



AGENDA

REGULAR MEETING

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CLAYTON CITY COUNCIL

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TUESDAY, March 15, 2016

7:00 P.M.

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

Mayor: Howard Geller

Vice Mayor: Jim Diaz

Council Members

Keith Haydon

Julie K. Pierce

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 and on the City's Website at least 72 hours 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 ***

March 15, 2016

1. **CALL TO ORDER AND ROLL CALL** – Mayor Geller.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.

3. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.

(a) **Information Only** – No Action Requested.

1. Memo outlining added expenses for full-time lighting of the pedestrian tunnel under Clayton Road. ([View Here](#))

(b) Approve the minutes of the City Council's joint special meeting of February 29, 2016 and its regular meeting of March 1, 2016. ([View Here](#))

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

(d) Approve with regret the resignation of Alyse Smith from the citizens advisory Trails and Landscaping Committee. ([View Here](#))

(e) Adopt a Resolution appointing Dane Horton and Carol Herington to the citizens advisory Trails and Landscaping Committee for the terms of office to expire December 31, 2017. ([View Here](#))

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REPORTS**

(a) Planning Commission – No meeting held.

(b) Trails and Landscaping Committee – No meeting held.

(c) City Manager/Staff

(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

(e) Other

6. 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.

7. PUBLIC HEARINGS – None.

8. ACTION ITEMS

- (a) Consider the Second Reading and Adoption of City-initiated Ordinance No. 461 amending Title 17 Zoning of the *Clayton Municipal Code* establishing the prohibition of cannabis testing facilities within the city of Clayton. ([View Here](#)) (Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Following Council consideration of any public comment and discussion, approve a motion to have the City Clerk read Ordinance No. 461 by title and number only and waive further reading; and **4)** On completion of the City Clerk's reading, approve a motion to adopt Ordinance No. 461 with findings its adoption is not considered a project under CEQA nor will it have a significant adverse effect on the environment and is therefore exempt under CEQA.

- (b) Consider a Resolution expressing the City's interest in a regional partnership with other Contra Costa cities and the County for uniform taxi cab regulations, inspections, and licensing. ([View Here](#)) (Chief of Police)

Staff recommendation: Following staff presentation and opportunity for public comments, by motion adopt the Resolution authorizing the City Manager to pursue the City's public policy interest in a regional effort for the uniform regulation and licensing of taxi cabs within Contra Costa County.

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

10. **CLOSED SESSION**

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator
Real Properties: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).
Instructions to City Negotiators: Mayor Geller, Council Member Pierce, City Manager
Napper, and Ed Del Beccaro, Managing Director, Transwestern, regarding price
and terms of payment.
Negotiating Party: Pacific Union Land Company (Joshua Reed, Director of Real Estate)

11. **ADJOURNMENT**

The next regularly scheduled meeting of the City Council will be April 5, 2016.

#

City of Clayton

Memo

To: Honorable Clayton City Council
From: Maintenance Supervisors
Date: March 9, 2016
Re: Estimated added cost of running the Pedestrian Tunnel lights under Clayton Road 24 hours a day

Below is the estimated extra operating expense for the existing pedestrian tunnel lights running on a 24 hour a day 365 days a year schedule instead of its current night-time only schedule. The lights in the pedestrian tunnel are a high intensity output fluorescent light in vandal resistant fixtures. The main cost difference from running the lights from just night-time use to 24 hours a day are the electrical use and the added maintenance. The electrical cost is the easier variable to calculate then the ongoing maintenance costs. The following are estimated added costs for lighting the pedestrian tunnel from just nighttime to 24 hours a day.

A. Electrical costs are estimated to run an additional \$1,008.00 per year; this works out to 5,040 more kWh needed per year to light the tunnel during daylight hours at an average cost of .20 cents per kWh (this is the most recent cost of electricity on PG&E bill)

B. City Maintenance costs will see an increase in the following items;

- Light bulbs burning out at a cost of \$25.00 per bulb plus labor estimated at ½ hour to replace per bulb.
- The failure of the light sockets that hold the light bulbs: this issue is common now with just the night time use but will increase with the lights on 24 hours a day. With the high intensity lights the heat builds up in the fixtures which cause failure of these sockets. The cost for the socket is \$5.00 plus labor for installation estimated at 2 hours per socket.
- Ballast failures due to continuous usage: the cost of a ballast for these lights is \$100 plus labor estimated at 2 hours per ballast
- The failure of the light fixture lens also due to heat buildup from the continuous running of the lights. The cost of a new lens is \$50.00 plus labor estimated at 1 hour per lens.

C. The labor costs and the rate of failure are hard to estimate from prior years since these costs are not a separate line item within the Landscape Maintenance District budget (210) which pays for the operation and maintenance of the tunnel lighting. Some educated guesses can be made in the rate of failure of the above items. The light bulbs would have at least a doubling in the failure rate as of now since the lights will be on twice as much per year. The average amount of bulbs replaced in a year is now six (6) so that would now double to twelve (12) bulbs per year (an additional six (6) bulbs) at an increase cost for the added bulbs of \$150.00 a year plus the labor for replacement of \$144.00. The light sockets fail at a rate of two (2) times a year; with the new 24 hour schedule there would be a greater failure rate do to the continuous heat buildup within the fixture. The estimate is for the failure to occur at

double the rate that is now seen. This would increase the failure rate to an additional four (4) sockets per year. The material cost for the additional light sockets would be an extra \$20.00 a year plus the labor for installation of \$384.00. The ballasts are replaced on an average of one (1) per year, with the 24 hour usage the estimate would be the doubling of the failure rate for an increase of one (1) more ballast per year at a cost of \$100.00 for the ballast plus the labor for installation of \$96.00. The lens have not been a high maintenance issue when the lights were only being run during the nighttime, but with the new 24 hour usage we could see an upswing in replacement due to heat buildup within the fixture. The estimate is one (1) lens a year needing replacement at a cost of \$50.00 and the labor for installation of \$48.00.

Below is a chart showing the overall estimated addition cost associated with running the Pedestrian Tunnel Lights on a 24 hour schedule. The amount includes total labor and material cost per year. These totals are just an estimated base on past repair frequency and could be either higher or lower per year than shown.

ITEM	ADDITIONAL COSTS
ELECTRICITY	\$1,008.00
LIGHT BLUBS	\$294.00
LIGHT SOCKETS	\$404.00
BALLASTS	\$196.00
LENS	\$98.00
TOTAL	\$2,000.00

The estimated added annual cost to operating the Pedestrian Tunnel Lights on a 24 hour schedule would be an additional \$2,000.00 per year.

Alternative Lighting System

The cost to retrofit the tunnel with LED vandal-resistant light fixtures to save power and maintenance costs has been estimated to run between \$25,000.00 and \$35,000.00. The payback in savings if the lighting was replaced with LED fixtures would be estimated to take from ten (10) to (15) fifteen years. This takes into account the overall saving from the electrical and maintenance costs associated with running the lights on a 24 hour schedule.

**MINUTES
OF THE
SPECIAL JOINT MEETING**

**CLAYTON CITY COUNCIL AND THE
BOARD OF TRUSTEES OF THE MT.
DIABLO UNIFIED SCHOOL DISTRICT**

Monday, February 29, 2016

Agenda Date: 3-15-2016

Agenda Item: 3b

1. CALLS TO ORDER AND ROLL CALLS

The Clayton City Council meeting was called to order at 6:35 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Vice Mayor Diaz (arrived at 7:02 p.m.), Councilmembers Haydon, Pierce (arrived at 6:46 p.m.) and Shuey. Councilmembers absent: None. City Staff present: City Manager Gary Napper, City Clerk Janet Brown, and Chief of Police Chris Wenzel.

Mt. Diablo Unified School District Board Members present: President Cheryl Hansen, Vice President Debra Mason, Trustees Barbara Oaks and Linda Mayo. Board Members absent: Trustee Brian Lawrence. School District Staff present: Superintendent Dr. Nellie Meyer, and Secretary Debbie Maher.

2. PLEDGE OF ALLEGIANCE – led by Mayor Geller.

3. OPENING REMARKS – were made by Mayor Howard Geller.

4. OPENING REMARKS – were made by Mt. Diablo Unified School District Board President Cheryl Hansen.

5. PUBLIC COMMENT PERIOD

7:45 p.m. Remarks were provided by Dr. Harmesh Kumar, a candidate for the office of California State Assembly, District 14. He considered the exchange between the Clayton City Council and Mt. Diablo Unified School District Board members went well; he would also like to see public education funds spent on the students, not attorneys.

6. INFORMATIONAL EXCHANGE WITH MT.DIABLO UNIFIED SCHOOL DISTRICT

- (a) Report on the success of an inter-agency storm water runoff containment project performed on MDUSD school property and on City property adjacent to the asphalt public trail rimming the Mt. Diablo Elementary School. (Clayton City Council)

Vice Mayor Geller provided a brief background during a slideshow of the joint storm water runoff project; he was very pleased that City Maintenance Staff and MDUSD staff were able to work together and resolve the drainage problems.

City Manager Gary Napper thanked the School District for its collaboration on this storm water runoff containment project. He noted in years past with any measurable rainfall, the dirt hillside between the elementary school and Clayton Road would experience dirt kick-outs causing road blockages and vehicular hazards. After the repairs and despite the El Nino heavy rains, not one dirt slide has occurred. Councilmember Haydon also thanked the Mt. Diablo Unified School District for its portion of expenses on this storm water runoff containment project.

