



AGENDA

REGULAR JOINT MEETINGS

* * *

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

* * *

TUESDAY, August 1, 2017
6:15 P.M. and 7:00 P.M.

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

Mayor: Jim Diaz
Vice Mayor: Keith Haydon

Council Members

Julie K. Pierce
David T. Shuey
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 ***

August 1, 2017

6:15 P.M.

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

2. **CLOSED SESSION**

California Government Code Section 54957

Public Employment

Title: City Engineer

Report out of Closed Session – Mayor Diaz

7:00 P.M.

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

4. **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 of the City Council's regular meeting of July 18, 2017 and its special meeting of July 25, 2017. ([View Here](#))
- (b) Approve the Financial Demands and Obligations of the City. ([View Here](#))
- (c) Approve the City's response letter to FY 2016-17 Contra Costa County Civil Grand Jury Report No. 1707, "Homelessness in the Cities." ([View Here](#))
- (d) Adopt a Resolution approving the Notice of Completion on the Arterial Street Micro-Resurfacing Project (CIP No. 10437) and the Oak Street Rehabilitation Project (private road portion) performed by Intermountain Slurry Seal, Inc., and authorizing the City Clerk to record the Project's Notice of Completion. ([View Here](#))
- (e) Adopt a Resolution authorizing the filing of a City application for OBAG 2 funds from the Metropolitan Transportation Commission for Clayton's 2018 Neighborhood Street Repavement Project (CIP No. 10436), and committing to the necessary matching funds and stating assurances to complete the project. ([View Here](#))

- (f) Adopt a Resolution rejecting all bids received for the Collector Street Rehabilitation Project, CIP No. 10425 (i.e. Keller Ridge Drive). ([View Here](#))

5. RECOGNITIONS AND PRESENTATIONS – None.

6. REPORTS

- (a) Planning Commission – No meeting held.
- (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

7. 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.

8. PUBLIC HEARINGS

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 476 adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to Title 17 Zoning of the Clayton Municipal Code describing and establishing how General Plan densities are calculated for proposed residential projects with sensitive land areas. ([View Here](#))
(Community Development Director)

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 or subject to any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 476 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, by motion approve Ordinance No. 476 for Introduction with the finding the action will result in activities less intense than those analyzed in the General Plan Environmental Impact Report (EIR) and the Housing Element Initial Study/Negative Declaration (IS/ND).

- (b) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 477 adding Section 15.96 – Electric Vehicle Charging Stations to Title 15 Building & Construction of the Clayton Municipal Code to establish an expedited and streamlined permitting process in compliance with State law. ([View Here](#))
(Community Development Director)

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 of or subject to any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 477 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, by motion approve Ordinance No. 477 for Introduction with the finding the action is exempt from the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3 Categorical Exemption for construction of new small facilities or structures.

9. ACTION ITEMS

- (a) Consider the Second Reading and Adoption of Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices. ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Subject to any changes, approve a motion to have the City Clerk read Ordinance No. 475 by title and number only and waive further reading; and **4)** Following the City Clerk's reading, by motion adopt Ordinance No. 475 adding Section 15.08 Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices.

- (b) Consider the option to designate a City Council Voting Delegate and Alternate Delegate to the League of California Cities 2017 Annual Conference to be held September 13th-15th in Sacramento, and determine a City voting position, if any, on the two League Conference General Resolutions. ([View Here](#))
(City Clerk)

Staff recommendations: Following staff report and opportunity for public comment, it is recommended the City Council **1)**. Determine if one or more of its elected officials should attend the League's Annual Conference and if so, select by motion the City's authorized Voting Delegate (and Alternate, if applicable) to attend subject to the maximum \$1,000 budgeted for this purpose; and **2.)** Determine the City's official voting position, if any, on two League Conference General Resolutions.

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

11. **RECESS THE CITY COUNCIL MEETING** – Mayor Diaz
(until after the conclusion of the Clayton Finance Authority and GHAD meetings)

12. **RECONVENE THE CITY COUNCIL MEETING** – Mayor Diaz

13. **CLOSED SESSION**

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Properties: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).
Instructions to City Negotiators: Council Members Pierce and Shuey, and
Ed Del Beccaro, Managing Director, Transwestern,
concerning price and terms of payment.
Negotiating Parties:
1. Avesta Development Group (Mohammad Javanbakht, Managing Partner);
2. Fulcrum Development (Steven Ring, Sr. Executive Vice President)

Report out of Closed Session: Mayor Diaz

14. **ADJOURNMENT**

The City Council regularly meetings of August 15 and September 5, 2017 were canceled.
Therefore, the next regularly scheduled meeting of the City Council will be September 19, 2017.

#

*** CLAYTON FINANCING AUTHORITY ***

August 1, 2017

1. **CALL TO ORDER AND ROLL CALL** – President Diaz.

2. **CLOSED SESSION** – None.

3. **CONSENT CALENDAR**

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

(a) Approve the minutes of the regular public meeting of November 1, 2016.
([View Here](#))

(b) Approve the transfer of \$170,126.06 from CFA Account No. 405-119-00 to the City of Clayton's Capital Improvement Project Budget (Fund 303) to gap-fund the recently-awarded City Hall HVAC Replacement Project. ([View Here](#))

4. **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Members of the public may address the Board 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 President's discretion. When one's name is called or you are recognized by the President 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 as each item is considered.

5. **ACTION ITEMS** - None.

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

7. **ADJOURNMENT**

The Clayton Financing Authority's next meeting will be scheduled when necessary.

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*** OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT ***
August 1, 2017

1. CALL TO ORDER AND ROLL CALL – Chairman Shuey.

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 July 18, 2017. ([View Here](#))
- (b) Adopt a Resolution to amend the Fiscal Year 2017-2018 GHAD Budget in the amount of \$9,500 for geotechnical monitoring and inspection consultant services, and authorize the geotechnical consultant services to be performed by Stevens, Ferrone & Bailey Engineering Company (\$5,200) on Kelok Way, and by Berlogar Geotechnical Consultants (\$4,300) on Pebble Beach Drive within the Oakhurst Development area. ([View Here](#))

4. PUBLIC HEARING – None.

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, July 18, 2017

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, Vice Mayor Haydon and Councilmembers Catalano and Pierce. Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Maintenance Supervisor Mark Janney, City Engineer Rick Angrisani, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to approve the Consent Calendar as submitted. (Passed, 4-0 vote; Haydon abstained on Item 3b, vote 3-0-1).

- (a) Information Only – No Action Requested.
1. Status Report on prior Ordinance No. 476 amending Title 17, "Zoning", by adding Chapter 17.22 to the Clayton Municipal Code regarding Residential Density Calculations for Residential Parcels with Sensitive Land Areas.
- (b) Approved the minutes for the City Council regular meeting of June 20, 2017, and for its special meeting held on June 26, 2017.
- (c) Approved the Financial Demands and Obligations of the City.
- (d) Adopted Resolution No. 23-2017 setting and levying real property tax assessments in FY 2017-18 for the Oak Street Permanent Road Division.
- (e) Adopted Resolution No. 24-2017 setting and levying real property tax assessments in FY 2017-18 for the High Street Permanent Road Division.
- (f) Adopted Resolution No. 25-2017 setting and levying real property tax assessments in FY 2017-18 for the Oak Street Sewer Assessment District.
- (g) Adopted Resolution No. 26-2017 setting and levying real property tax assessments in FY 2017-18 for the Lydia Lane Sewer Assessment District.
- (h) Adopted Resolution No. 27-2017 rejecting all bids received for construction of the "El Portal Drive Restoration Project," CIP No. 10439 [street rehabilitation and sidewalk repairs].
- (i) Adopted Resolution No. 28-2017 approving the City Master Fee Schedule for FY 2017-18 regarding certain fees for user-benefit municipal services and rental of City facilities.

- (j) Adopted Resolution No. 29-2017 approving a contract amendment with CleanStreet authorizing an increase in current monthly billing rates of \$0.25 for monthly residential streets sweeping services and an equivalent pro-rata monthly rate increase on commercial trash/recycling billing accounts for monthly public street sweeping services, required by the City's NPDES Permit issued by the California Regional Water Quality Control Board.
- (k) Approved a Cooperative Agreement between the City of Clayton and the City of Concord concerning construction costs and reimbursable expenses on the El Molino Drive Sanitary Sewer Improvements (City CIP No. 10422).
- (l) Accepted the written resignation of Mr. Rick Angrisani and Permco Engineering and Management under professional consultant contract as City Engineer for associated engineering services to and for the City of Clayton.
- (m) Adopted Resolution No. 30-2017 approving the Engineer's Report and levying the annual assessments in FY 2017-18 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.

4. RECOGNITIONS AND PRESENTATIONS

- (a) Recognitions to former Trails and Landscape Committee Members Bob Steiner, A.J. Chippero, Clayton Smith, and Christopher Garcia in appreciation for their valued civic services to the Clayton community.

Mayor Diaz presented A.J. Chippero, Clayton Smith, and Christopher Garcia with appreciation plaques recognizing their civic service on the Trails and Landscaping Committee. Mr. Steiner was not present and his plaque will be given to him later.

5. REPORTS

- (a) Planning Commission – Commissioner Peter Cloven indicated its meeting of June 27, 2017 included a Variance and Site Plan Review Permit for the property located on Verna Way at Lydia Lane. The Variance passed by a 4-1 vote and the Site Plan Review passed on a 5-0 vote. There was a statutory review of the City's Fiscal Year 2017-2023 Capital Improvement Program budget, which received a 5-0 vote for compliance with the City's General Plan, and the Commission has recommended to the City Council the suggested revision to Chapter 15.08 – Sign Provisions of the City of Clayton Municipal Code.

Commissioner Cloven also reported the Commission met on July 11, 2017 to consider the City-initiated ordinance review zoning and residential density calculations for residential parcels with sensitive land areas, which has been recommended to the City Council with a supportive vote of 5-0.

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

(c) City Manager/Staff

City Manager Napper provided an update on the health of the City's Christmas tree in the downtown area that has turned brown due to an infection with spider mites. He advised the tree has been treated with a pesticide injection and hopefully will make a full recovery.

City Manager Napper also announced several citizen volunteer opportunities for interested citizens to represent their community on the Clayton Trails and Landscaping Committee, the County Connection Citizens Advisory Committee, and Contra Costa Transportation Authority Citizens Advisory Committee. He directed citizens to visit the City's website or contact City Hall for more information and an application.

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

Vice Mayor Haydon attended a meeting of the East Contra Costa Habitat Conservancy, the Clayton Business and Community Association General Membership's meeting, the Annual Clayton 4th of July Parade, and a Contra Costa Water District Board meeting.

Councilmember Tuija Catalano attended the special meeting of the Clayton City Council on June 26th, the Clayton Business and Community Association's Annual Rib Cook-Off, and the 23rd Annual Dana Hill Swim Club pentathlon.

Councilmember Pierce attended the special meeting of the Clayton City Council, two Contra Costa Transportation Authority meetings, three Metropolitan Transportation Commission meetings, several Associated Bay Area Governments meetings, two Concerts in The Grove events, the Annual Clayton 4th of July Parade, a TRANSPAC meeting, the Contra Costa County Mayors' Conference, and an Economic Development Sub-Committee meeting.

Mayor Diaz attended an East Bay Regional Communication Authority meeting, the Contra Costa County Mayors' Conference, the County Connection Board meeting, two Concert in The Grove events, the special meeting of the Clayton City Council, two Wednesday Classic Car Show and D.J. events, the Clayton Business and Community Association General Membership meeting, the Annual Clayton 4th of July Parade, the Contra Costa Water District Board meeting, the Economic Development Sub-Committee meeting, and the Clayton Business and Community Association's Annual Rib Cook-Off.

(e) Other – None.

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

7. **PUBLIC HEARINGS**

- (a) Public Hearing on the proposed real property tax assessments in FY 2017-18 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)

City Engineer Rick Angrisani presented the staff report noting at its public meeting on May 16th the City Council was presented with the proposed assessments incorporating the allowable CPI 3.78% annual increase over Fiscal Year 2016-17 levy. As required by law, a notice regarding this evening's public hearing was mailed to the real property

owners along with the Engineer's Report; for the benefit of the residents, the mailing included the detailed expenditures of the District for last year along with an accounting of its reserve funds. Mr. Angrisani advised the Benefit Assessment District's Fund balance will cover the District's costs through the property management contract with no impact to the City's General Fund.

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

It was moved by Councilmember Catalano, seconded by Vice Mayor Haydon, to adopt Resolution No. 31-2017 confirming assessments for the operation and maintenance of improvements within the Diablo Estates at Clayton Benefit Assessment District for Fiscal Year 2017-18. (Passed; 4-0 vote).

- (b) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices.
(Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting at its public meeting of May 16th the City Council expressed concern to any increase in the proposed allowable square footage for "temporary noncommercial signs," which signage would be allowed up to 30 square feet. The City Council's historical discussion of that item and its subsequent direction was to restrict the size of campaign signs to three (3) square feet. The Council expressed a lack of interest in allowing thirty (30) square feet for temporary noncommercial signs due to campaign signs falling into that designation and because of the community's concerns regarding visual clutter during political campaign seasons. The U.S. Supreme Court's ruling in the case of *Reed vs. Town of Gilbert, Arizona* determined the provisions of a municipality's sign code must be content-neutral; therefore, this distinction resulted in placing campaign signs, nonprofit organization signs, and community event signs, amongst others, under the same umbrella called "temporary noncommercial signs."

An unintended consequence of the desired three (3) square-foot restriction under the current provisions of our Sign Code would prohibit all of the City's community event banners (e.g. Oktoberfest, Library Book Sale, 4th of July Parade, etc.) from being displayed at the City Council-approved site locations due to the size of the banners exceeding three (3) square feet. Therefore staff has added new provisions regarding community event signs as being allowable up to twenty-four (24) square feet in those City-approved display areas to address the City Council's concerns. The case law of *Reed vs Town of Gilbert, Arizona* did not have any restriction regarding government speech; therefore, the City is allowed to create different parameters governing community events signage separate from temporary noncommercial signs.

Councilmember Pierce inquired about the new language specifically focusing on noncommercial temporary signs; is very strict in its language as it seems to now limit only one campaign sign per property. In the past the City allowed no more than one sign per campaign issue per property, only one sign per candidate per office yet multiple signs not to exceed the number of political offices available. As an example: if there is more than one candidate running for a seat on the City Council a property owner may display up to the number of open seats, limited to one sign though for a particular candidate. Are we able to restore that provision to the adopted Code for Campaign Sign Regulations?

Ms. Gentry advised as proposed and consistent with new case law, the ordinance reads the amount of signage allowed is a maximum of three (3) square feet per property. City Attorney Subramanian noted the Supreme Court's ruling is clear that local laws cannot regulate differences in signage regulations when related to the content of the sign. Therefore, the City could not allow more political signs per property yet restrict other types of signage to a total of 3 square feet. City Manager Napper added it is problematic under this case law because the past practice on political campaign signs would constitute the City giving greater preference to those types of signage over others, which results in the City regulating content. He indicated multiple signs would be allowed but limited to an aggregate signage total of 3 square feet.

Councilmember Catalano requested clarification if the community events provision is limited to events organized by the City or events taking place in the City. Ms. Gentry responded Community Event signs are essentially the banners the City of Clayton has allowed at specific City-owned property sites and as further defined by City Council policies that were passed some years ago.

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

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to have the City Clerk read Ordinance No. 475, by title and number only and waive further reading. (Passed; 4-0 vote).

The City Clerk read Ordinance No. 475 by title and number only.

It was moved by Councilmember Pierce, seconded by Vice Mayor Haydon, to approve for Introduction Ordinance No. 475 amending Chapters 15.08 of the Clayton Municipal Code regarding sign provisions with the finding the action does not constitute a project under CEQA. (Passed; 4-0 vote).

8. ACTION ITEMS

- (a) Consider the award of competitive bid contract to Servi-Tech Controls, Inc. (Fresno, CA) in the amount of \$253,398.00 for replacement of Clayton City Hall's 20-year old HVAC units and heater/boiler unit, and authorize the allocation of additional project funds in the amount of \$170,126.06 from either the General Fund reserves or the Clayton Finance Authority's unrestricted-use funds (Fund No. 405).
(Maintenance Supervisor)

Maintenance Supervisor Mark Janney provided a brief background noting in February 2012 the City commissioned an on-site technical study on the HVAC systems at City Hall and the Clayton Community Library. At that time, one of the most pressing concerns was the failing HVAC chiller unit at the Clayton Community Library. The study also reported the air handler at City Hall was approaching its functional life expectancy, and the boiler was showing signs of failing. Today, 3 of the 5 City Hall HVAC air compressors have now failed and the system is operating at 40% capacity; the boiler then started to fail with a leak to its heating coil and in April this year it failed completely and has been shut down resulting in no heat to the City Hall building and limited air-conditioning.

Last year an inquiry was made to our current HVAC maintenance service company for a quote to replace both the existing HVAC cooling system and the boiler with like-kind equipment; the quote came in at approximately \$85,000. Based on that representation

and dollar amount, it was determined a replacement plan would require a normal public works bid process starting with plans and specs prepared by an HVAC engineering firm. Staff retained the Diseno Group to perform this work and in doing so the firm found several electrical and building code upgrades to the HVAC system are necessary. The project was then submitted to competitive bidding with a return of seven (7) bids; Servi-Tech Controls is deemed the lowest responsive and responsible bidder. Mr. Janney noted a protest was received from one of the unsuccessful bidders pointing out a sub-contractor was not listed by the low bidder for the required crane work on this project. Staff contacted Servi-Tech regarding the protest and was informed the cost for its crane operations is below the 0.5% overall contract amount, so it is not obligated to list that item on the City's sub-contractor form.

Mr. Janney concluded by noting after the FY 2015-16 General Fund excess monies of \$84,071.94 are applied to this proposed work, Project gap funds are still required of \$170,126.06.

Councilmember Pierce inquired if there are energy efficiency options available such as solar, and could replacement of the gas furnace be powered by electricity? Mr. Brad Albi, Senior Project Engineer with Diseno Group, advised solar would not generate enough power to effectively heat/cool the facility based on the footprint of the building. Mr. Albi added gas is generally a more efficient, cost effective and cleaner energy source than electric.

Councilmember Pierce inquired as to the life expectancy and maintenance of the new HVAC equipment. Mr. Albi advised the commercial equipment specified in the proposal will have a life expectancy of 25-30 years if properly cared for. Mr. Janney added the City's current HVAC maintenance and service company, Marken Mechanical, checks the HVAC system's filters and belts, ensuring all necessary parts are greased and cleaned on a regular basis.

Councilmember Pierce asked about completion of the contract work. Mr. Janney advised once the contract is executed it is anticipated the HVAC replacement project would be completed within 120 days.

Vice Mayor Haydon asked if the other higher bidders included special components in their bids which would be a beneficial aspect to consider for the HVAC system at City Hall. City Manager Napper responded under CA Public Works bid laws every bidder is required to bid on the same specifications with no add-ons. Mr. Napper added while the lowest bid came in at \$253,000, the highest bid was \$372,000, reflecting significant savings bidding on the same specifications.

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

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to approve the award of low-bid contract to Servi-Tech Controls, Inc. in the amount of \$253,398.00 with project gap funds in the amount of \$170,126.06 from the Clayton Finance Authority's unrestricted-use funds (Fund No. 405). (Passed; 4-0 vote).

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.
None.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**

Council Member Pierce requested the City Council adjourn its meeting tonight in memory of Carolyn Bovat, the City's first female mayor, who recently passed away.

On call by Mayor Diaz, the City Council adjourned its meeting at 8:06 pm in memory of former Clayton mayor, Carolyn Bovat.

