

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

TUESDAY, February 16, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 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, Maintenance Supervisor John Johnston, Finance Manager Kevin Mizuno, 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 Haydon, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of February 2, 2016.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution 09-2016 appointing Maryann Carroll-Moser and Nancy Morgan to the citizens advisory Trails and Landscaping Committee for terms of office to expire December 31, 2017.
- (d) Approved the NJPA competitive-bid award of contract to Garton Tractor, Inc. in the amount of \$46,242.70 for the purchase of a 2016 Ford New Holland Mini-Excavator using FY 2014-15 General Fund net excess reserves.
- (e) Approved the award of contracts to Paining by Ken (\$19,140), Floorscapes Quality hardwood Flooring (\$5,472.50), J&R Services (\$6,150), and Ross Recreation Equipment (\$20,045.75, for the re-painting of Endeavor Hall (interior and exterior) and City Hall (exterior only), re-finishing of wood floor in Endeavor Hall, re-sealing of concrete floors at Endeavor Hall and at Clayton Community Park restrooms, and the purchase of ten (10) additional trash receptacles and three (3) replacement BBQs for Clayton Community Park, respectively, using FY 2014-15 General Fund net excess reserves.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Recognitions to outgoing Trails and Landscape Committee Members Larry Casagrande, Robert Erich, Howard Glazier, and Harun Simbirdi in appreciation for their valued civic services to the Clayton community.

Mayor Geller presented outgoing Trails and Landscaping Committee members Larry Casagrande, Howard Glazier, and Harun Simbirdi with a City plaque in appreciation of their valued civic services. Mayor Geller requested staff mail Mr. Robert Erich his plaque as he was not present this evening.

5. REPORTS

- (a) Planning Commission – Commissioner David Bruzzone summarized the Commission’s meeting of February 9, 2016. He noted its agenda included recommendation of a Zoning Ordinance amendment prohibiting cannabis testing laboratories and the delivery of cannabis in the city. A Use Permit for massage therapy services located at the existing Frontier Beauty Salon in Clayton’s Town Center was also approved.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff
City Manager – No Report.
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Diaz attended a press conference held by State Senator Glazier regarding a proposed Bay Area Rapid Transit Bond Measure to improve the system. Mr. Diaz also attended the Contra Costa County Mayors’ Conference hosted by the City of Oakley and a Clayton Business and Community Association sub-committee meeting for its upcoming Art and Wine Festival.

Councilmember Pierce attended meetings of the Contra Costa Transportation Authority, Associated Bay Area Government (ABAG), Metropolitan Transportation Commission (MTC), joint meetings of ABAG and MTC, and the Contra Costa County Mayors’ Conference hosted by the City of Oakley.

Councilmember Shuey did not provide a report.

Councilmember Haydon attended the Contra Costa County Mayors’ Conference hosted by the City of Oakley, a Clayton Budget Committee mid-year review with staff, and advised that he and Vice Mayor Diaz conducted interviews with two citizens to serve on the Trails and Landscaping Committee. Councilmember Haydon also toured the Clayton Museum’s Civil War exhibit.

Mayor Geller attended the press conference held by State Senator Glazier regarding a proposed Bay Area Rapid Transit Bond Measure to improve the system, the Contra Costa County Mayors’ Conference hosted by the City of Oakley, and the Clayton Budget Committee mid-year review with staff. He also booked the bands for the 2016 Saturday Concerts in The Grove series.

- (e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS – None.

7. PUBLIC HEARINGS – None.

8. ACTION ITEMS

- (a) Consider a Resolution denying the final map for the Oak Creek Canyon project, a six-lot subdivision located north of the intersection of Diablo Parkway and east Marsh Creek Road.

Community Development Director Mindy Gentry presented a slide show summarizing the history and chronology of processing the Oak Creek Canyon Project and the applicant's progress in compliance with the conditions of approval and mitigation measures. She noted the particular and various Mitigation Measures and Conditions of Approval that were not completed by the expiration of the tentative map, which date was January 21, 2016. Ms. Gentry also noted a letter was received prior to this evening's meeting from the developer's attorney expressing its disagreement with the staff-proposed recommendation to deny the map's filing of completion.

