



REVISED

AGENDA

SPECIAL MEETING

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CLAYTON CITY COUNCIL

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THURSDAY, SEPTEMBER 7, 2023

3:30 P.M.

*Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517
and Via Zoom 844 3883 1270*

Mayor: Jeff Wan
Vice Mayor: Jim Diaz

Council Members
Peter Cloven
Holly Tillman
Kim Trupiano

- 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 www.claytonca.gov.
- 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.claytonca.gov
- 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 and is available for review on the City's website at www.claytonca.gov
- If you have a physical impairment that requires special accommodation to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7300.

Instructions for Virtual City Council Special Meeting – September 7, 2023

This meeting will be available to the public both in-person and virtually via Zoom. As a courtesy, and technology permitting, members of the public may continue to provide live remote oral comment via the Zoom video conferencing platform. However, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time.

To follow or participate in the meeting:

- 1. Videoconference:** to follow the meeting on-line, click here: <https://us02web.zoom.us/j/84438831270>
After clicking on the URL, please take a few seconds to submit your first and last name, and e-mail address then click "Register", which will approve your registration, and a new URL to join the meeting will appear.
- 2. Phone-in:** Register for the meeting using the URL in the paragraph above. Once registered, you will receive an e-mail with instructions to join the meeting telephonically, and then dial toll-free 877-853-5257 and use the Webinar ID (844 3883 1270) and Password found in the e-mail.
- 3. E-mail Public Comments:** If preferred, please e-mail public comments to the Executive Assistant to the City Manager, Amy Walcker at awalcker@claytonca.gov by 3:00 p.m. on the day of the City Council meeting. All e-mailed public comments will be forwarded to the entire City Council.

Each person attending the meeting via video conferencing or telephone and who wishes to speak on an agendized or non-agendized matter shall have a set amount of time to speak as determined by the Mayor.

*** CITY COUNCIL ***
September 7, 2023

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

2. **PLEDGE OF ALLEGIANCE** – Led by Mayor Wan

3. **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 assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. 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 Agenda Items will be allowed when each item is considered by the City Council.

4. **CLOSED SESSION**

a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Gov. Code 54956.9(d)(2) – (1 case)

5. **ADJOURNMENT**

The next regularly scheduled meeting of the City Council will be September 19, 2023.

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AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MALA SUBRAMANIAN, CITY ATTORNEY

DATE: SEPTEMBER 7, 2023

**SUBJECT: CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO
GOVERNMENT CODE SECTION 54956.9(D)(2) (1 CASE)**

On September 5, 2023, the City Attorney received the attached correspondence from Gary Hood and Bill Walcutt stating that based on the City's apparent lack of enforcement of conditions of approval for the Olivia Project and violation of City ordinances, they are planning to sue the City to force compliance.

The City Attorney has determined that this correspondence qualifies as "existing facts and circumstances" under the Brown Act, specifically Government Code section 54956.9(e)(3) and that there is significant exposure to litigation pursuant to Government Code section 54956.9(d)(2).

ATTACHMENT

Email dated September 5, 2023 from Gary Hood and Bill Walcutt

From: [Gary Hood](#)
To: [Jeff Wan](#); [Jim Diaz](#); [Peter Cloven](#); [Letecia "Holly" Tillman](#); [Kim Trupiano](#); malathy.subramanian@bbklaw.com
Subject: Important!
Date: Tuesday, September 5, 2023 2:56:41 PM

CAUTION - EXTERNAL SENDER.

Dear Mayor and City Council:

It has been brought to our attention by a neighbor that a letter was sent to City Hall regarding the Olivia project this past week.

As concerned citizens and nearby neighbors of the Olivia Project, we noticed over the weekend that several trees were cut down at the site along with some initial grading, which makes us believe that this project may be moving forward without all of the necessary permitting required by the city and the county.

We can all agree that it's not the city's responsibility to move the project along, it's Mr. Jordan's responsibility to comply with all the conditions of approval. If Mr. Jordan violates any of these conditions of approval, we would highly recommend that staff, void his agreement based on his inaction, lies, and not diligently moving the project along.

Based on the city's apparent lack of enforcement of the COA and the violation of city ordinances, we are planning to sue the city to force compliance.

Important note: We are also aware that a previous owner of one of the Olivia parcels ran a business on his property that included hazardous materials that leaked into the soil. We are also aware that the city did not require a soils sample to determine if these hazardous materials were ever mitigated as required by California and Federal Environmental Laws or if this contamination remains in the soil in violation of both State and Federal Law. The potential health risks to residents living on this property from this type of contamination could be significant. Therefore, we are requesting a soils sample be completed immediately on this property (to protect potential new residents) before any more construction work on the property that could potentially expose these hazardous chemicals to the air in surrounding neighborhoods.

Furthermore, based on the recent activity at the Jordan site, we are requesting that the approved agenda item regarding the "Parking Permit Program" be moved up to an early meeting and a decision be made by the council. Waiting until this project, or any other project, is underway makes no sense and gives the wrong appearance.

We must spend the time now, rather than towards the end of the year.

By taking action now, it would send a message to all developers (if approved) that a parking permit program has been enacted downtown and in select neighborhoods, and (developers) should plan accordingly if they plan on building in the Town of Clayton.

Looking forward to seeing this agenda item moved to an earlier date.

If you have any questions, please contact us at your convenience.

Sincerely,

Gary Hood and Bill Walcutt
Clayton Watch