements or intent of SB 2 and will achieve compliance with this State mandate, while maximizing our discretionary local oversight.

PF Zoning District Land Availability Analysis

The State law (SB-2; 2007) also requires that cities perform a land availability analysis in order to verify that there is potential land available to accommodate an Emergency Shelter. Upon analyzing all the properties with a PF Zoning District designation, the only site that has sufficient land available for a potential emergency shelter, and which can also meet the locational parameters of the proposed Ordinance, is the City's 4.73 acre Community/Library property located at 6125 Clayton Rd. (APN: 118-370-006); please see attached site diagram.

After discussing and deliberating this issue the Planning Commission concluded and agreed with staff, that given this City owned property is the only suitable Public Facilities District site, it will actually optimize the City's discretion over a potential emergency shelter. Any potential emergency shelter operator would have to make a proposal to the City and the City would be in a position to consider and approve or deny the overall merits of the project proposal.

Site Plan Review Requirements Still Apply

It should also be noted that while the emergency shelter use would be listed as a permitted use, this fact would not prohibit or limit the City's Site Plan Review process from occurring to ensure the physical reuse and development of the site are built and/or improved to City standards.

GENERAL PLAN - HOUSING ELEMENT

Under Goal II, Implementation Measure II.1.1. of the Clayton 2009-2014 Housing Element and pursuant to State Senate Bill 2, the City committed to amending the Zoning Ordinance to allow emergency shelters by right and only subject to development and management standards (see attached excerpts). Approval of the proposed Ordinance would complete this implementation measure, comply with State law, and allow the City of Clayton to proceed with the 2014-2022 Housing Element update cycle. By not doing so, the State HCD will not entertain the City's 2014-2022 draft Housing Element for necessary certification according to the City's Housing Element consultant (PMC).

CEQA

Pursuant to the California Environmental Quality Act (CEQA) an Initial Study/Negative Declaration was previously prepared and approved for the Clayton 2009-2014 Housing Element, including its implementation measures; and whereas, pursuant to Section 15061(b)(3) it can be seen with certainty there is no possibility the currently proposed amendment to the Clayton Municipal Code/Zoning Ordinance may have a significant effect on the environment; it is therefore not subject to CEQA and no further environmental review is necessary.

FISCAL IMPACT

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

Attachments:

1. Ordinance No. 449 – Establishing Regulations for Emergency Shelters.
2. Planning Commission Resolution No. 06-13 (without attachment).
3. August 27, 2013, Planning Commission Meeting Minutes (excerpts)
4. August 27, 2013, Planning Commission Staff Report (without attachments).
5. Pages 15, 16, 115, 116 of Clayton 2009-2014 Housing Element.
6. Site Diagram Identifying Possible location for and Emergency Shelter.