

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

**TUESDAY, November 1, 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, Community Development Director Mindy Gentry, Finance Manager Kevin Mizuno, Maintenance Supervisor John Johnston, 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) Information Only – No Action Requested.

1. City Engineer memo regarding a recent Federal Emergency Management Agency (FEMA) notification to City concerning area floodplain mapping.

(b) Approved the minutes of the regular meeting of October 18, 2016.

(c) Approved Financial Demands and Obligations of the City.

(d) Approved the award of negotiated contracts to Diablo Landscape, Inc. in the amount of \$59,800 and to Waraner Brothers Tree Service in the amount of \$4,400 for a Trees Replacement Project (LMD 2015-3) on Keller Ridge Drive using Citywide Landscape Maintenance District funds (CFD 2007-1), and authorized the allocation of \$18,200 in District reserves to gap-fund the project.

(e) Adopted Resolution No. 52-2016 approving the administering Agency-State Master Agreement No. 04-5386F15 and Program Supplement No. F007 concerning the proposed Collector Street Rehabilitation Project on Keller Ridge Drive (CIP No. 10425), and authorizing the City Manager to execute the Agreements.

(f) Approved the City's Investment Portfolio Report for the 1<sup>st</sup> Quarter of FY 2016-17 ending September 30, 2016.

(g) Approved a multi-year lease with Konica Minolta Business Systems for replacement of the existing City Hall leased copier machine.

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Proclamation declaring November 2, 2016 as "Shelter in Place Education Day."

Mayor Geller noted the issuance of the Proclamation and indicated staff will send it to the requestor as no representative was present.

- (b) Certificates of Recognition to “Do the Right Thing” public school students selected for exemplifying the character trait of “Respect” for October 2016.

Mayor Geller and Mt. Diablo Elementary School Principal Dawn Edwards and second grade teachers Mrs. Pike and Mrs. Knapp presented Certificates to students Carter Dudley and Eva Leaver-Solano.

## 5. REPORTS

- (a) Planning Commission – Commissioner Bassam Altwal summarized the Commission’s meeting of October 25, 2016. He indicated its agenda included a General Plan Amendment for the property located at 5555 Clayton Road, noting this item received a lot of public comment. Commissioner Richardson recused himself from that item as he owns real property in the vicinity. The Commission also reviewed another possible General Plan Amendment to allow net acreage density calculations on properties with certain physical constraints, which matter was returned to staff to draw up the required ordinance. And finally, the Commission considered a Zoning Amendment Ordinance revising the City’s Landscape Water Conservation standards to comply with recent changes in state law. Commissioner Gall was absent from this meeting however all items passed.

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

- (c) City Manager/Staff –

City Manager Napper advised there has been recent communication from County Clerk-Recorder Elections Department regarding its certification of the November 2016 Presidential Election and local elections. As the ballot is larger and more complex, the canvassing process is expected to take longer delaying the Contra Costa County Board of Supervisors approval of the canvas of results to December 13th. Questions have since arisen if the Clayton City Council will need to delay its Re-organization Meeting. He noted late this afternoon City Clerk Janet Brown was notified that she could drive down to the County on December 6th to receive its canvas of local election results that the County Clerk is submitting that week to the Board of Supervisors for its approval the following week. The result is Clayton may still have its Re-organization meeting on December 6th.

The City Manager added that Mayor Geller indicated this earlier but as a confirmation: the Clayton City Council meetings are now live through web-streaming. As an alternative, videotape of City Council meetings is still available for viewing on playback Comcast TV, Channel 27, on Thursdays and Saturdays.

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

Vice Mayor Diaz attended the United Professional Firefighters 2<sup>nd</sup> Annual Charity Ball and Auction, the One Hundred Club of Contra Costa County’s 32<sup>nd</sup> Annual Dinner, the Clayton Business and Community Association’s General meeting, and the Contra Costa Fire Protection District’s Open House.

Councilmember Pierce attended a Contra Costa Transportation Board meeting, the Associated Bay Area Governments Executive Board meeting, the Metropolitan Transportation Commission Transportation Awards Ceremony, the Metropolitan Transportation Commission meeting, she participated on an interview panel to hire a new Executive Director for Transportation Partnership and Cooperation (TRANSPAC),

attended a joint meeting of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, the Clayton Historical Society co-sponsored with Diamond Terrace a Halloween Party and she announced the Annual Christmas Homes Tour takes place on December 11, 2016.