- (b) Discuss opportunities for improved protocols for area neighborhood notification when outdoor school and/or Parent-Faculty Club events on school campuses occur during non-traditional school hours. (Clayton City Council)

Mayor Geller advised this item was requested by Councilmember Pierce who is currently not present; however, he thought it would be good for both the Council and the surrounding neighborhoods near the public schools to know of outdoor after-school hour events that would involve loudspeakers and/or amplified music. Councilmember Haydon added surrounding neighborhoods are impacted by the additional sound and possible parking issues.

(Councilmember Pierce arrived)

MDUSD Board President Hansen inquired of which sites were being referred to: Diablo View Middle and/or Mt. Diablo Elementary schools. Councilmember Pierce responded from her perspective it is primarily Mt. Diablo Elementary School; the issue arose recently when the school had an outdoor movie night and she received many calls from her neighbors inquiring on the event, noise, and how long it would last. She noted indoor events do not generate as much noise and are not really a problem.

MDUSD Board President Hansen suggested adding neighbors to the school's email blast or auto caller when such events are scheduled. She was also open to other ideas on how to effectively notify the school neighbors.

Councilmember Pierce asked if there could be something as simple as a separate sign posted at the school entrance or fence to highlight the event; the existing reader board has many events scrolling and it could take some time for non-school hour events to circulate and be noticed by area residents. MDES Principal Irene Keenan thought placing a sign on the fence was a great idea and will speak with the Parent Faculty Club to see if this is something they will do.

- (c) Discuss vehicle traffic during drop-off and pick-up hours near Mt. Diablo Elementary School. (Clayton City Council)

Councilmember Pierce provided a brief history of occurrences and near vehicular misses experienced during student drop-off and pick-up times in her neighborhood near Mt. Diablo Elementary School. Driver behavior is getting worse and an accident is going to happen by some drivers driving up the opposing traffic lane just to get ahead of the long queue.

MDUSD President Hansen asked if neighborhood kids are using the "walking school bus" idea as suggested at last year's joint meeting. Councilmember Pierce advised some neighborhood kids are participating in this manner which has helped traffic congestion to

some degree; however, families with students not residing in the surrounding neighborhood but attending Mt. Diablo Elementary are still part of the traffic problem, and noted it is worse during rainy weather.

(Vice Mayor Diaz arrived)

Chief of Police Chris Wenzel advised he initiated a recent traffic/school route inspection conducted by an expert from Livermore and added the usual "3 E's" are applicable here (Engineering, Enforcement and Education). In his observation, part of the traffic issue is the design of the school. In his off-duty role as a member of the Livermore School District Board, he suggested one alternative is for older students to be on the school's sidewalk and open the car doors of other students during drop-off times in the morning to expedite this process, under the supervisor of a teacher or staff member of the school.

MDUSD Board President responded she liked the idea of trying a "student valet". She also inquired if there could be a Clayton police officer present for traffic enforcement and how often that could occur?

Chief Wenzel advised under current police staffing levels it would be difficult to schedule a Clayton police officer to be present during daily drop-off and pick-up times. He noted the Livermore school traffic expert will be coming out again on the afternoon of March 8 to further observe and provide some ideas to help with the traffic congestion.

City Manager Gary Napper indicated he had been chatting now with Superintendent Meyer about ways to address the elementary school's chronic traffic problems; he suggested there may be merit for both agencies to bring on a School Resource Officer that would be able to share time between Mt. Diablo Elementary and Diablo View Middle School campuses handling not only school/student police concerns, intervention, and preventative matters but also provide traffic enforcement each day at the elementary school during student drop off and pick up hours. Superintendent Nellie Meyer added a School Resource Officer could further assist in speaking with students about various topics including drug prevention.

Vice President Mason also included Bel Air Elementary experienced similar issues which seemed to resolve with the addition of the School Resource Officer. President Hansen added she would love for Clayton to have a School Resource Officer but always thought it was financially infeasible. Chief Wenzel noted a School Resource Officer could also assist at school and community special events, help educate adults, and aid getting information out to surrounding neighborhoods.

City Manager Napper indicated he and Superintendent Meyer will work together regarding the possible implementation of a School Resource Officer.

- (d) Report/Update from MDUSD regarding the inaugural year of its after-school intra-mural sports programs at Diablo View Middle School. (MDUSD Board)

Superintendent Meyer introduced Mr. Jonathan Eagan, Assistant Superintendent of Middle Schools, to discuss the successes of the inaugural year of Diablo View Middle School's intra-mural sports programs.

Mr. Eagan presented a brief slideshow depicting the types of after-school intra-mural sports programs now being offered at Diablo View Middle School and their successes in playing teams from the other MDUSD middle school. He remarked these programs are offered at no-cost, provides free transportation for the players to the other schools, adults are legally cleared, participants grades are checked weekly, and referees are concussion trained. Participation includes coed for some of the sports, as well as male and female sports teams

Superintendent Meyer added there have been measurable reductions in student D and F grades and fewer discipline issues since beginning the after-school intra-mural sports program.

Councilmember Pierce inquired on the number of students participating in each of the sports offered? Mr. Eagan advised Diablo View Middle School had 45 participants for soccer, and enough participants to fill three basketball teams consisting of two boys' teams and one girls' team.

The Clayton City Council expressed its appreciation and pleasure with the information provided and success of the MDUSD's intra-mural sports program.

- (e) Share information/feedback regarding the Clayton Valley Charter High School relationship. (Clayton City Council)

Councilmember Shuey provided a chronology on the relationship between the Clayton City Council and Clayton Valley Charter High School and requested feedback from the Mt. Diablo Unified School District Board on its current relationship with Clayton Valley Charter High School. From his perspective, the School District is spending way too much public money on attorneys battling the Charter High School when such funds could be better used going to student education.

MDUSD Board President Hansen advised the School District is the landlord and Clayton Valley Charter High School is the tenant in this particular relationship; the School District is not involved with the charter's day-to-day operations. Councilmember Shuey added the Charter High School is here to stay and he inquired whether the School District or its local school principals are preparing local students to enter the Charter's curriculum.

Diablo View Middle School Principal Patti Bannister commented she has had a conversation with Clayton Valley Charter High School regarding Elective Courses offered and is currently working on grant funding. Mt. Diablo Elementary School Principal Irene Keenan noted Clayton Valley Charter High School students help out with the Elementary School's Science Fair, extracurricular activities and also chaperone 5th Grade camps.

Councilmember Shuey asked if the Mt. Diablo Unified School District Board would be interested in a joint Clayton Valley Charter High School meeting, similar to what they are currently doing with Clayton and in neighboring cities. Board Trustee Linda Mayo advised conversations are occurring between the teachers deciding on interests, including the best person to speak with and setting up a time to discuss.

- (f) Discuss the need for a performing arts studio in the Clayton Valley area.
(Clayton City Council)

Councilmember Shuey inquired on the prospects of a performing arts studio in the Clayton Valley area and thought it would provide a great opportunity for kids not necessarily interested in mainstream public education. Vice President Mason responded a performing arts studio would serve many kids in the community and could meet the needs of the Clayton Valley area.

Councilmember Pierce asked if the Board members had any requests for Clayton City Council. MDUSD President Hansen responded the items on this Agenda pretty well flushed out the joint interests.

Mayor Geller and Board President Hansen thanked everyone for attending and stated that general guidance to respective staff was provided and that no formal action was taken on any of these agenda items.

6. **ADJOURNMENT**— on call by Mayor Geller the Clayton City Council joint meeting adjourned at 7:47 p.m.

The next regularly scheduled City Council meeting is on March 1, 2016.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL
TUESDAY, March 1, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz and Councilmembers Haydon, Pierce, and Shuey. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Assistant to the City Manager Laura Hoffmeister, and City Clerk/HR Manager Janet Brown.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.

3. **CONSENT CALENDAR**

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of February 16, 2016.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted a Resolution No. 11-2016 approving the Notice of Completion for the Trail Bridges Renovation Project (CIP No. LMD 2015-4; Landscape Maintenance District funds) and the replacement of the exterior wood stairway at the side of Clayton City Hall performed by Graniterock Company, and authorize the City Clerk to record the Notice of Completion.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Certificates of Recognition to Dominic and Derek Vines for their construction of a 4-hole sandbag filling station for the City to earn the Webelos Conservation Project Badge and "Build It" pin (Boy Scouts of America).

Mayor Geller presented Certificates to Dominic Vines from Cub Scout Pack 492 and his father, Derek Vines. During a photo slideshow illustrating the project and its progress, Dominic explained the planning and construction process for the 4-hole sandbag filling station.

- (b) Certificates of Recognition to public school students selected for exemplifying the "Do the Right Thing" character trait of "Self-Discipline" in January/February 2016.

Mayor Geller and Mt. Diablo Elementary School third grade teacher Michelle Howisey presented Certificates to students Michael Albert and Ava Chan.

Mayor Geller and Diablo View Middle School Principal Patti Bannister presented Certificates to students Caitlin Reimer and Valeria Gutierrez-Camarillo.

Mayor Geller and Clayton Valley Charter High School Director of Operations, Gregory Hile, presented Certificates to students Vanessa Mayorga, Sehaj Sahota and Alexandria Uy.

5. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff - No Report.
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Diaz attended the Contra Costa Water District Board meeting where Clayton resident and Board President Joe Campbell was honored for his lengthy civic service upon his retirement; he also attended a County Connection Board meeting, a Clayton Morgan Territory Fire Safety meeting, a League of California Cities East Bay Division meeting, and the City's joint meeting with the Mt. Diablo Unified School District Board.

