

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.

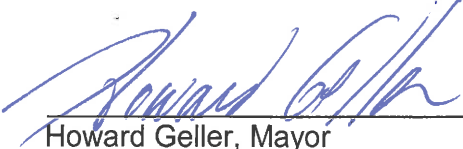
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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



Howard Geller, Mayor

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