Councilmember Haydon attended the Clayton Library Foundation's monthly meeting, the Contra Costa Habitat Conservancy meeting, Clayton's Budget/Audit Committee Meeting to review the FY 2015-16 Audited Financial Statements of the City, the Clayton Business and Community Association's Oktoberfest wrap-up meeting, and a Clayton Bocce Clinic for new players.

Councilmember Shuey thanked the community for the tremendous support it has given his family during a difficult personal family matter.

Mayor Geller attended a Contra Costa County Office of Education meeting, the Clayton Business and Community Association's general membership meeting, and Clayton's Budget/Audit Committee Meeting to review the FY 2015-16 Audited Financial Statements of the City. He also announced "Christmas for Everyone" is accepting donations and he has offered his home as a drop-off location for anyone wishing to donate.

(e) Other – Introduction of City Council candidates (present at the meeting)

Mayor Geller invited candidates in attendance to share a few comments, if they wished.

Allen Lampo provided a brief history of his volunteerism throughout the community and local organizations within the community and his desire to do more. Mr. Lampo feels that it is time for a fresh perspective and new blood to the City Council. The last time he ran was eight years ago when the downtown was in development. Mr. Lampo suggested that Clayton take a lesson from Concord by creating a committee partnered with the CBCA that would help new businesses on how to get started with licenses, permits, and put out the word that we provide this service. Secondly, he has been in contact with the Contra Costa Association of Realtors and would like to recruit them for phase two of his plan to entice established small businesses to open smaller locations in Clayton, by looking into tax incentives for their first year and building to their specifications. Lastly, as Howard Geller has spearheaded the Concerts in The Grove series, and given his previous nightclub experience and entertainment contacts, Mr. Lampo believes this is something he can take over.

Jim Diaz advised this is a very interesting and exciting time for the candidates that are seeking office on the Clayton City Council. All of the candidates running participated at the Editorial Board for the *East Bay Times* with a rather vigorous inquiry into our qualifications, our experience, and what we plan to bring to the City Council if elected. He felt everyone did a very good job in responding to the Editorial Board and is looking forward to the campaign winding down.

Julie Pierce advised she has served with the City of Clayton for quite some time and has been instrumental in many of the improvements that have taken place in the City along with the struggles that we have gone through to get to where we are. She was part of the fundraising effort to build the Clayton Community Gym which took 6 years to raise the money and qualify for grants. As part of the Oakhurst Development she helped designed Clayton Community Park. Ms. Pierce also advised she has worked with both Howard and Jim on the Concerts in The Grove series attending every concert trying to obtain donations to ensure these events are not a City expense. She has worked hard to attract community businesses, however Clayton does not have the resources to give tax incentives, has worked with some of the top professional commercial real estate firms in the region already, and unfortunately Clayton does not have the demographics to meet

the location needs of larger retailers. We are working on having a vibrant downtown that can accommodate the preferred low-traffic downtown area. Ms. Pierce indicated she is active with the Clayton Historical Society, CBCA, and Boy Scouts. Ms. Pierce advised she is much honored to receive an official endorsement by the *East Bay Times* and she would appreciate one's vote by next Tuesday.

Mayor Geller advised that he plans to continue to bring the Concert in The Grove series even when he is not on the City Council but is always looking for volunteers to help out.

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

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider the adoption of an interim Urgency Ordinance No. 469 placing a local moratorium on the operation or establishment of parolee homes and community supervision programs within the city of Clayton.

Community Development Director Mindy Gentry provided a summary of the staff report advising this item arises from the Public Safety Realignment Act (AB109) from October 2011. The County Realignment Plan called for the establishment of community programs for employment support and placement services, mentoring and family reunification services, short and long-term housing access, and civil legal services. These services are currently not defined within the Clayton Municipal Code; some services could be characterized as Professional Office which would then be permitted by right in the Limited Commercial District and allowable on a second story in the Town Center Specific Plan.

An inquiry was recently made regarding the City's regulations for establishing residences for parolees that have been previously incarcerated. An adoption of a local moratorium would prohibit Community Supervision Program uses and parolee homes in Clayton for 45 days. It is foreseen that further time extension will be needed for staff to complete its analysis of the land use situation and then draft its proposed ordinance for a Planning Commission hearing and ultimate recommendation to the City Council.