Councilmember Pierce attended a joint meeting of the Associated Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) regarding Regional Housing Displacement Forum, as well as meetings of the Contra Costa Transportation Authority, the ABAG and MTC merger study session, the Bay Area Regional Collaborative, the City's joint meeting with the Mt. Diablo Unified School District Board, and a meeting of the MTC.

Councilmember Shuey attended the City's joint meeting with the Mt. Diablo Unified School District Board.

Councilmember Haydon attended various meetings with the Clayton Library Foundation, the East Contra Costa Habitat Conservancy, the Clayton Business and Community Association General Membership meeting, and the City's joint meeting with the Mt. Diablo Unified School District Board.

Mayor Geller attended the general membership meeting of the Clayton Business and Community Association, the Contra Costa Water District Board meeting where President Campbell was honored for his service, and the City's joint meeting with the Mt. Diablo unified School District Board. He was also a judge at the 16th Annual Clayton Club Chili Cook-Off.

- (e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Tamara Steiner, owner of the *Clayton Pioneer*, announced the applications for higher education scholarships awarded by the Clayton Business and Community Association are available on its website as well as through several other sources, such as the Clayton Valley Charter High School.

7. PUBLIC HEARINGS

- (a) Public Hearing on a proposed June 2016 ballot measure for the recommended continuation of the existing City of Clayton Community Facilities District 2007-1's (Citywide Landscape Maintenance District) real property annual special tax for an additional period of 10 years to fund the on-going operations and maintenance of the City's trails system, public roadway landscaping, open space and exotic weed abatements, and other related expenses.

Assistant to the City Manager Laura Hoffmeister provided a brief history of the Citywide Landscape Maintenance District along with a slideshow presentation. She advised back in 1997 the Clayton Landscape Maintenance District collected varying tax amounts from different geographic areas of Clayton to fund the Landscape District's maintenance obligations. There were also some areas of the city that were not contributing to the public fund yet were receiving benefits from the overall citywide maintenance of the public landscaping and trails. In November 1997, Measure E was created for rate equalization on all residential parcels in the city, which ballot measure passed for 10 years.

In June 2007, local voters passed Measure B to continue the Citywide Landscape Maintenance District and its parcel tax by an 82.94% voter approval. She noted the revenue from this separate fund does not cover maintenance of the City parks. Members of the District's citizens' advisory oversight committee, the Trails and Landscaping Committee, unanimously recommends, since this parcel tax and the capability to maintain these public services will expire in June 2017, that a ballot measure to continue the services and the parcel tax be placed on the June 2016 election ballot for voter consideration. The proposal is to continue the parcel tax for another ten years using the same tax methodology, including the annual Consumer Price Index cap not to exceed 3% annually.

In addition to ordering the ballot measure tonight on the June 2016 election, Ms. Hoffmeister also asked the Council to include a motion to form a City Council ad-hoc committee to author the argument in Favor of the Ballot Measure.

Councilmember Pierce noted the investment of \$1.4 million over the last 9 years is associated with actual capital improvements conducted by the City through the District to the public landscaping and the trails, while most of annual tax funds are applied to the continued operations, maintenance and landscape repairs. She noted voters did not want to issue tax revenue bonds for capital improvements, favoring instead a pay-as-you-go plan for such upgrades within available annual revenues.

Mayor Geller opened the Public Hearing to receive public comments.

Dan Hummer, 282 Stranahan Circle, inquired on how the special tax of \$234.84 compares to neighboring communities? Ms. Hoffmeister advised not every city has a Citywide Landscape Maintenance District; however, San Ramon charges in the range of \$200 - \$600 per year, east Contra Costa communities charge about \$400 per year. She added that Clayton's Citywide Landscape Maintenance District's rate can only be increased annually by changes in the Consumer Price Index, and only then to a maximum of 3% per year.

City Manager Napper offered a quick calculation that Clayton's Citywide Landscape District Maintenance annual cost breaks down to a monthly expense of \$19.57 per parcel. In comparison of monthly Homeowner Association Fees (HOA) fees paid within the community to take care of lesser common areas, the District's tax rate to provide maintenance of the public common areas throughout the city is considerably less.

Mayor Geller noted the tax collected also takes care of the trails located in Clayton. Councilmember Shuey also recalled the original Citywide Landscape Maintenance District fee was proposed at approximately \$440 per year.

With no other persons wishing to speak, Mayor Geller closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Resolution No. 12-2016 calling an election to continue the existing special parcel tax subject to the same adjustment methodology for Community Facilities District (CFD) 2007-1 "Citywide Trails and Landscape Maintenance District". (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Mayor Geller, to form a City Council Ad-hoc Committee comprised of Councilmember Haydon and Councilmember Shuey to author the Argument in Favor of the ballot measure, in addition to penning the Rebuttal Argument, if any. (Passed; 5-0 vote).

- (b) Consider the Introduction and First Reading of proposed City-initiated Ordinance No. 461 amending Title 17 Zoning of the *Clayton Municipal Code* establishing the prohibition of cannabis testing laboratories and the delivery of cannabis within the city of Clayton.

Community Development Director Mindy Gentry presented the staff report advising this item was presented to the Planning Commission on February 9, 2016 where a Resolution was approved recommending the City Council adopt an Ordinance banning cannabis delivery services and cannabis testing facilities in the city of Clayton. Recent state laws allow a city to regulate or prohibit either or both so it is a policy decision for the City Council.

Councilmember Haydon advised it appears some information was left off page 3 of the Staff Report and asked for clarification. Ms. Gentry responded the staff report information referencing the cannabis delivery services website was updated upon notification of the missing information, along with an email to the Councilmembers prior to this evening's meeting. The delivery data may be found on the internet as weedmaps.com. She added there seems to be 10 companies currently delivering medical cannabis to Clayton requestors.

Councilmember Haydon inquired if there are any proposed state actions that would affect cannabis testing facilities or deliveries. Ms. Gentry added there are a handful of state initiatives weaving through the process with a proposed cannabis recreational use measure to be placed on the November 2016 ballot for voter consideration.

Vice Mayor Diaz indicated he is a member of the Public Safety Policy Committee of the League of California Cities and its recent discussions on this subject noted an established regulatory state bureau of consumer affairs will not be established until 2018. Meanwhile, under federal law, cannabis use is still illegal although enforcement has been withheld. Because of the federal law, banks are unable to accept monies from marijuana sales as they risk potential loss of its Federal Deposit Insurance Corporation (FDIC) certification.

Mayor Geller opened the Public Hearing for public comments.

Gary L. Carr, 714 Bloching Circle, expressed his concerns with the proposed Ordinance banning medical cannabis deliveries; he noted no opposition to the lab testing prohibition. He would like to see the subjects decoupled as they are two separate issues.

He advised there are residents of Clayton that rely on the delivery service as they have no other means to obtain medical cannabis products. He noted the closest location is in Oakland. Mr. Carr emphasized that medical cannabis is legal in the State of California as long as it is used by the one person that has obtained a medical cannabis photo identification card issued by a physician. He offered that medical cannabis products do not contain as much THC as the recreational drug.

Mayor Geller closed the Public Hearing and returned the item to the City Council for discussion.

Councilmember Haydon would prefer the cannabis deliveries and testing laboratories issues be separated for City Council action; he is concerned that banning deliveries may cause an undue medical necessity hardship for Clayton residents needing this service.

Mayor Geller added restriction of medical cannabis delivery could be over-stepping, and also prefers cannabis deliveries and testing laboratories be separated for Council action. He reported the Clayton Police Chief recently confirmed to him there have not been any arrests made in the city of Clayton associated with cannabis deliveries that are apparently occurring in town already.

Vice Mayor Diaz inquired if there are locations closer than the example of Oakland for cannabis products? Assistant to the City Manager Laura Hoffmeister confirmed that there are no legal locations within the City of Concord.

Councilmember Shuey added he has not heard of any problems or disturbances related to cannabis delivery in the city of Clayton. Mayor Geller added he has not heard of anything either but did acknowledge the possibility does exist.

Councilmember Pierce advised she can support the Ordinance as it currently reads or it separated. She suggested rather than banning cannabis delivery services, perhaps it should be regulated to only occur during certain hours of the day and no later than a certain hour in the evenings.

City Manager Napper offered it is much more complicated for the City to regulate and then enforce delivery regulations than merely allow cannabis deliveries to occur unregulated or simply ban them. He advised the City Council may indeed separate the cannabis testing laboratories policy question from the deliveries issue. In fact, rather than collectively wordsmithing the Ordinance, staff has available a revised Ordinance which would ban the cannabis testing laboratories but remove any language regulating or banning medical deliveries.

By general consensus, the City Council concurred with staff's proposed language amending the proposed Ordinance to strike out any reference to cannabis delivery services or the regulation thereof.

It was moved by Councilmember Haydon, seconded by Mayor Geller, to have the City Clerk read Ordinance No. 461, as amended, by title and number only omitting reference to deliveries, and waive further reading. (Passed; 5-0 vote).

The City Clerk read amended Ordinance No. 461 by title and number only.

It was moved by Councilmember Haydon, seconded by Mayor Geller, to approve Ordinance No. 461 as revised for Introduction, with findings the action does not constitute a project under CEQA. (Passed; 5-0 vote).

8. **ACTION ITEMS**

- (a) Consider the report and a Resolution approving the City's 2015 Annual Report on its progress of implementing the City's Housing Element policies and programs.

Community Development Director Mindy Gentry presented the staff report noting the 2015 Annual Progress Report reflects no new housing units were constructed in 2015, approval of three (3) Property Assessment Clean Energy programs, encouraging universal design participating in regional planning efforts, and continuing to promote and encourage the preservation of existing affordable housing opportunities in discussions with housing developers.