The next regularly scheduled meeting of the City Council will be August 1, 2017.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Jim Diaz, Mayor

#

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

Tuesday, July 25, 2017

1. CALL TO ORDER AND ROLL CALL

The Clayton City Council special meeting was called to order at 4:45 p.m. by Mayor Diaz in the 1st Floor Conference Room, Clayton City Hall, 6000 Heritage Trail, Clayton, CA. Councilmembers present: Mayor Diaz, Vice Mayor Haydon, and Councilmembers Catalano, Pierce and Shuey. Councilmembers absent: None. City Staff present: City Manager Gary Napper.

2. PUBLIC COMMENT PERIOD – No comments.

3. ADJOURN TO CLOSED SESSION

Mayor Diaz announced the City Council will adjourn into Closed Session (4:46 pm) for the following noticed item:

California Government Code Section 54957
Public Employment
Title: City Engineer

Report out of Closed Session (7:37 pm)

Mayor Diaz reported the City Council gave general instruction to its City Manager regarding this matter but no reportable action was taken

4. ADJOURNMENT– on call by Mayor Diaz the Clayton City Council special meeting adjourned at 7:38 p.m.

The next regularly scheduled City Council meeting is on August 1, 2017.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Jim Diaz, Mayor



Agenda Date 8/1/2017

Agenda Item: 4b

STAFF REPORT

Approved: 
Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Kevin Mizuno, FINANCE MANAGER
DATE: 08/01/2017
SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following obligations:

07/28/2017	Cash Requirements	\$ 631,722.08
07/07/2017	Permco Check Cut Prior to Meeting	\$ 10,902.36
07/18/2017	ADP Payroll week 29, PPE 07/16/17	\$ 88,612.77

Total \$ 731,237.21

Attachments:

Cash Requirements Report dated 7/28/2017 (6 pages)
Copy of check to Permco, #33155
ADP payroll report for week 29 (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	8/1/2017	8/1/2017	AR013870	ABAG Dues FY 17-18	\$3,061.00	\$0.00		\$3,061.00
				<i>Totals for ABAG:</i>	<u>\$3,061.00</u>	<u>\$0.00</u>		<u>\$3,061.00</u>
Abril Roofing								
Abril Roofing	8/1/2017	8/1/2017	CAP0220	Deposit refund for 5720 Clayton Rd	\$500.00	\$0.00		\$500.00
				<i>Totals for Abril Roofing:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
Ace Sierra Tow								
Ace Sierra Tow	8/1/2017	8/1/2017	55278	Car #1732 tow 6/7/17	\$55.00	\$0.00		\$55.00
				<i>Totals for Ace Sierra Tow:</i>	<u>\$55.00</u>	<u>\$0.00</u>		<u>\$55.00</u>
ADP, LLC								
ADP, LLC	8/1/2017	8/1/2017	496298608	Payroll fees PPE 7/2/17	\$162.45	\$0.00		\$162.45
ADP, LLC	8/1/2017	8/1/2017	497173585	Payroll fees PPE 7/16/17	\$152.11	\$0.00		\$152.11
				<i>Totals for ADP, LLC:</i>	<u>\$314.56</u>	<u>\$0.00</u>		<u>\$314.56</u>
All-Guard Systems, Inc.								
All-Guard Systems, Inc.	8/1/2017	8/1/2017	A137200	Annual Fire test, EH, FY 18	\$622.80	\$0.00		\$622.80
				<i>Totals for All-Guard Systems, Inc.:</i>	<u>\$622.80</u>	<u>\$0.00</u>		<u>\$622.80</u>
Authorize.net								
Authorize.net	8/1/2017	8/1/2017	07/17	Internet credit card gateway fee for July	\$15.00	\$0.00		\$15.00
				<i>Totals for Authorize.net:</i>	<u>\$15.00</u>	<u>\$0.00</u>		<u>\$15.00</u>
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	8/1/2017	8/1/2017	800187	Legal services for June	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	8/1/2017	8/1/2017	800188	Legal services for June	\$678.50	\$0.00		\$678.50
Best Best & Kreiger LLP	8/1/2017	8/1/2017	800189	Legal services for June	\$2,649.00	\$0.00		\$2,649.00
				<i>Totals for Best Best & Kreiger LLP:</i>	<u>\$11,827.50</u>	<u>\$0.00</u>		<u>\$11,827.50</u>
Blue Northern Builders								
Blue Northern Builders	8/1/2017	8/1/2017	CAP0203	C&D, Stormwater refund for 6200 Center St	\$2,500.00	\$0.00		\$2,500.00
				<i>Totals for Blue Northern Builders:</i>	<u>\$2,500.00</u>	<u>\$0.00</u>		<u>\$2,500.00</u>
Calif. Exterminating Service								
Calif. Exterminating Service	8/1/2017	8/1/2017	0207417	Downtown Christmas Tree mite treatment	\$175.00	\$0.00		\$175.00
				<i>Totals for Calif. Exterminating Service:</i>	<u>\$175.00</u>	<u>\$0.00</u>		<u>\$175.00</u>
CalPERS Health								
CalPERS Health	8/1/2017	8/1/2017	100000015014151	Medical for August	\$30,648.46	\$0.00		\$30,648.46
				<i>Totals for CalPERS Health:</i>	<u>\$30,648.46</u>	<u>\$0.00</u>		<u>\$30,648.46</u>
CalPERS Retirement								
CalPERS Retirement	8/1/2017	8/1/2017	CC072417	City Council retirement ending 7/24/17	\$146.78	\$0.00		\$146.78
CalPERS Retirement	8/1/2017	8/1/2017	071617	Retirement PPE 7/16/17	\$14,427.33	\$0.00		\$14,427.33

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 CalPERS Retirement:</i>					\$14,574.11	\$0.00		\$14,574.11
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	8/1/2017	8/1/2017	2313134	Copier contract for July	\$353.69	\$0.00		\$353.69
<i>Totals for Caltronics Business Systems, Inc:</i>					\$353.69	\$0.00		\$353.69
City of Concord								
City of Concord	8/1/2017	8/1/2017	59808	Dispatch services for June	\$20,089.50	\$0.00		\$20,089.50
City of Concord	8/1/2017	8/1/2017	59815	Business cards	\$65.58	\$0.00		\$65.58
<i>Totals for City of Concord:</i>					\$20,155.08	\$0.00		\$20,155.08
Clayton Valley/Concord Sunrise Rotary Club								
Clayton Valley/Concord Sunrise Rotary Club	8/1/2017	8/1/2017	070417	Deposit refund, rental fee for 4th of July EH	\$384.00	\$0.00		\$384.00
<i>Totals for Clayton Valley/Concord Sunrise Rotary Club:</i>					\$384.00	\$0.00		\$384.00
Concord Garden Equipment								
Concord Garden Equipment	8/1/2017	8/1/2017	547925	Service to chainsaw	\$134.28	\$0.00		\$134.28
Concord Garden Equipment	8/1/2017	8/1/2017	547926	Sharpen hedge trimmer	\$55.00	\$0.00		\$55.00
Concord Garden Equipment	8/1/2017	8/1/2017	548017	Install new tire on lawnmower	\$193.45	\$0.00		\$193.45
<i>Totals for Concord Garden Equipment:</i>					\$382.73	\$0.00		\$382.73
Contra Costa County Department of Conservation & Development								
Contra Costa County Department of Conservation & Development	8/1/2017	8/1/2017	BL Q4	Business license fee Q4 FY 17	\$141.05	\$0.00		\$141.05
<i>Totals for Contra Costa County Department of Conservation & Development:</i>					\$141.05	\$0.00		\$141.05
Contra Costa County Office of the Sheriff (Training)								
Contra Costa County Office of the Sheriff (Training)	8/1/2017	8/1/2017	5590*20798-17-001	Training class 8/10/17 - Enea	\$59.00	\$0.00		\$59.00
Contra Costa County Office of the Sheriff (Training)	8/1/2017	8/1/2017	2290-23300-17-001	Training class 9/18-9/20/17 - Wright	\$230.00	\$0.00		\$230.00
Contra Costa County Office of the Sheriff (Training)	8/1/2017	8/1/2017	5590-20798-17-005	Training class 10/25/17 - White	\$59.00	\$0.00		\$59.00
<i>Totals for Contra Costa County Office of the Sheriff (Training):</i>					\$348.00	\$0.00		\$348.00
Contra Costa County Office of the Sheriff (ARIES)								
Contra Costa County Office of the Sheriff (ARIES)	8/1/2017	8/1/2017	17/18 Clytn	ARIES Maintenance FY 18	\$8,770.00	\$0.00		\$8,770.00
<i>Totals for Contra Costa County Office of the Sheriff (ARIES):</i>					\$8,770.00	\$0.00		\$8,770.00
Contra Costa County Sheriff - Forensic Svc Div (Lab)								
Contra Costa County Sheriff - Forensic Svc Div (Lab)	8/1/2017	8/1/2017	CLPD-1706	Criminalistics, toxicology for June	\$5,385.00	\$0.00		\$5,385.00
Contra Costa County Sheriff - Forensic Svc Div (Lab)	8/1/2017	8/1/2017	CLPD-217	Blood withdrawal services April-June	\$393.75	\$0.00		\$393.75
<i>Totals for Contra Costa County Sheriff - Forensic Svc Div (Lab):</i>					\$5,778.75	\$0.00		\$5,778.75
Contra Costa County Treasurer/ Sheriff-Coroner (CAL-ID)								
Contra Costa County Treasurer/ Sheriff-Coroner (CAL-ID)	8/1/2017	8/1/2017	CAL-ID 18	CAL-ID share for FY 18	\$11,618.00	\$0.00		\$11,618.00
<i>Totals for Contra Costa County Treasurer/ Sheriff-Coroner (CAL-ID):</i>					\$11,618.00	\$0.00		\$11,618.00
Contra Costa Family Justice Alliance								
Contra Costa Family Justice Alliance	8/1/2017	8/1/2017	Family Justice	Family Justice Center contribution for FY 18	\$200.00	\$0.00		\$200.00
<i>Totals for Contra Costa Family Justice Alliance:</i>					\$200.00	\$0.00		\$200.00

City of Layton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CSI Forensic Supply								
CSI Forensic Supply	8/1/2017	8/1/2017	58354A	Evidence labels, Vionex	\$71.40	\$0.00		\$71.40
				<i>Totals for CSI Forensic Supply:</i>	<u>\$71.40</u>	<u>\$0.00</u>		<u>\$71.40</u>
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	8/1/2017	8/1/2017	55468946	Copier Contract 7/15/17-8/14/17	\$304.59	\$0.00		\$304.59
				<i>Totals for De Lage Landen Financial Services, Inc.:</i>	<u>\$304.59</u>	<u>\$0.00</u>		<u>\$304.59</u>
Diablo Lawnscape								
Diablo Lawnscape	8/1/2017	8/1/2017	14316	Installation of tree incl. irrigation	\$600.00	\$0.00		\$600.00
				<i>Totals for Diablo Lawnscape:</i>	<u>\$600.00</u>	<u>\$0.00</u>		<u>\$600.00</u>
Division of the State Architect								
Division of the State Architect	8/1/2017	8/1/2017	BL Q4	Business license fee Q4 FY 17	\$65.10	\$0.00		\$65.10
				<i>Totals for Division of the State Architect:</i>	<u>\$65.10</u>	<u>\$0.00</u>		<u>\$65.10</u>
FarWest Sanitation & Storage								
FarWest Sanitation & Storage	8/1/2017	8/1/2017	196052	Porta-potties for 4th of July	\$238.15	\$0.00		\$238.15
				<i>Totals for FarWest Sanitation & Storage:</i>	<u>\$238.15</u>	<u>\$0.00</u>		<u>\$238.15</u>
Globalstar LLC								
Globalstar LLC	8/1/2017	8/1/2017	1000000008522171	Sat phone 6/16/17-7/15/17	\$69.40	\$0.00		\$69.40
				<i>Totals for Globalstar LLC:</i>	<u>\$69.40</u>	<u>\$0.00</u>		<u>\$69.40</u>
Intermountain Slurry Seal, Inc.								
Intermountain Slurry Seal, Inc.	8/1/2017	8/1/2017	1188815	Retention for Arterial project	\$99,611.77	\$0.00		\$99,611.77
				<i>Totals for Intermountain Slurry Seal, Inc.:</i>	<u>\$99,611.77</u>	<u>\$0.00</u>		<u>\$99,611.77</u>
iPayment								
iPayment	8/1/2017	8/1/2017	June 2017	Bankcard fees for June	\$344.45	\$0.00		\$344.45
iPayment	8/1/2017	8/1/2017	063017	Online Bankcard fees for June	\$86.95	\$0.00		\$86.95
				<i>Totals for iPayment:</i>	<u>\$431.40</u>	<u>\$0.00</u>		<u>\$431.40</u>
J&R Floor Services								
J&R Floor Services	8/1/2017	8/1/2017	July 2017	Janitorial services for July	\$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>
James or Yvonne Jacques								
James or Yvonne Jacques	8/1/2017	8/1/2017	CAP0228	Deposit refund for 101 Mt Whitney Wy	\$1,904.54	\$0.00		\$1,904.54
				<i>Totals for James or Yvonne Jacques:</i>	<u>\$1,904.54</u>	<u>\$0.00</u>		<u>\$1,904.54</u>
LarryLogic Productions								
LarryLogic Productions	8/1/2017	8/1/2017	1663	City Council meeting production 6/20/17	\$300.00	\$0.00		\$300.00
LarryLogic Productions	8/1/2017	8/1/2017	1670	City Council meeting production 7/18/17	\$360.00	\$0.00		\$360.00
				<i>Totals for LarryLogic Productions:</i>	<u>\$660.00</u>	<u>\$0.00</u>		<u>\$660.00</u>
Local Government Consultants								

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
Local Government Consultants	8/1/2017	8/1/2017	406	Invoice #1 for FY 18 Contract, SB90 Claims	\$1,050.00	\$0.00		\$1,050.00
<i>Totals for Local Government Consultants:</i>					<i>\$1,050.00</i>	<i>\$0.00</i>		<i>\$1,050.00</i>
Mortensen Roofing And Gutters, Inc								
Mortensen Roofing And Gutters, Inc	8/1/2017	8/1/2017	CAP0252	C&D Refund for 5838 Clayton Rd	\$2,000.00	\$0.00		\$2,000.00
<i>Totals for Mortensen Roofing And Gutters, Inc:</i>					<i>\$2,000.00</i>	<i>\$0.00</i>		<i>\$2,000.00</i>
Neopost (add postage)								
Neopost (add postage)	8/1/2017	8/1/2017	072117	Postage added 7/21/17	\$300.00	\$0.00		\$300.00
Neopost (add postage)	8/1/2017	8/1/2017	071917	Postage added 7/19/17	\$300.00	\$0.00		\$300.00
<i>Totals for Neopost (add postage):</i>					<i>\$600.00</i>	<i>\$0.00</i>		<i>\$600.00</i>
PERMCO, Inc.								
PERMCO, Inc.	8/1/2017	8/1/2017	10808	Engineering services for 7/8/17-7/21/17	\$4,869.05	\$0.00		\$4,869.05
PERMCO, Inc.	8/1/2017	8/1/2017	10809	CAP Inspections 7/8/17-7/21/17	\$518.75	\$0.00		\$518.75
PERMCO, Inc.	8/1/2017	8/1/2017	10810	Staffe reporst for assessment levy, Diablo Esta	\$525.00	\$0.00		\$525.00
PERMCO, Inc.	8/1/2017	8/1/2017	10811	Bid process, opening for Collector Street Reha	\$350.50	\$0.00		\$350.50
PERMCO, Inc.	8/1/2017	8/1/2017	10812	Construction Inspection, report, Arterial Reha	\$1,714.00	\$0.00		\$1,714.00
PERMCO, Inc.	8/1/2017	8/1/2017	10813	Prep plans, bid, Main St Planters	\$343.13	\$0.00		\$343.13
PERMCO, Inc.	8/1/2017	8/1/2017	10814	Prep bid reject ion resolution, El Portal Dr	\$183.00	\$0.00		\$183.00
PERMCO, Inc.	8/1/2017	8/1/2017	10815	Obtain bids for fencing, Oak St Demo	\$517.10	\$0.00		\$517.10
PERMCO, Inc.	8/1/2017	8/1/2017	10816	GHAD Budget, assessment resolutions	\$583.75	\$0.00		\$583.75
PERMCO, Inc.	8/1/2017	8/1/2017	10817	Discussions Re: 8053 Kelok Wy for sale	\$1,725.38	\$0.00		\$1,725.38
<i>Totals for PERMCO, Inc.:</i>					<i>\$11,329.66</i>	<i>\$0.00</i>		<i>\$11,329.66</i>
PG&E								
PG&E	8/1/2017	8/1/2017	071717	Energy for 6/15/17-7/16/17	\$22,682.63	\$0.00		\$22,682.63
PG&E	8/1/2017	8/1/2017	072117	Energy for 6/21/17-7/20/17	\$4,823.77	\$0.00		\$4,823.77
PG&E	8/1/2017	8/1/2017	072617	Final bills for electricity for Oak St Bldgs	\$4.35	\$0.00		\$4.35
<i>Totals for PG&E:</i>					<i>\$27,510.75</i>	<i>\$0.00</i>		<i>\$27,510.75</i>
Pond M Solutions								
Pond M Solutions	8/1/2017	8/1/2017	185	Fountain maintenance	\$650.00	\$0.00		\$650.00
<i>Totals for Pond M Solutions:</i>					<i>\$650.00</i>	<i>\$0.00</i>		<i>\$650.00</i>
Pursuit North								
Pursuit North	8/1/2017	8/1/2017	02 209336	Troubleshoot non-op computer Car #1736	\$75.00	\$0.00		\$75.00
<i>Totals for Pursuit North:</i>					<i>\$75.00</i>	<i>\$0.00</i>		<i>\$75.00</i>
Reliable Automotive, LLC								
Reliable Automotive, LLC	8/1/2017	8/1/2017	23194	Service to 06 Ford F550	\$2,850.28	\$0.00		\$2,850.28
Reliable Automotive, LLC	8/1/2017	8/1/2017	23044	Service to 07 Ford F450	\$3,567.71	\$0.00		\$3,567.71
Reliable Automotive, LLC	8/1/2017	8/1/2017	23149	Service to 99 Ford F450	\$831.04	\$0.00		\$831.04
<i>Totals for Reliable Automotive, LLC:</i>					<i>\$7,249.03</i>	<i>\$0.00</i>		<i>\$7,249.03</i>
Rex Lock & Safe, Inc.								
Rex Lock & Safe, Inc.	8/1/2017	8/1/2017	116826	10 Master Padlocks	\$152.25	\$0.00		\$152.25

