



AGENDA

REGULAR JOINT MEETINGS

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CLAYTON CITY COUNCIL and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

* * *

TUESDAY, July 17, 2018

7:00 P.M.

*Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517*

Mayor: Keith Haydon
Vice Mayor: David T. Shuey

Council Members

Julie K. Pierce
Jim Diaz
Tuija Catalano

- 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 least 72 hours prior to the Council meeting.
- 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.ci.clayton.ca.us
- 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.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

*** CITY COUNCIL ***

July 17, 2018

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

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Haydon.

3. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by one single motion of the City Council. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or further input may request so through the Mayor.

- (a) Approve the minutes for the City Council regular meeting of June 19, 2018. ([View Here](#))
- (b) Approve the Financial Demands and Obligations of the City. ([View Here](#))
- (c) Adopt a Resolution setting and levying real property tax assessments in FY 2018-19 for the Oak Street Permanent Road Division. ([View Here](#))
- (d) Adopt a Resolution setting and levying real property tax assessments in FY 2018-19 for the High Street Permanent Road Division. ([View Here](#))
- (e) Adopt a Resolution setting and levying real property tax assessments in FY 2018-19 for the Oak Street Sewer Assessment District. ([View Here](#))
- (f) Adopt a Resolution setting and levying real property tax assessments in FY 2018-19 for the Lydia Lane Sewer Assessment District. ([View Here](#))
- (g) Adopt a Resolution approving the Engineer's Report and levying the annual assessments in FY 2018-19 on real properties for the operation and maintenance of residential street lights in the Street Lighting Assessment District, pursuant to Streets and Highways Code 18070 and CA Government Code 54954.6. ([View Here](#))
- (h) Adopt a Resolution approving the City Master Fee Schedule for FY 2018-19 regarding certain fees for user-benefit municipal services and rental of City facilities. ([View Here](#))
- (i) Adopt a Resolution authorizing the Clayton City Engineer to approve a Quality Assurance Program in compliance with Caltrans requirements for federally funded local transportation projects. ([View Here](#))
- (j) Adopt a Resolution adjusting and approving pay rate schedules for certain temporary hourly wage positions within the City of Clayton's employment organization. ([View Here](#))

- (k) Adopt a Resolution approving agreement No. C1000205 with the California Franchise Tax Board renewing the City of Clayton's reciprocal agreement to exchange tax data specific to City business license information for mutual tax administration and collection purposes, and authorizing the City Manager to execute the agreement in behalf of the City. ([View Here](#))

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REPORTS**

- (a) Planning Commission – Commissioner A.J. Chippero.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
- (e) Other

6. **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 facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. 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 Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

7. **PUBLIC HEARINGS**

- (a) Consider the Second Reading and Adoption of proposed City-initiated Ordinance No. 482 amending Chapter 6.04 to adopt by reference the Contra Costa County Animal Control Code, including County Ordinances Nos. 80-97 (“Revised Animal Control Ordinance”), 83-10 (“Animal Control Ordinance Amendments”), 85-23 (“Animal Services Contracting”), 87-74 (“Regulation of Dangerous Animals and Potentially Dangerous Animals”), 97-33 (“Penalty for Abandonment of Animal”), 2005-24 (“Dangerous Animals”), 2006-05 (“Amendment to Dangerous Animal Ordinance”), 2011-08 (“Spaying and Neutering Dogs Impounded Dogs Prior to Release”), 2011-09 (“Microchipping Impounded Dogs and Cats Before Release”), 2016-02 (“Exemptions For Animal License Fees”), and 2017-12 (“Amendments to Division 416 (Animals) of the County Ordinance Code”), and Adopting Penalties therefor as provided in County Ordinance Nos. 97-33 and 2017-12 of the *Clayton Municipal Code* for conformity with recent Contra Costa County animal control laws. ([View Here](#))
(City Attorney)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion, approve a motion to have the City Clerk read Ordinance No. 482 by title and number only and waive further reading; **5)** Following the City Clerk’s reading, by motion adopt Ordinance No. 482 with the findings the adoption does not constitute a project under CEQA this activity will not have a significant effect or physical change to the environment.

- (b) Public Hearing to consider the Introduction and First Reading of Ordinance No. 483 amending Title 17 – Zoning of the Clayton Municipal Code to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit. ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comment; **3)** Close the Public Hearing; **4)** Following Council discussion and subject to any change(s) in the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 483 by title and number only and waive further reading; and **5)** Following the City Clerk’s reading, approve a motion to adopt Ordinance No. 483 with the finding the adoption of this Ordinance is not subject to the California Environmental Quality Act (CEQA) because CEQA only applies to projects which have the potential for causing a significant effect on the environment and this activity is not considered to be a project and can be seen with certainty that it will not have a significant effect or physical change to the environment.

8. ACTION ITEMS

- (a) City Council discussion of its vacant opportunities for Clayton citizens to serve on various regional advisory committees/commissions. ([View Here](#))
(Mayor Haydon)

Staff recommendation: Following staff presentation and opportunity for public comments, that Council provide staff with direction on filling its various citizen advisory vacancies.

9. COUNCIL ITEMS – limited to requests and directives for future meetings.

10. RECESS THE CITY COUNCIL MEETING – Mayor Haydon
(until after the conclusion of the Oakhurst Geological Hazard Abatement District meeting)

11. RECONVENE THE CITY COUNCIL MEETING – Mayor Haydon

12. CLOSED SESSION

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator.

1. Real Properties: 1005 and 1007 Oak Street, Clayton, CA
(APNs 119-050-034, 119-050-008, and 119-050-009)

Instructions to City Negotiators: City Manager Gary Napper and Mr. Edward Del Beccaro, Managing Director, Transwestern, regarding price and terms of payment.

Negotiating Parties: Mr. Michael Paez, The Kase Group (Investment Real Estate, Lafayette) representing Luis Munoz.

Report Out From Closed Session: Mayor Haydon.

13. ADJOURNMENT - the City Council meeting of August 7, 2018 has been canceled.

The next regularly scheduled meeting of the City Council will be August 21, 2018.

#

*** OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT ***
July 17, 2018

1. CALL TO ORDER AND ROLL CALL – Chairperson Catalano.

2. PUBLIC COMMENTS

Members of the public may address the District Board of Directors on items within the Board's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chair's discretion. When one's name is called or you are recognized by the Chair as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Board 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 Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Board.

3. CONSENT CALENDAR

Consent Calendar items are typically routine in nature and are considered for approval by the Board with one single motion. Members of the Board, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Chair.

- (a) Approve the Board of Directors' minutes for its regular meeting on June 19, 2018. ([View Here](#))

4. PUBLIC HEARING

- (a) Public Hearing to consider the Geological Hazard Abatement District (GHAD) proposed real property tax assessments for Fiscal Year 2018-2019. ([View Here](#)) (General Manager)

Staff recommendations: **1.)** Receive the District Manager's report; **2.)** Open the Public Hearing and receive public comments; **3.)** Close the Public Hearing; and **4.)** By motion, adopt the Resolution approving and authorizing the levy of the District's real property tax assessments for FY 2018-2019.

5. ACTION ITEMS – None.

6. BOARD ITEMS – limited to requests and directives for future meetings.

7. ADJOURNMENT – the next meeting of the GHAD Board of Directors will be scheduled as needed.

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

TUESDAY, June 19, 2018

Agenda Date: 7-17-2018

Agenda Item: 3a

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 5:45 p.m. by Mayor Haydon in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Haydon, and Councilmembers Catalano, Diaz and Pierce. Councilmembers absent: Vice Mayor Shuey. Staff present: Assistant to the City Manager Laura Hoffmeister, and City Clerk/HR Manager Janet Brown.

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

The City Council separately interviewed four (4) candidates who had applied for appointment to the City Planning Commission:

Bassam Altwal
William Gall
Carl Wolfe
Kevin Dern

RECESS: The City Council took a short recess from 7:02 – 7:08 p.m.

7:00 P.M. REGULAR PUBLIC MEETING

3. **RECALL TO ORDER THE CITY COUNCIL** – The meeting was recalled to order at 7:08 p.m. by Mayor Haydon in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Haydon, and Councilmembers Catalano, Diaz, and Pierce. Councilmembers absent: Vice Mayor Shuey. Staff present: Assistant to the City Manager Laura Hoffmeister, City Attorney Mala Subramanian, Finance Manager Kevin Mizuno, City Engineer Scott Alman, and City Clerk/HR Manager Janet Brown.

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

5. **CONSENT CALENDAR**

Mayor Haydon noted Item 5 (g) contains a correction which has been benched and copies on the back table for the public, therefore the Memorandum of Understanding (MOU) with the Clayton Police Officers' Association (POA) is proposed to be approved "as amended", as part of the consent calendar.

It was moved by Councilmember Catalano, seconded by Councilmember Pierce, to approve the Consent Calendar with Item 5 (g) as amended.

- (a) Approved the minutes of the regular meeting of June 5, 2018.

- (b) Approved Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 18-2018 authorizing the levy of annual real property tax assessments for Community Facility District No. 2006-1 (Downtown “The Grove” Park O & M; Fund No. 211) in Fiscal Year 2018-2019.
- (d) Adopted Resolution No. 19-2018 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 2018-2019.
- (e) Adopted Resolution No. 20-2018 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 2018-2019.
- (f) Adopted Resolution No. 21-2018 regarding negotiated employer pick-up of employee contributions towards employer pension costs concerning the City’s contract with the California Public Employees Retirement System.
- (g) Adopted Resolution No. 22-2018 approving a 3-year Memorandum of Understanding (MOU) with the Clayton Police Officers’ Association (POA) effective July 1, 2018 regarding negotiated terms and conditions of employment, compensation and benefits.
- (h) Adopted Resolution No. 23-2018 and Resolution No. 24-2018 related to the regularly-scheduled General Municipal Election to be held this year on November 6, 2018 to elect two (2) City Council Members at large to public office for 4-year terms ending December 2022.
- (i) Approved the award of sole-source vendor contract to Site One in the amount of \$28,035 for the purchase and installation of two (2) Rain Master wireless-communication irrigation controllers for the Landscape Maintenance District and authorize the appropriation of an additional \$8,035 from the District’s fund balance (Fund 210) to gap-fund the capital replacement project.

6. RECOGNITIONS AND PRESENTATIONS – None.

7. 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.

Councilmember Catalano indicated “No Report”.

Councilmember Diaz attended the League of California Cities’ Public Safety Policy Committee meeting, the Wednesday Classic Car Show event in downtown Clayton, the County Connection Board meeting, the retired Contra Costa and Alameda County FBI agents meeting, the Clayton Business and Community Association Art & Wine Festival

debrief with the Clayton Police Chief, and announced the Clayton Business and Community Association upcoming BBQ Cook-Off on July 14.

Councilmember Pierce attended the Association of Bay Area Governments Executive Committee, the ABAG General Assembly meeting, several Metropolitan Transportation Committee meetings, the E-Bart opening at the Antioch Station, two Concerts in The Grove, the California Council of Governments Association Board meeting, the National Association of Regional Councils Board meeting, and announced the continued need of volunteers for the upcoming 4th of July Parade in downtown Clayton.

Mayor Haydon attended the Contra Costa County Mayors' Conference, the Saturday Concerts in The Grove, and the County Connection Finance Committee meeting.

- (e) Other – None.

8. PUBLIC COMMENT ON NON - AGENDA ITEMS

Ann Stanaway, 1553 Haviland Place, expressed her concern about parking over fire lanes by inconsiderate residents. She felt if Clayton's Code Enforcement would ticket or tow these vehicles, it would deter this situation from happening.

Frank Gavidia, Gold Rush Court, expressed even though Fulcrum Development decided not to pursue a project application filing he was troubled, along with other citizens, by the way it was handled, and especially the way citizenry was informed. He obtained campaign contribution records of the City Council for the last five (5) years, and shared his concerns regarding the contribution information being largely from out-of-town donors; with such mistrust of the City Council, how can he be sure Fulcrum has not contributed monies to campaign treasuries. He indicated he would attend future meetings so the public can be more informed of what is going on in their city. Mr. Gavidia stated he and others prefer the downtown city owned parcel to be used for festivals and events, not a big building.

9. PUBLIC HEARINGS

- (a) Public Hearing on the proposed City of Clayton Budget for Fiscal Year 2018-19, and its 5-year Capital Improvement Project Budget (CIP) for Fiscal Years 2018-2023.

Finance Manager Kevin Mizuno provided a brief overview of the proposed Clayton City Budget for Fiscal Year 2018-19 that was introduced at the Council meeting on June 5, 2018. Since that June 5, 2018 meeting there have been no revisions incorporated into the Budget.

Mr. Mizuno reviewed the 5-Year Consolidated Budget trend analytical table, which is part of the Budget Message. Mr. Mizuno noted the total budget for FY 2018-19 is \$13,447,028 which includes the budget categories of the General Fund, Other Funds, Capital Improvement Project (CIP) and Successor Agency. The Budget also includes the establishment of a new fund, (Fund 202), for the Road Maintenance Rehabilitation Account for California, Senate Bill 1; the additional gas tax the State approved and allocated to local agencies.

Mr. Mizuno provided a summary of Expenditures by fund noting the largest volume of expenditures being the General Fund at 50.87%, and the Landscape Maintenance District at 17.47%.

Mr. Mizuno indicated the proposed FY 2018-19 is a balanced budget with a projected excess of \$101,970 for the General Fund. The General Fund reserve balance ending June 30, 2019 is calculated to be \$5,552,798, which is 1.3 times the proposed FY 18-19 General Fund expenditures of the City.

Finance Manager Mizuno provided a summary of the Landscape -Maintenance Projects noting consistency with last year's budget. During FY 2017-18 there was a shift of priorities due to unexpected turnover in the City Maintenance Department and City Engineering. The City is re-appropriating those projects hoping to have them accomplished this Fiscal Year. He noted improvement plans in the Landscape Maintenance District with the largest monetary project of the four being the proposed Downtown Planters Replacement Project; the second project is removal of 18 Eucalyptus trees in open space/trails areas; the third project is purchase of more centralized irrigation control field panel, and the fourth is seed money for Sub-Division Entry Landscaping.

Mr. Mizuno provided a summary planned CIP projects consisting of the 2018 Neighborhood Street Repave project, the Keller Ridge Collector Street Rehabilitation project, the El Molino Drive Sanitary Sewer Improvement, the North Valley Playground Rehabilitation, the Clayton Community Park Lower Field Rehabilitation, the Pine Hollow Road Upgrades, and then the City Hall ADA Accessibility Project.

Mr. Mizuno referenced the Appropriations (GANN) Limit of the City which is an annually required calculation under Proposition 4 adopted by California voters in 1979. The calculation results in Fiscal Year 2018-19 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 43.6% of the maximum limit, which means the City's available annual tax expenditure gap is \$6,186,925.

Mayor Haydon opened the Public Hearing; no comments were offered.
Mayor Haydon 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 Catalano, to adopt Resolution No. 25-2018 approving the Annual Budget for the City of Clayton for the 2018-2019 Fiscal Year, commencing July 1, 2018 and ending June 30, 2019; adopting the 2018-2019 appropriation limit and employee compensation schedule; and approving the City 5-year CIP Budget for Fiscal Years 2018-2023. (Passed; 4-0 vote).

- (b) Public Hearing on the proposed real property tax assessments in FY 2018-19 for the Diablo Estates at Clayton Benefit Assessment District (BAD), and consider the adoption of the Resolution setting, ordering and levying the annual assessments.

City Engineer Scott Alman provided a brief background. He noted at the meeting of May 15, 2018, the Engineers Report was submitted with the proposed levies and approval to issue notice to each residence in that assessment district of this Public Hearing; no comments were received. Mr. Alman stated the assessment includes the allowable increase of the Consumer Price Index increase of 3.22% for the period of April 2017 to April 2018.

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

It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to adopt Resolution No. 26-2018 confirming the levying of assessments for the operation and maintenance of improvements within the Diablo Estates at Clayton Benefit Assessment District for Fiscal Year 2018-19. (Passed; 4-0 vote).

10. ACTION ITEMS

- (a) Consider the Introduction and First Reading or proposed City-initiated Ordinance No. 482 amending Chapter 6.04 to adopt by reference the Contra Costa County Animal Control Code, including County Ordinances Nos. 80-97 ("Revised Animal Control Ordinance"), 83-10 ("Animal Control Ordinance Amendments"), 85-23 ("Animal Services Contracting"), 87-74 ("Regulation of Dangerous Animals and Potentially Dangerous Animals"), 97-33 ("Penalty for Abandonment of Animal"), 2005-24 ("Dangerous Animals"), 2006-05 ("Amendment to Dangerous Animal Ordinance"), 2011-08 ("Spaying and Neutering Dogs Impounded Dogs Prior to Release"), 2011-09 ("Microchipping Impounded Dogs and Cats Before Release"), 2016-02 ("Exemptions For Animal License Fees"), and 2017-12 ("Amendments to Division 416 (Animals) of the County Ordinance Code"), and Adopting Penalties therefor as provided in County Ordinance Nos. 97-33 and 2017-12 of the *Clayton Municipal Code* for conformity with recent Contra Costa County animal control laws.

City Attorney Mala Subramanian presented the staff report noting the City receives Animal Control Services through Contra Costa County by contract; as part of that arrangement, codes are adopted by reference to have a consistency in enforcement as this service is provided to multiple cities in Contra Costa County. The last time the City of Clayton adopted any revisions or updates to its code related to Animal Control was in 2005. There have been several ordinances that Contra Costa County has adopted since that time, and the City of Clayton needs to adopt by reference. In addition, staff research determined it was unclear whether the City had affirmatively adopted some of the ordinances that were in effect pre-2005. Lastly, there are penalty provisions from the County and City that need to be adopted.

Mayor Haydon clarified the City of Clayton uses the County for Animal Control service; therefore the intent is for each jurisdiction that contracts with the County to have uniform or consistency in ordinances.

Councilmember Catalano asked if someone violates the codes and penalties or fine results, where do any monies go, to the county or the city?

Assistant to the City Manager Laura Hoffmeister advised if the County issues a fine or penalty the County retains any funds collected as they are performing the service by enforcing those codes.

Mayor Haydon opened the item for Public Comment; no comments were offered. Mayor Haydon then closed the Public Comment.

It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to have the City Clerk read Ordinance No. 482, by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 482 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to approve for introduction Ordinance No. 482 with the finding the action does not constitute a project under CEQA and this activity will not have a significant effect or physical change to the environment. (Passed; 4-0 vote).

It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to set July 17, 2018 at 7:00 p.m. in Hoyer Hall of the Clayton Community Library as the date, time and location of a Public Hearing to consider the adoption of Ordinance No. 482. (Passed; 4-0 vote).

- (b) City Council discussion and determination of citizen appointments to three (3) openings on the Clayton Planning Commission for 2-year terms of appointed office from July 1, 2018 through June 30, 2020.

Mayor Haydon indicated earlier this evening the City Council interviewed four candidates Bassam Altwal, William Gall, Carl Wolfe and Kevin Dern, who had applied for the three vacant positions on the City Planning Commission. Mr. Atwal, Mr. Gall and Mr. Wolfe are incumbents and Mr. Dern is an interested citizen.

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

Councilmember Pierce advised she was very impressed with all four (4) candidates; suggesting re-appointment of Mr. Bassam Altwal, Mr. William Gall and Mr. Carl Wolfe. She invited Mr. Kevin Dern to apply for a position on the Trails and Landscaping Committee or other city advisory committee openings.

Councilmember Catalano added she had an opportunity to serve on the Planning Commission with the three (3) incumbents for approximately five (5) months prior to her seat on the City Council, and is impressed with how far they have come along.

Frank Gavidia inquired if the Planning Commission is a paid or volunteer position?

Mayor Haydon advised the Planning Commission is paid a small stipend which helps offset expenses expected to be incurred driving around and inspect throughout the City of various projects and meeting time.

Councilmember Pierce added generally the Planning Commissioners spend approximately twenty (20) hours per month dedicated to preparing, reviewing packets, plans, ordinances and their meetings.

It was moved by Councilmember Pierce, seconded by Councilmember Diaz, to approve Resolution No. 26-2018 appointing Mr. Bassam Altwal, Mr. William Gall and Mr. Carl Wolfe to the offices on the Clayton Planning Commission, each with a term of office to expire June 30, 2020. (Passed; 4-0 vote).

11. **COUNCIL ITEMS** - None.

12. **CLOSED SESSION** – None.

13. **ADJOURNMENT**– on call by Mayor Haydon, the City Council adjourned its meeting at 7:59 p.m.

The City Council of July 3, 2018 has been canceled.
The next regularly scheduled meeting of the City Council will be July 17, 2018.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Keith Haydon, Mayor

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Agenda Date: 07/17/18

Agenda Item: 3b

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 07/17/18

SUBJECT: INVOICE SUMMARY

Approved:

Gary A. Napper
City Manager

RECOMMENDATION:

Approve the following:

Cash Requirements Report dated 7/13/18	\$842,540.06
ADP Payroll, week 25, PPE 06/17/18	\$84,046.45
ADP Payroll, week 27, PPE 07/01/18	\$87,400.62
Total	\$1,013,987.13

Attachments:

Cash Requirements reports, dated 7/13/18 (8 pages)

ADP Payroll report, week 25 (1 page)

ADP Payroll report, week 27 (1 page)

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
ABAG								
ABAG	7/17/2018	7/17/2018	AR017604	ABAG Fees FY 19	\$3,187.00	\$0.00		\$3,187.00
<i>Totals for ABAG:</i>					<i>\$3,187.00</i>	<i>\$0.00</i>		<i>\$3,187.00</i>
ADP, LLC								
ADP, LLC	6/30/2018	6/30/2018	517334899	Payroll fees PPE 7/1/18	\$166.10	\$0.00		\$166.10
ADP, LLC	6/30/2018	6/30/2018	516615248	Payroll fees PPE 6/17/18	\$149.55	\$0.00		\$149.55
<i>Totals for ADP, LLC:</i>					<i>\$315.65</i>	<i>\$0.00</i>		<i>\$315.65</i>
Advanced Elevator Solutions, Inc								
Advanced Elevator Solutions, Inc	7/17/2018	7/17/2018	32366	Elevator service	\$115.00	\$0.00		\$115.00
<i>Totals for Advanced Elevator Solutions, Inc:</i>					<i>\$115.00</i>	<i>\$0.00</i>		<i>\$115.00</i>
All City Management Services, Inc.								
All City Management Services, Inc.	6/30/2018	6/30/2018	55443	School crossing guard services 6/3-6/16/18	\$221.64	\$0.00		\$221.64
<i>Totals for All City Management Services, Inc.:</i>					<i>\$221.64</i>	<i>\$0.00</i>		<i>\$221.64</i>
All-Guard Systems, Inc.								
All-Guard Systems, Inc.	7/17/2018	7/17/2018	A186270	CH Alarm monitoring FY 19	\$624.00	\$0.00		\$624.00
All-Guard Systems, Inc.	7/17/2018	7/17/2018	A186260	Library Alarm monitoring FY 19	\$924.00	\$0.00		\$924.00
<i>Totals for All-Guard Systems, Inc.:</i>					<i>\$1,548.00</i>	<i>\$0.00</i>		<i>\$1,548.00</i>
American Fidelity Assurance Company								
American Fidelity Assurance Company	6/30/2018	6/30/2018	2011730	FSA PPE 6/3/18	\$411.14	\$0.00		\$411.14
American Fidelity Assurance Company	6/30/2018	6/30/2018	2012061	FSA PPE 6/17/18	\$411.14	\$0.00		\$411.14
American Fidelity Assurance Company	6/30/2018	6/30/2018	B760860	Suppl. Insurance For June	\$588.24	\$0.00		\$588.24
<i>Totals for American Fidelity Assurance Company:</i>					<i>\$1,410.52</i>	<i>\$0.00</i>		<i>\$1,410.52</i>
AT&T (CalNet3)								
AT&T (CalNet3)	6/30/2018	6/30/2018	11523649	Phone 5/22/18-6/21/18	\$1,647.82	\$0.00		\$1,647.82
<i>Totals for AT&T (CalNet3):</i>					<i>\$1,647.82</i>	<i>\$0.00</i>		<i>\$1,647.82</i>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	7/17/2018	7/17/2018	0355853-IN	Reflective signs, broom	\$118.76	\$0.00		\$118.76
Bay Area Barricade Serv.	7/17/2018	7/17/2018	0355820-IN	Signs, vests, trash grabbers	\$706.71	\$0.00		\$706.71
Bay Area Barricade Serv.	7/17/2018	7/17/2018	0355792-IN	Tape letters "9AM to 1PM"	\$13.60	\$0.00		\$13.60
Bay Area Barricade Serv.	6/30/2018	6/30/2018	0355209-IN	"Mt Diablo State Park" street sign	\$146.82	\$0.00		\$146.82
Bay Area Barricade Serv.	6/30/2018	6/30/2018	0355149-IN	Driving gloves	\$311.24	\$0.00		\$311.24
<i>Totals for Bay Area Barricade Serv.:</i>					<i>\$1,297.13</i>	<i>\$0.00</i>		<i>\$1,297.13</i>
Bay Area News Group								
Bay Area News Group	6/30/2018	6/30/2018	1133216	Legal ad, Election	\$199.52	\$0.00		\$199.52
<i>Totals for Bay Area News Group:</i>					<i>\$199.52</i>	<i>\$0.00</i>		<i>\$199.52</i>
Berlogar Stevens & Associates Inc.								
Berlogar Stevens & Associates Inc.	6/30/2018	6/30/2018	228156	GHAD services 11/1/17-5/26/18	\$2,500.00	\$0.00		\$2,500.00

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<i>Totals for Berlogar Stevens & Associates Inc.:</i>					\$2,500.00	\$0.00		\$2,500.00
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	6/30/2018	6/30/2018	824498	Legal services for May	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	6/30/2018	6/30/2018	824494	Legal services for May	\$308.00	\$0.00		\$308.00
Best Best & Kreiger LLP	6/30/2018	6/30/2018	824495	Legal services for May	\$59.00	\$0.00		\$59.00
Best Best & Kreiger LLP	6/30/2018	6/30/2018	824496	Legal services for May	\$147.50	\$0.00		\$147.50
Best Best & Kreiger LLP	6/30/2018	6/30/2018	824497	Legal services for May	\$2,975.00	\$0.00		\$2,975.00
<i>Totals for Best Best & Kreiger LLP:</i>					\$11,989.50	\$0.00		\$11,989.50
CalPERS Health								
CalPERS Health	7/17/2018	7/17/2018	15334334	Medical for July	\$31,423.34	\$0.00		\$31,423.34
<i>Totals for CalPERS Health:</i>					\$31,423.34	\$0.00		\$31,423.34
CalPERS Retirement								
CalPERS Retirement	6/30/2018	6/30/2018	070118	Retirement PPE 7/1/18	\$15,140.20	\$0.00		\$15,140.20
CalPERS Retirement	6/30/2018	6/30/2018	061718	Retirement PPE 6/17/18	\$14,869.85	\$0.00		\$14,869.85
CalPERS Retirement	6/30/2018	6/30/2018	CC062418	City Council retirement ending 6/24/18	\$146.78	\$0.00		\$146.78
CalPERS Retirement	7/17/2018	7/17/2018	FY19UAL	Unfunded liability for FY 19	\$292,088.00	\$0.00		\$292,088.00
CalPERS Retirement	6/30/2018	6/30/2018	15331990	1959 Survivor billing Tier 1 FY 18	\$291.20	\$0.00		\$291.20
CalPERS Retirement	6/30/2018	6/30/2018	15331439	1959 Survivor billing PEPRA FY 18	\$421.20	\$0.00		\$421.20
<i>Totals for CalPERS Retirement:</i>					\$322,957.23	\$0.00		\$322,957.23
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	6/30/2018	6/30/2018	2549215	Copier contract overage 5/30/18-6/29/18	\$481.82	\$0.00		\$481.82
<i>Totals for Caltronics Business Systems, Inc:</i>					\$481.82	\$0.00		\$481.82
CCWD								
CCWD	6/30/2018	6/30/2018	A Series	Water 5/3/18-7/3/18	\$53,855.83	\$0.00		\$53,855.83
<i>Totals for CCWD:</i>					\$53,855.83	\$0.00		\$53,855.83
CERCO Analytical, Inc.								
CERCO Analytical, Inc.	6/30/2018	6/30/2018	1806130	Well water testing 6/25/18	\$622.50	\$0.00		\$622.50
<i>Totals for CERCO Analytical, Inc.:</i>					\$622.50	\$0.00		\$622.50
Lisa Chambers								
Lisa Chambers	7/17/2018	7/17/2018	034170,28513	Deposit refunds, EH & The Grove	\$700.00	\$0.00		\$700.00
<i>Totals for Lisa Chambers:</i>					\$700.00	\$0.00		\$700.00
City of Concord								
City of Concord	6/30/2018	6/30/2018	66977	Dispatch services for April & May	\$40,179.00	\$0.00		\$40,179.00
City of Concord	6/30/2018	6/30/2018	67497	Vehicle maintenance for February	\$2,039.44	\$0.00		\$2,039.44
City of Concord	6/30/2018	6/30/2018	67499	Vehicle maintenance for April	\$1,134.13	\$0.00		\$1,134.13
City of Concord	6/30/2018	6/30/2018	67498	Vehicle maintenance for March	\$464.09	\$0.00		\$464.09
City of Concord	6/30/2018	6/30/2018	67496	Vehicle maintenance for January	\$2,109.35	\$0.00		\$2,109.35
City of Concord	6/30/2018	6/30/2018	67500	Vehicle maintenance for May	\$2,617.03	\$0.00		\$2,617.03
City of Concord	6/30/2018	6/30/2018	67018	Envelopes & business cards	\$526.83	\$0.00		\$526.83

City of Clayton Cash Requirements Report

<u>Vendor Name</u>	<u>Due Date</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Balance</u>	<u>Potential Discount</u>	<u>Discount Expires On</u>	<u>Net Amount Due</u>
City of Concord	6/30/2018	6/30/2018	67476	Live scan services	\$152.00	\$0.00		\$152.00
				<i>Totals for City of Concord:</i>	<u>\$49,221.87</u>	<u>\$0.00</u>		<u>\$49,221.87</u>
Clean Street								
Clean Street	6/30/2018	6/30/2018	90718	Street sweeping for June	\$4,500.00	\$0.00		\$4,500.00
				<i>Totals for Clean Street:</i>	<u>\$4,500.00</u>	<u>\$0.00</u>		<u>\$4,500.00</u>
Cole Supply Company								
Cole Supply Company	6/30/2018	6/30/2018	242475	Trash can liners	\$3,120.52	\$0.00		\$3,120.52
				<i>Totals for Cole Supply Company:</i>	<u>\$3,120.52</u>	<u>\$0.00</u>		<u>\$3,120.52</u>
Comcast								
Comcast	7/17/2018	7/17/2018	10987825	PD Internet, Calnet 934526187	\$16,000.00	\$0.00		\$16,000.00
				<i>Totals for Comcast:</i>	<u>\$16,000.00</u>	<u>\$0.00</u>		<u>\$16,000.00</u>
Command Consulting & Investigations, Inc								
Command Consulting & Investigations, I	6/30/2018	6/30/2018	18-01	Internal Affairs Investigation	\$3,531.05	\$0.00		\$3,531.05
				<i>Totals for Command Consulting & Investigations, Inc:</i>	<u>\$3,531.05</u>	<u>\$0.00</u>		<u>\$3,531.05</u>
Contra Costa County - Office of the Sheriff								
Contra Costa County - Office of the She	6/30/2018	6/30/2018	CLPD-1805	Toxicology for May	\$530.00	\$0.00		\$530.00
				<i>Totals for Contra Costa County - Office of the Sheriff:</i>	<u>\$530.00</u>	<u>\$0.00</u>		<u>\$530.00</u>
Contra Costa County Auditor-Controller (LAFCO)								
Contra Costa County Auditor-Controller	7/17/2018	7/17/2018	1819-0003	LAFCO net cost apportionment for FY 19	\$1,564.05	\$0.00		\$1,564.05
				<i>Totals for Contra Costa County Auditor-Controller (LAFCO):</i>	<u>\$1,564.05</u>	<u>\$0.00</u>		<u>\$1,564.05</u>
Contra Costa County Office of the Sheriff (Training)								
Contra Costa County Office of the Sheri	6/30/2018	6/30/2018	18-21087	Driving training, PD	\$585.00	\$0.00		\$585.00
				<i>Totals for Contra Costa County Office of the Sheriff (Training):</i>	<u>\$585.00</u>	<u>\$0.00</u>		<u>\$585.00</u>
Contra Costa County Public Works Dept								
Contra Costa County Public Works Dept	6/30/2018	6/30/2018	701811	Traffic signal maintenance for May	\$4,314.47	\$0.00		\$4,314.47
				<i>Totals for Contra Costa County Public Works Dept:</i>	<u>\$4,314.47</u>	<u>\$0.00</u>		<u>\$4,314.47</u>
CopWare, Inc.								
CopWare, Inc.	7/17/2018	7/17/2018	84275	Legal sourcebooks for PD	\$300.00	\$0.00		\$300.00
				<i>Totals for CopWare, Inc.:</i>	<u>\$300.00</u>	<u>\$0.00</u>		<u>\$300.00</u>
Covanta Stanislaus Inc								
Covanta Stanislaus Inc	6/30/2018	6/30/2018	177130STANI	Special waste disposal, PD	\$164.25	\$0.00		\$164.25
				<i>Totals for Covanta Stanislaus Inc:</i>	<u>\$164.25</u>	<u>\$0.00</u>		<u>\$164.25</u>
CSAC Excess Insurance Authority								
CSAC Excess Insurance Authority	7/17/2018	7/17/2018	19400068	EAP July-September	\$296.40	\$0.00		\$296.40
				<i>Totals for CSAC Excess Insurance Authority:</i>	<u>\$296.40</u>	<u>\$0.00</u>		<u>\$296.40</u>

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Dillon Electric Inc								
Dillon Electric Inc	6/30/2018	6/30/2018	3704	Streetlight maintenance 6/25/18	\$429.63	\$0.00		\$429.63
Dillon Electric Inc	6/30/2018	6/30/2018	3701	Streetlight maintenance 6/7/18, 6/13/18	\$1,332.03	\$0.00		\$1,332.03
				<i>Totals for Dillon Electric Inc:</i>	<u>\$1,761.66</u>	<u>\$0.00</u>		<u>\$1,761.66</u>
Geoconsultants, Inc.								
Geoconsultants, Inc.	6/30/2018	6/30/2018	18951	Well monitoring for June	\$1,546.50	\$0.00		\$1,546.50
				<i>Totals for Geoconsultants, Inc.:</i>	<u>\$1,546.50</u>	<u>\$0.00</u>		<u>\$1,546.50</u>
Globalstar LLC								
Globalstar LLC	6/30/2018	6/30/2018	9426084	Sat phone 5/16/18-6/15/18	\$86.84	\$0.00		\$86.84
				<i>Totals for Globalstar LLC:</i>	<u>\$86.84</u>	<u>\$0.00</u>		<u>\$86.84</u>
Hammons Supply Company								
Hammons Supply Company	6/30/2018	6/30/2018	102633	Janitorial supplies	\$259.00	\$0.00		\$259.00
Hammons Supply Company	6/30/2018	6/30/2018	102634	Library janitorial supplies	\$183.75	\$0.00		\$183.75
				<i>Totals for Hammons Supply Company:</i>	<u>\$442.75</u>	<u>\$0.00</u>		<u>\$442.75</u>
Harris & Associates, Inc.								
Harris & Associates, Inc.	6/30/2018	6/30/2018	38001	Engineering services for May	\$19,676.25	\$0.00		\$19,676.25
Harris & Associates, Inc.	6/30/2018	6/30/2018	37793	Engineering services for May	\$2,660.00	\$0.00		\$2,660.00
				<i>Totals for Harris & Associates, Inc.:</i>	<u>\$22,336.25</u>	<u>\$0.00</u>		<u>\$22,336.25</u>
Health Care Dental Trust								
Health Care Dental Trust	7/17/2018	7/17/2018	245417	Dental for July	\$2,241.59	\$0.00		\$2,241.59
				<i>Totals for Health Care Dental Trust:</i>	<u>\$2,241.59</u>	<u>\$0.00</u>		<u>\$2,241.59</u>
ICMA Retirement Corporation								
ICMA Retirement Corporation	7/17/2018	7/17/2018	41656	Annual plan fee 7/1/18-9/30/18	\$125.00	\$0.00		\$125.00
				<i>Totals for ICMA Retirement Corporation:</i>	<u>\$125.00</u>	<u>\$0.00</u>		<u>\$125.00</u>
J&R Floor Services								
J&R Floor Services	6/30/2018	6/30/2018	Six 2018	Janitorial services for June	\$4,910.00	\$0.00		\$4,910.00
				<i>Totals for J&R Floor Services:</i>	<u>\$4,910.00</u>	<u>\$0.00</u>		<u>\$4,910.00</u>
LarryLogic Productions								
LarryLogic Productions	6/30/2018	6/30/2018	1738	City council meeting production 6/19/18	\$360.00	\$0.00		\$360.00
				<i>Totals for LarryLogic Productions:</i>	<u>\$360.00</u>	<u>\$0.00</u>		<u>\$360.00</u>
LEHR								
LEHR	6/30/2018	6/30/2018	SII6919	Vehicle maintenance, PD	\$333.72	\$0.00		\$333.72
				<i>Totals for LEHR:</i>	<u>\$333.72</u>	<u>\$0.00</u>		<u>\$333.72</u>
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	6/30/2018	6/30/2018	6125	Library HVAC maintenance for May	\$527.17	\$0.00		\$527.17
				<i>Totals for Marken Mechanical Services Inc:</i>	<u>\$527.17</u>	<u>\$0.00</u>		<u>\$527.17</u>

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Matrix Association Management								
Matrix Association Management	7/17/2018	7/17/2018	6839	Management services for July	\$4,532.50	\$0.00		\$4,532.50
<i>Totals for Matrix Association Management:</i>					<u>\$4,532.50</u>	<u>\$0.00</u>		<u>\$4,532.50</u>
MPA								
MPA	7/17/2018	7/17/2018	M1903	Insurance premium FY 19, 1of2	\$176,826.00	\$0.00		\$176,826.00
MPA	6/30/2018	6/30/2018	A061803	Unmet liability deductible for June	\$260.00	\$0.00		\$260.00
<i>Totals for MPA:</i>					<u>\$177,086.00</u>	<u>\$0.00</u>		<u>\$177,086.00</u>
NBS Govt. Finance Group								
NBS Govt. Finance Group	7/17/2018	7/17/2018	61800069	CFD Qtrly admin fees 7/1/18-9/30/18	\$4,464.49	\$0.00		\$4,464.49
<i>Totals for NBS Govt. Finance Group:</i>					<u>\$4,464.49</u>	<u>\$0.00</u>		<u>\$4,464.49</u>
Neopost (add postage)								
Neopost (add postage)	7/17/2018	7/17/2018	070618	Postage added	\$300.00	\$0.00		\$300.00
Neopost (add postage)	7/17/2018	7/17/2018	070618	Postage added	\$6,000.00	\$0.00		\$6,000.00
<i>Totals for Neopost (add postage):</i>					<u>\$6,300.00</u>	<u>\$0.00</u>		<u>\$6,300.00</u>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	7/17/2018	7/17/2018	994924	Courtyard payphone for July	\$73.00	\$0.00		\$73.00
<i>Totals for Pacific Telemanagement Svc:</i>					<u>\$73.00</u>	<u>\$0.00</u>		<u>\$73.00</u>
PG&E								
PG&E	6/30/2018	6/30/2018	062018	Energy 5/15/18-6/13/18	\$19,586.48	\$0.00		\$19,586.48
PG&E	6/30/2018	6/30/2018	062118	Energy 5/22/18-6/20/18	\$560.63	\$0.00		\$560.63
PG&E	6/30/2018	6/30/2018	062018	Energy 5/21/18-9/19/18	\$4,391.86	\$0.00		\$4,391.86
PG&E	6/30/2018	6/30/2018	052118	Energy 4/20/18-5/20/18	\$3,519.95	\$0.00		\$3,519.95
<i>Totals for PG&E:</i>					<u>\$28,058.92</u>	<u>\$0.00</u>		<u>\$28,058.92</u>
Pond M Solutions								
Pond M Solutions	6/30/2018	6/30/2018	356	Fountain maintenance	\$650.00	\$0.00		\$650.00
<i>Totals for Pond M Solutions:</i>					<u>\$650.00</u>	<u>\$0.00</u>		<u>\$650.00</u>
Riso Products of Sacramento								
Riso Products of Sacramento	6/30/2018	6/30/2018	184980	Copier usage 5/20/18-6/19/18	\$67.07	\$0.00		\$67.07
Riso Products of Sacramento	7/17/2018	7/17/2018	185358	Copier lease pmt 16 of 60	\$106.09	\$0.00		\$106.09
<i>Totals for Riso Products of Sacramento:</i>					<u>\$173.16</u>	<u>\$0.00</u>		<u>\$173.16</u>
Roto-Rooter Sewer/Drain Service								
Roto-Rooter Sewer/Drain Service	6/30/2018	6/30/2018	F-1312-18	CCP Waste line cleaning	\$352.50	\$0.00		\$352.50
<i>Totals for Roto-Rooter Sewer/Drain Service:</i>					<u>\$352.50</u>	<u>\$0.00</u>		<u>\$352.50</u>
Site One Landscape Supply, LLC								
Site One Landscape Supply, LLC	6/30/2018	6/30/2018	86584340	Pop-up sprinklers	\$266.84	\$0.00		\$266.84
Site One Landscape Supply, LLC	7/17/2018	7/17/2018	86891834	Irrigation controls	\$27,513.77	\$0.00		\$27,513.77
<i>Totals for Site One Landscape Supply, LLC:</i>					<u>\$27,780.61</u>	<u>\$0.00</u>		<u>\$27,780.61</u>

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Sprint Comm (PD)								
Sprint Comm (PD)	6/30/2018	6/30/2018	703335311-199	Cell phones 5/26/18-6/25/18	\$648.55	\$0.00		\$648.55
				<i>Totals for Sprint Comm (PD):</i>	<u>\$648.55</u>	<u>\$0.00</u>		<u>\$648.55</u>
Staples Business Credit								
Staples Business Credit	6/30/2018	6/30/2018	1620227949	Office supplies for June	\$140.60	\$0.00		\$140.60
				<i>Totals for Staples Business Credit:</i>	<u>\$140.60</u>	<u>\$0.00</u>		<u>\$140.60</u>
Robert or Tamara Steiner								
Robert or Tamara Steiner	6/30/2018	6/30/2018	2018	Clayton Cleans Up, rentals, permits	\$457.00	\$0.00		\$457.00
				<i>Totals for Robert or Tamara Steiner:</i>	<u>\$457.00</u>	<u>\$0.00</u>		<u>\$457.00</u>
Stericycle Inc								
Stericycle Inc	7/17/2018	7/17/2018	3004305846	Medical waste disposal	\$106.18	\$0.00		\$106.18
				<i>Totals for Stericycle Inc:</i>	<u>\$106.18</u>	<u>\$0.00</u>		<u>\$106.18</u>
US Bank - Corp Pmt System CalCard								
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Storage unit rent	\$139.00	\$0.00		\$139.00
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Walk N Lunch, Center St Deli	\$90.00	\$0.00		\$90.00
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Land's End, Shirt for Jim	\$44.48	\$0.00		\$44.48
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	The Press.net, Craigslist, Sr Mnt.Wrkr Ads	\$95.00	\$0.00		\$95.00
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Sweet Bakery, Safeway - PC interviewer meal	\$19.57	\$0.00		\$19.57
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Safeway, snacks for CPR/AED training	\$23.26	\$0.00		\$23.26
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Quill - Office supplies	\$264.08	\$0.00		\$264.08
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Parking for planning directors meeting	\$8.75	\$0.00		\$8.75
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Fuel	\$482.57	\$0.00		\$482.57
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Fuel	\$215.76	\$0.00		\$215.76
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Fuel	\$849.99	\$0.00		\$849.99
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Ace- install parts for dishwasher	\$26.92	\$0.00		\$26.92
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Fuel	\$174.04	\$0.00		\$174.04
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Amazon - Phone protector	\$27.06	\$0.00		\$27.06
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Furber Saw - Hedge trimmers, pole saw	\$767.78	\$0.00		\$767.78
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Harbor Freight - hose clamps	\$6.51	\$0.00		\$6.51
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Irrigation supplies	\$131.81	\$0.00		\$131.81
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Tires for dump truck	\$388.28	\$0.00		\$388.28
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Lights for City Hall	\$23.90	\$0.00		\$23.90
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Weed eater line	\$116.33	\$0.00		\$116.33
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Chain connectors for Library	\$5.42	\$0.00		\$5.42
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Asphalt patch	\$49.98	\$0.00		\$49.98
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Landscape tool fluids	\$20.63	\$0.00		\$20.63
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Strobe light	\$32.99	\$0.00		\$32.99
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Fuel	\$402.13	\$0.00		\$402.13
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$271.89	\$0.00		\$271.89
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$53.94	\$0.00		\$53.94
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Dry gas tank for PAS machines	\$217.96	\$0.00		\$217.96

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$254.87	\$0.00		\$254.87
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$476.34	\$0.00		\$476.34
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$161.89	\$0.00		\$161.89
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Transunion - Search Engine	\$25.00	\$0.00		\$25.00
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$619.80	\$0.00		\$619.80
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Rifle key box, mount hardware, tools	\$128.19	\$0.00		\$128.19
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$545.43	\$0.00		\$545.43
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$291.15	\$0.00		\$291.15
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$402.54	\$0.00		\$402.54
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Office supplies	\$769.62	\$0.00		\$769.62
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$162.67	\$0.00		\$162.67
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Super glue, cell phone holster	\$28.20	\$0.00		\$28.20
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$303.97	\$0.00		\$303.97
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Car washes	\$64.95	\$0.00		\$64.95
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Keys for fireproof cabinet	\$35.00	\$0.00		\$35.00
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Travel, meals for Command College	\$1,181.93	\$0.00		\$1,181.93
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	USB drive	\$16.30	\$0.00		\$16.30
US Bank - Corp Pmt System CalCard	6/30/2018	6/30/2018	Stmt end 6/22/18	Vehicle Gas	\$437.50	\$0.00		\$437.50
<i>Totals for US Bank - Corp Pmt System CalCard:</i>					<i>\$10,855.38</i>	<i>\$0.00</i>		<i>\$10,855.38</i>
US Bank (CM 9690)								
US Bank (CM 9690)	7/17/2018	7/17/2018	5034508	Fiscal Agent, Paying Agent Fees 6/1/18-5/31/1	\$2,178.00	\$0.00		\$2,178.00
US Bank (CM 9690)	7/17/2018	7/17/2018	5031846	Fiscal Agent, Paying Agent Fees 6/1/18-5/31/1	\$2,541.00	\$0.00		\$2,541.00
<i>Totals for US Bank (CM 9690):</i>					<i>\$4,719.00</i>	<i>\$0.00</i>		<i>\$4,719.00</i>
Verizon Wireless								
Verizon Wireless	6/30/2018	6/30/2018	9810060662	Cell phones 6/2/18-7/1/18	\$109.73	\$0.00		\$109.73
<i>Totals for Verizon Wireless:</i>					<i>\$109.73</i>	<i>\$0.00</i>		<i>\$109.73</i>
Don S Vogel								
Don S Vogel	7/17/2018	7/17/2018	082218	Car Show 8/22/18	\$225.00	\$0.00		\$225.00
Don S Vogel	7/17/2018	7/17/2018	090518	Car show 9/5/18	\$225.00	\$0.00		\$225.00
<i>Totals for Don S Vogel:</i>					<i>\$450.00</i>	<i>\$0.00</i>		<i>\$450.00</i>
Waraner Brothers Tree Service								
Waraner Brothers Tree Service	6/30/2018	6/30/2018	1002	Prune pepper trees in City lot	\$2,150.00	\$0.00		\$2,150.00
<i>Totals for Waraner Brothers Tree Service:</i>					<i>\$2,150.00</i>	<i>\$0.00</i>		<i>\$2,150.00</i>
Western Exterminator								
Western Exterminator	6/30/2018	6/30/2018	6072811	Pest control for May	\$409.50	\$0.00		\$409.50
<i>Totals for Western Exterminator:</i>					<i>\$409.50</i>	<i>\$0.00</i>		<i>\$409.50</i>
Workers.com								
Workers.com	6/30/2018	6/30/2018	122309	Seasonal workers week end 6/17/18	\$5,166.00	\$0.00		\$5,166.00
Workers.com	6/30/2018	6/30/2018	122254	Seasonal workers week end 6/10/18	\$3,225.88	\$0.00		\$3,225.88
Workers.com	6/30/2018	6/30/2018	122204	Seasonal workers week end 6/3/18	\$2,755.20	\$0.00		\$2,755.20

City of Clayton Cash Requirements Report

<u>Vendor Name</u>	<u>Due Date</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Balance</u>	<u>Potential Discount</u>	<u>Discount Expires On</u>	<u>Net Amount Due</u>
Workers.com	6/30/2018	6/30/2018	122364	Seasonal workers week end 6/24/18	\$4,299.27	\$0.00		\$4,299.27
Workers.com	6/30/2018	6/30/2018	122418	Seasonal workers week end 7/1/18	\$4,305.00	\$0.00		\$4,305.00
				<i>Totals for Workers.com:</i>	<i>\$19,751.35</i>	<i>\$0.00</i>		<i>\$19,751.35</i>
				GRAND TOTALS:	\$842,540.06	\$0.00		\$842,540.06

004440 Seq. No. 004411 004440

WEEK 25 BATCH 8948 28 PAYS

0 Employees With Overflow Statement

0 Overflow Statement 1 Total Statement

Tot Cks/Vchrs:00000000028 Tot Docs in all: 00000000031

First No. Last No. Total

Checks: ADPCHECK ADPCHECK 00000000002

Vouchers: 00000250001 00000250026 00000000026

6/17/18

Earnings Statement

Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

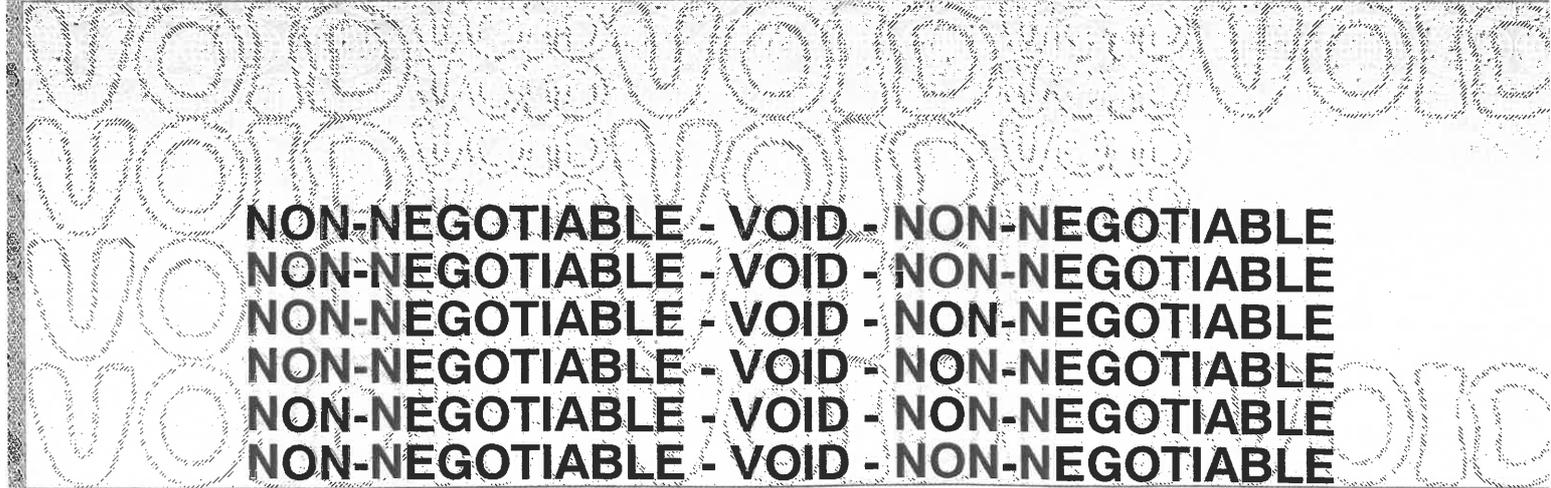
CHECK STUFFING, RECONCILIATION

84046.45 GROSS
 59776.72 NET PAY (INCLUDING ALL DEPOSITS)
 8182.36 FEDERAL TAX
 64.65 SOCIAL SECURITY
 1168.81 MEDICARE
 .00 MEDICARE SURTAX
 .00 SUI/DI/FLI TAX
 3098.15 STATE TAX
 .00 LOCAL TAX
 69314.61 DEDUCTIONS
 2217.87 NET CHECK

COMPANY CODE Z7L
 CITY OF CLAYTON
 TOTAL DOCUMENT
 LOCATION 0001



1) VERIFY DOCUMENT AUTHENTICITY: COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM



NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
 NON-NEGOTIABLE - VOID - NON-NEGOTIABLE

THE ORIGINAL DOCUMENT HAS AN ARTIFICIAL WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.



Agenda Date: July 17, 2018

Agenda Item: 3c

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE: JULY 17, 2018

SUBJECT: RESOLUTION ORDERING THE LEVY OF A SPECIAL TAX WITHIN THE OAK STREET PERMANENT ROAD DIVISION FOR FY 2018-19

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The Oak Street Permanent Road Division was formed in 2000 to provide a mechanism for the included property owners to repay the City for funds advanced for the reconstruction of the Oak Street Bridge over Mitchell Creek. In addition, a portion of the annual levy is set aside to provide funds for the maintenance of the private portion of Oak Street.