Councilmember Pierce added the Contra Costa Transportation Authority's new transportation sales tax measure, if approved by voters, will be requiring annual reporting to account toward growth management element and is interested to see where Capital Improvement Project funds are being used. She noted staff's report as submitted this evening would largely comply with that new requirement.

Mayor Geller opened the item to receive public comments; no public comments were offered.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to adopt Resolution No. 13-2016 approving the City of Clayton 2015 Housing Element Annual Progress Report. (Passed; 5-0 vote).

9. **COUNCIL ITEMS**- None.

10. **CLOSED SESSION**

Mayor Geller announced the City Council would adjourn into a closed session to discuss the subject matter listed below (8:35 p.m.):

- (a) *Government Code Section 54956.9(d) (2) – Significant Exposure to Litigation.*
Conference with Legal Counsel: Anticipated Litigation (1 case).

Report out from Closed Session (8:52 p.m.)

Mayor Geller reported the City Council received information from its City Attorney regarding this matter but no reportable action was taken.

11. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 8:52 p.m.

The next regularly scheduled meeting of the City Council will be March 15, 2016.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

#####



Agenda Date 3/15/2016

Agenda Item: 3c



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 3/15/16

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

3/11/2016	Cash Requirements	\$111,253.89
3/1/2016	ADP Payroll week 9, PPE 2/28/16	\$80,714.54
	Total	\$191,968.43

Attachments:

Cash Requirements Report dated 3/11/2016 (5 pages)
ADP payroll report for week 09 (1 page)

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
ADP, LLC								
ADP, LLC	3/15/2016	3/15/2016	470045642	Payroll fees PPE 2/28/16	\$159.00	\$0.00		\$159.00
ADP, LLC	3/15/2016	3/15/2016	469280530	Qtr & Year end processing with W-2's 2015	\$386.60	\$0.00		\$386.60
				<i>Totals for ADP, LLC:</i>	<i>\$545.60</i>	<i>\$0.00</i>		<i>\$545.60</i>
All City Management Services, Inc.								
All City Management Services, Inc.	3/15/2016	3/15/2016	42347	School crossing guard services 1/31/16-2/13/1	\$509.10	\$0.00		\$509.10
All City Management Services, Inc.	3/15/2016	3/15/2016	42485	School crossing guard services 2/14/16-2/27/1	\$458.19	\$0.00		\$458.19
				<i>Totals for All City Management Services, Inc.:</i>	<i>\$967.29</i>	<i>\$0.00</i>		<i>\$967.29</i>
Altera Design								
Altera Design	3/15/2016	3/15/2016	CAP0179	Deposit refund for 567 Mt Olivet Place C&D	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Altera Design:</i>	<i>\$2,000.00</i>	<i>\$0.00</i>		<i>\$2,000.00</i>
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	3/15/2016	3/15/2016	0000949092	Legal CLS Comm Dev- ZOA, City Clerk-CFD	\$645.00	\$0.00		\$645.00
				<i>Totals for Bay Area News Group East Bay (CCT):</i>	<i>\$645.00</i>	<i>\$0.00</i>		<i>\$645.00</i>
Karen Behmlander								
Karen Behmlander	3/15/2016	3/15/2016	27454	Deposit refund for Hoyer Hall 2/20/16	\$200.00	\$0.00		\$200.00
				<i>Totals for Karen Behmlander:</i>	<i>\$200.00</i>	<i>\$0.00</i>		<i>\$200.00</i>
Saragail Calloway								
Saragail Calloway	3/15/2016	3/15/2016	072515	Deposit refund for Hoyer Hall 7/25/15	\$200.00	\$0.00		\$200.00
Saragail Calloway	3/15/2016	3/15/2016	110215	Deposit refund for Hoyer Hall 11/2/15	\$200.00	\$0.00		\$200.00
				<i>Totals for Saragail Calloway:</i>	<i>\$400.00</i>	<i>\$0.00</i>		<i>\$400.00</i>
CalPERS Retirement								
CalPERS Retirement	3/15/2016	3/15/2016	14719060, 14719071	March UAL	\$28,437.00	\$0.00		\$28,437.00
CalPERS Retirement	3/15/2016	3/15/2016	021816	Retirement PPE 2/28/16	\$13,501.41	\$0.00		\$13,501.41
				<i>Totals for CalPERS Retirement:</i>	<i>\$41,938.41</i>	<i>\$0.00</i>		<i>\$41,938.41</i>
CCWD								
CCWD	3/15/2016	3/15/2016	G984226	Water, Diablo Estates 11/10/15 & 1/12/16	\$1,220.10	\$0.00		\$1,220.10
CCWD	3/15/2016	3/15/2016	I045454	Jan-Feb Water for Diablo Estates	\$68.12	\$0.00		\$68.12
				<i>Totals for CCWD:</i>	<i>\$1,288.22</i>	<i>\$0.00</i>		<i>\$1,288.22</i>
City of Concord								
City of Concord	3/15/2016	3/15/2016	50205	January PD Vehicle maintenance	\$2,722.92	\$0.00		\$2,722.92
				<i>Totals for City of Concord:</i>	<i>\$2,722.92</i>	<i>\$0.00</i>		<i>\$2,722.92</i>
Concord Garden Equipment								
Concord Garden Equipment	3/15/2016	3/15/2016	520105	Hedge Trimmer	\$480.10	\$0.00		\$480.10
Concord Garden Equipment	3/15/2016	3/15/2016	CLPD-1601	Breath/Blood tests for January	\$300.00	\$0.00		\$300.00
				<i>Totals for Concord Garden Equipment:</i>	<i>\$780.10</i>	<i>\$0.00</i>		<i>\$780.10</i>

Contra Costa County Office of the Sheriff (Training)

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
Contra Costa County Office of the Sheri	3/15/2016	3/15/2016	16-19145	Field training officer update 2/2/16-2/4/16	\$235.00	\$0.00		\$235.00
				<i>Totals for Contra Costa County Office of the Sheriff (Training):</i>	<i>\$235.00</i>	<i>\$0.00</i>		<i>\$235.00</i>
Contra Costa County Public Works Dept								
Contra Costa County Public Works Dept	3/15/2016	3/15/2016	700453	January Traffic signal maintenance	\$1,335.30	\$0.00		\$1,335.30
				<i>Totals for Contra Costa County Public Works Dept:</i>	<i>\$1,335.30</i>	<i>\$0.00</i>		<i>\$1,335.30</i>
David Cooney								
David Cooney	3/15/2016	3/15/2016	031821	Deposit refund for Endeavor Hall 11/30/15	\$500.00	\$0.00		\$500.00
				<i>Totals for David Cooney:</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Davey Tree Surgery Company								
Davey Tree Surgery Company	3/15/2016	3/15/2016	909777606	2/20/16 Visual inspection wooden streetlight p	\$4,854.00	\$0.00		\$4,854.00
				<i>Totals for Davey Tree Surgery Company:</i>	<i>\$4,854.00</i>	<i>\$0.00</i>		<i>\$4,854.00</i>
Environtech Enterprises								
Environtech Enterprises	3/15/2016	3/15/2016	A001-A1-16	Thistle abatement January-February	\$5,500.00	\$0.00		\$5,500.00
Environtech Enterprises	3/15/2016	3/15/2016	A001B-1B-16	Mustard/yellow star thistle abatement Februa	\$8,500.00	\$0.00		\$8,500.00
				<i>Totals for Environtech Enterprises:</i>	<i>\$14,000.00</i>	<i>\$0.00</i>		<i>\$14,000.00</i>
Cesyli Gaut								
Cesyli Gaut	3/15/2016	3/15/2016	1281B	Deposit refund for Hoyer Hall 8/23/15	\$200.00	\$0.00		\$200.00
				<i>Totals for Cesyli Gaut:</i>	<i>\$200.00</i>	<i>\$0.00</i>		<i>\$200.00</i>
Globalstar LLC								
Globalstar LLC	3/15/2016	3/15/2016	1000000007136262	Sat Phone 1/16/16-2/15/16	\$56.21	\$0.00		\$56.21
				<i>Totals for Globalstar LLC:</i>	<i>\$56.21</i>	<i>\$0.00</i>		<i>\$56.21</i>
Luis Gonzalez								
Luis Gonzalez	3/15/2016	3/15/2016	071616	Refund, cancellation reservation CCP	\$258.00	\$0.00		\$258.00
				<i>Totals for Luis Gonzalez:</i>	<i>\$258.00</i>	<i>\$0.00</i>		<i>\$258.00</i>
Hammons Supply Company								
Hammons Supply Company	3/15/2016	3/15/2016	92402	Grove Park janitorial supplies	\$52.64	\$0.00		\$52.64
Hammons Supply Company	3/15/2016	3/15/2016	92403	Library janitorial supplies	\$249.30	\$0.00		\$249.30
				<i>Totals for Hammons Supply Company:</i>	<i>\$301.94</i>	<i>\$0.00</i>		<i>\$301.94</i>
Donna Headley								
Donna Headley	3/15/2016	3/15/2016	27174	Deposit refund for Endeavor Hall 2/26 & 2/2	\$500.00	\$0.00		\$500.00
				<i>Totals for Donna Headley:</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Health Care Dental Trust								
Health Care Dental Trust	3/15/2016	3/15/2016	205641	April Dental	\$3,115.36	\$0.00		\$3,115.36
				<i>Totals for Health Care Dental Trust:</i>	<i>\$3,115.36</i>	<i>\$0.00</i>		<i>\$3,115.36</i>
Jennifer Holman								
Jennifer Holman	3/15/2016	3/15/2016	4672	Deposit refund for Hoyer Hall 2/26/16	\$200.00	\$0.00		\$200.00