City of Dayton 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 Rex Lock & Safe, Inc.:</i>					\$152.25	\$0.00		\$152.25
Riso Products of Sacramento								
Riso Products of Sacramento	8/1/2017	8/1/2017	172321	Copier lease Pmt 4 of 60	\$106.09	\$0.00		\$106.09
Riso Products of Sacramento	8/1/2017	8/1/2017	172617	Copier contract 6/20/17-7/19/17	\$124.48	\$0.00		\$124.48
<i>Totals for Riso Products of Sacramento:</i>					\$230.57	\$0.00		\$230.57
Site One Landscape Supply, LLC								
Site One Landscape Supply, LLC	8/1/2017	8/1/2017	81443406	Irrigation parts	\$442.47	\$0.00		\$442.47
Site One Landscape Supply, LLC	8/1/2017	8/1/2017	81526415	Irrigation panel repair, parts	\$538.05	\$0.00		\$538.05
<i>Totals for Site One Landscape Supply, LLC:</i>					\$980.52	\$0.00		\$980.52
US Bank - Corp Pmt System CalCard								
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Storage unit rent	\$127.00	\$0.00		\$127.00
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Plaque for Dan Richardson	\$35.29	\$0.00		\$35.29
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Keys, Three roll TP	\$211.56	\$0.00		\$211.56
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Tire inflator, oil, gauge, anti-freeze	\$312.44	\$0.00		\$312.44
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Freezer	\$1,739.55	\$0.00		\$1,739.55
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Trailer tires	\$330.32	\$0.00		\$330.32
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Fuel	\$354.22	\$0.00		\$354.22
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Fuel	\$165.96	\$0.00		\$165.96
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Police emblems for new vehicle	\$417.28	\$0.00		\$417.28
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	ASP Holder, lubricating sol., AED pads, batt	\$526.64	\$0.00		\$526.64
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Search tool, service fee	\$30.77	\$0.00		\$30.77
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Alameda Sheriff, training course, Taser Cert	\$296.00	\$0.00		\$296.00
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$147.96	\$0.00		\$147.96
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$537.04	\$0.00		\$537.04
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$346.56	\$0.00		\$346.56
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$54.75	\$0.00		\$54.75
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Car Wash	\$12.99	\$0.00		\$12.99
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	General Plan recording, Contra Costa County	\$3,130.75	\$0.00		\$3,130.75
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Picture frame, business license paper	\$90.43	\$0.00		\$90.43
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Center St Deli, Walk N Lunch	\$125.41	\$0.00		\$125.41
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	4th of July bracelets, banner	\$362.77	\$0.00		\$362.77
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Ed's Mudville, meals for volunteers	\$363.26	\$0.00		\$363.26
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Food, snacks for PC Interviews	\$86.88	\$0.00		\$86.88
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Wasp Spray, bulbs, batteries, valve box, axe, t	\$171.60	\$0.00		\$171.60
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Wall faucet	\$217.74	\$0.00		\$217.74
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Toner, fans	\$301.19	\$0.00		\$301.19
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Light bulbs	\$53.24	\$0.00		\$53.24
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Fuel	\$366.08	\$0.00		\$366.08
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Fuel	\$1,059.17	\$0.00		\$1,059.17
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Office supplies	\$54.06	\$0.00		\$54.06
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$268.85	\$0.00		\$268.85
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$96.04	\$0.00		\$96.04
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$439.05	\$0.00		\$439.05

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	6/30/2017	6/30/2017	Stmt End 6/22/17	Microfiche reader, badge	\$130.89	\$0.00		\$130.89
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$103.06	\$0.00		\$103.06
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$248.15	\$0.00		\$248.15
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	AA Batteries	\$10.86	\$0.00		\$10.86
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Vehicle Gas	\$381.61	\$0.00		\$381.61
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Car Wash	\$12.99	\$0.00		\$12.99
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Car Wash	\$12.99	\$0.00		\$12.99
US Bank - Corp Pmt System CalCard	6/30/2017	6/30/2017	Stmt End 6/22/17	Equip for pre-text phone	\$25.43	\$0.00		\$25.43
<i>Totals for US Bank - Corp Pmt System CalCard:</i>					<i>\$13,758.83</i>	<i>\$0.00</i>		<i>\$13,758.83</i>
US Bank Ops Center								
US Bank Ops Center	8/1/2017	8/1/2017	CLAYCFD090197	Principal Payment for 1990-1 Bonds	\$336,036.01	\$0.00		\$336,036.01
<i>Totals for US Bank Ops Center:</i>					<i>\$336,036.01</i>	<i>\$0.00</i>		<i>\$336,036.01</i>
Workers.com								
Workers.com	8/1/2017	8/1/2017	119484	Seasonal workers week end 7/16/17	\$4,408.59	\$0.00		\$4,408.59
Workers.com	8/1/2017	8/1/2017	119428	Seasonal workers week end 7/9/17	\$3,399.79	\$0.00		\$3,399.79
<i>Totals for Workers.com:</i>					<i>\$7,808.38</i>	<i>\$0.00</i>		<i>\$7,808.38</i>
Zayo Group								
Zayo Group	8/1/2017	8/1/2017	CAP0167	Deposit refund for Traffic Control - Potholes	\$500.00	\$0.00		\$500.00
Zayo Group	8/1/2017	8/1/2017	CAP0169	Deposit refund, Aerial Traffic Control	\$500.00	\$0.00		\$500.00
<i>Totals for Zayo Group:</i>					<i>\$1,000.00</i>	<i>\$0.00</i>		<i>\$1,000.00</i>
GRAND TOTALS:					\$631,722.08	\$0.00		\$631,722.08

PERMCO, Inc.
 1470 Civic Court, Suite 320
 Concord, CA 94520

10784	6/30/2017	General City engineering retainer services	\$3,179.00	\$0.00	\$3,179.00
10785	6/30/2017	Restart plan prep to address Concord comments	\$1,493.00	\$0.00	\$1,493.00
10786	6/30/2017	Construction inspection and contract admin	\$1,287.50	\$0.00	\$1,287.50
10790	6/30/2017	Prepare plans and bid package	\$1,142.00	\$0.00	\$1,142.00
10792	6/30/2017	Obtain bids for building demo & hazardous mat survey	\$1,235.25	\$0.00	\$1,235.25
10791	6/30/2017	Revise bid package and rebid	\$455.30	\$0.00	\$455.30
10787	6/30/2017	Completion of bid package & advertise for bid	\$523.50	\$0.00	\$523.50
10793	6/30/2017	Prepare bid package & advertise	\$294.06	\$0.00	\$294.06
10785	7/18/2017	Construction activity permits	\$352.75	\$0.00	\$352.75
10788	7/18/2017	Plan check map and construction plans	\$940.00	\$0.00	\$940.00
Totals:			\$10,902.36	\$0.00	\$10,902.36

7/7/2017 33155

Ten thousand nine hundred two and 36/100 Dollars

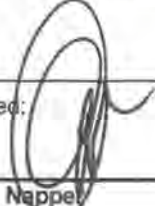
\$** 10,902.36

PERMCO, Inc.
 1470 Civic Court, Suite 320
 Concord, CA 94520



Agenda Date: 8-1-2017

Agenda Item: 4c

Approved: 

Gary A. Nappel
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CITY MANAGER
DATE: 01 AUGUST 2017
SUBJECT: CITY RESPONSE TO CIVIL GRAND JURY REPORT NO. 1707

RECOMMENDATION

It is recommended the City Council consider the prepared City response regarding Civil Grand Jury Report No. 1707, "Homelessness in the Cities"; and subject to any Council modifications to the proposed response, by Consent Calendar minute motion approve the Exhibit as the City's official response and authorize Mayor Diaz to sign the official cover letter.

BACKGROUND

A Civil Grand Jury is commissioned annually in Contra Costa County to investigate city and county governments, special districts and certain non-profit corporations to ensure functions are performed in a lawful, economical and efficient manner. Pursuant to *California Government Code* Section 933.5(a), whenever a civil grand jury issues a report that involves matters within a particular municipality's jurisdiction or area of responsibility, the respective city is required to respond in writing and in accord with a specific response format.

On 09 June 2017, the FY 2016-17 Civil Grand Jury of Contra Costa County released a Report directed to all nineteen cities within the County. Report No. 1707 researched the issue of individuals who were homeless in the cities and those who were imminently at risk of becoming homeless.

Civil Grand Jury Report No. 1707 concluded with ten (10) Findings and four (4) Recommendations requiring structured responses by each of the listed respondents. Attached are staff's recommended responses and a draft letter for the City Council to consider and approve constituting our City's official response to Civil Grand Jury Report No. 1707. The City's response to this particular Report is due by 13 September 2017 but given the timing of regular meeting cancellations during the summer, the matter has been placed on this agenda for official review and approval. As noted on pages 9-10 of the Report, our City's response is limited to Findings No. 1-5 and 9-10 coupled with replies to Recommendations No. 1-4.

FISCAL IMPACT

None directly. However, there are certainly indirect staff costs and direct time incurred in responding to Civil Grand Jury Reports, Findings and Recommendations.

Exhibits: A. Proposed City Response and Cover Letter [5 pp.]

B. Civil Grand Jury Report No. 1707 with accompanying Cover Letter [15 pp.]



ATTACHMENT A

COMMUNITY DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
JIM DIAZ, MAYOR
KEITH HAYDON, VICE MAYOR
TUJIA CATALANO, COUNCILMEMBER
JULIE K. PIERCE, COUNCILMEMBER
DAVID T. SHURY, COUNCILMEMBER

August 2, 2017

VIA U.S. REGULAR MAIL AND
REQUESTED EMAIL TO: ctadmin@contracosta.courts.ca.gov

Jim Mellander, Foreperson
Civil Grand Jury 2015-16, County of Contra Costa
725 Court Street
P O Box 431
Martinez, CA 94553-0091

Re: City Response to Civil Grand Jury Report No. 1707

Dear Mr. Mellander:

Pursuant to a cover letter dated June 9, 2017 addressed to members of the Clayton City Council and transmittal of a copy of the Civil Grand Jury's Report No. 1707, "Homelessness in the Cities," attached is the City of Clayton's official response as required by applicable law.

We appreciate the Civil Grand Jury's efforts in researching this subject.

Sincerely,

DRAFT

James Diaz
Mayor

Attachment: 1. City Reply to Civil Grand Jury Report No. 1707 [4 pp.]

cc: Honorable Clayton City Council Members
Honorable John T. Laettner, Judge of the Superior Court



**CITY OF CLAYTON RESPONSE TO
CIVIL GRAND JURY REPORT NO. 1707
"Homelessness in the Cities"**

2016-17 CONTRA COSTA COUNTY CIVIL GRAND JURY

The City of Clayton, California provides the following response to Civil Grand Jury Report No. 1707, "Homelessness in the Cities", issued by the 2016-17 Civil Grand Jury of Contra Costa County on 09 June 2017. Pursuant to page 9 of the Report, this City is required to respond to Findings No. 1-5 and 9-10, plus Recommendations No. 1-4, adhering to format guidelines prescribed by the California Penal Code (Section 933.05).

FINDINGS

1. *CORE teams are most likely to be the first point of entry for the homeless into the County's Coordinated Entry System.*

City Response

The City of Clayton agrees with the Finding.

2. *CORE teams can successfully identify a homeless individual in need of physical or mental health services.*

City Response

The City of Clayton agrees with the Finding.

3. *CORE teams have the resources to identify if there are vacant shelter beds available in the County.*

City Response

The City of Clayton agrees with the Finding.

4. *CORE teams are equipped and have the authorization to transport homeless individuals to a medical facility or to a homeless shelter.*

City Response

The City of Clayton partially disagrees with the Finding, as specific training and policy would be necessary to determine the safest way to transport voluntary individuals to facilities who may have medical or mental health concerns.

5. *CORE teams build trust between the homeless and police departments.*

City Response

The City of Clayton agrees with the Finding.

9. *The cities of Antioch, Concord, Pittsburg, and Walnut Creek, which are the CDBG Entitlement Cities, are the only cities in Contra Costa County that have an approved written homeless plan to end or reduce homelessness in their respective jurisdictions.*

City Response

The City of Clayton partially disagrees with the Finding. As a non-entitlement CDBG city and a municipality experiencing few homeless persons, the City of Clayton agrees it does not have an approved written homeless plan. The City of Clayton, however, has not conducted a survey or analysis to independently confirm the Civil Grand Jury's finding the cities listed are the only cities in Contra Costa County that have such approved plans.

10. *The City appears to be in compliance with the California Housing Accountability Act.*

City Response

The City of Clayton agrees with the Finding as it pertains to this City.

#

RECOMMENDATIONS

1. *The City should consider establishing CORE teams either by partnering with one or more cities in the region or by funding its own team.*

City Response

The recommendation will not be implemented because it is not warranted and it is not reasonable for the City of Clayton to do so.

Due to the limited activity of homeless persons within the City of Clayton (as listed by the Civil Grand Jury's table on Page 3 of its Report No. 1701 identifying "2" homeless persons in Clayton, and which minimal presence is as experienced by Clayton police officers in the field), the numerical numbers documented for Clayton do not rise to funding the creation of our own CORE team or partnering monetarily with other cities in the Central County area. The City of Clayton has already provided and offers assistance and resources to those periodically encountered as homeless in our jurisdiction, yet the City has very limited discretionary financial resources to contribute to a CORE team.

The City of Clayton will continue to assist the City of Concord, whenever possible, to address the homeless near our shared boundary. Further, the Contra Costa County Chiefs of Police Association approved funds to the Pleasant Hill and Martinez police departments to assist in the homeless issues in their areas, and those police agencies have committed to assisting the City of Clayton when needed in this regard.

- 2. The City should consider providing incentives for developers to construct housing for the extremely low income, very low income, and homeless populations.*

City Response

The recommendation has been implemented.

Policy II.2 of the City's HCD-certified 2015-2023 Housing Element is to encourage affordable housing by granting regulatory incentives to projects that provide affordable units. Following Policy II.1, Implementation Measure II.2.1 provides continued authorization for regulatory incentives and concessions for development projects that include residential units affordable to extremely low-, very low-, and low-income households and special needs groups including disabled and developmental disabled persons. Incentives may include: flexibility in development standards, reduction or deferral of certain development fees, priority application processing to decrease review and approval time, and density bonuses in accordance with State law. Implementation Measure II.2.2 requires the City to monitor the impact of development fees and consider waiving or deferring fees for affordable housing projects, if and when funding is available.

- 3. The City should consider using Successor Agency funds, CDBG and other federal housing funds, impact fees, and city general funds to assist in funding housing for the extremely low income, very low income and homeless populations.*

City Response

The recommendation has been implemented.

The City of Clayton has considered its ability to utilize Successor Housing Agency funds for extremely low, very low, and homeless populations. The City wishes to note the total balance in its Successor Housing Agency fund is \$728,759 (June 2017), which amount is miniscule compared to land prices in Clayton, low land inventories, and development costs. Further, the City has adopted an inclusionary housing ordinance with an in-lieu fee option rather than providing the affordable housing units onsite, which will make funds available for extremely low income, very low income, and homeless populations as housing opportunities in Clayton present themselves through private developers.

Policy III.1 of the City's HCD-certified 2015-2023 Housing Element requires the City to promote programs available through Contra Costa County and the Contra Costa County Housing Authority. Implementation Measure III.1.3 states the City shall review potential opportunities through the County HOME program and apply for funding for applicable projects when private development opportunities arise.

4. *The City should consider adopting a five-year comprehensive homeless plan, as soon as possible with a target date of January 1, 2019, to reduce the homeless population in the City.*

City Response

The recommendation will not be implemented because it is neither warranted nor reasonable to the City of Clayton.

As noted in the table on Page 3 of the Civil Grand Jury's Report No. 1701, the City of Clayton does not have a large homeless population ("2" listed). Further, as the smallest municipality in Contra Costa County, this City does not have the available staff and resources to dedicate to drafting a five-year comprehensive homeless plan to address the needs of such homeless persons when other area public resources already exist for assistance.

The City finds the homeless population and associated issues are a Countywide matter that would be better served to be addressed from a regional perspective and not by each individual jurisdiction. Further, Contra Costa County has the Continuum of Care and the Council on Homelessness dedicated to addressing the needs and promulgating strategies to prevent and end homelessness.

#

ATTACHMENT B

June 9, 2017

City of Clayton
6000 Heritage Trail
Clayton, CA 94517



Received

JUN 12 2017

City of Clayton

Dear City of Clayton:

Attached is a copy of Grand Jury Report No. 1707, "Homelessness in the Cities" by the 2016-2017 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933 et seq., we are submitting this report to you as the officer, agency or department responsible for responding to the report. As the responding person or person responding on behalf of an entity, you shall report one of the following actions in respect to each finding:

- (1) You agree with the finding.
- (2) You disagree with the finding.
- (3) You partially disagree with the finding.

(Pen. Code, § 933.05(a).) In the cases of both (2) and (3) above, you shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons thereof.

In addition, Section 933.05(b) requires you to reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

After reviewing your response to ensure that it includes the above-noted mandated items, please send (1) a hard copy of the response to the Grand Jury at P.O. Box 431, Martinez, CA 94553; and (2) a copy in Word by e-mail to ctadmin@contracosta.courts.ca.gov. Your response must be submitted to the Grand Jury, in the form described by the above-quoted Government Code, no later than **September 13, 2017**.

Finally, please note that this report is being provided to you at least two working days before it is released publicly. Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release.

Please immediately confirm receipt of this letter and the attached report by responding via e-mail to ctadmin@contracosta.courts.ca.gov.

Sincerely,

Jim Mellander, Foreperson
2016-2017 Contra Costa County Civil Grand Jury

cc: Garry A. Napper, City Manager

**A REPORT BY
THE 2016-2017 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553**

**Received
JUN 12 2017
City of Clayton**

Report 1707

Homelessness in the Cities

APPROVED BY THE GRAND JURY:

Date: _____

6/8/17




JIM MELLANDER
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: _____

6/6/17



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1707

Homelessness in the Cities

TO: The City Councils of the following cities: Antioch, Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Ramon, San Pablo, Walnut Creek

SUMMARY

On the night of January 27, 2016, Contra Costa County's Point-in Time (PIT) count identified 1,730 individuals who were homeless and another 1,770 individuals who were imminently at risk of becoming homeless.

Contra Costa County's Continuum of Care (CoC) and the Contra Costa County Health Department's Housing Program have developed a Homeless Coordinated Entry System. One point of entry for those who are homeless is the Coordinated Outreach, Referral, and Engagement (CORE) program. The County encourages cities and other jurisdictions to form their own CORE teams. To date, Martinez and Pleasant Hill have partnered to form and fund a team. Concord and Walnut Creek are also in the process of partnering to form and fund a team.

Contra Costa cities use various incentives and funding sources to assist in creating homeless shelters, transitional housing, and permanent housing for the extremely low and very low income and aging populations. Antioch has invested \$3 million using Community Development Block Grant (CDBG), Neighborhood Stabilization Program (NSP), and Successor Agency funds to build an 85-unit apartment complex for seniors and homeless veterans. Walnut Creek has committed \$5 million, most of which was collected from impact fees, to a housing complex for the homeless.

The Grand Jury concluded the CORE teams provide a very effective point of entry for homeless individuals and families to access services that may assist them in ending their homelessness. It recommended that the cities form their own CORE teams. The

Grand Jury concluded that cities fail to adequately promote shelter and permanent housing for homeless individuals in their communities. There are incentives that cities could put in place to encourage the construction of emergency, transitional and permanent housing for the homeless and near homeless people in their communities.

METHODOLOGY

The Grand Jury interviewed elected officials, staff members, or members of the police departments from the 19 Contra Costa cities, employees of the County Health Department, employees of other Contra Costa County Departments, non-governmental organization staff, and homeless persons.

The Grand Jury reviewed the responses to a Grand Jury Survey sent to all 19 cities. It also reviewed documents provided by the cities, by the County Health Department, and other published reports about homelessness.

BACKGROUND

Homeless individuals and families can be categorized into three broad groups: Sheltered, Unsheltered, or Other homeless. Unsheltered homeless persons are those who are living in encampments, cars, streets, or other locations not designed for human habitation. Sheltered homeless persons are those individuals who are in emergency or transitional housing, half-way houses, or youth foster program. Other homeless persons are those who are living on a short-term basis in jails, hospitals, treatment centers, or with family or friends. An individual with a disabling condition who has either been continuously homeless for a year or more or has had at least four episodes of homelessness in the past three years is classified as Chronically Homeless.

The most common reasons for homelessness are mental illness, chronic substance abuse, domestic violence, loss of employment and physical illness.

In 1997, the United States Department of Housing and Urban Development (HUD) required that all communities seeking homeless funding from HUD would need to apply as a Homeless Continuum of Care (CoC). The CoC is a group of organizations, comprised of representatives of the county, cities, and local nongovernmental organizations that work in partnership to find and provide stable housing and services for the homeless.

The Contra Costa CoC is governed by the Contra Costa Council on Homelessness (CCCH) and is the primary source of funding for homeless services. The CCCH is made up of 15 persons who have been appointed by the Board of Supervisors. The CCCH's responsibilities include the long-term planning and policy making for homelessness in Contra Costa County. HUD requires an annual count of homeless individuals (PIT) by

each CoC . In odd years, the count is required to include both the sheltered and the unsheltered homeless. In an even year, it is required to only have a count of the sheltered homeless. Every year during the last ten days of January, the data is collected over a three-day period.