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

**It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to have the City Clerk read Urgency Ordinance No. 469, by title and number only and waive further reading. (Passed; 5-0 vote).**

The City Clerk read Ordinance No. 469 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Urgency Ordinance No. 469 for Introduction with findings the Ordinance is not subject to the California Environmental Quality Act because this activity is not considered to be a project and it can be seen with certainty that it will not have a significant effect or physical change to the environment. (Passed 5-0 vote).**

- (b) Presentation and approval of the City's audited Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2015-2016 by Cropper Accountancy Corporation, independent Certified Public Accountant firm, and concept direction regarding the disposition of FY 2015-16 General Fund excess monies (\$204,902).

Finance Manager Kevin Mizuno advised this is the first time in City financial history that staff has fully taken charge of the financial statement compilation, which role allows the auditors to focus its efforts on the audit procedures and documentation. The City will submit its first-ever Comprehensive Annual Financial Report (CAFR) to the Government Finance Officers Association, once approved by the City Council. If our CAFR passes certification, the City will be awarded a "Certificate of Achievement for Excellence in Financial Reporting" awarded to agencies going beyond Generally Accepted Accounting Principles. Mr. Mizuno noted Cropper Accountancy Corporation has issued an "unmodified opinion" on the City of Clayton's financial statements for the fiscal year ended June 30, 2016, which means the same as a "clean audit report." Mr. Mizuno introduced John Cropper partner of Cropper Accountancy to present the analysis of its review.

Mr. Cropper thanked the City Council and also introduced Bryce Rojas who assisted as senior lead on the analysis of Clayton's financial statements. Mr. Cropper presented a brief slideshow noting an increase in the Government Wide Net Position of \$431,000, reflecting the full economic health of the City. Mr. Cropper noted the General Fund Balance is strong with annual revenues exceeding annual expenditures by \$377,366 in FY16. Mr. Cropper advised the Statement on Auditing Standards (SAS) 114 auditors communication is a required letter and the Statement on Auditing Standards (SAS) 115 communicates observations on internal control related matters and is often referred to as a management letter. With any audit there are suggestions for improvement but it is nothing serious and serves the purpose to make the entity aware of the issues. Overall, Mr. Cropper noted the Council should be very pleased with its financial status and accounting practices.

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

City Manager Napper added there is a secondary related item regarding City Council consideration of allocating the \$205,000 in annual General Fund excess to address certain unmet needs of the City. He referred the City Council to Attachment 4 in the staff report for options for consideration. Should the City Council be so inclined, Mr. Napper recommended this staff list and other items proposed by the City Council could be agendaized for a future meeting.

**It was moved by Councilmember Haydon, seconded by Councilmember Pierce, to accept the "unmodified opinion" issued by the independent auditors on the City of Clayton's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2016, and instruct staff to place the disposition of the FY16 \$205,000 General Fund excess on a future City Council agenda for consideration. (Passed 5-0 vote).**

- (c) Consideration of a proposal by Clayton Valley Little League to permanently install a fixed outfield baseball fence on Sports Field No. 3 at Clayton Community Park, and discussion of the need and funds to renovate the 1992-installed turf playing field and/or all fields at Clayton Community Park (Fields 1-4).

Maintenance Supervisor John Johnston advised the City received a proposal from Clayton Valley Little League (CVLL) requesting joint installation of a permanent fence and location of a storage container at Clayton Community Park on Field 3. In addition, CVLL would also like to build a permanent pitching mound on the same field. Maintenance staff has reviewed the proposal and noted an 8-foot high fence is preferred as a safety component, and it needs the accompanying installations of a minimum 12-inch wide housekeeping strip located under the fence line, a ten foot wide permanent warning track for player safety, and preferably a storage container that matches all other existing buildings or structures located within the public park. Staff cautioned the installation of a permanent fence will limit the use of this field for other sports, impact the existing irrigation system layout and effectiveness, increase field maintenance, and impact other field uses and user groups. Mr. Johnston noted that without a conceptual design it is difficult to come up with cost estimates and the integration into the complete public park proposal. To maximize the public discussion of this item, staff invited representatives from Mt. Diablo Soccer Association (MDSA) and All Out Sports League (AOSL) to also provide input on CVLL's proposal and how it may impact their programs.

City Manager Napper added since this item was being brought here for discussion it was determined to open up further discussion on the broader view of the current condition of Clayton Community Park which was installed in 1992. It is recognized that chasing water leaks has disrupted the playing surface of all fields and natural wildlife creating holes that kids could fall into while playing soccer, which field condition has recently resulted in the Soccer Association not using or renting our fields any longer. Rental revenue collected has significantly declined due to the conditions of the fields, the extended drought made them further unsafe and as a result some sports organizations have found alternate play locations. Staff put together in Section 2 of the Report a range of ideas to renovate all playing fields and associated park irrigation systems.