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
John or Carolyn Raycraft	3/15/2016	3/15/2016	1036	Deposit refund for 50 Mountaire Pl	\$339.85	\$0.00		\$339.85
				<i>Totals for John or Carolyn Raycraft:</i>	<i>\$339.85</i>	<i>\$0.00</i>		<i>\$339.85</i>
Riso Products of Sacramento								
Riso Products of Sacramento	3/15/2016	3/15/2016	153186	PD copier contract 2/18/16-3/17/16	\$94.86	\$0.00		\$94.86
				<i>Totals for Riso Products of Sacramento:</i>	<i>\$94.86</i>	<i>\$0.00</i>		<i>\$94.86</i>
Roto-Rooter Sewer/Drain Service								
Roto-Rooter Sewer/Drain Service	3/15/2016	3/15/2016	B-1360-16	Toilet repair, 2nd floor, WO C391503	\$310.57	\$0.00		\$310.57
				<i>Totals for Roto-Rooter Sewer/Drain Service:</i>	<i>\$310.57</i>	<i>\$0.00</i>		<i>\$310.57</i>
Joe Sbranti								
Joe Sbranti	3/15/2016	3/15/2016	CAP0190	Deposit refund for 7 Promontory Pl, C&D	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Joe Sbranti:</i>	<i>\$2,000.00</i>	<i>\$0.00</i>		<i>\$2,000.00</i>
SPRAYTEC								
SPRAYTEC	3/15/2016	3/15/2016	13534	waste water maintenance 2/8/16 & 2/22/16	\$225.00	\$0.00		\$225.00
				<i>Totals for SPRAYTEC:</i>	<i>\$225.00</i>	<i>\$0.00</i>		<i>\$225.00</i>
Sprint Comm (PD)								
Sprint Comm (PD)	3/15/2016	3/15/2016	703335311-171	PD cell phone 1/26/16-2/25/16	\$273.87	\$0.00		\$273.87
				<i>Totals for Sprint Comm (PD):</i>	<i>\$273.87</i>	<i>\$0.00</i>		<i>\$273.87</i>
Staples Advantage								
Staples Advantage	3/15/2016	3/15/2016	8038225352	Office supplies for February	\$167.00	\$0.00		\$167.00
				<i>Totals for Staples Advantage:</i>	<i>\$167.00</i>	<i>\$0.00</i>		<i>\$167.00</i>
Stericycle Inc								
Stericycle Inc	3/15/2016	3/15/2016	3003334647	Steri-safe monthly for March	\$96.07	\$0.00		\$96.07
				<i>Totals for Stericycle Inc:</i>	<i>\$96.07</i>	<i>\$0.00</i>		<i>\$96.07</i>
Tipperary Construction								
Tipperary Construction	3/15/2016	3/15/2016	CAP0186	Deposit refund for 226 Bigelow St	\$500.00	\$0.00		\$500.00
				<i>Totals for Tipperary Construction:</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
US Bank - Corp Pmt System CalCard								
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	Ink, paper, dish soap, plaques, shirts	\$534.21	\$0.00		\$534.21
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	City Council meeting meals	\$50.75	\$0.00		\$50.75
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	plaques	\$116.09	\$0.00		\$116.09
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	Crossing guard vest and sign	\$36.24	\$0.00		\$36.24
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	weights for pop-ups	\$124.96	\$0.00		\$124.96
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	weights for pop-ups	\$48.60	\$0.00		\$48.60
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	Parking for CalPERS CERBT workshop	\$7.00	\$0.00		\$7.00
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	Central Storage rent	\$105.00	\$0.00		\$105.00
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	bags for doggie park	\$488.35	\$0.00		\$488.35
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	lumber for CCP for backstops	\$391.79	\$0.00		\$391.79
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	silicone and tie doors for City Hall display	\$171.20	\$0.00		\$171.20

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	lights for library	\$125.04	\$0.00		\$125.04
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	nails	\$8.70	\$0.00		\$8.70
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	clean the stove hood for Endeavor Hall	\$700.00	\$0.00		\$700.00
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	fuel	\$493.29	\$0.00		\$493.29
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	landscape fuel	\$497.38	\$0.00		\$497.38
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	office supplies	\$151.19	\$0.00		\$151.19
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	equipment for motorcycle	\$494.81	\$0.00		\$494.81
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	rifle optics	\$1,631.82	\$0.00		\$1,631.82
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	digital voice recorder	\$140.95	\$0.00		\$140.95
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	ID card and weights for scale	\$46.76	\$0.00		\$46.76
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	replacement for personally owned items in car	\$63.94	\$0.00		\$63.94
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	fuel	\$2,008.60	\$0.00		\$2,008.60
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	training meals and parking fees	\$217.80	\$0.00		\$217.80
US Bank - Corp Pmt System CalCard	3/15/2016	3/15/2016	Stmt 2/22/16	car washes, battery, replacement decals for #1	\$294.27	\$0.00		\$294.27
<i>Totals for US Bank - Corp Pmt System CalCard:</i>					<u>\$8,948.74</u>	<u>\$0.00</u>		<u>\$8,948.74</u>
Kelly Zmak								
Kelly Zmak	3/15/2016	3/15/2016	27193	Deposit refund for Endeavor Hall 3/4/16	\$500.00	\$0.00		\$500.00
<i>Totals for Kelly Zmak:</i>					<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
GRAND TOTALS:					\$111,253.89	\$0.00		\$111,253.89

Earnings Statement

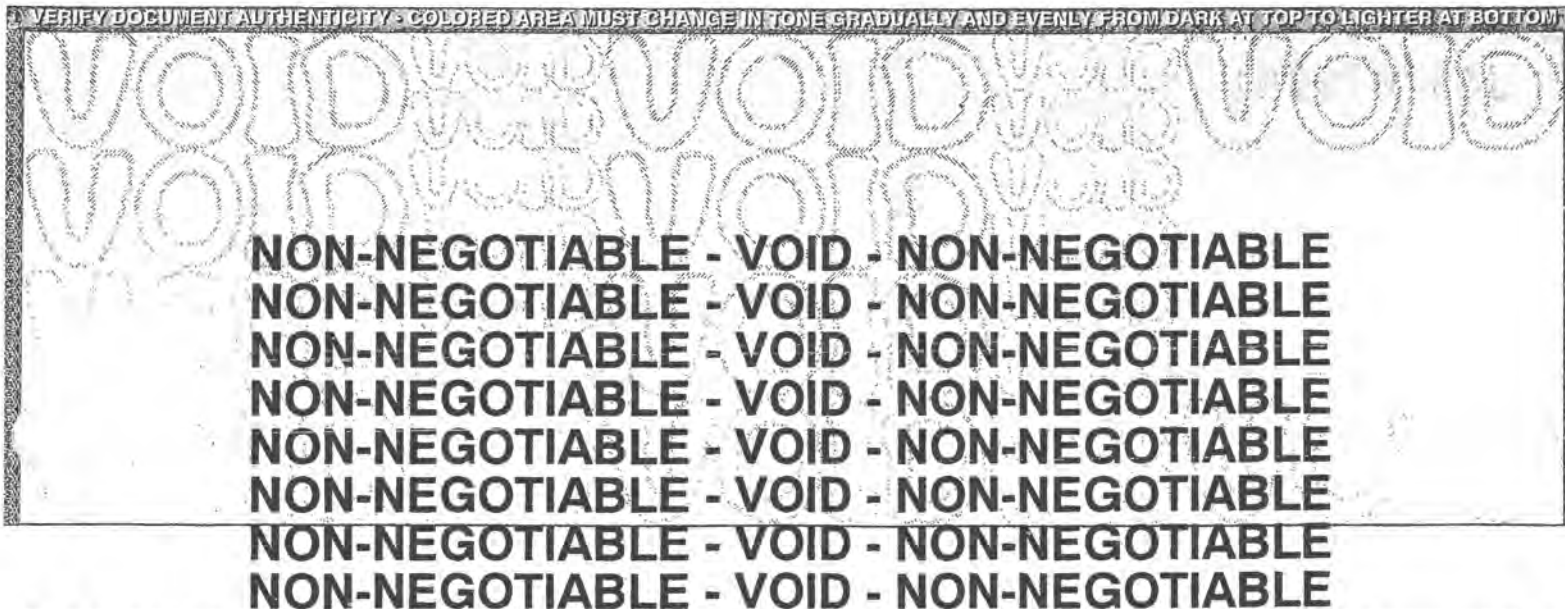
0 Employees With Overflow Statement
0 Overflow Statement 1 Total Statement
Tot Cks/Vchrs:00000000034 Tot Docs in all:00000000037
First No. Last No. Total
Checks: ADPCHECK ADPCHECK 00000000005
Vouchers: 00000090001 00000090029 00000000029

Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

CHECK STUFFING, RECONCILIATION

80714.54 GROSS
58190.27 NET PAY (INCLUDING ALL DEPOSITS)
9600.12 FEDERAL TAX
95.37 SOCIAL SECURITY
1108.02 MEDICARE
.00 MEDICARE SURTAX
.00 SUI TAX
3127.51 STATE TAX
.00 LOCAL TAX
65725.84 DEDUCTIONS
1057.68 NET CHECK

COMPANY CODE Z7L
CITY OF CLAYTON
TOTAL DOCUMENT
LOCATION 0001





Agenda Date: 3-15-2016

Agenda Item: 3d

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JANET BROWN, CITY CLERK

DATE: March 15, 2016

SUBJECT: Accept the resignation of Alyse Smith on the Trails and Landscaping Committee (TLC)

RECOMMENDATION

Accept the resignation of Alyse Smith as a resident member on the Trails and Landscaping Committee (TLC) Citizen Advisory Committee.