Councilmember Pierce asked City Attorney Mala Subramanian for clarification regarding the developer's letter received this evening; it indicates contention that the tentative map for Oak Creek Canyon has not expired and remains valid. Is that the case? Ms. Subramanian advised the tentative map is still open for that consideration if they can demonstrate compliance with the conditions; as of this evening it is still not valid. This evening is to determine if they have complied.

Councilmember Pierce then asked about the reference in the letter indicating the City Council is not required to take action on this item this evening. Is action required this evening? Ms. Subramanian advised the tentative map's life cannot be extended to grant them additional time to comply with the unmet conditions of approval since it expired on January 21, 2016.

Councilmember Pierce inquired if the conditions of approval are not met will the developer need to re-submit the entire package? Ms. Subramanian confirmed the developer will have to resubmit the entire package and she encouraged the City Council to take action this evening.

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. 10-2016 denying approval of a Final Map for the Oak Creek Canyon Project (MAP 04-03). (Passed; 5-0 vote).

- (b) Review of the City's Mid-Year Budget status report for Fiscal Year 2015-2016.

Finance Manager Kevin Mizuno presented the staff report providing background on the Fiscal Year 2015-16 Budget noting at the time of its adoption the projected General Fund Revenues and authorized total General Fund appropriations anticipated a surplus of \$28,516. Since adoption there were two amendments made to the FY 2015-16 Budget consisting of a change order to the 2015 Neighborhood Street Project to add the Lower Easley Trail repaving component, and approval of a contract to Graniterock Company for the replacement of 7 trail bridges' wood decking.

There is a slight difference in General Fund revenues for mid-year due to the RDA's dissolution and other non-recurring matters. Mr. Mizuno provided a 3-year trend of

General Fund Revenues at mid-year; the City's share of the RDA's return of All Other Funds Due Diligence Review tax increment monies to the County coupled with the State's funding of old SB90 mandated reimbursement claims from FY 2002 through FY 2004 reveals actual City revenues are exceeding projections by approximately \$251,000. Mr. Mizuno continued his report to indicate General Fund Expenditures at mid-year are collectively below the authorized expenditure mark at mid-year.

The Successor Agency's All Other Funds Due Diligence Review was finally approved by the California Department of Finance (DOF) on November 30, 2015 resulting in an additional negative "claw-back" of monies from the City's General Fund of \$230,786 in lawful RDA expenses incurred at the time that were retrospectively denied by the state imposed RDA-dissolution process (AB1484). Mr. Mizuno concluded by recommending no budgetary action is necessary at this time, a recommendation concurred with by the City Council's Budget Committee.

Vice Mayor Diaz inquired if the General Fund Revenues at mid-year (slide 8) are imbedded in the 3-year trend of General Fund Revenues at mid-year (slide 6)? Mr. Mizuno advised the \$87,393 is contained in the Redevelopment Property Tax Trust Fund (RPTTF) (slide 6).

Councilmember Haydon commented this is essentially a summary of the City's budget at mid-year and he thanked Mr. Mizuno and Mr. Napper for being available to answer any questions the Council sub-committee had regarding the City's Budget status.

Mayor Geller added his thanks to Finance Director Kevin Mizuno for concisely covering highlights and key points of the City's Budget.

Mayor Geller invited public comment regarding this Mid-Year Budget Report; no public comments were offered.

It was moved by Councilmember Haydon, seconded by Councilmember Shuey, to accept the City's Mid-Year Budget Report for FY 2015-16 without any mid-year adjustments. (Passed; 5-0 vote).

- (c) Consider and draft proposed Ballot Measure language for local voter consideration at the June 7, 2016 election, regarding extension of the Citywide Landscape Maintenance District special annual tax for a time period of ten years commencing FY 2017-2018 through 2026-2027.

Assistant to the City Manager presented the staff report providing a brief summary of the Trails and Landscaping Committee's recommendation to continue the existing Citywide Landscape Maintenance District special annual tax. She then outlined three possible options for the Ballot Measure language. The citizens' advisory Committee preferred using the word "current" over "existing" and "continued" over "extended". They also felt the maintenance of the City trails system should be mentioned early in the wording as many residents use the very popular public trails system. And lastly the advisory Committee recommends continuance of the special tax for an additional period of ten years.

Ms. Hoffmeister further advised the City Council may wish to select up to of its two members to work with staff on refining the ballot wording for final consideration at its March 1 public hearing. She noted the current parcel tax amount is included in the proposed Ballot Measure language.