Councilmember Shuey inquired why the preference of any 8' fence versus a 6' fence? Mr. Johnston advised an 8' fence is preferred for the safety of the kids that will be running into it or trying to jump up to catch a fly ball.

Councilmember Shuey asked if staff had any further updates as to installation and maintenance costs of artificial turf? Mr. Johnston advised installation of artificial turf would require a complete regrading, landscaping, irrigation system, design and blueprints. He has also heard the lifespan of artificial turf has shortened to approximately 8 years and it requires its own maintenance plan to include brooming and watering it down.

Councilmember Haydon inquired if there are currently any adult teams using the fields? Casey Copeland, President of All Out Sports League, advised his organization is currently using Field 2 for softball in the spring, summer and fall; occasionally for a tournament they may use an additional field. Mr. Copeland also advised some kids have stopped playing on the fields due to the number of potholes and poor turf conditions.

Councilmember Shuey advised he had a conversation with Jeremy Amos, President of Mt. Diablo Soccer League, prior to this meeting noting that soccer has a real issue with player and referee safety on all fields at Clayton Community Park, and have since found other fields to use. Mr. Amos indicated to Mr. Shuey with the combination of the safety of the fields, ground squirrel issues and field costs, it has been problematic for the league.

Kevin Dern, President of Clayton Valley Little League advised that he advocating this proposal to return Clayton Community Park Field 3 to what it once was. The last few years CVLL has struggled with its fields, and is looking to find its home fields. The current condition of the fields is in despair, where a lot of safety hazards have occurred. As a non-profit they do not have a lot of funds and that is why they are seeking out a partnership with the City for field improvements. Currently the League is unable to host any tournaments, play-offs or all-stars due to the condition and design of the fields.

Councilmember Shuey inquired on the additional request from the League for the installation of a permanent pitching mound on Field 3: would it be feasible to still use the portable mound so the field could still be used for softball? Mr. Dern reluctantly replied "yes."

Councilmember Haydon inquired on the use of a temporary fence? Mr. Dern advised CVLL currently has a temporary fence it is using which needs to be put up and taken down each time it is needed and then stored. Parents are tired of having to do this each and every game.

Mayor Geller would like to have CVLL work with Clayton Maintenance staff to determine costs and on-going maintenance and irrigation costs with this item brought back to the Council for consideration. Councilmember Haydon wondered if the renovations to Clayton Community Park could be done in phases? Mayor Geller also made a suggestion that CVLL consider putting in a donation request to the Clayton Business and Community Association as this project could help a lot of kids for years to come.

Aaron Paez, long time Clayton resident and new CVLL Board Member, advised there is a business side to this proposal as it has the potential of bringing approximately 1,400 people to the City between April and June during that time frame, with Saturdays hosting 18 to 22 games in the City area. This could bring more business to the local restaurants as typically after a game teams will get together and have some pizza or hamburgers to reward the kids.

City Manager Napper commented the community dialogue presented this evening is encouraging; Clayton Community Park is not in its present condition based on a lack of desire however, and the park's annual maintenance costs are approximately \$187,000 while annual rental revenues are approximately \$44,000 for the entire park, including picnic rentals. The operational gap is subsidized by the General Fund, whereas in contrast The Grove Park more successfully maintained as it has a non-competing revenue source dedicated to its operation and maintenance. He noted some surrounding cities, such as Pleasant Hill, have a Recreation District which is a community facilities funded by a separate parcel tax. Approximately \$24,000 of the revenues collected last fiscal year for rentals at Clayton Community Park came from CVLL's play.

Councilmember Pierce thanked Clayton Valley Little League for bringing this issue up as it is a good opener for what needs to be done at Clayton Community Park and could possibly satisfy other community needs such as a BMX or skate park. Ms. Pierce would also like to be sure that any modifications to the park be kept safe and in playable condition, and if it is proper to fence off part of this field, limiting its use of other organizations or the public to use that area, the City needs to improve the other areas of the park too.

Mr. Napper commented he appreciated the fact that Clayton Valley Little League approached the City with this proposal but at a minimum merely installing a fence would not be sufficient without the necessary warning track and underlying concrete mow strip. Mr. Johnston noted he just received a proposal from Pacheco Bros. Landscape to renovate all four fields with what is necessary, without irrigation system improvements or and permanent baseball mound, and it would be approximately \$120,000.