DISCUSSION

On March 3, 2016, Alyse Smith submitted her written resignation from the citizens advisory Trails and Landscaping Committee. Due to Ms. Hoffmeister's absence from work over the past week, the resignation email was not retrieved until March 11th.

This resignation results in two (2) vacant seats pending on the up to eleven (11) membered Trails and Landscaping Committee. Mrs. Smith has served on the Trails and Landscaping Committee since December 2011.

Attachments: Resignation letter from Ms. Smith (1 page)

Janet Brown

From: Laura Hoffmeister <lhoffmeister@ci.clayton.ca.us>
Sent: Friday, March 11, 2016 11:14 AM
To: jbrown@ci.clayton.ca.us
Cc: Gary
Subject: FW: TLC

-----Original Message-----

From: Alyse Smith [<mailto:alyse.smith@comcast.net>]
Sent: Thursday, March 03, 2016 5:01 PM
To: Laura Hoffmeister
Subject: TLC

Dear Laura,

It with great sadness that I have decided to step down as a volunteer serving on the TLC. This was not an easy decision for me as I have enjoyed being a part of the community and contributing to the various issues that the TLC was developed for.

Recently, my schedule has grown with other personal and professional commitments, as a result, I be unable to make the commitment in serving on the TLC at this point.

You and John have been a great inspiration to me and I thank the City Council in allowing me to contribute to this valuable stakeholder group.

Kind Regards,

Alyse Smith

Sent from my iPhone=



Agenda Date: 3-15-2016

Agenda Item: 3e

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: March 15, 2016

SUBJECT: Appointment of Two (2) Citizens to the Trails and Landscaping Committee for terms of office March 15, 2016- December 31, 2017.

BACKGROUND

The citizens advisory committee for the Citywide Landscape Maintenance District is comprised of up to eleven (11) members appointed by the City Council for overlapping two-year terms of office. Due to recent appointments and re-appointments, this Trails and Landscaping Committee (TLC) currently has ten of its maximum eleven (11) seats filled.

The City recently received two applications from citizens (Carol Herington and Dane Horton) interested in joining the Trails and Landscaping Committee.

The Council interview ad-hoc committee (Vice Mayor Diaz and Councilmember Haydon) interviewed the citizens (Carol Herington and Dane Horton) prior to this Council meeting and have informed staff of its recommendation to appoint.

There are currently nine (9) people serving on the Trails and Landscaping Committee (Maryann Carroll-Moser, Anthony Chippero, Christopher Garcia, Carin Kaplan, Howard Kaplan, Nancy Morgan, Clayton Smith, Bob Steiner and April Winship).

Recently, the City has received a resignation letter from Alyse Smith, creating two (2) open positions on the Trails and Landscaping Committee.

The appointment of these two (2) citizens will bring the membership to eleven (11) members, the maximum number for this advisory oversight committee.

RECOMMENDATION

On recommendation of the Council ad-hoc Committee, by minute motion adopt the attached Resolution appointing Carol Herington and Dane Horton to the TLC.

FISCAL IMPACT

None.

Attachments: Resolution – 1 page
Applications of (2) applicants- 2 pages

Trails and Landscaping Committee

Anthony Chippero	12/15	12/17
Christopher Garcia	12/14	12/16
Carin Kaplan	1/16	12/17
Howard Kaplan	1/16	12/17
Clayton Smith	12/14	12/16
Bob Steiner	12/14	12/16
April Winship	1/16	12/17
Maryann Carroll-Moser	2/16	12/17
Nancy Morgan	2/16	12/17

RESOLUTION NO. - 2016

**A RESOLUTION APPOINTING TWO CITIZENS
TO THE TRAILS AND LANDSCAPING COMMITTEE**

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

WHEREAS, in 2006, the City Council of Clayton adopted Resolution No. 8-2006 establishing and appointing a permanent citizens' advisory committee entitled "Trails and Landscaping Committee" for oversight of the 1997 Citywide Landscape Maintenance District (CFD 2007-1); and

WHEREAS, in 2007, the City Council of Clayton adopted Resolution No. 38-2007 appointing up to eleven (11) citizen members as the Citizens Oversight Committee for the Citywide Landscape Maintenance District (CFD 2007-1); and

WHEREAS, in 2011, the City Council of Clayton adopted Resolution No. 4-2011 amending the ending date to December 31 of the term of office for members of Trails and Landscape Committee (the Citizens' Oversight Committee) to the Citywide Landscape Maintenance District (CFD 2007-1) and extending the current members terms accordingly; and

WHEREAS, in December 2015, staff notified certain committee members via email and regular mail their terms of office were ending, and also advertised the opportunities in the Clayton Pioneer, City posting boards, and on the City's website; and

WHEREAS, two citizens recently submitted applications expressing willingness to serve in the appointed capacity.

WHEREAS, the City Council Interview Committee interviewed the two new applicants prior to the March 15, 2016 City Council meeting and recommend the appointment of both.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California, does hereby appoint Carol Herington and Dane Horton to the Trails and Landscaping Committee of the City of Clayton for the term of appointed office expiring on December 30, 2017.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 15th day of March 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk



Received
FEB 16 2016
City of Clayton

APPLICATION FOR TRAILS AND LANDSCAPING COMMITTEE

Name CAROL HERRINGTON Address 411 MT TAMALPAIS DR. CLAYTON
Home Phone 672-3411 Business Phone _____
E-mail address: CHERRINGTON1@aol.com Length of residency in Clayton 40 years
Occupation Retired Present employer _____

Why are you interested in serving on this Committee? _____

I regularly walk the trails and enjoy them very much. They are a real treasure for our city, and I want to see that we maintain and care for them well into the future.

What is your vision for the trails and public landscaped areas of our City? _____

With city money tight it is essential, in my view, that we spend the money carefully when we take care of an asset that has such value to our community.

Please share your interests and hobbies, special training or education: _____

I volunteer with BSA, AADW, the Clayton Library and Kaiser Hospital.

I have a BS in Business and a MS in Tax

List 3 references with phone numbers: 1. Keith Haydon - 672-8262

2. Jeannette Boyd - 672-3672

3. _____

Signature: _____

Carol Herrington

Date: _____

2-15-16



Received

FEB 18 2016

City of Clayton

APPLICATION FOR
TRAILS AND LANDSCAPING COMMITTEE

Name Dane Horton Address 100 Forest Hill Dr - Clayton

Home Phone 925-672-1222 Business Phone 925-286-9489

E-mail address: dsldane@aol.com Length of residency in Clayton 14 yrs

Occupation Realtor Present employer Balboa Real Estate

Why are you interested in serving on this Committee? To know what's being
done in Clayton and take a part in the process

What is your vision for the trails and public landscaped areas of our City? see Clayton
kept up and know what's being done - also offer input
from neighbors

Please share your interests and hobbies, special training or education: I like gardening
and do my own yardwork, I've always liked to see
things grow and been interested in natural beauty

List 3 references with phone numbers: 1. Teresa + Joe Nelms 925-890-1817
2. Toni Hegemeyer 925-693-0174
3. Susie Dawes 925-673-1626

Signature: Dane Horton

Date: 2/18/16



Agenda Date: 3-15-2016

Agenda Item: 8a

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

DATE: MARCH 15, 2016

SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE PROHIBITING CANNABIS TESTING LABORATORIES (ZOA-01-16)

RECOMMENDATION

It is recommended that the City Council:

- 1) Motion to have a second reading of the Ordinance by title and number only and waive further reading; and
- 2) Motion to adopt Ordinance No. 461 to amend Title 17 of the Clayton Municipal Code to prohibit cannabis testing laboratories with the findings its adoption is not considered a project under CEQA nor will it have a significant adverse effect on the environment and is therefore exempt under CEQA (Attachment 1).

BACKGROUND

On March 1, 2016, the City Council introduced an Ordinance to prohibit medical cannabis delivery and testing laboratories (Attachment 2). The City Council directed staff to remove the language eliminating any prohibition on medical cannabis delivery services. The amended Ordinance was then read by title and number only constituting First Reading, and then by separate motion the amended Ordinance was approved for Introduction. The attached Ordinance has been updated based on the changes made by the City Council at its March 1, 2016 public hearing.

ENVIRONMENTAL

The Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3,

and pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

FISCAL IMPACT

It is not anticipated this Ordinance would have a direct financial impact on the City.

ATTACHMENTS

1. Ordinance No. 461 - City of Clayton Prohibition of Cannabis Testing Laboratories [5 pp.]
2. Excerpt of the Staff Report and Draft Minutes from the March 1, 2016 City Council Meeting [5 pp.]