The Redevelopment Agency funded the reconstruction of the bridge and repayment was spread over 20 years with a 7% interest rate. In addition, the annual levy has included an amount of \$350 per parcel dedicated to future road maintenance and \$92.01 per parcel for Division administrative fees (10% of the levy for bridge construction and maintenance). Through the end of FY 2017-18, \$80,020.33 has been collected (including \$4,763.00 from Reuben Gonzalez in 2005/06 to pay off his bridge assessment) for construction repayment, \$28,000 for maintenance (deposited in a separate fund), and \$10,325.48 for administration (1% of the total assessment and deposited in City General Fund to recoup incurred expenses).

In the Resolution, it is noted that six parcels have a levy of \$847.14, one parcel has a levy of \$220.00, and two have levies of \$423.58. The original Division included 8 parcels, all levied equally. Since that time, one parcel was subsequently subdivided (Caspar) and that levy was reapportioned equally between the two lots. In addition, Mr. Gonzalez paid off his bridge assessment in FY 2005/06 and is now being assessed only for maintenance of the road.

Subject: Oak Street Permanent Road Division – Levy of Special Tax

Date: July 17, 2018

Page 2 of 2

The first assessment for the repayment of the bridge construction costs was levied in FY 2000/01 and the final assessment for construction costs will be levied in FY 2019/20. It should be noted the portion of the assessment for maintenance and Division administration will continue indefinitely.

FISCAL IMPACT

If this Resolution is not approved, money owed the Successor Agency for construction of the bridge by the affected property owners will not be repaid. The annual assessment for this fiscal year will produce a total of \$6,150.00.

CONCLUSION

Based upon the above, staff recommends the City Council approve this Resolution levying a special tax in FY 2018-19 on the parcels located within the Oak Street Permanent Road Division.

Attachments: Resolution levying a Special Tax [2 pp.]

RESOLUTION NO. XX- 2018

**A RESOLUTION ORDERING THE LEVY OF A SPECIAL TAX FOR FY 2018-19
WITHIN THE OAK STREET PERMANENT ROAD DIVISION FOR THE REPAYMENT
OF FUNDS ADVANCED FOR THE RECONSTRUCTION OF THE BRIDGE AND
FUTURE MAINTENANCE PURSUANT TO THE STREETS AND HIGHWAY CODE,
ARTICLE 3, SECTION 1173, et seq.**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, by passage of Resolution 66-99, the City Council ordered the formation of the Oak Street Permanent Road Division for the purpose of reconstructing and maintaining the Oak Street Bridge over Mitchell Creek and maintaining the private portion of Oak Street; and

WHEREAS, the City Council received petitions, signed by a majority of the property owners within the Division, requesting construction of a new bridge over Mitchell Creek and the levy of a special tax to pay for the construction and for the future maintenance of the bridge and road; and

WHEREAS, the City Council called for an election on May 1, 2000, to approve the levying of a special tax; and

WHEREAS, the City Clerk and City Engineer then certified that ballots approving the special tax were received from more than two-thirds of the property owners in both number and valuation; and

WHEREAS, the special tax approved must be re-levied each fiscal year;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council does hereby order the levy of special taxes for FY 2018-19 on those parcels within the Oak Street Permanent Road Division for the reconstruction and maintenance of the bridge over Mitchell Creek and the maintenance of the private portion of Oak Street.

2. The annual tax rates for each parcel for the reconstruction and maintenance shall be as follows:

APN	Owner	Construction	Bridge Maintenance	Division Admin.	Total
119-040-027	Law	\$570.13	\$200.00	\$77.01	\$847.14
119-040-028	Schwitters	\$570.13	\$200.00	\$77.01	\$847.14
119-040-029	Gonzalez	\$0.00	\$200.00	\$20.00	\$220.00
119-040-030	Ludlow	\$570.13	\$200.00	\$77.01	\$847.14
119-040-031	Mrozwski	\$570.13	\$200.00	\$77.01	\$847.14
119-040-032	Hemstalk	\$570.13	\$200.00	\$77.01	\$847.14
119-040-033	Webb	\$570.13	\$200.00	\$77.01	\$847.14
119-040-036	Caspar	\$285.07	\$100.00	\$38.51	\$423.58
119-040-037	Caspar	\$285.07	\$100.00	\$38.51	\$423.58

3. The special taxes shall be levied and collected by the County of Contra Costa, California along with the regular property taxes in FY 2018-19.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting of said Council held on July 17, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting held on July 18, 2017.

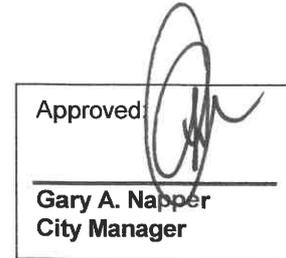
Janet Brown, City Clerk



Agenda Date: July 17, 2018

Agenda Item: 3d

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE: JULY 17, 2018

SUBJECT: CONSIDERATION OF A RESOLUTION ORDERING THE LEVY OF A SPECIAL TAX WITHIN THE HIGH STREET PERMANENT ROAD DIVISION FOR FY 2018-19

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The High Street Permanent Road Division was formed in 1999 providing a mechanism for included property owners to repay funds advanced by the City for the reconstruction of High Street Bridge over Mitchell Creek. In addition to capital repayment, the annual levy includes funds for the long-term maintenance of the bridge.

The City agreed to fund half the cost of the bridge and the remainder was to be paid by the property owners within the Division. The former Clayton Redevelopment Agency (now the "Successor Agency" by state dissolution law) funded the reconstruction of the bridge and repayment was spread over 30 years with a 6% interest rate. In addition, the annual levy includes an amount of \$60 per parcel dedicated to future bridge maintenance. The City has absorbed all of the administrative costs. Through the end of FY 2017-18 (nineteen years), \$70,383.78 has been collected towards the construction and interest costs (including \$5,288.78 from John Morgan in January, 2014 to pay off his bridge assessment), and \$5,400.00 for future maintenance.

In the Resolution it is noted there are varying levy amounts. These amounts were based on a formula negotiated with the property owners when the Division was formed.

Subject: High Street Permanent Road Division – Levy of Special Tax

Date: July 17, 2018

Page 2 of 2

The first assessment for the repayment of the bridge construction costs was levied in FY 1999/00 and the final assessment for construction costs will be levied in FY 2028/29. It should be noted the portion of the assessment for bridge maintenance will continue indefinitely

FISCAL IMPACT

This year's annual assessment will produce \$1,754.00 in FY 2018-19. If this Resolution is not approved, money owed to the Successor Agency by the property owners will not be repaid and funds will not be available for future bridge maintenance.

CONCLUSION

Based upon the above, staff recommends the City Council approve this Resolution levying a special tax in FY 2018-19 on the parcels located within the High Street Permanent Road Division.

Attachments: Resolution levying a Special Tax [2 pp.]

RESOLUTION NO. - 2018

**A RESOLUTION ORDERING THE LEVYING OF A SPECIAL TAX FOR FY 2018-19
WITHIN THE HIGH STREET PERMANENT ROAD DIVISION FOR THE REPAYMENT
OF FUNDS ADVANCED FOR THE RECONSTRUCTION OF THE BRIDGE AND
FUTURE MAINTENANCE PURSUANT TO THE STREETS AND HIGHWAY CODE,
ARTICLE 3, SECTION 1173, et seq.**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, by passage of Resolution 34-98, the City Council ordered the formation of the High Street Permanent Road Division for the purpose of reconstructing and maintaining the High Street Bridge over Mitchell Creek; and

WHEREAS, the City Council received petitions, signed by a majority of the property owners within the Division, requesting construction of a new bridge over Mitchell Creek and the levy of a special tax to pay for the construction and for the future maintenance of the bridge; and

WHEREAS, the City Council called for an election on February 26, 1999 to approve the levy of a special tax; and

WHEREAS, the City Clerk and City Engineer then certified that ballots approving the special tax were received from more than two-thirds of the property owners in both number and valuation; and

WHEREAS, said special tax approved must be re-levied each fiscal year;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council does hereby order the levy of special taxes for FY 2018-19 on those parcels within the High Street Permanent Road Division for the reconstruction and maintenance of the bridge over Mitchell Creek.

2. The annual tax rates for each parcel for the reconstruction and maintenance shall be as follows:

APN	Current Owner	Reconstruction	Bridge Maintenance	Total
119-050-036	Clayton Community Church, Inc.	\$545.00	\$60.00	\$605.00
119-050-008	City of Clayton	\$0.00	\$60.00	\$60.00
119-040-023	Morgan	\$0.00	\$60.00	\$60.00
119-040-024	Davis	\$364.00	\$60.00	\$424.00
119-040-021	Utley	\$545.00	\$60.00	\$605.00

3. Said special taxes shall be levied and collected by the County of Contra Costa along with the regular property taxes.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on July 17, 2018.

Janet Brown, City Clerk



Agenda Date: July 17, 2018

Agenda Item: 3e

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN P.E., CITY ENGINEER

DATE: JULY 17, 2018

SUBJECT: RESOLUTION CONFIRMING THE LEVY OF ASSESSMENTS WITHIN THE OAK STREET SEWER ASSESSMENT DISTRICT FOR FY 2018-19

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The Oak Street Sewer Assessment District was formed to fund the construction of sanitary sewer improvements to the following real properties:

<u>Parcel ID (APN)</u>	<u>Street Address</u>
119-040-021	5950 High Street
119-040-023	5900 High Street
119-040-024	6000 High Street
119-040-027	929 Oak Street
119-040-028	920 Oak Street
119-040-030	937 Oak Street
119-040-032	949 Oak Street
119-040-033	951 Oak Street
119-040-036	945 Oak Street
119-040-037	(None) Oak Street
119-050-036	1027 Pine Hollow Ct.

The City issued bonds to provide funding for the formation of the District and the construction of the sewer improvements. The bonds are being repaid by the real property owners through annual assessments collected by the County with each real property owner's taxes. In addition to the principal and interest costs, assessments include an administrative fee of \$150.00 per parcel to cover the District's overhead costs.

Subject: Oak Street Sewer Assessment District – Levy of Assessments

Date: July 17, 2018

Page 2 of 2

In May, 2015, Mr. Morgan paid off the assessment on APN 119-040-023.

The first assessment was levied in FY 2003/04 and the final assessment will be levied in FY 2026/27.

The attached resolution confirms the proposed assessments for fiscal year 2018-19.

FISCAL IMPACT

The FY 2018-19 assessments will yield approximately \$11,309 for the District. If this Resolution is not approved, the City will have to pursue separate action against each property owner for collection or the City will default on the bonds.

CONCLUSION

Based upon the above, staff recommends the City Council approve this Resolution confirming the levying of annual assessments in the Oak Street Sewer Assessment District.

Attachments: Resolution Confirming Assessments [3 pp.]

RESOLUTION NO. XX-2018

**A RESOLUTION CONFIRMING THE LEVYING OF ASSESSMENTS FOR
FY 2018-19 WITHIN THE OAK STREET SEWER ASSESSMENT DISTRICT
FOR THE REPAYMENT OF BONDS ISSUED FOR THE CONSTRUCTION OF
MUNICIPAL SANITARY SEWERS.**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, by passage of Resolution 62-2002, the City Council ordered the formation of the Oak Street Sewer Assessment District in accordance with and pursuant to the Municipal Improvement Act of 1913; and

WHEREAS, the City of Clayton issued bonds in the amount of \$187,000.00 to fund the construction of municipal sanitary sewers in the Oak Street Assessment District which must be repaid by the real property owners within the assessment district; and

WHEREAS, the repayment of the bond costs by the real property owners is provided through the levy of an annual assessment, for principal, interest and administrative costs, on each property owner's County property tax bill; and

WHEREAS, the proposed assessments for Fiscal Year 2018-19 are shown on Exhibit A attached hereto;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The Council hereby orders the levy of assessments for FY 2018-19 on those parcels within the Oak Street Sewer Assessment Districts for repayment of bonds issued for the construction of municipal sanitary sewers within the assessment district.
2. The annual assessment for each parcel in each assessment district shall be as shown on Exhibit A attached hereto.

3. The assessments shall be levied and collected by the County along with the regular property taxes.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on July 17, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of Clayton, California at a regular public meeting thereof held on July 17, 2018.

Janet Brown, City Clerk

EXHIBIT A

**ANNUAL ASSESSMENT AMOUNTS FOR FY 2018-19
FOR THE OAK STREET SEWER ASSESSMENT DISTRICT**

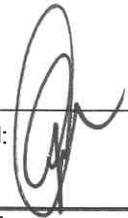
Oak Street Sewer Assessment District	
Parcel ID (APN)	Amount
119-040-021	\$1,130.91
119-040-024	\$1,130.91
119-040-027	\$1,130.91
119-040-028	\$1,130.91
119-040-030	\$1,130.91
119-040-032	\$1,130.91
119-040-033	\$1,130.91
119-040-036	\$1,130.91
119-040-037	\$1,130.91
119-050-036	\$1,130.91
Total Assessment	\$11,309.10



Agenda Date: July 17, 2018

Agenda Item: 3F

STAFF REPORT

Approved: 

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE: JULY 17, 2018

SUBJECT: RESOLUTION CONFIRMING THE LEVY OF ASSESSMENTS WITHIN THE LYDIA LANE SEWER ASSESSMENT DISTRICT FOR FY 2018-19

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The Lydia Lane Sewer Assessment District was formed to fund the installation of sanitary sewers and sewer laterals in the Lydia Lane and Verna Way area south of Clayton Road.

The City issued bonds as funding for district formation and construction of the sewer improvements. The bonds are to be repaid by the real property owners through annual assessments collected by the County with their property taxes. Along with the principal and interest, the assessments also include an administrative fee of \$150.00 per parcel to cover District overhead costs.

The first assessment was levied in FY 2002/03 and the final assessment will be levied in FY 2031/32.

The attached resolution confirms the proposed assessments for fiscal year 2018-19.

FISCAL IMPACT

Annual assessments yield approximately \$16,900.00 for the District for FY 2018-19. If this Resolution is not approved, the City would have to pursue separate action against each real property owner to collect the monies due or default on the bonds.

Subject: Lydia Lane Sewer Assessment District – Levy of Assessments

Date: July 17, 2018

Page 2 of 2

CONCLUSION

Based upon the above, staff recommends the City Council approve the Resolution confirming the levy of annual assessments for the Lydia Lane Sewer Assessment District.

Attachments: Resolution Confirming Assessments [3 pp.]

RESOLUTION NO. XX-2018

**A RESOLUTION CONFIRMING THE LEVY OF ASSESSMENTS FOR
FY 2018-19 WITHIN THE LYDIA LANE SEWER ASSESSMENT DISTRICT
FOR THE REPAYMENT OF BONDS ISSUED FOR THE CONSTRUCTION
OF MUNICIPAL SANITARY SEWERS**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, by passage of Resolution 36-2002, the City Council ordered the formation of the Lydia Lane Sewer Assessment District in accordance with and pursuant to the Municipal Improvement Act of 1913; and

WHEREAS, the City of Clayton issued and sold bonds in the amount of \$228,332.00 to fund the construction of municipal sanitary sewer Improvements in the Lydia Lane Assessment District which must be repaid by the real property owners within the assessment district; and

WHEREAS, the repayment of the bond costs by the real property owners is provided through the levy of annual assessments, for principal, interest and administrative costs, on each real property owner's County property tax bill; and

WHEREAS, the proposed assessments for Fiscal Year 2018-19 are shown on Exhibit A attached hereto;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council does hereby order the levy of assessments for FY 2018-19 on those parcels within the Lydia Lane Sewer Assessment District for repayment of bonds issued for the construction of municipal sanitary sewers within the assessment district.

2. The annual assessment for each parcel in each assessment district zone shall be as shown on Exhibit A attached hereto.

3. The assessments shall be levied and collected by the County of Contra Costa along with the regular property taxes.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting held on July 18, 2017.

Janet Brown, City Clerk

EXHIBIT A

**ANNUAL ASSESSMENT AMOUNTS FOR FY 2018-19
FOR THE LYDIA LANE SEWER ASSESSMENT DISTRICT**

Lydia Lane Sewer Assessment District	
Parcel ID (APN)	Amount
120-042-005	\$895.28
120-042-006	\$895.28
120-043-007	\$895.28
120-043-009	\$895.28
120-051-007	\$1,109.88
120-051-008	\$1,109.88
120-051-010	\$1,109.88
120-052-003	\$1,109.88
120-052-004	\$1,109.88
120-052-005	\$1,109.88
120-052-006	\$1,109.88
120-052-009	\$1,109.88
120-052-011	\$1,109.88
120-052-015	\$1,109.88
120-052-016	\$1,109.88
120-052-017	\$1,109.88
Total Assessment	\$16,899.68



Agenda Date: July 17, 2018

Agenda Item: 3g

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE: JULY 17, 2018

SUBJECT: APPROVE THE ENGINEER'S REPORT AND PROPOSED ASSESSMENTS FOR THE OPERATION & MAINTENANCE OF STREET LIGHTS IN THE STREET LIGHTING ASSESSMENT DISTRICT, FY 2018-19

RECOMMENDATION

Approve the attached Resolution.

BACKGROUND

The Engineer's Report submitted by the City Engineer recommends the annual assessments for the Street Lighting Assessment District ("District") remain the same as last year. In addition, to satisfy the requirements of the Streets and Highways Code, the "Fund Balance" for the District has been re-designated as the "Streetlight Replacement Fund". The Fund is used to pay the District's obligations until the City receives the first tax installment for the District in December. The public hearing tonight is to receive any comments from the public on the proposed unchanged assessments.

The City Council and public may wonder why the City is not required to mail property owner notices nor hold a public hearing on this particular assessment. In reviewing assessment proceedings, the City Attorney previously noted that, since the City staff is not proposing any increase in assessments, Proposition 218 does not apply. Under this status quo circumstance, the City is now able to return to the original requirements of the Streets and Highways Code which only requires the legislative body's approval of the annual levy.

There are also no provisions allowing for a "majority protest" to eliminate the base assessments similar to our other assessment districts such as the Oak Street and High Street Permanent Road Divisions.

Subject: Street Light Assessment District – Confirmation of Assessments

Date: July 17, 2018

Page 2 of 2

FISCAL IMPACT

If this \$125,991.08 annual assessment and Resolution are not approved, the City Council must decide whether to fund all street lighting costs on our residential streets from another source, such as Gas Tax funds or the General Fund of the City, or turn off the street lights.

As noted in the approved FY 2018-19 City Budget Message, the working equity (fund balance) is starting to erode as this neighborhood street light benefit assessment has not been increased in 21 years. Within the next several years, the City will need to examine and submit to the voters an assessment increase to sustain the operations and maintenance of these street lights since power costs have risen along with expenses to replace burned-out street lamps.

CONCLUSION

Staff recommends the City Council adopt this Resolution approving the Engineer's Report and confirming the levy of assessments within the Street Lighting Assessment District for FY 2018-19.

Attachments: Resolution confirming Assessments [4 pp.]
Engineer's Report

RESOLUTION NO. XX - 2018

**A RESOLUTION APPROVING THE ENGINEER'S REPORT AND LEVYING
ASSESSMENTS FOR OPERATION AND MAINTENANCE OF STREET
LIGHTS IN THE STREET LIGHTING ASSESSMENT DISTRICT FOR
FISCAL YEAR 2018-19**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, in order to levy assessments for the operation and maintenance of the streetlights in residential subdivisions, the City Engineer has prepared, and submitted to the City Council, an Engineer's Report for Fiscal Year 2018-19; and

WHEREAS, the Engineer's Report recommends once again the annual assessments remain unchanged from last fiscal year due to adequate Fund reserves;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Clayton, California as follows:

1. The Engineer's Report for Fiscal Year 2018-19 is hereby approved.
2. The City Council orders the levy of an assessment in the amounts shown per subdivision lot on "Exhibit A", attached hereto and incorporated herein as if fully set forth, on each of the lots within the following subdivisions in the Street Lighting Assessment District, and this Resolution shall constitute the levy and confirmation of such assessment for Fiscal Year 2018-19. The total subdivision lots so assessed are 3,458 and consist of each lot within the following subdivisions: #2556, #2572, #3434, #3576, #3659, #4011, #4012, #4013, #4014, #4015, #4016, #4017, #4018, #4019, #4240, #4343, #4403, #4449, #4451, #4499, #4504, #4515, #4543, #4643, #4654, #4798, #4805, #4827, #4956, #5048, #5049, #5050, #5267, #5722, #6001, #6990, #7065, #7066, #7249, #7255, #7256, #7257, #7260, #7261, #7262, #7263, #7264, #7303, #7311, #7766, #7767, #7768, #7769, #7887, #8215, #8355, #8358 and #8719 as such maps appear of record in the Contra Costa County Recorder's Office.

3. The City will pay from the Special District Augmentation monies, gas tax or other City funds, the cost of operation for some 166 street lights on arterial streets as described in the Engineer's Report. The herein mentioned assessment levy is to pay for the cost of operation and maintenance for some 800 residential subdivision street lights along the public streets within or adjacent to the above described subdivisions.

4. The City Clerk shall immediately file a certified copy of this Resolution, together with any required diagrams and a list of lots so assessed, with both the Tax Collector and the Auditor of Contra Costa County, with the Assessment to thereafter be collected in the same manner as the property taxes are collected.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

#

I hereby certify the foregoing Resolution was duly and regularly passed by the City Council of the City of Clayton, California at a regular public meeting held on July 17, 2018.

Janet Brown, City Clerk

**RESOLUTION NO. XX - 2018
EXHIBIT A**

CITY OF CLAYTON								
STREETLIGHT ASSESSMENT DISTRICT FY 2018-19								
PROPOSED ASSESSMENTS								
Subd. Name	Subd. No.	No. of Lots	Type	Public Streets	A.U. per lot	Total A.U.	Assessment Per Lot	Total \$
Cardinet Glen I	2556	22	SF	Y	1.00	22.00	\$43.54	\$957.88
Cardinet Glen II	2572	30	SF	Y	1.00	30.00	\$43.54	\$1,306.20
Glen Almond	3434	23	SF	Y	1.00	23.00	\$43.54	\$1,001.42
Dana Hills I	3576	29	SF	Y	1.00	29.00	\$43.54	\$1,262.66
Mission Manor	3659	25	SF	Y	1.00	25.00	\$43.54	\$1,088.50
Dana Hills II	4011	55	SF	Y	1.00	55.00	\$43.54	\$2,394.70
Dana Hills III	4012	50	SF	Y	1.00	50.00	\$43.54	\$2,177.00
Dana Hills IV	4013	93	SF	Y	1.00	93.00	\$43.54	\$4,049.22
Dana Hills V	4014	50	SF	Y	1.00	50.00	\$43.54	\$2,177.00
Dana Hills VI	4015	30	SF	Y	1.00	30.00	\$43.54	\$1,306.20
Dana Hills VII	4016	65	SF	Y	1.00	65.00	\$43.54	\$2,830.10
Dana Hills VIII	4017	46	SF	Y	1.00	46.00	\$43.54	\$2,002.84
Dana Hills IX	4018	32	SF	Y	1.00	32.00	\$43.54	\$1,393.28
Dana Hills X	4019	52	SF	Y	1.00	52.00	\$43.54	\$2,264.08
Marsh Creek	4240	109	MF	N	0.25	27.25	\$15.64	\$1,704.76
Regency Woods I	4343	77	SF	Y	1.00	77.00	\$43.54	\$3,352.58
St. James Place	4403	16	SF	Y	1.00	16.00	\$43.54	\$696.64
Casey Glen	4449	24	SF	Y	1.00	24.00	\$43.54	\$1,044.96
Briarwood I	4451	19	SF	Y	1.00	19.00	\$43.54	\$827.26
Jeffry Ranch	4499	68	SF	Y	1.00	68.00	\$43.54	\$2,960.72
Dana Ridge	4504	86	MF	N	0.25	21.50	\$15.64	\$1,345.04
Clayton Greens	4515	78	SF	Y	1.00	78.00	\$43.54	\$3,396.12
Regency Woods II	4543	71	SF	Y	1.00	71.00	\$43.54	\$3,091.34
Regency Woods III	4643	37	SF	Y	1.00	37.00	\$43.54	\$1,610.98
Briarwood II	4654	40	SF	Y	1.00	40.00	\$43.54	\$1,741.60
Regency Woods IV	4798	145	SF	Y	1.00	145.00	\$43.54	\$6,313.30
Easley Estates I	4805	48	SF	Y	1.00	48.00	\$43.54	\$2,089.92
Silver Creek I	4827	26	SF	Y	1.00	26.00	\$43.54	\$1,132.04
Silver Creek II	4956	94	SF	Y	1.00	94.00	\$43.54	\$4,092.76
Easley Estates II	5048	51	SF	Y	1.00	51.00	\$43.54	\$2,220.54
Easley Estates III	5049	40	SF	Y	1.00	40.00	\$43.54	\$1,741.60
Easley Estates IV	5050	55	SF	Y	1.00	55.00	\$43.54	\$2,394.70

Douglas Court	5267	9	SF	Y	1.00	9.00	\$43.54	\$391.86
Regency Meadows	5722	96	SF	Y	1.00	96.00	\$43.54	\$4,179.84
Westwood	6001	65	SF	Y	1.00	65.00	\$43.54	\$2,830.10
Westwood	6001	4	MF	Y	0.50	2.00	\$15.64	\$62.56
Windmill Canyon I	6990	92	SF	Y	1.00	92.00	\$43.54	\$4,005.68
Black Diamond I	7065	108	Duet	N	0.50	54.00	\$31.28	\$3,378.24
Chaparral Springs I	7066	117	MF	N	0.25	29.25	\$8.34	\$975.78
Peacock Creek I	7249	69	SF	Y	1.00	69.00	\$33.38	\$2,303.22
Peacock Creek II	7255	72	SF	Y	1.00	72.00	\$33.38	\$2,403.36
Eagle Peak I	7256	70	SF	Y	1.00	70.00	\$43.54	\$3,047.80
Eagle Peak II	7257	60	SF	Y	1.00	60.00	\$43.54	\$2,612.40
Falcon Ridge I	7260	75	SF	Y	1.00	75.00	\$33.38	\$2,503.50
Falcon Ridge II	7261	70	SF	Y	1.00	70.00	\$43.54	\$3,047.80
Windmill Canyon II	7262	99	SF	Y	1.00	99.00	\$43.54	\$4,310.46
Windmill Canyon III	7263	101	SF	Y	1.00	101.00	\$43.54	\$4,397.54
Windmill Canyon IV	7264	102	SF	Y	1.00	102.00	\$33.38	\$3,404.76
Chaparral Springs II	7303	52	MF	N	0.25	13.00	\$8.34	\$433.68
Black Diamond II	7311	118	Duet	N	0.50	59.00	\$31.28	\$3,691.04
Diablo Ridge I	7766	60	MF	N	0.25	15.00	\$8.34	\$500.40
Oak Hollow	7766	35	SF	N	0.50	17.50	\$16.68	\$583.80
Diablo Ridge II	7767	76	MF	N	0.25	19.00	\$8.34	\$633.84
Oak Hollow IIA	7768	55	SF	N	0.50	27.50	\$31.28	\$1,720.40
Oak Hollow IIB	7769	53	SF	N	0.50	26.50	\$31.28	\$1,657.84
Stranahan	7887	54	SF	Y	1.00	54.00	\$33.38	\$1,802.52
Diablo Village	8215	33	SF	Y	1.00	33.00	\$43.54	\$1,436.82
Rachel Ranch	8355	8	SF	Y	1.00	8.00	\$43.54	\$348.32
Bridlewood	8358	19	SF	Y	1.00	19.00	\$43.54	\$827.26
Diablo Pointe	8719	24	SF	N	0.50	12.00	\$22.18	\$532.32
TOTALS		3482				2908.5		\$125,991.08

ENGINEER'S REPORT

DATE: JULY 17, 2018
TO: CITY COUNCIL
FROM: CITY ENGINEER
RE: STREET LIGHT ASSESSMENT DISTRICT - FISCAL YEAR 2018-19

This report has been prepared in accordance with Section 18091 of the Street and Highways Code and meets the requirements of the Street Lighting Act of 1919.

HISTORICAL REVIEW

Prior to 1979, the year the City formed the Street Light Assessment District, all subdivisions were annexed to the City's Lighting District #1. This district became a Special District, which made it eligible for a small portion of the property tax as well as Special Augmentation Funds for special districts.

When the Assessment District was formed, primarily to pay for street lighting in residential areas with street lights, the City ceased annexing new subdivisions to Lighting District #1. While the City continues to receive moneys on Lighting District #1 as Special Augmentation Funds, the amounts are eventually expected to decrease. The Lighting District #1's expected income for FY 2018-19 is approximately \$36,700.

When the Street Light Assessment District was formed, it was the City Council's policy that residential street lighting expenses and operations be funded by the Assessment District separate from the arterial street lighting expenses of Lighting District #1.

PROPOSITION 218

In 2001 an increase in the levy was proposed to offset increasing electrical costs. The subsequent Prop. 218 ballot was defeated by approximately 60% of the votes cast. Due to the current fiscal climate and reserve status of this fund, the recommendation is to not attempt another 218 ballot this year.

DETERMINATION OF SPECIAL BENEFIT

For this District, being limited to street lighting, the finding of a special benefit is relatively simple. Those occupied properties located on a lighted public street receive a special benefit relative to those properties located on unlit streets and sidewalks. This benefit may be described as additional protection for residents from criminal activity and, to a lesser extent, vehicular traffic. It should be noted that street lights protect pedestrians from vehicular traffic by increasing the pedestrians' sight and subsequent ability to avoid danger more than it increases their visibility to others (drivers).

The argument that a general benefit exists because all pedestrians benefit from the additional protection even those that are not residents of the specific street is false. The number of non-resident pedestrian trips made is minuscule compared to the number of resident pedestrian trips and that tiny benefit to non-resident pedestrians does not constitute a general benefit.

There are publicly owned parcels (open space) that front along lighted public streets. However, since these properties are not occupied, no benefit, either special or general, is received. Therefore, the finding is that no "general" benefit exists.

DISTRICT IMPROVEMENTS

The District improvements consist of streetlights located on residential streets. The streetlights may be mounted on PG&E poles or on City-owned poles (either wood, metal, or concrete).

PROJECTED FY 2017-18 COSTS AND FUND BALANCE

The district's projected year-end revenue and costs for FY 2017-18 are based on actuals through April of 2018 and show projected expenses of \$150,240. against revenue of \$127,391. (Assessment and interest) causing a projected deficit variance of \$22,849. The beginning fund balance of \$108,849. will be eroded to \$85,999. at year's end. This rate of annual deficit spending will be bankrupt the streetlight fund in fewer than four (4) years.

BUDGETED FY 2018-19 REVENUE, COST, AND FUND BALANCE

The proposed FY 2018-19 district budget is as follows:

Expenditure Account Number	Account Name	2018-19 Proposed Budget
7113	Overtime	\$0.
7311	General Supplies	\$500.
7335	Gas & Electric Service	\$118,000.
7381	Property Tax Admin. Cost	\$3,600.
7389	Misc. Expenses	\$330.
7412	Engineering/Inspection Services	\$1,000.
7419	Other Prof. Services	\$250.
7450	Street Light Maintenance	\$16,000.
8101	Fund Admin. – Transfer to GF	\$11,890.
	Expense Sub-total:	\$151,570.
Revenue Account Number		
4607	Street Light Assessment	\$125,991.
5601	Interest	\$1,000.
5606	Unrealized Inv. Gain/Loss	\$0.
	Revenue Sub-total:	\$126,991.
	Increase (Decrease) in Fund Balance	<\$24,579.>
	Beginning Fund Balance	\$85,999.
	Ending Fund Balance	\$61,419.

Based on the FY 2018-19 Budget and the number of units assessed, the actual assessment for FY 2018-19 should be \$52.11 per unit. Since we are unable to increase assessments without an affirmative ballot election by voters, it is recommend the FY 2018-19 assessments remain the same (see table on pages 4 and 5). Based on this annual assessment and earned interest, the District will receive revenues of approximately \$126,991. With budgeted expenses of \$151,570. the projected FY 2018-19 deficit will be <\$24,579.> further eroding the Streetlight Replacement Fund balance to \$61,419.

METHOD OF ASSESSMENT

In detached, single family subdivisions with public streets, the special benefit received from street lights is equal to all the lots, regardless of size, and the assessment should, therefore, be equal for every lot and will be assigned an assessment unit of one.

In subdivisions with private streets that are served or traversed by lighted public streets, the property owners already pay for a share of their private street lighting and the ratio of lots to the number of public lights is higher than those in subdivisions with all public streets. In order to provide equity in these circumstances assessment units of one-half have been assigned to privately held single family and duet subdivisions (Oak Hollow, Black Diamond, and Diablo Pointe) and one-quarter to privately held multifamily subdivisions (Diablo Ridge, Chaparral Springs, Marsh Creek Villas).

See the chart on pages 4 and 5 for a complete breakdown of the assessment units.

ASSESSMENT HISTORY

Proposed FY 18-19	between \$0 and \$43.54
FY 17-18	between \$0 and \$43.54
FY 16-17	between \$0 and \$43.54
FY 15-16	between \$0 and \$43.54
FY 14-15	between \$0 and \$43.54
FY 13-14	between \$0 and \$43.54
FY 12-13	between \$0 and \$43.54
FY 11-12	between \$0 and \$43.54
FY 10-11	between \$0 and \$43.54
FY 09-10	between \$0 and \$43.54
FY 08-09	between \$0 and \$43.54
FY 07-08	between \$0 and \$43.54
FY 06-07	between \$0 and \$43.54
FY 05-06	between \$0 and \$43.54
FY 04-05	between \$0 and \$43.54
FY 03-04	between \$0 and \$43.54
FY 02-03	between \$0 and \$43.54
FY 01-02	between \$0 and \$43.54
FY 00-01	\$34.34
FY 99-00	\$33.38
FY 98-99	\$33.38
FY 97-98	\$33.38
FY 96-97	\$43.54

CITY OF CLAYTON

**STREETLIGHT ASSESSMENT DISTRICT
FY 2018-19**

PROPOSED ASSESSMENTS

Subd. Name	Subd. No.	No. of Lots	Type	Public Streets	A.U. per lot	Total A.U.	Assessment Per Lot	Total \$
Cardinet Glen I	2556	22	SF	Y	1.00	22.00	\$43.54	\$957.88
Cardinet Glen II	2572	30	SF	Y	1.00	30.00	\$43.54	\$1,306.20
Glen Almond	3434	23	SF	Y	1.00	23.00	\$43.54	\$1,001.42
Dana Hills I	3576	29	SF	Y	1.00	29.00	\$43.54	\$1,262.66
Mission Manor	3659	25	SF	Y	1.00	25.00	\$43.54	\$1,088.50
Dana Hills II	4011	55	SF	Y	1.00	55.00	\$43.54	\$2,394.70
Dana Hills III	4012	50	SF	Y	1.00	50.00	\$43.54	\$2,177.00
Dana Hills IV	4013	93	SF	Y	1.00	93.00	\$43.54	\$4,049.22
Dana Hills V	4014	50	SF	Y	1.00	50.00	\$43.54	\$2,177.00
Dana Hills VI	4015	30	SF	Y	1.00	30.00	\$43.54	\$1,306.20
Dana Hills VII	4016	65	SF	Y	1.00	65.00	\$43.54	\$2,830.10
Dana Hills VIII	4017	46	SF	Y	1.00	46.00	\$43.54	\$2,002.84
Dana Hills IX	4018	32	SF	Y	1.00	32.00	\$43.54	\$1,393.28
Dana Hills X	4019	52	SF	Y	1.00	52.00	\$43.54	\$2,264.08
Marsh Creek	4240	109	MF	N	0.25	27.25	\$15.64	\$1,704.76
Regency Woods I	4343	77	SF	Y	1.00	77.00	\$43.54	\$3,352.58
St. James Place	4403	16	SF	Y	1.00	16.00	\$43.54	\$696.64
Casey Glen	4449	24	SF	Y	1.00	24.00	\$43.54	\$1,044.96
Briarwood I	4451	19	SF	Y	1.00	19.00	\$43.54	\$827.26
Jeffry Ranch	4499	68	SF	Y	1.00	68.00	\$43.54	\$2,960.72
Dana Ridge	4504	86	MF	N	0.25	21.50	\$15.64	\$1,345.04
Clayton Greens	4515	78	SF	Y	1.00	78.00	\$43.54	\$3,396.12
Regency Woods II	4543	71	SF	Y	1.00	71.00	\$43.54	\$3,091.34
Regency Woods III	4643	37	SF	Y	1.00	37.00	\$43.54	\$1,610.98
Briarwood II	4654	40	SF	Y	1.00	40.00	\$43.54	\$1,741.60
Regency Woods IV	4798	145	SF	Y	1.00	145.00	\$43.54	\$6,313.30
Easley Estates I	4805	48	SF	Y	1.00	48.00	\$43.54	\$2,089.92
Silver Creek I	4827	26	SF	Y	1.00	26.00	\$43.54	\$1,132.04
Silver Creek II	4956	94	SF	Y	1.00	94.00	\$43.54	\$4,092.76
Easley Estates II	5048	51	SF	Y	1.00	51.00	\$43.54	\$2,220.54
Easley Estates III	5049	40	SF	Y	1.00	40.00	\$43.54	\$1,741.60
Easley Estates IV	5050	55	SF	Y	1.00	55.00	\$43.54	\$2,394.70

Douglas Court	5267	9	SF	Y	1.00	9.00	\$43.54	\$391.86
Regency Meadows	5722	96	SF	Y	1.00	96.00	\$43.54	\$4,179.84
Westwood	6001	65	SF	Y	1.00	65.00	\$43.54	\$2,830.10
Westwood	6001	4	MF	Y	0.50	2.00	\$15.64	\$62.56
Windmill Canyon I	6990	92	SF	Y	1.00	92.00	\$43.54	\$4,005.68
Black Diamond I	7065	108	Duet	N	0.50	54.00	\$31.28	\$3,378.24
Chaparral Springs I	7066	117	MF	N	0.25	29.25	\$8.34	\$975.78
Peacock Creek I	7249	69	SF	Y	1.00	69.00	\$33.38	\$2,303.22
Peacock Creek II	7255	72	SF	Y	1.00	72.00	\$33.38	\$2,403.36
Eagle Peak I	7256	70	SF	Y	1.00	70.00	\$43.54	\$3,047.80
Eagle Peak II	7257	60	SF	Y	1.00	60.00	\$43.54	\$2,612.40
Falcon Ridge I	7260	75	SF	Y	1.00	75.00	\$33.38	\$2,503.50
Falcon Ridge II	7261	70	SF	Y	1.00	70.00	\$43.54	\$3,047.80
Windmill Canyon II	7262	99	SF	Y	1.00	99.00	\$43.54	\$4,310.46
Windmill Canyon III	7263	101	SF	Y	1.00	101.00	\$43.54	\$4,397.54
Windmill Canyon IV	7264	102	SF	Y	1.00	102.00	\$33.38	\$3,404.76
Chaparral Springs II	7303	52	MF	N	0.25	13.00	\$8.34	\$433.68
Black Diamond II	7311	118	Duet	N	0.50	59.00	\$31.28	\$3,691.04
Diablo Ridge I	7766	60	MF	N	0.25	15.00	\$8.34	\$500.40
Oak Hollow	7766	35	SF	N	0.50	17.50	\$16.68	\$583.80
Diablo Ridge II	7767	76	MF	N	0.25	19.00	\$8.34	\$633.84
Oak Hollow IIA	7768	55	SF	N	0.50	27.50	\$31.28	\$1,720.40
Oak Hollow IIB	7769	53	SF	N	0.50	26.50	\$31.28	\$1,657.84
Stranahan	7887	54	SF	Y	1.00	54.00	\$33.38	\$1,802.52
Diablo Village	8215	33	SF	Y	1.00	33.00	\$43.54	\$1,436.82
Rachel Ranch	8355	8	SF	Y	1.00	8.00	\$43.54	\$348.32
Bridlewood	8358	19	SF	Y	1.00	19.00	\$43.54	\$827.26
Diablo Pointe	8719	24	SF	N	0.50	12.00	\$22.18	\$532.32
TOTALS		3482				2908.5		\$125,991.08



Agenda Date: 7-17-18

Agenda Item: 3h

Approved:

Gary A. Napper,
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Kevin Mizuno, Finance Manager
MEETING DATE: July 17, 2018
SUBJECT: Revised Master Fee Schedule for Certain User-Benefit and Regulatory Fees and Permits

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution amending the existing fee schedule for certain user-benefit and regulatory fees for the fiscal year ending June 30, 2019 (FY 2018-19).

BACKGROUND

The City of Clayton annually reviews user-benefit and regulatory fees to ensure they are set appropriately to cover costs attributable to providing the underlying services and issuing permits. All such fees are consolidated into the City's Master Fee Schedule, which is reviewed and approved by the City Council via Resolution at a publicly-held meeting and thereafter made publicly available on the City's website and at City Hall. The Master Fee Schedule currently effective for such fees was established by Resolution No. 28-2017 on July 18, 2017.

Although cost recovery is a goal when annually evaluating the suitability of existing fees in the Master Fee Schedule, other factors considered when determining reasonable fee rates may include but are not limited to: (1) whether the benefit is user-specific versus community-wide, (2) the impact of fees on service use, (3) the feasibility of collection, (4) consideration of discounted rates, and (5) comparisons with other neighboring municipalities. User-Benefit fees (i.e. rental of public facilities and parks, etc.) apply to services where a specific user receives some or all of the benefit of the underlying service provided. Regulatory fees (i.e. planning and engineering plan check, police permits, etc.) are paid by those seeking the regulated activity to ensure health and safety of the community. Despite the fact the community as a whole may benefit from the regulatory

program, the ultimate “driver” of the need for the service should pay most if not all of the costs.

In contrast to both User-Benefit and Regulatory fees, Fines and Penalties are generally designed to discourage undesired behavior rather than cost-recovery alone. Fines and penalties are considered “involuntary” fees, and the beneficiaries of the service are ultimately the general public through the City’s discouragement of illegal or otherwise undesirable activity. For this reason, a “Uniform Penalty Schedule of Parking Violations” enforced by the Police Department is periodically reviewed by the Chief of Police and any changes deemed necessary are presented to the City Council for review and approval at a publicly-held meeting. Given the difference in policy objectives, the Uniform Penalty Schedule of Parking Violations is a separate and distinct document from the Master Fee Schedule and no modifications to that existing document are being proposed in this staff report.

Adjustments being proposed to the City’s existing Master Fee Schedule are consistent with the longstanding public policy that voluntary user-driven municipal services bear their own costs. The proposed changes would accomplish this objective and in each instance no fee is higher than the true cost to provide the underlying service or use.

DISCUSSION

Staff recommends all existing fees included in the Master Fee Schedule (excluding refundable deposits) be increased by the San Francisco-Oakland-Hayward April 2017 to April 2018 Consumer Price Index (CPI) inflationary growth rate of 3.22% as published by the United States Bureau of Labor and Statistics. This increase allows the City to recover organizational year-to-year inflationary and economic cost increases for all user-benefit and regulatory related fees. Certain fees remain unchanged as they are set by state law, fixed by a specific *Clayton Municipal Code* section, or the current year CPI adjustment (3.22%) was insufficient to justify a proposal to increase the existing fee.

It has been the practice of the City to only adopt Master Fee Schedule increases in whole dollar increments. As applied in past years, staff does not recommend individual fee increases resulting from annual CPI growth until the resulting fee increase equals or exceeds one whole dollar. This method serves to simplify the fee increase process, as well as to satisfy prevailing law that City fees cannot recoup more than its actual expense (i.e. “rounding-up” may result in excessive fees). In circumstances where the prior year CPI adjustments did not result in a fee increase, a two or other multi-year CPI rate, as applicable, was applied in the current year to ascertain whether a fee increase should be recommended. In such instances, for example, a two year CPI rate would be calculated at 7.0% (3.22% April 2018 CPI + 3.78% April 2017 CPI), a three year CPI rate would be calculated at 9.7% (3.22% April 2018 CPI + 3.78% April 2017 CPI + 2.70% April 2016 CPI), and so forth. On the far right column of the attached proposed fee schedule (Exhibit A to the Resolution) fees with one asterisk [*] indicate a single year CPI adjustment. Fees with two asterisks [**] indicates a multi-year CPI adjustment was used as applicable.

All Engineering Department fees listed in the proposed Master Fee Schedule have been reevaluated to incorporate terms of the new contract City Engineer retainer approved by the City Council on August 14, 2017. The agreement with the new contract City Engineer (Harris & Associates) reflects an increase of 27.8% over the retainer of the previous City Engineer. Accordingly, all Engineering Department fees (i.e. construction activity permits, subdivision map filing fees, etc.) are proposed to increase by the same amount to cover the increase in cost incurred by the City's General Fund.

All refundable deposit amounts are proposed to remain unchanged from the prior year's adopted Master Fee Schedule, with the exception of one in the Engineering Department. The construction activity permit refundable deposit for minor concrete repairs or replacements are proposed to increase from \$500 to \$1,000 to capture higher hourly rates in the new contract City Engineer agreement as outlined previously. As the name implies, any unused balances of refundable deposits are fully refundable to the paying applicant at the conclusion of the underlying deliverable.

Most fees included in the Proposed FY 2018-19 Master Fee Schedule will become effective upon adoption of the attached Resolution (Attachment 1). The exception to this rule is that certain fees in the Proposed FY 2018-19 Master Fee Schedule pertaining to planning and land use have been identified with a tick mark [>] on the left column and are subject to the requirements of *California Government Code* § 66017 and therefore would not be effective until 60 days after the adoption of the attached Resolution in accordance with the law.

In accordance with *California Government Code* § 66016, prior to levying a new fee or service charges, or prior to approving an increase in an existing fee or service charge, a local agency must notice the time and place of public meeting at least fourteen (14) days prior to the meeting to any interested party who files a written request with the local agency. Furthermore, at least ten (10) days prior to the meeting to adopt new or increases to existing fee or service charges a local agency must make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied. On Friday June 29, 2018 the City issued a public notice (Attachment 2), published the Proposed FY 2018-19 Master Fee Schedule on the City's website, and provided it to all requesting parties thereby fulfilling the requirements of the aforementioned section of the *California Government Code*.

FISCAL IMPACT

No direct fiscal impact will result from the City Council's approval of the attached proposed Master Fee Schedule. Assuming no changes to the existing demand for user-fee or regulatory based services next fiscal year, negligible increases to the corresponding fee revenue line items may be realized. However, it is expected these revenue increases will be offset by incremental cost increases associated with providing these specified user-driven services.

- Attachments:
1. Resolution __-2018 (2 pp.)
 - o Exhibit A to Resolution __-2018 (8 pp.)
 2. Public Meeting Notice (1 p.)