Mr. Johnston added the proposal from Pacheco Bros. includes removing the weeds, leveling out the fields, seed, and fertilize. This renovation would need to be done several years in a row, at approximately \$120,000.00 per year, to keep them maintained; the City's general maintenance and staffing level cannot provide a higher level of field care and certainly does not address possible extended drought conditions, lack of irrigation, or ground squirrel prevention measures. He added Field 3's irrigation system must undergo a re-design to properly address the impacts of a permanent fence.

City Manager Napper asked is the City Council willing to allow this field to go to baseball by installing a permanent fence? If that is the desired policy direction, staff will work with Clayton Valley Little League and bring this item back to the Council with refinement of associated costs.

Councilmember Pierce requested additional community outreach to let the community know the City Council is considering a proposed change to Clayton Community Park and encourages additional community input.

- (d) Continued consideration of Mayor Geller's request for the City to initiate a feasibility study for construction of a second public restroom in the Clayton Town Center area.

Mayor Geller advised this item was continued as the Council was not at full capacity at the last meeting when this item was presented and wanted to seek everyone's input.

Councilmember Pierce advised there is not enough information to make a decision on this item. Ms. Pierce performed her own online research and learned the cost of a public restroom could be anywhere from \$200,000 to \$400,000 for a pre-fabricated facility that would be nearly identical to what is at The Grove Park. She also looked into how to determine the size of a facility to meet crowd needs of 3,000 to 10,000 and the added restroom size being contemplated would not meet those types of needs. Ms. Pierce would like staff to do further research before the Council goes any further on this item and prioritizes this as a capital improvement need of the City for 22 days per year.

Mayor Geller would like this consideration returned to staff for its input on where additional restrooms could be located including the on-going maintenance costs. Mayor Geller thinks if there is a real restroom facility across the street from the park, not portable toilets, it would be utilized by the concert crowds and reduce the times people are waiting in line to use the existing park facility. Another suggestion is to go in conjunction with the builder of the commercial strip near the Clayton Historical Society to serve the public needs.

Councilmember Haydon confirmed he thinks it is worth the time for staff to investigate and determine a location of an additional restroom in the downtown.

Councilmember Shuey inquired on how much staff time would be needed as he does not want staff to spend tremendous amounts of time on something if, from a stand point of a policy decision, it is determined that it is not needed. Councilmember Shuey also noted that for larger events such as the Labor Day Derby, Oktoberfest, Art and Wine, port-a-potties will still be needed to accommodate the large attendance at these events. Councilmember Shuey asked if an additional restroom was placed in the Black Diamond Corral across the street from the park, would that be considered a part of "The Grove Park" for funds?

City Manager Napper advised his initial reaction is "No," the Corral would not fall under "The Grove Park" and would be hard pressed to make such a nexus to that special



parcel tax funding; a restroom outside The Grove Park must seek other means of funding. He noted the existing public restrooms accommodate the typical needs of the public at The Grove Park; it is the special events which cause the problems. If restrooms were constructed at the Black Diamond Corral, the cost and maintenance would likely come from the General Fund.

City Manager Napper requested the Council be specific on the type of research it wishes staff to conduct: expanding the existing park restroom, duplicating the existing restroom there or at another location in downtown. Council member Pierce responded she would like staff to take a quick look at doubling the capacity of the existing restroom at The Grove Park on the same site.

Mayor Geller opened the floor to receive public comment; no public comments were offered. The matter was referred to staff for preliminary research as requested.

9. **COUNCIL ITEMS** – None.

10. **RECESS THE CITY COUNCIL MEETING**

Mayor Geller recessed the City Council meeting [at 9:41p.m.] until after the conclusion of the Clayton Finance Authority meeting.

11. **RECONVENE THE CITY COUNCIL MEETING**

Mayor Geller reconvened the City Council meeting [at 9:43 p.m.].

12. **CLOSED SESSION**

Mayor Geller announced the City Council will adjourn to a closed session to discuss the subject matters listed below [9:43 p.m.]:

(a) *Government Code Section 54957*  
Public Employee Annual Performance Evaluation  
Position Title: City Manager

(b) *Government Code Section 54957.6*  
Conference with Labor Negotiators  
Agency designated representatives: Mayor Geller, Vice Mayor Diaz  
Unrepresented employee: City Manager

**Report out from Closed Session (11:16 p.m.)**

Mayor Geller reported the City Council directed its negotiators regarding these matters but no reportable action was taken.

13. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 11:17 p.m.

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

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Howard Geller, Mayor

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