ORDINANCE NO. 461

**AN ORDINANCE AMENDING CLAYTON MUNICIPAL CODE
TITLE 17, PROHIBITING CANNABIS TESTING LABORATORIES**

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

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

WHEREAS, the intent of Proposition 215 was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law; and

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program ("MMP"), codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to criminal prosecution under the Penal Code; and

WHEREAS, neither the Compassionate Use Act ("CUA") nor the MMP require nor impose an affirmative duty or mandate upon local governments to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction; and

WHEREAS, in May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, holding that cities have the authority to regulate or ban outright medical marijuana land uses; and

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq., the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed the "Medical Marijuana Regulation and Safety Act" ("Act") into law; and

WHEREAS, the Act becomes effective January 1, 2016 and contains provisions which allow for local governments to regulate licenses and certain activities thereunder; and

WHEREAS, the Act contains a provision which sets forth that the State shall become the sole authority for regulation under certain parts of the Act, unless local governments have "land use regulations or ordinances regulating or prohibiting the cultivation of marijuana..." (Health and Safety Code §11362.777(c)(4); and

WHEREAS, several California cities have reported negative impacts of marijuana cultivation, processing, and distribution uses, including offensive odors, illegal sales, and distribution of

marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, the adverse effects of other marijuana uses also apply to the presence of cannabis testing laboratories, which also present the possibility of offensive odors, illegal sales, distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, cannabis testing laboratories pose risks to the public health, safety, and welfare that must be mitigated by banning this use within the City; and

WHEREAS, based on the findings above, the potential establishment of cannabis testing facility uses in the City without regulation poses a current and immediate threat to the public health, safety and welfare in the City due to the negative land use and other impacts of such uses as described above; and

WHEREAS, the issuance or approval of business licenses, subdivisions, use permits, variances, building permits, or any other applicable entitlement for cannabis testing facilities will result in the aforementioned threat to public health, safety, or welfare; and

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

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

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

Section 2. Amendment to Clayton Municipal Code Section 17.04.138. Clayton Municipal Code Section 17.04.138 is hereby amended to read in its entirety as follows:

Medical cannabis uses.

For purposes of this code, the following definitions shall apply.

A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt,

derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

B. "Cannabis dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

C. "Cannabis manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.

D. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and

(2) Registered with the State Department of Public Health.

Section 5. Amendment to Clayton Municipal Code Section 17.36.080. Clayton Municipal Code Section 17.36.080 is hereby amended to read in its entirety as follows:

17.36.080 Prohibited Uses and Activities. The following uses and activities are prohibited in all zoning districts;

- (a) Any use or activity which is prohibited by local, regional, state, or federal law;
- (b) Establishment or operation of cannabis dispensaries, as defined in Section 17.04.138;
- (c) Cultivation or production of medical cannabis, as defined in Section 17.04.138;
- (d) Cannabis manufacturers as defined in Section 17.04.138;
- (e) Cannabis testing laboratories, as defined in Section 17.04.138, or other facilities that store or maintain marijuana as part of their operations, whether commercial or non-commercial; and
- (f) Other use or activities as may be determined by the Planning Commission to be of the same general character as those specifically prohibited.

Section 6. Action to Challenge This Ordinance

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

Section 7. Conflicting Ordinances Repealed

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

Section 8. Severability

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

Section 9. CEQA.

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

Section 10. Notice of Exemption

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

Section 11. Effective Date and Publication

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

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on March 1, 2016.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on March 15, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

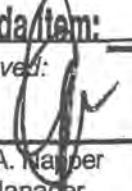
Malathy Subramanian, City Attorney

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 March 1, 2016, was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on March 15, 2016.

Janet Brown, City Clerk



Agenda Item: 7b
Approved: 
Gary A. Napper City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR
MALA SUBRAMANIAN, CITY ATTORNEY

DATE: MARCH 1, 2016

SUBJECT: AN ORDINANCE PROHIBITING CANNABIS DELIVERY AND TESTING LABORATORIES (ZOA-01-16)

RECOMMENDATIONS

It is recommended the City Council:

1. Adopt a motion to have the City Clerk read the Ordinance No. 461 by title and number only and waive further reading; and
2. Following the City Clerk's reading, by motion approve Ordinance No. 461 for Introduction (**Attachment 1**).

OR

3. Provide direction regarding the preparation of an Ordinance to regulate, rather than prohibit, marijuana delivery and testing laboratory regulations.

BACKGROUND

On February 9, 2016, the Planning Commission conducted a noticed public hearing and considered the subject ordinance. Following questions and a discussion, the Planning Commission passed a resolution recommending the City Council adopt an ordinance banning cannabis delivery services and cannabis testing facilities (**Attachment 2**).

The City's Municipal Code currently bans medical marijuana dispensaries, per Clayton Municipal Code ("CMC") 17.36.080, which was enacted in 2013. CMC Section 17.04.13 defines a medical marijuana dispensary to mean "a facility or location where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5." The City also prohibits the outdoor cultivation of medical marijuana and prohibits some indoor cultivation of medical marijuana. The CMC currently allows medical marijuana to be cultivated indoors "in residential zones within a detached, fully-enclosed and secure secondary structure or within a primary residential structure at a location legally inhabited by a qualified patient or primary caregiver as defined in Health and Safety Code section 11362.7." (CMC 17.36.080(d)). However, the current regulations are arguably not sufficient to apply to mobile medical marijuana delivery services and testing labs. As a result and consistent with past City Council policy action and direction on this subject, Staff recommends the Council ban delivery services and testing laboratories or provide direction on how and whether to regulate such.

The California Legislature recently adopted legislation identified as the Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643)(MMRSA) to comprehensively regulate medical marijuana (medical cannabis). The MMRSA recognizes and preserves local control to regulate or ban medical cannabis cultivation, transportation, and distribution. The MMRSA confirms and clarifies that, in addition to the complete land use control over retail dispensaries recognized in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, municipalities have the power to regulate or ban the cultivation and distribution of medical marijuana. *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975.

Although the MMRSA allows municipalities to regulate or ban cannabis cultivation, manufacturing, transportation, and distribution of medical cannabis within their jurisdictions, it requires some local enabling legislation to accomplish some aspects of this. If a city chooses to regulate these activities comprehensively, it must adopt an overlay of local regulatory standards that are at least as strict as the state's default regulations.

DISCUSSION

The transportation and distribution of marijuana can create problems relating to public health and safety, crime, water and air quality, and energy consumption. Marijuana uses can create nuisance activity such as loitering and criminal activity in business and residential districts. Specifically, mobile delivery can create issues relating to responsibilities and resources to monitor and enforce state law, questions of patient qualification, and risks relating to the high use of large sums of cash for mobile transactions. For example, in Antioch a medical marijuana dispensary delivery person was robbed of \$8,000 worth of product (**Attachment 3**).

Staff recommends the Council adopt a ban for marijuana transportation. Mobile delivery of products consistently creates issues for cities because of the inherent transitory nature of the activity. A quick search of weedmaps.com identifies at least ten cannabis delivery services that currently offer service in Clayton. These mobile delivery services are often attempts to avoid the effects of local dispensary bans. State law, which permits mobile dispensaries, will regulate the delivery of medical marijuana unless delivery is explicitly prohibited by local ordinance. There is no time limit for a city to adopt a local ordinance. In light of the foregoing, the City has the option to ban or regulate mobile delivery. Regulations could include hours of operation, amount of money or marijuana that can be carried at one time, and time spent at one location.

Staff recommends the Council also adopt a ban for marijuana testing laboratories. Marijuana testing laboratories pose many of the same risks as dispensaries, delivery services, or cultivation, including strong odors, loitering, illegal sales, distribution of marijuana, trespassing, theft, violent crime such as robberies or attempted robberies, fire hazards, and problems associated with mold, fungus, and pests. Allowing testing laboratories in the City introduces many of the risks the City has hoped to avoid through its longstanding regulation of marijuana dispensaries and cultivation.

FISCAL IMPACT

None.

ATTACHMENTS

1. Ordinance No. 461 [5 pp.]
2. Minutes from the February 9, 2016 Planning Commission Meeting [3 pp.]
3. Contra Costa Times Article on Robbery of Medical Marijuana Dispensary Driver [1 pp.]

Mayor Geller noted the tax collected also takes care of the trails located in Clayton. Councilmember Shuey also recalled the original Citywide Landscape Maintenance District fee was proposed at approximately \$440 per year.

With no other persons wishing to speak, Mayor Geller closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Resolution No. 12-2016 calling an election to continue the existing special parcel tax subject to the same adjustment methodology for Community Facilities District (CFD) 2007-1 "Citywide Trails and Landscape Maintenance District". (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Mayor Geller, to form a City Council Ad-hoc Committee comprised of Councilmember Haydon and Councilmember Shuey to author the Argument in Favor of the ballot measure, in addition to penning the Rebuttal Argument, if any. (Passed; 5-0 vote).

- (b) Consider the Introduction and First Reading of proposed City-initiated Ordinance No. 461 amending Title 17 Zoning of the Clayton Municipal Code establishing the prohibition of cannabis testing laboratories and the delivery of cannabis within the city of Clayton.

Community Development Director Mindy Gentry presented the staff report advising this item was presented to the Planning Commission on February 9, 2016 where a Resolution was approved recommending the City Council adopt an Ordinance banning cannabis delivery services and cannabis testing facilities in the city of Clayton. Recent state laws allow a city to regulate or prohibit either or both so it is a policy decision for the City Council.

Councilmember Haydon advised it appears some information was left off page 3 of the Staff Report and asked for clarification. Ms. Gentry responded the staff report information referencing the cannabis delivery services website was updated upon notification of the missing information, along with an email to the Councilmembers prior to this evening's meeting. The delivery data may be found on the internet as weedmaps.com. She added there seems to be 10 companies currently delivering medical cannabis to Clayton requestors.

Councilmember Haydon inquired if there are any proposed state actions that would affect cannabis testing facilities or deliveries. Ms. Gentry added there are a handful of state initiatives weaving through the process with a proposed cannabis recreational use measure to be placed on the November 2016 ballot for voter consideration.

Vice Mayor Diaz indicated he is a member of the Public Safety Policy Committee of the League of California Cities and its recent discussions on this subject noted an established regulatory state bureau of consumer affairs will not be established until 2018. Meanwhile, under federal law, cannabis use is still illegal although enforcement has been withheld. Because of the federal law, banks are unable to accept monies from marijuana sales as they risk potential loss of its Federal Deposit Insurance Corporation (FDIC) certification.