RESOLUTION NO. __-2018

**A RESOLUTION AMENDING
THE CITY MASTER FEE SCHEDULE
FOR CERTAIN USER-BENEFIT AND REGULATORY
CITY SERVICES AND ACTIVITIES**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton previously adopted Resolution No. 28-2017 revising and establishing a Master Fee Schedule for various user-benefit and regulatory fees to assist in defraying the cost of the underlying voluntary municipal services and activities; and

WHEREAS, the Master Fee Schedule is reviewed periodically to capture increases in costs to provide municipal services and activities associated with said user-benefit and regulatory fees; and

WHEREAS, the City staff did develop data to substantiate proposed changes to fees which would not exceed the estimated reasonable cost of providing the underlying service or facility use and made proposed changes available to the public on June 29, 2018 satisfying the fourteen (14) day public noticing pursuant to *California Government Code* Section 66016; and

WHEREAS, no new fees are being proposed and certain existing fees are being adjusted to account for appropriate consumer price index (CPI) increases using the Bureau of Labor Statistics San Francisco-Oakland-Hayward area CPI index from April 2017 to April 2018 reflecting City labor and fixed cost operational increases; and

WHEREAS, the City Council did consider recommendations for modifications at its regular scheduled public meeting on July 17, 2018; and

WHEREAS, the City Council of Clayton, California does deem it necessary to increase all fees by the 3.22% CPI adjustment (Bureau of Labor Statistics April 2017 to April 2018 San Francisco-Oakland-Hayward area) to address associated annual increases in labor and operational expenditures, unless said adjustment did not result in a full dollar increase; fees that were unchanged last year will be increased by a two year or greater CPI factor, as applicable, and

WHEREAS, the fees will become effective upon adoption of said Resolution, except for those fees marked by an arrow on the attached Exhibit "A" which are subject to *California Government Code* Section 66017 and become effective 60 days upon adoption of said Resolution; and

NOW THEREFORE BE IT RESOLVED that the City Council of Clayton, California does hereby set, adjust and approve the various fees for certain user-benefit and regulatory City services as set forth in the attached Exhibit "A" as the City Master Fee Schedule.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

City of Clayton User Benefit and Regulatory Fees		
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee
COMMUNITY DEVELOPMENT DEPARTMENT		
Annexations		
Annexation	Time - \$5,000 minimum deposit	No change
General Plan /Zoning Ordinance Amendments		
General Plan Map or Text Amendment	Time - \$5,000 minimum deposit	No change
Pre Zoning / Re Zoning	Time - \$5,000 minimum deposit	No change
Zoning Ordinance Text Amendment	Time - \$5,000 minimum deposit	No change
Site Plans / Development Plans		
Site Plan Review Permit - Residential	Time - \$1,000 minimum deposit	No change
Site Plan Review Permit - Residential Amendment	Time - \$1,000 minimum deposit	No change
Site Plan Review Permit - Non Residential	Time - \$5,000 minimum deposit	No change
Site Plan Review Permit - Non Residential Amendment	Time - \$2,000 minimum deposit	No change
Development Plan	Time - \$5,000 minimum deposit	No change
Subdivisions		
Tentative Subdivision Map Application	Time - \$5,000 minimum deposit	No change
Lot Line Adjustment	Time - \$1,000 minimum deposit	No change
Lot Merger	Time - \$2,000 minimum deposit	No change
Parcel Maps		
Tentative Parcel Map Application	Time - \$2,000 minimum deposit	No change
Environmental Review		
Environmental Impact Report	Time - \$5,000 minimum deposit	No change
Negative Declaration with Mitigations (Mitigated Neg. Dec.)	Time - \$2,500 minimum deposit	No change
Negative Declaration without Mitigations	Time - \$1,500 minimum deposit	No change
Mitigation Monitoring and Reporting Plan	Included with Mitigated Neg Dec/ EIR	No change
Categorical Exemption	County filing fee + Time	No change
Permits		
Home Occupation Permit - Administrative Review	\$181	\$187 *
Home Occupation Permit - Planning Commission Review	Time - \$750 minimum deposit	No change
> Use Permit - Fences Administrative Review	\$181	\$187 *
Use Permit - Residential - Planning Commission Review	Time - \$1,000 minimum deposit	No change
Use Permit - Non- Residential - Planning Commission Review	Time - \$5,000 minimum deposit	No change
Temporary Use Permit - Administrative Review	\$181	\$187 *
Temporary Use Permit - Planning Commission Review	Time \$500 minimum deposit	No change
> Sign Permit - Administrative Review	\$59	\$61 *
Sign Permit - Planning Commission Review	Time - \$1,000 minimum deposit	No change
> Temporary Storage Permit	\$59	\$61 *
> Second Dwelling Unit Permit - Administrative Review	\$301	\$311 *
> Tree Removal Permit - Administrative Review without notice (per tree - minimum applies see below)	\$10	\$11 **
> Tree Removal Permit - Administrative Review without notice (minimum)	\$37	\$38 *
> Tree Removal Permit - Administrative Review with Notice (per tree - minimum applies see below)	\$55	\$56 *
> Tree Removal Permit - Administrative Review with Notice (minimum)	\$121	\$124 *
Tree Removal Permit - Planning Commission Review	Time - \$500 minimum deposit	No change
Tree Replacement In-Lieu Fee (CMC §15.70.040 F & 15.70.55) (per 24" box tree)	\$800	No change
Building Moving Permit	Time - \$1,000 minimum deposit	No change
Noise Permit - Administrative Review	\$181	\$187 *
Reasonable Accommodations Permit - Administrative Review	\$181	\$187 *
Reasonable Accommodations Permit - Planning Commission Review	Time - \$500 minimum deposit	No change
> Outdoor Seating Permit (CMC §17.24.020 -H/Standard Policy No 3)	\$95	\$98 *
Miscellaneous		
Variance - Residential	Time - \$1,000 minimum deposit	No change
Variance - Non Residential	Time - \$5,000 minimum deposit	No change
Appeal - Administrative Decisions	\$59	\$61 *
Appeal-Administrative Code Enforcement Citation	Time - \$1,800 minimum deposit	No change
> Appeal - Planning Commission Decisions - Residential	\$301	\$311 *
> Appeal - Planning Commission Decisions - Non Residential	\$604	\$624 *
Time Extension Request	Time - \$500 minimum deposit	No change
Contract Administration	Time - \$1,000 minimum deposit	No change
Large Family Day Care Home Permit	Time - \$500 minimum deposit	No change
Pre Application Consultation Deposit	Time - \$1,000 minimum deposit	No change
Construction and Demolition (C&D) Recycling Plans		
Mgmt. Plan Deposit - Single Family	\$2,000 plus \$1/sq. ft. over 2,000 sq.	No change
> Permit processing Fee - Single Family	\$157	\$162 *
> Permit processing Fee -Commercial	\$315	\$325 *
Mgmt. Plan Deposit - Subdivision and Commercial	\$2,000 plus \$1/sq. ft. over 2,000 sq. ft.	No change
Habitat Conservation Area Compliance		
Habitat Conservation Plan/Natural CC Plan	Time - \$1,000 minimum deposit	No change

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
CITY ENGINEERING DEPARTMENT			
Bid or Plan Sets	Actual Cost	No change	
> Deed Restriction / Covenant Agreement Preparation (Does not include recordation extra cost. See Administrative Fees.)	\$367	\$469	o
Subdivisions			
> Final Map Filing Fee (per map)	\$604	\$771	o
Final Map Checking Fee ¹	Time - \$2,500 minimum deposit	No change	
Construction Plans Checking Fee ¹	Time - \$2,500 minimum deposit	No change	
Construction Inspection Fee - Public Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Private Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates	No change	
Parcel Maps			
> Final Parcel Map Filing Fee (per map)	\$121	\$154	o
Final Parcel Map Plan Checking Fee ¹	Time - \$1,000 minimum deposit	No change	
Construction Plan Checking Fee ¹	Time - \$1,000 minimum deposit	No change	
Construction Inspection Fee - Public Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Private Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates	No change	
Major Grading			
> Grading Permit Filing Fee (per permit)	\$181	\$231	o
Grading Permit Plan Check ¹	Time - \$1,000 minimum deposit	No change	
Grading Inspection ¹	Time - \$1,000 minimum deposit	No change	
Construction Activity Permits (Including Encroachment, Stormwater & Grading)			
> Projects that do not disturb the ground (i.e. interior remodels, roof replacement, etc.) ¹ (per permit + time - \$500 minimum deposit)	\$110	\$140	o
> Room additions (including other projects that disturb the ground) ¹ (per permit + time - \$2,000 minimum deposit)	\$110	\$140	o
> Minor concrete repairs or replacement (i.e. sidewalks, curb & gutter) ¹ (per permit + time - \$1,000 minimum deposit)	\$202	\$258	o
> New driveway construction or replacement (Work may require the granting of additional street right of way requiring the preparation of grant deed and recordation. See Deed Restriction/Covenant Agreement Preparation fee above and Document Recording fee in Administrative Fees section.) ¹ (per permit + time - \$2,000 minimum deposit)	\$202	\$258	o
> Pool installation or total removal of existing pool (requires inspection and testing by applicant's third party soils engineer) ¹ (per permit + time - \$2,000 minimum deposit)	\$202	\$258	o
> Partial removal of existing pool (Work requires a grading permit and the preparation and recording of a restricted use covenant. See Deed Restriction/Covenant Agreement Preparation fee above and Document Recording fee in Administrative Fees section.) ¹ (per permit + time - \$2,000 minimum deposit)	\$202	\$258	o
Major Construction Activity Permits			
> Major Construction Activity Permit (per permit)	\$59	\$75	o
Major Plan Check ¹	Time- \$2,500 minimum deposit	No change	
Major Inspection ¹	Time- \$2,500 minimum deposit	No change	
Cash Bond Major Encroachments (may be surety if more than \$10,000)	Per City Engineer	No change	
Post Construction Stormwater Compliance			
Post construction Annual Verification Inspection - Individual Single Family Lot Non-HOA (per lot)	\$194	\$247	o
Post construction Annual Verification Inspection - Single Family HOA (per HOA - first 10 lots)	\$194	\$247	o
Post construction Annual Verification Inspection - Single Family HOA (per HOA - additional lots over 10)	\$55	\$70	o
Post construction Annual Verification Inspection - Commercial (per acre - min. 1 acre)	\$194	\$247	o
Documentation Compliance Review Fee - Individual Single Family Lot (per lot)	\$194	\$247	o
Documentation Compliance Review Fee - HOA (per HOA)			
- First 10 lots	\$194	\$247	o
- Each additional lot after 10th	\$57	\$72	o
Documentation Compliance Review Fee - Commercial (per acre - min. 1 acre)	\$194	\$247	o
Annual State Reporting preparation/filing Fee - Individual Single Family Lot (per lot)	\$70	\$89	o
Annual State Reporting preparation/filing Fee - Single Family HOA (per HOA)	\$135	\$172	o
Annual State Reporting preparation/filing Fee - Commercial (per acre - min. 1 acre)	\$135	\$172	o

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
POLICE DEPARTMENT			
Residential Alarm System Registration Fee (per residential unit)	\$31	\$32	*
Commercial Alarm System Registration Fee (per commercial occupancy)	\$62	\$64	*
Vehicle Release (per vehicle - cash, credit, debit only)	\$157	\$162	*
Police Reports (per report)	\$31	\$32	*
VIN Verification (per vehicle)	\$42	\$44	*
Clearance Letters (Notary fee extra. See Administrative Fees section) (per letter)	\$31	\$32	*
Police Enforcement on Party Ordinance (CMC §6.19.040)	Time - Maximum \$500	No change	
Police Enforcement of DUI Involving Accident (CA Vehicle Code §53150-53158)	Time - Maximum \$12,000	No change	
City Alcohol Beverage Permit	\$59	\$61	*
City Alcohol Beverage Permit	As established by County or agreement w/ Concord	No change	
False Alarm Fee (Fixed per City Ordinance 9.18.060(a)(b))	\$50	No change - fixed	
Tobacco Sales Permit (City Ordinance 8.16.130)	\$90	\$93	*
Tobacco Sales Permit Fee Renewal (City Ordinance 8.16.130)	\$44	\$46	*
Taxicab Permit Fee (City Ordinance 5.36.050) (per taxicab)	\$305	\$315	*
Taxicab Permit Fee - Renewal (City Ordinance 5.36.190) (per taxicab)	\$114	\$118	*
Witness Fees per California Gov. Code §68096.1 if City Employee subpoenaed (per employee subpoena per day + IRS reimbursement min. rate per CA Gov. Code)	\$150	\$275	
Administrative Fee for Failure to Display Disabled Placards per vehicle code §40226 (per violation)	\$28	No change	
Firearms Seizure and Processing Fee (per violation)	\$121	\$125	*
RV Public parking Permit Fee - Bona fide guest of Clayton Resident (per permit)	\$31	\$32	*
RV Public Parking Permit Fee - Clayton Resident	No charge	No change	
Solicitation Permit (Not including live scan. Applicant pays for Livescan directly to Livescan entity) (per permit)	\$81	\$83	*
Citation Sign off for correctable offenses - Non Resident (per citation)	\$25	\$26	*
Citation Sign off for correctable offenses - Resident	No charge	No change	
Late Fee- Parking Violations (per citation)	\$42	\$44	*

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
PUBLIC FACILITIES AND PARKS RENTAL FEES			
Library Meeting Room - Hoyer Hall			
Non-profit (Non-Clayton Based) (per hour)	\$50	\$52	*
Non-profit (Clayton Based) (per hour)	\$26	\$27	*
Resident (per hour)	\$61	\$63	*
Non resident or Commercial (per hour)	\$76	\$78	*
Deposit (for all) - clean up/damage - refundable (per rental)	\$200	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$42	\$44	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$53	\$55	*
Rental Cancellation Fee (30 or more days prior to event)	\$25	\$27	**
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$25 processing fee	50% refund and \$27 processing fee	**
Rental Cancellation Fee (14 days or less)	No refund	No change	
Endeavor Hall Meeting Room			
Non-profits (Clayton-based and Non-Clayton-based Weekdays) (per hour Sun 5pm - Fri 5pm)	\$48	\$49	*
Clayton-based non-profit only (maximum daily weekday rental)	\$121	\$125	*
Non-profits (Clayton-based and Non-Clayton-based Weekends) (per hour Fri 5pm - Sun 5pm)	\$181	\$187	*
Resident - Weekdays (per hour Sun 5pm - Fri 5pm)	\$121	\$125	*
Non-resident or Commercial - Weekdays (per hour Sun 5pm - Fri 5pm)	\$144	\$149	*
Resident - Weekends (per hour Fri 5pm - Sun 5pm)	\$181	\$187	*
Non-resident or Commercial - Weekends (per hour Fri 5pm - Sun 5pm)	\$217	\$224	*
Deposit (all) - no alcohol or beer and wine only (clean up/damage per reservation)	\$500	No change	
Deposit (all) - hard alcohol (distilled spirits) (clean up/damage per reservation)	\$1,000	No change	
Reservation rental time change (same date) (less than 30 days prior to the event)	\$42	\$44	*
Reservation rental date change (less than 90 days prior to event)	\$53	\$55	*
Rental Cancellation Fee (181 or more days prior to event)	95% deposit refund	No change	**
Rental Cancellation Fee (91 - 180 days prior to event)	75% deposit refund	No change	
Rental Cancellation Fee (61 - 90 days prior to event)	50% deposit refund	No change	
Rental Cancellation Fee (31 - 60 days prior to event)	25% deposit refund	No change	
Rental Cancellation Fee (30 days or less prior to event)	No refund	No change	
City Hall 1st Floor Conference Room			
Non-profit (Clayton-based or non-Clayton-based non profits) (per hour)	\$26	\$27	*
Resident (per hour)	\$32	\$33	*
Non-resident or Commercial (per hour)	\$39	\$40	*
Deposit (clean up/damage per reservation)	\$100	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$42	\$44	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$53	\$55	*
Rental Cancellation Fee (30 or more days prior to event)	\$25	\$27	**
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$25 processing fee	50% refund and \$27 processing fee	**
Rental Cancellation Fee (14 days or less)	No refund	No change	

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
City Hall Courtyard			
Non-profit (Clayton-based or non-Clayton-based non profits) (per hour)	\$50	\$52	*
Resident (per hour)	\$61	\$63	*
Non-resident or Commercial (per hour)	\$76	\$78	*
Deposit (clean up/damage per reservation)	\$100	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$42	\$44	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$53	\$55	*
Rental Cancellation Fee (30 or more days prior to event)	\$25	\$27	**
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$25 processing fee	50% refund and \$27 processing fee	**
Rental Cancellation Fee (14 days or less)	No refund	No change	
Clayton Community Park and Related Facilities			
Picnic Areas			
Picnic Area #2 - Resident (flat fee for 4 hours block)	\$19	\$20	*
Picnic Area #2 - Non Resident or Commercial (flat fee for 4 hour block)	\$26	\$27	*
Picnic Area #3 - Resident (flat fee for 4 hours block)	\$19	\$20	*
Picnic Area #3 - Non Resident or Commercial (flat fee for 4 hour block)	\$26	\$27	*
Picnic Area #4 - Resident (flat fee for 4 hour block)	\$44	\$46	*
Picnic Area #4 - Non Resident or Commercial (flat fee for 4 hour block) ²	\$57	\$59	*
Picnic Area #5 - Resident (6 separate areas)			
- 1st 2 tables - flat fee for 4 hours block (per table)	\$37	\$38	*
- Each additional table - flat fee for 4 hour block (per table)	\$6	No change	
Picnic Area #5 - Non Resident or Commercial (6 separate areas)			
- 1st 2 tables - flat fee for 4 hour block (per table)	\$47	\$48	*
- Each additional table - flat fee for 4 hour block (per table)	\$8	No change	
Picnic Area #6 Resident (Large Group Area) (per day)	\$301	\$311	*
Picnic Area #6 Resident (Large Group Area) (per hour - 4 hr min)	\$37	\$38	*
Picnic Area #6 Non Resident or Commercial (Large Group Area) (per day)	\$392	\$405	*
Picnic Area #6 Non Resident or Commercial (Large Group Area) (per hour - 4 hr min)	\$51	\$53	*
Picnic Area #5 & #6 Combined - Resident (per day)	\$482	\$497	*
Picnic Area #5 & #6 Combined - Resident (per hour - 4 hr min)	\$59	\$61	*
Picnic Area #5 & #6 Combined - Non Resident or Commercial (per day)	\$628	\$648	*
Picnic Area #5 & #6 Combined - Non Resident or Commercial (per hour - 4 hr min)	\$79	\$82	*
Picnic Area #7 - Resident (per 4 hour block)	\$48	\$49	*
Picnic Area #7 - Non Resident or Commercial (flat fee for 4 hour block)	\$61	\$63	*
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$42	\$44	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$53	\$55	*
Rental Cancellation Fee (30 or more days prior to event)	\$25	\$27	**
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$25 processing fee	50% refund and \$27 processing fee	**
Rental Cancellation Fee (14 days or less)	No refund	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	
Sports Fields			
Adult Sports Field Rental (per hour)	\$37	\$38	*
Youth Sports Field Rental (per hour)	\$22	\$23	*
Field Rental Change of Time, Same Date (less than 7 calendar days prior to use date)	\$42	\$44	*
Field Rental Change of Date (less than 7 calendar days prior to use date)	\$53	\$55	*
Field Rental Cancellation	No refund less than 14 days prior to use	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Grove Park and Related Facilities			
Entire Facility Security Deposits	Events without food or beverage \$1,500	No change	
Entire Facility Security Deposits	Events with food and beverage \$1,800	No change	
Entire Facility Security Deposits	Events closing street (i.e.: either Main or Center etc.) \$2,200	No change	
Special Event Permit/Application Process (non refundable) - events closing streets (Main or Center etc.) + other permit fees:TUP/NP	\$300	\$310	*
Gazebo only Rental Security Deposit	\$250	No change	
Amplified Sound - damage/security deposit if using City sound equip	\$1,000	No change	
Amplified Sound Equipment Use Fee (Noise Permit also required) (per hour)	\$26	\$27	*
City provided Sound Equipment Tech if needed for use of City equip	Cost	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$42	\$44	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$53	\$55	*
Rental Cancellation Fee (30 or more days prior to event)	\$25	\$27	**
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$25 processing fee	50% refund and \$27 processing fee	**
Rental Cancellation Fee (14 days or less)	No refund	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	
Entire Grove Park Facility			
Rental Entire Facility - Resident -- Weekends (per hour)	\$181	\$187	*
Rental Entire Facility - Resident -- Weekends (per day)	\$1,449	\$1,496	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekends (per hour)	\$181	\$187	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekends (per day)	\$1,449	\$1,496	*
Rental Entire Facility - Non-resident or Commercial -- Weekends (per hour)	\$217	\$224	*
Rental Entire Facility - Non-resident or Commercial -- Weekends (per day)	\$1,739	\$1,795	*
Rental Entire Facility - Resident -- Weekdays (per hour)	\$121	\$125	*
Rental Entire Facility - Resident -- Weekdays (per day)	\$966	\$997	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekdays (per hour)	\$121	\$125	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekdays (per day)	\$943	\$973	*
Rental Entire Facility - Non-resident or Commercial -- Weekdays (per hour)	\$144	\$149	*
Rental Entire Facility - Non-resident or Commercial -- Weekdays (per day)	\$1,275	\$1,316	*
Gazebo Only			
Rental Gazebo only -Resident - Weekends (per hour)	\$126	\$130	*
Rental Gazebo only -Resident - Weekends (per day)	\$1,015	\$1,048	*
Rental Gazebo only -Non-profit (verification req'd) - Weekends (per hour)	\$126	\$130	*
Rental Gazebo only -Non-profit (verification req'd) - Weekends (per day)	\$1,015	\$1,048	*
Rental Gazebo only - Non-resident or Commercial - Weekends (per hour)	\$152	\$157	*
Rental Gazebo only - Non-resident or Commercial - Weekends (per day)	\$1,217	\$1,256	*
Rental Gazebo only -Resident - Weekdays (per hour)	\$90	\$93	*
Rental Gazebo only -Resident - Weekdays (per day)	\$362	\$374	*
Rental Gazebo only -Non-profit (verification req'd) - Weekdays (per hour)	\$90	\$93	*
Rental Gazebo only -Non-profit (verification req'd) - Weekdays (per day)	\$362	\$374	*
Rental Gazebo only - Non-resident or Commercial - Weekdays (per hour)	\$107	\$111	*
Rental Gazebo only - Non-resident or Commercial - Weekdays (per day)	\$435	\$449	*

City of Clayton User Benefit and Regulatory Fees			
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Group Picnic Area (Near Tot Lot)			
Group Picnic Area - Resident - Weekends (per hour - 4 hour minimum)	\$31	\$32	*
Group Picnic Area - Resident - Weekends (per day)	\$210	\$217	*
Group Picnic Area - Non-profit (verification req'd) - Weekends (per hour - 4 hour minimum)	\$31	\$32	*
Group Picnic Area - Non-profit (verification req'd) - Weekends (per day)	\$210	\$217	*
Group Picnic Area - Non-resident or Commercial - Weekends (per hour - 4 hour minimum)	\$37	\$38	*
Group Picnic Area - Non-resident or Commercial - Weekends (per day)	\$253	\$261	*
Group Picnic Area - Resident - Weekdays (per hour - 4 hour minimum)	\$25	\$23	*
Group Picnic Area - Resident - Weekdays (per day)	\$192	\$199	*
Group Picnic Area - Non-profit (verification req'd) - Weekdays (per hour - 4 hour minimum)	\$25	\$26	*
Group Picnic Area - Non-profit (verification req'd) - Weekdays (per day)	\$192	\$199	*
Group Picnic Area - Non-resident or Commercial - Weekdays (per hour - 4 hour minimum)	\$30	\$31	*
Group Picnic Area - Non-resident or Commercial - Weekdays (per day)	\$232	\$239	*
Plaza Picnic Area (Per Table)			
Plaza Picnic Area - Resident - Weekends (per hour - 4 hour minimum)	\$31	\$32	*
Plaza Picnic Area - Resident - Weekends (per day)	\$210	\$217	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekends (per hour - 4 hour minimum)	\$31	\$32	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekends (per day)	\$210	\$217	*
Plaza Picnic Area - Non-resident or Commercial - Weekends (per hour - 4 hour minimum)	\$37	\$38	*
Plaza Picnic Area - Non-resident - or Commercial - Weekends (per day)	\$253	\$261	*
Plaza Picnic Area - Resident - Weekdays (per hour - 4 hour minimum)	\$25	\$26	*
Plaza Picnic Area - Resident - Weekdays (per day)	\$192	\$199	*
Plaza Area - Non Profit (verification req'd) - Weekdays (per hour - 4 hour minimum)	\$25	\$26	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekdays (per day)	\$192	\$199	*
Plaza Picnic Area - Non-resident or Commercial - Weekdays (per hour - 4 hour minimum)	\$30	\$31	*
Plaza Picnic Area - Non-resident or Commercial - Weekdays (per day)	\$232	\$239	*
Fountain operation with geysers (per 48 hour block)	\$391	\$404	*
Special Event Liability Insurance purchased through City's 3rd party carrier	Insurance cost per schedule rates by insurance provider when purchasing insurance through City 3rd party carrier	No change	
Special Event Liability Insurance Administrative Fee (per certificate)	\$37	\$38	*

City of Clayton User Benefit and Regulatory Fees		
Fee Description	Adopted FY 2017-18 Fee	Proposed FY 2018-19 Fee
ADMINISTRATIVE FEES		
Document Copying (10 pages or less)	No charge	No change
Document Copying (per page > 10 pages)	\$0.10	No change - fixed
Document Recording [with County Clerk Recorders Office] (Actual recording fee costs plus staff time & mileage) (per document)	\$125	\$129 *
Trail Maps (per map)	\$2	No change - fixed
Audio Recordings of Meetings (refundable deposit if using city-provided flash drive)	\$22	\$23 *
Printed documents (i.e. general plan, budget, zoning ord., etc.)	Cost	No change
Video Recordings of Meetings	Cost	No change
FPPC Document Copying (per page - State law) (per page)	\$0.10	No change
Notary Public Fee (per document - State law) (per document)	\$15	No change
Business License Initial Registration Fee - New Business	\$65	No change
Duplicate Business License Fee (CMC §5.04.790)	\$13	No change - fixed
Return Check Service Charge (per check return - State law)	\$25	No change - fixed
Late Payment Charges for Administrative Fines	Ten percent (10%) of original fine for every 30 days or portion thereof. The Late Payment Charge shall not exceed 100 percent (100%) of the original fine.	No change
Street Closure Fee	\$121	\$125 *
Administrative penalty for City issued permits after the fact (encroachment permit; tree removal permit, etc.)	Double the original permit fee	No change
Code Enforcement non-compliance re-inspection after the first inspection (in addition to any citation fines) (per inspection)	\$35	\$37 *
NOTES		
"Time" is defined as the cost per hour for an employee at the time the costs are incurred. Costs included salary, benefits, employer taxes, overhead and overtime, as applicable. Time also means City Engineer billing (plus 15%), as well as costs of other contracts and expenses. Detail of costs are available upon request.		
"Cost" is defined as the cost of equipment use, materials, labor, and supplies.		
Deposits are required upon submittal of an application. A minimum deposit is stipulated by these fees. At his/her discretion the City Manager can reduce the required deposit. Also, if it is the judgment of staff a minimum deposit is not sufficient, the required deposit may be increased. If, after a deposit is made, more funds are needed, the applicant will be notified when approx. 30% of the deposit remains, any additional funds estimated by staff are to be provided to replenish the deposit account for continuing work on the project, until such funds are received work on the project may be suspended.		
If a development project requires multiple applications, only a single deposit shall be required. In such cases, the amount of the deposit shall be the largest single deposit required by any of the applications, or an amount determined by the City Manager, not to exceed the sum of the deposits.		
All fixed-cost development application fees are refundable based upon the City amount of staff work completed on the process of the application and subject to approval by the City Manager.		
Audio recordings are kept for 30 calendar days after the minutes are approved.		
* Fees increased over the prior year using the April 2017 to April 2018 CPI factor (3.22%) as published by the United States Bureau of Labor Statistics for the San Francisco-Oakland-Hayward area <u>unless</u> increases were waived in the prior year (or more than one year), whereby aggregated CPI factors were considered.		
** CPI in prior year Master Fee Schedule (FY 2018) did not result in a fee increase due to the CPI impact being too trivial to warrant a full dollar increase as fees are adopted in whole dollars only. As a result, current year increase incorporates a multi-year April to April CPI rate covering two or more calendar years.		
¹ Amount reflects minimum engineering deposit for standard project requirements. However additional amount may be required as determined by the City Engineer for unusual or non-standard circumstances. All costs for inspection and administration relating to this permit shall be deducted from the inspection service deposit(s) or cash bond.		
² This specified Clayton Community Park picnic area is only available for rent in 4 hour block increments.		
o Proposed increase change in rate incorporates new City Engineering services retainer approved by the City Council on August 14, 2017 using the prior City Engineering services retainer in the FY 2017-18 adopted budgeted as a baseline.		
> Indicates fee increases and will take effect 60 days after adoption that may be subject to California Government Code §66017. All other fees will take effect upon adoption of Resolutions.		



CITY OF CLAYTON CITY COUNCIL PUBLIC MEETING NOTICE

The Clayton City Council, at its regular meeting of July 17, 2018, beginning at 7:00 pm or thereafter as may be heard, will consider its annual review and update to the City of Clayton Master Fee Schedule for certain user-benefit and regulatory City services.

The Master Fee Schedule incorporates minor adjustments to existing fees to capture the San Francisco-Oakland-Hayward April 2017 to April 2018 consumer price index (CPI) growth rate of 3.22% published by the United States Bureau of Labor and Statistics. Additionally, other fee changes are being proposed based on a reexamination of the existing factors for the underlying cost drivers (i.e. new contracts, revised wages, etc.) The proposed Master Fee Schedule may be examined for no charge at the City of Clayton City Clerk's Office, 6000 Heritage Trail in Clayton between 9:00 a.m. and 5:00 p.m., Monday through Friday. It is also now available on the City of Clayton website at www.ci.clayton.ca.us.

Interested citizens are invited to attend and participate in the meeting and present written and/or oral testimony concerning the Master Fee Schedule proposal. If one cannot attend the hearing, one may send written comments to the City Clerk prior to the hearing at the address below or via email to jbrown@ci.clayton.ca.us.

The complete staff report will be available on the City's website after 5:00 pm on Friday July 13, 2018. If one has questions concerning the proposal, please contact the Finance Manager at 925-673-7300.

Date Posted on Notice Boards: June 29, 2018

A handwritten signature in blue ink that reads "Kevin Mizuno".

Kevin Mizuno, CPA
Finance Manager



Agenda Date: 7-17-2018

Agenda Item: 3i

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT D. ALMAN, P.E., CITY ENGINEER

DATE: July 17, 2018

SUBJECT: AUTHORIZE THE CITY ENGINEER TO APPROVE A QUALITY ASSURANCE PROGRAM IN COMPLIANCE WITH CALTRANS REQUIREMENTS FOR FEDERALLY FUNDED LOCAL TRANSPORTATION PROJECTS

RECOMMENDATION

It is recommended that the City Council adopt a Resolution to authorize its City Engineer to approve a Quality Assurance Program (QAP) in compliance with Caltrans requirements for federally funded local transportation projects.

BACKGROUND

Federally funded local transportation projects are required by Caltrans to have an approved QAP in place to provide reasonable assurance that products and materials incorporated into the project comply with the project specifications and provide quality and longevity to the overall construction. The QAP must be reviewed and approved by the City's Public Works Director or City Engineer provided that person is a California Registered Engineer. The QAP can be customized by each City in order to work within the City's resources and capabilities of performing quality assurance. QAPs are to be reviewed and re-approved by the City every 5 years.

DISCUSSION

The Caltrans Local Assistance Program Manual offers a template for a local QAP. The Caltrans template contains onerous testing requirements that necessitated revisions to be appropriate to the lesser magnitude of projects constructed by the City. The proposed testing program was replaced with the requirement for Certificates of Compliance to be submitted to the City by each product and/or material supplier.

Subject: Resolution authorizing the City Engineer to approve a Quality Assurance Program
Date: July 17, 2018
Page 2 of 2

FISCAL IMPACT

Federal funds come with requirements that must be complied with in order to pass the project audit after completion of the project. If the post-construction audit is not passed, federal funds can be required to be returned to FHWA. One of the requirements is an approved QAP. If the City does not have an approved QAP the project requirements are not being met and federal funds can be required to be returned.

CONCLUSION

Based on the information provided above, staff recommends the approval of this Resolution authorizing its City Engineer to approve a QAP in compliance with Caltrans requirements for federally funded local transportation projects.

Attachments: Resolution [2 pp.]
Exhibit 1: Quality Assurance Program [13 pp.]

RESOLUTION NO. xx - 2018

A RESOLUTION AUTHORIZING THE CLAYTON CITY ENGINEER TO APPROVE A QUALITY ASSURANCE PROGRAM IN COMPLIANCE WITH CALTRANS REQUIREMENTS FOR FEDERALLY FUNDED LOCAL TRANSPORTATION PROJECTS

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, Caltrans requirements for federally funded local transportation projects include the requirement for a City-approved Quality Assurance Program; and

WHEREAS, the Clayton City Engineer has prepared such a program customizing a template provided by Caltrans for this purpose such that the Program fits the resources of the City and is appropriate to the magnitude of local transportation projects the City typically constructs; and

WHEREAS, the QAP must be approved and signed by the City's Public Works Director or its City Engineer in order to be an acceptable Program; and

WHEREAS, in its accompanying report City staff has recommended the Clayton City Council adopt this Resolution authorizing its City Engineer to approve a Quality Assurance Program in compliance with Caltrans requirements for federally funded local transportation projects;

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Clayton, California does hereby adopt this Resolution authorizing its City Engineer to approve a Quality Assurance Program, attached hereto as "Exhibit 1" and incorporated herein as if fully set forth in this Resolution, in compliance with Caltrans requirements for federally funded local transportation projects.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk



Community Development (925) 673-7340
Engineering (925) 969-8181

6000 Heritage Trail • Clayton, California 94517-1250
Telephone (925) 673-7300 • Fax (925) 672-4917

City Council
Keith Haydon, Mayor
David T. Shuey, Vice Mayor
Tuija Catalano, Councilmember
Jim Diaz, Councilmember
Julie K. Pierce, Councilmember

QUALITY ASSURANCE PROGRAM (QAP)

CITY OF CLAYTON, CA

July 17, 2018

The purpose of this program is to provide reasonable assurance that the materials incorporated into the construction of City of Clayton (CITY) transportation projects off the NHS are in substantial conformance with the contract specifications for those projects. This program shall be updated at the sole discretion of the City Engineer or every five (5) years if there are changes in the testing frequencies or to the tests themselves. To accomplish this purpose, the following terms and definitions will be used:

DEFINITION OF TERMS

Acceptance Testing (AT) – Acceptance, at the sole discretion of the City Engineer, of manufacturer’s and material suppliers’ certificates of compliance for materials required for the construction of said project, or, sampling, testing, or inspection to determine the material’s degree of compliance with contract requirements.

CITY – The City of Clayton, California.

City Engineer – The City Engineer of the City of Clayton, CA as designated by City Council resolution, or the City Engineer’s designee.

Independent Assurance Program (IAP) – Verification that AT is being correctly performed by qualified testers and laboratories. This may be accomplished through the submittal and the City Engineer’s review and approval of certifications of laboratory equipment, procedures and personnel.

Laboratory Engineer – a California registered Engineer with experience in sampling, inspection and testing of construction materials. This Engineer shall certify the results of all tests performed by laboratory personnel under the Laboratory Engineer’s supervision.

Quality Assurance Program (QAP) – A sampling and testing program that will provide reasonable assurance that the materials and workmanship incorporated into the construction project are in substantial conformance with the contract specifications.

Source Inspection – AT of manufactured and prefabricated materials at locations other than the job site, generally at the manufactured location.

Substantial Conformance – City Engineer’s determination that materials incorporated into the construction of City of Clayton (CITY) projects are acceptable to the City Engineer and in the City Engineer’s sole discretion the materials adequately conform to the contract specifications for the specific project.

MATERIALS LABORATORY

CITY will use a private consultant materials laboratory to perform AT on Federal-aid and other designated projects at the discretion of the City Engineer. The materials laboratory shall be under the responsible management of the Laboratory Engineer with experience in sampling, inspection and testing of construction materials. The Laboratory Engineer shall certify the results of all tests performed by laboratory personnel under the Laboratory Engineer’s supervision. The materials laboratory shall contain certified test equipment capable of performing the tests conforming to the provisions of this

QAP.

The materials laboratory used shall provide documentation that the laboratory complies with the following procedures:

1. Correlation Testing Program – The materials laboratory may be a participant in one or more of the following testing programs:
 - a. AASHTO Materials Reference Laboratory (AMRL)
 - b. Cement and Concrete Reference Laboratory (CCRL)
 - c. Caltrans' Reference Samples Program (RSP)
2. Certification of Personnel – The materials laboratory will employ personnel who are certified by one or more of the following:
 - a. Caltrans District Materials Engineer
 - b. Nationally recognized non-Caltrans organizations such as the American Concrete Institute, Asphalt, National Institute of Certification of Engineering Technologies, etc.
 - c. Other recognized organizations approved by the State of California and/or recognized by local governments or private associations.
3. Laboratory and Testing Equipment – The materials laboratory will use laboratory and testing equipment that is in good working order and calibrated at least once each year by impartial means using devices of accuracy traceable to the National Institute of Standards and Technology or other acceptable organization. A decal shall be firmly affixed to each piece of equipment showing the date of the last calibration. All testing equipment calibration decals will be checked as part of the IAP.

ACCEPTANCE TESTING (AT)

AT will be accomplished by the submittal, review and the City Engineer's acceptance of manufacturers' and/or materials suppliers' certificates of compliance for materials incorporated into the construction of City of Clayton (CITY) construction projects. Certificates of Compliance shall provide reasonable assurance that materials incorporated into the contracted work are in substantial conformance with the contract specifications for the materials and products so specified. Any sampling and testing that is required shall be at the sole discretion of the City Engineer and may include sampling and testing performed by the contractor, at the contractor's sole expense, to provide reasonable assurance that the materials and products supplied by the contractor are in substantial conformance with the contract specifications. If required, AT will be performed by a materials laboratory certified to perform the required tests. Testing methods will be in accordance with the CT Methods or a national recognized standard (i.e., AASHTO, ASTM, etc.) as specified in the contract specifications or as approved by the City Engineer.

ACCEPTANCE SAMPLING AND TESTING FREQUENCIES

If required, sample locations and frequencies will be in accordance with the contract specifications, or, if not so specified in the contract specifications, and it is determined by the City Engineer that a sampling and testing program is required, samples may be taken at the locations and frequencies as shown in Table 1 'Appendix D – Acceptance Sampling and Testing Frequencies'.

INDEPENDENT ASSURANCE PROGRAM (IAP)

IAP shall be provided by personnel from Caltrans or consultant's certified materials laboratory, or may be accomplished through the submittal and review of certifications of laboratory equipment, procedures and personnel at the sole discretion of and to the satisfaction of the City Engineer. IAP will

be used to verify that sampling and testing procedures are being performed properly and that testing equipment is in good condition and properly calibrated.

IAP personnel that may be used in this process shall be certified in all required testing procedures, as part of IAP, and shall not be involved in any aspect of AT. At the sole discretion of the City Engineer, IAP will be performed on the types of material tests required for the project. Proficiency tests may be performed on Sieve Analysis, Sand Equivalent, and Cleanness Value tests. All other types of IAP may be witness tests.

Poor correlation between acceptance tester's results and other test results may indicate possible deficiencies with the acceptance sampling and testing procedures. In cases of unresolved discrepancies, a complete review of AT may be performed by IAP personnel, or an independent materials laboratory chosen by CITY, at the sole discretion of the City Engineer. IAP samples and tests are not to be used for determining compliance with contract requirements.

REPORTING ACCEPTANCE TESTING RESULTS

The following are acceptable time periods for reporting material test results to the City Engineer. At the sole discretion of the City Engineer, these reporting time periods may be revised on a case-by-case basis: When the aggregate is sampled at material plants, test results for Sieve Analysis, Sand Equivalent and Cleanness Value should be submitted to the Resident Engineer within 24 hours after sampling or at City Engineer's discretion.

When materials are sampled at the job site, test results for compaction and maximum density should be submitted to the City Engineer within 24 hours after sampling or at City Engineer's discretion.

When soils and aggregates are sampled at the job site:

(1) Test results for Sieve Analysis, Sand Equivalent and Cleanness Value should be submitted to the City Engineer within 72 hours after sampling or at City Engineer's discretion.

(2) Test results for "R" Value and asphalt concrete extraction should be submitted to the Resident Engineer within 96 hours after sampling or at City Engineer's discretion.

When sampling products such as Portland Cement Concrete (PCC), cement-treated base (CTB), hot mix asphalt (HMA), and other such materials; the time of such sampling shall be varied with respect to the time of the day insofar as possible, in order to avoid a predictable sampling routine. The reporting of AT results may be performed on an expedited basis such as by telephone or email at the discretion of the City Engineer.

TESTING OF MANUFACTURED MATERIALS

During the Design phase of the project, the City Engineer may submit a "Source Inspection Request", see Exhibit 16-V of the LAPM, to the consultant, or Caltrans for inspection and testing of manufactured and prefabricated materials by their materials laboratory. A list of materials that can be typically accepted on the basis of certificates of compliance during construction is found in Appendix F of the QAP Manual. All certificates of compliance shall conform to the requirements of the contract specifications, for examples see Appendix J of the QAP Manual. Should the CITY request Caltrans to conduct the source inspection, all sampling, testing, and acceptance of manufactured and prefabricated materials will be performed by Caltrans' Office of Materials Engineering and Testing Services. For Federal-aid projects off the NHS, Caltrans may be able to assist in certifying the materials laboratory, and the acceptance samplers and testers.

PROJECT CERTIFICATION

Upon completion of a Federal-aid project, a "Materials Certificate" will be completed by the City Engineer. CITY will include a "Materials Certificate" in the Report of Expenditures submitted to the Caltrans District Director, Attention: District Local Assistance Engineer. A copy of the "Materials Certificate" will be included in the CITY's construction records. The City Engineer, or their designated

representative, will sign the certificate. All materials incorporated into the work which did not substantially conform to specifications will be explained on the "Materials Certification", including changes by virtue of contract change orders. See Appendix K of the QAP Manual for an example.

RECORDS

All material records of samples and tests, material releases and certificates of compliance for the construction project shall be incorporated into the City Engineer's project file. If a Federal-aid project: When two or more projects are being furnished identical materials simultaneously from the same plant, it is not necessary to take separate samples or perform separate tests for each project; however, copies of the test reports are to be provided for each of the projects to complete the records.

APPROVED: _____
City of Clayton, CA
Scott D. Alman, P.E., City Engineer
C-48104 Exp.: 6-30-2020

DATE: July 17, 2018

Appendix D - Acceptance Sampling and Testing Frequencies

Note: It may be desirable to sample and store some materials. If warranted, testing can be performed at a later date.

Portland Cement (Hydraulic Cement)

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Cement/fly ash (Sampling only)	8-lb. sample	If possible, take a least one sample per job, even if the material is accepted based on a Certificate of Compliance.	ASTM D75, C494 CT 125 AASHTO T127, M85, M295	Standard for sampling hydraulic cement or fly ash.
Cement (Testing Only)	8-lb. sample	If the product is accepted based on a Certificate of Compliance, testing is not required. If the product is not accepted using a Certificate of Compliance, test at least once per job.	ASTM C109 CT 515 AASHTO T106	If testing appears warranted, fabricate six 2-in. mortar cubes using the Portland (or hydraulic cement). Test for compressive strength.

Portland Cement Concrete (Hydraulic Cement Concrete)

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Aggregate for Hydraulic Cement Concrete (Sampling & Testing)	50-lb. sample	Take one aggregate sample for each 1000 cu. yd. of PCC/HCC concrete. Test at least one sample per job.	ASTM D75 CT 125 AASHTO M6, T2, M80	Sample aggregate from belt or hopper (random basis).
Water (Sampling & Testing)	Take a two-quart sample using a clean plastic jug (with lining) and sealed lid. Sample at the point of use.	If the water is clean with no record of chlorides or sulfates greater than 1%, no testing is required. If the water is dirty do not use it. Test only when the chloride or sulfates are suspected to be greater than 1%.	CT 405, CT 422, CT 417 AASHTO R23	If testing appears warranted, test for chlorides and sulfates.



Appendix D (continued)

Portland Cement Concrete (Hydraulic Cement Concrete) – Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description of Comments
Air Entraining Admixtures (Sampling & Testing)	Take a one-quart sample using a clean, lined can or plastic bottle, if liquid. If powder, take a 2.5 lb. sample.	If the product is accepted based on a Certificate of Compliance, testing is not required. Take one sample per job. Prior to sampling, check with Caltrans (METS) for acceptable brands and dosage rates.	ASTM C233 AASHTO M154, T157, C260	If testing appears warranted, test for sulfates and chlorides Admixtures with sulfates and chlorides greater than 1% should not be used.
Water Reducers or Set Retarders (Sampling & Testing)	If liquid, take a 1-qt. sample using a clean plastic can. If powder, take a 2.5 lb. sample.	If the product is accepted based on a Certificate of Compliance, no testing is required. If not, test once per job. Prior to using this product, please check with Caltrans (METS) for acceptable brands and dosage rates.	ASTM C494 AASHTO M194	If testing appears warranted, test for sulfates and chlorides. Admixtures with sulfates and chlorides greater than 1% should not be used.
Freshly-Mixed Concrete (Sampling)	Approx. 150lb. (or 1 cu. ft.) near mixer discharge.	When tests are required, take at least one sample for each 500 to 1000 cu. yd. of PCC/HCC.	ASTM C172, C685 CT 539 AASHTO T141, M157	This describes a method to sample freshly-mixed concrete.
Freshly-Mixed Concrete (Testing)	Approx. 150 lb/ (or 1 cu. ft.) near mixer discharge.	On projects with 500 cu. yd., or more, test at least one sample per job.	ASTM C143 AASHTO T119	This test determines the slump of the freshly-mixed concrete.
Freshly-Mixed Concrete (Testing)	Approx. 150 lb/ (or 1 cu. ft.) near mixer discharge	On projects with 500 cu. yd., or more, test at least one sample per job.	ASTM C360 CT 533	This test determines the ball penetration of the freshly-mixed concrete.
Freshly-Mixed Concrete (Testing)	Approx. 150 lb/ (or 1 cu. ft.) near mixer discharge	On projects with 500 cu. yd., or more, test at least one sample per job.	ASTM C231 CT 504 AASHTO T152	This test determines the air content of freshly-mixed concrete (pressure method).
Freshly-Mixed Concrete (Testing)	Approx. 150 lb/ (or 1 cu. ft.) near mixer discharge	On projects with 500 cu. yd., or more, test at least one sample per job.	ASTM C138 CT 518 AASHTO T121	This test determines the unit weight of freshly mixed concrete.

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Appendix D (continued)

Portland Cement Concrete (Hydraulic Cement Concrete) – Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Freshly-Mixed Concrete (Testing)	Approx. 150 lb/ (or 1 cu. ft.) near mixer discharge	Fabricate at least two concrete cylinders per project. Test for compressive strength at least once for each 500 to 1,000 cu. yd. of structural concrete.	ASTM C39 CT 521 AASHTO T22	This test is used to fabricate 6" x 12" concrete cylinders. Compressive strengths are determined, when needed.
Freshly-Mixed Concrete (Testing)	Approximately 210 lb. of concrete are needed to fabricate three concrete beams.	One sample set for every 500 to 1,000 cu. yd. of concrete.	ASTM C78 CT 31 AASHTO T97 & T23	This test is used to determine the flexural strength of simple concrete beams in third-point loading

Soils and Aggregates

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Aggregate (Sampling)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D75 CT 125 AASHTO T2	This test describes the procedures to sample aggregate from the belt or hopper (random basis).
Fine Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM C128 CT 208 AASHTO T84	This test determines the apparent specific gravity of fine aggregates for bituminous mixes, cement treated bases and aggregate bases.
Fine Aggregate (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM C128 CT 207 AASHTO T84	This test determines the bulk specific gravity (SSD) and the absorption of material passing the No. 4 sieve.
Coarse Aggregate (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	CT 206	This test determines the cleanness of coarse aggregate.

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Appendix D (continued)

Soils and Aggregates - Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Coarse Aggregate (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM C127 CT 227 AASHTO T85	This test determines the specific gravity and absorption of coarse aggregate (material retained on the No. 4 sieve).
Soils and Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM C136 CT 202 AASHTO T27	This test determines the gradation of soils and aggregates by sieve analysis.
Soils and Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D2419 CT 217 AASHTO T176	This test determines the Sand Equivalent of soils and aggregates.
Soils and Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM C117 AASHTO T11	This test determines the gradation for materials finer than the No. 200 sieve (by washing method).
Soils and Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D3744 CT 229 AASHTO T210	This test determines the Durability Index of soils and aggregates.
Soils and Aggregates (Testing)	One 50-lb. sample	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D2844 CT 301 AASHTO T190	This test determines the Resistance Value (R-) and expansion pressure of compacted materials.
Soils and Aggregates (Testing)	One random location for every 2,500 sq. ft.	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D2922 CT 231 AASHTO T238	This test determines field densities using the nuclear gage.
Soils and Aggregates (Testing)	One random location for every 2,500 sq. ft.	Take one sample for every 500 to 1,000 tons of materials. Test at least one sample per project.	ASTM D3017 CT 231 AASHTO T239	This test determines the water content using the nuclear gage.

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Appendix D (continued)

Asphalt Binder

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Asphalt Binder (Sampling)	One 0.5-gal. sample placed in a clean, sealed can.	Sample once per job at the asphalt concrete plant.	CT 125 ASTM D 979 AASHTO T 168, T48	This procedure describes the proper method to sample the asphalt binder.
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Sample once per job at the asphalt concrete plant.	ASTM D92, D117 AASHTO T 48	This test determines the flash point of the asphalt binder (by Cleveland open cup).
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D2872 & D92 CT 346 AASHTO T240 &T48	This test determines the rolling thin-film oven test (RTFO).
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D2042 AASHTO T44	This test determines the solubility of asphalt material in trichloroethylene.
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D2171 AASHTO T202	This test determines the dynamic viscosity, (absolute viscosity of asphalt @ 140 degrees F by the Vacuum Capillary Viscometer Poises).
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D5 AASHTO T49	This test determines the penetration of bituminous material @ 77 degrees F and percentage of original penetration from the residue.
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D113 AASHTO T51	This test determines the ductility of asphalt @ 77 degrees F.
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D2170 AASHTO T201	This test determines the kinematic viscosity of asphalt @275 degrees F (Centistoke).



Appendix D (continued)

Asphalt Binder - Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D2171 AASHTO T202	This test determines the dynamic viscosity. (absolute viscosity of asphalt @ 140 degrees F by the Vacuum Capillary Viscometer Poises).
Asphalt Binder (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D36 AASHTO T53	This test determines the softening point of asphalt.

Asphalt Emulsified

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Emulsified Asphalt (Sampling)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D140, D979 CT 125 AASHTO T 40, T168	This test describes the procedure to sample the emulsified asphalt.
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D244 AASHTO T59	This test determines the sieve retention of emulsified asphalt.
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D244 AASHTO T59	This test determines the weight per gallon of emulsified asphalt.
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D244 AASHTO T59	This test determines the penetration of the emulsified asphalt.
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D244 CT 330 AASHTO T59	This test determines the residue @ 325 degrees F evaporation of emulsified asphalt.

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Appendix D (continued)

Asphalt Emulsified - Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D4402 AASHTO T201	This test determines the Brookfield viscosity.
Emulsified Asphalt (Testing)	One 0.5-gal. sample placed in a clean, sealed can.	Obtain one sample at the asphalt concrete plant for each 1,000 tons of asphalt concrete placed.	ASTM D88 AASHTO T72	This test determines the Saybolt-Furol viscosity of emulsified asphalt @ 77 degrees F (seconds).

Hot Mix Asphalt (Asphalt Concrete) – Concrete

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Asphalt Concrete (Sampling)	Obtain one 30-lb. sample each day of production	Obtain one sample at the asphalt concrete plant for each 5,000 tons of asphalt concrete placed.	ASTM D75, D140, D979 CT 125 AASHTO T 40, T168	This test describes the procedure to sample the asphalt concrete.
Asphalt Concrete (Testing)	4" x 8" cores	Take one 4" x 8" core for every 500 ft of paved roadway.	ASTM D1188, D1560, D1561, D5361 CT 304 AASHTO T246, T247	This test determines the field density of street samples.
Asphalt Concrete (Testing)	Obtain one 30-lb. sample for each day of production	Obtain one sample for every five cores taken.	ASTM D1188, D1560, D1561, D5361 CT 304 AASHTO T246, T247	This test determines the laboratory density and relative compaction of asphalt concrete.
Asphalt Concrete (Testing)	4" x 8" cores	Obtain one sample for every five cores taken.	ASTM D2726, D1188, D5361	This test determines the specific gravity of compacted bituminous mixture dense- graded or non-absorptive.

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Appendix D (continued)

Hot Mix Asphalt (Asphalt Concrete) –Continued

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Asphalt Concrete (Testing)	One 30-lb sample	Obtain one sample for every 1,000 tons of asphalt concrete.	ASTM D1559 AASHTO T245	This test determines the resistance to plastic flow of prepared mixes as determined by the Marshall Method.
Asphalt Concrete (Testing)	One 30-lb sample	Obtain one sample for every 1,000 tons of asphalt concrete.	ASTM C117, D2172 (use Method B) AASHTO T164	This test determines the screen analysis of aggregates recovered from asphalt materials.
Geotextile Fabric (Placed Under the Asphalt Concrete) (Testing)	One 12 ft. x 3 ft. sample	Obtain one sample per job.	ASTM D4632 AASHTO M288	This test determines the weight per sq. yd. and grabs strength of geotextile fabrics.
Asphalt Concrete (Testing)	Sample any test location (random basis)	Obtain one sample for every 1,000 tons of asphalt concrete.	ASTM D2950 CT 375	This test determines the nuclear field density of in-place asphalt concrete.
Asphalt Concrete (Testing)	One 10-lb sample	Obtain one sample during every day of production.	ASTM D1560, D1561 CT 366 AASHTO T246, T247	This test determines the stability value of asphalt concrete.
Slurry Seals (Sample)	One 0.5 gal. sample in a clean, dry plastic container.	Obtain one sample per truck	ASTM D979 CT 125 AASHTO T 40, T168	This test describes the procedure for sampling the slurry seal.
Aggregate for Slurry Seals (Testing)	One 30-lb. sample.	Obtain at least one sample per project from the belt or hopper or stockpile and test for Sand Equivalent	ASTM D2419 CT 217 AASHTO T176	This test determines the Sand Equivalent of aggregates.

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Appendix D (continued)

Slurry Seals

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Aggregate for Slurry Seals (Testing)	One 30-lb. sample.	Obtain at least one sample per project from the belt, hopper, or stockpile and test for sieve analysis of fine sand.	ASTM C117 AASHTO T11	This test determines the sieve analysis of fine sand (gradation of materials finer than No. 200 sieve by wash grading).
Slurry Seals (Testing)	One 0.5 gal. sample in a clean, dry plastic container.	Test one sample per project and test for Abrasion.	ASTM D3910	This test determines the Wet Track Abrasion Test (2) (WTAT).

Steel

Materials to be Sampled or Tested	Sample Size	Sampling/Testing Frequency	Typical Test Methods	Description or Comments
Steel Strand (Testing)	Sample strand at various sizes.	This item may be accepted using a Certificate of Compliance. Sample and test at least two steel strands per job when a Certificate of Compliance is not used.	ASTM A370, A416, E328 AASHTO T244	This test determines the tensile strength of uncoated seven-wire stress-relieved strand for pre-stressed concrete.
Steel Rebar (Testing)	Sample rebar at various sizes.	This item may be accepted using a Certificate of Compliance. Sample and test at least two steel rebar per job when a Certificate of Compliance is not used.	ASTM A615, A370 AASHTO T244	This test determines the steel reinforcement bar tensile strength and bend capability.

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Agenda Date: 7-17-2018

Agenda Item: 3j

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: July 17, 2018

SUBJECT: ADOPT A RESOLUTION ADJUSTING AND APPROVING PAY RATE SCHEDULES FOR CERTAIN TEMPORARY AND HOURLY WAGE POSITIONS IN THE CITY EMPLOYMENT ORGANIZATION

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution adjusting and authorizing increased wage rate schedules for temporary and hourly wage positions of the City, which have not been adjusted since 2014 (4 years ago).

BACKGROUND

In July 2014 the City Council approved adjustments of temporary/seasonal employee pay rates to be set from \$11.00 - \$15.00 per hour wage range, as recommended by the City Manager. To remain competitive with both private sector and other public sector employment bases and to attract qualified individuals, it is deemed appropriate to bump these hourly wage positions by at least the increase in the Consumer Price Index (CPI) for the San Francisco-Oakland-Hayward metropolitan statistical area.

DISCUSSION

Currently, the City's singular part-time crossing guard has been employed since November 2004 and has not had a rate increase since that time. In addition, the part-time Endeavor Hall facilities attendant has been employed with the City since October 2008 and received her first rate increase in August 2016. Both of these positions provide a valuable service to the community on a part-time basis, which would be difficult to fill if they decided to seek full-time employment elsewhere.

FISCAL IMPACT

It is projected this slight increase in City pay rates will retain and attract the qualified and experienced workers to these temporary positions. Raising the pay scale for these workers will have minimal financial impact on the adopted Budget yet offer a much needed boost to the productivity side of the equation.

Attachments: Resolution - 2 pages
Spreadsheet analyzing hourly wage/range changes – 1 page

RESOLUTION NO. xx- 2018

A RESOLUTION ADJUSTING AND APPROVING PAY RATE SCHEDULES FOR CERTAIN HOURLY WAGE POSITIONS WITHIN THE CITY OF CLAYTON'S EMPLOYMENT ORGANIZATION

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the Personnel Rules and Regulations of the City of Clayton (the "Personnel Rules") recognize two (2) general categories of employment within the City's public agency organization, namely Classified and Hourly Wage employees; and

WHEREAS, Hourly Wage employees are granted only limited employee benefits (e.g. workers compensation coverage) and are those individuals employed by the City in positions generally referred to as "temporary" or "part-time" working less than 1,000 hours in any fiscal year period; and

WHEREAS, said Personnel Rules specify Hourly Wage employees will be paid at a rate to be determined and approved by the City Manager, and the City Council shall set a maximum hourly rate for each position within the Hourly Wage job classification; and

WHEREAS, the City presently utilizes four (4) job classifications wherein individuals are currently employed as Hourly Wage employees: 1. Maintenance Worker – Trainee; 2. Maintenance Worker – Seasonal; 3. Endeavor Hall Facilities Attendant; and 4. Crossing Guard; and

WHEREAS, the City has not modified its associated wage rates for these employment classifications since 2014 and it is deemed desirable for the City to do so now to remain competitive in the local job market for the employment of seasonal and temporary workers to provide essential public services; and

WHEREAS, the applicable current wage rates or ranges of these temporary employment classifications have been analyzed as to appropriate increases considering the State of California's minimum wage schedule through January 2022 and the associated increase in the Bay Area Consumer Price Index (CPI) to determine the recommended new wage rates;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California, upon the recommendation of its City Manager, does herein modify, authorize and approve the following pay rate schedules for each of the following City's Hourly Wage job classifications:

1. Maintenance Worker – Trainee*

Ages 16 through 17 years old (*must possess approved Minor's Work Permit)

- Entry Level Pay: starts at prevailing Minimum Wage and cannot exceed \$14.50 per hour, with allowable pay rate increases subject to performance

raises approved by the City Manager and in increments not to exceed \$1.00 per hour per month worked.

2. Maintenance Worker – Seasonal

Ages 18 years or older

- Entry Level Pay: starts at \$14.50 per hour and cannot exceed \$17.00 per hour, with allowable pay rate increases subject to performance raises approved by the City Manager.

3. Endeavor Hall Facilities Attendant

- Pay starts at \$14.50 per hour and cannot exceed \$17.00 per hour, with allowable pay rate increases subject to performance raises approved by the City Manager.

4. Crossing Guard

- Pay starts at \$17.00 per hour and cannot exceed \$19.00 per hour, with allowable pay rate increases subject to performance raises approved by the City Manager.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

Temp Position	Current Wage or Range	<p style="text-align: center;">Δ</p> (July 2014- April 2018) CPI Adjustment	State Minimum Wage Schedule	Proposed Ranges
Maintenance Worker - Trainee (Ages 16 to 17 years old)	Entry Level: cannot exceed \$11.00 per hour Journey Level - cannot exceed \$13.00 per hour	11.88%	<u>January 2018</u> \$11.00 per hour <u>January 2019</u> \$12.00 per hour <u>January 2020</u> \$13.00 per hour <u>January 2021</u> \$14.00 per hour <u>January 2022</u> \$15.00 per hour	\$ Min. Wage - \$14.50 per hour
Maintenance Worker- Seasonal (Ages 18 years or older)	Entry Level - cannot exceed \$13.00 per hour Journey Level - cannot exceed \$15.00 per hour	11.88%		\$14.50 - \$17.00 per hour
Facility Attendant (1)	\$13.00 per hour	11.88%		\$14.50 - \$17.00 per hour
Crossing Guard (1)	\$11.83 per hour	<p style="text-align: center;">Δ</p> June 2004 - June 2018 199.0 to 283.422 42.42%		\$17.00 - \$19.00 per hour



Agenda Date: 7-17-18

Agenda Item: 3K

Approved:

Gary A. Napper,
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Kevin Mizuno, Finance Manager
MEETING DATE: July 17, 2018
SUBJECT: California Franchise Tax Board Reciprocal Agreement Renewal

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution (Attachment 1) renewing and approving a reciprocal agreement with the California Franchise Tax Board to exchange tax data specific to City Business License Information for mutual tax administration and collection purposes, and authorizing the City Manager to execute the agreement on behalf of the City of Clayton.

BACKGROUND

The City of Clayton, like many other cities within the state, has a local ordinance (No. 181 approved May 17, 1978) which requires each business, trade, and profession calling and conducting business within the City's jurisdiction to register with the City and pay a business license tax. The ordinance specifies that it is unlawful for a person to transact business, trade, profession, calling or occupation within the City without a business license or without compliance with City Ordinance No. 181.

Despite its best efforts within limited budgetary resources, and a temporary City Business License Amnesty Program declared during FY 2010-11 following the Great Recession, the City routinely has difficulty ensuring every business or trade conducting transactions within the city obtains and pays for a business license, thereby resulting in the potential loss of general tax revenues for the operations of its local government as intended by Ordinance No. 181. The California Tax Franchise Board (FTB) shares similar difficulties in ensuring every business or trade, as an individual or an entity, conducting transactions within the state is filing and paying its annual fair share of state income taxes.

In order to address this situation Senate Bill 1146 (Chapter 345, Statutes of 2008) was enacted and became effective January 2009. This legislation allows the FTB and

participating cities in the state to begin exchanging data with one another through a reciprocal agreement to enhance and improve the identification of business conducting transactions within a city and within the state for the purpose of respective tax requirements. The legislation does not allow the City to share any of the collected information received from the FTB with a third party. *Clayton Municipal Code* section 5.04.090 B requires City confidentiality of all information concerning the business affairs and operations set forth in a City Business License application but expressly does not prohibit the disclosure of this information to state officials if a reciprocal agreement exists.

Acknowledging the usefulness of this information exchange in improving enforcement of existing laws as they pertain to business licenses, on April 5, 2011 the City Council approved Resolution No. 09-2011 approving Agreement No. C1000205 with the FTB and then authorized the City Manager to execute an agreement on behalf of the City of Clayton. The agreement covered the approximately two and a half year timeframe June 1, 2011 through December 31, 2013.

DISCUSSION

Since the prior reciprocal agreement with the FTB expired on January 1, 2014, the City of Clayton no longer has access to FTB information critical in identifying businesses operating illegally in the City without obtaining a business license. Although other techniques have been applied to discover businesses operating in the city without a license, it is expected the availability of FTB information will greatly improve the results and effectiveness of these efforts. Similarly, the exchange of City business license data helps the FTB identify self-employed individuals who are not filing required individual and business entity state income tax returns.

Upon inquiry with the FTB, the City was provided a new reciprocal agreement document (Attachment 2) covering the approximately two and a half year timeframe June 1, 2018 through December 31, 2020. In substance, the terms of the new agreement (No. C1700267) are consistent to that of the prior reciprocal agreement (No. C1000205). Important information exchanged in this agreement includes: business or owner's name, business or residence address, federal employer identification number, ownership type, North American Industry Classification (NAIC) Code, Standard Industry Classification (SIC) Code, business start and cessation dates, etc.

As of June 2018, sixty-one (61) cities participate in this reciprocal business information exchange program with the FTB. Nearby participating cities include the cities of: Pittsburg, Walnut Creek, Richmond, Oakland, and San Francisco. Each of these cities, including the City of Clayton, has implemented this reciprocal information sharing agreement with positive results.

FISCAL IMPACT

The approval of the attached resolution will have no negative fiscal impact or result in any immediate budgetary action to the FY 2018-19 adopted budget. Staff projects an extended information exchange agreement with the FTB will continue to improve enforcement of business license requirements and possibly increase business license revenues, although the amount of increased revenue is unknown at this time. It is expected some minor additional staff time and mailing costs for sending out notification letters will be required, however an increase in revenue will offset any minor costs for continued implementation.

- Attachments: 1. Resolution __-2018 (3 pp.)
- Exhibit A - Agreement No. C1700267 with the California Franchise Tax Board (11 p.)

RESOLUTION NO. ___-2018

A RESOLUTION APPROVING AGREEMENT NO. C1000205 WITH THE CALIFORNIA FRANCHISE TAX BOARD ALLOWING THE CITY OF CLAYTON TO ENTER INTO A RECIPROCAL AGREEMENT TO EXCHANGE TAX DATA SPECIFIC TO CITY BUSINESS LICENSE INFORMATION FOR MUTUAL TAX ADMINISTRATION AND COLLECTION PURPOSES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN BEHALF OF THE CITY OF CLAYTON, CA

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, on 17 May 1978 by Ordinance No. 181, the City Council of Clayton, California ("City") did impose upon each business, trade, profession, calling and occupation conducting business within the City's jurisdiction a license tax commonly referred to as a "City Business License"; and

WHEREAS, by authority established in said local ordinance, it is unlawful for a person to transact business, trade, profession, calling or occupation within the city without a City Business License or without compliance with City Ordinance No. 181; and

WHEREAS, despite its best efforts within available budgetary resources and a City Business License Amnesty Program declared during FY 2009-10, the City routinely has difficulty ensuring every business or trade conducting transactions within the city obtains and pays its fair share for a City Business License, thereby resulting in the potential loss of general tax revenues for the operations of its local government as intended by Ordinance No. 181; and

WHEREAS, the California Tax Franchise Board (FTB) shares similar difficulties with the City ensuring every business or trade, as an individual or an entity, conducting transactions within the state is paying its annual fair share of state income taxes; and

WHEREAS, effective January 2009, and as a result of the enactment of Senate Bill 1146 (Chapter 345, Statutes of 2008), the FTB and participating cities in the state may begin exchanging data with one another through a reciprocal agreement to enhance and improve the identification of businesses conducting transactions within a city and within the state for the purpose of respective tax requirements; and

WHEREAS, the exchange of City Business License data helps the FTB identify self-employed individuals who are not filing required individual and business entity state

income tax returns, and the FTB data will aid the City in identifying businesses that may have a City Business License tax filing obligation; and

WHEREAS, Section 5.04.090 B. of Chapter 5.04 – Business Licenses And Taxes Generally of the *Clayton Municipal Code* (i.e. City Ordinance No. 181) requires City confidentiality of all information concerning the business affairs and operations set forth in a City Business License application but expressly does not prohibit the disclosure of this information to state officials if a reciprocal agreement exists; and

WHEREAS, the City of Clayton did previously execute a reciprocal business information sharing agreement with the FTB beginning on June 1, 2011 which expired on December 31, 2013; and

WHEREAS, other than a nominal expense to share respective data information there is no cost to either party for the exchange of this data, and 61 cities, including the nearby cities of Pittsburg, Walnut Creek, Richmond, Oakland, and San Francisco have each previously exercised this FTB reciprocal agreement with positive program results.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby find and determine the above Recitals are true and correct statements of fact and thereby individually and collectively form a substantial basis for its approval of a Reciprocal Agreement with the California Franchise Tax Board (No. 1700267, attached hereto as “Exhibit A” and incorporated herein as if fully set forth in this Resolution) to establish and initiate the City’s participation in the Franchise Tax Board’s data exchange program authorized by California Senate Bill 1146 (2008 Statutes); and

BE IT FURTHER RESOLVED that the Clayton City Council does hereby authorize its City Manager to execute and administer the FTB Reciprocal Agreement (attached hereto as “Exhibit A”) for and in behalf of the City of Clayton, California.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The City Council of Clayton, CA

Keith Haydon, Mayor

ATTEST:

Janet Brown, City Clerk

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER C1700267
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME Franchise Tax Board
CONTRACTOR'S NAME City of Clayton
- The term of this Agreement is: **June 1, 2018 or date of approval, whichever is later, through December 31, 2020**
- The maximum amount of this Agreement is: **\$ 0.00**
NON-FINANCIAL AGREEMENT
- The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	3 pages
Exhibit C* – General Terms and Conditions	GTC417
Exhibit D – Special Terms and Conditions	3 pages
Exhibit E – City/County Record Layout Specifications	2 pages
Exhibit F – FTB Record Layout Specifications	1 page
Exhibit G – Confidentiality Statement	1 page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.dqs.ca.gov/ols/Resources/StandardContractLanguage.aspx>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Clayton		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 6000 Heritage Trail, Clayton, CA 94517-1250		
STATE OF CALIFORNIA		
AGENCY NAME Franchise Tax Board		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Michael A. Banuelos, Procurement and Contracting Officer or Designee		
ADDRESS P.O. Box 2086, Rancho Cordova, CA 95741-2086		
		<input checked="" type="checkbox"/> Exempt per: SCM 1 - 4.04.A.2.

EXHIBIT A
SCOPE OF WORK

This Agreement is entered into by and between the Franchise Tax Board, herein after referred to as (FTB), and the City of Clayton, herein after referred to as the City.

Purpose:

This Agreement provides for the reciprocal exchange between FTB and the City tax data specific to city business license information for tax administration purposes. By entering into a reciprocal agreement, each party agrees to bear its own costs of providing the data, and the City is precluded from obtaining reimbursement.

Both parties will abide by the legal and confidential provisions of this Agreement. Exhibits A, C, D, E, F, and G, attached hereto and incorporated by reference herein, set forth additional terms to which the parties agree to be bound.

No Federal Tax Information will be exchanged.

Legal Authority:

California Revenue and Taxation Code (R&TC) Section 19551.1 authorizes a reciprocal agreement for the exchange of specified tax information between a City/County and FTB. R&TC Section 19551.5 mandates cities/counties to provide city/county business licensing and tax information to FTB upon request.

City Responsibilities:

1. The City agrees that the information provided by FTB will be used exclusively to administer the City/County Business Tax Program.
2. The City agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or in any other form for any purpose; and will only be accessed or used by City employees whose duties are to administer the City/County Business Tax Program.
3. The City agrees to provide FTB with tax information pursuant to Format Specifications, Exhibit E, which shall include, but not be limited to, the following:
 - Business or owner's name
 - Business or residence address
 - Federal Employer Identification Number (FEIN) or Social Security Number (SSN)
 - Ownership type
 - North American Industry Classification Code or Standard Industry Classification Code
 - Business start and cessation dates
 - City Business Tax Number, to be assigned to the City by FTB
4. The City agrees to extract and provide city data to FTB annually in June for each tax year that the Agreement is in place: June 2018, 2019, and 2020. If the Agreement is executed after June 30, 2018, the City will have 30 days after execution to provide FTB with the first year's data.

EXHIBIT A
SCOPE OF WORK

5. The City agrees to submit the records to FTB electronically using FTB's Secure Web Internet File Transfer (SWIFT) system.
6. The City agrees to submit the records to FTB in ASCII fixed-length format, .txt, per the Format Specifications, Exhibit E.
7. The City agrees to resubmit data in the event data is initially submitted with errors. The resubmission of data must be within 30 days of notification. If data is not submitted accurately and timely, the City will forfeit its rights to FTB data for that year.
8. The City agrees that each City employee having access to FTB data shall sign a City/County Business Tax Program Confidentiality Statement, Exhibit G, and FTB 712. The signed statement is to be retained by the City and produced to FTB upon request.
9. The City agrees to submit to FTB a completed Safeguard Review Questionnaire prior to receiving any FTB data. The Safeguard Review Questionnaire is valid for the duration of the Agreement.
10. The City agrees to provide a copy of the resolution, order, minutes reflecting passage of a motion, or ordinance of the local governing body authorizing the execution of the Agreement.

FTB Responsibilities:

1. FTB agrees that information provided by the City will be used for tax administration and non-tax programs that FTB administers and may be shared with other state or federal agencies as authorized by law.
2. FTB agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or in any other form for any purpose, except as provided in paragraph 1 or otherwise authorized by law.
3. FTB agrees to provide the City with data extracted from the Taxpayer Information (TI) system and Business Entities Tax System (BETS). FTB will provide the City with records for taxpayers within the City's jurisdiction who indicate a business on their personal or business entity income tax return. The Record Layout, Exhibit F, FTB 909A shall include:
 - Taxpayer name
 - Taxpayer address
 - Taxpayer SSN or FEIN
 - Principal Business Activity code
4. FTB agrees to match the data provided by the City using the SSN or FEIN against FTB's data with a "Yes" or "No" indicator on the Record Layout, Exhibit F, FTB 909A. The first year's data match is at the discretion of FTB based on when the data is received from the City and processed.

EXHIBIT A
SCOPE OF WORK

5. FTB agrees to provide the City with an annual data extract in December 2018 for tax year 2017, in December 2019 for tax year 2018, and in December 2020 for tax year 2019 via SWIFT.
6. FTB agrees to register the City for a SWIFT account allowing for the secure electronic transmission of data.
7. FTB agrees to provide the City with a unique City Business Tax Number to be used for reporting purposes only.
8. FTB agrees to allow the City to resubmit data within 30 days of notification, in the event data is initially submitted with errors.

Project Coordinators:

The project coordinators during the term of this Agreement will be:

Franchise Tax Board

Felicia Hicks
City/County Business Tax Program Manager
Data Resources and Services Unit
P.O. Box 1468, Mailstop A181
Sacramento, CA 95812-1468
Phone: (916) 845-6304
Email: FTB_CCBT@ftb.ca.gov

City of Clayton

Kevin Mizuno, CPA
Finance Manager
6000 Heritage Trail
Clayton, CA 94517-1250
Phone: (925) 673-7309
Email: kmizuno@ci.clayton.ca.us

Return executed agreement to:

Franchise Tax Board

TaNita Guereca
Business Acquisitions Unit
P.O. Box 2086, Mailstop A-374
Rancho Cordova, CA 95741-2086
Phone: (916) 845-7199
Fax: (916) 843-1089

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. **DATA OWNERSHIP:** The confidential tax information or sensitive information being provided under this Agreement remains the exclusive property of the FTB. Confidential tax and sensitive data/information are not open to the public and require special precautions to protect from loss and unauthorized use, disclosure, modification, or destruction. The City (or County) shall have the right to use and process the disclosed information for the purposes stated in the Scope of Work of Exhibit A of this Agreement, which right shall be revoked and terminated immediately upon termination of this Agreement.
2. **STATEMENT OF CONFIDENTIALITY:** The FTB has tax returns and other confidential data in its custody. Unauthorized inspection or disclosure of federal returns and other confidential data is a misdemeanor or a felony (R&TC Sections 19542, 19542.1, 19542.3 and 19552 and Government Code Section 90005).

Upon the approval of this agreement and prior to any access to the confidential or sensitive data of the FTB. Each City (or County) employee who may have access to the confidential data of FTB will be required to sign a City/County Business Tax Program Confidentiality Statement, Exhibit G, FTB 712, attesting to the fact that he/she is aware of the confidentiality of the data and the penalties for unauthorized disclosure thereof under applicable state and federal law. The signed statement(s) shall be retained by the City (or County) and furnished to FTB upon request

3. **USE OF INFORMATION:** The City (or County) agrees that the information furnished or secured pursuant to this Agreement shall be used solely for the purposes described in the Scope of Work of Exhibit A. The City (or County) further agrees that information obtained under this Agreement will not be reproduced, published, sold or released in original or in any other form for any purpose other than as identified in this section.
4. **EMPLOYEE ACCESS TO INFORMATION:** Both FTB and the City (or County) receiving data agree that the information obtained will be kept in the strictest confidence and shall make information available to its own employees only on a "need to know" basis. The "need to know" standard is met by authorized employees who need the information to perform their official duties in connection with the uses of the information authorized by this Agreement. Each party receiving data recognize(s) their responsibility to protect the confidentiality of the information in its custody as provided by law and ensure that such information is disclosed only to those individuals and for such purposes as authorized by law and this Agreement.
5. **PROTECTING CONFIDENTIAL INFORMATION/ INCIDENT REPORTING:** Both agencies, receiving data, in recognizing the confidentiality of the information to be exchanged, pursuant to this agreement from unauthorized disclosure. Both agencies receiving data will conduct oversight of its users with access to the confidential information provided under this agreement and will immediately notify the FTB's Information Security Audit Unit (SecurityAuditMail@ftb.ca.gov) of any unauthorized or suspected unauthorized accesses, uses and/or disclosures (incidents). For purposes of this section, immediately is defined as within 24 hours of the discovery of the breach. The notification must describe the incident in detail and identify responsible personnel (name, title, and contact information). The City (or County) with an incident will comply with the incident reporting requirements in accordance with R&TC Section 19542.1, Civil Code Section 1798.29, SAM Chapter 5300, and SAM Section 20080 to facilitate or fulfill the required reporting to the taxpayers or state oversight agencies.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

6. INFORMATION SECURITY: Information security is defined as the preservation of the confidentiality, integrity, and availability of information. A secure environment is required to protect the confidential information obtained from FTB pursuant to this agreement. The City (or County) receiving data will store information so that it is physically secure from unauthorized access. The records received by the City (or County) will be securely maintained and accessible only by employees of the City (or County) business license or tax programs who are committed to protect the data from unauthorized access, use, or disclosure. All FTB electronic data must be encrypted when in transit using FIPS 140-2 approved encryption technology and be password protected and secure at all times when in storage. Confidential information obtained from the FTB must be secured in accordance with the State Administrative Manual, Chapters 5100 (EDP Standards) and 5300 (Information Security); National Institute of Standards and Technology (NIST) Special Publication 800-53 (moderate); and additional security requirements provided by FTB.
7. CLOUD COMPUTING ENVIRONMENT: A Cloud Computing Environment cannot be used to receive, transmit, store or process FTB's confidential data without prior written approval from FTB's Chief Security Officer.
8. DESTRUCTION OF RECORDS: All records received by the City (or County) from FTB, and any database(s) created, copies made, or files attributed to the records received, will be returned or destroyed within three years of receipt or upon termination of the agreement due to a breach of its terms, whichever occurs earlier. The records shall be destroyed in a manner to be deemed unusable or unreadable, and to the extent that an individual record can no longer be reasonably ascertained. The City (or County) will notify FTB City/County Business Tax program manager annually in writing at FTB_CCBT@FTB.CA.GOV that proper destruction methods have been applied. FTB will destroy city/county data in accordance with the department's data retention policies.
9. DISPUTE RESOLUTION: In the event of a dispute, the City (or County) shall file a "Notice of Dispute" with the Chief Financial Officer of the FTB within ten (10) days of discovery of the problem. Within ten (10) days, the Chief Financial Officer or his/her designee shall meet with the City (or County) for purposes of resolving the dispute. The decision of the Chief Financial Officer shall be final.
10. SAFEGUARD REVIEW QUESTIONNAIRE AND REVIEW: Prior to sending data to the City (or County), FTB requires the City (or County) to submit a Safeguard Review Questionnaire certifying the protection and confidentiality of FTB data. The City (or County) will be provided a minimum of seven (7) days' notice prior to an on-site safeguard review being conducted by FTB. FTB retains the right to conduct on-site safeguard reviews of the City (or County) use of FTB information and security controls established. The safeguard reviews may include, but are not limited to an examination of the adequacy of information security controls, "need to know," and use justifications established by the City (or County) to ensure compliance with the terms and conditions of this agreement. The City (or County) will take appropriate disciplinary actions against any user determined to have violated security or confidentiality requirements.
11. LIMITED WARRANTY: Neither party represents or warrants the accuracy or content of the material available through this Agreement, nor each expressly disclaims any express or implied warranty, including any implied warranty of fitness for a specific purpose.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

12. CANCELLATION: Either party may terminate this Agreement, in writing for any reason, upon thirty (30) days' prior written notice. This Agreement may be terminated immediately by either party in the event of any breach of the terms of this Agreement.

13. NO THIRD PARTY LIABILITY: Nothing contained in or related to this agreement shall create any contractual relationship between either of the Parties and any other party, except between FTB and the City (or County); and no other party shall relieve the City (or County) or FTB of its responsibilities and obligations hereunder. Each of the parties agrees to be fully responsible for the acts and omissions of its third party contractors and agents, and of persons either directly or indirectly employed by the party. Neither of the parties shall have any obligation to pay, or to see to the payment of, any monies to any party or persons either directly or indirectly employed by the other.

EXHIBIT E
CITY AND COUNTY RECORD FORMAT SPECIFICATIONS (FTB 909)

Data Element Name	Start Pos.	End Pos.	Field Size	Usage	Description
SOCIAL SECURITY NUMBER (SSN)	1	9	9	AN	Must be present unless FEIN is provided. Fill unused field with zeros.
FEDERAL EMPLOYER ID NUMBER (FEIN)	10	18	9	AN	Must be present unless SSN is provided. Fill unused field with zeros.
OWNERSHIP TYPE	19	19	1	AN	Must be present: S = Sole Proprietorship P = Partnership C = Corporation T = Trust L = Limited Liability Company
OWNER'S LAST NAME	20	34	15	AN	Must be present if Ownership Type in position 19 = S.
OWNER'S FIRST NAME	35	45	11	AN	Must be present if Ownership Type in position 19 = S.
OWNER'S MIDDLE INITIAL	46	46	1	AN	May be left blank.
BUSINESS NAME	47	86	40	AN	Enter if business is operating under a fictitious name (Doing Business As (DBA)).
BUSINESS ADDRESS NUMBER AND STREET	87	126	40	AN	Address of the business location or the residence of the owner if sole proprietorship.
CITY	127	166	40	A	Must be present.
STATE	167	168	2	A	Enter standard state abbreviation.
ZIP CODE	169	177	9	AN	Enter the five- or nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left-justify information and fill the unused fields with zeros.
BUSINESS START DATE	178	185	8	N	Enter the eight-digit date (MMDDYYYY). Zero fill if not known.
BUSINESS CEASE DATE	186	193	8	N	Enter the eight-digit date (MMDDYYYY) if out of business. Zero fill if unknown or still in business.

EXHIBIT E
 CITY AND COUNTY RECORD FORMAT SPECIFICATIONS (FTB 909)

Data Element Name	Start Pos.	End Pos.	Field Size	Usage	Description
CITY BUSINESS TAX NUMBER	194	196	3	N	Enter three-digit number assigned by FTB.
NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)	197	202	6	N	Enter the two- to six-digit NAICS code. Left justify. (example 99 will be 9900). Fill unused fields with zeros.
STANDARD INDUSTRIAL CLASSIFICATION (SIC)	203	206	4	N	Enter the 2-4 digit SIC code. Left justify (example 99 will be 9900). Fill unused fields with zeros.
TOTAL RECORD LENGTH		206			

EXHIBIT F
FRANCHISE TAX BOARD RECORD LAYOUT SPECIFICATIONS (FTB 909A)

Field Name	Length	Start Pos.	Description
ENTITY TYPE	1	1	"P" – personal income tax record; "B" – business entity tax record.
SSN or FEIN	9	2	For "P" records, primary taxpayer's social security number; For "B" records, federal employer identification number.
LAST NAME	40	11	For "P" records, the primary taxpayer's last name; For "B" records, business name.
FIRST NAME	11	51	For "P" records ONLY.
MIDDLE INITIAL	1	62	For "P" records ONLY.
SPOUSE SSN	9	63	For "P" records filed with a joint return.
SPOUSE LAST NAME	17	72	For "P" records filed with a joint return.
SPOUSE FIRST NAME	11	89	For "P" records filed with a joint return.
SPOUSE MIDDLE INITIAL	1	100	For "P" records filed with a joint return.
PBA CODE	6	101	Principal Business Activity code.
ADDRESS NUMBER	10	107	
PRE-DIRECTIONAL DIRECTOR	2	117	Postal Service term (i.e., N, S, E, W, NE, NW, SE, SW).
STREET NAME	28	119	
STREET SUFFIX	4	147	e.g., ST, WAY, HWY, BLVD, etc.
POST-DIRECTIONAL INDICATOR	2	151	Postal Service term (i.e., N, S, E, W, NE, NW, SE, SW).
STREET SUFFIX 2	4	153	
APARTMENT/SUITE NUMBER	10	157	e.g., APT, UNIT, FL, etc.
CITY	13	167	
STATE	2	180	Standard state abbreviation.
ZIP CODE	5	182	The five-digit ZIP Code assigned by the U.S. Postal Service.
ZIP CODE SUFFIX	4	187	Provided if known.
CBT MATCH	1	191	"N" – No match per CBT data. "Y" – Yes: CBT matched to state tax return filed.

EXHIBIT G
CONFIDENTIALITY STATEMENT (FTB 712)

State of California

Franchise Tax Board

City/County Business Tax Program Confidentiality Statement

Confidential tax data is protected from disclosure by law, regulation, and policy. Information security is strictly enforced; violators may be subject to disciplinary, civil, and/or criminal action. Protecting confidential tax data is in the best interest of the city, county, and state.

As a city/county employee, you are required to protect all information received from the Franchise Tax Board (FTB). To protect confidential tax data, you must:

- **Access or modify tax data solely to perform official duties.**
- **Never access or inspect tax data for curiosity or personal reasons.**
- **Never show or discuss confidential tax data with anyone who does not have a need to know.**
- **Never remove confidential tax data from your worksite without authorization.**
- **Place confidential tax data in approved locations only.**

Unauthorized inspection, access, use, or disclosure of confidential tax data is a crime under state laws including, but not limited to, California Revenue and Taxation Code Sections 19542 and 19552 and Penal Code Section 502. Unauthorized access, inspection, use, or disclosure may result in either or both of the following:

- **State criminal action.**
- **Taxpayer civil action.**

I certify that I have read the confidentiality statement printed above. I further certify and understand that unauthorized access, inspection, use, or disclosure of confidential information may be punishable as a crime and may result in disciplinary and/or civil action against me.

Name (print)

Signature

Date

Each city/county employee accessing FTB data must retain a signed copy of this form and provide it to FTB upon request.

FTB 712 (REV 06-2016)



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CITY ATTORNEY

DATE: July 17, 2018

SUBJECT: ORDINANCE NO. 482 AMENDING CLAYTON MUNICIPAL CODE, CHAPTER 6.04 TO ADOPT BY REFERENCE THE CONTRA COSTA COUNTY ANIMAL CONTROL CODE

RECOMMENDATION

(1) Hold the public hearing, then (2) adopt Ordinance No. 482 (Attachment 1).

BACKGROUND/DISCUSSION

On June 19, 2018, the City Council introduced, and waived further reading of, Ordinance No. 482, which amends Clayton Municipal Code, Chapter 6.04, to adopt by reference the updated Contra Costa County Animal Control Code. At that meeting the City Council also scheduled the public hearing and adoption of the Ordinance for July 17, 2018. Following the meeting, staff provided public notice in accordance with California Government Code Section 6066.

CEQA FINDINGS

Pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(3) and 15061(b)(3) because it can be seen with certainty there is no possibility the proposed amendments to the *Clayton Municipal Code* may have a significant effect on the environment, it is therefore not subject to CEQA. In the event this ordinance is determined to be a project, then it is exempt from environmental review pursuant to CEQA Guidelines Section 15307 because it consists of actions taken by regulatory agencies authorized by state law and local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for the protection of the environment.

This ordinance adopts the County's animal services code by reference to ensure the licensing of domestic animals, provide for the impoundment of at large animals, provide for rabies control, registration of wild or exotic animals, regulation of dangerous and potentially dangerous animals among other miscellaneous provisions to assure the humane protection of wild and domestic animals and the safety of the public within Contra Costa County.

FISCAL IMPACT

Some staff time as well as printing costs have and will be associated with the preparation of this Ordinance.

Attachments:

1. Ordinance No.482 – Ordinance Amending Clayton Municipal Code, Chapter 6.04 to Adopt by Reference Contra Costa County's Animal Control Code with Exhibit A (Clean)

ORDINANCE NO. 482

AN ORDINANCE AMENDING CHAPTER 6.04 OF THE CLAYTON MUNICIPAL CODE TO ADOPT BY REFERENCE THE CONTRA COSTA COUNTY ANIMAL CONTROL CODE, INCLUDING COUNTY ORDINANCE NOS. 80-97 (“REVISED ANIMAL CONTROL ORDINANCE”), 83-10 (“ANIMAL CONTROL ORDINANCE AMENDMENTS”), 85-23 (“ANIMAL SERVICES CONTRACTING”), 87-74 (“REGULATION OF DANGEROUS ANIMALS AND POTENTIALLY DANGEROUS ANIMALS”), 97-33 (“PENALTY FOR ABANDONMENT OF ANIMAL”), 2005-24 (“DANGEROUS ANIMALS”), 2006-05 (“AMENDMENT TO DANGEROUS ANIMAL ORDINANCE”), 2011-08 (“SPAYING AND NEUTERING DOGS IMPOUNDED DOGS PRIOR TO RELEASE”), 2011-09 (“MICROCHIPPING IMPOUNDED DOGS AND CATS BEFORE RELEASE”), 2016-02 (“EXEMPTIONS FOR ANIMAL LICENSE FEES”) AND 2017-12 (“AMENDMENTS TO DIVISION 416 (ANIMALS) OF THE COUNTY ORDINANCE CODE”), AND ADOPTING PENALTIES THEREFOR AS PROVIDED IN COUNTY ORDINANCE NOS. 97-33 AND 2017-12

**THE CITY COUNCIL
City of Clayton, California**

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, California Government Code section 51301 authorizes cities to contract with the county to perform city functions, and California Government Code section 50022.9 permits cities to adopt county ordinances by reference; and

WHEREAS, the County’s animal control code is set forth in Contra Costa County Code, Division 416; and

WHEREAS, the City of Clayton entered into a City-County Animal Services Agreement with Contra Costa County, effective July 1, 2006, pursuant to which the County agreed to enforce Division 416 and certain provisions of state law relating to animal control, and the City agreed to adopt Division 416 within its jurisdiction; and

WHEREAS, the City wishes to clarify a drafting oversight that the City has adopted the County’s animal services ordinances passed prior to 2005; and

WHEREAS, the City desires to update the Clayton Municipal Code, Chapter 6.04, for consistency with the County’s animal control code, which has not been amended since 2006.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Chapter 6.04 of the Clayton Municipal Code is hereby amended and restated as set forth in its entirety as Exhibit A, attached hereto.

Section 3. **CEQA.** The City Council hereby determines that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment. In the event this ordinance is determined to be a project, then it is exempt from environmental review pursuant to CEQA Guidelines Section 15307 because it consists of actions taken by regulatory agencies authorized by state law and local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for the protection of the environment. This ordinance adopts the County's animal services code by reference to ensure the licensing of domestic animals, provide for the impoundment of at large animals, provide for rabies control, registration of wild or exotic animals, regulation of dangerous and potentially dangerous animals among other miscellaneous provisions to assure the humane protection of wild and domestic animals within Contra Costa County.

Section 4. **Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 5. **Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Exhibit A of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on June 19, 2018.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on July 17, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

#####

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton, California held on June 19, 2018 and was duly adopted, passed, and ordered posted at a regular public meeting of said City Council held on July 17, 2018.

EXHIBIT "A"

Chapter 6.04 - ANIMAL CONTROL

6.04.010 - Adoption by Reference of County's Revised and Amended Animal Control Ordinance.

The Board of Supervisors of the County of Contra Costa, an agency of the State of California within the meaning of Government Code § 50022.1, has adopted County Ordinances No. 80-97, 83-10, 85-23,87-74,97-33,2005-24, 2006-05, 2011-08, 2011-09, 2016-02 and 2017-12 being a codification of provisions for animal control services (and constituting Chapters 416-2 to 416-12 of Division 416 of the County Ordinance Code). It is a code within the meaning of Government Code § 50022.2 and certified copies of it are and have been on file with the City Clerk where they are open to public inspections, all as required by Government Code § 50022.3. The Contra Costa County Animal Control Ordinances Nos. 80-97, 83-10, 85-23,87-74, 97-33, 2005-24, 2006-05, 2011-08, 2011-09, 2016-02 and 2017-12, with the exceptions of those portions of said county ordinances referring to penalties, are hereby adopted by this reference and shall be in effect within the City of Clayton, as authorized by Government Code § 50022.2.

6.04.015 - Penalties.

- A. General Penalties. The penalties set forth in Contra Costa County Code section 416-4.604, are hereby adopted as follows:
1. Notwithstanding Contra Costa County Code Section 14-8.004, and pursuant to Food and Agriculture Code Section 31401, violations of Division 416 of the Contra Costa County Code, excepting Chapter 416-10 and Article 416-12.2, are punishable by a fine of not more than fifty dollars for the first offense, and not more than one hundred dollars for the second or subsequent offense.
 2. Notwithstanding subsection (1) above, violation of section 416-4.404 Abandonment, excluding abandonments under Section 416-8.014, is a misdemeanor and punishable as such in accordance with state law. (See Government Code Section 36901; Penal Code Section 19.)
- B. Rabies Control Violations – Contra Costa County Code section 416-10.012. Violation of chapter 416-10, except for the provisions of Section 416-10.010(b), is a misdemeanor. Violation of Section 416-10.010(b) is subject to subsection (A)(1) above.
- C. Violation of Article 416-12.2, Nuisance, is an infraction. Except as otherwise provided by statute, every infraction violation is punishable, upon conviction thereof, by:
1. A fine not exceeding one hundred dollars for a first violation;
 2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year;

3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year. (See Government Code Sections 36900 and 25132(b); Contra Costa County Code Section 14-8.002.)
- D. Animal Noise Violations - Contra Costa County Code section 416-12.202. The department may issue an administrative penalty under Article 416-4.8 to any responsible person for a violation of Section 416-12.202 based on either or both of the following:
1. An observation of the violation by a department employee.
 2. A complaint, signed under penalty of perjury, lodged by a person who has been disturbed by the barking dog or noisy animal.
- E. Penalties for Violation of Dangerous Animal Permit - Contra Costa County Code section 416-12.434. It shall be a misdemeanor for any owner or keeper of an animal previously designated as dangerous to violate any of the conditions of the dangerous animal permit under Section 416-12.422 of Article 416-12.4, punishable as provided by law. If an owner or keeper is convicted of violating this section, the court may, upon good cause, order the dangerous animal seized, declared a nuisance and destroyed. Any person convicted in violation of this section shall be prohibited from owning, harboring or keeping any animal within Contra Costa County for a minimum of five years.
- F. Prohibited dog ownership by convicted felons - Contra Costa County Code section 416-12.436.
1. Any person who has been convicted of a felony under the laws of the United States, of the state of California, or any other state, government, or country, who owns, purchases, receives, or has in his or her possession or under his or her custody or control a dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon is guilty of a misdemeanor, unless the person possesses a current, valid prohibited dog permit for that dog as provided in Section 416-12.438. A convicted felon under Article 416-12.4 shall not include felons whose convictions were set aside pursuant to Penal Code Section 1203.4. "Misuse" by a convicted felon means use of a dog in a threatening or aggressive manner, or in the commission of a crime.
 2. Any dog whose owner or keeper is in violation of this section shall be impounded, or impounded subject to destruction, at the owner's expense.
 3. A dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon under this section means any of the following:
 - a. A dog weighing more than twenty pounds;
 - b. A dog who has been designated a potentially dangerous or dangerous animal under Sections 416-12.402 and 416-12.404 of this article;

- c. A dog designated by the animal services director as posing a danger to the public's health, safety or welfare if misused by a convicted felon based upon the following factors:
 - i. The nature of any complaints regarding the dog,
 - ii. The strength of the dog, including jaw strength,
 - iii. The dog's tolerance for pain,
 - iv. The dog's tendency to refuse to terminate an attack,
 - v. The dog's potential propensity to bite humans or other domestic animals,
 - vi. The dog's potential for unpredictable behavior,
 - vii. The dog's aggressiveness,
 - viii. The likelihood that a bite by the dog will result in serious injury.

This section shall not apply to any assistance dog, including guide dogs, signal dogs and service dogs, trained or in training to assist a qualified individual with a disability.

6.04.020 – Administrative Penalties.

This Section sets forth Article 416-4.8 of the Contra Costa County Code, as adopted by Contra Costa County Ord. No. 2017-12, and provides for administrative fines that the animal services department may impose, enforce, and collect to address any violation of Division 416 as adopted by the City of Clayton.

416-4.802 - Applicability and Authorization.

(a) This article provides for administrative fines that the animal services department may impose, enforce, and collect to address any violation of this division.

(b) Remedies under this article are in addition to any other remedy allowed by this code or applicable law.

(c) This article is authorized by California Government Code Section 53069.4.

416-4.804 - Definitions.

For purposes of this article, the following words and phrases have the following meanings:

(a) "Complainant" means a person who reports a violation of any section of Division 416 to the department.

- (b) "Department" means the animal services department.
- (c) "Effective date" means the date by which a violation must be corrected, as specified in a notice of violation.
- (d) "Hearing examiner" means the animal services director, or the animal services director's designee.
- (e) "Responsible Person" means any of the following:
- (1) A person who possesses, has title to, has an interest in, or has control, custody or possession of an animal or the property on which an animal is kept.
 - (2) A person who allows, or whose agent, employee, or contractor allows, a barking dog or other noisy animal violation to exist, whether through action, failure to act, or failure to exercise control over a barking dog or other noisy animal.
 - (3) For purposes of this article, there may be more than one responsible person for a barking dog or other noisy animal violation.
- (f) "Service date" means the date a notice or decision is served in accordance with Section 416-4.816.

416-4.806 - Administrative Fines.

- (a) Notice of violation. If a violation is a continuing violation, such as the failure to obtain a dog or cat license, the department will first serve a notice of violation on the responsible person as specified in Section 416-4.816. The notice of violation will include all of the following information:
- (1) The date of the violation.
 - (2) The name of the responsible person.
 - (3) The address or location where the violation occurred.
 - (4) The code section(s) violated and a description of the violation.
 - (5) Whether the violation(s) were established by inspection or by complaint, if applicable.
 - (6) A description of how the violation can be corrected.
 - (7) A specified time period of at least ten calendar days, beginning on the service date, within which the violation must be corrected.

(8) An advisement that the owner may be subject to an administrative fine under this article if the violation is not corrected by the effective date, and the amount of that fine.

(b) The department may impose an administrative fine on a responsible person if any of the following occur:

(1) The violation is not a continuing violation, such as a violation of the animal noise ordinance.

(2) The continuing violation has not been corrected in the time period specified in the notice of violation.

(3) The continuing violation was corrected as specified in the notice of violation, but a violation of the same section continues, exists, or occurs within one year after the effective date.

(c) Notice of fine. An administrative fine will be assessed by means of a notice of fine. The responsible party will be served with the notice of fine as specified in Section 416-4.816. The notice of fine will include all of the following information:

(1) The date of the violation.

(2) The code section(s) violated and a description of the violation.

(3) The amount of the fine.

(4) An advisement of the right to request a hearing before the hearing examiner, contesting the imposition of the fine.

(d) For a continuing violation, the amount of the fine is one hundred dollars for the first notice of fine. If the owner fails to correct the violation after the first notice of fine, and a second notice of fine is issued in the same year, the amount of the fine in the second notice is two hundred dollars. If the owner still fails to correct the violation after the second notice of fine, the amount of the fine is five hundred dollars for each additional notice of fine that is sent within one year.

(e) If the violation is not a continuing violation, the amount of the fine is one hundred dollars for a first violation, two hundred dollars for a second violation of the same section within one year, and five hundred dollars for each additional violation of the same ordinance within one year.

416-4.808 - Hearings.

(a) Any person upon whom an administrative fine is imposed by the department may request a hearing pursuant to the procedures set forth in this section. The appellant must file

a written appeal with the department within fifteen calendar days after the service date of the notice of fine. The written appeal must contain:

(1) A brief statement explaining who the appealing party is and what interest the appealing party has in challenging the imposition of the fine; and

(2) A brief statement of the material facts that the appellant claims supports his or her contention that no administrative fine should be imposed or that an administrative fine of a different amount is warranted.

(b) Notice of the hearing will be served on the appellant and the complainant, if any, as specified in Section 416-4.816. The department will set the hearing no sooner than twenty days and no later than forty-five days following the service date of the notice of hearing.

(c) The hearing of an administrative fine imposed for violations of this division will be heard by the hearing examiner.

(d) At the hearing, the appellant and complainant, if any, will be given the opportunity to testify, and present written and oral evidence.

(e) An appellant's failure to appear at the hearing shall constitute an abandonment of any defense the appellant may have to the administrative fine.

(f) Where applicable, a complainant's failure to appear at the hearing shall constitute an abandonment of the complaint and shall be grounds for a dismissal of the administrative fine.

(g) After considering the testimony and evidence submitted at the hearing, or after the appellant or complainant has failed to appear at the hearing, the hearing examiner will issue a written decision to uphold, modify, or cancel the administrative fine and will list in the decision the reason or reasons for that decision. The decision will be served as specified in Section 416-4.816.

416-4.810 - Final Administrative Order.

The imposition of the administrative fine becomes a final administrative order at one of the following times:

(a) On the date the notice of fine is served, if the responsible party fails to file a written appeal to the department within the time specified.

(b) On the date the written decision by the hearing examiner is served, if the responsible party files a written appeal to the department within the time specified.

416-4.812 - Payment of the Fine.

The fine must be paid to the county within thirty days after the imposition of the administrative fine becomes a final administrative order. Payment of a fine under this article does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of fine. The payment of a fine does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

416-4.814 - Collection.

If the fine is not paid within thirty days after the imposition of the fine becomes a final administrative order, the county may collect the fine, the county's collection costs, and interest. An administrative fine accrues interest at the same annual rate as any civil judgment, beginning on the twentieth day after the fine becomes a final administrative order. The county may collect by using any available legal means, including but not limited to the following:

(a) The county may file a civil action. If a civil action is commenced, the county is entitled to recover all costs associated with the collection of the fine, including those costs set forth in Code of Civil Procedure Section 1033.5.

(b) The county may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgments Law, California Code of Civil Procedure Section 680.010 et seq.

416-4.816 - Service.

All notices or decisions required to be served by this article will be served by any of the methods specified below:

(a) First class mail. First class mail will be addressed to the responsible person at the address shown on the last equalized assessment roll, at the address where the violation occurred, or as otherwise known. Service is deemed completed upon the deposit of the notice or decision, postage pre-paid, in the United States mail.

(b) Personal service. Personal service is deemed complete on the date the notice or decision is personally served on the responsible person.

416-4.818 - Judicial Review.

A final administrative order may be appealed to the superior court of the county in accordance with the provisions set forth in Government Code Section 53069.4.

6.04.030 - Request Enforcement in City.

The County ordinances referred to and hereby adopted contains the provisions of those sections of the California Food and Agricultural Code referred to in Section 30501, and therefore this City Ordinance constitutes the City's request that the provisions of this County

ordinance be applicable within this city, and they shall hereafter so apply, pursuant to Food and Agricultural Code § 30501.

6.04.040 - Notice and Contract.

The city clerk shall promptly send the clerk of the board of supervisors a certified copy of the ordinance codified in this chapter, and the mayor and city clerk are hereby authorized to execute such documents as necessary to contract with the county for animal control services by county personnel inside the city, being the enforcement of the provisions of the animal control services ordinance referred to in Section 6.04.010, including such things as licensing, impounding, fees, and the like.



Approved: 
Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: JULY 17, 2018

SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 17 – “ZONING” OF THE CLAYTON MUNICIPAL CODE TO RESTRICT AND REGULATE PAROLEE HOMES (ZOA-08-16)

RECOMMENDATION

It is recommended the City Council consider all information provided and submitted, open the Public Hearing to take and consider all public testimony, and, if determined to be appropriate, take the following actions:

- 1) Following closure of the Public Hearing, subject to any changes by the City Council, adopt a motion to have the City Clerk read Ordinance No. 483 by title and number only and waive further reading; and
- 2) Following the City Clerk’s reading, by motion approve Ordinance No. 483 for Introduction to amend the Clayton Municipal Code Chapter 17 – “Zoning” to restrict and regulate parolee homes in the following General Plan designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), subject to a conditional use permit (ZOA-08-16) (**Attachment 1**).

BACKGROUND

Issues with overcrowding and high rates of recidivism within the State of California's corrections and prison system have been percolating for over a decade. In 2006, Governor Schwarzenegger issued Proclamation 4278 declaring a state of emergency with regards to its prisons. During this time, the total inmate population was at an all-time high of more than 170,000 inmates and due to prison overcrowding more than 15,000 inmates were being housed in camps, hallways, gymnasiums, classrooms, and other common areas as well as out-of-state contract prisons. Further, in 2007, a report, *Solving California's Correction Crisis: Time is Running Out*, issued by the Little Hoover Commission, an independent state oversight agency, determined the failing correctional system to be the largest and most immediate crisis facing policy-makers (**Attachment 2**). The report's notable recommendations included shifting the responsibility and accountability for offender reintegration to the communities as well as to expand local capacity within the county jail system, amongst others.

In May 2011, the United States Supreme Court determined California's overcrowded prisons were a violation of the Eighth Amendment's ban on cruel and unusual punishment (*Brown, et al. v. Plata, et al*) (**Attachment 3**). The Supreme Court upheld the decision by the lower court, which found that "an inmate in one of California's prisons needlessly dies every six or seven days due to constitutional deficiencies." This decision by the Supreme Court mandated California to reduce its prison population in the State's prisons by more than 30,000 inmates, or 137.5% of design capacity, within two years.

ASSEMBLY BILL 109

The State of California had several options to comply with the court-mandated reduction of its prison population such as new construction, transfers out of state, and/or using county facilities; however, the State legislature chose the latter, to relocate a portion of its prison population to county facilities. More specifically, the State legislature, in response to the Supreme Court's decision, passed Assembly Bill 109, the Public Safety Realignment Act, which went into effect on October 1, 2011 (**Attachment 4**).

The passage of AB 109 represented a significant and massive change to the California criminal justice system. AB 109 prospectively transferred the responsibilities for supervising and housing specified inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to each of the counties with a goal to reduce recidivism. Under AB 109 (or Realignment), it allows newly-convicted low-level offenders (non-violent, non-serious, non-sex offenders) to serve one's sentence in county jails instead of state prisons or to receive an alternative sanction such as electronic monitoring. AB 109 also expanded the role for post-release supervision (also known as parole) of these offenders by transferring the supervision responsibility from the state to the counties, known as Post-Release Community Supervision (PRCS). PRCS enacted a larger reliance on "community-based punishment", to reduce recidivism. These programs include community-based residential programs, mandatory community service, home detention with electronic monitoring, day

reporting, work in lieu of confinement, mandatory residential or nonresidential substance abuse treatment programs, amongst others.

County-level supervision does not include:

- Inmates paroled from life terms to include third-strike offenders;
- Offenders whose current commitment offense is violent or serious, as defined by California Penal Code Section 667.5(c) and 1192.7(c);
- High-risk sex offenders, as defined by CDCR;
- Mentally disordered offenders; nor
- Offenders on parole prior to October 1, 2011.

STATE INCARCERATION PROGRAMS

It should be noted: California has one of the most expensive prison systems in the entire world with the current average cost, according to the California Legislative Analyst's Office, of about \$71,000 per year to incarcerate an inmate in prison, and those costs are going up to approximately \$80,000 per inmate under the FY 2018-19 budget (**Attachment 5**). Over 75 percent of those costs are for security and inmate health care. In addition, the average annual cost has increased about 45 percent due to employee compensation, increased cost of health care, and operational costs related to additional prison capacity to reduce prison overcrowding.

Due to these exorbitant costs associated with housing inmates and those costs rapidly increasing, the State of California is steadily moving away from incarceration as its public policy. For example, Propositions 47 and 57 reduced the penalties for some crimes from felonies to misdemeanors and increased the use of parole and good behavior opportunities for felons convicted of nonviolent crimes, respectively. These two propositions have decreased the number of inmates being incarcerated by the State and the County through the reclassification of crimes as well as the use of alternative custody options in lieu of serving time in jail. Both at the federal and state levels, the trend and the push has been to decrease the country's incarceration rate, which is the highest of any nation worldwide. There has also been a shift from incarceration to parole, which redirection results in more community based supervision. This paradigm shift from mass incarceration places a greater burden at the local level, and this City must be better prepared for anticipating these individuals within the community.

The State of California has several programs to assist pre- and post-release offenders in successfully returning to his/her original community. These programs and services are delivered through alternative custody arrangements such as residential services, outpatient, and drop-in centers. These alternative custody programs allow those eligible to serve the remainder of one's sentence or be paroled into the community rather than serve additional time in state prison. Given the State of California's reposition from incarceration due to its high associated costs as well as failure of the correctional system with high rates of recidivism, it is anticipated and expected the use of community residential programs is

bound to increase both at the state and the county level as the outcome of trickle-down court mandates and state policy implementations.

CONTRA COSTA COUNTY'S IMPLEMENTATION OF AB 109

In response to AB 109, the Contra Costa County Board of Supervisors initially adopted the Contra Costa County Realignment Implementation Plan (**Attachment 6**). The Implementation Plan indicates that it is a work in progress with continued discussions regarding strategies to minimize incarceration of the AB 109 population such as remodeling the County's bail process, holding early disposition hearings, and increasing the use of electronic monitoring. The Plan acknowledges its attempt to meet the stated legislative objectives within its limited funding allocation, but admits it falls short and cannot provide a full complement of incarceration, supervision, and rehabilitative/re-entry services contemplated by AB 109 due to insufficient funds. Further, the County has indicated the current levels of funds from the State are inadequate to manage the Community Corrections Partnership budget, which is the group charged with implementing AB 109, and the County is having to continue to withdraw from its reserves to fund the difference and will continue to do so for the foreseeable future.

One of the outcomes of the Implementation Plan is to provide a system of alternatives to post-conviction incarceration, where appropriate, to not overburden the County's detention facilities; therefore, these individuals will be "realigned" to living in a community rather than serving time in jail. One of the County's Implementation Plan strategies indicates additional bed space will be reserved for AB 109 clients provided in partnership with local community-based organizations; it acknowledges the Sheriff has the ability to offer home detention with an electronic monitoring program for inmates being held in lieu of bail in the County Jail or another County correctional facility. AB 109 also required the County to utilize AB 109 funds to build partnerships with local health and social service agencies and community based services to provide supportive services designed to facilitate successful reentry and to decrease the rates of recidivism.

According to the County's *Public Safety Realignment Report for FY 16/17*, the County, over the past several years has focused on formalizing partnerships between different law enforcement agencies, health and social service agencies, and AB 109-contracted community based organizations (**Attachment 7**). These partnerships have resulted in a higher number of referrals to reentry support services. More specifically, in FY 2016-17 there were key changes and refinements to the County's approach to AB 109, which increased investments in housing services and supports to address the high cost of housing. The Annual Report also illustrates there is an increase in the number of AB 109 clients doing residential substance abuse treatment programs as well as an increased need in acute residential detoxification services.

The Annual Report further acknowledges the County will need to undertake a comprehensive planning process to guide the County's parole reentry system as a whole, not just those individuals limited to AB 109, which will be studied under the *Reentry Strategic*

Plan for 2018-2023. This five-year Strategic Plan, which has yet to be adopted by the Board of Supervisors, will address not only those under AB 109, but will include all individuals regardless of AB 109 status because the County identified a need for an inclusive reentry system. Further, the County granted approval to expand access to AB 109-funded services to any returning resident; therefore there will be an increase in demand for housing and services beyond the requirements of AB 109 for these individuals within the communities of Contra Costa.

Clayton city staff reached out to the Contra Costa County Sheriff's Office and to the Office of Reentry and Justice (ORJ). ORJ was created in 2017 as a 2.5 year pilot program to align and advance the County's public safety realignment, reentry, and justice programs and is mainly funded by AB 109 (**Attachment 8**) to further determine how the County was implementing AB 109 as well as to compile additional information for the Council to consider regarding this matter.

The ORJ has indicated there is a lack of compiled information regarding parolees and probationers. Staff was able to receive some information regarding the number of parolees by jurisdiction, which is provided in the table below; but ORJ staff has indicated there is no information by jurisdiction for individuals on probation. The table below clearly demonstrates the existing momentum and the shift in public policy is achieving reduction in incarceration rates; it also shows there are far more parolees in other communities within in Contra Costa County than within Clayton. The dramatic decrease in parolees between 2014 and 2017 is largely due to the passage of Proposition 47, which reclassified certain felonies to misdemeanors.

Jurisdiction	# of Active Parolees 11/3/14	# of Active Parolees 12/1/17
Alamo	1	1
Antioch	142	77
Bay Point	21	15
Bethel Island	7	6
Brentwood	10	13
Byron	1	1
Clayton	19	5
Concord	45	54
Crockett	4	1
Danville	3	1
Discovery Bay	1	1
El Cerrito	4	3
El Sobrante	17	7
Hercules	12	2
Knightsen	1	0
Lafayette	1	1
Martinez	83	46
Oakley	19	14

Pacheco	2	3
Pinole	12	5
Pittsburg	98	33
Pleasant Hill	4	3
Richmond	190	84
Rodeo	7	4
San Pablo	47	22
San Ramon	9	2
Walnut Creek	10	5
Totals	775	410

In addition, ORJ staff did indicate there were no individuals under AB 109 supervision reporting a Clayton address at this time; however there were individuals under juvenile supervision, court supervision, and traditional probation.

Additionally, ORJ staff provided that the County does not directly operate any residential homes for parolees; the County is relying on community based programs for the provision of services and housing, as indicated above. In reviewing the budget for AB 109, Contra Costa County is currently housing some inmates under alternative custody scenarios, such as placement in shelters, recovery residences, and residential treatment facilities (**Attachment 9**). For example, the County has 30 clients at a day reporting center in Richmond and that program has relationships with providers to house to some of the participants. Also, under AB 109, the County rents beds from different residential treatment providers that may have all or a portion of their clientele made up of formerly incarcerated individuals as well as rents beds at homeless shelters.

The County currently houses individuals at five locations in Concord, three in Antioch, two in Pittsburg, one in Bay Point, and one in Martinez. These facilities are typically operated by a community based non-profit organization, and staff from the Contra Costa County Sheriff's Office has indicated these types of alternative custody placements will only be more prevalent due to the increasing costs of housing inmates in the County jail, the shift of lower level offenders not being incarcerated, and AB 109 services being expanded to all parolees/probationers that are Contra Costa County residents. Therefore, it is anticipated there will be an increase in these types of residential uses catering to parolees, which could conceivably locate in all communities, including Clayton. This will also more than likely lead to the expansion of existing non-profits and the creation of new non-profits due to availability of grant funding from programs associated with the implementation of AB 109 and the expansion of those services County-wide.

ORJ staff also indicated there are several private organizations that run homes for the parolee/probationer population and they "... are under the radar since communal housing is not required to report its existence to anyone." The proposed City Ordinance's objective is to prevent these private organizations from "flying under the radar" within the City of Clayton

and would geographically restrict their location and regulate how they operate as well as require these private organizations to apply for a City use permit.

PLANNING COMMISSION HEARING

On May 22, 2018, the Planning Commission held a public hearing and recommended the City Council deny the proposed Ordinance which would result in the City Council not taking action on the proposed Ordinance and maintaining the status quo (**Attachment 10 and 11**). During the public hearing there were over 20 speakers with such comments as: the City should ban parolee housing outright, slow the implementation of the regulation of parolee homes, consideration should be given to increasing the buffers contained in the Ordinance, and the adoption of the proposed Ordinance would be inviting parolees to locate in Clayton. The Planning Commission indicated it had concerns with parolee homes being able to locate anywhere in Clayton and not subject to regulations, which statement is the current state of law in Clayton; however, it expressed the Ordinance should be refined yet the Commission did not provide any direction to staff regarding those refinements.

DISCUSSION

The Clayton Municipal Code is currently silent and does not address parolee homes. Therefore, under present conditions, if an organization, individual, and/or State or Contra Costa County grantee sought to locate a parolee home in the City of Clayton, the use would be permitted by right. "Permitted by right" means a parolee home would be able to locate in any residential district without a buffer between it and a sensitive use and would not be subject to any regulations or controls beyond those of a typical residential use. Further, if the organization were a non-profit, even a City business license would not be required, leaving our community exposed and without any type of notification or control regarding a parolee home.

On August 5, 2016, the City of Clayton received an inquiry from a non-profit County contractor/grantee (Mz. Shirlez). The query was searching for a community to house a facility where a use permit would not be required in order to operate what it described as a transitional housing program to assist individuals, many that have been previously incarcerated (**Attachment 12**). Given the Clayton Municipal Code was silent on parolee housing, this prompted City staff and the City Council, in compliance with State law (Government Code Section 65858), on October 16, 2016 to immediately adopt an urgency ordinance placing an interim moratorium on the establishment, construction, and operation of parolee homes and community supervision programs. As allowed for by State law, the moratorium was continued twice by the City Council with the last and final moratorium set to expire on October 3, 2018 (**Attachment 13**). After having the opportunity to research this issue, City staff is now returning to the City Council with a proposed Ordinance for consideration to appropriately restrict and regulate these types of land uses.

IMPACTS OF AB 109 AND THE DECLINE OF INCARCERATION RATES TO CLAYTON

A city, including Clayton, does not have control over how the State or Contra Costa County manages, directs, and supervises correctional and rehabilitation services; however a city does retain control over its land uses. The shift at the national and state level to decrease mass incarceration, the flux and fluidity regarding correctional services both at the State and at the County level due to the mandated reduction of the State prison population along with the County's implementation of AB 109 coupled with an inquiry from a County grantee for housing services has each raised a concern about the City's vulnerability regarding the placement of parolee homes within this city.

Please note: even though staff received the above inquiry in August of 2016, there are currently no requests or applications for parolee homes that have been submitted for consideration or are pending upon the expiration of the moratorium. The operator that inquired (Mz. Shirlez) regarding the placement of a home for parolees in Clayton subsequently opened a facility in Pittsburg. Therefore, there is no current interest from that particular organization. Should the moratorium expire without a regulatory ordinance in place, there is no foreseen immediate risk that staff is currently aware of; however, there could be long term risk if the City Council does not take action restricting and regulating this land use.

But when our interim moratorium automatically expires, if an ordinance is not adopted City staff has no formal process to be notified or know if a parolee home is established within any of our residential districts, since there would not be any local regulations in place. These factors result in Clayton having fewer regulations than other neighboring communities, which could then make our city more attractive to operators. Further consideration is referenced to County Supervisor Federal Glover's comments, in which he indicated, "...most nonprofits operate on very meager financial resources. The fee for a land use permit may be too burdensome for agencies and prevent them from providing services to the formerly incarcerated..." Alternatively, if local regulations are in place and then should a situation arise where a private organization catering to parolees establishes a home without City approval, the enactment now of the proposed Ordinance provides the City with a regulatory mechanism in order to take the necessary action to abate.

Clayton does have several inherent factors which highly decrease the likelihood of parolee homes wishing to be located within our city:

- 1) Low number of parolees originating from the community (state law requires the formerly incarcerated return to the communities of their last legal address);
- 2) Lack of convenient access to public transit;
- 3) Lack of rehabilitation services and programs to assist those that have been previously incarcerated (these services and programs tend to be established in communities with a higher number of parolees such as Richmond, Concord, and Antioch);
- 4) High cost of housing and land in Clayton; and

- 5) High rates of owner-occupied homes, which drastically reduces the possibility of a property owner renting a residential unit to such programs.

Even with all of these factors that decrease the likelihood of parolee homes locating in Clayton, City staff has highlighted vulnerability in the City's existing Municipal Code. Clayton does not have some of the protections regarding a larger breadth of land use classifications, such as group housing, to rely upon to regulate these uses. The proposed Ordinance is a legally defensible approach, which would help to close the vulnerability gap pertaining to this type of land use. If a regulatory ordinance is not established, parolee homes can locate anywhere in the city, without any regulations, and without a public hearing process. Given the information presented above, the state's and county's reliance on community based supervision and on rehabilitative programs in the local community is only going to increase, and Clayton should be aptly prepared.

OTHER JURISDICTIONS

As part of this process, staff contacted other jurisdictions within the County regarding how this land use would be classified and handled.

Pleasant Hill: The Pleasant Hill Municipal Code classifies parolee homes as an unlicensed "care facility" and requires a use permit in all zoning designations, both residential and commercial. Pleasant Hill does not have established buffers or other regulations contained within its Municipal Code to further restriction such operations. Regulations of these facilities would be likely addressed during the use permit process; however there are no buffers prohibiting these uses adjacent to sensitive uses.

Walnut Creek: The Walnut Creek Municipal Code (WCMC) identifies parolee homes, depending on how they are operated, either as "Congregate Living Facility" or "Group Residential". "Congregate Living Facilities" (services are provided in the home) are prohibited in single-family and duplex residential districts but require a conditional use permit within the multifamily zoning designations. "Group Residential" (services are not provided in the home) uses are prohibited in the single-family and duplex residential districts, but are permitted by right in the multifamily zoning designations. Walnut Creek does not have buffers prohibiting these uses adjacent to sensitive land uses or to further restriction operations.

Danville: These facilities would be classified as "Group Homes" within Danville's Municipal Code. Group Homes with six or fewer residents would be permitted by right and those with seven or more would require a conditional use permit. Danville does not have buffers prohibiting these uses adjacent to sensitive land uses or to further restriction operations.

Concord: These facilities would be classified as "group housing". Group housing is not allowed in the zoning districts that are predominately single-family residential and

would require a use permit in Concord's Residential Medium (11 to 33 units per acre) and Residential High (33 to 100 units per acre) districts. The Concord Municipal Code does not have established buffers or other regulations contained within its Municipal Code to further restrict such operations. Regulations of these facilities would be likely addressed during the use permit process; however there are no buffers prohibiting these uses adjacent to sensitive uses.

Oakley: Following a training attended by a councilmember regarding the regulation of parolee homes, the City of Oakley adopted an ordinance in 2014. The adopted ordinance regulates and restricts parolee housing to two multifamily zoning districts, subject to a use permit. Its ordinance also contains operational restrictions, development standards as well as buffers around sensitive uses, similar to the proposed Clayton Ordinance. City staff has indicated no inquiries have been made to establish a parolee home in Oakley since the adoption of its ordinance. Oakley's ordinance is based on Riverside's, which has become a "model ordinance" for cities choosing to regulate this land use.

Pittsburg: This type of land use would be considered a "group home" and would be allowed in the multifamily zoning districts, subject to the approval of a conditional use permit. The Planning staff indicated the City of Pittsburg has not taken any action specific to parolee homes, but revisions to its Code to manage these type of uses is on their radar for consideration. The group home land use classification does not have a required buffer between sensitive land uses or operational or development standards as proposed in the subject Ordinance. Specifically regarding Mz. Shirlez's parole housing establishment, Pittsburg's planning staff was unsure if or how it was permitted to operate and would be looking into it.

Antioch: Restrictions and regulations for parolee homes, along with the County's community supervision programs pertaining to the transition of the reentry of incarcerated persons, were adopted in June of 2014 to respond and to control land uses pertaining to the implementation of AB 109. Parolee homes are allowable in the industrial zoning districts subject to a use permit and also require a buffer around sensitive land uses.

In summary, each jurisdiction classifies and deals with parolee homes differently; however the majority of jurisdictions have some type of land use classification that addresses communal living situations. Most of the surveyed cities require a use permit, which is greater regulation than what currently exists in Clayton. Presently these uses would be permitted by right in Clayton and not subject to any regulations beyond a typical residential use. Even fewer jurisdictions have codified buffers around sensitive uses, additional operational regulations, or development standards in order to maintain land use control.

PROPOSED ORDINANCE

The proposed Ordinance would restrict parolee homes to only be allowed to locate within the multifamily General Plan land use designations: Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD), as identified on the General Plan Map, subject to a conditional use permit as well as additional regulations identified in the Ordinance. These land uses are located in various places throughout the City, which are more specifically identified on the General Plan Land Use Map, which is contained in **Attachment 14** to this staff report.

In addition to the General Plan designation locations, parolee homes would only be permitted with a conditional use permit in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H). The conditional use permit process would require a public hearing, whereby property owners within a 300-foot radius would be individually notified. A notice would also be placed in a newspaper of general circulation and a notice would be posted on the City's community posting boards. The use permit application would be reviewed and analyzed by staff and then be subject to a discretionary review and public hearing by the City's Planning Commission.

The proposed Ordinance provides clear definitions of what constitutes a parolee home and a parolee. Further, single housekeeping units would not be subjected to the regulations and there are eight criteria as to what constitutes a single housekeeping unit. Namely, the residents need to have established ties and interact with each other; membership of the household is determined by the residents and not the landlord; each adult resident is named on the lease; and residents do not have separate entrances or food-prep and storage areas, amongst others.

Not only have locational requirements been proposed, but also numerous objective standards have also been incorporated into the Ordinance to mitigate or minimize any impacts, such as requiring onsite supervision 24 hours a day seven days a week. A parolee home cannot be located within 500 feet from any school, daycare, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelter, amongst others. It also must not be located within 1,000 feet of another parolee home to minimize geographic overconcentration. As part of the use permit application process, the proposed Ordinance requires additional information such as the client profile, maximum number of occupants, and a management plan.

Lastly, multifamily housing projects with 25 units or less are limited to one parolee housing unit and housing projects with 25 units or more are limited to two parolee housing units. These thresholds would be applicable in apartment and condominium style buildings.

It should be noted, as part of the use permit process additional conditions of approval, beyond what is contained in the proposed Ordinance could be added to mitigate any possible impacts associated with the specific application. These conditions would be

considered on a case-by-case basis, which would be determined by the applicant's proposal and the location of the facility.

MODIFICATIONS TO THE DRAFT ORDINANCE

Following the May 22, 2018 Planning Commission meeting, staff conducted additional studies and in consultation with the City Attorney's office, refined its proposal to increase the buffer from sensitive uses from the originally contemplated 300 feet (**Attachment 15**) to a recommended distance of 500 feet (**Attachment 16**). Staff originally suggested 300 feet based on existing Municipal Code buffers for other uses such as emergency shelters. In response to the community input at the Planning Commission hearing, staff reviewed the differences in the maps between a 300-foot buffer and a 500-foot buffer. In light of the high recidivism rates in the parolee population, staff feels the larger 500-foot buffer is justified. The City Attorney's office indicated this approach would be legally defensible given there are still two to three feasible locations wherein parolee homes could possibly locate, as opposed to the three to four that was previously recommended. By expanding the buffer to 500 feet, this eliminates the multifamily designated area closest to the elementary school and further separates parolee homes from locating near the library and The Grove Park. However, any increase beyond a 500-foot buffer starts to become increasingly difficult to accommodate the two to three feasible locations for a parolee home.

Added to the proposed Ordinance is a requirement to provide onsite supervision 24 hours a day seven days a week. A modification to the definition of parolee home was made which was the deletion of the requirement that the definition did not apply to any state licensed care facility or residential treatment facility serving six or fewer persons.

ALTERNATIVES

OPTION 1: Regulate the Land Use (Approve the proposed regulatory Ordinance as it is currently drafted).

This is the most legally defensible option while still providing the community with a level of protection for public safety by regulating these types of uses. The adoption of the proposed Ordinance would also remove a gap and vulnerability in the City's existing Municipal Code pertaining to parolee homes. Most jurisdictions already have mechanisms and land use categories in place to classify and manage these land uses, whereas Clayton does not.

In addition, the City Council could also direct staff to make modifications to the proposed Ordinance regarding the various proposed regulations or to change the allowable General Plan or zoning designations from the proposed multifamily districts to another district. For example, relocating this use to the single-family zoning districts could accommodate larger buffer zones around sensitive uses, but would open the location of parolee homes to a much larger geographic region in Clayton.

OPTION 2: Maintain the status quo (Take no action).

In the absence of regulatory action, this inaction would allow any organization, County or State grantee/operator, or program to establish a parolee home in any residentially zoned location within the Clayton city limits, without any land use regulations or development standards, located adjacent to sensitive uses, and without a public hearing process. The City would only become aware of the existence of a parolee home after it had already been established and operational, likely by neighborhood inquiries or complaints. If the City were then to rush and quickly enact local regulations after a parolee home had been established, the existing use would be considered legal non-conforming or “grandfathered-in” and the City would have no legal grounds to remove the parolee housing use from its established location.

OPTION 3: Prohibit Parolee Housing (Direct staff to draft an ordinance banning parolee homes from operating within the City of Clayton).

Some cities, which are the exception, have taken a more aggressive approach regarding parolee homes. The City of Newport Beach (in 2008) and the City of Colton (in 2010) each banned parolee homes or have limited the number of parolees to one in a Boarding, Lodging, or Rooming House, respectively. Most cities that have decided to directly confront the issue of parolee homes have decided to regulate it, as is proposed for Clayton (Riverside, Oakley, Desert Hot Springs, Norco, Fontana, amongst others).

The selection of Option 3 could result in legal exposure for the City. There is no law specifically prohibiting a ban on parolee housing, no bright-line rule, or legal precedence; however, given the fact the United States Supreme Court has mandated the State of California reduce its prison population and the State summarily enacted AB 109 as law, City staff and legal counsel have serious concerns whether a decision to ban parolee housing would prevail in the courts. Doing so would result in a costly expense for Clayton to undertake a legal challenge (hundreds of thousands to over a million dollars in legal costs, and Clayton could also be responsible for the other party’s legal fees if the City did not prevail). Due to there being no legal precedence, City staff has concerns regarding the selection of this Option because Clayton’s ban could become the legal test case for this issue, which would incur large legal costs associated with the challenge.

In terms of public policy: if more cities start to ban parolee housing it then would make it difficult for the State and subsequently the counties to fulfill its mandated obligation under AB 109 to manage the incarcerated populations, thereby placing the State in a position to either pass legislation forcing cities to allow for parolee housing and/or result in a lawsuit challenging those cities that have prevented the placement of parolees.

Further, such local prohibition would not preclude civil rights organizations from filing a lawsuit, such as the ACLU (which is well aware of the Realignment in California and has

even produced a report, *Public Safety Realignment: California at a Crossroads*, on an in-depth review of all 53 available county realignment implementation plans). As a harbinger to staff's warning the ACLU sent a letter to the City of Antioch when it was drafting its regulations regarding the implementation of AB 109 asserting the adoption would likely result in a disproportionate impact to African Americans (**Attachment 16**) and therefore is discriminatory and may violate State law, which prohibits those public entities receiving state funds from racial discrimination. While Antioch and Clayton are seemingly very different communities in regards to this issue, the point is that civil rights groups are paying attention to local government actions in this regard and the ACLU is not at all reticent about filing lawsuits. As a small city with limited financial resources, Clayton, if it adopts a ban, could become the favored guinea pig by such groups, a legal test case or made an example (set case law) if our local ban were to be challenged and not prevail in the courts.

ENVIRONMENTAL

This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

FISCAL IMPACTS

There will be no direct fiscal impacts to the City with the adoption of this Ordinance or the selection of any of the proposed alternatives. However, Option 3 does pose a risk to the financial capacity of the City.

ATTACHMENTS

1. Ordinance No. 483 [pp. 7]
2. Executive Summary - *Solving California's Correction Crisis: Time is Running Out* [pp. 4]
3. U.S. Supreme Court Syllabus for *Brown, et al. v. Plata, et al.* [pp. 6]
4. California Department of Corrections and Rehabilitation Assembly Bill 109 Fact Sheet [pp.4]
5. Legislative Analyst's Office Annual Cost to Incarcerate an Inmate in Prison [pp. 2]
6. *Contra Costa County 2011/12 Public Safety Realignment Implementation Plan* [pp. 19]
7. Excerpt from *Public Safety Realignment Report for FY 16/17* [pp. 8]
8. Overview of the Office of Reentry and Justice [pp.1]
9. Excerpt from AB 109 Budgets [pp. 4]
10. Excerpt from the May 22, 2018 Planning Commission Staff Report [pp. 3]
11. Excerpt from the May 22, 2018 Planning Commission Minutes [pp. 10]
12. August 5, 2016 Email Inquiry from Mz. Shirlez [pp. 2]
13. Excerpt from the October 3, 2017 City Council Staff Report and Minutes [pp. 10]
14. General Plan Land Use Map [pp. 1]
15. 300' Radius Map [pp. 1]
16. 500' Radius Map [pp. 1]
17. Letter from the ACLU to Antioch [pp. 4]

ATTACHMENT 1

ORDINANCE NO. 483

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON ADOPTING AMENDMENTS TO CLAYTON MUNICIPAL CODE, TITLE 17 - ZONING IN ORDER TO RESTRICT AND REGULATE PAROLEE HOMES IN THE FOLLOWING GENERAL PLAN DESIGNATIONS: MULTIFAMILY LOW DENSITY, MULTIFAMILY MEDIUM DENSITY, AND MULTIFAMILY HIGH DENSITY, SUBJECT TO A CONDITIONAL USE PERMIT

THE CITY COUNCIL City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City and surrounding communities have seen an increased interest in the establishment of group homes for parolees and probationers. This interest is due, in part, to AB 109 and the increase number of parolees, probationers and others subject to post-release supervision. These uses may concentrate in residential zoning districts; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, increased crime, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, the City adopted an interim zoning ordinance to establish a temporary moratorium on the establishment and operation of parolee and probationer homes in order to study appropriate regulations for these uses; and

WHEREAS, California experiences high recidivism rates, with approximately 60-70% of parolees being re-arrested within three years of release;¹ and

WHEREAS, crime and nuisance-related concerns may be alleviated through public review of the facility's operational and management plans, house rules, services and staffing plans, as well as buffers from sensitive children-oriented uses, including schools, daycares, parks, youth centers, and libraries, and from businesses selling alcohol; and

¹ Cal. Dept. of Corrections, CALIFORNIA PRISONERS AND PAROLEES 2010: Summary Statistics On Adult Felon Prisoners and Parolees, Civil Narcotic Addicts and Outpatients and Other Populations (2011) p. 90, at: https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd2010.pdf; see also, Public Policy Institute of California, *Realignment and Recidivism in California* (December 2017), p.3, at: http://www.ppic.org/wp-content/uploads/r_1217mbr.pdf

WHEREAS, in response to concerns that residential neighborhoods not become institutionalized with parolee homes and that residents of parolee homes fail to integrate into the community, the ordinance would ensure that parolee homes are separated from other parolee homes as well as other quasi-institutional uses, including hospitals, group homes, emergency shelters, and supportive or transitional housing, to avoid an overconcentration of such uses in residential neighborhoods; and

WHEREAS, other public health, safety, and welfare concerns may be alleviated through enforcement of existing regulations and discretionary review of proposed land use applications; and

WHEREAS, following the results of this planning and research process, the City now desires to adopt permanent regulations to restrict parolee and probationer housing to Clayton's multi-family residential General Plan designations subject to the granting of a conditional use permit and the conditions, regulations and limitations stated herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment to Clayton Municipal Code – Zoning Definitions. Section 17.04.155 entitled "Parolee Home" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.155 Parolee Home.

"Parolee Home" means any residential or commercial building, structure, unit or use, including a hotel or motel, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses two or more parolees, that is not operated as a single housekeeping unit, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee."

Section 3. Amendment to Clayton Municipal Code – Zoning Definitions. Section 17.04.156 entitled "Parolee" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.156 Parolee.

"Parolee" shall include probationer, and shall mean any of the following: (1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as

defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term "parolee" includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

Section 4. Amendment to Clayton Municipal Code – Zoning Definitions. Section 17.04.186 entitled "Single Housekeeping Unit" is hereby added to the Clayton Municipal Code, Chapter 17.04 to read as follows:

"17.04.186 Single Housekeeping Unit.

"Single housekeeping unit" means that the use of the dwelling unit satisfies each of the following criteria:

1. The residents have established ties and familiarity and interact with each other.
2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
3. Residents share meals, household activities, expenses, and responsibilities.
4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
5. If the dwelling unit is rented, each adult resident is named on and is a party to a single written lease that gives each resident joint use and responsibility for the premises.
6. Membership of the household is determined by the residents, not by a landlord, property manager, or other third party.
7. The residential activities of the household are conducted on a nonprofit basis.

8. Residents do not have separate entrances or separate food-storage facilities, such as separate refrigerators, food-prep areas, or equipment.”

Section 5. Amendment to Clayton Municipal Code – Multiple Family Residential District Regulations. Clayton Municipal Code Section 17.20.030, entitled “Permitted Uses-Principal” is hereby amended and restated (new text in underline) as follows:

“17.20.030 - Permitted Uses—Principal.

The principal permitted uses in the multiple family residential districts shall be as follows:

- A. Duplex, triplex, townhouses, apartments and other multifamily structures meeting and not exceeding the density limits set by the applicable General Plan Land Use Designation;
- B. Supportive housing and transitional housing;
- C. Single family dwelling units only with a Conditional Use Permit (See Section 17.60.030.B.5).
- D. Employee housing providing accommodations for six (6) or fewer employees, provided that a conditional use permit is obtained. Such permit shall be reviewed and issued under the same procedures and in the same manner as that permit issued for single family dwelling units (See Section 17.60.030.B.5).
- E. Parolee homes only with a Conditional Use Permit (See Section 17.60.030.B.7).”

Section 6. Amendment to Clayton Municipal Code – Use Permits. Clayton Municipal Code Section 17.60.030, Subdivision (B), related to Residential Related Uses requiring a use permit, is hereby amended to add subdivision (7) to read as follows:

- “7. Parolee homes on land designated as Multifamily Low Density (MLD), Multifamily Medium Density (MMD) and Multifamily High Density (MHD) on the General Plan Land Use Map. (See Section 17.36.086).”

All other provisions contained in Section 17.60.030 of the Clayton Municipal Code shall remain in full force and effect.

Section 7. Amendment to Clayton Municipal Code – General Regulations. Clayton Municipal Code, Section 17.36.086 entitled “Standards for Parolee Homes” is hereby adopted to read as follows:

“17.36.086 – Standards for Parolee Homes.

Parolee homes are only permitted with a conditional use permit on land designated Multifamily Low Density (MLD), Multifamily Medium Density (MMD) or Multifamily High Density (MHD) on the General Plan Land Use Map and in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H), subject to the development standards of the zone. Parolee homes must also meet the following objective development standards:

A. Location requirements:

1. A parolee home shall be located a minimum distance of at least five hundred (500) feet from any public or private school (preschool through 12th grade), daycare, library, public park, hospital, group home, business licensed for on- or off-sale of alcoholic beverages, youth center, emergency shelter, supportive or transitional housing when measured from the exterior building walls of the parolee home to the property line of the sensitive use.
2. A parolee home shall be located a minimum distance of 1,000 feet from any other parolee home.

B. The application for a discretionary use permit for a parolee home shall include the following additional information:

1. Client profile (the subgroup of the population of the facility is intended to serve such as single men, families, etc.);
2. Maximum number of occupants and hours of facility operation;
3. Term of client stay;
4. Support services to be provided on-site and projected staffing levels; and
5. Rules of conduct and/or management plan.

C. Multifamily housing projects with 25 units or less shall be limited to one parolee home unit. Multifamily housing projects with more than 25 units shall be limited to two parolee home units. For purposes of this subsection, “multifamily housing project” means a building designed or used for more than two (2) dwelling units sharing common walls on one lot, including apartments and condominiums, but not including attached single-family homes or townhomes.

D. On-site staff supervision shall be required during all hours of the parolee home operation.

E. Any change in operating conditions that were approved in the conditional use permit shall require the immediate submittal of an application to modify the conditional use permit.”

Section 8. CEQA. This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment as the Ordinance relates to permit procedures for parolee housing in existing multi-family residential land use designations.

Section 9. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 10. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Sections 2 through 7 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on July 17, 2018.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on September 18, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Keith Haydon, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on September 18, 2018.

Janet Brown, City Clerk

ATTACHMENT 2

Executive Summary

California's correctional system is in a tailspin that threatens public safety and raises the risk of fiscal disaster. The failing correctional system is the largest and most immediate crisis facing policy-makers. For decades, governors and lawmakers fearful of appearing soft on crime have failed to muster the political will to address the looming crisis. And now their time has run out.

State prisons are packed beyond capacity. Inmates sleep in classrooms, gyms and hallways. Federal judges control inmate medical care and oversee mental health, use of force, disabilities act compliance, dental care, parolee due process rights and most aspects of the juvenile justice system. Thousands of local jail inmates are let out early every week as a result of overcrowding and court-ordered population caps. The State may soon face the same fate.

The Governor declared a state of emergency. But even that didn't bring action, only more reports to federal judges that underscore the fact that the State's corrections policy is politically bankrupt. As a result, a federal judge has given the State six months to make progress on overcrowding or face the appointment of a panel of federal judges who will manage the prison population.

For years, lawmakers and government officials have failed to do their jobs. This failure has robbed the State of fiscal control of the correctional system and placed it in the hands of federal courts.

The court-appointed receiver for inmate medical care has threatened to "back up the truck to raid the state treasury" – if that is what it will take to bring the system into constitutional compliance.¹

The receivership has set up a parallel management structure between the courts and the California Department of Corrections and Rehabilitation (CDCR) that impedes the State's ability to attract and retain the exceptional leadership required to guide the State out of the quagmire. In 2006, the department saw two secretaries resign abruptly before the current secretary was appointed in November. In testimony before a federal judge, both former secretaries stated that politics trumped good policy in correctional reform efforts. A nationally recognized correctional administrator told the Commission that no one

with the competency and leadership skills required to succeed as secretary would be willing to take the job under these circumstances.

Unlike other states, California relies almost completely on CDCR to improve correctional outcomes. It fails to tap the resources of other agencies that could assist in reducing crime and improving chances for offenders to improve themselves before they are released.

Despite the rhetoric, thirty years of “tough on crime” politics has not made the state safer. Quite the opposite: today thousands of hardened, violent criminals are released without regard to the danger they present to an unsuspecting public.

Years of political posturing have taken a good idea – determinate sentencing – and warped it beyond recognition with a series of laws passed with no thought to their cumulative impact. And these laws stripped away incentives for offenders to change or improve themselves while incarcerated.

Inmates who are willing to improve their education, learn a job skill or kick a drug habit find that programs are few and far between, a result of budget choices and overcrowding. Consequently, offenders are released into California communities with the criminal tendencies and addictions that first led to their incarceration. They are ill-prepared to do more than commit new crimes and create new victims.

Not surprisingly, California has one of the highest recidivism rates in the nation. Approximately 70 percent of all offenders released from prison are back within three years – mostly due to parole violations, many of which are technical in nature. California’s parole system remains a billion dollar failure.

If the problems are not fixed, the consequences will be severe. While many Californians and their policy-makers have heard or read about the corrections crisis, few are aware of how serious the crisis has become and what the consequences will be. The fiscal ramifications will affect funding for virtually every other government program – from education to health care.

Governor Schwarzenegger proposed an ambitious plan in December 2006 to increase the number of prison cells, expand space in county jails and establish a sentencing commission. That is an encouraging start, but insufficient given the seriousness of the situation that requires immediate action and demonstrable results.

Once, policy-makers had ample opportunities to make choices that could have put the State on a different path. Now, policy-makers are down to just two:

- The Governor and the Legislature can summon the political will to immediately implement reforms to improve the corrections system to ensure public safety and eliminate federal involvement.
- Or, they must turn over the task to an independent commission – free from political interference – with the authority to fix this broken system.

It will not be easy and change will not happen overnight. It will require cooperation and courage on the part of the Governor and the Legislature. And the solutions will require skillful and determined implementation.

The top priority should be to take back control of the prison medical system, by developing a plan to work with an organization such as Kaiser Permanente or a university that can run the system for the State. This is a critical step in restoring confidence that the State can run the entire system and demonstrate the professional competence needed to attract top managers.

The State must immediately take action to improve its management of the correctional population and implement the recommendations made by this and other commissions, including expanding in-prison programs, improving prisoner reentry, and reallocating resources to community-based alternatives. The State must use all of its human resources, not just the personnel of the Department of Corrections and Rehabilitation.

The State must re-invent parole, moving to a system of post-release supervision for certain prisoners to ensure public safety.

At the same time, the State should begin a comprehensive evaluation of its sentencing system by establishing an independent sentencing commission to develop guidelines for coherent and equitable sentencing guided by overarching criminal justice policy goals. This is not a short-term solution, but a way to create rational long-term policy. Critics who suggest that a sentencing commission is code for shorter sentences are misinformed. Other states have used sentencing commissions to lengthen sentences for the most dangerous criminals, develop community-based punishment for nonviolent offenders and bring fiscal responsibility to criminal justice policies.

As they start the process, the Governor and Legislature should set goals and targets and insist on performance management to meet them. These reforms must not be allowed to fail in implementation, as they have

before. From start to finish, policy-makers must provide consistent support and oversight. In doing so, they can demonstrate progress to the public and the courts and begin to rebuild confidence in the State's ability to manage this critical responsibility.

Each of these proposals presents opportunities to fix a portion of California's corrections system. But they must be undertaken together, guided by a comprehensive strategy. Each reinforces the others as California embarks on changing the culture of its corrections system and restoring its status as a national model of success.

Recommendation 1: The Governor and Legislature should immediately implement a comprehensive strategy to reduce prison overcrowding and improve public safety in California communities. Specifically, the Governor and the Legislature should:

- ❑ ***Implement prior reform recommendations.*** Policy-makers do not need to further research solutions. They must immediately implement the evidence-based recommendations made by this Commission and others over the past two decades in order to regain control of major areas of prison operations where court intervention exists and avoid additional court intervention. To improve the performance of the correctional system, policy-makers must re-invent parole; expand educational, vocational and substance abuse treatment programs in prisons; reallocate resources to expand local punishment alternatives; and, expand judicial discretion.
- ❑ ***Establish a corrections inter-agency task force.*** The State should establish an inter-agency task force to develop partnerships with CDCR to bolster in-prison and reentry programs with a goal of reducing recidivism and improving public safety. The inter-agency task force should include all government entities that currently or potentially could assist offenders in improving their education, getting a job, finding housing, getting photo identification or a driver's license or treating an addiction or mental health problem.

Alternative Recommendation: If the Governor and Legislature are unwilling or unable to advance these critical correctional reforms, they should turn the job over to a board of directors with the power and authority to enact reforms. Specifically:

- ❑ The board should be an independent entity modeled after the federal Base Realignment and Closure Commission with members appointed by the Governor and legislative leaders.

ATTACHMENT 3

(Slip Opinion)

OCTOBER TERM, 2010

1

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BROWN, GOVERNOR OF CALIFORNIA, ET AL. *v.*
PLATA ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURTS FOR
THE EASTERN AND NORTHERN DISTRICTS OF CALIFORNIA

No. 09–1233. Argued November 30, 2010—Decided May 23, 2011

California’s prisons are designed to house a population just under 80,000, but at the time of the decision under review the population was almost double that. The resulting conditions are the subject of two federal class actions. In *Coleman v. Brown*, filed in 1990, the District Court found that prisoners with serious mental illness do not receive minimal, adequate care. A Special Master appointed to oversee remedial efforts reported 12 years later that the state of mental health care in California’s prisons was deteriorating due to increased overcrowding. In *Plata v. Brown*, filed in 2001, the State conceded that deficiencies in prison medical care violated prisoners’ Eighth Amendment rights and stipulated to a remedial injunction. But when the State had not complied with the injunction by 2005, the court appointed a Receiver to oversee remedial efforts. Three years later, the Receiver described continuing deficiencies caused by overcrowding. Believing that a remedy for unconstitutional medical and mental health care could not be achieved without reducing overcrowding, the *Coleman* and *Plata* plaintiffs moved their respective District Courts to convene a three-judge court empowered by the Prison Litigation Reform Act of 1995 (PLRA) to order reductions in the prison population. The judges in both actions granted the request, and the cases were consolidated before a single three-judge court. After hearing testimony and making extensive findings of fact, the court ordered California to reduce its prison population to 137.5% of design capacity within two years. Finding that the prison population would have to be reduced if capacity could not be increased through new construction, the court ordered the State to formulate a compliance plan and submit it for court approval.

Syllabus

Held:

1. The court-mandated population limit is necessary to remedy the violation of prisoners' constitutional rights and is authorized by the PLRA. Pp. 12–41.

(a) If a prison deprives prisoners of basic sustenance, including adequate medical care, the courts have a responsibility to remedy the resulting Eighth Amendment violation. See *Hutto v. Finney*, 437 U. S. 678, 687, n. 9. They must consider a range of options, including the appointment of special masters or receivers, the possibility of consent decrees, and orders limiting a prison's population. Under the PLRA, only a three-judge court may limit a prison population. 18 U. S. C. §3626(a)(3). Before convening such a court, a district court must have entered an order for less intrusive relief that failed to remedy the constitutional violation and must have given the defendant a reasonable time to comply with its prior orders. §3626(a)(3)(A). Once convened, the three-judge court must find by clear and convincing evidence that “crowding is the primary cause of the violation” and “no other relief will remedy [the] violation,” §3626(a)(3)(E); and that the relief is “narrowly drawn, extends no further than necessary. . . , and is the least intrusive means necessary to correct the violation,” §3626(a)(1)(A). The court must give “substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.” *Ibid.* Its legal determinations are reviewed *de novo*, but its factual findings are reviewed for clear error. Pp. 12–15.

(b) The *Coleman* and *Plata* courts acted reasonably in convening a three-judge court. Pp. 15–19.

(1) The merits of the decision to convene are properly before this Court, which has exercised its 28 U. S. C. §1253 jurisdiction to determine the authority of a court below, including whether a three-judge court was properly constituted. *Gonzalez v. Automatic Employees Credit Union*, 419 U. S. 90, 95, n. 12. Pp. 15–16.

(2) Section 3626(a)(3)(A)(i)'s previous order requirement was satisfied in *Coleman* by the Special Master's 1995 appointment and in *Plata* by the 2002 approval of a consent decree and stipulated injunction. Both orders were intended to remedy constitutional violations and were given ample time to succeed—12 years in *Coleman*, and 5 years in *Plata*. Contrary to the State's claim, §3626(a)(3)(A)(ii)'s reasonable time requirement did not require the District Courts to give more time for subsequent remedial efforts to succeed. Such a reading would in effect require courts to impose a moratorium on new remedial orders before issuing a population limit, which would delay an eventual remedy, prolong the courts' involvement, and serve neither the State nor the prisoners. The *Coleman*

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and *Plata* courts had a solid basis to doubt that additional efforts to build new facilities and hire new staff would achieve a remedy, given the ongoing deficiencies recently reported by both the Special Master and the Receiver. Pp. 16–19.

(c) The three-judge court did not err in finding that “crowding [was] the primary cause of the violation,” §3626(a)(3)(E)(i). Pp. 19–29.

(1) The trial record documents the severe impact of burgeoning demand on the provision of care. The evidence showed that there were high vacancy rates for medical and mental health staff, *e.g.*, 20% for surgeons and 54.1% for psychiatrists; that these numbers understated the severity of the crisis because the State has not budgeted sufficient staff to meet demand; and that even if vacant positions could be filled, there would be insufficient space for the additional staff. Such a shortfall contributes to significant delays in treating mentally ill prisoners, who are housed in administrative segregation for extended periods while awaiting transfer to scarce mental health treatment beds. There are also backlogs of up to 700 prisoners waiting to see a doctor for physical care. Crowding creates unsafe and unsanitary conditions that hamper effective delivery of medical and mental health care. It also promotes unrest and violence and can cause prisoners with latent mental illnesses to worsen and develop overt symptoms. Increased violence requires increased reliance on lockdowns to keep order, and lockdowns further impede the effective delivery of care. Overcrowding’s effects are particularly acute in prison reception centers, which process 140,000 new or returning prisoners annually, and which house some prisoners for their entire incarceration period. Numerous experts testified that crowding is the primary cause of the constitutional violations. Pp. 19–24.

(2) Contrary to the State’s claim, the three-judge court properly admitted, cited, and considered evidence of current prison conditions as relevant to the issues before it. Expert witnesses based their conclusions on recent observations of prison conditions; the court admitted recent reports on prison conditions by the Receiver and Special Master; and both parties presented testimony related to current conditions. The court’s orders cutting off discovery a few months before trial and excluding evidence not pertinent to the issue whether a population limit is appropriate under the PLRA were within the court’s sound discretion. Orderly trial management may require discovery deadlines and a clean distinction between litigation of the merits and the remedy. The State points to no significant evidence that it was unable to present and that would have changed the outcome here. Pp. 24–26.

(3) It was permissible for the three-judge court to conclude that

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overcrowding was the “primary,” but not the only, cause of the violations, and that reducing crowding would not entirely cure the violations. This understanding of the primary cause requirement is consistent with the PLRA. Had Congress intended to require that crowding be the only cause, the PLRA would have said so. Pp. 26–29.

(d) The evidence supports the three-judge court’s finding that “no other relief [would] remedy the violation,” §3626(a)(3)(E)(ii). The State’s claim that out-of-state transfers provide a less restrictive alternative to a population limit must fail because requiring transfers is a population limit under the PLRA. Even if they could be regarded as a less restrictive alternative, the three-judge court found no evidence of plans for transfers in numbers sufficient to relieve overcrowding. The court also found no realistic possibility that California could build itself out of this crisis, particularly given the State’s ongoing fiscal problems. Further, it rejected additional hiring as a realistic alternative, since the prison system was chronically understaffed and would have insufficient space were adequate personnel retained. The court also did not err when it concluded that, absent a population reduction, the Receiver’s and Special Master’s continued efforts would not achieve a remedy. Their reports are persuasive evidence that, with no reduction, any remedy might prove unattainable and would at the very least require vast expenditures by the State. The State asserts that these measures would succeed if combined, but a long history of failed remedial orders, together with substantial evidence of overcrowding’s deleterious effects on the provision of care, compels a different conclusion here. Pp. 29–33.

(e) The prospective relief ordered here was narrowly drawn, extended no further than necessary to correct the violation, and was the least intrusive means necessary to correct the violation. Pp. 33–41.

(1) The population limit does not fail narrow tailoring simply because prisoners beyond the plaintiff class will have to be released through parole or sentencing reform in order to meet the required reduction. While narrow tailoring requires a “fit” between the [remedy’s] ends and the means chosen to accomplish those ends,” *Board of Trustees of State Univ. of N. Y. v. Fox*, 492 U. S. 469, 480, a narrow and otherwise proper remedy for a constitutional violation is not invalid simply because it will have collateral effects. Nor does the PLRA require that result. The order gives the State flexibility to determine who should be released, and the State could move the three-judge court to modify its terms. The order also is not overbroad because it encompasses the entire prison system, rather than separately assessing each institution’s need for a population limit. The *Coleman* court found a systemwide violation, and the State stipulated to systemwide relief in *Plata*. Assuming no constitutional violation

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results, some facilities may retain populations in excess of the 137.5% limit provided others fall sufficiently below it so the system as a whole remains in compliance with the order. This will afford the State flexibility to accommodate differences between institutions. The order may shape or control the State's authority in the realm of prison administration, but it leaves much to the State's discretion. The order's limited scope is necessary to remedy a constitutional violation. The State may move the three-judge court to modify its order, but it has proposed no realistic alternative remedy at this time. Pp. 33–36.

(2) The three-judge court gave “substantial weight” to any potential adverse impact on public safety from its order. The PLRA's “substantial weight” requirement does not require the court to certify that its order has no possible adverse impact on the public. Here, statistical evidence showed that prison populations had been lowered without adversely affecting public safety in some California counties, several States, and Canada. The court found that various available methods of reducing overcrowding—good time credits and diverting low-risk offenders to community programs—would have little or no impact on public safety, and its order took account of such concerns by giving the State substantial flexibility to select among the means of reducing overcrowding. The State complains that the court approved the State's population reduction plan without considering whether its specific measures would substantially threaten public safety. But the court left state officials the choice of how best to comply and was not required to second-guess their exercise of discretion. Developments during the pendency of this appeal, when the State has begun to reduce the prison population, support the conclusion that a reduction can be accomplished without an undue negative effect on public safety. Pp. 37–41.

2. The three-judge court's order, subject to the State's right to seek its modification in appropriate circumstances, must be affirmed. Pp. 41–48.

(a) To comply with the PLRA, a court must set a population limit at the highest level consistent with an efficacious remedy, and it must order the population reduction to be achieved in the shortest period of time reasonably consistent with public safety. Pp. 41–42.

(b) The three-judge court's conclusion that the prison population should be capped at 137.5% of design capacity was not clearly erroneous. The court concluded that the evidence supported a limit between the 130% limit supported by expert testimony and the Federal Bureau of Prisons and the 145% limit recommended by the State Corrections Independent Review Panel. The PLRA's narrow tailoring requirement is satisfied so long as such equitable, remedial judg-

Syllabus

ments are made with the objective of releasing the fewest possible prisoners consistent with an efficacious remedy. Pp. 42–44.

(c) The three-judge court did not err in providing a 2-year deadline for relief, especially in light of the State's failure to contest the issue at trial. The State has not asked this Court to extend the deadline, but the three-judge court has the authority, and responsibility, to amend its order as warranted by the exercise of sound discretion. Proper respect for the State and for its governmental processes require that court to exercise its jurisdiction to accord the State considerable latitude to find mechanisms and make plans that will promptly and effectively correct the violations consistent with public safety. The court may, *e.g.*, grant a motion to extend the deadline if the State meets appropriate preconditions designed to ensure that the plan will be implemented without undue delay. Such observations reflect the fact that the existing order, like all ongoing equitable relief, must remain open to appropriate modification, and are not intended to cast doubt on the validity of the order's basic premise. Pp. 44–48.

Affirmed.

KENNEDY, J., delivered the opinion of the Court, in which GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined. ALITO, J., filed a dissenting opinion, in which ROBERTS, C. J., joined.

ATTACHMENT 4

California Department of
Corrections and Rehabilitation



fact sheet



For Informational Purposes
December 19, 2013

(916) 445-4950

2011 Public Safety Realignment

The cornerstone of California's solution to reduce prison overcrowding, costs, and recidivism

In 2011, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 109 and AB 117, historic legislation to enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California's solution to the U.S. Supreme Court order to reduce the number of inmates in the state's 33 prisons to 137.5 percent of original design capacity.

All provisions of Assembly Bill (AB) 109 and AB 117 were prospective and implementation of the 2011 Realignment Legislation began October 1, 2011. **No inmates currently in state prison were or are transferred to county jails or released early.**

Prior to Realignment, more than 60,000 felon parole violators returned to state prison annually, with an average length of stay of 90 days. On September 30, 2011, the felon parole violator population was 13,285; by the end of November 2013, that population was down to 25 due to the fact that most felon parole violators now serve revocation time in county jail.

Under Realignment, newly-convicted low-level offenders without current or prior serious or violent offenses stay in county jail to serve their sentence; this has reduced the annual admissions to less than 36,000 a year. Prior to Realignment, there were approximately 55,000 to 65,000 new admissions from county courts to state prison.

Overall, the diversion of low-level offenders and parole violators to county jail instead of state prison since October 2011 has resulted in a population decrease of about 25,000.

Funding of Realignment

AB 109 provides a dedicated and permanent revenue stream to the counties through Vehicle License Fees and a portion of the State sales tax outlined in trailer bills AB 118 and Senate Bill 89. The latter provides revenue to counties for local public safety programs and the former establishes the Local Revenue Fund 2011 (Fund) for counties to receive the revenues and appropriate funding for 2011 Public Safety Realignment.

This funding became constitutionally guaranteed by California voters under the passage of Proposition 30 in 2012.

\$400 million was provided to the counties in the first partial fiscal year of Realignment, growing to more than \$850 million last year and more than \$1 billion in 2013-2014.

The following trailer bills were signed to secure sufficient funding for counties:

- AB 111
 - Gives counties additional flexibility to access funding to increase local jail capacity for the purpose of implementing Realignment.

- AB 94 (2011 Realignment Legislation Addressing Public Safety)
 - Came into effect upon the passage of AB 111.
 - Authorizes counties that have received a conditional award under a specified jail facilities financing program to relinquish that award and reapply for a conditional award under a separate financing program.
 - Lowers the county's required contribution from 25 percent to 10 percent and additionally requires CDCR and the Corrections Standard Authority to give funding preference to those counties that relinquish local jail construction conditional awards and agree to continue to assist the state in siting re-entry facilities.
- AB 118
 - Outlines the financial structure for allocating funds to a variety of accounts for realignment.
 - Establishes the Local Revenue Fund 2011 for receiving revenue and appropriates from that account to the counties.
 - Directs the deposit of revenues associated with 1.0625 percent of the state sales tax rate to be deposited in the Fund.
 - Establishes a reserve account should revenues come in higher than anticipated.
 - The reallocation formulas will be developed more permanently using appropriate data and information for the 2012-13 fiscal year and each fiscal year thereafter.
 - Implements sufficient protections to provide ongoing funding and mandated protection for the state and local government.
 - The smallest of counties that benefitted from the minimum grant each received approximately \$77,000 in 2011-12.
- SB 89
 - Dedicates a portion (\$12) of the Vehicle License Fee to the Fund.
 - Revenue comes from two sources: freed up VLF previously dedicated to DMV administration and VLF that was previously dedicated to cities for general purpose use.
 - Estimated total amount of VLF revenue dedicated to realignment was \$354.3 million in 2011-2012.
- SB 87
 - Provided counties with a one-time appropriation of \$25 million to cover costs associated with hiring, retention, training, data improvements, contracting costs, and capacity planning pursuant to each county's AB 109 implementation plan.

Local Planning Process

The Community Corrections Partnership (CCP), which was previously established in Penal Code § 1230, developed an implementation plan for their respective county. The Executive Committee from the CCP members is comprised of the following:

- Chief probation officer
- Chief of police
- Sheriff
- District Attorney
- Public Defender
- Presiding judge of the superior court (or his/her designee)
- A representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors.

Community, Local Custody

AB 109 allows non-violent, non-serious, and non-sex offenders to serve their sentence in county jails instead of state prisons. However, counties can contract back with the State to house local offenders.

Under AB 109:

- **No inmates are transferred from state prisons to county jails.**
- **No state prison inmates are released early.**
- All felons sent to state prison prior to the implementation of Realignment will continue to serve their entire sentence in state prison.
- All felons convicted of current or prior serious or violent offenses, sex offenses, and sex offenses against children will go to state prison.
- There are nearly 70 additional crimes that are not defined in the Penal Code as serious or violent offenses but at the request of law enforcement and district attorneys were added as offenses that would be served in state prison rather than in local custody.

Post-Release (County-Level) Community Supervision

CDCR continues to have jurisdiction over all offenders who were on state parole prior to the implementation date of October 1, 2011. County-level supervision for offenders upon release from prison includes current non-violent, current non-serious (irrespective of priors), and some sex offenders. County-level supervision does not include:

- Inmates paroled from life terms to include third-strike offenders;
- Offenders whose current commitment offense is violent or serious, as defined by California's Penal Code §§ 667.5(c) and 1192.7(c);
- High-risk sex offenders, as defined by CDCR;
- Mentally Disordered Offenders; nor
- Offenders on parole prior to October 1, 2011.

Offenders who meet the above-stated conditions continue to be under state parole supervision.

In all 58 counties, the Probation Department is the designated agency responsible for post-release supervision.

CDCR must notify counties of an individual's release at least one month prior, if possible. Once the individual has been released, CDCR no longer has jurisdiction over any person who is under post-release community supervision. Currently, CDCR is working to ensure counties receive inmate packets 120 days prior to the ordered release date.

No person shall be returned to prison on a parole revocation except for those life-term offenders who paroled pursuant to Penal Code § 3000.1 (Penal Code § 3056 states that only these offenders may be returned to state prison).

Parole Revocations

As of October 1, 2011, all parole revocations are served in county jail instead of state prison and can only be up to 180 days.

As of July 1, 2013 the parole revocation process is now a local court-based process. Local courts, rather than the Board of Parole Hearings, are the designated authority for determining parole revocations.



Contracting back to the state for offenders to complete a custody parole revocation is not an option.

Only offenders previously sentenced to a life term can be revoked to prison.

The Board of Parole Hearings continues to conduct:

- Parole consideration for lifers;
- Medical parole hearings;
- Mentally disordered offender cases; and
- Sexually Violent Predator cases.

AB 109 also provides the following under parole:

- Allows local parole revocations up to 180 days
- Authorizes flash incarceration at the local level for up to 10 days

Inmates released to parole after serving a life-term (e.g., murderers, violent sex offenders, and third-strikers) will be eligible for parole revocation back to state prison if ordered by the Board.

Effects on Conservation Camps

- Conservation camps are currently at capacity
- CDCR is currently working with CAL FIRE and the counties to use county inmates to help fill the vacancies.

Effects on Female Population

As a substantial portion of female offenders fall under the definition of non-serious, non-violent, and non sex-offenders, the female inmate population at CDCR has dropped by a third, approximately 3,100 inmates.

The California Prisoner Mother Program (CPMP) in Pomona will remain open. CPMP was designed for pregnant or parenting women, convicted of a low-level offense, with children under the age of six, who could participate in a community substance abuse treatment program while caring for their children.

The Female Rehabilitative Community Correctional Center in Bakersfield will stay open until its contract expires in 2018. The facility currently has 75 beds available for women who were convicted of a non-serious, non-violent, and non-sex offense and who have 36 months or less to serve of their sentence. However, as that population diminishes based upon AB109, the FRCCC will begin housing Civil Addicts for the duration of the contract.

The Division of Juvenile Justice

There were no changes to DJJ during the 2011 realignment.

CDCR Adult Programs

As CDCR's population changes due to Realignment, the Division of Adult Programs will utilize projection information to review appropriate programming to address offender needs. While exact dates for program adjustments are still under evaluation, Adult Programs is dedicated to serving as many offenders as possible by maximizing existing resources.

###

REPORTS BY POLICY AREA

Capital Outlay, Infrastructure

Criminal Justice

Economy and Taxes

Education

Environment and Natural Resources

Health and Human Services

Local Government

State Budget Condition

Transportation

Other Government Areas

[Back to All CJ FAQs](#)

How much does it cost to incarcerate an inmate?

California's Annual Cost to Incarcerate an Inmate in Prison

2016-17

Type of Expenditure	Per Inmate Costs
Security	\$32,019
Inmate Health Care	\$21,582
Medical care	14,834
Psychiatric services	3,359

6/11/2018

Legislative Analyst's Office

Pharmaceuticals	2,143
Dental care	1,246
Facility Operations and Records	\$7,025
Facility operations (maintenance and utilities)	4,334
Classification services	1,798
Maintenance of inmate records	723
Reception, testing, assignment	145
Transportation	24
Administration	\$4,171
Inmate Food and Activities	\$3,484
Food	2,082
Inmate employment	823
Clothing	354
Inmate activities	102
Religious activities	123
Rehabilitation Programs	\$2,437
Academic education	1,237
Cognitive Behavioral Therapy	823
Vocational training	377
Miscellaneous	\$93
Total	\$70,812

- It costs an average of about \$71,000 per year to incarcerate an inmate in prison in California.
- Over three-quarters of these costs are for security and inmate health care.
- Since 2010-11, the average annual cost has increased by about \$22,000 or about 45 percent. This includes an increase of \$7,900 for security and \$7,200 for inmate health care. This increase has been driven by various factors, including (1) employee compensation, (2) increased inmate health care costs, and (3) operational costs related to additional prison capacity to reduce prison overcrowding.

Last Updated: March 2017



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ATTACHMENT 6

Contra Costa County
2011/12 Public Safety Realignment

Contra Costa County 2011/12 Public Safety Realignment Implementation Plan

Executive Committee

Diana Becton, Presiding Judge

Cynthia Belon, Health Services

Philip Kader, Chief Probation Officer (Chair)

Robin Lipetzky, Public Defender

David Livingston, Sheriff-Coroner

Chris Magnus, Chief, Richmond Police Department

Mark A. Peterson, District Attorney

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Introduction

The Community Corrections Partnership (CCP) has been developing and refining this document since Assembly Bill 109 became law in late June 2011. This responsibility has not been taken lightly. We have spent many hours of meeting virtually every week since early July and many additional hours developing this CCP Plan. We have had excellent attendance of the voting members. We have attended training seminars, held several community forums and invited anyone interested to attend our weekly meetings.

It has become abundantly clear that the only plan that should be offered is one that continues as a work in progress. There are ongoing discussions involving interventions that could impact the State projections, and service opportunities that may decrease the number of incarceration beds and probation supervision cases. There is continued discussion regarding strategies to minimize incarceration of the AB 109 population, such as remodeling the County's bail-process, holding early disposition hearings, and increasing the use of electronic monitoring, to name but a few. The CCP will convene a community advisory group of members who will review data on outcomes, provide input on community needs and assessments of implementation, and advise on community engagement strategies. The CCP will meet with this group periodically to receive and discuss the group's input and advice. The CCP supports the implementation of County Re-Entry Strategic Plan and will participate in meetings to implement the strategic plan while gathering input on strategies to integrate realignment with broader re-entry policies and programs.

There is simply no way to know at this time if our planning assumptions will bear out. We have completed this Plan by carefully weighing all the possibilities and coming to a reasoned conclusion with the initial information we have studied. We offer this Plan fully understanding that it will be reviewed and likely modified during monthly meetings of the CCP. We expect that the careful collection of relevant data will inform our proposals to reallocate resources, if necessary, as well as provide early indications of the effectiveness of our case management.

There are several things we do know unequivocally. The prior funding from the State to offset the cost of incarcerating those pending state parole revocation hearings (\$777,000 a year) will no longer exist beginning October 1, 2011. We know that the 20 to 30 parolees previously transferred from our jail to prison every week will remain in County custody. We know that 20 to 30 people released from prison every month will be placed on Post-Release Community Supervision provided by our Probation Department rather than on State Parole.

Criminal Justice Realignment is a paradigm shift for California counties. No longer will it be enough for each criminal justice partner to focus on its own distinct mission within the justice system. Achievement of realignment goals will depend on the commitment and collaboration of all justice partners towards a combined mission, while recognizing the critical role that each justice partner plays in achieving positive outcomes.

The CCP is committed to doing the best job we can with the resources we have been provided. We are also prepared to adjust our Plan to ensure the best utilization of the limited revenue forwarded to us from State. Finally, we remain committed to vigorously search for the

very best alternatives and aggressively engage our communities in our effort to best serve our county.

Executive Summary

Overview.

The California Legislature passed the Public Safety Realignment Act (Assembly Bills 109), which transfers responsibility for supervising specific low-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB 109) takes effect October 1, 2011 and realigns three major areas of the criminal justice system. On a prospective basis, the legislation:

- Transfers the location of incarceration for lower-level offenders (specified non-violent, non-serious, non-sex offenders) from state prison to local county jail and provides for an expanded role for post-release supervision for these offenders;
- Transfers responsibility for post-release supervision of lower-level offenders (those released from prison after having served a sentence for a non-violent, non-serious, and non-sex offense) from the state to the county level by creating a new category of supervision called Post-Release Community Supervision (PRCS);
- Transfers the housing responsibility for parole and PRCS revocations to local jail custody

AB 109 also tasked the local Community Corrections Partnership (CCP)¹ with recommending to the County Board of Supervisors a plan for implementing the criminal justice realignment, which shall be deemed accepted by the Board unless rejected by a 4/5th vote. The Executive Committee of the CCP is composed of the County Probation Officer (Chair), Sheriff-Coroner, a Chief of Police (represented by the Richmond Police Chief), District Attorney, Public Defender, Presiding Judge of the Superior Court or designee, and Health Director as agreed by the County Administrative Officer.

This document is the criminal justice realignment implementation plan developed and recommended by the CCP Executive Committee. The Executive Committee has met almost every week since early July. The plan attempts to meet the stated legislative objectives within a very limited funding allocation, as described below, under "Assumptions". While we would like to be able to say that this is a comprehensive plan to deliver the full complement of incarceration, supervision, and rehabilitative/re-entry services contemplated by AB 109, the limited state allocation simply does not provide sufficient funds for everything we would like to include in this plan. Consideration was also given to provide supportive social and rehabilitation services to those offenders released from prison as well as those sentenced by the local courts and those spending custody time in the local jail.

Planning Assumptions.

As this dramatic and multi-dimensional criminal justice realignment (being an initiative that would have, under normal circumstances, required years of collaborative planning) was

¹ The Community Corrections Partnership was previously established under SB 678.

literally developed in a matter of months, the Executive Committee had to make a number of assumptions where definitive answers are currently unavailable:

State Funding Formula. The funding amount allocated to each California County is based upon the number of non-violent, non-serious, non-sex offenders sentenced to state prison by each county, rather than on the number of arrests or other contributing factors. Historically, Contra Costa County has sentenced fewer offenders to state prison per capita than many other counties and, consequently, finds itself “under-funded” compared with other counties that have historically sentenced proportionally more offenders to state prison. While making no value judgment on the sentencing practices of other counties, the state funding formula for 2011/12 realignment ironically rewards those counties that contributed most to state prison crowding. As a result of concerns expressed by this County and other disadvantaged counties, the state has agreed to reconsider the funding formula for future years. Therefore, we must emphasize that this plan is only relevant for the period October 1, 2011 through June 30, 2012. Any planning beyond June 2012 must be contingent on a yet to be determined funding formula.

Length of Confinement. Although the State Department of Finance has projected that the terms of confinement for parole revocations will be on average 30 days, the Sheriff’s Office anticipates that a more realistic average term of confinement for planning purposes should be 90 days (the maximum term). Contra Costa County currently has unutilized and unstaffed bed space within its detention facilities. In anticipation of the coming new offender population, pods within the West County Detention Facility and the Marsh Creek Detention Facility will be reopened and staffed, adding considerably to the costs of the Implementation Plan.

Budget.

The amount allocated to the County is \$4,572,950. The following is a breakdown of the recommended allocations, which are described in greater detail in the AB 109 Criminal Justice Realignment Budget for 2011/12, which is being transmitted to the Board in a separate item today:

Table 1. Contra Costa County AB 109 Spending Plan, FY2011-2012

Agency	FY2011-2012 (9-Month) Budget	Percent of Total FY2011-2012 (9-Month) Budget
Sheriff’s Office	\$2,489,750	54.4%
Probation Department	\$1,000,000	21.9%
Health Services	\$895,109	19.6%
Office of the Public Defender	\$120,591	2.6%
District Attorney Office	\$67,500	1.5%
Total	\$4,572,950	100%

New Population Estimates.

AB 109 will place newly released non-violent, non-serious, non-sex offenders under County supervision and will keep new lower-level offenders in local custody rather than state prison. For Contra Costa County, the new population estimates are:

Post-Release Community Supervision (PRCS) population. Between October 2011 and June 2012, it is estimated that 215 offenders will be released from prison and returned to the County at a rate of approximately 24 offenders per month.

Lower-level offenders serving county jail sentences. It is expected that over 60 new offenders will be added to the county jail population during the nine-month implementation period. The average length of sentences that will be served by these newly sentenced offenders is unknown and unpredictable at this time.

New mandatory probation supervision population. It is expected that a large number of the local sentenced AB 109 population will also be sentenced to a period of mandatory probation supervision to follow their county jail sentence. The size of this population and the average length of the term of probation supervision are as yet unknown.

New county jail population of parole/PRCS/probation violators. Beginning November 1, 2011, large numbers of parolees will be serving their sentences in local jail facilities rather than in state prison. In FY 2010-2011 1,276 new parolees were sent to state prison on parole revocations from Contra Costa County. These offenders will now remain in local custody. The actual rates of incarceration and the average length of the sentences to be served remain unknown at this time.

Implementation Strategies.

The Community Corrections Partnership has crafted strategies to protect the community and provide services to AB 109 offenders.

- The *Sheriff's Office* will open housing units within two of its three detention facilities to accommodate the increasing number of offenders that must be incarcerated, and expand its electronic monitoring program to supervise offenders within the community.
- The *Probation Department* will create a specialized unit to supervise and case manage the offender population, developing an individualized treatment plan for each offender and providing or referring probationers to a full range of community supervision services.
- For those AB 109 offenders who require assistance, *Health Services* will provide substance abuse treatment, mental health services, and homelessness prevention services through its Behavioral Mental Health Clinic, Behavioral Health Homeless Program, and community-based residential and outpatient drug programs. Additional bed space will be reserved for AB 109 clients provided in partnership with local community-based organizations.

- The *District Attorney's Office* will provide victim advocacy services, helping connect victims with relevant services. They will also gather information about the impact of the crime for the purposes of setting bail and release conditions (when appropriate) to assist in reducing local incarceration rates.
- The *Office of the Public Defender* will conduct a social history and needs assessment of clients pre-disposition and, pursuant to PC 1203.4 (clean slate), will assist in the filing of petitions for probationers to have their records cleared at the end of their terms of probation when eligible and in conjunction with the other justice partners.
- Staff members from each of the CCP agencies will participate in required orientations for PRCS offenders as they return to the community from state prison. During these meetings, CCP agencies and community-based organizations will provide information on service availability and the possible consequences of law violations.
- The CCP will meet monthly between October 2011 and June 2012 to monitor and evaluate the Implementation Plan. Particular emphasis will be placed on accuracy of client population estimates and costs, management information system development, receptiveness of offenders to offered services, identified gaps in the services and programs provided, and outcomes for AB 109 offenders. It is the Committee's intent to continue to refine the plan and reallocate resources as appropriate in the coming months.

Proposed Outcomes.

To gauge the effectiveness of AB 109 realignment in the county, the CCP will gather feedback from the partners on the effectiveness of the plan along with recidivism and quality of life outcomes for AB 109 offenders.

Recommendations

The Executive Committee submits the following recommendations to the Board of Supervisors, Contra Costa County:

1. **ACKNOWLEDGE** that State Criminal Justice Realignment is a work in progress, and that the plan recommended for adoption today may have to be adjusted in accordance with changing circumstances.
2. **RECOGNIZE** that the funding formula selected by the state to allocate realignment funding to local government provides insufficient funding to Contra Costa County for providing the expected continuum of incarceration, supervision, and rehabilitative/re-entry services contemplated under realignment.

3. RECOGNIZE that there is an ongoing need to secure funding for the County's Strategic Reentry Plan separate and apart from the funding allocated for criminal justice realignment.
4. RECOGNIZE that the plan recommended for adoption today is an implementation plan only and cannot be sustained on an annualized basis without increased state funding.
5. ACKNOWLEDGE that the Sheriff has the ability to offer a home detention program, as specified in section 1203.016 of the California Penal Code, in which inmates committed to the County Jail may voluntarily participate or involuntarily be placed in a home detention program during their sentence in lieu of confinement in the County Jail or other County correctional facility.
6. ACKNOWLEDGE that the Sheriff has the ability to offer an electronic monitoring program as specified in section 1203.018 of the California Penal Code, for inmates being held in lieu of bail in the County Jail or other County correctional facility.
7. ADOPT the Implementation Plan recommended herein as the Contra Costa County 2011/12 Public Safety Realignment Implementation Plan as required by PC1230.1 and the Post-Release Community Supervision strategy as required by PC3451 (as added by the Post-Release Community Supervision Act of 2011 contained in AB 109).

Overview of 2011 Public Safety Realignment Act (AB 109)

The goals of The Public Safety Realignment Act are to restructure supervision and incarceration, address the overcrowding problem in California's prisons, and reduce the cost of the centralized state prison system. AB 109 transfers responsibility for supervising low-level inmates and parolees (those convicted of non-serious, non-violent, or non-sex offenses) from the California Department of Corrections and Rehabilitation to counties. Implementation of AB 109 is scheduled to begin October 1, 2011.

AB 109 amends Section 1230.1 of the California Penal Code to read: "Each county local Community Corrections Partnership established pursuant to subdivision (b) of Section 1230 shall recommend a local plan to the County Board of Supervisors for the implementation of the 2011 public safety realignment. (b) The plan shall be voted on by an executive committee of each county's Community Corrections Partnership consisting of the Chief Probation Officer of the county as chair, a Chief of Police, the Sheriff, the District Attorney, the Public Defender, a presiding judge or his or her designee, and the department representative listed in either section 1230 (b) (2) (G), 1230 (b) (2) (H), or 1230 (b) (2) (J) as designated by the county board of supervisors for purposes related to the development and presentation of the plan. (c) The plan shall be deemed accepted by the County Board of Supervisors unless rejected by a vote of 4/5ths in which case the plan goes back to the Community Corrections Partnership for further consideration. (d) Consistent with local needs and resources, the plan may include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including but not limited to, day reporting centers, drug courts, residential multi-service centers, mental health treatment programs, electronic and GPS monitoring programs, victims restitution programs, counseling programs, community service programs, educational programs, and work training programs."

Target Population: The post-release community supervision population, released from prison to community supervision, is the responsibility of local probation departments. This population includes non-violent, non-serious, non-sex offenders with or without a prior conviction for a serious or violent offense or a sex-offender registration requirement. The population that will serve their prison sentences locally includes the non-violent, non-serious, non-sex offender group. Upon full implementation of AB 109 in Contra Costa County it is estimated that the annual average daily population of AB 109 offenders will be approximately 450. These offenders will require a range of supervision, sanctions, and service resources. These offenders become a local responsibility on October 1, 2011 when AB 109 is implemented.

- o **Local Post-Release Community Supervision:** Offenders released from state prison on or after October 1, 2011 after a sentence for an eligible offense shall be subject to, for a period not to exceed 3 years, post-release community supervision provided by a county agency designated by that county's Board of Supervisors. The Probation Department is the designated community supervision agency in Contra Costa County.
- o **Revocations Heard and Served Locally:** Post-Release Community Supervision and parole revocations will be served in local jails (by law the maximum revocation sentence is up to 180 days). The Courts will hear revocations of Post-Release Community

Supervision offenders. The Board of Parole Hearings will conduct parole violation hearings until July of 2013 when this responsibility shifts to local courts.

- Changes to Custody Credits: Most jail inmates will now earn custody credits that equal the amount of custody days served (day for day credit).
- Alternative Custody: Penal Code Section 1203.018 authorizes electronic monitoring for inmates being held in the county jail in lieu of bail. Eligible felony inmates must first be held in custody for 60 days post-arraignment, or 30 days for those charged with misdemeanor offenses. Any program implemented under this penal code section will be in collaboration with the District Attorney's Office and the Superior Court of Contra Costa County.
- Community-Based Accountability: Emphasizes the use of a range of community-based consequences other than jail incarceration.
- Evidence-Based Practices: Emphasizes the use of supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post-release supervision.

Local Planning and Oversight

COMMUNITY CORRECTIONS PARTNERSHIP

In the last two years, there have been statewide efforts to expand the use of evidence-based practices in sentencing and probation practices, and to reduce the state prison population. SB 678 (2009) established a Community Corrections Partnership (CCP) in each county, chaired by the Chief of Adult Probation, charged with advising on the implementation of SB 678 funded initiatives. AB 109 (2011) established an Executive Committee of the CCP charged with the development of a 2011 Realignment Plan that will recommend a countywide programming plan for the realigned population, for consideration and adoption by the Board of Supervisors.

The CCP Executive Committee will advise on the progress of the Implementation Plan. Chaired by the Chief Probation Officer, the CCP Executive Committee will oversee the realignment process and advise the Board of Supervisors in determining funding and programming for the various components of the plan. Voting members of the Executive Committee include: a Judge (appointed by the Presiding Judge); Chief Probation Officer; County Sheriff-Coroner; District Attorney; Chief of Police; Public Defender; and Director of County Social Services/Mental/Public Health (as determined by the Board of Supervisors).

Budget

Contra Costa County's share of the block grant dollars is \$4,572,950 million over FY2011-2012 beginning October 2011. The planning process has revealed that this amount is inadequate to comprehensively provide for the needs of the AB 109 offender population. The

protection of the community and case management of the clients rely on effective and swift responses to the needs of the clients while being mindful of the needs of the victims and our neighborhoods. Realignment also recognizes that delivery of evidence-based services and sanctions is most effective at reducing recidivism and improving public safety. However, there is a significant gap between this proposal and budget, and the best opportunities to provide a meaningful and comprehensive approach to Realignment. Facing these constraints, the partners have developed a budget based on the State's distribution pursuant to the established allocation. There is also an added projected annual budget that suggests the actual costs for a full fiscal year as noted below. These figures will exceed the expected annual budget for the next fiscal year. There is significant concern that adjustments to the FY2011-2012 Budget will adversely affect this plan. Among the Community Corrections Partnership, the funding will be divided as follows:

Table 2. Contra Costa County AB 109 Spending Plan: One-Time Costs, FY2011-2012, and Projected Annual Budget.

Agency	One-Time Costs	Percent of Total One-Time Costs	FY2011-2012 (9-Month) Budget	Percent of Total FY2011-2012 Budget	Projected Annual Budget	Percent of Projected Annual Budget
Sheriff's Office	\$252,500	78.3%	\$2,489,750	54.4%	\$5,224,717	64.7%
Probation Department	\$70,175	21.7%	\$1,000,000	21.9%	\$1,436,162	17.8%
Health Services	\$0	0%	\$895,109	19.6%	\$1,169,626	14.5%
Office of the Public Defender	\$0	0%	\$120,591	2.6%	\$160,788	2.0%
District Attorney Office	\$0	0%	\$67,500	1.5%	\$90,000	1.1%
Total	\$322,675	100%	\$4,572,950	100%	\$8,081,293	100.0%

(Detailed budgets for each Agency have been presented to the Board of Supervisors.)

Proposed Implementation Strategies

AB 109 offenders will come from one of two sources: (1) Individuals released from state prison that would have normally been placed on parole and (2) offenders who will no longer be eligible to be incarcerated in state prison, but who may do time in county jail. These offenders may also have their jail sentences followed by a period of probation supervision. Even with the fiscal challenges noted above, the Contra Costa County criminal justice stakeholders will address the needs of criminal offenders returning to the community from state prison and those diverted away from state prison. The proposal stresses the use of enhanced resources that include but are not limited to the Sheriff's Office, Probation, Health Services, District Attorney, Public Defender, Superior Court, and community partners.

SHERIFF'S OFFICE

The Sheriff's Office expects impacts to its facilities and programs to be greater than projected by the State of California. During the fiscal year 2010-2011, the Sheriff's Office had 1,276 inmates transfer to the State to serve parole violations. In addition, the Sheriff's Office sent 505 inmates to the State for new prison commitments.

The State has projected that the terms of confinement for parole violations will go from an average of four months to an average term of 30 days. All parole violations that would have been served back in prison will now be served in local custody (with the exception of those offenders on parole for "life" terms). Furthermore, the Board of Parole Hearings maintains jurisdiction over the pre-October 1, 2011 parolees until 2013. Thus, the impacts of local control of the offenders and their related consequences and opportunities will not fully be realized until after July 1, 2013.

The Sheriff's Office will assume the term of confinement for offenders at 90 days. With this assumption the Sheriff's Office will see an impact of 106 inmates per month for the first three months, or 318 inmates. In addition, the impacts of local sentencing and local violations are assumed at 12 per month (the three year ramp up average expected by the State). After 90 days, the Sheriff's Office expects an inmate population increase of 354 inmates.

The Sheriff's Office manages the three county jail facilities – Martinez Detention Facility, Marsh Creek Detention Facility, and the West County Detention Facility. In anticipation of the increase in the inmate population, the Sheriff's Office will open a new housing unit within the Marsh Creek Detention Facility. This unit will have a 60 bed capacity and will be used to house AB 109 (non-serious, non-violent, and non-sex) offenders locally. Additionally, the Sheriff's Office anticipates an increase the population of the West County Detention Facility by an estimated 200 inmates.

In collaboration with the Community Corrections Partnership and prior jail operational practices there are many service opportunities for those incarcerated locally. The Sheriff's Office, various County Departments (Office of Education, Probation, Health and Human Services), and several community-based organizations have provided opportunities for offenders in custody. These services are transitional in focus and help provide for successful re-entry. These include but are not limited to:

- GED preparation and testing
- High school diploma completion
- English as a Second Language training
- Computer application and design
- Parenting classes
- Re-entry / transitional services
- Woodshop / woodworking skills
- Engraving/sign/vehicle detailing shop
- Landscaping
- Library services

- Legal Research Services
- Proud Father Classes
- Alcoholics' and Narcotics' Anonymous classes
- Domestic Violence Prevention classes
- Veteran Affairs
- SSA/SSI Homeless Outreach Collaborative
- U.C. Davis Immigration Law Center

The Sheriff's Office will also enhance its electronic monitoring (EM) program currently provided through its Custody Alternative Facility (CAF) program. The Sheriff's Office will hire additional staff to monitor AB 109 offenders. It is expected that the number of monitored EM inmates will increase by about 100 (a 50% increase in inmate counts). Offenders in EM pay \$0-41.50 per day for supervision. Fees are waived or reduced for inmates unable to pay.

Electronically monitored offenders meet with program staff weekly to review their required scheduled appointments, review the geographic areas that are "off limits" to them, and submit samples for urinalysis. Monitored offenders may be outfitted with a standard GPS monitor that allows the tracking of whereabouts (location and time) or an enhanced SCRAM unit, which is a trans-dermal blood alcohol monitor that is typically used with 2nd and 3rd time DUI offenders, and includes RF (house arrest) monitoring.

After offenders have been convicted and remain in custody to serve their sentence, they can apply for County Parole after the sentencing judge has approved County Parole as an option. The cost and program implementation are similar to the EM program if placed into County Parole by the County Parole Board.

A small number of AB 109 offenders may be given county parole. This option is reserved for inmates that are serving custody time in County Jail. After approval from the sentencing Judge for this option, the case will be forwarded to the County Parole Board which consists of the Deputy Probation Officer, a Sheriff's Office Manager, and a member of the public approved for appointment by the Presiding Judge.

If a sentence is less than 30 days, inmates will be assigned Work Alternative where offenders pay \$16/day for supervision, and work off their sentences while they are out of custody.

PROBATION

The Probation Department estimates there will be 250 prison released offenders during the first year of the Realignment and is projected to grow to 350 during the second year of the Realignment. The Department will be responsible for administering programs directed to the post-release community supervision population. The Department will provide or refer probationers to a full range of community supervision services including:

- Pre-release "reach-in" services (assessments and supervision planning pending release from county jail)

- Case management
- Intensive community supervision (with routine home visits)
- Cognitive behavioral interventions (both pre-release and after released from jail)
- Restorative justice programs (both pre-release and after release from jail),
- Urinalysis testing
- Residential substance abuse treatment
- Outpatient behavioral health treatment
- Community service
- Family strengthening strategies
- Referral to education vocational training/employment services and housing resources
- Imposition of up to 10 days jail (“flash incarceration”) as a sanction for violating supervision conditions

Post-release community supervision will not exceed three years, and individuals may be discharged following as little as 6 months of successful community supervision. Probationers may be revoked for up to 180 days; all revocations will be served in the local jail. Post-release community supervision will be consistent with evidence-based practices demonstrated to reduce recidivism. The Department may impose appropriate terms and conditions, appropriate incentives, treatment and services, and graduated sanctions.

Probation has and continues to invest heavily in establishing evidence-based supervision and intervention practices proven effective in reducing recidivism and improving outcomes. Central to evidence-based practice are the concepts of risk, need and responsivity (the practice of assessing and identifying criminogenic risk factors contributing to ongoing criminal behavior, which can be changed through application of culturally, developmentally, and gender appropriate interventions, teaching new skills and building on offender strengths to mitigate criminality). The Department uses the National Council on Crime and Delinquency’s (NCCD) Criminal Assessment & Intervention System (CAIS) to guide the level of supervision provided to each probationer.

Probation will create a specialized unit that will provide intensive probation supervision to the AB 109 population. Each probationer will be administered the CAIS and will have an individualized treatment plan. Probation anticipates gradually deploying seven (7) deputy probation officers (DPOs) to provide services to the AB 109 population. The Department anticipates having DPOs based in West County, Central County, and East County to ensure contact is community based. The number of DPOs assigned to the unit will increase as appropriate.

A system of rewards and responses is being developed for use with the post-release community supervision population, and ultimately will drive intervention decisions with all offenders under supervision. The use of rewards and response decisions will guide the DPO regarding the type of intermediate sanction to impose in responding to violations. Successfully implementing AB 109 will require developing an effective violation hearing process combined with consistent imposition of graduated sanctions in response to violations of supervision conditions.

As AB 109 probationers are initially likely to be high-risk as evidenced by their Correctional Assessment and Intervention System (CAIS) scores. The Department will require DPOs to provide intensive probation supervision at a ratio of clients to DPO of 50:1.

Collaborative case planning is the focal point of this active engagement approach involving the offender, his/her family, the DPO, law enforcement and multiple service providers (such as housing, employment, vocational training, education, physical health, behavioral health, and pro-social activities). Individual factors such as strengths, risk factors, needs, learning style, culture, language, and ethnicity are integral to determination of appropriate interventions and services. The individualized treatment plan will determine the level of supervision and identify the types of evidence-based treatment and services the probationer needs to successfully avoid re-offending and increase pro-social functioning and self-sufficiency.

HEALTH SERVICES

Some AB109 offenders will have substance abuse problems, mental health problems, and/or will be homeless. These conditions will require intervention to facilitate the offender's re-integration into the community and prevent recidivism. Health Services will provide services to AB109 offenders through its Behavioral Health Division, which includes homeless, mental health, and alcohol and other drug services.

Health Services estimates that during the first nine months of AB109's implementation in Contra Costa County, approximately 50 offenders will require mental health services. With its share of the funding Health Services will fund a registered nurse (0.5 FTE), a licensed clinical specialist (1.0 FTE), a portion of a psychiatrist's time (0.25 FTE), and a clerk (0.5 FTE) within the mental health outpatient clinics. These staff members will provide mental health treatment and medication management services to AB109 offenders with mental health needs. Additionally, Health Services will provide psychotropic medication and laboratory services to the offenders.

Health Services will also fund an SSI Coordinator (.5 FTE), fund shelter beds (8 beds per night, per year), and transitional housing (2 spaces per night, per year) within the Behavioral Health Homeless Program. Health Services estimates that seventy (70) offenders will be provided housing services during the first nine months and estimates that eighty-five (85) offenders will be provided housing services during the second year.

The total number of AB 109 offenders requiring drug treatment services in Residential Drug Facility is unknown at this time. A total of 46, 90-day episodes in residential alcohol and other drug treatment will be made available for clients requiring alcohol and other drug treatment through Behavioral Health Alcohol and Drug Services.

During the first 9-months of AB 109 Implementation in Contra Costa County approximately \$396,000 (or 9% of the total allocation) will be paid to community-based organizations providing housing, residential alcohol and drug treatment services within Contra Costa County.

DISTRICT ATTORNEY OFFICE

Realignment will significantly impact the workload of the Contra Costa County District Attorney Office (DAO) and the sentencing options available to resolve cases. First, the DAO will be responsible for reviewing, charging, and prosecuting violations of post-release community supervision.

Second, DAO prosecutors will need to make more court appearances and engage with cases for longer periods. The number of appearances per case will likely increase before sentencing as getting agreement on appropriate sentences may be protracted.

Third, the DAO must develop expertise in alternative sentences and work closely with criminal justice partners to ensure effective sentencing without reliance on incarceration. As prison will not be available as a sentence option for many offenses, relying on jail sentences will overburden the jail system. DAO will need to develop creative and effective sentencing options based on the offender's risks and needs.

To address these challenges, DAO will add a Criminal Justice System Victim Advocate who will assist victims of crime as part of the Public Safety Realignment. In compliance with Marsy's Law, the Victim Advocate will: (1) assist the victim to obtain a criminal protective order; (2) contact the victim to gather input for setting bail and release conditions during the case; (3) be a liaison with the prosecutor for the duration of the case and disposition; (4) keep the victim informed of court dates, and sentencing hearings; (5) provide court support during court proceedings; (6) provide information concerning the disposition of the case including assisting the victim to register with the Contra Costa County Sheriff's Office's VINE program; (7) assist the victim with gathering information concerning restitution determination, obtaining a restitution order, assisting Probation with restitution information, and collection of restitution order and restitution fines; (8) assist the victim with understanding the process of incarceration in the county jail to serve prison sentences, release of inmates to community-based programs, and alternative post sentencing options; and (9) work with the victim, the prosecutor, and supervising probation officer to assure victim's safety concerns are heard and addressed.

OFFICE OF THE PUBLIC DEFENDER

The Office of the Public Defender also anticipates a significant impact on its practice due to the new AB 109 sentencing scheme. To assist in the provision of evidence-based rehabilitation in Contra Costa County, the Office will provide (1) pre-sentence needs assessments for AB 109 offenders and (2) Clean Slate services.

Many public defender clients will fall into the category of AB 109 offenders. These clients will now be eligible for sentences that can include a period of probation supervision following a period of incarceration. With the addition of a licensed social worker to the staff, the Office of the Public Defender will prepare needs-assessments for these clients that will facilitate appropriate case resolutions that address the specific reentry needs of the individual client. Identifying these needs at the pre-disposition stage will increase the chances that the individual

will succeed on probation and avoid re-offending. This information will be provided to Probation as appropriate to assist with post-release planning.

A related component of successful reentry for AB 109 offenders is Clean Slate assistance. Clean Slate is recognized as an important and effective step in removing barriers to employment for former offenders who have completed their probation terms and are seeking to reenter society. Under the new sentencing scheme, it is anticipated that more clients will be eligible for clean slate expungements pursuant to Penal Code section 1203.4. Beginning February 1, 2012 the Office will help AB 109 offenders prepare and file the appropriate paperwork in court to have their records cleared. This assistance is expected to facilitate former offenders' efforts to find employment and housing, reduce recidivism, and improve public safety.

SUPERIOR COURT

Under AB 117, a budget trailer bill accompanying the 2011 Budget Act, the Superior Court's role in criminal realignment previously outlined under AB 109 has been substantially narrowed to handle only the final revocation process for offenders who violate their terms or conditions or post-release community supervision or parole. The Court will assume responsibility for post-release community supervision revocation hearings beginning October 1, 2011. AB 117 also delays the Court's role in revocation proceedings for persons under state parole supervision and serious violent parole violations until July 1, 2013.

COMMUNITY CORRECTIONS PARTNERSHIP COLLABORATIVE OFFENDER ORIENTATION MEETINGS

Staff members from each of the CCP agencies will participate in required orientations for AB 109 offenders as they return to the community from state prisons or county jail. These presentations will allow CCP agencies and community-based organizations to share information on the array of housing, mental health, substance use prevention, employment development, transportation, and other services available within Contra Costa County to offenders. The orientations will also provide an opportunity for District Attorney, Probation, Public Defender, Sheriff's Office, and local police, to share the possible consequences for law violations.

PERIODIC COMMUNITY CORRECTIONS PARTNERSHIP MEETINGS

The Contra Costa County CCP will meet monthly throughout the first nine months of the AB 109 Implementation to make adjustments to this Implementation Plan and allocation of funding based upon unfolding circumstances and conditions. The Committee is particularly concerned about the accuracy of initial estimates regarding client populations, the accuracy of the initial costs estimates, management information system development, receptiveness to offered services, over-all outcomes, and quality of life for AB 109 offenders.

Proposed Outcomes

Contra Costa County justice stakeholders – the community, Sheriff's Office, Probation, the Superior Court, the Public Defender, District Attorney's Office, and Health Services – are committed to reducing recidivism and increasing public safety. This Realignment Plan seeks to further these goals by:

- Managing the additional responsibilities resulting from AB 109.
- Implementing a system that protects public safety and utilizes best practices in recidivism reduction.
- Developing a system that uses alternatives to pre-trial and post-conviction incarceration where appropriate.

To gauge effectiveness, the Community Corrections Partnership will gather outcome data likely to include:

- Feedback from CCP partners on the effectiveness of the Realignment Plan
 - Strengths of the local realignment
 - Challenges to the local realignment
 - Recommendations to enhance local realignment
- Recidivism outcomes for AB 109 clients
 - Number of arrests for technical violations
 - Number of arrests for new law violations
 - Number of convictions for technical violations
 - Number of convictions for new law violations
 - Number of flash incarcerations
 - Number of days detained in jail for flash incarcerations
 - Number of county jail sentences for new law violations
 - Number of days sentenced in county jail for new law violations
 - Number of probation revocations
 - Number of clients completing probation
 - Number of clients sentenced to state prison
- Quality of life outcomes for AB 109 clients
 - Number and percent of clients maintaining sobriety as evidenced by urinalysis test results
 - Number and percent of clients with appropriate housing
 - Number and percent of clients working (full-time)
 - Number and percent of clients working (part-time)
 - Number and percent of clients enrolled in MediCal
 - Number and percent of clients completing Clean Slate

ATTACHMENT 7



Contra Costa County
Public Safety Realignment Annual Report: FY 16/17

County Department, Division, and Program Impacts (FY 16/17)

Public Safety Realignment shifted the responsibility of housing and supervising certain individuals incarcerated for lower-level offenses from the state to the County, and also required that the County use AB 109 funding towards building partnerships between County departments, divisions, and programs to provide coordinated and evidence-based supervision of, and services for, the AB 109 reentry population. The sections below summarize how AB 109 has impacted County departments, divisions, and programs by highlighting the volume and types of supervision and services provided to the AB 109 population across the County.

Behavioral Health Services

Table 1: Funding Allocation for BHS

Program Expenditure	FY 15/16	FY 16/17
Staff	\$ 1,011,070	\$ 1,092,651
Operating	\$ 903,646	\$ 1,150,781
Total	\$ 1,914,716	\$ 2,243,433

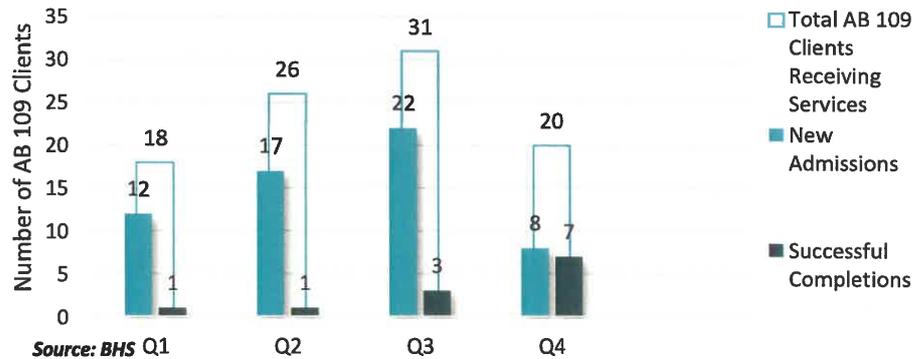
The BHS Division combines Alcohol and Other Drugs Services (“AODS”), the Homeless Program, Forensic Mental Health Services, and Public Benefits into an integrated system of care. BHS partners with clients, families, and community-based organizations to provide services to the AB 109 population. While BHS provided services for the reentry population prior to the start of AB 109, Realignment resulted in an increased focus on and funding for serving these clients. The sections below demonstrate the number of AB 109 individuals receiving services from each department, division, and program over the course of the 2016/17 fiscal year.

Alcohol and Other Drugs Division

The AODS division of BHS operates a community-based continuum of substance abuse treatment services to meet the level of care needs for each AB 109 client referred. As shown in Figure 1, AODS provided outpatient services to an increasing number of AB 109 clients throughout the first three quarters of FY 16/17. During the entire FY, 59 clients were admitted to outpatient treatment and 12 successfully completed outpatient treatment services.

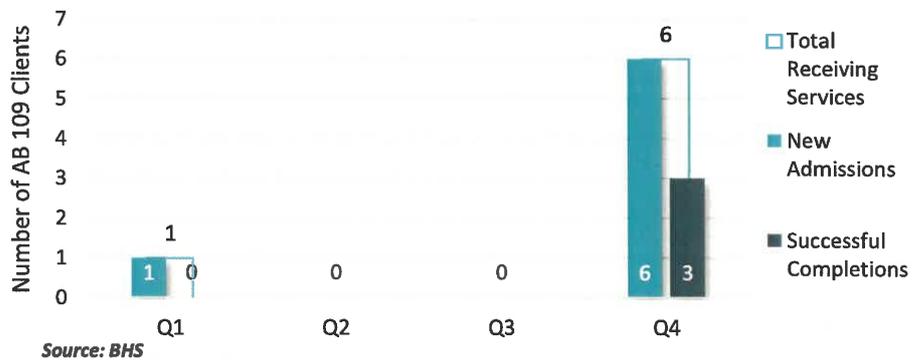


Figure 1: Outpatient Treatment Services



For AB 109 clients in need of acute withdrawal services, AODS provides residential detoxification treatment. During FY 16/17, AODS providers admitted 7 AB 109 clients to residential detox. As shown in Figure 2, 3 clients successfully completed residential detox during that year.

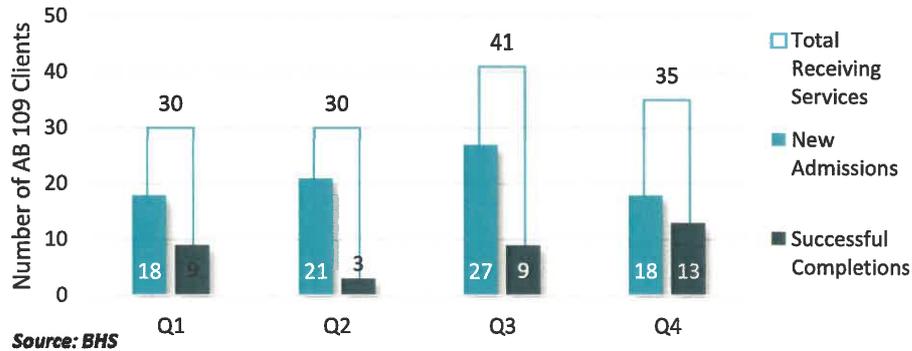
Figure 2: Residential Detoxification Services



AODS also provides residential substance abuse treatment to clients on AB 109 supervision. As shown in Figure 3, AODS provided residential treatment services to an increasing number of AB 109 clients for the first three quarters of the year. During FY 16/17 the County admitted 84 AB 109 clients to residential treatment, and 34 clients successfully completed residential services. Additionally, the number of clients completing services increased in the fourth quarter .



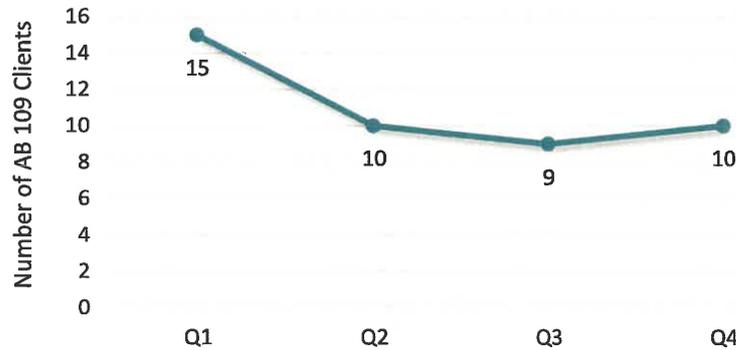
Figure 3: Residential Treatment Services



Homeless Program

In FY 16/17, the County’s Homeless Program² served 15 AB 109 individuals in the first quarter, 10 in the second, 9 in the third, and 10 in the fourth, as shown in Figure 4.

Figure 4: AB 109 individuals provided Homeless Services



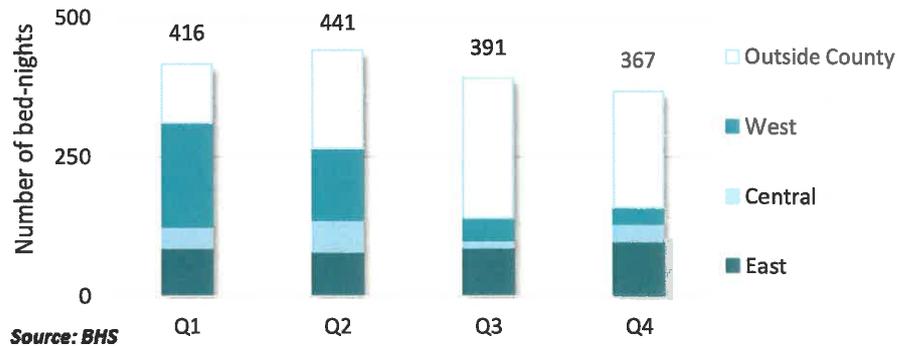
The total number of bed-nights utilized by the AB 109 population are provided in Figure 5 below, which shows 1,615 bed-nights were utilized both in and out of the county during the fiscal year.

² Although the County’s Homeless Program is listed in the Behavioral Health Services section of this report, please note that Homeless Services are actually provided through the Homeless Program’s association with the Health, Housing, and Homeless Services Division.





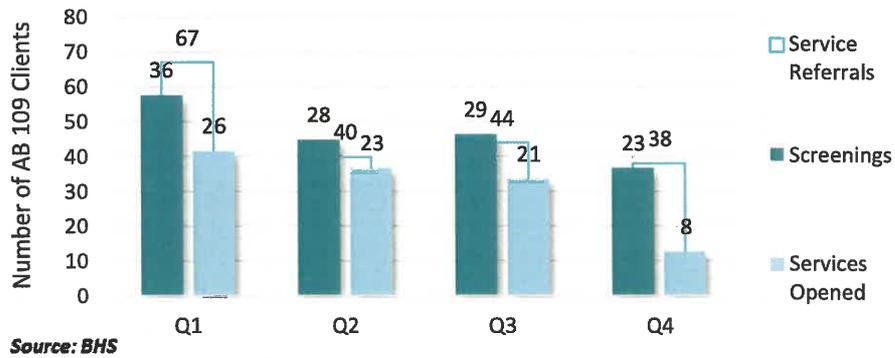
Figure 5: Total bed-nights utilized by AB 109 population



Mental Health Division

Forensics Mental Health collaborates with Probation to support successful community reintegration of individuals with co-occurring mental health and substance related disorders. Services include assessment, groups and community case management. As indicated in Figure 6, Probation referred 189 AB 109 clients to Forensic Mental Health services, of whom 116 received mental health screenings, and from which 78 opened services.

Figure 6: Clients referred to, screened for, and received Forensic Mental Health services



Public Benefits

BHS also assists AB 109 clients with applying for public benefits, including Medi-Cal, General Assistance, CalFresh, and Social Security Disability Income/Supplemental Security Income (“SSDI/SSI”). Figure 7 displays the number of AB 109 clients assisted with applications for Medi-Cal in FY 16-17, and the number of applications approved by the State.





Participated in 2 modules	10	11	17
Participated in 3 modules	4	11	15
Participated in 0 modules	0	2	2
Completed 1 module	6	10	16
Completed 2 modules	6	9	15
Completed 3 modules	4	9	13
Completed Auto Training Program		4	4
Completions			
Total participants no longer in program due to court or criminal involvement	1	1	2
Total participants no longer in program due to lack of engagement	2	1	3
Other reasons:			
Needs could not be met	0	2	2
Death	0	1	1

Mz. Shirliz Transitional

Mz. Shirliz Transitional provides clean and sober transitional housing and support services to formerly incarcerated individuals. Support services include mentoring, weekly house meetings, and connections to local organizations for other needed services. Clients are required to attend NA/AA meetings through NA and AA a minimum of 3 times per week. Most clients arrive at Mz. Shirliz employed or working with partner agencies to find employment. Mz. Shirliz received \$150,000 out of the Network's \$820,000 budget to provide these services.

Table 18: Mz. Shirliz Transitional: Program-Specific Outcomes

Mz. Shirliz Transitional	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Referred to services	25	16	41
Enrolled in services	6	8	14
Assessed pre-release for post-release service needs	0	0	0
Provided a service provision plan	0	0	0
Received housing counseling	4	3	7
Received rent payment assistance	0	0	0
Received rental deposit assistance	0	0	0
Received utility payment assistance	0	0	0
Moved in to transitional housing	6	10	16
Received transportation assistance	0	0	0
Received credit counseling	0	0	0
Received legal services	0	0	0
Received job finding assistance	0	0	0
Received case/care management	0	0	0
Received clothing support	1	0	1
Received court support	0	0	0
Attended recovery meetings	6	8	14



Completions			
Total participants no longer in program due to failure to meet program requirements	1	3	4
Total participants no longer in program due to court or criminal involvement	0	0	0
Total participants no longer in program due to lack of engagement	0	0	0
Total participants no longer in program due to absconding	0	0	0
Total participants no longer in program due to relocation or case transfer	0	0	0
Successfully completed the program	1	0	1
Other reasons:			
Probation revoked	0	0	0
Needs could not be met	0	0	0
Disagreement with rules/persons	0	0	0
Death	0	0	0
Other	0	1	1

Men and Women of Purpose

Men and Women of Purpose (“MWP”) provides employment and education liaison services for the County jail facilities, for which the program facilitates employment and education workshops every month at the County’s jails and works with Mentor/Navigators to assist the workshop participants with the documentation required to apply for employment, education, and other post-release activities. MWP also provides pre- and post-release mentoring services for West County using the organization’s evidence-based program Jail to Community model. The program provides one-on-one mentoring, as well as weekly mentoring groups that focus on employment and recovery. Men and Women of Purpose received \$50,000 out of the Network’s \$820,000 budget to provide these services.

Table 19. Men and Women of Purpose: Program-Specific Outcomes

MWP	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Referred to Men and Women of Purpose (Employment and Placement Services)	35	80	115
Participated in workshops	34	49	83
Enrolled pre-release	36	27	63
Enrolled post-release	27	38	65
Learned of program through pre-release workshop attendance	32	60	92
Assessed pre-release for post-release service needs	65	54	119
Provided Service Provision Plan	45	53	98
Obtained documents successfully:	59	98	157
Birth certificate	13	5	18
California ID	28	69	97
Social Security Card	22	30	52
California Driver’s License	51	108	159



SHELTER Inc.

SHELTER, Inc. operates the County’s AB 109 Short and Long-term Housing Access Program. This program assists incarcerated and formerly incarcerated persons who are referred to them under the AB 109 Community Programs to secure and maintain stabilized residential accommodations. Shelter, Inc. provides a two-phased approach to clients seeking housing assistance. Before the program refers clients to the Housing Services section, the staff conducts social service assessments/intake procedures to ensure that clients will have success. The program places the majority of their clients into transitional housing situations (such as room or apartment shares) to allow them time to develop the resources for stable housing.

Table 25: SHELTER, Inc.: Program-Specific Outcomes

SHELTER, Inc.	Number of AB 109 Clients
Referred to services	277
Enrolled in services	104
Provided a service provision plan	104
Completions	
Total participants no longer in program due to failure to meet program requirements	10
Total participants no longer in program due to court or criminal involvement	1
Total participants no longer in program due to lack of engagement	4
Total participants no longer in program due to absconding	0
Total participants no longer in program due to relocation or case transfer	0
Successfully completed the program	8

Reach – Housing

REACH Housing provides housing placement services to formerly incarcerated women at their Naomi House facility. Additional services include support groups, employing training, anger management, and parenting classes. REACH Housing also partners with other local county homeless agencies to provide additional housing opportunities to their cliental. REACH housing provided no services to AB 109 clients in FY 16/17.

Table 26: Reach Fellowship: Program-Specific Outcomes (Housing Services)

Reach Fellowship	Number of AB 109 Clients	Number of Other Clients	Total Number of Clients
Referred to services	0	10	10
Enrolled in services	0	7	7
Participated in workshops	0	6	6
Enrolled pre-release	0	5	5





Looking Ahead

Contra Costa County has responded to Public Safety Realignment in a manner that has allowed the County to provide supervision and services to the AB 109 population, while building a collaborative reentry infrastructure to support the reentry population's successful reintegration into the community. The County has followed best practice models in establishing access to services through the West County Reentry Success Center's "one-stop" model and the Central & East Network Reentry System's "no wrong door" approach. The launch of the Office of Reentry and Justice (ORJ) in January 2017 is evidence that the County sees its Public Safety Realignment, reentry, and justice work as a high priority.

In FY 17/18, the County will undertake a comprehensive planning process to develop a Reentry Strategic Plan to guide the County's reentry system as a whole, including but not limited to AB 109-funded services. As the County has continued to implement Public Safety Realignment, the need for an inclusive reentry system that provides access to individuals regardless of their AB 109 status has become apparent, with the County granting approval to expand access to AB 109-funded services to any returning resident. The five-year strategic plan will begin with a needs assessment to identify key strengths and needs in the reentry system. This needs assessment will build on recommendations born from AB 109 evaluations over previous years. The County will then engage stakeholders in defining priority areas, goals, and strategies to address gaps and needs in the reentry system. The Reentry Strategic Plan will serve as the County's guiding document for reentry programs and services for 2018-2023.

ATTACHMENT 8

Office of Reentry and Justice

The Office of Reentry and Justice was officially launched in January 2017 as a 2.5 year pilot project of the County Administrator's Office to align and advance the County's public safety realignment, reentry, and justice programs and initiatives; it is primarily funded by AB 109 Public Safety Realignment revenues from the state. It has oversight of the Youth Justice Initiative, the development of the countywide Ceasefire Program, the Racial Justice Task Force and the AB 109 Community Programs.

The scope and responsibilities of the ORJ include:

- coordinating a broad array of reentry, public safety realignment, and justice-related services;
- facilitating collaborative efforts around policy development, operational practices and supportive services;
- advancing knowledge of relevant issues, research and best-practices in the fields of reentry, public safety realignment, and justice;
- fostering capacity-building and partnership development;
- leading the procurement process and contract management for community-based reentry service providers;
- identifying and developing new initiatives and funding opportunities to support the work;
- supporting legislative advocacy;
- managing data and evaluation of funded services; and
- conducting public outreach, information sharing and community engagement.

Contact Us

Lara DeLaney
Sr. Deputy County
Administrator,
Director of ORJ
[Email](#)

1122 Escobar Street
Martinez, CA 94553

Ph: 925-335-1097

Hours
8 a.m. - 5 p.m.
Monday - Friday

ORJ Calendar

**Mon, Jul 9 [CCP](#)
[Community](#)
[Advisory Board -](#)
[Outreach and](#)
[Community](#)
[Engagement](#)
[Committee](#) [Read](#)
[On](#)**

**Thu, Jul 12 [CCP](#)
[Community](#)
[Advisory Board -](#)**

Contra Costa County Community Corrections Partnership
2018/19 AB109 Budget Proposal Form

Department: Behavioral Health Division

ATTACHMENT 9

Description of Item	Program/Function	Ops. Plan Item #	2018/19 Status Quo Allocation ¹		2018/19 Baseline Request ²		2018/19 Program Modification Request ³		2018/19 Total Funding Request		
			Current Allocation	FTEs	Funding Request	FTEs	Funding Request	FTEs	Total Funding Request	FTEs	
SALARY AND BENEFITS											
Patient Financial Specialist			133,396	1.50	137,398	1.50			137,398	1.50	
Case Managers Homeless			101,754	2.00	104,807	2.00			104,807	2.00	
Registered Nurse			185,683	1.00	190,325	1.00			190,325	1.00	
Mental Health Clinical Specialists			423,125	3.00	435,819	3.00			435,819	3.00	
Community Support Workers			133,185	2.00	137,181	2.00			137,181	2.00	
Psychiatrist			58,240	0.20	59,696	0.20			59,696	0.20	
Clerk			80,591	1.00	83,009	1.00			83,009	1.00	
Evaluators/Planners			43,166	0.30	44,461	0.30			44,461	0.30	
Program Supervisors			40,200	0.30	41,406	0.30			41,406	0.30	
Substance Abuse Counselor			103,994	2.00	107,114	2.00			107,114	2.00	
			Subtotal	1,303,334	13.30	1,341,214	13.30	-	-	\$ 1,341,214	13.30
OPERATING COSTS											
Homeless Shelter Beds			100,000		100,000				100,000		
Transitional Housing (AODS)			133,488		133,488				133,488		
Residential Drug Facility (AODS)			446,996		446,996				446,996		
Outpatient (AODS)			130,071		130,071				130,071		
Lab & Pharmacy			127,379		127,379				127,379		
Mental Health Services			-		-				-		
Deputy Sheriff			47,000		49,350				49,350		
Vehicle Operating (ISF Fee)			22,448		22,448				22,448		
Travel Expenses			10,200		10,200				10,200		
Occupancy Costs			58,752		58,752				58,752		
			Subtotal	1,076,334		1,078,684		-	-	\$ 1,078,684	
CAPITAL COSTS (ONE-TIME)											
<i>e.g. Vehicle Purchases (2)</i>											
			Subtotal	-		-		-	-	-	
			Total	\$ 2,379,668	13.30	\$ 2,419,898	13.30	\$ -	-	\$ 2,419,898	13.30

1. FY 2018/19 Status Quo Request reflects the FY 2017/18 Funding Allocation.
2. FY 2018/19 Baseline Request should reflect the cost of continuing programs in the FY 2018/19 Status Quo column in 2018/19 dollars.
3. FY 2018/19 Program Modification Request should reflect proposals for the cancellation of existing programs and/or funding of new programs for FY2018/19.

ATTACHMENT D

OPERATING COSTS - \$1,029,334

Shelter beds

Ten beds are dedicated for homeless AB109 clients on a first come, first served basis. Shelter services include meals, laundry, case management, healthcare, and other support services.

Recovery Residences (Sober Living Environment)

Four beds are dedicated to AB109 clients who are homeless and have recently graduated from residential or outpatient substance use disorders treatment programs at Uilkema House. Residents may stay for up to 24 months and will receive a variety of self-sufficiency services and recovery supports.

Residential Treatment

Residential Substance Use Disorders (SUD) treatment will be provided for up to 95 clients with an estimated number of 6550 bed days. These services will be provided in the community by Discovery House -a county operated program, and through other community-based SUD providers under a contract with Behavioral Health's Alcohol and Other Drug Services. With the implementation of the Drug Medi-Cal (DMC) Waiver, AOD anticipates an increase on the number of clients projected to be served as we transition from current length of stays which are typically 90-days, to a client-centered treatment approach in alignment with the American Society of Addiction Medicine (ASAM) Criteria. The ASAM Criteria determines client placement in SUD treatment across levels of care based on individual needs and client's readiness for treatment.

Outpatient Treatment

Outpatient treatment will be available for up to 48 clients. Outpatient services will be provided through community-based SUD providers under a contract with Behavioral Health's Alcohol and Other Drug Services. Outpatient services consist of individual and group counseling sessions. Similar to residential treatment, under the provisions of the DMC Waiver client placement in outpatient services is determined by the ASAM Criteria based on individual needs and client's readiness for treatment. Accordingly, the duration of treatment is driven by medical necessity rather than a fixed length of stay. Outpatient treatment accompanied by Recovery Residences, promote client self-sufficiency, health and recovery.

**Contra Costa County Community Corrections Partnership
2018/19 AB109 Budget Proposal Form**

Department: Community Advisory Board

Description of Item	CONTRACTED PROVIDER	Ops. Plan Item #	2018/19 Status Quo Allocation ¹		2018/19 Baseline Request ²		2018/19 Program Modification Request ³		2018/19 Total Funding Request	
			Current Allocation	FTEs	Funding Request	FTEs	Funding Request	FTEs	Total Funding Request	FTEs
COUNTYWIDE SERVICES										
Employment (West/East)	Rubicon Programs	5.3b	1,100,000	9.30	1,100,000	9.30			-	-
Employment (Central/East)	Goodwill Industries	5.3b	900,000	7.20	900,000	7.20			1,100,000	9.30
Housing	Shelter Inc.	5.3c	980,000	6.85	980,000	6.85			900,000	7.20
Female Housing (West)	Reach Fellowship International	5.3c	50,000	1.00	50,000	1.00			980,000	6.85
Peer Mentoring	Men and Women of Purpose	5.4a	110,000	2.25	110,000	2.25			50,000	1.00
Family Reunification	Center for Human Development	5.4b	90,000	1.40	90,000	1.40			110,000	2.25
Legal Services	Bay Area Legal Aid	5.4c	150,000	1.80	150,000	1.80			90,000	1.40
One Stops	<i>see below</i>	5.2b	<i>see below</i>	12.13	<i>see below</i>	12.13			150,000	1.80
CAB Support	Via Office of Reentry & Justice	3.3	7,201	-	7,201	-			<i>see below</i>	12.13
Subtotal			3,387,201	41.93	3,387,201	41.93	-	-	\$ 3,387,201	41.93
NETWORK SYSTEM OF SERVICES										
Network Management	HealthRIGHT360	5.2b 3.3, 4.1, 5.1	605,000	6.10	605,000	6.10			-	-
<i>Contracted Services</i>									605,000	6.10
Sober Living Homes	Mz. Shirliz		150,000	1.80	150,000	1.80			-	-
Auto Repair Training	Fast Eddie's Auto Services		65,000	1.20	65,000	1.20			150,000	1.80
Emp. & Ed. Liason (women)	Reach Fellowship International		15,000	0.25		0.25			65,000	1.20
Emp. & Ed. Liason (men)	Men and Women of Purpose		60,000	2.60	60,000	2.60			-	0.25
Transition Planning (women)	Centerforce		45,000	0.75	60,000	0.75			60,000	2.60
Subtotal			940,000.0	12.70	940,000	12.70	-	-	\$ 940,000	12.70
REENTRY SUCCESS CENTER										
Operation and Management	Rubicon Programs	5.2b 3.3, 4.1, 5.1	525,000	2.50	525,000	2.50			-	-
Connections to Resources	Rubicon Programs		15,000		15,000				525,000	2.50
Subtotal			540,000	2.50	540,000	2.5	-	-	540,000	2.5
Cost of Living Adjustment										
4% COLA Increase					194,688				194,688	
Total			\$ 4,867,201	57.13	\$ 5,061,889	57.13	\$ -	-	\$ 5,061,889	57.13

1. FY 2018/19 Status Quo Request reflects the FY 2017/18 Funding Allocation.
2. FY 2018/19 Baseline Request should reflect the cost of continuing programs in the FY 2018/19 Status Quo column in 2018/19 dollars.
3. FY 2018/19 Program Modification Request should reflect proposals for the cancellation of existing programs and/or funding of new programs for FY2018/19.

Please provide a narrative describing the Status Quo programming that will be provided with the budget requests identified above.

DEPARTMENT: Community Advisory Board

PROGRAM NARRATIVE:

2018/19 Status Quo Request

CAB continues to recommend that CCP invest significant funds in community programs to continue development of the local non-profit services sector. The CCP should therefore continue to support community based programs. Funding these programs is consistent with the nationwide effort of justice reinvestment. Staying this course will ensure our communities gain the capacity to provide reentry services with high levels of quality and fidelity, and is the best way to achieve lasting reductions in recidivism and long term enhanced public safety outcomes.

As CAB submits this 2018/2019 AB109 Budget Request, we have considered the previous budget increase and acknowledge that the funded agencies have only completed a year of programming under their most recent contracts. As part of this status quo budget request, CAB recommends that the CCP Executive Committee fund each of the funded reentry service areas at an amount that is no less than what was allocated for each program during the current fiscal year.

CAB is also aware that last year marked a shift in the recommendation on how to best spend money that was previously spent to develop and support the Reentry Resource Guide. With much consideration, CAB asked that the Network and Center work together to develop a communications strategy that would inform the public about the reentry services available in the community, and direct people to the Center and Network to ensure they are "Conneted to the Resources" they need. Jointly, the two entities pledged to:

- 1) create and circulate quarterly newsletters for the people incarcerated in Contra Costa Detention facilities,
- 2) facilitate countywide community events to inform the reentry population and their families of the services available, and
- 3) recruit volunteers to engage the public in the reentry work being done in the community.

To date, this collaboration has led to the release of the first edition of the Contra Costa Reentry Voice in August 2017. The second edition is currently in the works, as are efforts to accomplish the other two communications strategies mentioned above. Because this effort is still in its infancy, CAB is recommending continued funding for the joint communications effort between the Network and Center.

The recommended status quo funding amounts are as follows:

Employment Support and Placement Services: \$2,000,000
 Housing Services: \$1,030,000
 Peer Mentoring: \$110,000
 Family Reunification: \$90,000
 Civil Legal Services: \$150,000
 Network System of Services: \$940,000
 Reentry Success Center: \$525,000
 Center/Network Joint Communications Strategy \$15,000

2018/19 New Funding Requests

Additional Funding Increase of 4%

The Community Advisory Board (CAB) continues to recommend that CCP invest significant funds in community programs to continue development of the local non-profit services sector. CAB therefore requests a 4% COLA increase in funding for community programs that amounts to \$194,688. Funding these programs is consistent with the nationwide effort of justice reinvestment. Staying this course will ensure our communities gain the capacity to provide reentry services with high levels of quality and fidelity, and is the best way to achieve lasting reductions in recidivism and long term enhanced public safety outcomes.

ATTACHMENT 10

PLANNING COMMISSION STAFF REPORT

Meeting Date: May 22, 2018

Item Number: 5.b.

From: Mindy Gentry 
Community Development Director

Subject: Ordinance to Conditionally Allow Parolee Homes in Multifamily General Plan Land Use Designations (ZOA-08-16)

Applicant: City of Clayton

REQUEST

The City of Clayton is requesting a public hearing for the Planning Commission to consider and make a recommendation to the City Council on a City-initiated Ordinance, amending Title 17 - "Zoning" of the Clayton Municipal Code (CMC) for the purpose of conditionally allowing parolee homes in the Multifamily Low Density (MLD), Multifamily Medium Density (MMD), and Multifamily High Density (MHD) General Plan designations (ZOA-02-18) (Attachment A).

PROJECT INFORMATION

Location: Citywide

Environmental: This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

Public Notice: On May 10, 2018, a public hearing notice was published in the Contra Costa Times and on May 11, 2018 a public hearing notice was posted at designated locations in the City.

BACKGROUND

On October 1, 2011, the Public Safety Realignment Act (Assembly Bill 109) went into effect transferring responsibility for supervising specified inmates and parolees from the California Department of Correction and Rehabilitation to counties. The Contra Costa County Board of Supervisors adopted the Contra Costa County Realignment Plan on October 4, 2011. The County's 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. Due to the passage and implementation of AB 109, there are concerns regarding the possible increased use of parolee homes for offenders to be released from prison to serve the remainder of their sentence within the community, which could result in a higher number of these facilities within the community.

The California Department of Correction and Rehabilitation in its *2015 Outcome Evaluation Report – An Examination of Offenders Released in Fiscal Year 2011-2012 (Attachment B)* indicates the recidivism rate in Contra Costa County for years one, two, and three following release is 43.4 percent, 46.7 percent, and 48.8 percent respectively. These rates raise public safety concerns regarding the operation or establishment of parolee homes within the City of Clayton and without further review of the facility's operational and management plans and services and staffing plans as well as the establishment of buffers from sensitive uses, it could result in impacts to the community.

On August 5, 2016, the City of Clayton received an email from a non-profit County contractor/grantee searching for a facility where a use permit would not be required in order to operate what they described as a stable living environment/transitional housing program to assist individuals that have been previously incarcerated as part of the Contra Costa Reentry program. Given the Clayton Municipal Code was silent on parolee housing, this prompted the City Council, in compliance with State law (Government Code Section 65858), on October 16, 2016 to adopt an urgency ordinance placing an interim moratorium on the establishment, construction, and operation of parolee homes. As allowed for by State law, the moratorium was continued twice by the City Council with the last and final moratorium set to expire on October 3, 2018. After having the opportunity to research this issue, City staff is now returning to the Planning Commission with a proposed Ordinance for consideration to appropriately regulate these types of land uses.

DISCUSSION

The proposed Ordinance would allow parolee homes to locate within the multifamily General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density, as identified on the General Plan Map, subject to a conditional use permit as well as the regulations identified in the Ordinance. These land uses are located in various places throughout the City, which are more specifically identified on the General Plan Land Use Map, which is contained in **Attachment C** to this staff report. In addition to the General Plan designation locations, the parolee homes are only permitted with a conditional use permit in either a Planned Development (PD) zoning district or in a Multiple Family Residential zoning district (M-R, M-R-M, or M-R-H). The use permit process is a public hearing process, whereby property owners within a 300-foot radius would be individually notified; a notice would also be placed in a newspaper of general circulation; and a notice would be posted on the City's community posting boards. The use permit application would then be subject to a discretionary review by the City's Planning Commission.

The Ordinance provides clear definitions of what constitutes a parolee home and a parolee. Further, single housekeeping units would not be subjected to the regulations and there are eight criteria as to what constitutes a single housekeeping unit. Namely, the residents need to have established ties and interact with each other; membership of the household is determined by the residents and not the landlord; each adult resident is named on the lease; and residents do not have separate entrances or food-prep and storage areas, amongst others.

Not only have locational requirements been proposed, but also numerous objective standards have also been incorporated into the Ordinance to mitigate or minimize any impacts. A parolee home cannot be located within 300 feet from any school, daycare, library, park, hospital, group home, or a business licensed for the on- or off-sale of alcoholic beverages, or emergency shelter, amongst others. It also must not be located within 1,000 feet of another parolee home. As part of the use permit application process, the Ordinance requires additional information such as the client profile, maximum number of occupants, and a management plan.

Lastly, multifamily housing projects with 25 units or less are limited to one parolee housing unit and housing projects with 25 units or more are limited to two parolee housing units. These thresholds would be applicable in apartment and condominium style buildings.

It should be noted, as part of the use permit process, that additional conditions of approval, beyond what is contained in the proposed Ordinance, could be added to mitigate any possible impacts associated with the specific application. These conditions would be considered on a case-by-case basis, which would be determined by the applicant's proposal and the location of the facility.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 03-18, recommending City Council approval of the proposed Ordinance to amend the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density (**Attachment A**).

ATTACHMENTS

- A. Planning Commission Resolution No. 03-18, with attachment:
Exhibit 1 – Draft Ordinance Amending Title 17 – “Zoning” to Conditionally Allow Parolee Homes in General Plan Multifamily Land Use Designations
- B. *2015 Outcome Evaluation Report – An Examination of Offenders Released in Fiscal Year 2011-2012*
- C. General Plan Map with Highlighted Multifamily Land Use Designations

ATTACHMENT 11

James Gamble indicated the following:

- This ordinance is part of Agenda 21.
- Look at other communities in the area where high density housing is being developed around heavy transit areas.

James Jacques indicated that he disagreed with the representative of the Grand Oaks project asking for RCFEs to be exempt from the requirements of AB 1505.

The public hearing was closed.

Commissioner Cloven moved and Vice Chair Altwal seconded a motion to adopt Resolution No. 02-18, recommending City Council approval of an Ordinance amending the City's Inclusionary Housing Requirements. The motion passed 4-0.

- 5.b. ZOA-08-16, Municipal Code Amendment, City of Clayton.** A request by the City for the Planning Commission to consider and make a recommendation to the City Council regarding amendments to the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density.

Director Gentry presented the staff report.

Commissioner Gall inquired what would happen after the City's parolee home moratorium expires on October 3, 2018?

Director Gentry responded that, after the parolee home moratorium expires on October 3, 2018, there would be no codified requirements established in the City's Municipal Code to regulate parolee homes which would allow parolee homes to potentially be located anywhere in Clayton.

Commissioner Cloven had the following questions:

- So the City could possibly be in legal jeopardy if we established a ban on parolee homes? Director Gentry responded "yes."
- So it is in our best interest to establish codified provisions which regulate parolee homes? Director Gentry responded "yes" and added that the City cannot establish regulations that are so prohibitive that, by default, it prevents these types of uses from locating Clayton.
- Is my understanding correct that the parolee homes would still have to be reviewed individually before the Planning Commission on a case-by-case basis under the guise of a use permit? Director Gentry responded "yes."
- In the instance that we were to review a use permit for a parolee home, what latitude do we have to require certain thing like a management plan? A management plan is one of the requirements in the draft Ordinance.
- Could we require that there be a person living at the parolee home for supervisory purposes who is not a parolee? That is one possibility that could be considered on a case-by-case basis and included as a condition of approval.

- Are there a maximum number of parolees that can live in a parolee home based on the number bedrooms in that home? Due to a court case out of Southern California, the number of parolees would be dictated by the California Building Code which may include, but not be limited to, such calculations as number of occupants per bedroom and number of occupants on a square footage basis in the rest of the home.
- According to the provisions of the draft Ordinance, in a three-bedroom townhouse theoretically six parolees could live there? Director Gentry responded that was correct.
- If a use permit were conditionally approved for a parolee home, is there a way the City could review the parolee home on an annual basis? Director Gentry responded that could be included as a condition of approval.
- Is there a fee the City could charge to cover the cost of policing and annual reviews? Director Gentry responded that, beyond costs for staff time in the processing of the use permit and follow-up annual inspections as directed by the use permit conditions of approval, the City would not be able to charge for additional calls for service or strain on the police department because those types of things are already assumed in the property taxes.
- What are single housekeeping units? Director Gentry responded that an example of single housekeeping units would be where a parolee owns a living unit and invites a friend who is a parolee to live in the home. The regulation of these types of households could tread into questionable legal territory in regards to what defines a housing unit and how the government wants to define family.
- So, theoretically, a single family dwelling unit could be considered as a single housekeeping unit? Director Gentry indicated that was correct and, in addition, a multifamily dwelling unit could also be considered as a single housekeeping unit.
- Of the rules and criteria related to parolee housing, one item was that membership is determined by the residents of the parolee home and not by a management company so, if the residents were all parolees, they could choose which parolee could live with them in the parolee home, correct? Director Gentry responded that was correct.

Vice Chair Altwal had the following questions:

- Is the City being required by the State to pass this Ordinance? Director Gentry responded that the City is not being required by the State to pass this Ordinance. Rather, this is a preemptive recommendation of staff and in response to AB 109 in order to prevent parolee homes from locating anywhere in Clayton and to allow the City some control over where they are located.
- If the City does not pass this Ordinance, the parolee home could locate anywhere in the Clayton that they want to and we would not have any control over the parolee home? Director Gentry indicated that was correct as the parolee home would then be considered as a typical residential unit and the parolee home could locate anywhere in Clayton without any regulations and without any public hearings process, resulting in the City relinquishing all control over parolee homes.

- Only federal crime parolees can live in the parolee home? Director Gentry responded that all parolees would be allowed to live in the parolee home, based on the definition of a parolee as contained in the draft Ordinance that has a large umbrella definition that encompasses essentially anyone that is on parole.
- Can the City limit the type of parolees living in the parolee home, for instance prohibiting sex offender parolees as opposed to petty theft parolees? Director Gentry responded that she would defer to legal counsel, Heather Lee, a representative from the City Attorney's Office.

Ms. Lee responded that the City prohibiting a particular class of people would run the risk of legal challenge and could result in the ensuing court case being a test case for this issue.

Director Gentry indicated that this draft Ordinance is an attempt by staff to be proactive as a result of the City receiving an inquiry regarding this issue. So, rather than allowing parolee homes to locate within Clayton without the community's consideration, the intent of the draft Ordinance is that, in the instance that there is a County program seeking to locate a parole home in Clayton, then at least the City would have a say in where the parolee home is located, how the parolee home can operate, and ensuring that the parolee home is subject to a public hearing process. Staff is hoping that the draft Ordinance will be preemptive and will enable the City to have control over where parolees get housed and how they get housed.

Vice Chair Altwal had the following questions:

- How would this Ordinance stop a parolee home from being located anywhere in Clayton? Director Gentry responded that the Ordinance would prevent a County re-entry program contractor from renting a home without a public hearing and without being subject to location controls; however, the Ordinance would not prevent a situation where someone owns a home and invites family members or friends who are parolees to move into the home.
- Regarding the radius area around a parolee home, can we increase the unit of radius area measurement from a foot to a yard? Director Gentry indicated that, increasing the buffer area from feet to yards would raise the legal questionability of the Ordinance as this would affect the numbers of possible parolee home locations available in Clayton. Legal counsel has indicated a minimum of three to four available locations would be legally defensible and increasing the unit of measurement would reduce the number of locations available and would, by exclusion, essentially be a Citywide ban of parolee homes.
- So a ban on parolee homes constitutes discrimination? Director Gentry said that was correct.

Chair Wolfe inquired what would happen if the City established a ban on parolee homes? Director Gentry responded that, if the City banned parolee homes, it would open the City up to discrimination lawsuits.

Commissioner Gall inquired that, if a parolee has family living in Clayton, could they just move into the family home? Director Gentry explained that this Ordinance would address parolee homes that would be established as part of the County's re-entry program.

The public hearing was opened.

Mike Clifton indicated the following:

- Clayton is too small to manage parolee homes.
- Catering to parolees is not in the City's best interest.
- Allowing them to use multifamily units, which, are more affordable, make Clayton more attractive to parolees.
- We should only allow them to use single-family residential housing units, which are more expensive, and may be a way to discourage parolee homes from locating within Clayton.
- This Ordinance makes it appear to the County that we are inviting parolees to move to Clayton.

Chair Wolfe had the following comment and question:

- It would appear that if the City does not pass some sort of regulations, we would be in a difficult situation.
- What do we know about the number of parolees in Clayton? Director Gentry indicated that, according to County statistics which take into consideration the entire zip code of 94517 which is a much larger area than the City of Clayton, there are 20 parolees who consist of 9 adults and 11 juveniles.

Sarah Riley indicated the following:

- I have been a police officer in Oakland for 16 years.
- I moved out to Brentwood to avoid running into parolees who were people I arrested in a grocery store.
- I then moved to Clayton to get out of Brentwood and after Brentwood allowed parolees to move in, then my home was burglarized.
- These parolees are arrested for violent offenses and then, when they moved into parolee homes, their offenses are represented as something more benign than they actually area.

James Jacques indicated the following:

- I am also a police officer.
- Clayton is very attractive since it is a safe community.
- Children in Clayton commonly walk home from school. As a result, the 300-foot radius is not a large enough distance to provide safety for our children.
- We should not only be concerned with one parolee, but instead we should be concerned with a whole group of parolees living together. Birds of a feather flock together, so we want to avoid inviting a criminal element into Clayton where whole groups of parolees are living together.
- The City should do nothing right now, and wait for the lawsuit to come.

Vice Chair Altwal confirmed that, if the City does nothing, it is not the lawsuit that concerns us but rather the fact that parolee homes could be potentially located anywhere in Clayton, correct? Director Gentry indicated that was correct.

Colleen Van Outrive indicated the following:

- What has stopped parolee homes from coming into Clayton thus far?
- Clayton is only 5 square miles in area. Allowing 6 parolee homes in Clayton would be an average of more than one parolee home per square mile.
- I ask that the Planning Commission make it as difficult as possible for parolee homes to move into Clayton.

Chair Wolfe inquired if the email the City received regarding parolee homes was sent just to the City of Clayton. Director Gentry responded that the email was sent out to many more jurisdictions than just Clayton. As a result of the email, staff thought it prudent to establish some sort of regulations in order to make it more restrictive for parolee homes to locate within Clayton. This arose from the County re-entry program, which was established by the County in October 2011 due to the United States Supreme Court upholding the State of California Court ruling mandating that California reduce its prison population.

Chair Altwal inquired if the City can extend the moratorium beyond the expiration date in October 2018? Director Gentry responded that, no the City cannot extend the moratorium more than three times, and the City's third extension will expire in October 2018.

Commissioner Cloven asked if any other cities in the County have parolee home regulations? Director Gentry responded that Pleasant Hill, Antioch, and Oakley have established regulations for parolee homes.

Chair Wolfe inquired if there is a legal notification system for a parolee being released into our community? Director Gentry responded that there currently is no legal notification system.

Kathy Bengel indicated the following:

- She is opposed to the draft Ordinance.
- Her neighbor could not make it to the meeting tonight and her neighbor wanted to pass along her concerns related to an increase in crime that may occur as a result of parolee homes being established in Clayton.
- Could we locate a parolee home out on Marsh Creek Road?

Director Gentry indicated that the Marsh Creek Road area is located in the unincorporated Contra Costa County area, outside of Clayton, and would be under the County's jurisdiction.

Matt Foley indicated the following:

- Been in law enforcement for 15 years.
- To respond to Commissioner Cloven's comment about school teachers living in affordable housing units, I have met many occupants of Section 8 houses and, not once, have I met a school teacher living in them.
- The City is not being exclusionary since parolees can already locate within the City.

- Governor Jerry Brown has a parolee release rate of 87% for parolees that have committed serious crimes, in some case these parolees are lifers. In the past these criminals would not have been released. To compare, former Governor Arnold Schwarzenegger only had a parolee release rate of 27%.
- These parolee are cloaked are lesser offenders when in fact they are animals that have committed serious crimes.
- The City should establish another level of approval so the County cannot so easily establish these types of homes within Clayton.
- Would a business license be required for a parolee homes.

Director Gentry responded with the following comments:

- The radius distances for buffering purposes were proposed by City staff to prevent parolee homes from establishing near schools, parks, and other sensitive-use areas.
- The purpose of this Ordinance is to establish another level of approval that would give the community the opportunity to review parolee homes and provide feedback to the Planning Commission regarding whether or not the use is acceptable in the location it is proposed.
- Yes, the parolee home would be required to obtain a City business license.

Chair Wolfe asked what the City Attorney's office thinks of possible legal challenges staff's proposed buffer zones? Ms. Lee responded that staff has worked with legal counsel to develop a defensible way of identifying buffers and an appropriate number of locations to provide a reasonable set of regulations that could be legally defensible.

Maria Arvizu indicated the following:

- This is our community and we should be able to dictate what does and does not happen here.
- We should establish something like Megan's Law.
- We should be able to list parolees in a database who are moving to Clayton and have their pictures and the crimes they committed.
- Parolee homes should not be located in Clayton.
- A curfew should be placed on parolees living in Clayton.

Vice Chair Altwal inquired if there is a way to establish a curfew for parolees living in Clayton? Ms. Lee responded that, as with any land use regulation, we have to have a rational, legal basis for establishing a curfew which we may not have the authority to do given the State's laws superseding our own. We are talking about land use regulations and restrictions on property use. Some of these parolee home-related concerns are a police matter and do not fall under the purview of the Planning Commission.

Brain Fitzgerald indicated that the City should have each parolee home apply on a case-by-case basis which would allow us to deny the parolee home.

Commissioner Cloven inquired what are the Planning Commission's options regarding the requirements of a land use permit? Director Gentry responded that the Planning Commission would review any possible impacts to the surrounding community as it pertains to public health and safety and, based on that analysis, the Planning Commission would have make certain findings in order to deny a use permit. The Planning Commission would, as part of the use permit process, have the ability to regulate hours of operation, parking, traffic, and other such typical land use consideration that would be associated with a proposed development.

Commissioner Cloven indicated that is it incumbent upon us to be as restrictive as possible in order to protect the safety of our community.

Director Gentry indicated that staff's discussion with legal counsel included creating a set of regulations in the Municipal Code that would be as restrictive as possible but still be within the confines of the law.

Fiona Hughes indicated the following:

- Since the email was sent to other jurisdictions, it would seem like the sender of the email is fishing for easy communities to establish parolee homes in.
- We should respond to the sender of the email that Clayton is not a viable location for parolee homes.
- We do not want to end up flagging our City as a parolee destination.

Director Gentry indicated that the sender of the email has not expressed further interest in locating parolee homes in Clayton.

Vice Chair Altwal inquired if the City's business license process would be another way to regulate parolee homes? Director Gentry indicated that the City's business license process is merely a taxation mechanism and would not be an option for regulating parolee homes.

Kristin Moore indicated the following:

- Only three communities in Contra Costa County have mandated zones for parolees.
- All the other communities in Contra Costa County have not taken a stance on parolee homes, so why should we?
- There are four locations identified for parolee homes in Clayton that are in close proximity to our schools.
- It is as if we are putting a target on our back and our children's backs to invite parolees into town.
- It is mind boggling that we are even considering this.

David Thys indicated the following:

- I have spent a career in law enforcement.
- I understand where the City is coming from regarding legal challenges.
- I think the citizens of Clayton would welcome a challenge.

Chair Wolfe asked what the City of Antioch has established as a buffer zone for parolee homes? Director Gentry responded that the City of Antioch would not be applicable in this case since they have required that parolee homes be located in industrial districts and there are no industrial districts in Clayton.

Paul Henshaw expressed concerns that the buffer zone around a parolee home could prohibit the establishment of a pre-school.

Catherine Harrell indicated the following:

- Part of why we live in Clayton is because we have a safe community.
- I disagree with parolee homes being located within 300 feet of schools. We should increase the buffer distance.
- We should not put parolee rights above the safety of our children. Our children should come first.

Marci Longchamps indicated that we should not be one of the first cities to participate in this program.

John Kranci indicated the following:

- I am a retired police officer.
- I support increasing the buffer distance.

Chair Wolfe inquired what would a legal challenge cost the City? Director Gentry said, depending on the nature of the lawsuit, the fiscal impact could range from the tens of thousands to the hundreds of thousands.

James Gamble indicated the following:

- This item should not be on the agenda.
- What is attractive about establishing parolee homes in Clayton when Concord has many other zoning options such as industrial districts.
- This is a social justice entity pushing for parolee homes.

Wendy Laughlin indicated the following:

- Parolee homes would impact in-home day cares which are needed.
- It is a privilege to live in Clayton.
- It is not fair that parents have to work hard to afford their homes in Clayton while parolees can just move in easily.

Alisa Bowron indicated that she is in opposition to the draft Ordinance since the City Council will not have a level of control over parolee homes.

Director Gentry indicated that, without the establishment of an Ordinance, parolee homes could potentially locate anywhere whereas, with the establishment of an Ordinance, the City would have control over the location of parolee homes, have the ability to regulate them, and subject them to a public hearing process.

Maria Arvizu, representing her husband Victor Arvizu, indicated that parolees moving to Clayton should be subject to some sort of registration process.

Director Gentry indicated that, currently, an individual who is a parolee could theoretically be located anywhere in Clayton. Alternatively, the Ordinance would specifically address the County's re-entry program.

Chuck Blazer indicated the following:

- Staff is way off base with this Ordinance.
- I have seen parolee homes destroy neighborhoods.
- I have concerns with parolee homes contributing to prostitution, drugs, theft, and other crimes.
- We do not want parolees looking at Clayton as an option for moving into.
- Parolee homes increase violence, blight, and crime in general.
- You have heard from your citizens tonight and you should not be making a decision tonight.

Tom Finnegan indicated the following:

- I think the City should not reply to the email.
- I am in favor of an Ordinance that would double or triple the buffer zone distances and make it next to impossible for parolee homes to move to Clayton.
- We should analyze the impacts parolee homes have as a public nuisance that could lower property values and make them build-only proposals.

Vice Chair Altwal inquired about requiring parolee homes being allowed as build-only projects? Director Gentry responded that requiring parolee homes to be build-only projects would make the parolee homes so cost prohibitive that the City would legally default to being too restrictive.

Frank Gavidia indicated the following:

- We live in a State that ignores the Federal government; why should we cater to the State?
- I do not understand how one email triggered all this staff time and work in preparing the draft Ordinance.
- We should have input from our Police Department.

Ryan (no last name given) indicated the following:

- I love this community.
- I am a police officer and have seen parolee homes destroy communities.
- I would like to know who sent the email.
- We should table this item until we have more information.

Director Gentry indicated that the email is public record and was sent from a program manager representing a transitional housing/stable living environment for persons previously incarcerated and the program manager was looking for jurisdictions to locate in that did not have a use permit process already established.

The public hearing was closed.

Vice Chair Altwal indicated the following:

- I want to thank staff for all their hard work and brining this item to our attention.
- My home in Clayton was burglarized 6 years ago.

- We should not make a decision tonight.
- We should not regulate it until a parolee home attempts to move into Clayton and then we are forced to regulate it.

Commissioner Gall indicated the following:

- I want to thank everyone for being here this evening and would like to express to the audience that their concerns are Planning Commission concerns as we are also members of this community and we have children and grandchildren.
- We have an obligation to the City Council to make a recommendation.
- We have some time so we should take a closer look at this issue.
- I do not think we should recommend approval right now.

Commissioner Cloven indicated the following:

- I see a need to do something.
- I would not want a parolee home locating next door to my residence and not be able to do anything about it.
- I think it would be good for the City to be able to review a land use permit for a parolee home and have codified regulations that would require the submittal of plans and a management plan.
- I am concerned that we are inviting parolee homes to Clayton but I am also concerned that, without regulations, parolee homes can locate anywhere in our community.
- I think the draft Ordinance needs to be refined and we should take more time to review this issue.

Chair Carl Wolfe indicated the following:

- My concern is that, if we do not do something today or not do something today, we open the City up to legal challenges.
- I can see there is a definite level of discomfort from the community regarding the draft Ordinance.
- I am not sure we have enough information to make an educated decision on the draft Ordinance.

Vice Chair Altwal moved and Commissioner Cloven seconded a motion to adopt Resolution No. 03-18, recommending City Council denial of an Ordinance amending the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density. The motion passed 4-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

ATTACHMENT 12

Mindy Gentry

Subject: FW: Zoning Inquiry

From: Mz Shirleyz Transitional [<mailto:mzshirleyz@gmail.com>]

Sent: Friday, August 05, 2016 12:09 PM

To: msikela@ci.clayton.ca.us

Subject: Zoning Inquiry

Good afternoon,

We are a 501 (c) (3) non-profit who operates a SLE/Transitional home and we are looking at re-locating from San Mateo County to your city. We have been awarded a grant from Contra Costa County to assist with the Re-entry Network in helping reduce recidivism. We are writing you to find out the zoning laws around where in your city we would be able to operate our program without having to go through a use permit process.

We are including pertinent information that should help you determine where we would fit into your community and if additional information is needed we are more than happy to provide what you need to make this determination.

Our non-profit has been in business since 2009 and has operated in San Mateo and Santa Clara Counties in both residential and residential/commercial without the requirement of a use permit. We assist people who are in recovery from alcohol and drug use, many that have been previously incarcerated.

- The lessee is usually the non-profit or the Director, Shirley Lamarr (Are the codes different for renting a property versus owning the property?)
- Residents are not listed on the lease due to confidentiality issues.
- Depending on the size of the property we wish to operate with 6-8 residents of which 1-2 senior members will be House Managers.
- Staff is present 24/7 to monitor the house
- Residents share household chores but do not share household expenses.

- Residents are not allowed to bring any personal vehicles with them. Only staff will have vehicles on site.
- We are involved in the communities we reside in and we live together as an extended family.
- The average stay of a resident is 3-6 months. This allows them time to be grounded, obtain a job and move to permanent housing.
- Residents are referred by the Contra Costa County Re-entry Network
- We do not accept pedophiles or persons with previous sex crimes
- We do not do any AOD services on-site. All services are referred to outside agencies.
- We have always developed and maintained great working relationships with all city and county departments. We have always developed great relationships with our neighbors and our landlords and we have reference letters at our disposal.

We would appreciate an answer as soon as possible as we would like to make this transition as quickly as possible.

If you have any questions please feel free to contact Ann Baldetta, Executive Assistant to the Director at (650) 669-5420 or the Director, Shirley Lamarr at (650) 218-8256.

Thank you for your help

Ann

ATTACHMENT 13

Agenda Date: 10-03-2017

Agenda Item: 7b

Approved:

Gary A. Napper
City Manager



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

DATE: OCTOBER 3, 2017

SUBJECT: ADOPTION OF AN INTERIM URGENCY ORDINANCE EXTENDING THE PROHIBITION OF THE ESTABLISHMENT, CONSTRUCTION, AND OPERATION OF COMMUNITY SUPERVISION PROGRAMS AND PAROLEE HOMES (ZOA-08-16)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, take the following actions:

1. Hold a Public Hearing to consider public comments regarding the proposal to adopt interim Urgency Ordinance No. 479.
2. Motion to have the City Clerk read the interim Urgency Ordinance No. 479 by title and number only and waive further reading; and
3. Following the City Clerk's reading, by motion adopt the interim Urgency Ordinance No. 479 by 4/5ths affirmative vote of the full City Council to continue the prohibition on the establishment, construction, and operation of Community Supervision Programs and parolee homes for an additional one year period (ZOA-08-16) (Attachment 1).

BACKGROUND/DISCUSSION

On November 1, 2016, following a public hearing and pursuant to Government Code Section 65858, the City Council adopted an interim urgency ordinance (Ordinance No. 469) prohibiting the establishment, construction, and operation of Community

Supervision Programs and parolee homes for a period of forty-five (45) days (**Attachment 2**).

On December 6, 2016, following a public hearing, the City Council extended the moratorium (Ordinance No. 472) of these uses for a period of ten (10) months and fifteen (15) days to provide staff with additional time to research, analyze, and draft regulations regarding these issues (**Attachment 3**). Due to the uses associated with the County's Community Supervision Program, including parolee homes, and these uses not being defined within the Clayton Municipal Code, the Council had concerns regarding the potential for negative impacts to public health, safety, and welfare, particularly if there were a dense concentration of parolee homes or service providers or these uses were to be located near sensitive uses such as parks, schools, or day care centers.

DISCUSSION

Ordinance No. 472 is an interim ordinance, which is in effect for ten (10) months and fifteen (15) days and will expire on October 21, 2017. California Government Code Section 65858(a) allows the City of Clayton to adopt an interim urgency ordinance for forty-five (45) days and then may extend the urgency ordinance for ten (10) months and fifteen (15) days with a third extension of up to one year. The additional time, one year, provided by the subject Ordinance, allows the extra time for City staff to research, study, and draft regulations. This is the last extension allowed by State statute and during this final one-year timeframe, staff must conclude its research and analysis, and then draft proposed regulations for both the Planning Commission's and City Council's consideration.

ENVIRONMENTAL

Adoption of the urgency Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the necessary ordinance to address recent state law regarding the Community Supervision Program and parolee homes.

ATTACHMENTS

1. Ordinance No. 479 [5 pp.]
2. Excerpt of the Staff Report and Minutes from the November 1, 2016 City Council Meeting [4 pp.]
3. Excerpt of the Staff Report and Minutes from the December 6, 2016 City Council Meeting [89 pp.]

ORDINANCE NO. 479

AN URGENCY ORDINANCE MAKING FINDINGS AND EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, CONSTRUCTION, AND OPERATION OF PAROLEE HOMES AND COMMUNITY SUPERVISION PROGRAMS FOR A PERIOD OF ONE YEAR

**THE CITY COUNCIL
City of Clayton, California**

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, Government Code Section 65858 provides that for the purpose of protecting the public safety, health and welfare, a City Council may adopt, without following the procedures otherwise required prior to the adoption of a zoning ordinance, as an urgency measure, an interim ordinance, by a vote of four-fifths (4/5) majority, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City of Clayton ("City") and surrounding communities have seen and experienced an increased interest in the establishment of group homes and community supervision programs for parolees and probationers; and

WHEREAS, this interest is due, in part, to AB 109 and the increased number of parolees, probationers and others subject to post-release supervision. Specifically, the *2015 Outlook Evaluation Report – An Examination of Offenders Released in Fiscal Year 2010-11 Report* by the California Department of Corrections and Rehabilitation (CDCR), indicates the statewide recidivism rate of offenders is 44.6 percent with 80 percent of those offenders returning to prison within the first year of release. The CDCR report indicates the percentage of recidivism after one, two, and three-year periods within Contra Costa County are 43.4, 46.7, and 48.8 respectively; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, due in part to AB 109, the City anticipates receiving requests for the construction, establishment and operation of Community Supervision Programs (as defined below) within the City. However, this use is not defined in the Clayton Municipal Code and applying current commercial zoning regulations may not take into account potential impacts of Community Supervision Programs on the surrounding community such as loitering and

increased calls for service and particularly impacts on sensitive uses such as schools and parks;
and

WHEREAS, the City has commenced a study of appropriate regulations for these uses, but additional planning and research are necessary before the City can adopt any permanent regulation; and

WHEREAS, any parolee/probationer homes or community supervision programs established prior to the adoption of comprehensive regulations may do so in areas that would be inconsistent with surrounding uses and would be immediately detrimental to the public peace, health, safety, and welfare; and

WHEREAS, should those uses be allowed to proceed, such uses could conflict with, and defeat the purpose of, the proposal to study and adopt new regulations regarding these uses; and

WHEREAS, the City Council at its regularly scheduled meeting on November 1, 2016 adopted Ordinance No. 469, pursuant to California Government Code 65858, establishing a forty-five (45) day moratorium on the establishment and operation of Parolee Homes and Community Supervision Programs; and

WHEREAS, the circumstances and conditions that led to the adoption of Ordinance No. 469 have not been alleviated and continue to create concerns; and

WHEREAS, the City Council at its regularly scheduled meeting on December 6, 2016 adopted Ordinance No. 472, pursuant to California Government Code Section 65858(a), extending the interim urgency moratorium for ten (10) months and fifteen (15) days after meeting the notice requirements pursuant to Government Code Section 65090 and a public hearing has complied with the public hearing noticing requirements of Government Code Section 65858(a); and

WHEREAS, the circumstances and conditions that led to the adoption of Ordinance No. 469 and 472 have not been alleviated and continue to create concerns; and

WHEREAS, the City has complied with the public hearing noticing requirements of Government Code Section 65858(a) to consider and adopt the time extension of the current moratorium by enactment of Urgency Ordinance No. 479; and

WHEREAS, Government Code Section 65858(a) allows an interim urgency ordinance to be extended for one year after meeting the notice requirements pursuant to Government Code Section 65090 and a public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals and Findings. The above recitals are true and correct and are hereby incorporated into this Ordinance. The Council further finds and determines the staff report for this Ordinance describes the measures taken to alleviate the conditions that led to the adoption of the Ordinance No. 479. This staff report is hereby adopted and approved by the Council as required by Government Code section 65858(d).

Section 2. Moratorium. In accordance with the authority granted to the City Council of Clayton, California, under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use or expansion of an existing use shall be approved or issued by the City for the establishment or operation of a Parolee Home or Community Supervision Program for a period of one year. For purposes of this ordinance, Parolee Home shall be defined as “any residential or commercial building, structure, unit or use, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses between two or more parolees, unrelated by blood, marriage, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee. Parolee Home shall not mean any state-licensed residential care facility.”

For purposes herein, Community Supervision Program shall be defined as “any facility, building, structure or location, where an organization, whether private, public, institutions of education, not for-profit, or for-profit, provide re-entry services, excepting housing, to previously incarcerated persons or persons who are attending programs in-lieu of incarceration including, but not limited to: employment support and placement services, peer and mentoring services, and resource centers. Included in this definition are services provided to Parolees.”

Parolee shall include probationer, and shall mean any of the following: “(1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term parolee includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future.”

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be

unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council finds, under CEQA Guidelines section 15061(b)(3), that this Ordinance is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa in accordance with the CEQA Guidelines.

Section 5. Effective Date and Publication. This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths vote of the City Council and shall be in effect for one year from the date of adoption. This Ordinance shall be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on the 3rd day of October, 2017, by the following four-fifths affirmative vote:

AYES: Mayor Diaz, Vice Mayor Haydon, Councilmembers Catalano, Pierce and Shuey.
NOES: None.
ABSENT: None.
ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON, CA



Jim Diaz, Mayor

ATTEST



Janet Brown, City Clerk

APPROVED AS TO FORM



Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION



Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly adopted and passed at a regular public meeting of the City Council held on October 3, 2017.



Janet Brown, City Clerk

7. PUBLIC HEARINGS

- (a) Consider the Introduction and First Reading of Ordinance No. 478 amending Chapter 15.09 of the *Clayton Municipal Code* to adopt the 2016 California Fire Code with changes, additions and deletions as allowed by State law.
(Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting the Contra Costa County Fire Protection District provides fire protection services to the city of Clayton with staff recommending ratification of the District's Fire Code Ordinance providing consistency in the application and enforcement of building and housing standards. Ms. Gentry noted the changes to the fire code included amendments for when automatic sprinkler systems are required for private and charter schools; updated requirements for standby EMS personnel for large events; additions to include the Fire Districts weed abatement program; and updated requirement for fire access roads. Ms. Gentry introduced Mr. Robert Marshall from the Fire District to answer any questions the city council may have.

Mayor Diaz opened the Public Hearing.

Robert Marshall, Fire Marshall, Contra Costa County Fire Protection District, advised a majority of changes made to the 2016 Fire Code have been carried forward from the last update. The standby EMS requirement was made due to the fire department was not an ambulance provider at the time and the language needed to be updated to reflect this change. The automatic sprinkler system requirements were added to private and charter schools greater than 2,000 square feet.

Mayor Diaz then closed the Public Hearing.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 478, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 478 by title and number only.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to approve Ordinance No. 478 for Introduction with findings the adoption will not have a significant adverse effect on the environment and is therefore exempt under CEQA. (Passed; 5-0 vote).

- (b) Consider the adoption of Urgency Ordinance No. 479 placing an interim local moratorium on the operation or establishment of parolee homes and community supervision programs within the city of Clayton.
(Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting this would extend the moratorium for one (1) year. This would be the last extension allowed by State statute, and would allow staff time to conclude its research and analysis, then draft regulations for both the Planning Commission and City Council to consider. The Ordinance is in repose to AB109 transferring the parolee responsibility from State to local jurisdictions. Staff concerns include the potential for negative impacts to public health, safety and welfare, particularly if there were a dense concentration of parolee

homes or service providers or if these uses were to be located near sensitive uses such as parks or schools. The County's Community Supervision Program, including parolee homes are not defined in the Clayton Municipal Code.

Councilmember Catalano inquired on when it is anticipated for this item to be brought back to City Council?

Ms. Gentry advised this item will be brought back in spring 2018 for City Council consideration.

Mayor Diaz asked if there has been any interest in anyone wanting to open up a Parolee residence?

Ms. Gentry advised there was one inquiry back in November 2016, however there has not been any other interest or follow up from that provider or any other providers.

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

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to have the City Clerk read Ordinance No. 479, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 479 by title and number only.

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to approve Ordinance No. 479 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).

8. ACTION ITEMS

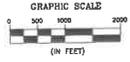
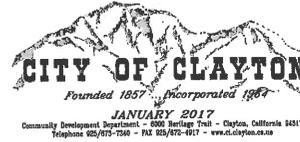
- (a) Policy discussion of encroachments into the public right-of-way and fence locations for exterior side setbacks.
(Community Development Director)

Community Development Director Mindy Gentry noted in the month of September city staff initiated two code enforcement cases regarding the construction of retaining walls and fencing in the public right-of-way and were constructed without building permits. The right-of-way at 199 Mountaire Parkway is approximately 5 feet 6 inches from the back of the sidewalk; the unpermitted retaining wall that was constructed is approximately 2 feet from the back of the sidewalk and exceeds 36 inches in height, requiring a building permit. A wooden fence was also placed on top of the retaining wall, exceeding the six foot total height requirement, wall plus fence, and the fence does not comply with the setback requirement of 5 feet from the property line.

Ms. Gentry noted the second code enforcement case is located at 401 Wright Court with a violation of a fence located on top of a retaining wall with total height exceeding the six foot height requirement; violation of setback location requirements; the wall and fence are located within the public right-of-way; and was constructed without building permits.

Ms. Gentry noted the components of these two cases have brought to light violations occurring citywide with discussion needed to address encroachments into the public

GENERAL PLAN DIAGRAM

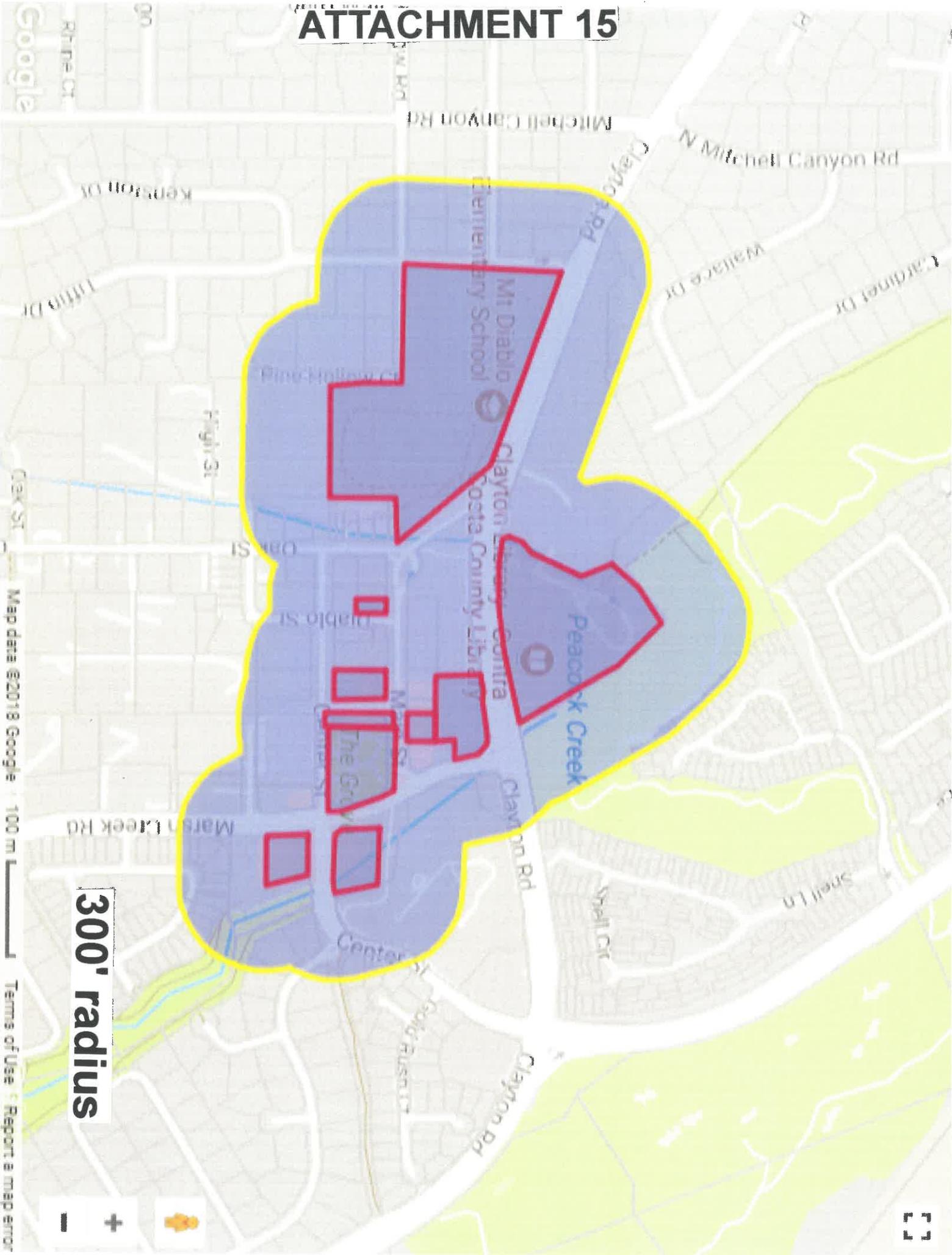


LEGEND

	RESIDENTIAL	UNITS/GROSS ACRE
RD	RURAL ESTATE	(0 TO 1.0)
LD	SINGLE FAMILY LOW DENSITY	(1.1 TO 3)
MD	SINGLE FAMILY MEDIUM DENSITY	(3.1 TO 5)
HD	SINGLE FAMILY HIGH DENSITY	(5.1 TO 7.5)
MLD	MULTIFAMILY LOW DENSITY	(7.6 TO 10)
MMD	MULTIFAMILY MEDIUM DENSITY	(10.1 TO 15)
MHD	MULTIFAMILY HIGH DENSITY	(20)
	INSTITUTIONAL DENSITY	(7.6 TO 20)
COMMERCIAL		
	TOWN CENTER	
	KIRKER CORRIDOR	
	CONVENIENCE COMMERCIAL	
COMMUNITY FACILITIES		
CV	CULTURAL CENTER	
PQ	PUBLIC/QUASI-PUBLIC	
I	INTERMEDIATE SCHOOL	
E	ELEMENTARY SCHOOL	
P	PRIVATE SCHOOL	
OPEN SPACE		
PR	PRIVATE OPEN SPACE	
	PUBLIC PARK/OPEN SPACE/ OPEN SPACE AND RECREATIONAL	
AG	AGRICULTURE	
Q	QUARRY	
TR	PRIVATE OPEN SPACE (GOLF COURSE)	
--- TRAILS		
BOUNDARIES		
---	CITY LIMITS	
---	SPHERE OF INFLUENCE	
---	URBAN LIMIT LINE	
---	PLANNING AREA	

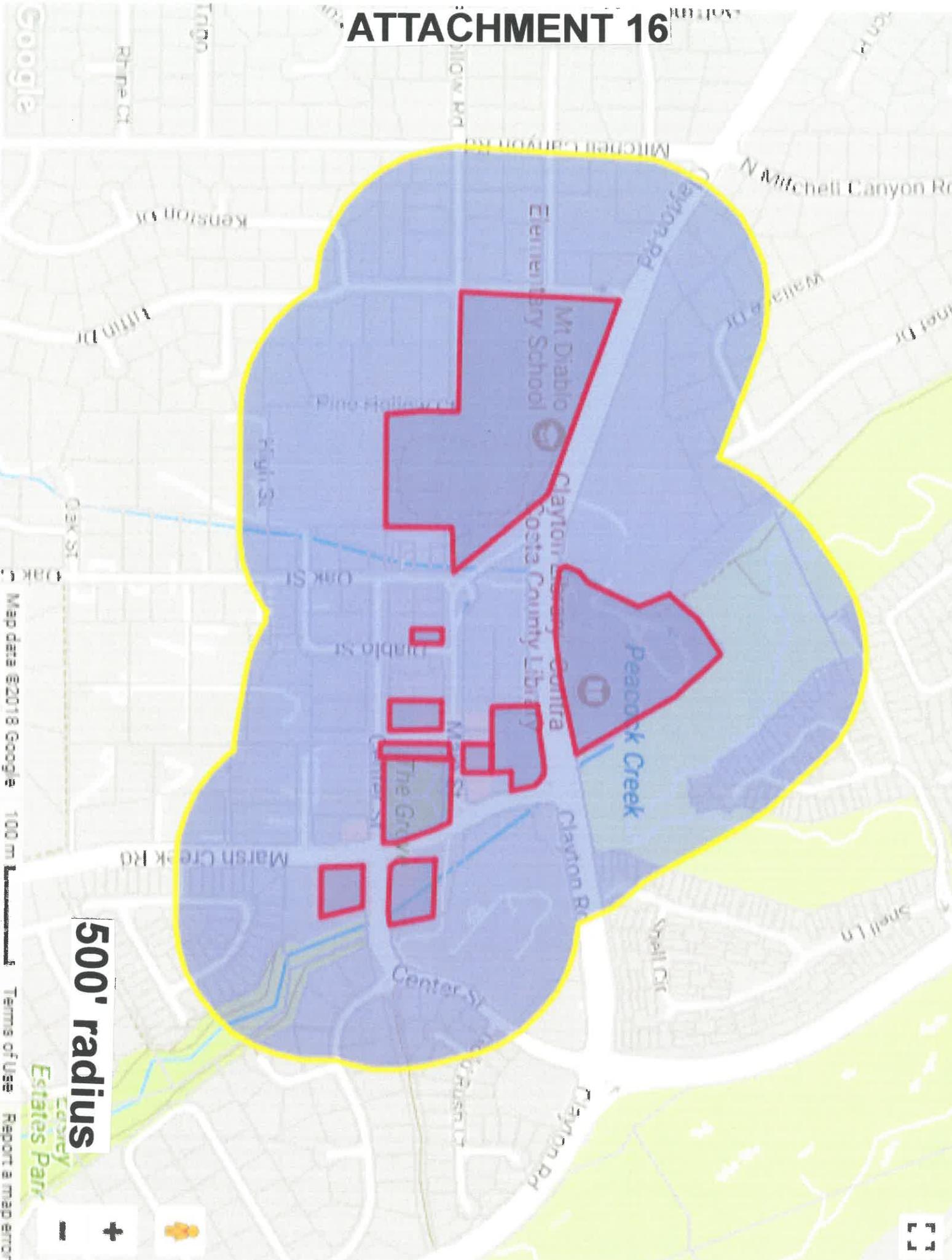
DATE	RESOLUTION NUMBER	AMENDMENT
7/17/85	22-85	ADOPTION OF CLAYTON 2000 GENERAL PLAN
5/6/87	21-87	KELLER RANCH
3/2/88	13-88	GREYSTONE ESTATES
4/17/90	25-90	OSKWOOD SUBDIVISION
6/15/93	43-93	DOUGLAS ROAD
3/21/95	08-95	MARSH CREEK CIRCLE
6/28/95	43-95	MARSH CREEK ROAD SPECIFIC PLAN
12/1/98	64-98	DIABLO VILLAGE
7/18/00	49-2000	MARSH CREEK ROAD/CLAYTON ROAD
6/1/04	23-2004	DOWNTOWN PARK
7/19/05	03-05	CITY HALL / COMMUNITY LIBRARY
4/5/05	13-2005	OAK CREEK CANYON
12/21/04	63-2004	DIABLO POINTE
2/6/07	05-2007	TOWN CENTER AND VICINITY
4/3/12	11-2012	OLD MARSH CREEK ROAD/CLAYTON ROAD

ATTACHMENT 15



300' radius

ATTACHMENT 16



500' radius



ATTACHMENT 17



April 17, 2013

Planning Commission
City of Antioch
P.O. Box 5007
Antioch, CA 94531

Dear Commissioners:

We urge you to reject the resolution adopting the proposed Zoning Ordinance amendments that would restrict the operation of the Community Supervision Programs in the City of Antioch. The proposed zoning restrictions are contrary to the legislative intent of AB 109 and in possible violation of state and federal law.

The proposed ordinance is contrary to the goals of the 2011 Realignment legislation, which mandates the use of community-based alternatives to incarceration that have been demonstrated to reduce recidivism. This legislative intent is codified in the language of the Realignment legislation:

California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices . . . Realigning low-level felony offenders who do not have prior convictions for serious, violent, or sex offenses to locally run community-based corrections programs, which are strengthened through community-based punishment, evidence-based practices, improved supervision strategies, and enhanced secured capacity, will improve public safety outcomes among adult felons and facilitate their reintegration back into society.

See Cal. Penal Code § 17.5(a).

Proposed Restrictions Constitute a De Facto Ban on Service Provision

The zoning restrictions placed on re-entry service providers under the proposed amendments are so onerous as to constitute a near de facto ban on necessary reentry service provision in the City of Antioch.

MICHELLE A. WELSH, CHAIRPERSON | DENNIS McNALLY, AJAY KRISHNAN, FARAH BRELVI, ALLEN ASCH, VICE CHAIRPERSONS | KENNETH J. SUGARMAN, SECRETARY/TREASURER
ABDI SOLTANI, EXECUTIVE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | SHAYNA GELENDER, ORGANIZING & COMMUNITY ENGAGEMENT DIRECTOR | REBECCA FARMER, COMMUNICATIONS DIRECTOR
ALAN SCHLOSSER, LEGAL DIRECTOR | MARGARET C. CROSBY, ELIZABETH BILL, LINDA LYF, JULIA HARUMI MASS, LINNEA NELSON, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS
PHYLLIDA BURLINGAME, ALLEN HOPPER, NATASHA MINSKER, NICOLE A. OZER, POLICY DIRECTORS | STEPHEN V. BOMSE, GENERAL COUNSEL

First, the prohibition on siting within 1500 feet of any public or private school, park, or recreation center, Section 9-5.3836(D), greatly restricts the ability of service providers to locate in populated parts of the city given Antioch's approximately 31 parks, more than 20 schools and numerous recreation centers. Pushing programs to the outskirts of the city barriers to avoid proximity to these "sensitive services" will erect barriers to access and will reduce the programs' effectiveness. Further, the prohibition on siting within 1500 feet of any other service provider, Section 9-5.3836(D), will eliminate participants' opportunity to access multiple types of services in one location, which can be crucial given some of the participants' likely lack of personal transportation options.

Second, the operational use requirements set forth in Section 9-5.3836(C) that are applicable to all service providers regardless of where they are located, are vague, burdensome and run the risk of rendering the prospective programs ineffective. The daytime hour restrictions on the services create barriers to participation for those who work during the day, the mandate that no congregation be permitted outside the premises is overly vague, and the requirement for screened-off outdoor smoking areas may prove overly burdensome for a service provider to construct. Nor is there anything in the ordinance specifying how purported non-compliance with these requirements would be determined, how the provider could appeal such determination, nor the process by which a permit would be revoked upon a final determination of non-compliance. Such vagueness will create difficulties both in compliance with and enforcement of the amended code.

Third, the use permitting process required for a provider to locate in any zone where Business and Professional Office set forth at Section 9-5.3836(B), particularly the \$2,000 permit fee, is likely to prove prohibitive to many prospective service providers who are non-profits and community-based organizations with limited funds and limited capacity to navigate the lengthy process.

Finally, the non-use-permit-requiring locations set forth in Section 9-5.3836(A) fail to provide sufficient or viable options for service providers to locate. The East 18th Street area specified in (A)(3) is on the outskirts of the City and not easily accessible by public transportation (multiple bus transfers would be required), which will create barriers to participation by those without their own transportation. Further, the East 18th Street is largely undeveloped, with little available office space. Absent a service provider constructing its own facility, for which it is not likely to have the funds, there is therefore little in the way of viable siting opportunity. The potential of siting in the one available office complex in the area is made all the more difficult given the fact that no service provider will be permitted within 1500 feet of any other provider. Section 9-5.3836(D). Finally, the County service building described in (A)(1) is currently in use and does not contain additional space for new providers to locate.

The proposed zoning restrictions do not appear to be driven by any rational justification by the Planning Commission or City Council. Instead it appears that the intent of the code amendments is to severely restrict the ability of providers to provide crucial recidivism-reducing services to the people of Antioch. This is contrary to the intent of Realignment and will do nothing to decrease the rate of recidivism in the City or the County.

Flawed Justification

Recidivism rates in Antioch will not be reduced unless formerly incarcerated individuals reentering the community have access to evidence-based reentry services and programs. However, rather than focusing attention on increasing evidence-based services in the community, the City appears to be doing the opposite and is using inaccurate information to justify its opposition to such programs.

City councilmembers point to the supposed influx of formerly incarcerated people to Antioch and inaccurate accounts of increased recidivism rates to justify the creation of barriers to these necessary services, through the implementation of this ordinance.

First, there is no mass influx of criminals to Antioch; moreover, the AB 109 population is not migrating to the City. As under the parole system prior to the implementation of AB 109, individuals under Post-Release Community Supervision (PRCS) are returning to their home communities after release from prison. The only difference is that PRCS individuals are now supervised by the county probation department instead of by the state parole department.

Second, City Councilmembers are relying on false and inaccurate recidivism rates in their analysis of this population. It is too soon to accurately estimate recidivism rates under Realignment. Moreover, the newspaper accounts upon which the councilmembers rely are merely anecdotal. The fact is that under AB 109 recidivism rates are no worse than they were under the old system. The state prison and parole systems were doing a terrible job of preventing lower-level offenders from reoffending. Under Realignment, communities now have the opportunity to reduce recidivism rates by using the various evidence-based programs that this ordinance seeks to block.

Racially Disparate Impact

If implemented, this ordinance will likely disproportionately impact African Americans. Over the duration of Realignment African Americans have made up 40% (60 out of 149 individuals) of the AB 109 population in Antioch, despite making up only 17% of the total Antioch population.¹ Though the situations are not identical, the facts related to this proposed ordinance raise some similar concerns to those that prompted the ACLU of Northern California and other

¹ See Census Bureau data for 2010 (reporting 17,667 African Americans out of a total of 102,372 city residents).

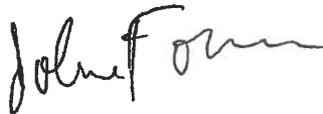
public interest law firms to file *Williams v. City of Antioch*. As in *Williams*, where we believed that the targeting of Section 8 voucher holders by the Antioch Police Community Action Team adversely impacted African Americans, restricting access to Community Supervision Programs will similarly disparately affect African Americans. This is because African Americans are overrepresented in the City's AB 109 population. Under this theory, first developed in Title VII cases, statistical evidence that a policy, neutral on its face, has an adverse impact on a protected class will establish a *prima facie* case. No proof of discriminatory intent is required to prevail on this claim. *Pfaff v. HUD*, 88 F.3d 739, 745-46 (9th Cir. 1996).² Moreover, this zoning ordinance may violate Cal. Gov't Code § 11135, which prohibits racial discrimination by recipients of state funding. That statute's implementing regulations include a proscription against adverse impact, for which parties may state a claim. Cal Gov't Code § 11139; 22 Cal. Admin Code 98101(i)(1); *Darensburg v. Metro Transp. Comm'n*, 611 F. Supp. 2d 994, 1041-42 (N.D. Cal. 2009).

Given the myriad legal, policy and factual issues discussed above, we urge you to reject the proposed resolution to recommend the ordinance to the city council. Alternatively we request that you delay the vote on the resolution in order to allow time for meaningful research on the topic.

Sincerely,



Micaela Davis
Criminal Justice and Drug Policy Attorney
mdavis@aclunc.org



Jolene Forman, Esq.
Criminal Justice and Drug Policy Fellow
jforman@aclunc.org

² If plaintiffs establish adverse impact, the burden shifts to defendant to rebut the impact by showing that its policy or practice was justified by a legally sufficient, nondiscriminatory reason. *Pfaff*, 88 F.3d at 746-47.



Agenda Date: 7-17-2018

Agenda Item: 8a

STAFF REPORT

Approved: 
Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 17 JULY 2018

SUBJECT: MAYORAL REQUEST TO DISCUSS PENDING VACANCIES IN CITIZEN OPPORTUNITIES TO SERVE ON REGIONAL ADVISORY BOARDS

RECOMMENDATION

It is recommended the City Council discuss and provide policy direction to staff regarding measures to fill the number of vacancies occurring in Clayton representation to serve on various regional advisory committees/commissions.

BACKGROUND

As required by state law, the City Clerk annually posts a Notice of Commission Vacancies on each posting board each December, notifying and encouraging residents to apply for positions on certain City boards, commissions, and committees that will have vacancies in the following year. These openings are also published in the *Clayton Pioneer* and on the City's website. Despite the various outreach efforts, including announcements of the openings at regular City Council meetings, to date the City has yet to have any Clayton citizen express interest to fill certain various citizen advisory committee vacancies. With the latest notice from the County Library Commission of the City's recent vacant representation, Mayor Haydon requested this matter be placed on this agenda for discussion.

PENDING VACANCIES ON REGIONAL ADVISORY BOARDS

Currently there are three (3) agencies seeking representation by a Clayton citizen:

1. Central Contra Costa Transit Advisory Committee (County Connection) (no Clayton representation since 2011);
2. Contra Costa Transportation Authority (no Clayton representation since 2013); and
3. Contra Costa County Library Commission (no Clayton representation since May 2018).

INFORMATION ON EACH ADVISORY BOARD

a. Central Contra Costa Transit Advisory Committee (County Connection)

The primary purpose of the Central Contra Costa Transit Authority (CCCTA) Advisory Committee is to review, analyze and advise the County Connection Board of Directors on issues and policies relating to fixed-route transportation and paratransit service. The Advisory Committee is asked to consider and make recommendation on finance and planning documents that include but are not limited to the following:

- CCCTA Ten Year Short Range Transit Plan
- Annual operating and capital budget
- Annual marketing plan
- Other issues such as operations, scheduling, administration, finance, and legislation.

This advisory committee is comprised of eleven (11) members from central Contra Costa County. Each member jurisdiction is requested to recommend one member from its jurisdiction for appointment by the CCCTA Board of Directors. Each member jurisdiction may also propose an alternate member from its jurisdiction for appointment by the CCCTA Board of Directors. CCCTA recommends the following criteria when considering eligible appointees:

- Representative should be active in community participation and involvement
- Representative should reside in the appointed community
- Representative should be a current or former user of fixed-route and/or paratransit service, or an advocate for transit users in their communities.

The advisory committee meets six (6) times per year in the odd-numbered months. However, if the committee wishes to have a special meeting, any member may request its chairperson to ask the staff liaison to schedule such a meeting. Regular meetings are held at 2474 Arnold Industrial Way, Concord, CA.

- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- There is one (1) committee voting office.
- Applications filed become a public record and are subject to public disclosure.
- No monetary stipend or mileage reimbursement available to attend the meetings.

b. Contra Costa Transportation Authority

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC is comprised of 23 members: 20 are appointed by each of the 20 local jurisdictions within Contra Costa (the cities, towns, and the county); three "at-large" members are nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

To become a member of the CAC, one must reside within the local jurisdiction making the appointment, and its city council or town board must take formal public action to confirm the membership on the committee.

Further information regarding transportation projects and programs in Contra Costa may be found on the CCTA website at www.ccta.net. To view CAC Charter and Bylaws, or to download the Word file for this application, go to www.ccta.net/GEN/downloads

- The CAC's regular meetings are held the fourth Wednesday of each month, 6:30 p.m., at the CCTA's Walnut Creek offices, 2999 Oak Road, Suite 100, Walnut Creek, CA.
- CAC members are appointed to serve for a four-year term without compensation. CAC members do receive reimbursement for travel expenses to and from the CAC meetings.
- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- Applications filed become a public record and are subject to public disclosure.

c. Contra Costa County Library Commission

The County Library Commission is organized under the Contra Costa County Board of Supervisors and was created to serve in an advisory capacity: to provide a community linkage, establish a forum for the community to express its views regarding the goals and operations of the County Library; to assist the Board of Supervisors and the County Librarian to provide library services based on assessed public need; and to develop and recommend proposals to the Board of Supervisors and County Librarian.

Members are appointed by the city council of each of the nineteen (19) cities in the County of Contra Costa. The standard term of each member's appointment is two years; each member is a volunteer and receives no stipend or compensation.

- The regular meetings of the Contra Costa Library Commission are held the fourth Thursday of every odd-numbered month, 7:00 p.m. at the Contra Costa County Library Headquarters, 1750 Oak Park Blvd., Pleasant Hill, CA [or other pre-designated location].
- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- There is one (1) Commission voting office term expiring on June 30, 2023, and receive no compensation, stipend or mileage reimbursement.
- Applications filed become a public record and are subject to public disclosure.

FISCAL IMPACT

None.

Attachments: Press Releases [3 pp.]



PRESS RELEASE

**The City Council of Clayton
invites applications
for its
CLAYTON MEMBER
on the
COUNTY CONNECTION (CCCAC)**

**ONE (1) OFFICE
Term: Two (2) years
OPEN UNTIL FILLED**

The primary purpose of the Central Contra Costa Transit Authority Advisory Committee will be to review, analyze and advise the County Connection Board of Directors on issues and policies relating to fixed-route and paratransit service. The Advisory Committee will be asked to consider and make recommendation on finance and planning documents that include but are not limited to the following:

- CCCTA Ten Year Short Range Transit Plan
- Annual operating and capital budget
- Annual marketing plan
- Other issues such as operations, scheduling, administration, finance, and legislation.

The Advisory Committee shall be comprised of eleven (11) members from Central Contra Costa County. Each member jurisdiction will be requested to recommend one member from that jurisdiction for appointment by CCCTA Board of Directors. Each member jurisdiction may also recommend an alternate member from that jurisdiction for appointment by the CCCTA Board of Directors. The following criteria should be considered

- Representative should be active in community participation and involvement
- Representative should reside in the appointed community
- Representative should be a current or former user of fixed-route and/or paratransit service, or an advocate for transit users in their communities.

The Advisory Committee will meet every other month. However, if the committee wishes to have a special meeting, any member may request that the Chair ask the staff liaison to schedule such a meeting.

- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- There is one (1) Commission office.
- Applications filed become a public record and are subject to public disclosure.

Applications may be obtained:

In person: Clayton City Hall
6000 Heritage Trail
By mail: Call City offices at (925) 673-7300
E-mail: jbrown@ci.clayton.ca.us
City's web site: www.ci.clayton.ca.us



PRESS RELEASE

**The City Council of Clayton
invites applications
for its
CLAYTON MEMBER
on the
CONTRA COSTA TRANSPORTATION AUTHORITY**

**ONE (1) OFFICE
Term: four (4) years
OPEN UNTIL FILLED**

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC is comprised of 23 members: 20 are appointed by each of the 20 local jurisdictions within Contra Costa (the cities, towns, and the County); three "at-large" members are nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

To become a member of the CAC, you must reside within the local jurisdiction making the appointment, and your Council or Board must take formal action to confirm your membership on the Committee.

For further information regarding transportation projects and programs Contra Costa, please visit the CCTA website at www.ccta.net. To view CAC Charter and Bylaws, or to download the Word file for this application, go to www.ccta.net/GEN/downloads

- The regular meetings of the Contra Costa Transportation Authority shall be held the fourth Wednesday of each month, 6:30 pm, at the CCTA's Walnut Creek offices, 2999 Oak Road, Suite 100, Walnut Creek, CA.
- CAC members are appointed to serve for a four-year term without compensation. Members will, however, receive reimbursement for travel expenses to and from the CAC meetings.
- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- Applications filed become a public record and are subject to public disclosure.

Applications may be obtained:

In person: Clayton City Hall
6000 Heritage Trail
By mail: Call City offices at (925) 673-7300
E-mail: jbrown@ci.clayton.ca.us
City's web site: www.ci.clayton.ca.us



PRESS RELEASE

The City Council of Clayton invites applications for its CLAYTON MEMBER on the CONTRA COSTA COUNTY LIBRARY COMMISSION

**ONE (1) OFFICE
Term: appointment through June 2023
OPEN UNTIL FILLED**

The County Library Commission is organized under the Contra Costa County Board of Supervisors and was created to serve in an advisory capacity to: provide a community linkage, establish a forum for the community to express its views regarding the goals and operations of the County Library, assist the Board of Supervisors and the County Librarian to provide library services based on assessed public need, and develop and recommend proposals to the Board of Supervisors and County Librarian.

Members are appointed by the City Council from each of the nineteen (19) cities in the County of Contra Costa. The standard term of each member's appointment is two years; each member is a volunteer and receives no stipend or compensation. An appointment will be made to fill the vacated seat of Clayton's membership.

- The regular meetings of the Contra Costa Library Commission shall be held the fourth Thursday of every odd-numbered month, 7:00 pm, at the Contra Costa County Library Headquarters, 1750 Oak Park Blvd., Pleasant Hill, CA or other designed location.
- An applicant must be at least 18 years of age, a registered voter, and a resident of Clayton.
- There is one (1) Commission office term expiring on June 30, 2023.
- Applications filed become a public record and are subject to public disclosure.

Applications may be obtained:

In person: Clayton City Hall
6000 Heritage Trail
By mail: Call City offices at (925) 673-7300
E-mail: jbrown@ci.clayton.ca.us
City's web site: www.ci.clayton.ca.us

MINUTES
REGULAR MEETING
OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

June 19, 2018

1. **CALL TO ORDER AND ROLL CALL** – the meeting was called to order at 8:00 p.m. by Chairperson Tuija Catalano. Board Members present: Chairperson Catalano, Vice Chair Diaz, Board Members Haydon, and Pierce. Board Members absent: Board Member Shuey. Staff present: Assistant to the City Manager Laura Hoffmeister, GHAD District Manager Scott Alman, General Legal Counsel Mala Subramanian, and Secretary Janet Brown.

2. **CONSENT CALENDAR** – It was moved by Board Member Pierce, seconded by Vice Chair Diaz, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

(a) Approved the Board of Directors' minutes for its regular meeting on December 5, 2017.

3. **PUBLIC COMMENTS** – None.

4. **PUBLIC HEARINGS** – None.

5. **ACTION ITEMS**

(a) Presentation and consideration of a Resolution to approve the proposed Oakhurst Geological Hazard Abatement District (GHAD) Budget for Fiscal Year 2018-19 and set a Public Hearing to be held on July 17, 2018 to consider the levy of the corresponding real property tax assessments for FY 2018-19.

GHAD District Manager Scott Alman noted the annual budget has been prepared and set for the GHAD. The levy amounts have been determined for FY 2018-19 and are used to protect public property in the District from further or possible geologic incident. The assessments are spread to real properties in the District based on a set formula that was used at the initial adoption of the GHAD; the rate and methodology, including the annual CPI adjustment, were voted in by the then property owners in the District. For this coming fiscal year the CPI has been calculated at 3.22%. With the recommended CPI adjustment the proposed budget and annual assessments are in compliance with Prop 218.

Chairperson Catalano opened the floor to receive public comments; no comments were offered.

It was moved by Board Member Pierce, seconded by Vice Chair Haydon, to adopt GHAD Resolution No. 01-2018 approving a budget and declaring intention to levy and collect assessments for the Oakhurst Geological Hazard Abatement District for Fiscal Year 2018-19, and setting July 17, 2018 as the Public Hearing date on the proposed GHAD real property tax assessments for FY 2018-19. (Passed; 4-0 vote).

7. **BOARD ITEMS** – None.

8. **ADJOURNMENT** - on call by Chairperson Catalano the Board meeting adjourned at 8:04 p.m.

#

Respectfully submitted,

Janet Brown, Secretary

Approved by the Board of Directors
Oakhurst Geological Hazard Abatement District

Tuija Catalano, Chairperson



GHAD STAFF REPORT

TO: HONORABLE CHAIRPERSON AND BOARD MEMBERS

FROM: SCOTT D. ALMAN, P.E., DISTRICT GENERAL MANAGER

DATE: JULY 17, 2018

SUBJECT: RESOLUTION ORDERING IMPROVEMENTS AND CONFIRMING REAL PROPERTY ASSESSMENTS FOR FY 2018-19

RECOMMENDATION

The General Manager recommends the GHAD Board of Directors open the public hearing, receive real property owners' comments on the 2018-19 GHAD Budget and proposed annual Consumer Price Index adjustment, close the public hearing, and then take Board action to adopt the attached Resolution.

BACKGROUND

In April of 2000, the property owners within the boundaries of the Oakhurst Geological Hazard Abatement District (GHAD) approved, by ballot measure, an annual District budget to cover routine maintenance, geological monitoring and the annual operational needs of the District. The ballot measure also approved annual assessments to fund the budget as well as the specific method and formula to be utilized to spread the real property assessments to the differing geographical areas within the District and varying housing types within the District. The ballot measure further included an annual adjustment to allow the District's budget and finances to keep pace with the economic inflation variables over time. This annual adjustment is based on changes in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco-Oakland-Hayward region. The San Francisco-Oakland-Hayward, region is comprised of Alameda, Contra Costa, Marin, San Francisco and San Mateo Counties. The annual adjustment in the CPI-U for this region between April of 2017 and April of 2018 (the sampling period approved by the ballot measure) is +3.22%.

Adhering to the requirements of Proposition 218, any revision to the approved District boundary, budget, approved assessment method and formula and/or the approved index that governs adjustment to the District finances will require an affirmative vote of

the homeowners within the District boundaries. So long as the District maintains the originally-approved parameters the pre-authorized annual financial adjustment is not subject to a Prop. 218 vote of the homeowners. The only requirement of the Board is to hold a public hearing prior to taking any Board action regarding the annual assessments. The express purpose of the public hearing is to accept and consider input on whether the annual CPI adjustment should be applied to this fiscal year's GHAD assessments.

At the District's June 19th regular meeting, the Board of Director's took action to approve the FY 2018-19 District budget, set July 17th as the date for the public hearing regarding the FY 2018-19 annual assessments and ordered the notice of the public hearing to be distributed to all homeowners within the GHAD boundaries. On July 5th, 2018 1,594 public notices were mailed to the GHAD homeowners via U.S. Mail.

INQUIRIES RECEIVED FOLLOWING PUBLIC NOTICE

Mr. Joe Beaty sent an email inquiry (attached) to the Mayor, copying the GHAD General Manager, asking several questions about the GHAD. Answers to Mr. Beaty's questions are attached as Exhibit 1.

The General Manager received one phone inquiry regarding the geological monitoring work that is accomplished by the GHAD and location of the monitoring equipment and the frequency of the monitoring work.

No objections to the FY 2018-19 annual assessments or its annual CPI adjustment have been received as of the writing of this staff report.

FISCAL IMPACT

The proposed FY 2018-19 GHAD Budget shows total expenditures of \$76,470.00 against a beginning balance of \$35,205 and annual revenue (assessment plus interest earned) of \$41,300. Proposed expenditures include all operating costs for the District as well as approximately \$51,000 of project expenditures that include installation of a new slope inclinometer to replace current inclinometer #CSA-SI4, which experienced casing deformation at a depth of 52 feet and can no longer be read below that depth. The replacement inclinometer will be installed in the same area and will allow readings at depths of 52 feet and greater to be taken. The budgeted installation cost of this inclinometer is \$35,800.00 including a 10% contingency and project management costs.

A second inclinometer needs to be replaced in the Pebble Beach Drive area and the budgeted installation cost for that is \$46,800 including contingency and project management. The cost of the Pebble Beach Drive inclinometer is considerably higher due to the difficult access to the installation site.

Based on the District's constrained budgetary circumstance, the installation of the new inclinometer at Pebble Beach Drive will have to be postponed until adequate funds have been accumulated to pay for that capital project.

If this Resolution is not approved, the Oakhurst Geological Hazard Abatement District (GHAD) will not collect any assessments for FY 2018-2019. Without these assessments the District has no other source of revenues and will be reliant solely upon the current \$35,205.00 balance of funds in the GHAD account as of July 1st. If this occurs, the installation of inclinometers at both Kelok Way and Pebble Beach Drive will be delayed indefinitely as there will not be sufficient monies to fund either project.

CONCLUSION

Based on the information provided above, the General Manager recommends the Board of Directors approve this Resolution ordering improvements and confirming GHAD assessments for FY 2018-19.

Attachments: Resolution No. 02-2018 confirming Assessments [3 pp.]
Notice of Assessment mailed [2 pp.]
FY 2018-2019 Budget Report [6 pp.]
Exhibit 1 – General Manager's responses to Mr. Beaty's inquiries [2 pp.]
Mr. Beaty's email inquiry [3 pp.]

GHAD RESOLUTION NO. 02 - 2018

**A RESOLUTION ORDERING IMPROVEMENTS AND CONFIRMING
REAL PROPERTY ASSESSMENTS FOR FISCAL YEAR 2018-19**

**THE BOARD OF DIRECTORS
Oakhurst Geological Hazard Abatement District
Clayton, California**

WHEREAS, by adoption of Resolution No. 01-2018 the Board of Directors of the Oakhurst Geological Hazard Abatement District (GHAD) approved the District's Budget, declared its intention to levy and collect real property assessments for fiscal year 2018-19, and set a public hearing thereon for July 17, 2018, at the regular meeting place of the Board of Directors; and

WHEREAS, notice of said hearing and the adoption of Resolution No. 01-2018 was duly given as required by the provisions of Division 17, Chapter 6 of the Public Resources Code (Section 26650 et seq.); and

WHEREAS, all owners of property to be assessed within the District were given written notice by first class mail of the proposed assessments in accordance with Public Resources Code Section 26652; and

WHEREAS, on July 17, 2018, the Board of Directors held a noticed public hearing on the proposed real property assessment for the fiscal year 2018-19 and heard and considered all oral statements and written communications made and filed thereon by interested persons;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors as follows:

1. The Board of Directors hereby orders the improvements as set forth in the District's Budget, dated June 19, 2018, and confirms the real property assessments as recommended by the General Manager.
2. The GHAD consists of a portion of the City of Clayton as shown on the boundary map on file with the District's Secretary.
3. A benefit allocation has been determined by the General Manager that establishes three areas and three categories of benefit. The Areas are as follows:
 - Area 1 Lower 6000's, Duets, lower Townhouses (25% of total budget)
 - Area 2 Upper 6000's and 8000's, upper Townhouses (50% of total budget)
 - Area 3 10000's. (25% of total budget)

The three categories of benefit are as follows:

- a. Single family dwellings (sfd), regardless of lot size, will be the basic unit of benefit, all lots in the same area to be charged equally.
- b. Duet (duets) parcels are charged 75% of the basic unit due to increased density.
- c. Townhouse (multi-family) parcels are charged 50% of the basic unit due to increased density. The actual assessments for each lot in the listed subdivisions shall be:

<u>GHAD AREA</u>	<u>SUBD</u>	<u># UNITS</u>	<u>TYPE</u>	<u>\$ ASSESS PER LOT</u>	<u>TOTAL \$</u>
I	6990	92	sfd	\$22.65	\$2,083.73
I	7065	108	duets	\$16.99	\$1,834.59
I	7066	117	multi-family	\$11.32	\$1,324.98
I	7303	52	multi-family	\$11.32	\$588.88
I	7311	118	duets	\$16.99	\$2,004.46
I	7768	55	sfd	\$22.65	\$1,245.71
I	7769	53	sfd	\$22.65	\$1,200.41
II	7256	70	sfd	\$30.24	\$2,117.04
II	7257	60	sfd	\$30.24	\$1,814.61
II	7260	75	sfd	\$30.24	\$2,268.26
II	7261	70	sfd	\$30.24	\$2,117.04
II	7262	99	sfd	\$30.24	\$2,994.10
II	7263	101	sfd	\$30.24	\$3,054.59
II	7264	102	sfd	\$30.24	\$3,084.83
II	7766	35	sfd	\$30.24	\$1,058.52
II	7766	60	multi-family	\$15.12	\$907.30
II	7767	76	multi-family	\$15.12	\$1,149.25
III	7249	69	sfd	\$72.93	\$5,032.00
III	7255	72	sfd	\$72.93	\$5,250.78

4. The Board of Directors declares this Resolution to be, and the same shall constitute, the levy of an assessment for the fiscal year 2018-19 as hereinabove referred to.
5. The Board directs the Secretary immediately to have recorded a notice of assessment, as provided for in Section 3114 of the Street and Highways Code.
6. The Board also directs that the real property assessments are payable in the same manner as general taxes and hereby directs the Secretary to file the boundary map and assessment list, or certified copy thereof, together with a certified copy of this resolution, with the County Auditor.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Oakhurst Geological Hazard Abatement District at a regular public meeting thereof held on 17th day of July 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE BOARD OF DIRECTORS OF GHAD

Tujia Catalano, Chairperson

ATTEST:

Janet Brown, Secretary

I hereby certify that the foregoing resolution was duly and regularly passed by the Board of Directors of the Oakhurst Geological Hazard Abatement District at a regular public meeting held on July 17, 2018.

Janet Brown, Secretary

**NOTICE OF PUBLIC HEARING REGARDING THE LEVY OF ASSESSMENTS ON
REAL PROPERTY IN THE OAKHURST GEOLOGICAL HAZARD ABATEMENT
DISTRICT PURSUANT TO PUBLIC RESOURCES CODE SECTION 26652.**

KNOW ALL INTERESTED PARTIES BY THIS NOTICE THAT:

1. The District General Manager did present on June 19, 2018, to the Board of Directors, his report dated June 01, 2018, indicating a total budget for FY 2018-19 of \$41,131.11 and recommending the real property assessments shown on the attached table to pay for the obligations of the Oakhurst Geological Hazard Abatement District ("District") during FY 2018-19.

2. The Board of Directors accepted and approved the report on June 19, 2018, by adopting GHAD Resolution No. 01-2018, which set forth, among other things:

- a. The Board's intent to levy and collect a per unit assessment in accordance with the recommendations of the District Manager as specified to pay for the obligations of said District during FY 2018-19.
- b. The date of Tuesday, July 17, 2018, at 7:00 p.m., at Hoyer Hall in the Clayton Community Library, situated at 6125 Clayton Road, Clayton, California, as the date, time and place for hearing protests against the levy of said assessments to operate the District in fiscal year 2018-19.

3. The per unit assessments for the previous fiscal year 2017-18 were as shown on the attached table. The proposed per unit assessments represent an increase equal to the latest annual increase in the San Francisco, All Items, All Urban Consumers Index (3.22%; April 2017 – April 2018). The proposed assessments are in compliance with the annual increase formula previously approved by the GHAD voters on April 18, 2000 and therefore do not constitute an assessment increase under law.

4. A general description of the items to be maintained and operated in the District and paid for by the assessment is as follows: open space areas and geological hazard mitigation devices and improvements, and District administrative expenses.

5. All interested parties may obtain further particulars concerning the proposed per unit assessments in the District and a description and map of the boundaries of the District by referring to GHAD Resolution 01-2018, and the report of June 01, 2018, which are on file with the GHAD Secretary in Clayton City Hall. In addition, interested parties may contact the District General Manager directly by phone at (925) 969-8181 or in person, by appointment only, at 6000 Heritage Trail, Clayton, California, or view the reports at www.ci.clayton.ca.us.

NOW, THEREFORE, any and all persons having any interest in lands within the District liable to be assessed for the expenses of the District for Fiscal Year 2018-19, may appear at the public hearing, the time and place thereof being set forth above, and offer protest to said proposed assessment increase, and any of said persons may also present any objections they may have by written protest filed with the Secretary, Oakhurst Geological Hazard Abatement District, City of Clayton, 6000 Heritage Trail, Clayton, California, 94517, at or before the time set for public hearing.

JANET BROWN
Secretary
Oakhurst Geological Hazard Abatement District

DATED: June 19, 2018

**OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT
PROPOSED ANNUAL ASSESSMENTS
FISCAL YEAR 2018/19**

GHAD AREA	SUBD. NAME	SUBD. #	# UNITS	TYPE	PROPOSED ASSESS.	2017-2018 ASSESS.	ANNUAL \$ INCREASE
I	Windmill Canyon I	6990	92	6,000 sf	\$22.65	\$22.02	0.63
I	Black Diamond I	7065	108	Duets	\$16.99	\$16.50	0.49
I	Chaparral Springs I	7066	117	Multi-family	\$11.32	\$11.06	0.26
I	Chaparral Springs II	7303	52	Multi-family	\$11.32	\$11.06	0.26
I	Black Diamond II	7311	118	Duets	\$16.99	\$16.50	0.49
I	Oak Hollow IIA	7768	55	5,000 sf	\$22.65	\$22.02	0.63
I	Oak Hollow IIB	7769	53	5,000 sf	\$22.65	\$22.02	0.63
II	Eagle Peak I	7256	70	8,000 sf	\$30.24	\$29.24	1.00
II	Eagle Peak II	7257	60	8,000 sf	\$30.24	\$29.24	1.00
II	Falcon Ridge I	7260	75	8,000 sf	\$30.24	\$29.24	1.00
II	Falcon Ridge II	7261	70	8,000 sf	\$30.24	\$29.24	1.00
II	Windmill Canyon II	7262	99	6,000 sf	\$30.24	\$29.24	1.00
II	Windmill Canyon III	7263	101	6,000 sf	\$30.24	\$29.24	1.00
II	Windmill Canyon IV/Ironwood	7264	102	6,000 sf	\$30.24	\$29.24	1.00
II	Oak Hollow I	7766	35	5,000 sf	\$30.24	\$29.24	1.00
II	Diablo Ridge I	7766	60	Multi-family	\$15.12	\$14.70	0.42
II	Diablo Ridge II	7767	76	Multi-family	\$15.12	\$14.70	0.42
III	Peacock Creek I	7249	69	10,000 sf	\$72.93	\$70.58	2.35
III	Peacock Creek II	7255	72	10,000 sf	\$72.93	\$70.58	2.35

GHAD BUDGET REPORT

DATE: JUNE 01, 2018

TO: BOARD OF DIRECTORS

FROM: SCOTT D. ALMAN, P.E., GENERAL MANAGER

RE: FISCAL YEAR 2018-19

Background

In April 2000, the property owners within the Oakhurst Geological Hazard Abatement District (GHAD) approved, by ballot, assessments to cover the routine maintenance and operational needs of the District. The ballot measure also approved a method and formula for its annual property assessments to keep pace (increase or decrease) with the economy based on the annual adjustment in the Bay Area Consumer Price Index (CPI). The current CPI for the period April 2017 to April 2018 (the evaluation period established in the original ballot measure) reveals an economic index increase of 3.22%.

These annual assessments remain the only source of revenues to the District as it is solely funded by the private property owners within the District. Without the real property owners' further voter approval, the District cannot create or mandate additional revenue to fund hazard abatement or prevention services.

Kelok Way Area

In November of 2017, Stevens, Farrone & Bailey (SFB – original geotechnical engineer) informed the General Manager it would no longer provide monitoring services for the Kelok Way location of inclinometers and piezometers. The General Manager immediately contacted Berlogar Stevens & Associates (BS&A) and requested a proposal and cost estimate from them to assume the Kelok Way assignment. That proposal was received in mid-November but in consultation with the City Manager and City Attorney, it was determined that legislated revisions to state contracting law taking effect in January 2018 warranted delaying any new consultant contract until after January of 2018 in order to incorporate those legislated revisions. Berlogar Stevens & Associates was then brought into contract in early 2018 and has begun taking over monitoring and reporting on the Kelok Way area. This change in consultant will increase the annual budget with a one-time cost to perform a thorough review of the monitoring history (SFB previous work) of the area as well as on-going semi-annual monitoring and reporting.

In its proposal to take over the Kelok Way area monitoring work, BS&A strongly recommended the replacement of the slope inclinometer that is located at the “top of slope north of the cul-de-sac at Kelok Way,” as it has “... *experienced excessive casing deformation due to ground movement at a depth of 52-feet below the ground surface.*”

This precludes measurement of any on-going movement at this apparent slide-plane location or below.” The estimated \$35,000.00 cost to replace this inclinometer has been included into the proposed 2018-19 annual budget.

Pebble Beach Area

In August of 2017 BS&A took readings on the two inclinometers installed along Pebble Beach Drive and inspected the V-ditches in the slope below Pebble Beach Drive. The inclinometer in the street (SI-1) indicates no significant movement since the last readings taken in 2016. The inclinometer in the slope below the street (SI-2) has pinched at a depth of 72 feet thereby prohibiting measurement below that depth. The readings in the upper 72 feet indicate the upper area has not internally moved significantly since the last readings in 2016. BS&A strongly recommends the replacement of inclinometer SI-2 but its replacement has not been proposed for this budget cycle due to insufficient District funds being available.

V-Ditch Maintenance

During the past fiscal year \$20,000 of V-ditch replacement and maintenance was performed on V-ditches within the District.

Staff is proposing to set aside \$5,000 in this year’s budget for completion of the work.

Fund Balance (Reserves)

The GHAD’s fund balance is shown to be \$35,205.00 as June 30, 2018. Staff anticipates utilizing all available funding during FY 2018-19 for District services, resulting in a projected June 30, 2019 ending fund balance of \$0.00.

Presley Lawsuit Settlement Fund Balance

This fund balance is projected to stand at approximately \$105,523 in remaining funds from the original Presley lawsuit settlement (2003) on June 30, 2018. We are anticipating an increase of \$1,500 in the fund balance due to interest earnings resulting in an ending balance of \$107,023 on June 30, 2019.

It was originally intended the remaining original Presley lawsuit settlement funds be used to rehabilitate street pavement in the Keller Ridge area once the ongoing movement ceased. While some pavement work has been accomplished, having no other reserves and no interest by the property owners in raising the annual assessments, the District ultimately has little option but to eventually use these funds to cover any of the District’s funding shortfalls that may occur for as long as possible.

FY 2018-19 PROPOSED BUDGET

This Budget proposes to continue funding just the routine operations, along with the ongoing monitoring and legal defense costs, of the District through the allowable annual assessments. The year-to-year increase allowable per the most current CPI-U is 3.22%

(April 2017 to April 2018, San Francisco-Oakland-Hayward, All Items, All Urban Consumers Index, published by the U.S. Bureau of Labor Statistic).

Following is the recommended budget for the GHAD for FY 2018-19:

BEGINNING FUND BALANCE	
Balance 7-1-2018	\$35,205.00
 EXPENSES	
Postage	\$750.00
Liability Insurance Premium (transfer to General Fund)	7,000.00
County Collections Charge for Assessments	1,200.00
Legal Notices	100.00
Miscellaneous	300.00
Engineering Services	8,000.00
Special Legal Services	1,000.00
Project Costs	50,642.00
District Administration (transfer to General Fund)	<u>7,478.00</u>
TOTAL EXPENSES	\$76,470.00
 INCOME	
Property Assessments	\$41,131.11
Interest on Funds	<u>200.00</u>
TOTAL INCOME	\$41,331.11

FY 2018-19 PROPOSED PROPERTY ASSESSMENTS

FY 2018-19 property assessments include an increase of 3.22% which is consistent with the adjustment in the Bay Area Consumer Price Index (CPI) from April 2017 to April 2018.

As stated above, the annual assessment will be the same as last year except for an increase consistent with the increase in the CPI. Exhibit A explains the methodology of the assessments and provides a summary of the proposed assessment for this year.

EXHIBIT A

OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT

METHOD OF ASSESSMENT

A geological hazard abatement district is in essence the same as a benefit assessment district, and therefore the costs budgeted for the district (assessments) must be apportioned to individual parcels according to the benefit received.

The voter approved ballot measure that established the district divided the total development into three separate assessment areas. After reviewing the needs of each area and the benefits of the District to each area, the following percentages of the total budget/cost (including reserves) has been assigned to each area:

- Area 1 which includes the lower 6000's, lower 5000's, Duets, and Townhouses was assigned 25% of the total budget.
- Area 2 which includes the Upper 6000's, upper 5000's, 8,000's, condominiums was assigned 50% of the total budget, and
- Area 3 which includes the 10000's was assigned 25% of the total budget

The number of housing units in each area is not considered a benefit factor and the amount of the assessment per unit will vary greatly from area to area.

The type of housing unit is considered when assigning benefit and the different types of housing mixed into Areas 1 and 2 have been assigned different assessment factors to account for the differing type of housing as follows:

Single Family home (regardless of size)	1.00
Duets	0.75
Multi-family	0.50

The process of calculating assessments for each parcel includes the following steps:

1. Calculate amount of total budget that each area is responsible for (Assumed budget of \$41,131.11);
 - a. Area 1 = 25% of \$41,131.11, or \$10,282.78
 - b. Area 2 = 50% of \$41,131.11, or \$20,565.55
 - c. Area 3 = 25% of \$41,131.11, or \$10,282.78
2. Calculate the number of equivalent assessed units that the budget percentage will be spread over for each area;
 - a. Single family dwellings (regardless of size) = equivalency factor of 1.0
 - b. Duets = equivalency factor of 0.75
 - c. Multi-family = equivalency factor of 0.5

Area 1:

AREA 1	\$10,282.78			
Sub-Area:	Dwelling Units	Dwelling Unit Type	Factor	Equivalent Assessed Units
Tr. 6990	92	sfd	1	92.00
Tr. 7065	108	duet	0.75	81.00
Tr. 7066	117	multifamily	0.5	58.50
Tr. 7033	52	multifamily	0.5	26.00
Tr. 7311	118	duet	0.75	88.50
Tr. 7768	55	sfd	1	55.00
Tr. 7769	53	sfd	1	53.00
Sub-total	595			454.00

3. Spread the total budget amount assigned to the area to each tract (sub-area) based on the numbers of equivalent assessed units;

AREA 1	\$10,282.78		
Sub-Area:	Equivalent Assessed Units	Percentage	Assessment Assigned by tract
Tr. 6990	92.00	20.27%	\$2,083.73
Tr. 7065	81.00	17.84%	\$1,834.59
Tr. 7066	58.50	12.89%	\$1,324.98
Tr. 7033	26.00	5.72%	\$588.88
Tr. 7311	88.50	19.50%	\$2,004.46
Tr. 7768	55.00	12.11%	\$1,245.71
Tr. 7769	53.00	11.67%	\$1,200.41
Sub-total	454.00	100.00%	\$10,282.78

4. Calculate the rate per dwelling unit;

AREA 1	\$10,282.78		
Sub-Area:	Assessment Assigned by Tract	Dwelling Units	Assessment per Dwelling Unit
Tr. 6990	\$2,083.73	92	\$22.65
Tr. 7065	\$1,834.59	108	\$16.99
Tr. 7066	\$1,324.98	117	\$11.32
Tr. 7033	\$588.88	52	\$11.32
Tr. 7311	\$2,004.46	118	\$16.99
Tr. 7768	\$1,245.71	55	\$22.65
Tr. 7769	\$1,200.41	53	\$22.65
Sub-total	\$10,282.78	595	

District Boundaries

As of FY 1999-00, the District was complete and consisted of 200 single family homes, 226 duets, and 169 townhouses in Area 1; 612 single family homes and 136 condos in Area 2; and 141 single family homes in Area 3.

SUMMARY OF ASSESSMENTS

AREA I 2018-19 ASSESSMENT				Total =	\$10,282.787	
Subarea	# Units	Type	Factor	Ass. Units	18/19 Asses	Total
Tr. 6990	92	sfd	1.00	92.00	\$22.65	\$2,083.73
Tr. 7065	108	duets	0.75	81.00	\$16.99	\$1,834.59
Tr. 7066	117	multifamily	0.50	58.50	\$11.32	\$1,324.98
Tr. 7303	52	multifamily	0.50	26.00	\$11.32	\$588.88
Tr. 7311	118	duets	0.75	88.50	\$16.99	\$2,004.46
Tr. 7768	55	sfd	1.00	55.00	\$22.65	\$1,245.71
Tr. 7769	53	sfd	1.00	53.00	\$22.65	\$1,200.41
Subtotals	595			454.00		\$10,282.78
AREA II 2018-19 ASSESSMENT				Total =	\$20,565.55	
Subarea	# Units	Type	Factor	Ass. Units	18/19 Asses	Total
Tr. 7256	70	sfd	1.00	70.00	\$30.24	\$2,117.04
Tr. 7257	60	sfd	1.00	60.00	\$30.24	\$1,814.61
Tr. 7260	75	sfd	1.00	75.00	\$30.24	\$2,268.26
Tr. 7261	70	sfd	1.00	70.00	\$30.24	\$2,117.04
Tr. 7262	99	sfd	1.00	99.00	\$30.24	\$2,994.10
Tr. 7263	101	sfd	1.00	101.00	\$30.24	\$3,054.59
Tr. 7264	102	sfd	1.00	102.00	\$30.24	\$3,054.59
Tr. 7766	35	sfd	1.00	35.00	\$30.24	\$1,058.52
Tr. 7766	60	multifamily	0.50	30.00	\$15.12	\$907.30
Tr. 7767	76	multifamily	0.50	38.00	\$15.12	\$1,149.25
Subtotals	748			680.00		\$20,565.55
AREA III 2018-19 ASSESSMENT				Total =	\$10,282.78	
Subarea	# Units	Type	Factor	Ass. Units	18/19 Asses	Total
Tr. 7249	69	sfd	1.00	69.00	\$72.93	\$5,032.00
Tr. 7255	72	sfd	1.00	72.00	\$72.93	\$5,250.78
Subtotals	141			141.00		\$10,282.78
Grand Totals	1,484			1,275.00		\$41,131.11

DISTRICT GENERAL MANAGER RESPONSES

July 17, 2018

The General Manager received one phone inquiry regarding the geological monitoring work that is accomplished by the GHAD, the location of the monitoring equipment and the frequency of the monitoring work.

No objections to the 2018-19 annual assessment or the annual CPI adjustment have been received as of the writing of this staff report.

Answers to Mr. Beaty's questions are as follows:

1. \$15,261.26 was spent for GHAD abatement in FY 2017-18.
2. The application of the allowed 3.22% CPI-U adjustment for FY2018-19 amounts to a total of \$1,283.11.
3. A "standard of insurance" theory does not apply here. The GHAD is not an insurance policy – it is a special district designed to monitor and abate geological hazards, within its constrained resources (revenues). It differs from an insurance policy in that should a house slide due to geological movement, the GHAD will not pay the homeowner's losses like an insurance policy would. The assessment is spread over the entire district much like the special district for The Grove Park. Not everyone lives right next to the park or may actually use or need the public park, but Grove Park also benefits all property values as a public amenity. GHAD is similar – not everyone lives right next to a geological movement but should the movement occur as a localized disaster, its impacts could be felt structurally, on adjacent public infrastructure used by District property owners, and at minimum could negatively impact property values of the entire Oakhurst area.
4. The "City of Clayton" has not expended any funds for the monitoring of the Oakhurst GHAD. The GHAD has expended funds, per the annual budget, to monitor the Kelok area as well as the Pebble Beach area. In addition, funds have been spent on maintaining concrete V-ditches and other elements of the public improvements for the GHAD, and transfers nominal monies to the City for its administrative expenses incurred on behalf of the GHAD.
5.
 - a. The cost of geological monitoring is: \$5,800.00 for Kelok Way, and \$3,700.00 for Pebble Beach Drive. This monitoring can be done on an annual or semi-annual basis. The total annual cost for monitoring on an annual basis is \$9,500.00. On a semi-annual basis the total annual monitoring cost is \$19,000. These costs are constant through 2020. In 2021 Kelok Way increases to \$5,900.00 and Pebble Beach Drive increases to \$3,800.00. In 2022, costs increase to \$6,000.00 and \$3,800.00, respectively.

EXHIBIT 1

b. No. This annual adjustment is the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco-Oakland-Hayward region. The San Francisco-Oakland-Hayward, region is comprised of Alameda, Contra Costa, Marin, San Francisco and San Mateo Counties. The adjustment in the CPI-U for this region between April of 2017 and April of 2018 (the sampling period approved by the ballot measure) is +3.22%, which constitutes the annual increase since last CPI application to the assessments.

c. No. The consultant that provided the monitoring services for the Kelok Way area resigned suddenly prior to performing the work in 2017. New contracting laws that went into effect in January 2018 delayed the District's ability to contract with the replacement consultant prior to that January. Since the monitoring work does not take place during the rainy season, contracting for the Kelok Way area was completed in the first quarter of 2018 with the expectation of the first monitoring work being accomplished in summer 2018. The current contract can be extended, at the District's sole discretion through the year 2022 as noted in 5a, above.

d. The debris basin does not require any geological monitoring or abatement. The debris basin is simply a basin in the path of flow for stormwater run-off to capture debris flows should heavy run-off cause one to occur. These basins are inspected regularly and maintained (cleaned-out) as needed by City maintenance personnel.

e. Debris basins in other locations within the GHAD are inspected and maintained as described in 5.d. above.

#

Gary Napper

From: Joseph Beaty <joseph.joelia@gmail.com>
Sent: Monday, July 09, 2018 10:09 AM
To: City Engineer
Subject: Fwd: GHAD Assessment

Joe & Lia Beaty
110 Crow Pl
Clayton, CA 94517
(925) 693-0932
joseph.joelia@gmail.com

----- Forwarded message -----

From: Joseph Beaty <joseph.joelia@gmail.com>
Date: Mon, Jul 9, 2018 at 9:46 AM
Subject: GHAD Assessment
To: Keith Haydon <khaydon@ci.clayton.ca.us>, cityengineer@clayton.ca.us

Mr. Mayor:

Reference: Notice of Public Hearing on the Levying of Assessments on Real Property in the Oakhurst Geological Hazard Abatement District Pursuant to Public Resources Code Section 26652 (mailed to Oakhurst subdivision property owners by the City of Clayton on 5 July 2018). It would be helpful to provide the following information at the 17 July GHAD special assessment meeting:

1. How much has actually been spent for GHAD abatement and monitoring in the FY17-18 budget? (Proposition 218, Section 6(1) states that "...Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.")
2. What is the projected increase in money to be raised by the increased GHAD assessment? Information obtained from the Contra Costa Tax Assessor indicates the following amounts of money were collected over the period 2011/2012 to 2016/2017 from Oakhurst subdivision property

owners for the GHAD special assessment. The \$41,131.11 budget is about \$3000 higher than the \$38,398.86 raised from the GHAD special assessment in 2016/2017. What is this increase based on?

201

1/2012:

\$33,972.48

2012/2013: \$34,685.34

2013/2014: \$35,521.53

2014/2015: \$36,522.94

2015/2016: \$37,386.86

2016/2017: \$38,398.86

3. Discussion with neighbors indicates they believe only homeowners in the Pebble Beach and Kelok Way areas receive benefits (inclinometer readings and de-watering wells) from the GHAD special tax assessment, and that no abatement or monitoring efforts are done in the Keller Ridge areas. Pebble Beach and Kelok Way homeowners represent only a small portion of the 1400 Oakhurst homeowners. Keller Ridge homeowners appear justified when they ask why isn't the "standard insurance method" applied, i.e., homeowners in flood zones or subsidence/earthquake areas buy flood or earthquake insurance to cover these risks. They don't expect people who don't live in such "risk" areas to pay for insurance for their homes. Information disseminated at GHAD public hearings in past years indicates that GHAD assessments in the past have indicated "no risk" or "low risk" for Keller Ridge homes.

4. Has the City of Clayton expended money only for periodic monitoring of

Kelok Way/Pebble Beach abatement devices (e.g., inclinometers installed to monitor earth movement, inspections of de-watering wells), or for additional abatement efforts in other areas

5. If only for periodic monitoring (done by an engineering company), what is the annual cost of such monitoring? Is the special tax assessment increase based on increased costs charged by the

engineering company? Is the contract for annual reading of the GHAD monitoring devices (e.g., inclinometers) completed, and if not, why not? City records show a debris basin at the end of Crow Place, but there appears to be no evidence of monitoring or abatement. City documents also identify debris basins at other places in Oakhurst, but no abatement or monitoring.

Joe

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