Vice Mayor Diaz inquired if today's rate of \$234.84 per year has remained the same? Ms. Hoffmeister advised the current special tax rate has been adjusted annually to an amount no more than the Consumer Price Index allowable rate increase of 3% per year.

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

Councilmember Pierce indicated she prefers the general tone of the Option 2 proposed Ballot Measure language as it includes the listing of maintenance performed with the collection of the special tax funds.

Vice Mayor Diaz also prefers Option 2 because the question is asked in the beginning rather than after the preamble. Councilmember Haydon also preferred Option 2.

Ms. Hoffmeister asked if the Council wishes to select up to two members to work with staff on refining ballot wording for final consideration by Council at the March 1, 2016 public hearing. Councilmembers Haydon and Pierce volunteered to work with staff on the final ballot wording.

No City Council action was taken.

- (d) Consider for approval the re-landscape conceptual designs for public medians located at Eagle Peak Drive and Oakhurst Drive (south), Keller Ridge Drive and Eagle Peak Drive, Eagle Peak Drive and Oakhurst Drive (north), Peacock Creek Drive at Clayton Road (first median), Regency Drive at Marsh Creek Road, Entry to City on Marsh Creek Road at Diablo Parkway, and Marsh Creek Road east side from Town Center sign to Center Street using approved Citywide Landscape Maintenance District project funds from FY 2015-16.

Maintenance Supervisor John Johnston presented a slideshow detailing the proposed entry median redesigns using a combination of hardscape, boulders, lighting, signage and shrubs. Mr. Johnston included uniform design features, specific species of plants best for Clayton's soil, and outlined the challenges posed at each of the public medians regarding power or water access.

Mayor Geller opened the item to receive public comments.

Kahni Horton, 100 Forest Hill Drive, expressed her concern with vehicle accidents that have occurred on the median going up Peacock Creek Drive which has removed numerous trees in the median. Mrs. Horton would like to know when replacement trees were scheduled for re-planting as she sees them as an additional safety measure to the recent collisions.

Toni Hegemier, 172 Brandywine Place, expressed her concerns with the deteriorating signage, blight, weeds and trees not being pruned for years along the Peacock Creek Drive entrance and medians. Ms. Hegemier is also concerned with the missing median trees not being replaced in a timely manner as it presents a dangerous condition. She requested consistent and more frequent maintenance of the medians in her neighborhood.

Dane Horton, 100 Forest Hill Drive, expressed his concerns with the existing plants in the median not being properly watered and trees not being replanted. Mr. Horton indicated the whole front lawn by the entrance sign is full of weeds and looks like crap;

this neighborhood pays a lot in property taxes, is the most prestigious neighborhood in the city, and should receive better attention by the City on its maintenance.

No further public comments were offered.

Councilmember Shuey asked if any of the concerned residents have made contact with the City or its Maintenance Department to express these concerns? Mr. Horton advised he has seen John Johnston of the Maintenance Department out on the trails and has complimented him on the continued maintenance of the trail system. Councilmember Shuey suggested any maintenance questions be given to Maintenance Supervisor Johnston via telephone or email.

Councilmember Haydon noted the citizens' Trails and Landscaping Committee is responsible for recommending where the Landscape Maintenance District's funds are used; perhaps contact with those members would also be helpful. Ms. Hoffmeister indicated the Trails and Landscaping Committee is scheduled to have its next meeting in March or April.

Mayor Geller further suggested Mr. Horton apply for a position on the Trails and Landscaping Committee where if appointed, he can provide input for use of these funds.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to accept the Trails and Landscaping Committee's and staff's recommended designs for re-landscaping of the selected subdivision entry medians. (Passed; 5-0 vote).

- (e) Consider the Vice Mayor's request to hold seven (7) Classic Car Shows in the off-street City parking lot on Main Street in conjunction with four (4) Wednesday night Concerts in The Grove during select dates in 2016 to be funded by private donations.

Vice Mayor Diaz presented the proposed Wednesday night Classic Car Show and concert dates occurring every two weeks during the summer starting in June 2016. The concerts would continue to be funded by private donations.

Councilmember Haydon inquired about any potential parking or safety conflicts with Kindercare patrons picking up their kids in the same parking lot during the proposed Wednesday Classic Car shows. Vice Mayor Diaz responded the classic cars show up around 6 o'clock p.m. in the designated parking area and should not have an impact on the patrons of Kindercare during their earlier pick-up times.