Mayor Geller opened the Public Hearing for public comments.

Gary L. Carr, 714 Bloching Circle, expressed his concerns with the proposed Ordinance banning medical cannabis deliveries; he noted no opposition to the lab testing prohibition. He would like to see the subjects decoupled as they are two separate issues.

He advised there are residents of Clayton that rely on the delivery service as they have no other means to obtain medical cannabis products. He noted the closest location is in Oakland. Mr. Carr emphasized that medical cannabis is legal in the State of California as long as it is used by the one person that has obtained a medical cannabis photo identification card issued by a physician. He offered that medical cannabis products do not contain as much THC as the recreational drug.

Mayor Geller closed the Public Hearing and returned the item to the City Council for discussion.

Councilmember Haydon would prefer the cannabis deliveries and testing laboratories issues be separated for City Council action; he is concerned that banning deliveries may cause an undue medical necessity hardship for Clayton residents needing this service.

Mayor Geller added restriction of medical cannabis delivery could be over-stepping, and also prefers cannabis deliveries and testing laboratories be separated for Council action. He reported the Clayton Police Chief recently confirmed to him there have not been any arrests made in the city of Clayton associated with cannabis deliveries that are apparently occurring in town already.

Vice Mayor Diaz inquired if there are locations closer than the example of Oakland for cannabis products? Assistant to the City Manager Laura Hoffmeister confirmed that there are no legal locations within the City of Concord.

Councilmember Shuey added he has not heard of any problems or disturbances related to cannabis delivery in the city of Clayton. Mayor Geller added he has not heard of anything either but did acknowledge the possibility does exist.

Councilmember Pierce advised she can support the Ordinance as it currently reads or it separated. She suggested rather than banning cannabis delivery services, perhaps it should be regulated to only occur during certain hours of the day and no later than a certain hour in the evenings.

City Manager Napper offered it is much more complicated for the City to regulate and then enforce delivery regulations than merely allow cannabis deliveries to occur unregulated or simply ban them. He advised the City Council may indeed separate the cannabis testing laboratories policy question from the deliveries issue. In fact, rather than collectively wordsmithing the Ordinance, staff has available a revised Ordinance which would ban the cannabis testing laboratories but remove any language regulating or banning medical deliveries.

By general consensus, the City Council concurred with staff's proposed language amending the proposed Ordinance to strike out any reference to cannabis delivery services or the regulation thereof.

It was moved by Councilmember Haydon, seconded by Mayor Geller, to have the City Clerk read Ordinance No. 461, as amended, by title and number only omitting reference to deliveries, and waive further reading. (Passed; 5-0 vote).

The City Clerk read amended Ordinance No. 461 by title and number only.

It was moved by Councilmember Haydon, seconded by Mayor Geller, to approve Ordinance No. 461 as revised for Introduction, with findings the action does not constitute a project under CEQA. (Passed; 5-0 vote).



Agenda Date: 3-15-2016

Agenda Item: 8b

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Chris Wenzel, Chief of Police

DATE: March 15, 2016

SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURSUE THE POTENTIAL FORMATION OF A REGIONAL JOINT POWERS AUTHORITY (HEREINAFTER "JPA") OR MOU FOR THE REGULATION OF TAXICAB SERVICES WITHIN CONTRA COSTA COUNTY

STATEMENT OF ISSUE:

California Government Code section 53075.5 requires cities and counties to protect the public health, safety and welfare by adopting an ordinance or resolution governing the provision of taxicab services within each of their own respective jurisdictions. As a result, each city in Contra Costa County, and the County itself, is left to determine and enact its own independent regulatory scheme for taxicabs. In lieu of such independent efforts, the Public Managers Association of Contra Costa County, in coordination with local public safety officials, has been engaged in initial discussions regarding the possibility of regionalizing the regulation of taxicab services on a County-wide basis.

RECOMMENDED ACTION:

Staff recommends that the County Council adopt the attached Resolution (Attachment 1) authorizing the City Manager to pursue the potential formation of a regional JPA or MOU for the regulation of taxicab services within Contra Costa County.

DISCUSSION:

As discussed above, each jurisdiction in Contra Costa County is currently responsible for the regulation of taxicab services within its own respective boundaries. Accordingly, each jurisdiction has separately established rules and requirements governing a variety of issues such as licensing/permitting of vehicles and drivers, background checks, drug testing, vehicle inspections, and approval rates. Given these separate regulatory schemes, each owner/driver is currently obligated to obtain a separate license/permit and to comply with a separate set of rules/regulations in each jurisdiction it operates in.

It is anticipated that the formation of a regional JPA or MOU would allow for the enactment of uniform rules and regulations which could be applied on a County-wide basis across all participating jurisdictions. This would enable owners and drivers to obtain a single license/permit covering all participating jurisdictions instead of having to obtain multiple licenses/permits throughout Contra Costa County, while

at the same time providing efficiencies that could potentially reduce the overall cost and staff time dedicated to the administration and regulation of these services across participating jurisdictions.

The following table provides an estimated timeline of events:

DATE RANGE	EVENT
March, 2016	Each Participating Jurisdiction Adopts a Resolution Confirming its Intent to Form the JPA or MOU
April, 2016	Participating Jurisdictions Coordinate and Begin Outreach to Affected Stakeholders
May, 2016 – December, 2016	Appointed Staff from Participating Jurisdictions Determine Feasibility of JPA or MOU and Draft Implementing Documents, including but not limited to the following: • A Joint Powers Agreement to be entered into among all Participating Jurisdictions; • Bylaws outlining the governance of the JPA or MOU; and • Uniform Taxicab Regulations to be Adopted and Enforced by the JPA or MOU across all Participating Jurisdictions
May, 2016 – December, 2016	Continued Stakeholder Outreach and Updates to the Governing Boards of Participating Jurisdictions as appropriate
January, 2017	Each Participating Jurisdiction Enters into the JPA or MOU Agreement and Adopts Other Local Ordinance(s) Necessary to Repeal/Revise its current Regulatory Model

FINANCIAL IMPACTS:

Each jurisdiction currently funds its own independent regulatory activities on a cost-recovery basis through the imposition and collection of taxicab license/permit fees. It is anticipated that any costs incurred by the JPA or MOU related to the administration of taxicab services will be funded in the same manner. Additionally, it is anticipated that efficiencies achieved through regional regulation will also reduce individual staff time incurred by each jurisdiction regarding the administration of taxicab services.

ALTERNATIVE ACTIONS:

The City Council could decide not to adopt the attached Resolution and direct staff to continue regulating taxicab services on a jurisdiction-by-jurisdiction basis. The City Council could also modify the attached Resolution prior to adoption.

DOCUMENTS:

Attachment 1: Resolution Authorizing the City Manager to Pursue the Potential Formation of a Regional Joint Powers Authority (JPA) or MOU for the Regulation of Taxicab Services within Contra Costa County.

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURSUE
THE POTENTIAL FORMATION OF A REGIONAL JOINT POWERS AUTHORITY
(HEREINAFTER "JPA") OR MOU FOR THE REGULATION OF TAXICAB SERVICES WITHIN
CONTRA COSTA COUNTY**

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

WHEREAS, California Government Code section 53075.5 states that every city or county shall protect the public health, safety and welfare by adopting an ordinance or resolution regarding the provision of taxicab services within its jurisdiction;

WHEREAS, each individual jurisdiction within Contra Costa County is currently responsible for the regulation of taxicab services within its own boundaries including, but not limited to: the licensing/permitting of vehicles and drivers, conducting driver background checks, testing for controlled substances, vehicle inspections, approval of taxicab rates, and the establishment and enforcement of other operating rules and procedures;

WHEREAS, the City of Clayton anticipates that the formation of a single regional authority would provide a benefit to the residents, visitors and business of Clayton, and those of other participating jurisdictions through the promotion and establishment of consistent rules and standards for the regulation of taxicab services across the County;

WHEREAS, it is also anticipated that the formation of a single regional taxicab authority would allow taxicab drivers to obtain a single license/permit covering all participating jurisdictions, instead of having to obtain multiple licenses/permits throughout the County; and

WHEREAS, it is also anticipated that the regulation of taxicab services through a single regional authority would create efficiencies that could reduce overall staff time currently dedicated to the administration and regulation of taxicab services, both within the City of Clayton, and in other participating jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Clayton, California as follows:

1. The City Manager, in partnership with other participating jurisdictions, is hereby authorized to investigate the feasibility of forming a regional JPA or MOU for the regulation of taxicab services within Contra Costa County.
2. The City Manager shall designate a staff representative to work with the representatives of other participating jurisdiction in an effort to determine the feasibility of creating a regional JPA or MOU and, if feasible, to draft agreements and documents necessary to implement such regional taxicab authority including, but not limited to: (i) a proposed joint powers agreement among participating jurisdictions, (ii) proposed bylaws and uniform taxicab regulations to be adopted by the JPA or MOU, and (iii) and other local resolutions or ordinances necessary to implement the JPA or MOU, all subject to final approval by the City Council.
3. The City Manager and/or the City Manager's designated staff representative are further authorized and encouraged to coordinate and conduct outreach with appropriate community stakeholders including, but not limited to: (i) police department representatives and other staff currently responsible for the implementation of taxicab regulations within individual participating jurisdictions, and (ii) taxicab drivers currently licensed/permitted within the participating jurisdictions.

4. The City Manager and/or the City Manager's designated staff representative shall provide periodic updates to the City Council regarding the work authorized by this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the ____ day of March, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk