

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

TUESDAY, June 20, 2017

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:05 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, and Councilmembers Catalano, Pierce and Shuey. Councilmembers absent: Vice Mayor Haydon. Staff present: City Manager Gary Napper, City Clerk/HR Manager Janet Brown, and Community Development Director Mindy Gentry.

2. **COUNCIL INTERVIEW OF PLANNING COMMISSION APPLICANTS**

The City Council separately interviewed two (2) of the three (3) candidates who had applied for appointment to the City Planning Commission:

Russell Eddy
Anthony Chippero

RECESS: The City Council took a short recess from 6:42 p.m. – 7:00 p.m.

7:00 P.M. REGULAR PUBLIC MEETING

3. **RECALL TO ORDER THE CITY COUNCIL** – The meeting was recalled to order at 7:00 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, and Councilmembers Catalano, Pierce, and Shuey. Councilmembers absent: Vice Mayor Haydon. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Finance Manager Kevin Mizuno, Community Development Director Mindy Gentry, City Engineer Rick Angrisani, and City Clerk/HR Manager Janet Brown.

4. **PLEDGE OF ALLEGIANCE** – led by Mayor Diaz.

5. **CONSENT CALENDAR**

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

- (a) Approved the minutes of the regular meeting of June 6, 2017.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 16-2017 authorizing the levy of annual real property tax assessments for Community Facility District No. 2006-1 (Downtown Park O & M; Fund No. 211) in Fiscal Year 2017-2018.

- (d) Adopted Resolution No. 17-2017 authorizing the levy of annual real property tax assessments for Community Facility District No. 2007-1 (Citywide Landscape Maintenance District; Fund No. 210) in Fiscal Year 2017-2018.
- (e) Adopted Resolution No. 18-2017 authorizing the levy of annual real property tax assessments for the Middle School Community Facilities District (CFD 1990-1R, 2007 Special Tax Refunding Bonds; Fund No. 420) in Fiscal Year 2017-2018.
- (f) Adopted Resolution No. 19-2017 approving a Second Amendment to the City's existing contract with Contra Costa County for its contract Plan Check and Building Inspection Services, effective July 1, 2017 through June 30, 2020.
- (g) Accepted the Trails and Landscaping Committee's [Citizens' Oversight Committee] Annual Report on the Citywide Landscape Maintenance District for FY 2015-16.
- (h) Approved the denial of a liability claim filed against the City by Ms. Carla Burnett and authorized the City Clerk to send the Notice of Rejection.

6. RECOGNITIONS AND PRESENTATIONS

- (a) Recognition to outgoing Clayton Planning Commissioner Dan Richardson in appreciation of his civic services to the City of Clayton, July 2009 - June 2017.

Mayor Diaz presented Planning Commissioner Dan Richardson with a plaque in recognition of his civic services to the City of Clayton.

Mr. Richardson thanked the City Council for allowing him the opportunity to preserve Clayton's character by volunteering to the community by serving on the Blue Ribbon Committee, the Trails and Landscape Committee, the Measure M, B, and H Committees, running for a seat on the Clayton City Council, and appointed to serve on the Planning Commission in 2009 for the last eight years.

- (b) A Proclamation declaring July 2017 as "AHA! (Anti-hazing Awareness) Month" in the City of Clayton.

Mayor Diaz read and presented the Proclamation to Debbie Smith, Matt Carrington's mother and CEO of AHA! Movement, and to Kristin Pollot, Acting Chair, AHA! Movement Board of Directors.

7. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – Committee Member Anthony Chippero indicated its last meeting's agenda included selection of a chairman but that action was postponed due to only four (4) members being present; however, they did select a new Vice Chair, Nancy Morgan. Mr. Chippero noted the Committee reviewed landscape maintenance activities, then approved the Annual Report for FY 2015-16 in its role as the Citizens Oversight Committee, and suspended the Adopt-A-Trail Program until one of its members takes the lead for donations and support. The Committee recommended approval of the Landscape Maintenance District's proposed budget for FY 2017-18 to the City Council noting the CPI this year is 3.78%; as approved by Ballot Measure H, the annual tax this year may only be increased by its maximum cap of 3%.

(c) City Manager/Staff

City Manager Napper announced a volunteer opportunity exists for a Clayton resident to serve as the City's representative on the Citizen's Advisory Committee at Contra Costa Transportation Authority, which public agency distributes sales tax monies and recommends awardees on various regional transportation projects to serve vehicles, bicyclists, and pedestrians. He noted each city in Contra Costa County appoints a representative from their communities to this citizens' committee. The application for this volunteer position is available on the City's website.

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

Councilmember Shuey had no report.

Councilmember Catalano attended the Trails and Landscape Committee's meeting.

Councilmember Pierce attended the National Association Regional Councils' meeting, multiple Contra Costa Transportation Authority Board meetings, several Association of Bay Area Governments' meetings, several Metropolitan Transportation Committee meetings, the VFW's annual Memorial Day Observance at the Veterans' Memorial Flagpole Monument in downtown Clayton, the California Association of Governments meeting, the TRANSPAC meeting, the Regional Association of Bay Area Governments meeting, and the Bay Area Regional Collaborative meeting. She also announced the continued need of volunteers for the upcoming 4th of July Parade in downtown Clayton.

Mayor Diaz attended the Contra Costa Water District's monthly meeting, the League of California Cities' Public Safety Policy Committee meeting, the Saturday Concert in The Grove, the Wednesday Classic Car Show event in downtown Clayton, the County Connection Board meeting, and the recent retirement event for Father Richard Mangini, St. Bonaventure Church.

(e) Other – None.

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

9. PUBLIC HEARINGS

(a) Public Hearing on the proposed City of Clayton Budget for Fiscal Year 2017-18, its 5-year Capital Improvement Project Budget (CIP) for Fiscal Years 2017-2022, and the establishment of a "Pension Contribution Stabilization Fund."

Finance Manager Kevin Mizuno provided a brief overview of the proposed Clayton City Budget for Fiscal Year 2017-18 that was introduced at the Council meeting on June 6, 2017. Since that June 6, 2017 meeting there have been no revisions required to be incorporated into the Budget.

Mr. Mizuno noted the 5-Year Consolidated Budget trend analytical table, which is part of the Budget Message. Mr. Mizuno advised the total budget for FY 2017-18 is \$12,455,381 including the budget categories of the General Fund, Other Funds, Capital Improvement Project (CIP) and Successor Agency budgets.

The largest revenue source continues to be the General Fund at 63.72% of the total City Budget, which is also the driver for general City operations and public services. The second largest revenue source is the Landscape Maintenance District at 15.71%; this Mello-Roos Community Services District holds restricted parcel tax for the operations and maintenance of the Landscape Maintenance District, which operation was recently extended by the local electorate on a ballot measure in June 2016. The expenditures comparison follows suit with its revenues with largest volume of expenditures being the General Fund at 53.54%, followed by Landscape Maintenance District at 18.02%, and Measure J (transportation projects) at 8.49%.

Mr. Mizuno indicated the proposed FY 2017-18 is an annually balanced budget with a budgeted surplus of \$10,830 projected for the General Fund; the General Fund reserve balance ending June 30, 2018 is calculated to be \$5,504,259, which amount is more than the total annual FY 2107-18 General Fund operations of the City.

Mr. Mizuno highlighted changes included in the proposed budget to the Public Works Department workforce, consisting of the deletion of the second Maintenance Supervisor position, promotion of the City's two experienced Maintenance Worker I employees to Maintenance Worker II positions, and renaming the position of Maintenance Lead Worker to "Senior Maintenance Worker."

Finance Manager Mizuno continued his presentation involving the City's financial status to outline the CalPERS' Unfunded Actuarial Liabilities (UAL), with staff's recommendation to establish a new "Pension Contribution Stabilization Fund" to help mitigate and plan for future rate increases. In FY 2018 it is anticipated that a spike in costs will occur in the amount of \$73,000 but he noted the proposed budget could absorb that increase when the Public Works and Police Departments experienced short-staffing in periods of time and attrition. In order for CalPERS to ensure they are collecting enough from participating agencies, it recently implemented a fixed dollar amount for UAL payments in December 2016, and the CalPERS Board also voted to lower its discount rate from 7.5% to 7.0% over the next three years giving employers more time to prepare for the changes in employee pension contribution costs.

Mr. Mizuno referenced the Appropriations (GANN) Limit of the City which is required calculation under Proposition 4 adopted by California voters in 1979. On an annual basis, the calculation this year results in the Fiscal Year 2017-18 Appropriations Limit [tax limit] of \$10,485,299. When compared to estimated appropriations subject to the Limit for next fiscal year, Clayton is only at 43.5% of the maximum limit, which means the City's available annual tax expenditure gap is \$5,920,392.

Mayor Diaz opened the Public Hearing; no comments were offered.
Mayor Diaz then closed the Public Hearing.

Councilmembers offered its support and praise to staff for its consistent financial management acumen.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 20-2017 approving the Annual Budget for the City of Clayton for the 2017-2018 Fiscal Year commencing July 1, 2017 and ending June 30, 2018, and adopting the 2017-2018 Appropriations Limit and employee compensation schedule. (Passed; 4-0 vote).

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Resolution No. 21-2017 establishing a new internal service fund of the City designated the "Pension Contribution Stabilization Fund". (Passed; 4-0 vote).

10. **ACTION ITEMS**

- (a) City Council discussion and determination of a citizen appointment to two (2) vacancies on the Clayton Planning Commission for two 2-year terms of appointed office from July 1, 2017 through June 30, 2019.

Mayor Diaz indicated earlier this evening the City Council interviewed two of the three candidates who had applied for the two vacant positions on the City Planning Commission. One citizen who applied but was unavailable for the interview tonight is currently a member of the Planning Commission whose term is expiring yet remains eligible for re-appointment to a full 2-year term. He inquired among the City Councilmembers whether they wished to select this citizen for re-appointment to one vacancy on the Planning Commission. There was a general consensus to re-appoint Mr. Peter Cloven to the Commission.

The City Council then discussed which applicant should fill the remaining second vacancy.

Mayor Diaz opened matter for public comments; no comments were offered.

It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve Resolution No. 22-2017 appointing Mr. Peter Cloven and Mr. Anthony Chippero to the vacant offices on the Clayton Planning Commission, each with a term of office to expire June 30, 2019. (Passed; 4-0 vote).

- (b) Consider a request by Permco Engineering & Management (contract City Engineer services) for Consumer Price Index (CPI) rate increases since 2006 of 29.6% on the City Engineer's basic services, 36% on City Project rates, and 30% on Third Party Project rates (28.5% average company rate increase).
(City Engineer)

Mr. Rick Angrisani indicated he is addressing the City Council tonight not as the City Engineer but as the President of Permco Engineering and Management. He stated his objection to the agenda description of the rate increase request to the City Council. When he asked the City Manager why the agenda item published the increase specific to his position rather the average increase for all of his firm's positions, the answer was it is usual to present the rate increase for the key individual being hired, namely the city engineer. Mr. Angrisani remarked that response is faulty logic as the City hired Permco to be its city engineer and there are several positions within his firm providing contract services and each will have some impact on the costs to the City.

When the Oakhurst Country Club Development was approved the City Council realized the City was going to have to either hire many professional engineering employees along with providing office space, vehicles, furniture and equipment, or contract with a private firm to supply and oversee the engineering personnel and services. The Council did not want to burden the city budget and its general fund with significant employee obligations and decided to contract with Permco Engineering and Management for the addition of professional employees on an as-needed basis as well as contracting with himself to act as the City Engineer.

Mr. Angrisani stated he believes that Permco's rate increase request should be viewed on the average of all of its positions divided instead of the increase to one position. Mr. Angrisani then displayed an overhead of a spreadsheet of basic principal retainer rates

with an average of 29.5%, for City Projects the average rate increase is 28.6%, and for Standard Outside Party rate the average increase is 28.5%. He noted since Permco's last rate increase in 2006, the Bay Area's CPI increase has been 31.45%.

Mr. Angrisani then referenced the information provided in the staff report by the City Manager included a listing of payments Permco has received over the last nine (9) fiscal years, as provided by the City's Finance Department. The payments from basic services total \$790,316.64, averaging \$87,812.00 per year with approximately \$20,000 per year for clerical work, phones, filing, tracking construction permits as well as minor inspection and CADD work. Therefore, Permco only received \$68,000 for Mr. Angrisani's services.

Permco surveyed all the cities in Contra Costa County that have a city engineer as paid staff and found the annual salary and benefits costs average \$208,628.16 per year. Permco's proposed increase is 29.5% which increases the average annual cost to \$113,701.00 which is still below the average City Engineer salary. Mr. Angrisani noted CIP project costs totaled \$943,866.55. The cost of the contracts completed or out to bid totaled \$7,500,000 with Permco's costs of 12.6%, which is a lower percentage compared to what other agencies are paying for similar services, such as CCTA at 14%. The Bill to Deposits is basically charges and pre-paid deposits paid by third party individuals. The recovered from deposits percentage is a calculated ratio of billed deposit amounts to total paid by the City.

To ensure the City Council of its reasonable rate increase request, Permco then surveyed seven (7) cities in the Bay Area to determine what rates by positions are paid to outside consultants. Permco's rates vary from 60% to 80% of the rates paid by other agencies with the exception of survey rates that are governed by union salaries. Permco is able to offer these lower rates based on its experience, efficiency and relatively low overhead costs. Permco has been honored to represent the City of Clayton for the last 30 years, and it has always placed the interest of the City first, even ahead of our of better paying private clients. However, the City projects in the last few months require more dedication of a significant portion of Permco's time and resources and it is not anticipated that need will discontinue into the future; with our existing rates, Permco is not able to cover its costs and overhead. Therefore, we must respectfully request approval of our submitted proposed rate increase.

Councilmember Pierce inquired on the proposed rates with the other City's rates, and how the calculations were determined and where the information was gathered for the other cities. Mr. Angrisani advised the Human Resources Departments and City Engineers were directly contacted; the rates provided are what the cities pay their consultants, not in-house staff.

Councilmember Shuey asked if there was a breakdown of the total paid by Permco Engineering for their employees and expenses. Mr. Angrisani clarified he does not make \$257,000 as the total paid from the City to date in this Fiscal Year; he pays for several employees, office overhead, equipment, etc. Councilmember Shuey inquired if Mr. Angrisani provided the City a statement of his profit/salary after his expenses were paid? Mr. Angrisani responded he could not give himself a full salary after his expenses were paid, which he considers reasonable at \$12,000 to \$13,000 per month.

Councilmember Pierce advised this item is going to need more time to review as new information was presented this evening without sufficient time to study it.

City Manager Napper noted for discussion clarity that on the charts provided the Fiscal Year 2017 is the expenses to date for this calendar year and that more invoices with additional expenses are expected to come in through June 30th.

Councilmember Pierce inquired if Permco staff is able to keep up with the additional City work; if it is getting to a point where it has become a struggle to keep up with the city's work? Mr. Angrisani advised he can always hire another engineer however he hesitates to do that since doing so will be an added cost to the City.

Councilmember Pierce noted CCTA is working on consolidated pavement projects throughout the County or groups of cities going together and having CCTA manage the street paving contracts; each project would still have to be defined by local staff as to what it is that we want to do. CCTA could aggregate the contracts to help get more efficient pricing and help manage the contractors to make sure repaving projects are done well and perhaps at lesser cost due to economies.

Councilmember Catalano inquired on what other cities typically do for contract rate increases or is the contract reviewed after so many years, and what if the rate is based on the CPI? Mr. Angrisani advised the contract with Permco allows for annual reviews; however Permco chose not to ask for it because they knew what kind of shape the City's budget was in and it has been put off until recently. City Manager Napper added as an example the City's contract with Best, Best and Krieger went into effect in 2011 with the first rate increase requested in 2016. He also noted a comparison in the staff report in terms of what city employees received in the last ten years which included the Great Recession; there were 5 consecutive years of employees not receiving any cost-of-living adjustments and in fact took actual pay decreases because of mandated work furloughs which calculated to an annual pay reduction of about 4%.

Mayor Diaz opened the item for public comment; no public comments were offered.

Mayor Diaz indicated it appears more analysis needs to be conducted before a decision can be made.

Councilmember Pierce advised to be fair to Permco and the public more time is needed to study these figures and consider what direction the City needs to go with assistance from City staff.

By general consensus, City Council took no action and directed staff to return the item to the City Council at its regular meeting of July 18, 2017 with a comparative analysis of what other engineering firms might charge.

11. COUNCIL ITEMS

Councilmember Pierce asked if all of the requests or notices have been mailed for standard weed abatement violators?

City Manager Napper advised notifications to abate one's property is done by the Contra Costa County Fire Protection District. Private property owners are also notified on a case by case basis if the City is notified of such violations. He noted City Code Enforcement can only enforce real property standards based what it can see from a public property viewpoint; City personnel are not permitted to enter private property and peer over a fence. He recommended anyone with specific knowledge about hazards in a backyard should take pictures of the situation and provide it to City staff.

12. CLOSED SESSION – None.

13. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 8:31 p.m.

The City Council of July 4, 2017 has been canceled.
The next regularly scheduled meeting of the City Council will be July 18, 2017.

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Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL



Jim Diaz, Mayor

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