Mayor Geller inquired on the expected number of cars participating in the Car Shows? Vice Mayor Diaz advised the car show is expected to have up to twelve vehicle entries per show.

Mayor Geller opened the item for public comments. No public comments were offered.

It was moved by Councilmember Pierce, seconded by Vice Mayor Diaz, to authorize the use of City properties for seven (7) Classic Car Shows in the off-street City parking lot on Main Street in conjunction with four (4) Wednesday night Concerts in The Grove during select dates in 2016 to be funded by private donations. (Passed; 5-0 vote).

- (f) City Council discussion to determine topics and subject matters for its annual joint special meeting with the Mount Diablo Unified School District Board of Education to be held in a Special Joint Meeting Monday, February 29, 2016.

City Manager Napper opened the discussion by suggesting possible talking points between the City Council and the Mt. Diablo Unified School District Board of Trustees. Staff recommends a report on the disposition and success of the collaboration of a solution to the drainage, and discussion of opportunities to establish neighborhood notification of outdoor school and/or Parent-Faculty Clubs events occurring during non-traditional school hours. Mr. Napper requested the City Council by motion include the purposes, date, time and location of the proposed special joint meeting with the Mt. Diablo School Board of Trustees.

Councilmember Pierce commented on the continued unsafe traffic hazards situations routinely occurring by drivers at Mount Diablo Elementary School during drop off and pick up times. City Manager Napper indicated a public school does not have jurisdiction over drivers on public streets and the subject would likely boomerang back to the City to resolve. Councilmember Haydon indicated he believed there was value in having the discussion anyway as the School District might have some solutions to share from its other campuses.

Councilmember Shuey would like to discuss the relationship between Clayton Valley Charter High School and Mt. Diablo Unified School District and the need for a performing arts studio in the Clayton Valley area.

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

It was moved by Councilmember Pierce, and seconded by Councilmember Shuey, to approve a City Council special joint meeting with the Mt. Diablo Unified School District Board of Trustees on February 29, 2016 at 6:30 pm in Hoyer Hall located at 6125 Clayton Road, Clayton, CA to include the six City agenda items outlined below:

- 1. Report on the success of an inter-agency stormwater runoff containment project performed on MDUSD school property and on City property adjacent to the asphalt public trail rimming the Mt. Diablo Elementary School.**
- 2. 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.**
- 3. Discuss unsafe driving issues occurring with the Mt. Diablo Elementary School traffic during drop-off and pick-up hours. Has MDUSD mitigated similar problems at other schools it can share with the City?**
- 4. Report/Update from MDUSD regarding the inaugural year of its after-school intermural sports programs at Diablo View Middle School.**
- 5. Share information/feedback regarding the Clayton Valley Charter High School relationship. How is the relationship going with the Charter School? Is there any way the City Council can help in that relationship?**
- 6. There seems to be a need for a performing arts studio in the Clayton Valley area; what might be done to address this?**

(Passed; 5-0 vote).

9. COUNCIL ITEMS- None.

10. CLOSED SESSIONS

Mayor Geller announced the City Council would go into a closed session to discuss the subject matters listed below (9:45 p.m.):

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Property: 6055 Main Street, Clayton, CA (APN 119-011-003).
Instructions to City Negotiator: City Manager Gary Napper, concerning price and terms of payment.
Negotiating Party: Clayton Community Church (Shawn Robinson).
- (b) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Property: 6055 Main Street, Clayton, CA (APN 119-011-003).
Instructions to City Negotiators: Mayor Geller and Council Member Pierce, and Ed Del Beccaro, Managing Director, Transwestern, concerning price and terms of payment.
Negotiating Party: Pacific Union Land Company (Joshua Reed).

Report out from Closed Session (10:04 p.m.)

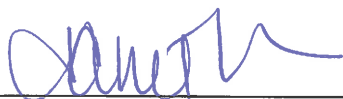
Mayor Geller reported the City Council received information from its negotiator regarding these matters but no reportable action was taken.

11. ADJOURNMENT- on call by Mayor Geller, the City Council adjourned its meeting at 10:05 p.m.

The next regularly scheduled meeting of the City Council will be March 1, 2016.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor

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