A secondary source of funding for homeless services in Contra Costa County is the CDBG program, which is funded by HUD. The cities of Antioch, Concord, Pittsburg, and Walnut Creek each have their own CDBG program (the "CDBG Entitlement Cities"). The remaining cities and the unincorporated areas of Contra Costa participate in the CDBG program through the Urban County CDBG program.

The Contra Costa County Housing Authority, which is funded by HUD, provides vouchers for subsidized housing to homeless individuals and families through the Shelter Plus program. Many individuals who are homeless are veterans and/or senior citizens. Veterans can apply for a voucher through Veterans Affairs.

DISCUSSION

2016 Continuum of Care Point in Time

Contra Costa CoC conducted a PIT count of homeless families and individuals from January 27, 2016 through January 29, 2016. The count provided demographic data about the homeless population, including gender, age, ethnicity, and race. It also reported on the 2015-2016 unsheltered population changes by region and distribution by city.

Based on the 2016 PIT report, there were 1,730 individuals identified as homeless and 1,770 imminently at risk of being homeless. Among those identified as being homeless, 620 people were in shelters and 1,110 were sleeping on the streets or encampments.

The 2015 and 2016 Unsheltered PIT by City

East County	2015	2016	Central County	2015	2016	West County	2015	2016
Antioch	122	164	Clayton	10	2	El Cerrito	30	13
Brentwood	11	8	Concord	114	73	Hercules	12	1
Oakley	8	28	Danville	0	0	Pinole	11	5
Pittsburg	56	60	Lafayette	1	2	Richmond	356	160
Unincorporated	30	41	Martinez	72	63	San Pablo	23	37
			Moraga	0	0	Unincorporated	35	12
			Orinda	0	0			
			Pleasant Hill	63	11			
			San Ramon	1	0			
			Walnut Creek	33	39			
			Unincorporated	18	10			
Totals	227	301		312	200		467	228

The above table includes data only for those individuals who reported the city in which they slept on the night of the count. The 2016 PIT report reflects a decrease from the previous year of 351 unsheltered individuals (45%) in West and Central County. The number of unsheltered individuals in East County increased by 74 (33%).

Coordinated Entry System

HUD required that all CoCs establish a Coordinated Entry System. The goal is to ultimately place clients in permanent housing. An effective Coordinated Entry System ensures that people with the greatest needs receive priority for housing or housing services.

Contra Costa County's CoC developed a Coordinated Entry System that established the following three entry points:

1. **Coordinated Assessment Resource (Care) Centers:** These centers provide services for homeless individuals and families including, but not limited to, basic needs, case management, housing assessment, housing navigation, and health services. The centers also refer the homeless to emergency, transitional, and permanent housing, other social and legal services, rental assistance, and credit repair services.
2. **2-1-1 Crisis Call Centers:** 2-1-1 refers the homeless to prevention and diversion services, and to the Care Centers.
3. **Coordinated Outreach, Referral and Engagement (CORE):** Outreach teams contact homeless individuals and families who are living on the streets or in encampments. They assist the homeless in receiving services from Care Centers and Health Services, finding emergency and transitional housing, and transporting them to shelters and services.

Permanent housing providers are encouraged to only receive referrals through the Coordinated Entry System.

Coordinated Outreach, Referral and Engagement

The CORE program is an entry point into Contra Costa County's coordinated entry system for unsheltered persons. The CORE program, managed by a full-time Outreach Coordinator, is comprised of teams of at least two outreach specialists. Other providers may join the teams, including peace officers, social workers, medical personnel, behaviorists and/or housing specialists.

The outreach teams identify and engage with people living on the streets or in encampments. They provide clothing and hygiene products, transportation, and

placements at shelter beds and warming centers, as well as enroll clients in benefit programs.

The Health, Housing, and Homeless Services Division of Contra Costa Health Services (CCHS) contracts with Public Health Foundation Enterprises (PHFE) for two CORE teams and a full-time Outreach Coordinator. It also contracts with Anka Behavior Health for one CORE team. PHFE trains and supervises all CORE teams. The CORE team specialists and Outreach Coordinator are the employees of PHFE and Anka Behavior Health.

The County encourages cities and other jurisdictions to invest in their own CORE teams. There are numerous advantages to a city or jurisdiction to having its own CORE team including having a team dedicated to its specific geographic boundary; shorter response times for calls and intervention; control over hours of operation and a means of transporting homeless persons to available shelter beds, warming centers, and medical care facilities.

The City of Martinez received a grant in 2016 from Tesoro Oil Company to hire an individual to provide outreach services to the homeless in Martinez. As a result, Martinez began its own outreach program and contracted for outreach services with an individual who had previous homeless outreach experience. Martinez subsequently terminated this program to work with the County's Homeless program.

The Martinez Police Chief and the Pleasant Hill Police Chief developed a plan to jointly form and invest in a CORE team. The initial plan called for Martinez to pay for its portion of the team by using the balance of the Tesoro Grant and supplementing it with money from its general fund, while Pleasant Hill would fund its portion from its general fund.

The Police Chiefs from Martinez and Pleasant Hill then learned that AB109 funds would be available for local police departments in the County to provide services for targeted populations, including the homeless. AB109 (2011) made changes to state law that diverted low-level offenders and parole violators to county jails instead of state prisons. The Police Chiefs approached the Contra Costa Police Chief's Association for money to fund the Martinez/Pleasant Hill CORE team as a pilot project. The Police Chief's Association agreed to fund the team from the AB 109 money at a cost of \$110,000 for one year.

Martinez and Pleasant Hill signed a contract with CCHS, whereby they agreed to pay for a CORE team dedicated to their cities. The Martinez/Pleasant Hill CORE team specialists were selected and hired from a list of potential outreach specialist developed by the PHFE. The Martinez/ Pleasant Hill CORE staff will be employees of PHFE. The new outreach specialists will receive training from the County's Outreach Coordinator in CPR, motivational interviewing, non-violent crisis intervention, and the administration of Narcan, an opioid antagonist for reversal of opioid overdose.

PHFE will bill the County monthly for the cost of the CORE team. The County, after paying the PHFE demand, will invoice Martinez and Pleasant Hill for the portion of the demand associated with the cost of their CORE team. In turn, Martinez and Pleasant Hill will be reimbursed by the County Police Chief's Association from the AB 109 funds.

The Martinez/Pleasant Hill Core team will divide the time they spend in each city evenly. The team may also be accompanied by police officers, medical and mental health providers, social workers, and housing specialists on a regular basis. The County will pay for the cost of the Outreach Coordinator, professionals, and other expenses. The County estimates the total annual cost for three teams will be \$650,000.

The cities of Concord and Walnut Creek are in the process of jointly establishing a CORE team. The details of how the team will be funded has not yet been put in place, but Concord and Walnut Creek plan to execute a contract with CCHS.

The Community Development Block Grant Program

The federal government funds the CDBG through HUD. The primary objective of this program is to provide decent housing, a suitable living environment, and economic opportunity to the most vulnerable in the community.

The jurisdictions that distribute CDBG funds in Contra Costa County are the cities of Antioch, Concord, Pittsburg, Walnut Creek and the Urban County that is made up of the remaining Contra Costa cities and the unincorporated areas of the county. The five jurisdictions have formed a consortium that developed a 2015-20 Consolidated Plan. A priority need identified in the Consolidated Plan was to reduce homelessness by:

1. Furthering the "Housing First" approach to ending homelessness by supporting homeless outreach services, emergency shelters, transitional and permanent housing with supportive services to help homeless persons achieve housing stability
2. Expanding prevention services including, but not limited to, emergency rental assistance, legal assistance, case management, and money management and credit counseling

Non-governmental organizations providing services to homeless individuals or families that receive grants from CDBG jurisdiction include Shelter Inc., STAND! Against Domestic Violence, Contra Costa Health Services Adult Interim Housing Program, Anka Behavior Health and Trinity Center.

Housing Incentives

Cities have a number of incentives available to them to encourage developers to construct housing for homeless, and extremely and very low income persons.

These incentives include the following:

- Density Bonuses
- Waiver or deferment of fees
- Application processing priority
- Assistance in applying for grants
- Zoning
- Transfer of city owned property to non-profit organization to build shelters or transitional housing

The following are examples of how some cities have used one or more of these incentives.

Antioch is interested in partnering with a non-profit to develop a 50-bed facility on a five-plus acre parcel that it owns, which is zoned for a homeless shelter. Walnut Creek's Density Bonus program will allow 14 units to be added St. Paul's Commons, a 45-unit affordable housing project for the homeless. Concord removed development standards and approved a density bonus when it approved the Argent Project, a housing development that include housing for low income people. The Concord Naval Weapons Station's Master Plan will include zoning for housing for the homeless, with supportive services.

Successor Agency and Other Available Funding

Cities can provide non-profit organizations and developers with funds, both local and federal, to reduce the cost of construction of permanent housing for the extremely and very low income, and homeless persons. The following is a partial list of funding sources:

- Successor Agency Funds
- Impact Fees
- City General Fund
- CDBG Funds
- Neighborhood Stabilization Program

Antioch partnered with Satellite Affordable Associates to construct Tabora Gardens, an apartment complex of 85-units for seniors and homeless senior veterans. Antioch invested \$3 million in the project using CDBG, NSP funds, and Successor Agency funds.

San Pablo has \$2.5 million in Successor Agency funds and Pinole has \$1 million in Successor Agency funds. These monies can be used for extremely and very low income, and homeless housing. Pinole has committed the \$1 million it already has in Successor Agency funds, plus the money it will receive from the Successor Agency, to

improving affordable housing, purchasing land for affordable housing, and rehabbing existing housing. Concord is collecting Successor Agency funds to potentially use to develop very low income affordable housing units.

Lafayette invested \$38 million from its now defunct Redevelopment Agency to build Bella Terra Senior Apartments, 46-units for seniors at 20% to 50% of median income.

Walnut Creek partnered with St. Paul's Presbyterian Church to construct St. Paul's Commons, 45-units of affordable housing for homeless persons. Walnut Creek provided \$2.7 million to fund this project. The funding came from impact fees and Housing Administrative Reserve fees.

In 2015-16, Walnut Creek gave \$100,000 (part from Council Contingency and part from housing funds) to support a temporary winter night's shelter administered by Trinity Center. The shelter provided 29 beds for a total of 38 individuals that year.

In 2016-17, the city of Richmond granted the Richmond Rescue Mission, a non-governmental organization, \$13,000 to help provide services to the homeless population.

Mental Health Emergency Teams

A Mental Health Emergency Team (MHET), which is comprised of a police officer and a County Mental Health professional, provides welfare checks after a psychiatric call to the police for service. There are currently three regional MHETs in Contra Costa County, which serve the western, central and eastern regions of the County. Pittsburg, Concord and Richmond operate and assign police officers to these MHETs. The participating cities pay for the MHET program from their respective police department's budgets. The team visits, evaluates, and refers individuals who have mental health issues, and who may be living on the street or in encampments, to mental health and outreach services.

Police Involvement

Some cities have their own homeless outreach teams, which are made up of police officers who are assigned to the teams. Concord has two officers who are partially dedicated to working with homeless persons.

Planning for Homelessness

None of the 19 Contra Costa County cities provided the Grand Jury with a written city plan for reducing or eliminating homelessness in their communities. The CDBG entitlement jurisdictions all are required to adopt the CoC plan to reduce or eliminate homelessness. None of the other Contra Costa cities have adopted a plan for the reduction or elimination homelessness.

Housing Elements

All 19 Contra Costa County City's General Plan Housing Elements include discussions about emergency (shelters), transitional, and affordable housing. All Housing Elements include the areas where shelters, transitional, and affordable housing are permitted uses.

The California Housing Accountability Act, Government Code § 65589.5, requires a local agency to show that its housing element identifies adequate sites with appropriate zoning and development standards to meet the needs of low and very low income Californians. This Act also includes requirements relating to emergency shelters, transitional housing, and low income housing.

FINDINGS

- F1. CORE teams are most likely to be the first point of entry for the homeless into the County's Coordinated Entry System.
- F2. CORE teams can successfully identify a homeless individual in need of physical or mental health services.
- F3. CORE teams have the resources to identify if there are vacant shelter beds available in the County.
- F4. CORE teams are equipped and have the authorization to transport homeless individuals to a medical facility or to a homeless shelter.
- F5. CORE teams build trust between the homeless and police departments.
- F6. The City found various and novel ways to fund its CORE teams.
- F7. Walnut Creek packaged impact fees, other local fees, and density bonuses as incentives for a non-profit developer to build 45-units for the homeless in Walnut Creek.
- F8. Walnut Creek's general fund contribution to a local non-profit organization helped the organization in successfully establishing a homeless shelter.
- F9. The cities of Antioch, Concord, Pittsburg, and Walnut Creek, which are the CDBG Entitlement Cities, are the only cities in Contra Costa County that have an approved written homeless plan to end or reduce homelessness in their respective jurisdictions.
- F10. The City appears to be in compliance with the California Housing Accountability Act

RECOMMENDATIONS

- R1. The City should consider establishing CORE teams either by partnering with one or more cities in the region or by funding its own team.
- R2. The City should consider providing incentives for developers to construct housing for the extremely low income, very low income, and homeless populations.
- R3. The City should consider using Successor Agency funds, CDBG and other federal housing funds, impact fees, and city general funds to assist in funding housing for the extremely low income, very low income and homeless populations.
- R4. The City should consider adopting a five-year comprehensive homeless plan, as soon as possible with a target date of January 1, 2019, to reduce the homeless population in the City.

REQUIRED RESPONSES

	Findings	Recommendations
City of Antioch	F1 to F5, F9, F10	R1 to R4
City of Brentwood	F1 to F5, F9, F10	R1 to R4
City of Clayton	F1 to F5, F9, F10	R1 to R4
City of Concord	F1 to F5, F9, F10	R1 to R4
Town of Danville	F1 to F5, F9, F10	R1 to R4
City of El Cerrito	F1 to F5, F9, F10	R1 to R4
City of Hercules	F1 to F5, F9, F10	R1 to R4
City of Lafayette	F1 to F5, F9, F10	R1 to R4
City of Martinez	F1 to F6, F9, F10	R1 to R4
Town of Moraga	F1 to F5, F9, F10	R1 to R4
City of Oakley	F1 to F5, F9, F10	R1 to R4
City of Orinda	F1 to F5, F9, F10	R1 to R4
City of Pinole	F1 to F5, F9, F10	R1 to R4
City of Pleasant Hill	F1 to F6, F9, F10	R1 to R4
City of Pittsburg	F1 to F5, F9, F10	R1 to R4
City of Richmond	F1 to F5, F9, F10	R1 to R4
City of San Pablo	F1 to F5, F9, F10	R1 to R4
City of San Ramon	F1 to F5, F9, F10	R1 to R4
City of Walnut Creek	F1 to F10	R1 to R4

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

ACRONYMS

CCCH – Contra Costa Council on Homelessness

CDBG – Community Development Block

CoC – Continuum of Care

CORE – Coordinated Outreach, Referral, and Engagement

HUD – United States Department of Housing and Urban Development

NSP - Neighborhood Stabilization Program

PIT – Point-in-Time

PHFE – Public Health Foundation Enterprises

MHET – Mental Health Emergency Team

GLOSSARY

1. **Bonus Density** – an increase in the number of lots or units that would normally be allowed, under specific zoning regulations, based on an agreement that the increase in density would be granted for a public good.
2. **Extremely Low and Very Low Income-** (based on HUD definitions) Extremely low incomes are incomes that don't exceed the higher of Federal Poverty Level or 30% of the area medium income. Very low income is 30% of the area medium income.
3. **Fee Waivers** – The intentional relinquishment of the right of a local government to collect fees.
4. **Impact Fees** – A fee imposed by a local government on a new or proposed development project to pay for all or a portion of costs that are related to the project.
5. **Neighborhood Stabilization Program (NSP)** – A program established by HUD to stabilize communities that have suffered from foreclosures and abandonment.
6. **Redevelopment Housing Successor** – Replaces the housing assets and functions previously performed by the Redevelopment Agency.
7. **Successor Agency** – When the dissolution of Redevelopment Agencies took place on in 2012, the Redevelopment Agencies were required to establish a Successor Agency. The Successor Agencies were charged with the handling of outstanding debts and winding down the activities of the former Redevelopment Agencies.

FINAL PROJECT REPORT

**2016 ARTERIAL REHABILITATION PROJECT (CIP 10437),
THE OAK STREET (PRIVATE) REHABILITATION PROJECT, AND THE
SUBGRADE STABILIZATION PORTION OF THE EL PORTAL DRIVE
RESTORATION PROJECT (CIP 10439)**

Project Description

The 2016 Arterial Rehabilitation Project included the stabilization and surface treatment of Clayton Road, Marsh Creek Road and Oakhurst Drive. The original project also included surface treatment of the private portion of Oak Street.

Scope Changes Before and During Construction

Several areas of Oakhurst Drive and Clayton Road have settled over the years. It is believed to be caused by consolidation of landslide debris at the toes of large landslides that could not be repaired when the landslides occurred in the 1990s due to the presence of oil pipelines and other utilities.

While researching alternative methods to completely removing and replacing the settled area, staff discovered a contractor (Uretek USA) which developed a proprietary material and injection method for solidifying the underlying soils and lifting the pavement to reduce the settlement areas. Based on its successes it was then decided to split the project into two phases. The first was the subgrade stabilization portion of the work using the polymer fill injections, and the second was the surface treatment (microsurfacing) phase.

A contract was awarded to Uretek USA for the subsurface stabilization. The work proved to be cost effective and satisfactory. Since available funds remained, staff then decided to expand the scope of work to include the first 900' of El Portal Drive which has been falling apart for several years.

The second phase of the work was then bid out and a contract awarded to Intermountain Slurry Seal to perform pavement repairs and install a microsurfacing finish on the arterial streets. Due to the favorable unit prices, we then added the surface treatment of the private portion of Oak Street, which had been overdue for a slurry seal and which expense was fully funded by the real property assessment levies in the Oak Street Permanent Road Division.

CIP Budget and Funding Sources

Total Budget:	Original Amount	\$2,204,000
Sources:		
	Gas Tax	\$263,000
	Measure J (per capita & 28A)	791,000
	Measure J Grant Funds	<u>1,150,000</u>
	Total	\$2,204,000

CITY OF CLAYTON
ENGINEERING DEPARTMENT
925/363-7433

Since the Measure J Grant funds were not available until December 2, 2016, the subgrade stabilization portion of the project was funded solely with the Measure J (per capita & 28A) funds (except for costs incurred after December 2nd).

Final Costs – Subgrade Stabilization Portion

Permco (design, admin & inspection)	\$62,039.25
Uretek USA	296,903.05
Pavement Condition Study	2,100.00
Legal – BBK	380.00
Legal & Advertising	<u>1,706.24</u>
Total Project Costs	\$313,128.54

This leaves \$427,871.46 in unused Measure J (per capita & 28A) funds and \$263,000 in unused Gas Tax Funds.

Final Costs – Surface Treatment Portion

Permco (admin & inspection - est. to completion)	\$34,000.00
Uretek USA (incurred after Dec. 2 nd)	49,418.07
Intermountain Slurry Seal thru 6/20/17	641,746.06
Intermountain Slurry Seal – completion & retention	138,660.63
Misc.	<u>1,329.00</u>
Total Project Costs*	\$726,493.13

*includes \$24,610.86 for work on private fee title portions of Oak Street being funded by the Oak Street Permanent Road Division.

This leaves \$448,117.73 (\$1,150,000 - \$726,493.13 + \$24,610.86) in unused Measure J Grant funds. These funds may be applied against another project if approved by CCTA and MTC.

RESOLUTION NO. - 2017

**A RESOLUTION ACCEPTING THE CONSTRUCTION OF THE
PAVEMENT RESURFACING PORTIONS OF THE 2016 ARTERIAL
REHABILITATION PROJECT (CIP #10437) AND THE OAK STREET (PRIVATE)
PROJECT AS COMPLETE AND ORDERING THE FILING
OF A NOTICE OF COMPLETION**

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

WHEREAS, on December 6, 2016 the City Council of Clayton, California did award a contract to Intermountain Slurry Seal, Inc (“Intermountain”) for the construction of the Surface Treatment Portion of the 2016 Arterial Rehabilitation Project (CIP #10437) and the Oak Street (private) Project; and

WHEREAS, Intermountain has now represented that its work is complete and is requesting acceptance by the City; and

WHEREAS, the City Council must accept the work as complete and order the filing of a Notice of Completion prior to release of the retained funds; and

WHEREAS, the City Engineer has inspected the work, declares the contract and related project specifications have been fulfilled, and the City Engineer now requests the City Council to accept the work and authorize the filing of a Notice of Completion.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby accept as completed as of the date of adoption of this Resolution the construction of the Surface Treatment Portion of the 2016 Arterial Rehabilitation Project (CIP #10437) and the Oka Street (private) Project, hereby authorizes the City Clerk to file a Notice of Completion with the County Recorder, and further authorizes the City’s release of the contract retention after the required 35 day waiting period; and

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 1st day of August 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, 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 its regular public meeting held on August 1, 2017.

Janet Brown, City Clerk

Recorded at the request of:

City of Clayton
6000 Heritage Trail
Clayton, CA 94517

**NOTICE OF ACCEPTANCE
AND COMPLETION OF PUBLIC WORKS**

NOTICE IS HEREBY GIVEN that the City of Clayton did, on or about December 6, 2016, contract with Intermountain Slurry Seal, Inc. 1900 Glendale Avenue, Sparks, NV 89431, for the construction of the Surface Treatment Portion of the 2016 Arterial Rehabilitation Project (CIP #10437) in accordance with the plans and specifications prepared by the City of Clayton and said contractor's surety was and is Federal Insurance Company, 15 Mountain View Road, Warren, New Jersey 07059.

NOTICE IS FURTHER GIVEN that the Clayton City Engineer has inspected said work of the Contractor and reported that the work complies with the approved plans and specifications and recommended its acceptance as complete; further, that the City Council of the City of Clayton, California, by adopting Resolution No. XX-2017 on August 1, 2017, accepted said public work as complete.

I hereby certify that the foregoing is true and correct and that the aforesaid action of the City Council of the City of Clayton, California in accepting said public work as completed, was duly entered on the minutes of said Council's public meeting of August 1, 2017. I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 2, 2017 at Clayton, California.

Janet Brown, City Clerk

**ATTACHMENT TO
NOTICE OF ACCEPTANCE
AND COMPLETION OF PUBLIC WORKS**

**Project: Surface Treatment Portion of the 2016 Arterial Rehabilitation Project
and the Oak Street (private) Project**

Contractor: Intermountain Slurry Seal, Inc.

Streets:

Oakhurst Drive
Clayton Road
Marsh Creek Road
Oak Street (private)



Agenda Date: 8-01-2017

Agenda Item: 4e

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MGS*

DATE: AUGUST 1, 2017

SUBJECT: A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING FROM MTC, COMMITTING NECESSARY MATCHING FUNDS, AND STATING ASSURANCES TO COMPLETE THE PROJECT (CDD-09-17)

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution, demonstrating local support to receive \$308,000 in federal grant funds from the Metropolitan Transportation Commission (MTC) for the 2018 Neighborhood Street Rehabilitation project (CIP No. 10436) (**Attachment 1**).

BACKGROUND AND DISCUSSION

In December of 2016, City staff submitted a grant application for the 2018 Neighborhood Street Rehabilitation project to the Contra Costa Transportation Authority (CCTA) in response to its Coordinated Call for Projects. The Metropolitan Transportation Commission (MTC) allocated \$56.1 million dollars in federal funds to the CCTA for its second round of the One Bay Area Grant Program (OBAG 2), which was available under CCTA's Coordinated Call for Projects.

OBAG 2 had a noncompetitive grant component of which \$308,000 is to be allocated to the City of Clayton pending submittal of an application and demonstrating compliance with MTC's requirements as outlined in its Resolution No. 4202. One of MTC's requirements is a resolution of local support demonstrating the City's authorization to submit for federal funding, committing the necessary matching funds, and stating assurances to complete the project. This Resolution has to be adopted by August 31, 2017 in order for the City to qualify for the noncompetitive grant funding.

The 2018 Neighborhood Street Rehabilitation project entails the paving of 21 local neighborhood streets with the work consisting of crack sealing and making base failure repairs prior to micro-surfacing. The total percentage of matching funds required for this grant is 11.47 or \$35,328; however, in order to achieve project completion, the City of Clayton identified \$60,000 for the local match from either Measure J or Gas Tax funds.

ENVIRONMENTAL

This Resolution is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline Section 15301 – Existing Facilities, which includes the operation, maintenance, repair, permitting, leasing, licensing or minor alteration of existing public structures or facilities including existing streets.

FISCAL IMPACT

Failure to adopt the Resolution will make the City ineligible for receiving the OBAG 2 grant funds totaling \$308,000 for local street improvement projects. Not adopting this Resolution could also impact the City's eligibility for future funding opportunities.

ATTACHMENTS

1. Resolution No. -2017 [5 pp.]

ATTACHMENT 1

RESOLUTION NO. - 2017

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO THE METROPOLITAN TRANSPORTATION COMMISSION (MTC), COMMITTING NECESSARY MATCHING FUNDS, AND STATING ASSURANCE TO COMPLETE THE PROJECT

THE CITY COUNCIL City of Clayton, California

WHEREAS, the City of Clayton is (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$308,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the 2018 Neighborhood Street Rehabilitation Project (herein referred to as PROJECT) for the One Bay Area Grant 2 (OBAG 2) (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

WHEREAS, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its Executive Director, General Manager, City Manager or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

RESOLVED that APPLICANT will provide any required matching funds; and be it further

RESOLVED that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

RESOLVED that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

RESOLVED that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

RESOLVED that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the

schedule submitted with the project application; and be it further

RESOLVED that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

RESOLVED that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 1st day of August 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, Mayor

ATTEST:

Janet Brown, City Clerk

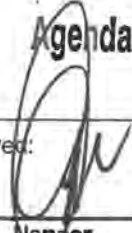
I hereby certify that the foregoing Resolution was duly adopted and passed by the City Council of Clayton, California at a regular public meeting thereof held on August 1, 2017.

Janet Brown, City Clerk



Agenda Date: 8-01-2017

Agenda Item: 4F

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 1, 2017

SUBJECT: CONSIDER A RESOLUTION REJECTING ALL BIDS RECEIVED FOR THE COLLECTOR STREET PAVEMENT REHABILITATION PROJECT

RECOMMENDATION

Approve attached Resolution.

BACKGROUND

At its scheduled time on July 13th, the City Clerk opened the sealed bids for the above named project. The City received only one bid to construct the advertised public works project, from J. A. Gonsalves & Son Construction, Inc., in the amount of \$599,939.29.

The bid amount is approximately 100% higher than the Engineer's Estimate of \$330,000. The proposed unit prices are significantly higher than we have received on other projects for similar work.

Since the City received an actual bid, we are prohibited from negotiating a construction contract and must adhere to the Public Contract Code and rebid the project again. As staff sees it, the City Council has two options to choose from:

- 1) Rebid the project immediately
- 2) Rebid the project in the Fall (mid to late Sept.)

In discussing the recent unimpressive results for the City's repaving project bids with local contractors that normally bid our work, we were informed contractors are extremely busy and trying to work through their backlogs. It was suggested we re-bid the project in mid to late September in order to generate some competition.

Our federal funding for this particular project was scheduled to expire at the end of August (if we did not invoice Caltrans for any construction costs); however, staff has submitted a

Subject: Collector Street Pavement Rehabilitation Project Bid Rejection

Date: August 1, 2017

Page 2 of 2

request to extend the federal obligation until the end of the calendar year. We have been informed the lack of bids is an acceptable reason for extending the obligation and we expect formal approval of the extension in the near future.

Based upon the above, staff recommends the City Council approve the attached Resolution rejecting the one excessive bid.

Attachment: Resolution

RESOLUTION NO. - 2017

**A RESOLUTION REJECTING THE BIDS RECEIVED FOR
THE COLLECTOR STREET PAVEMENT REHABILITATION
PROJECT, CIP NO. 10425.**

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

WHEREAS, on Thursday, July 13, 2017 the City Clerk opened sealed bids for the Collector Street Pavement Rehabilitation Project (CIP No. 10425 & Federal Aid Project No. STPL-5386 (010)); and

WHEREAS, only one bid was received and opened, and it was from J. A. Gonsalves & Son Construction, Inc., in the amount of \$599,939.29; and

WHEREAS, the City Engineer's construction estimate was approximately \$330,000; and

WHEREAS, the City Engineer reviewed the bid, found the unit prices appeared to be much higher than those received on recent similar projects, and has recommended the bid be rejected;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Clayton, California that the bids for the Collector Street Pavement Rehabilitation Project (CIP No. 10425 & Federal Aid Project No. STPL-5386 (010)) be rejected as inappropriate in accordance with the bid specifications allowing for the rejection of all bids.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on August 1, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, 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 thereof held on August 1, 2017.

Janet Brown, City Clerk



Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MGS*
DATE: AUGUST 1, 2017
SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE SETTING THE CALCULATION OF RESIDENTIAL DENSITY ON PARCELS WITH SENSITIVE LAND AREAS (ZOA-03-17)

RECOMMENDATIONS

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. 476 by title and number only and waive further reading; and
2. Following the City Clerk's reading, by motion approve Ordinance No. 476 for Introduction, adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to the *Clayton Municipal Code* describing and establishing how General Plan residential densities are calculated for proposed residential projects on parcels with sensitive land areas (ZOA-03-17) (**Attachment 1**).

BACKGROUND

On May 16, 2017, the City Council held a public hearing to consider the subject Ordinance as well as a General Plan amendment. The General Plan amendment proposed to modify the manner in which residential densities are calculated when sensitive land areas are present and to remove the minimum density requirement on residentially-designated parcels. The General Plan amendment, coupled with the

subject Ordinance, would reduce the overall buildable density on residentially-zoned parcels containing sensitive land areas. During the hearing, the City Council indicated these amendments would be conducive to achieving the goals of the City's General Plan while also taking into consideration sensitive habitats. The City Council unanimously approved the General Plan amendment and the Ordinance for Introduction (**Attachment 2**).

The second reading and adoption of Ordinance No. 476 was scheduled to be heard by the City Council on June 6, 2017; however, in the interim the City received an email from Mr. Bill Jordan identifying concerns with the Ordinance in regards to compliance with the City's Housing Element and State law, particularly as related to his real properties (**Attachment 3**). The second reading of the Ordinance was continued by the City Council at the June 6, 2017 hearing to provide staff additional time to research these possible Housing Element and State law issues. Following its research, staff concluded that, even though State law takes precedence over local municipal codes, it is a better practice for the City to be transparent and fully demonstrate compliance with State law within its Municipal Code. Therefore, staff returns with a revised Ordinance to the City Council, adding language to exempt parcels where the General Plan designation was amended to comply with State law to meet the City's 2007-2014 Regional Housing Needs Allocation (RHNA) obligation and to fully demonstrate compliance with State law.

The Planning Commission reviewed and considered the revised Ordinance at its meeting on July 11, 2017 and following a discussion regarding the need for the additional language, the Planning Commission unanimously recommended approval to the City Council (**Attachment 4**).

DISCUSSION

The City of Clayton's 2007-2014 Housing Element identified a shortfall of land to accommodate residential development at a density deemed appropriate for affordable housing. The City's lack of demonstrated capacity for 84 units of extremely low-, very low-, and low-income, as identified by the Regional Housing Needs Allocation (RHNA), required certain actions be taken by the City. These actions, as identified by State law, required that land be rezoned or re-designated to meet a RHNA shortfall (Government Code Section 65583.2(h) and (i)). In order to comply with State law to meet the aforementioned and identified shortfall from the 2007-2014 planning period, the City amended the General Plan designation for properties in and adjacent to the Town Center as well as the Old Firehouse Site and an adjacent property to Multifamily High Density (MHD) residential (**Attachment 5**). State law also required this General Plan designation to be at least 20 units per acre and the high density use to be permitted by right (no Use Permit required).

In order to address and comply with these specific State law requirements, language has been added to the subject Ordinance specifically exempting those properties where the City amended the General Plan designation to Multifamily High Density (MHD) residential in order to meet its 2007-2014 Regional Housing Needs Allocation

shortfall. These properties are not eligible for the proposed sensitive land area net density calculation because the State has mandated a density of 20 units per acre, which presumably cannot be lowered even when sensitive land areas exist. Further, depending on the future of State Housing Element law, this exemption language could be subject to termination unless these properties are developed or State law persists with this shortfall requirement during the next Housing Element cycle. For ease of review and clarity purposes, a redline version of the Ordinance has been provided as **Attachment 6**.

ENVIRONMENTAL

Pursuant to CEQA Guideline Section 15162, the proposed amendments to the Zoning Code will result in activities less intense than those analyzed in the General Plan Environmental Impact Report (EIR) and the Housing Element Initial Study/Negative Declaration (IS/ND). The proposed Ordinance will not constitute a substantial change or result in new significant environmental effects or have a substantial increase in the severity of the previously identified significant effects and there is no new information of substantial importance that was not known at the time. Accordingly, based on substantial evidence set forth in the record, including but not limited to, the General Plan EIR and the Housing Element IS/ND, and all related information, the General Plan EIR and Housing Element IS/ND serve as adequate California Environmental Quality Act (CEQA) documentation for the Ordinance.

FISCAL IMPACT

Due to fewer parcels that would be created, the proposed action could lead to possible nominal reduction in future overall property tax revenue to the City.

ATTACHMENTS

1. Ordinance No. 476 with the following Exhibits: [6 pp.]
Exhibit A – Clayton Municipal Code Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas
2. Excerpt from May 16, 2017 City Council Staff Report and Minutes [10 pp.]
3. Email Correspondence from Bill Jordan [2 pp.]
4. Excerpt from July 11, 2017 Planning Commission Staff Report [3 pp.]
5. General Plan Map of Multifamily High Density (MHD) Residential Designated Properties [1 pp.]
6. Redline Changes to Clayton Municipal Code Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas [2 pp.]

ATTACHMENT 1

ORDINANCE NO. 476

AN ORDINANCE AMENDING TITLE 17, "ZONING", BY ADDING CHAPTER 17.22 TO THE CLAYTON MUNICIPAL CODE REGARDING RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

THE CITY COUNCIL City of Clayton, California

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

WHEREAS, the city of Clayton is ninety-eight (98) percent built-out and the majority of properties available to develop are marginal or more difficult due to sensitive land areas such as slopes or creeks; and

WHEREAS, the City of Clayton wishes to create the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density; and

WHEREAS, the City of Clayton wishes to protect sensitive land areas in a manner that such areas would be excluded from the gross or legal acreage of a developable residential parcel; and

WHEREAS, the City amended the General Plan designation of certain properties to Multifamily High Density Residential to meet the City's 2007-2014 Regional Housing Needs Allocation (RHNA) obligation shortfall, which are exempt from the net density calculations to comply with State law; and

WHEREAS, the City has a total Regional Housing Needs Allocation (RHNA) obligation of 141 units and there is a total of 272 available units identified in the City's certified 2015-2023 Housing Element, which provides a surplus of 131 units; and

WHEREAS, the proposed amendments to the Clayton Municipal Code will still provide the City with adequate capacity to accommodate its Regional Housing Needs Allocation (RHNA) obligation; and

WHEREAS, the proposed amendments to the Clayton Municipal Code do not conflict and are in conformance with the City of Clayton General Plan because the General Plan identifies developable acreage and residential density calculations to be further defined in the Clayton Municipal Code and does not require a minimum density for residential properties with sensitive land uses; and

WHEREAS, on July 18, 1985 the City certified an Environmental Impact Report in support of its approved General Plan (General Plan EIR). The General Plan EIR analyzed the potential significant environmental effects that may occur as a result of the General Plan's implementation and concluded that, with the implementation of the General Plan, all impacts could be mitigated to a less-than-significant level; and

WHEREAS, on November 19, 2014, the City adopted an Initial Study/Negative Declaration (Housing Element IS/ND) in support of its approval of the 2015-2023 Housing Element. The IS/ND concluded that the 2015-2023 Housing Element would not result in new significant or more severe environmental impacts than those identified in the General Plan EIR; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on July 11, 2017, at which it adopted Resolution No. 04-17 recommending City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code, by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas; and

WHEREAS, proper notice of the public hearing on this Ordinance for this time and date was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

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

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

Section 2. Amendment. Chapter 17.22 of the Clayton Municipal Code is hereby added to read in full as set forth in Exhibit A, attached and incorporated by this reference.

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 hereby determines, pursuant to CEQA Guideline Section 15162, that the proposed amendments to the Zoning Code will result in activities less intense than those analyzed in the General Plan EIR and the Housing Element IS/ND. Accordingly, based on substantial evidence set forth in the record, including but not limited to, the General Plan EIR and the Housing Element IS/ND, and all related information presented to the City Council, the City Council hereby finds that the Ordinance:

(a) does not constitute a substantial change that will require major revisions of the General Plan EIR or Housing Element IS/ND due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(b) does not constitute a substantial change with respect to the circumstances under which the Project is undertaken that will require major revisions of the General Plan EIR or Housing Element IS/ND due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(c) does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the General Plan EIR was certified or the Housing Element IS/ND was adopted, that shows any of the following: (i) the Project will have one or more significant effects not discussed in the General Plan EIR or Housing Element IS/ND; (ii) significant effects previously examined will be substantially more severe than shown in the General Plan EIR or Housing Element IS/ND ; (iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the lead agency declined to adopt such measures; or (iv) mitigation measures or alternatives considerably different from those analyzed in the General Plan EIR or Housing Element IS/ND would substantially reduce one or more significant effects on the environment, but which the lead agency declined to adopt.

As such, the General Plan EIR and Housing Element IS/ND serve as adequate CEQA documentation for the Ordinance.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. 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 of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 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 August 1, 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on September 19, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, 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 held on August 1, 2017, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on September 19, 2017.

Janet Brown, City Clerk

EXHIBIT A

Chapter 17.22

RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

Sections:

17.22.010	Purpose
17.22.020	Calculating Density for Residential Parcels with Sensitive Land Areas
17.22.030	Determining Capacity
17.22.040	Density Calculation
17.22.050	Constraints Map
17.22.060	Exceptions

17.22.010 Purpose. The purpose of this section is to describe and determine how General Plan residential densities are calculated for proposed residential projects when sensitive land areas exist on a residential parcel.

17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas. The General Plan establishes minimum and maximum densities for all residentially designated uses within the City. Residential density is a computation expressing the number of dwelling units per acre based on the developable acreage of the land. The developable acreage shall not include sensitive land areas for purposes of calculating the permitted subdivision capacity (density) on a parcel or parcels of land. Because of the constraints due to sensitive land areas, residential parcels with sensitive land areas shall fall within a not to exceed maximum density for developable acreage and shall not have a minimum density requirement.

Public rights-of-way and utility easements are to be considered as part of the developable acreage.

17.22.030 Determining Capacity. Developable acreage shall be determined by excluding the following sensitive land area(s) from the gross or legal acreage of a parcel(s):

- 1) Land within the 100-year floodplain;
- 2) Land or slopes exceeding 26 percent;
- 3) Creeks, streams, and the associated setback provisions as set forth in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan as implemented by City Ordinance No. 412;
- 4) Rock outcroppings; and
- 5) Wetlands as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan;

- 6) Land containing species of endangered plants that have been identified as a no-take species as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan; and
- 7) Any other similar features as determined by the Planning Commission.

17.22.040 Density Calculation. To calculate the numerical maximum range of housing units; exclude the identified sensitive land areas from the legal or gross acreage and then multiply the remaining acreage by the highest number in the density range for the applicable residential General Plan land use designation for the maximum density.

17.22.050 Constraints Map. Prior to permitting any request for a subdivision or parcel map allowing for the construction of any residential units, a constraints map shall be submitted analyzing the developable and non-developable acreage of the property.

17.22.060 Exceptions. The provisions of this chapter shall not apply to any property where the City amended the General Plan designation to Multifamily High Density Residential (MHD) in order to comply with State law to meet the City's 2007-2014 Regional Housing Needs Allocation (RHNA) obligation.



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 16, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A GENERAL PLAN AMENDMENT TO THE LAND USE ELEMENT AND THE INTRODUCTION OF AN ORDINANCE TO MODIFY THE CALCULATION OF RESIDENTIAL DENSITY ON PARCELS WITH SENSITIVE LAND USES (GPA-03-16 AND ZOA-03-17)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, open the Public Hearing 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, motion to approve the Resolution amending the Land Use Element of the General Plan to modify the determination of residential developable acreage and density calculations and not require a minimum density on parcels with sensitive land areas (GPA-03-16) (**Attachment 1**).
- 2a. Motion to have the City Clerk read the Ordinance No. 476 by title and number only and waive further reading; and
- 2b. Following the City Clerk's reading, by motion approve Ordinance No. 476 for introduction, adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to the *Clayton Municipal Code* describing and determining how General Plan residential densities are calculated for proposed residential projects on parcels with sensitive land areas (**Attachment 2**).

BACKGROUND

SILVER OAK ESTATES GENERAL PLAN CONFORMANCE ISSUE

A proposed Silver Oak Estates project consists of 59 units which are comprised of seven (7) single-family homes, 28 townhomes, and 24 "Green Courts" located on approximately 5.37 acres; a neighborhood swimming pool and cabana on 0.59 acres; roadways on 2.10 acres; and open space on 7.84 acres. The project is to be sited on the 13.96-acre Hurd Ranch property located between the northerly terminus of Lydia Lane and south of Oakhurst Drive in Clayton. The currently proposed project has been in various stages of the City's entitlement process since approximately 2010, which has included the completion of a draft Initial Study/Mitigated Negative Declaration and the start of the process to undertake an Environmental Impact Report.

Due to staff attrition and following this staff's cursory review of the project in 2016, it became apparent the attached product type (e.g. townhomes) being proposed by the applicant, the 28 townhomes and 24 "Green Courts", were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density (MD) (3.1 to 5 units per acre) which is described in the General Plan as being "intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home." The current General Plan designation would allow for 43 to 70 units on the subject property. While the proposed number of units, 59, fits within the overall allowed density, the General Plan land use designation of Single Family Medium Density (MD) is reserved for various single-family detached product types; therefore, the proposed attached product type would not fit within the Single Family Medium Density designation and would only fit within one of the three Multifamily General Plan land use designations, Multifamily Low, Multifamily Medium, or Multifamily High Density.

In light of the proposed product type only fitting into the three multifamily land use designations, another issue arises because these designations require a higher density with more units to the acre. When applied to the subject site it would force additional units being required in order to fit the General Plan density range, a result of which the subject property really cannot manage given the physical constraints—the creek and sloping topography—located on the site. If the project applicant wanted to further pursue the proposed product type, a General Plan amendment to Multifamily Low Density would result in a minimum unit count 106 units (7.6 units/acre), which would be an overall increase of 47 units on the property from the proposed 59 units.

Further, if the applicant were to try and fit the prescribed product type, detached single family homes, on the subject site it would result in a small lot single-family development of detached homes more than likely with a zero lot line and/or minimal setbacks. Given the physical constraints or sensitive land uses on the property, it is questionable whether the parcel is large enough to even fit a detached single-family product type in the density range prescribed by the General Plan.

For example, the subject site for the Silver Oak Estates project contains large physical constraints or sensitive land areas such as sloping topography and Mount Diablo

Creek (**Attachment 3**). Specifically, the Habitat Conservation Easement is 6.53 acres, which includes a minimum 50-foot required setback from the top of bank of Mount Diablo Creek. This constraint alone removes almost half, 47%, of the developable acreage of the site, making it nearly impossible for a development project to fit within the parameters of the General Plan as it pertains to development intensity and allowed product type. Further, the topography on the property additionally restricts the number of units due the slope and required grading.

These physical constraints on the project site provide limited developable land in order to fit the required number of units and to provide the identified product type, detached single-family home. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints or sensitive land uses on the property. Another way to categorize the issue would be trying to fit unwarranted density on a site that is really much smaller given the constraints that exist. By not providing the option of using the net acreage by subtracting the constrained property, this could result in a less desirable project given that the site may not necessarily have a proper land use designation due to the constraints and the resulting development intensity would not correspond given its location and surroundings.

Staff's purpose for sharing some details of the proposed Silver Oaks Estate Project is not to trigger the City Council's discussion of this specific proposed project, but rather to use the unintended consequence of applying this existing General Plan Land Use Element requirement as the reason for staff's submittal of an amendment to produce projects more befitting of the current character of Clayton's residential neighborhoods. In fact, staff respectfully requests the City Council not discuss the merits or details of the proposed Silver Oaks Estate Project except to the extent it is a real-world example supporting a beneficial necessity to modify this Land Use Element requirement.

PLANNING COMMISSION REVIEW

A Planning Commission study session was held on October 25, 2016 (**Attachment 4**) considering and discussing the aforementioned predicament and whether there would be support to address this issue by allowing a net density calculation to occur in situations where there are physical constraints or sensitive land uses on a residentially designated site in order to meet the density range and product type as identified by the General Plan. The Planning Commission was supportive of this idea and directed staff to proceed with drafting a proposal utilizing net density when there are physical constraints or sensitive land uses on residentially designated parcels.

The Planning Commission held a duly-noticed public hearing on April 18, 2017 (**Attachment 5**) considering the proposed amendment to the Land Use Element of the General Plan and the associated Ordinance to make changes to the *Clayton Municipal Code*. Due to some initial social media confusion regarding the intent of the proposed General Plan amendment and Ordinance, members of the public appeared speaking against this proposal. However, once the true purpose of these proposed changes was clearly explained and staff was able to respond to specific questions on how this

would apply and matriculate to future development projects and affect development within the City, the public sentiment morphed to one of support. The Planning Commission also expressed support for this Amendment and Ordinance because it will create the opportunity for more desirable developments and prevent unwarranted density on constrained sites.

DISCUSSION

The General Plan has established minimum and maximum densities for all residentially designated uses within the City and gross acreage and net acreage are commonly used measurements of land area. The General Plan residential density ranges or developable areas are currently calculated from the legal or gross acreage of the parcel, which is considered to be all land including easements and rights-of-way. Net acreage would be any developable acreage following any required subtractions which could include open space or public rights-of-way, amongst others.

Further, the General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The city of Clayton is approximately 98 percent built-out and many of the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. The overall intent of these amendments would be to prevent unwarranted density on a site that is really much smaller, given the constraints that exist, and to provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

GENERAL PLAN AMENDMENT

The proposed language changes to the Land Use Element are contained within one paragraph at the beginning of the discussion on Residential Designations, located on Page II-5 of the General Plan (**Attachment 6**). These proposed changes would allow density calculations to be determined from the net developable acreage of the parcel as well as not require the minimum density to be met for sites that have sensitive land areas. The intent of the proposed change will allow developers with constrained lots containing sensitive areas to meet both the prescribed General Plan density range and product type. Further, given the community's general lack of support for higher density housing developments and the General Plan's support of lower density developments, these amendments would apply to and be required for all qualifying property and therefore not optional.

The City of Clayton's General Plan Land Use Element contains the following goals:

- To maintain the rural character that has been the pride and distinction of Clayton.
- To encourage a balance of housing types and densities consistent with the rural character of Clayton.
- To preserve natural features, ecology, and scenic vistas of the Clayton area.

The proposed amendment captures the intent and vision as discussed in the goals of the General Plan. The amendment would decrease the overall density on certain eligible properties to help retain the rural character of Clayton, while balancing a variety of housing types and densities. The amendment will also help to preserve natural features, ecology, and scenic vistas by decreasing the overall required density on a property that has sensitive land uses such as creeks and rock outcroppings.

In addition, the General Plan Land Use Element, under Objective 1, identifies a policy of establishing density designations based on terrain, circulation, adjacent uses, and area characteristics. This proposed change in density calculations would help to fulfill this General Plan policy because as outlined in the proposed Ordinance, any slopes over 26% would be subtracted from the developable acreage thereby better fitting the density to the terrain and would retain sensitive land areas, which would result in developments better tailored to the area characteristics.

Housing Element Compliance

The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City's certified Housing Element, after taking into consideration a subsequently approved General Plan Amendment, has an estimated capacity of 272 housing units, which results in a housing surplus of 131 units. The subject General Plan Amendment may reduce the overall residential density capacity of the assumed and identified housing units within the Housing Element. However, the Housing Element did assume some known constraints, such as slopes, on particular properties, which were taken into account when determining the realistic capacity, but not all constraints were documented on vacant or underdeveloped properties. Given that the City has an estimated housing surplus of 131 units and this proposed amendment would only impact parcels with sensitive land areas, it is anticipated the decrease in density will still result in adequate capacity to accommodate its RHNA obligation given the large surplus of housing units. Even after taking the largest parcel available for development, 13.96 acres (Silver Oak Estates), into consideration, its application would still result in a surplus of 104 to 108 units.

ZONING ORDINANCE

As referenced in the language of the General Plan amendment, the calculation of residential densities is to be further defined and described in the *Clayton Municipal Code*. The proposed addition of Chapter 17.22 - Residential Density Calculations for Residential Parcels with Sensitive Land Areas in the *Clayton Municipal Code* would provide those details on how to calculate residential densities when sensitive land areas exist on a residential parcel (**Exhibit A of Attachment 2**). The Ordinance sets the parameters for determining developable acreage as well as what sensitive land areas are considered to be excluded from the gross or legal acreage of the parcel. The sensitive land areas that were identified were features that were clearly definable and constituted areas that cannot be developed, should avoid being developed, or should be preserved due to their environmental value such as floodplains, creeks, and wetlands.

For illustrative purposes, if a developer has a property that is ten legal or gross acres in size and the property has a General Plan designation of Single Family Medium Density General Plan (3.1 to 5 units per acre) it would result in a density range of 31 to 50 units. However if the property happens to contain sensitive land areas, such as 1.3 acres of land within the 100-year floodplain and 0.7 acres with a slope that exceeds 26%, then those combined two acres would need to be subtracted from the gross or legal acreage to determine the developable acreage. Following the exclusion of these sensitive areas, it would result in eight developable acres, which would create a lesser density range of 24.8 to 40 units per acre. This calculation results in lowering the overall density on residential parcels with sensitive land areas.

ENVIRONMENTAL

Pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was adopted by the Clayton City Council on July 18, 1985 with the finding the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.

FISCAL IMPACT

Due to fewer parcels that would be created, the proposed action could lead to a possible nominal reduction in future overall property tax revenue to the City.

ATTACHMENTS

1. Resolution No. -2017 [3 pp.]
2. Ordinance No. 476 [2 pp.] with the attachment:
Exhibit A – Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas
3. Sample Constraints Map [1 pp.]
4. Excerpt of the Staff Report and Minutes from the October 25, 2016 Planning Commission Study Session [4 pp.]
5. Excerpt of the Staff Report and Minutes from the April 18, 2017 Planning Commission [9 pp.]
6. Redline Changes to the Land Use Element of the General Plan [1 pp.]

Councilmember Pierce added during a campaign season, Councilmembers receive a number of phone calls inquiring on where signs can be placed; she noted the current process of obtaining permits for the rights of way signs appear to be working.

Mayor Diaz opened the Public Hearing for public comment.

Dan Hummer, Stranahan resident, agrees with limiting the size of political signs.

Russ Remoy, 1843 Yolanda Circle, shared his concerns about high-density housing changing the character of Clayton. Mayor Diaz advised him those concerns would be allowed during the next item on the agenda.

Mayor Diaz closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to refer this item back to the Planning Commission for its further review on the sign size limit change to retain the existing 3 sq. ft. aggregate limitation in the Sign Provisions Ordinance (Passed; 5-0 vote).

- (b) Public Hearing to consider a proposed City-initiated General Plan Amendment to modify the determination of residential developable acreage and density calculations and to not require a minimum density on residentially designated property with sensitive land areas and the Introduction and First Reading of Ordinance No. 476 adding Section 17.22 – Residential Density Calculations for Residential with Sensitive Land Areas to Title 17 Zoning of the Clayton Municipal Code describing and determining how General Plan densities are calculated for proposed residential projects with sensitive land areas.

Community Development Director Mindy Gentry presented the staff report noting as a real life example, the proposed Silver Oak Estates subdivision project will be discussed tonight as to why these amendments are being proposed. However, she noted that project is not on the agenda therefore staff recommends the ensuing discussion not focus on the merits or details of that project; it is merely a real-world example to illustrate the beneficial necessity of the proposed amendments.

Ms. Gentry advised the proposed Silver Oaks Estates project consists of 59 units which are comprised of seven single family homes, 28 town homes and 24 "Green Courts" in the terminus of Lydia Lane. The currently proposed project has been through various stages in the entitlement process since 2010. Due to City staff attrition and cursory review of the project, in 2016 it became apparent the proposed townhomes and green courts were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density which calls for 3.1 to 5 units per acre with a product type of single family detached homes. Consequently, the current General Plan would allow 43 to 70 units on the property. Although the proposed 59 units fits within that overall allowed density, the various single family detached product types do not; therefore, the proposed attached product type would only fit within one of three Multifamily General Plan land use designations. If the project applicant wanted to further pursue the proposed product type, a General Plan Amendment to multifamily low density would be required, resulting in a minimum unit count of 106 units, an increase of 47 units on the property above the proposed 59 units. Alternatively, if the project applicant tried to fit the proposed single family detached homes on the site resulting in a small lot single-family development of detached homes, it would likely occur with a zero lot line and/or minimal setbacks. Given the physical constraints of the property, it is questionable whether the parcel is large enough to even fit a detached

single-family product type in the density range prescribed by the current General Plan. The proposed Silver Oak Estates project land contains large physical constraints or sensitive land areas such as sloping topography and Mt. Diablo Creek. Specifically, the Habitat Conservation Easement is 6.53 acres, including a minimum 50-foot required setback from the top of the bank of Mt. Diablo Creek; this constraint removes almost half of the developable acreage of the site making it nearly impossible to fit within the parameters of the General Plan.

This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel, regardless of whether there are physical constraints or sensitive land uses on the property. Another way to categorize the issue would be trying to fit unwarranted density on a site that is really much smaller given the constraints that exist. By not providing the option of using the net acreage by subtracting the constrained property, this could result in a less desirable project for the city. The General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however, this requirement does not appropriately apply to those properties that are limited in their developable land due to large physical constraints.

The city of Clayton is approximately 98-percent built-out and many of the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. The proposed changes would allow density calculations to be determined based on the net developable acreage of the parcel as well as not require the minimum density to be met for sites that have sensitive land areas. The overall intent of these amendments would be to prevent unwarranted density on a site that is functionally much smaller, given the constraints that exist, and to provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

Ms. Gentry further noted this proposed change will allow constrained lots containing sensitive areas to meet both the prescribed General Plan product type and density range, particularly for the single family residentially designated parcels. Given the community's lack of interest and tolerance for higher density housing developments and the General Plan's support of lower density developments, these proposed amendments would apply to and be required of all qualifying properties and not optional.

She indicated the proposed amendment captures the intent and vision as discussed in the goals of the General Plan. The amendment would decrease the overall density to help retain the rural character of Clayton, while balancing a variety of housing types and densities. The amendment will also help to preserve natural features, ecology, and scenic vistas by decreasing the overall required density on a property that has sensitive land areas such as creeks and rock outcroppings. The City has a total Regional Housing Needs Assessment obligation of 141 units and an estimated capacity of 272 housing units giving the City an estimated housing surplus of 131 units. The proposed amendment would only affect parcels with sensitive land uses or areas. It is anticipated the net decrease in density will still result in adequate housing capacity to accommodate the City's RHNA obligation given its large surplus of 131 units. The proposed zoning changes would further define and determine the calculation of residential density when there are sensitive land areas on the property. The Ordinance sets the perimeters of determining developable acreage as well as what sensitive lands areas are to be considered excluded from the gross or legal acreage of the parcel. The sensitive land areas that being identified are features that are clearly definable and constitute areas that cannot be developed, should avoid being developed, or should be preserved due to its environmental value such as floodplains, creeks and wetlands.

For illustrative purposes, if a developer has a property that is ten legal or gross acres in size and the property has a General Plan designation of Single Family Medium Density

General Plan 3.1 to 5 units per acre, it would result in a density range of 31 to 50 units. However if the property happens to contain sensitive land areas, such as 1.3 acres of land within the 100-year floodplain and 0.7 acres with a slope that exceeds 26%, then those combined two acres would need to be subtracted from the gross or legal acreage to determine the developable acreage. By exclusion of these sensitive areas, the calculation results in eight developable acres which creates a new density range of 24.8 to 40 units per acre. This proposed methodology results in lowering the overall density on residential parcels with sensitive land areas.

Ms. Gentry concluded by noting on the Council dais is an email from Mr. Bill Jordan indicating his support of the amendments; however he requests exclusion of his potential housing project which would be on a vacant piece of land on High Street behind the U.S. Post Office.

Councilmember Pierce summarized this Amendment is having the effect of looking carefully at the sensitive habitat within our community and eliminating those acres from the calculation for allowable buildings, thereby reducing the number of possible buildings on those properties; which is significant improvement with much lower development then previously allowed.

Vice Mayor Haydon reiterated the proposed Silver Oaks Project was just an example and not for discussion this evening.

Mayor Diaz opened the Public Hearing for public comment.

Brian Buddell, 2 year resident of Clayton in the Peacock Creek Subdivision, remarked some of the things that drew his family to this area are its rural nature, beautiful vistas, the sense of community and community pride. Clayton did not have many apartments, town homes or overcrowded parking lots like surrounding communities. Mr. Buddell indicated these amendments do not prevent a large condominium complex to be built, and carries a fatal flaw of it being based on a 1985 Environmental Impact Report; there have been a lot of changes in the community since that Report which may bring potential legal challenges and raises questions if this has been properly evaluated. In fact, he will look into a lawsuit if it is passed, and he is opposed to it.

David Nieman, 5903 Cardinet Drive, indicated the location of his home is desirable as it is very close to the mentioned creek and he spent his childhood running through the creek every Saturday and after school, knee deep in water. He moved his family from Boston to Clayton so they could have similar childhood experiences. Mr. Nieman advised it is a confusing proposal and he wanted to clarify if it constricts the number of developable acres that are considered, but then increases the number of units that can be built? Ms. Gentry clarified this item decreases the overall developable acreage, which concurrently decreases the number of units that may be built on one particular site that has sensitive land areas. To meet the General Plan density range and product type this would take into consideration sensitive land areas and reduce the overall developable acreage, the density range would still remain the same. An applicant would have to request a General Plan amendment to change the designation from single-family to multi-family units.

Mark Ventura, Tara Court resident, understands the amendment removes the minimum density requirements in sensitive land areas, what about non-sensitive land areas? If a developer or land owner has property with a slope of 26%, what prevents a retaining wall to be built pushing the slope further away and expand the developable land area? Ms. Gentry advised the 26% slope refers to existing topography on the site, prior to a developer seeking entitlements from the City to alter it; the area will be mapped out with identifiable areas that can be developed. Ms. Gentry added the General Plan identifies designated density ranges with a minimum and maximum.

Dan Hummer, had a question about Mr. Jordan's property and the exclusion request in regards to the minimum density, with the existing slope would his property be affected by the proposed amendments and reduce the number of possible units? Ms. Gentry responded the City has not received any detailed documents showing the existing grades on his property.

Russ Remoy, Yolanda Circle, expressed concerns about possible traffic issues that may arise on the building of additional housing units and he would prefer more open space to improve the quality of life in Clayton. It is all about greed, money, and more taxes. Councilmember Shuey remarked the City does not own the land parcels and private citizens that own the land have rights to develop their land. Councilmember Shuey also reiterated the proposed amendment actually reduces the number of required housing units allowed when developing in sensitive land areas. City Manager Napper added the proposed Silver Oaks Estates project was used only as an example this evening; for those concerned about the higher density in town, the status quo is far worse than the proposed Amendment. He noted the City of Clayton receives only 6.9% of one's property tax bill paid on a home's assessed valuation, which places Clayton into the category of Low Property Tax Cities. If it was about chasing money and tax revenues, the lands in town would be converted by the City to commercial designations which create more local tax revenues than residential properties.

Mayor Diaz closed the Public Hearing.

1. **It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Resolution No. 14-2017 amending the Clayton General Plan Land Use Element to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas. (Passed; 5-0 vote).**

2. **It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to have the City Clerk read Ordinance No. 476, by title and number only and waive further reading. (Passed; 5-0 vote).**

The City Clerk read Ordinance No. 476 by title and number only.

3. **It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve Ordinance No. 476 for Introduction with the finding adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to the Clayton Municipal Code describing and determining how General Plan residential densities are calculated for proposed residential projects on parcels with sensitive land areas will result in activities less intense than assumed in the previously-certified EIR for the City's General Plan adopted by the City Council on July 18, 1985. (Passed; 5-0 vote).**

8. ACTION ITEMS

- (a) Update report and continued discussion on whether the City of Clayton should participate in a Community Choice Energy (CCE) Program, plus a further presentation from MCE Clean Energy (MCE) with the offer to join its Joint Powers Authority (JPA).

Community Development Director Mindy Gentry presented the staff report noting in October 2015 the Board of Supervisors directed County staff to research the possibility

ATTACHMENT 3

Mindy Gentry

From: William P Jordan <billjordan@sbcglobal.net>
Sent: Tuesday, June 06, 2017 1:51 PM
To: Mindy Gentry
Subject: Fw: New Clayton ordinance for calculating density/non compliance of Housing Element Law

Hi Mindy,

Here is an email I sent to Julie Pierce last night. She has not gotten back to me yet so I am sending it to you to share with the council tonight.

I am hoping you hit the "pause" button on the new ordinance tonight and look into this further for my reasons listed below.

It seems like it will cause a lot of wasted time and money if an organization decides to make City of Clayton defend the new lesser allowable number of units in the downtown area.

Thank you.

Bill Jordan

On Monday, 5 June 2017 10:19 PM, William P Jordan <billjordan@sbcglobal.net> wrote:

Good evening Julie,

I am writing to you to see what your opinion is regarding the proposed ordinance as it relates to non compliance and conflict of Housing Element Law.

As noted in an email to Mindy Gentry that was given to you prior to last city council meeting, I am in support of the new ordinance but thought that my Affordable Housing Opportunity Site (AHO) should be exempted.

I am writing again with another concern and ask that you look into the legality of passing this ordinance as it seems contrary to Housing Element Law and what was just approved in November of 2016 which increased the minimum density to 20 units per acre on the MHD lots. In other words, this proposed ordinance takes several units away on an AHO site from the intent of the last ordinance passed. And that November 2016 ordinance was meant to bring our Housing Element into compliance.

This new ordinance does not achieve the goals of RHNA, ABAG and our own Housing Element as part of the General Plan. These urban MHD lots downtown Clayton near businesses and transit are unintended targets of an ordinance meant to benefit another development along a creek and rural in nature.

I would think that the proposed ordinance is fine as long as it exempts parcels in the Town Center Specific Plan and/or by geographic boundaries. This seems to be a cleaner and less vulnerable position for housing advocates to litigate against our city.

Please let me know your thoughts.

Thank you.

Bill
872-7249

ATTACHMENT 4

PLANNING COMMISSION STAFF REPORT

Meeting Date: July 11, 2017

Item Number: 5.a.

From: Mindy Gentry *MGS*
Community Development Director

Subject: Ordinance to Determine the Calculation of Residential Density on Parcels with Sensitive Land Areas (ZOA-03-17)

Applicant: City of Clayton

REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated Ordinance to amend Title 17 "Zoning" by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas (ZOA-03-17) (Attachment A).

PROJECT INFORMATION

Location: Citywide

Environmental: Pursuant to CEQA Guideline Section 15162, the proposed amendments to the Zoning Code will result in activities less intense than those analyzed in the General Plan EIR and the Housing Element IS/ND. The Ordinance will not constitute a substantial change or result in new significant environmental effects or have a substantial increase in the severity of the previously identified significant effects and there is no new information of substantial importance that was not known at the time. Accordingly, based on substantial evidence set forth in the record, including but not limited to, the General Plan EIR and the Housing Element IS/ND, and all related information, the General Plan EIR and Housing Element IS/ND serve as adequate CEQA documentation for the Ordinance.

Public Notice: On July 1, 2017, a public hearing notice was published in the Contra Costa Times and, on June 30, 2017, a public hearing notice was posted at designated locations in the City and mailed to residences within a 1000-foot radius of the Silver Oak Estates project.

BACKGROUND

On April 25, 2017, the Planning Commission held a public hearing to consider a version of the subject Ordinance as well as a General Plan amendment. The General Plan amendment was to modify the manner in which residential densities are calculated and to not require a minimum density on residentially-designated parcels. These two amendments together would reduce the overall buildable

density on residentially-zoned parcels and take sensitive land areas into consideration when determining density. The consensus of the Planning Commission was the Ordinance and the accompanying General Plan amendment would be beneficial to the community and would assist in achieving the goals contained within the City's General Plan. The Commission unanimously recommended approval of both the General Plan amendment and Ordinance to the City Council (**Attachment B**).

On May 16, 2017, the City Council held a public hearing to consider the aforementioned General Plan amendment and Ordinance. The City Council indicated these amendments would be conducive to achieving the goals of the City's General Plan while also taking sensitive habitat into consideration. The City Council unanimously approved the General Plan amendment and the Ordinance for introduction (**Attachment C**).

A second reading of the Ordinance was scheduled to be heard before the City Council on June 6, 2017; however, the City received an email from Mr. Bill Jordan identifying concerns with the Ordinance in regards to compliance with the City's Housing Element and State law (**Attachment D**). The second reading of the Ordinance was continued by the City Council at the June 6, 2017 hearing to provide staff additional time to research these possible Housing Element and State law issues. Following research regarding these concerns, staff concluded that, even though State law takes precedence over local municipal codes, it is a better practice to be transparent and fully demonstrate compliance with State law within the Municipal Code. Therefore, staff is now returning to the Planning Commission with a revised Ordinance with language exempting parcels where the General Plan designation was amended to comply with State law to meet the City's 2007-2014 Regional Housing Needs Allocation obligation and to fully demonstrate compliance with State law.

DISCUSSION

The City of Clayton's 2007-2014 Housing Element identified a shortfall of land to accommodate residential development at a density deemed appropriate for affordable housing. The City's lack of demonstrated capacity for 84 units of extremely low-, very low-, and low-income, as identified by the Regional Housing Needs Allocation (RHNA), required certain actions be taken by the City. These actions, as identified by State law, require that land be rezoned or re-designated to meet a RHNA shortfall (Government Code Section 65583.2(h) and (i)). In order to comply with State law to meet the aforementioned and identified shortfall from the 2007-2014 planning period, the City amended the General Plan designation for properties in and adjacent to the Town Center as well as the Old Firehouse Site and an adjacent property to Multifamily High Density (MHD) residential (**Attachment E**). State law also required this General Plan designation to be at least 20 units per acre and the high density use to be permitted by right (no Use Permit required).

In order to address and comply with these specific State law requirements, language was added to the subject Ordinance specifically exempting those properties where the City amended the General Plan designation to Multifamily High Density (MHD) residential in order to meet the 2007-2014 Regional Housing Needs Allocation. These properties do not qualify to have the proposed sensitive land area net density calculation apply to them because the State has mandated a density of 20 units per acre. For ease of review and clarity purposes, a redline version of the Ordinance has been provided as **Attachment F**.

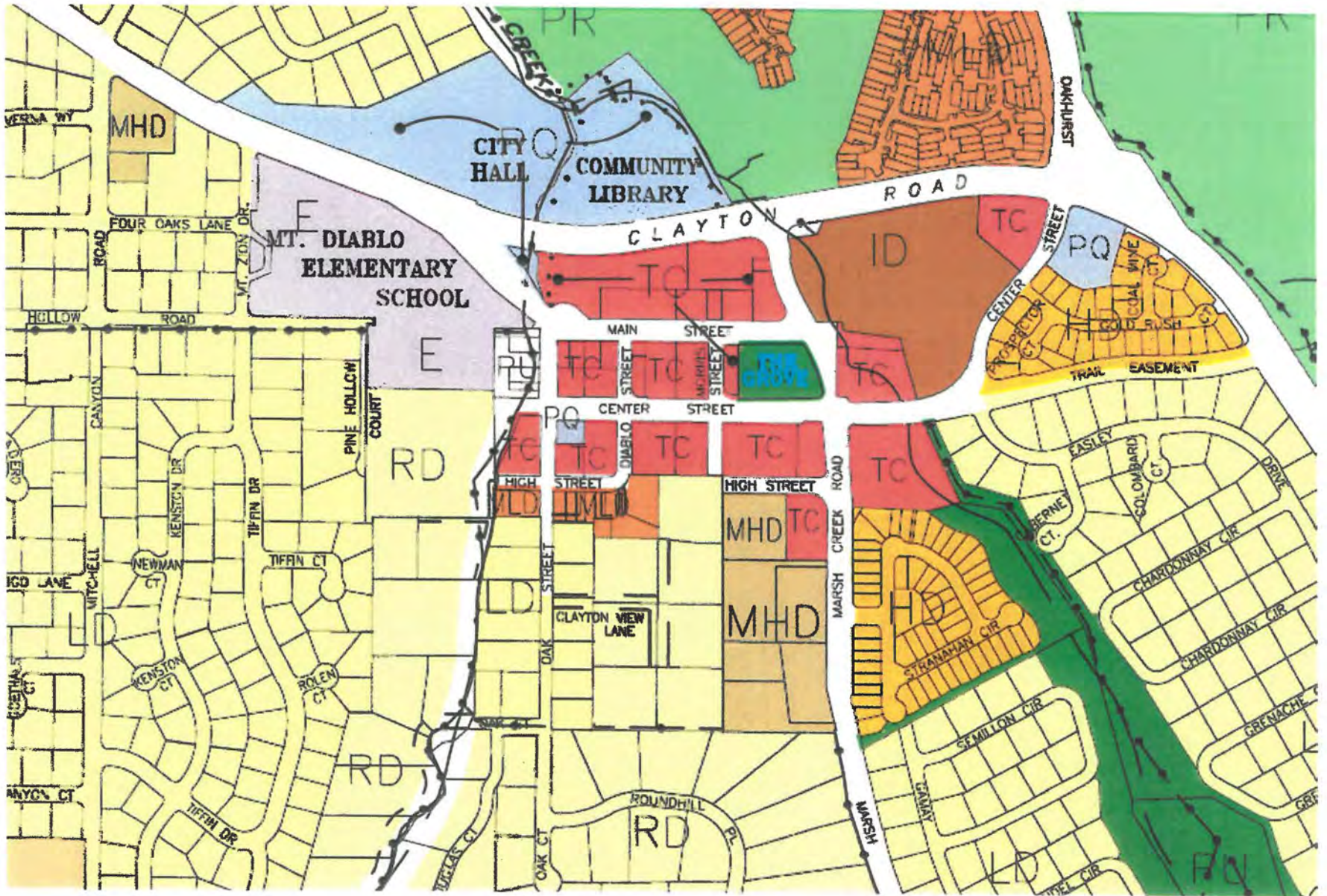
RECOMMENDATION

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. 04-17

recommending the City Council approve the revised Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas.

ATTACHMENTS

- A. Planning Commission Resolution 04-17 with attachment:
 - Exhibit 1 – Draft Ordinance Adding Chapter 17.22 in Title 17 "Zoning" with attachment:
 - Exhibit A - Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Uses
- B. April 25, 2017 Planning Commission Staff Report and Excerpt of the Minutes
- C. Excerpt from the May 16 2017 City Council Staff Report and Minutes
- D. Email Correspondence from Mr. Bill Jordan
- E. General Plan Map of Multifamily High Density (MHD) Residential Designated Properties
- F. Redline Changes to the Ordinance



ATTACHMENT 6

Chapter 17.22

RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

Sections:

17.22.010	Purpose
17.22.020	Calculating Density for Residential Parcels with Sensitive Land Areas
17.22.030	Determining Capacity
17.22.040	Density Calculation
17.22.050	Constraints Map
<u>17.22.060</u>	<u>Exceptions</u>

17.22.010 Purpose. The purpose of this section is to describe and determine how General Plan residential densities are calculated for proposed residential projects when sensitive land areas exist on a residential parcel.

17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas. The General Plan establishes minimum and maximum densities for all residentially designated uses within the City. Residential density is a computation expressing the number of dwelling units per acre based on the developable acreage of the land. The developable acreage shall not include sensitive land areas for purposes of calculating the permitted subdivision capacity (density) on a parcel or parcels of land. Because of the constraints due to sensitive land areas, residential parcels with sensitive land areas shall fall within a not to exceed maximum density for developable acreage and shall not have a minimum density requirement.

Public rights-of-way and utility easements are to be considered as part of the developable acreage.

17.22.030 Determining Capacity. Developable acreage shall be determined by excluding the following sensitive land area(s) from the gross or legal acreage of a parcel(s):

- 1) Land within the 100-year floodplain;
- 2) Land or slopes exceeding 26 percent;
- 3) Creeks, streams, and the associated setback provisions as set forth in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan as implemented by City Ordinance No. 412;
- 4) Rock outcroppings; and
- 5) Wetlands as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan;

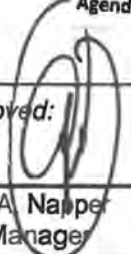
- 6) Land containing species of endangered plants that have been identified as a no-take species as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan; and
- 7) Any other similar features as determined by the Planning Commission.

17.22.040 Density Calculation. To calculate the numerical maximum range of housing units; exclude the identified sensitive land areas from the legal or gross acreage and then multiply the remaining acreage by the highest number in the density range for the applicable residential General Plan land use designation for the maximum density.

17.22.050 Constraints Map. Prior to permitting any request for a subdivision or parcel map allowing for the construction of any residential units, a constraints map shall be submitted analyzing the developable and non-developable acreage of the property.

17.22.060 Exceptions. The provisions of this chapter shall not apply to any property where the City amended the General Plan designation to Multifamily High Density Residential (MHD) in order to comply with State law to meet the City's 2007-2014 Regional Housing Needs Allocation (RHNA) obligation.



Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *mg*
DATE: AUGUST 1, 2017
SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE ADDING CHAPTER 15.96 - ELECTRIC VEHICLE CHARGING STATIONS, TO THE CLAYTON MUNICIPAL CODE (ZOA-04-17)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, open the Public Hearing to receive 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. 477 by title and number only and waive further reading; and
2. Following the City Clerk's reading, by motion approve Ordinance No. 477 for Introduction to add Chapter 15.96 – Electric Vehicle Charging Stations, to the Clayton Municipal Code to establish an expedited and streamlined permitting process in compliance with State law (ZOA-04-17) (**Attachment 1**).

BACKGROUND AND DISCUSSION

On October 8, 2015, AB 1236 was signed into law, which added Government Code Section 65850.7, pertaining to electric vehicle charging stations (**Attachment 2**). The State of California declared the implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle charging stations to be a matter of statewide concern. Further, the State enacted a policy to promote and encourage the use of electric vehicle charging stations as well as eliminate unreasonable barriers for the installation of electric vehicle charging stations.

State law requires cities with a population of less than 200,000 to enact an expedited, streamlined permitting process for electric vehicle charging stations to be adopted by September 30, 2017. As part of this process, a city shall adopt a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review. The checklist referenced within the State law is the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero Emissions Vehicles in California: Community Readiness Guidebook" published by the Office of Planning and Research (**Attachment 3**). A city may modify the checklist and standards found in the guidebook due to unique climatic, geological, seismological, or topographical conditions. Staff does not recommend any proposed changes to the checklist due to the lack of unique conditions within the City of Clayton.

Any application made for an electric vehicle charging station must be approved administratively through the issuance of a building permit, and the review by the building official is limited to health and safety requirements of local, state, and federal law. As part of the expedited, streamlined review process, if the application is incomplete, the city must provide in writing a correction notice detailing the deficiencies in the application and any additional information required to be eligible for expedited review.

As required by State law, staff consulted with the local fire district, Contra Costa County Fire Protection District (CCCFPD), to explore any possible concerns in regards to the proposed Ordinance. The CCCFPD did not raise concerns regarding the implementation of the Ordinance itself; however, concerns regarding possible siting issues or impediments to vehicular access or fire suppression equipment were identified. These types of concerns would be addressed during the normal course of building permit review and would not be a cause of concern to enact the subject Ordinance.

Further, the proposed checklist and expedited process will be implemented in coordination and consultation with the Contra Costa County's Building Division, Clayton's contract provider of building permit and inspection services. The County has not yet passed its own ordinance in compliance with State law and does not expect to address this issue until the fall or winter. However, the City's proposed Ordinance was provided to the County for review and no issues were identified in regards to implementation. City staff will work with the County to establish procedures and protocols for an expedited review system and ensure the building permit applications and checklist are available to be submitted electronically as required by State law.

ENVIRONMENTAL

This Ordinance is exempt from the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3 Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in

small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

FISCAL IMPACT

There is no direct fiscal impact to implement this Ordinance.

ATTACHMENTS

1. Ordinance No. 477 with the following Exhibit: [6 pp.]
 Exhibit A – Clayton Municipal Code Section 15.96 – Electric Vehicle Charging Stations
2. Assembly Bill No. 1236 – Electric Vehicle Charging Stations [3 pp.]
3. Plug-In Electric Vehicle Infrastructure Permitting Checklist [4 pp.]

ATTACHMENT 1
ORDINANCE NO. 477

**AN ORDINANCE ADDING CHAPTER 15.96 TO THE CLAYTON MUNICIPAL CODE
ESTABLISHING PROCEDURES FOR EXPEDITED PERMIT PROCESSING FOR
ELECTRIC VEHICLE CHARGING STATIONS**

THE CITY COUNCIL
City of Clayton, California

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

WHEREAS, on or before September 30, 2017, every California city, county, or city and county with a population of less than 200,000 residents must adopt an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging systems, pursuant to Assembly Bill 1236 (2011); and

WHEREAS, the City wishes to amend its Municipal Code to comply with State law and to facilitate convenient charging of electric vehicles; and

WHEREAS, the local fire district (i.e., Contra Costa County Fire Protection District) has been consulted by City staff regarding the adoption of this ordinance, as required by Government Code section 65850.7(g); and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

**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 15.96 of the Clayton Municipal Code is hereby added in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. **CEQA.** The City Council hereby determines this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The adoption of this Ordinance will result in a streamlined permitting process for the installation of electric vehicle charging equipment that qualifies as an accessory use in residential or commercial garages, parking lots and other areas. The City Council hereby directs the City

Manager or his designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

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. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. 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 Section 2 of this Ordinance to be codified 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, California held on August 1, 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on September 19, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, 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 August 1, 2017 and was duly adopted, passed, and ordered posted at a regular public meeting of said City Council held on September 19, 2017.

Janet Brown, City Clerk

EXHIBIT A

Chapter 15.96

ELECTRIC VEHICLE CHARGING STATIONS

Section:

15.96.010	Purpose
15.96.020	Definitions
15.96.030	Forms and Applications
15.96.040	Review of Applications
15.96.050	Electric Vehicle Charging Station Installation Requirements
15.96.060	Requirements Cumulative

15.96.010 Purpose.

The purpose of this ordinance is to create an expedited and streamlined electric vehicle charging station permitting process that complies with Government Code Section 65850.7 to achieve the timely and cost-effective installation of electric vehicle charging stations.

15.96.020 Definitions.

A. "Electronic Submittal" means the utilization of one or more of the following: email, the Internet, or facsimile.

B. "Electric Vehicle Charging Station" or "charging station" means any level of electric vehicle supply equipment station this is designed and built in compliance with Article 625 of the California Electric Code, as it reads on the effective date of this section, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

15.96.030 Forms and Applications.

- A. A City building permit is required to install an electric vehicle charging station.
- B. All documents required for the submission of an expedited electrical vehicle charging station application shall be made available on the City website, which includes the City's standard building permit application form and the City's standard electric vehicle charging station checklist.
- C. The Building Official shall adopt and maintain a standard electrical vehicle charging station checklist that substantially conforms to the checklist in the most current version of the "Plug-In Electrical Vehicle Infrastructure Permitting Checklist" of the "Zero Emission Vehicles in California: Community Readiness Guidebook" published by the Office of Planning and Research. The City may adopt an ordinance that substantially modifies the checklist and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions. The checklist will include all requirements that an electric vehicle charging station must meet to be eligible for review and approval under this section.
- D. An application to install an electric vehicle charging station may be submitted electronically.

15.96.040 Review of Applications.

A. The Building Official shall establish and implement an administrative review process to expedite approval of electric vehicle charging stations. An application will be deemed complete if the building official determines the application includes all of the information and documents required by the standard application form and the electrical vehicle charging station checklist, and is consistent with all applicable laws and health and safety standards.

B. If an application is deemed incomplete, the building official will notify the applicant in writing of the deficiencies and any additional information or documentation needed to complete the application. After an application is deemed complete, the building official will perform an expedited review of the application and all submittals.

C. Permit issuance. A City building permit will be issued following the building official's approval of an application for an electric vehicle charging station and after all required fees have been paid. If the application was submitted electronically, the permit may be issued electronically.

D. Inspection and authorization to operate. As soon as practical after the applicant notifies the building official that an electric vehicle charging station has been installed, the building official will inspect the system to verify compliance with the building permit. If the building official determines that a system was not installed in compliance with a building permit, the building official will notify the permittee of the actions needed to comply with the building permit and will conduct additional inspections as necessary. No electric vehicle charging station may be operated unless the building official verifies in writing that it complies with the building permit.

15.96.050 Electric Vehicle Charging Station Installation Requirements.

A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission regarding safety and reliability.

B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.

C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code, as applicable per

occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

15.96.060 Requirements Cumulative.

The requirements of this chapter are in addition to any other applicable requirements of this Code, and any requirements of a utility provider, that must be satisfied before an electric vehicle charging station may be installed or operated.



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AB-1236 Local ordinances: electric vehicle charging stations. (2015-2016)

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Assembly Bill No. 1236

CHAPTER 598

An act to add Section 65850.7 to the Government Code, relating to local ordinances.

[Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, Chiu. Local ordinances: electric vehicle charging stations.

The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a general plan for the physical development of the county or city and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities. Existing law, the Electric Vehicle Charging Stations Open Access Act, prohibits the charging of a subscription fee on persons desiring to use an electric vehicle charging station, as defined, and prohibits a requirement for persons to obtain membership in any club, association, or organization as a condition of using the station, except as specified.

The bill would require a city, county, or city and county to approve an application for the installation of electric vehicle charging stations, as defined, through the issuance of specified permits unless the city or county makes specified written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The bill would provide for appeal of that decision to the planning commission, as specified. The bill would provide that the implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle charging stations is a matter of statewide concern. The bill would require electric vehicle charging stations to meet specified standards. The bill would require a city, county, or city and county with a population of 200,000 or more residents to adopt an ordinance, by September 30, 2016, that creates an expedited and streamlined permitting process for electric vehicle charging stations, as specified. The bill would require a city, county, or city and county with a population of less than 200,000 residents to adopt this ordinance by September 30, 2017. The bill would authorize the city, county, or city and county, in developing the ordinance, to refer to guidelines contained in a specified guidebook. The bill would also authorize the adoption of an ordinance that modifies the checklists and standards found in the guidebook due to unique conditions. By increasing the duties of local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65850.7 is added to the Government Code, to read:

65850.7. (a) The Legislature finds and declares all of the following:

(1) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle charging stations is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern.

(2) It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of electric vehicle charging stations and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install electric vehicle charging stations.

(3) It is the policy of the state to promote and encourage the use of electric vehicle charging stations and to limit obstacles to their use.

(4) It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of electric vehicle charging stations by removing obstacles to, and minimizing costs of, permitting for charging stations so long as the action does not supersede the building official's authority to identify and address higher priority life-safety situations.

(b) A city, county, or city and county shall administratively approve an application to install electric vehicle charging stations through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install an electric vehicle charging station shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the electric vehicle charging station will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city, county, or city and county makes a finding, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health or safety, the city, county, or city and county may require the applicant to apply for a use permit.

(c) A city, county, or city and county may not deny an application for a use permit to install an electric vehicle charging station unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city, county, or city and county.

(e) Any conditions imposed on an application to install an electric vehicle charging station shall be designed to mitigate the specific, adverse impact upon the public health or safety at the lowest cost possible.

(f) (1) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) An electric vehicle charging station shall meet all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(g) (1) On or before September 30, 2016, every city, county, or city and county with a population of 200,000 or more residents, and, on or before September 30, 2017, every city, county, or city and county with a population of less than 200,000 residents, shall, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, adopt an ordinance, consistent with the goals and intent of this section, that creates an expedited, streamlined permitting process for electric vehicle charging stations. In developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist, as determined by the city, county, or city and county, shall be deemed complete. Upon confirmation by the city, county, or city and county of the application and supporting documents being complete and meeting the requirements of the checklist, and consistent with the ordinance, a city, county, or city and county shall, consistent with subdivision (b), approve the application and issue all required permits or authorizations. However, the city, county, or city and county

may establish a process to prioritize competing applications for expedited permits. Upon receipt of an Incomplete application, a city, county, or city and county shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. An application submitted to a city, county, or city and county that owns and operates an electric utility shall demonstrate compliance with the utility's Interconnection policies prior to approval.

(2) The checklist and required permitting documentation shall be published on a publicly accessible Internet Web site, if the city, county, or city and county has an Internet Web site, and the city, county, or city and county shall allow for electronic submittal of a permit application and associated documentation, and shall authorize the electronic signature on all forms, applications, and other documentation in lieu of a wet signature by an applicant. In developing the ordinance, the city, county, or city and county may refer to the recommendations contained in the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" published by the Office of Planning and Research. A city, county, or city and county may adopt an ordinance that modifies the checklists and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions. If a city, county, or city and county determines that it is unable to authorize the acceptance of an electronic signature on all forms, applications, and other documents in lieu of a wet signature by an applicant, the city, county, or city and county shall state, in the ordinance required under this subdivision, the reasons for its inability to accept electronic signatures and acceptance of an electronic signature shall not be required.

(h) A city, county, or city and county shall not condition approval for any electric vehicle charging station permit on the approval of an electric vehicle charging station by an association, as that term is defined in Section 4080 of the Civil Code.

(i) The following definitions shall apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by a city, county, or city and county on another similarly situated application in a prior successful application for a permit.

(2) "Electronic submittal" means the utilization of one or more of the following:

(A) Email.

(B) The Internet.

(C) Facsimile.

(3) "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this section, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

(4) "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

ATTACHMENT 3

Permitting Checklist		
	Residential	Non-Residential
Phase 1 Pre-Work Contractor	<ul style="list-style-type: none"> ✓ Understands intended use of the EVSE (i.e. personal) 	<ul style="list-style-type: none"> ✓ Obtain an address for the location ✓ Determine the ownership of the site and/or authorization to install equipment at site ✓ Understands intended use of the EVSE (i.e., fleet, employee, customer, visitor, etc.) ✓ Determine number of vehicles charging and connectors per charging station ✓ Determine source of power and authorization to use source
	<ul style="list-style-type: none"> ✓ Determine type of vehicle(s) to be charged at EVSE ✓ Evaluate mounting type options (i.e., bollard, pole-mount, wall-mount, ceiling-mount) ✓ Clarify communication requirements (i.e., Ethernet, cellular, Wi-Fi, none or other) ✓ Determine the NEMA Enclosure type ✓ Determine the physical dimensions of the space(s) ✓ Inspect the type of circuit breaker panel board intended for the installation 	
Phase 2 Pre-Work Customer	<ul style="list-style-type: none"> ✓ Identify incentives or rate structures through the utility ✓ Determine size of electrical service at the site ✓ Identify and contact applicable local permit office(s) to identify specific requirements, including local fire, environmental, construction, building, concealment and engineering requirements ✓ Identify incentives available through local, state or federal programs ✓ Contact insurance company to acquire additional insurance or separate coverage as needed ✓ Hire the contractor and verify credentials with all subcontractors; ensure electrical contractor's license for electrical work is current 	
Phase 3 On-Site Evaluation	<ul style="list-style-type: none"> ✓ Verify EVSE meets UL requirements and is listed by UL or another nationally recognized testing laboratory ✓ Verify EVSE has an appropriate NEMA rated enclosure (NEC 110.28) based on environment and customer needs, such as weatherization or greater levels of resistance to water and corrosive agents ✓ Determine the level or charger meets customer's PEV requirements (most vehicles require the maximum of a 240V/32A (40A breaker) ✓ Based on proposed EVSE location, determine if cord length will reach a vehicle's charging inlet without excessive slack and does not need to be more than 25' in length (NEC 625.17) ✓ Cord management methodologies have been considered to reduce the risk of tripping hazards and accidental damage to the connector ✓ Mounting type selection based on requirements to meet site guidelines ✓ Determine whether EVSE communication options are beneficial to customer and/or local utility 	
Phase 4 On-Site Survey	<ul style="list-style-type: none"> ✓ Ensure overhead doors and vehicle parking spot do not conflict with EVSE location ✓ Place EVSE in a location convenient to charging port on vehicle and 	<ul style="list-style-type: none"> ✓ Space(s) should be visible to drivers and pedestrians ✓ Determine proximity to building entrance (could be considered an incentive for PEV use)

	<p>typical orientation of the vehicle in garage (i.e., backed in or head-first)</p> <ul style="list-style-type: none"> ✓ Ensure functionality of lighting in the garage to meet NEC code 210-70 	<ul style="list-style-type: none"> ✓ Select spaces proximate to existing transformer or panel with sufficient electrical capacity ✓ EVSE installation should maintain a minimum parking space length to comply with local zoning requirements ✓ If available, use wider spaces to reduce the risk of cord damage and minimize the intersection of cords with walking paths ✓ Ensure sufficient lighting at proposed space(s) to reduce the risk of tripping and damage to charging station from vehicle impact or vandalism; light levels above two foot candles are recommended ✓ Address accessibility requirements (refer to the Plug-In Electric Vehicle Infrastructure and Equipment Accessibility section of the Guidebook for more information) ✓ Determine availability of space for informative signing ✓ EVSE with multiple cords should be placed to avoid crossing other parking spaces ✓ All available charging station mounting options should be considered and optimized for the space ✓ Determine if hazardous materials were located at the site <p>PARKING DECKS</p> <ul style="list-style-type: none"> ✓ Place EVSE towards the interior of a parking deck to avoid weather-related impacts on equipment <p>PARKING LOTS</p> <ul style="list-style-type: none"> ✓ Avoid existing infrastructure and landscaping to mitigate costs, potential hazards and other negative impacts <p>ON-STREET</p> <ul style="list-style-type: none"> ✓ Install on streets with high foot and vehicle traffic to mitigate vandalism ✓ Avoid existing infrastructure to mitigate costs, potential hazards and other negative impacts ✓ Address accessibility requirements (refer to the Plug-In Electric Vehicle Infrastructure and Equipment Accessibility section of the Guidebook for more information) ✓ For pull-in spaces, EVSE should be placed in front of the space and either centered on the space if placed between two spaces (if
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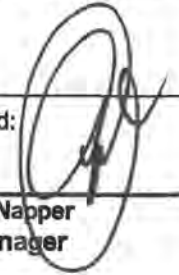
		<p>two connectors are available); EVSE with more than two connectors should not be used in on-street applications</p> <ul style="list-style-type: none"> ✓ For parallel parking locations, the charging station should be installed at the front third of the parked vehicle and based on the direction of traffic flow; EVSE with a single connector is recommended to reduce potential trip hazards
<p>Phase 4 Contractor Installation Preparation</p>	<ul style="list-style-type: none"> ✓ Mount the connector at a height between 36" and 48" from the ground (NEC 625.29) unless otherwise indicated by the manufacturer ✓ Install wall or pole-mount stations and enclosures at a height between 36" and 48" ✓ Ensure sufficient space exists around electrical equipment for safe operation and maintenance (NEC 110.26); recommended space is 30" wide, 3' deep and 6'6" high ✓ Minimize tripping hazards and utilize cord management technologies when possible ✓ Equipment operating above 50 volts must be protected against physical damage (NEC 110.27); ensure the vehicle is out of the line of vehicle travel and use wheel stops or other protective measures ✓ EVSE must be located such that ADA routes maintain a pathway of 36" at all times 	<ul style="list-style-type: none"> ✓ Price quote submitted to customer and approved including utility upgrades ✓ Order equipment ✓ Provide stamped engineering calculations as needed ✓ Provide site plan modification with diagrams as necessary ✓ Complete all necessary service upgrades and/or new service assessments ✓ Complete permit applications as required by local permitting department ✓ Ensure permit is approved and collected ✓ Schedule all necessary contract work (i.e., boring, concrete and/or paving restoration) and utility work (i.e., utility marking, service upgrade, new service and/or meter pull) ✓ Ensure utility marking of existing power lines, gas lines or other infrastructure is completed and utilize "call before you dig" services
<p>Phase 5 Installation</p>	<ul style="list-style-type: none"> ✓ Residential garages may permit the use of nonmetallic-sheathed cable in lieu of conduit 	<ul style="list-style-type: none"> ✓ Run conduit from power source to station location ✓ For EVSE greater than 60 amperes, a separate disconnect is required (NEC 625.23) and should be installed concurrently with conduit and visible from the EVSE <ul style="list-style-type: none"> ✓ Post permit at site in visible location ✓ Remove material to run conduit and/or wiring (i.e., drywall, insulation, pavers, concrete, pavement, earth, etc. ✓ Contractors are encouraged to examine requirement for installation sites and types of wiring in Chapter 3 of the NEC ✓ Pull wiring; charging stations require a neutral line and a ground line and equipment is considered to be a continuous load ✓ Conductors should be sized to support 125% of the rated equipment load (NEC 625.21) ✓ Preparing mounting surface and install per equipment manufacturer instructions ✓ Floor-mount: typically requires a concrete foundation with J-bolts on station base; place with space to allow conductors to enter through the base ✓ Wall/pole/ceiling-mount: install brackets for mounting of the equipment

	<ul style="list-style-type: none"> ✓ Install bollard(s) and/or wheel stop(s) as needed ✓ Install informative signage to identify the EVSE and potential trip hazards ✓ Install additional electrical panels or subpanels as needed ✓ Install service upgrades, new service and/or new meter as needed; utility may also pull a meter to allow for charging station wires to be connected to a panel ✓ Make electrical connection ✓ Perform finish work to repair existing infrastructure, surfaces and landscaping
Phase 6 Inspection	<ul style="list-style-type: none"> ✓ An initial electrical inspection by applicable building, fire, environmental and electrical authorities should occur after conduit has been run and prior to connecting equipment and running wires; if necessary, contractor should correct any issues and schedule a second rough inspection ✓ If required, the inspector will perform a final inspection to ensure compliance with NEC and other codes adopted within the jurisdiction by inspecting wiring, connections, mounting and finish work ✓ Contractor should verify EVSE functionality
Additional Resources	<ul style="list-style-type: none"> ✓ National Codes and Standards ✓ American National Standards Institute (ANSI) ✓ National Fire Protection Association (NFPA) ✓ Underwriters Laboratories, Inc. (UL) ✓ International Association of Electrical Inspectors (IAEI) ✓ International Code Council (ICC) ✓ NECA-NEIS Standards ✓ NECA and NFPA Webinars ✓ Electrical Vehicle Infrastructure Training Program (EVITP) Installer Training Course/Certification



Agenda Date: 8-1-2017

Agenda Item: 9a

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR
DATE: AUGUST 1, 2017
SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 15.08 – SIGN PROVISIONS OF THE CLAYTON MUNICIPAL CODE (ZOA-02-17)

RECOMMENDATIONS

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

1. Motion to have a Second Reading of Ordinance No. 475 by title and number only and waive further reading; and
2. Following the Clerk's reading, by motion adopt Ordinance No. 475 to amend the Clayton Municipal Code Chapter 15.08 – Sign Provisions, in order to comply with the United States Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*; to prohibit mobile billboards; and to incorporate other best practices, with the finding this action does not constitute a project under CEQA (ZOA-02-17) (**Attachment 1**).

BACKGROUND

On July 18, 2017, the City Council introduced the subject ordinance, which proposes to amend the Clayton Municipal Code Chapter 15.08 – Sign Provisions in order to comply with the United States Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*; to prohibit mobile billboards; and to incorporate other best practices (**Attachment 2**). No changes were made to the Ordinance at the July 18, 2017 hearing.

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 IMPACT

There is no direct fiscal impact to implement this Ordinance.

ATTACHMENTS

1. Ordinance No. 475 with the following Exhibits: [16 pp.]
 - Exhibit A – Clayton Municipal Code Sections 15.08 – Sign Provisions
 - Exhibit B – Sign Illustrations
2. Excerpt of the Staff Report from the July 18, 2017 City Council Meeting [3 pp.]

ATTACHMENT 1

ORDINANCE NO. 475

**AN ORDINANCE AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL
CODE REGARDING SIGN PROVISIONS**

THE CITY COUNCIL

City of Clayton, California

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

WHEREAS, the City Council wishes to update its sign regulations to comply with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* and to incorporate other current best practices; and

WHEREAS, the City Council further wishes to eliminate mobile billboard advertising within the city in order to promote the safe movement of vehicular traffic, to reduce air pollution, and to maintain the aesthetic appearance of the city as recognized in *Showing Animals Respect & Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815 and other applicable law; and

WHEREAS, this Ordinance will ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in traffic safety, aesthetics and otherwise ensuring the general health, safety and welfare.

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

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

Section 2. Amendment. Chapter 15.08 of the Clayton Municipal Code is hereby amended to read in full as set forth in Exhibit A, attached hereto and incorporated herein by this reference. As set forth in Section 15.08.020 of Exhibit A, the graphic attached as Exhibit B to this Ordinance shall be inserted into Section 15.08.020 in any codification of this Ordinance or the Clayton Municipal Code.

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 of 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 hereby determines that 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.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. 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 of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a noticed public hearing during a regular public meeting of the City Council of the City of Clayton, California held on July 18, 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on August 1, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, 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 held on July 18, 2017, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on August 1, 2017.

Janet Brown, City Clerk

EXHIBIT A

Chapter 15.08 SIGN PROVISIONS

Sections:

15.08.010	Purpose Statements
15.08.020	Definitions
15.08.030	Permit Procedures
15.08.040	Exempt Signs
15.08.050	Prohibited Signs
15.08.060	General Sign Requirements and Standards
15.08.070	Regulations for Special Signs
15.08.080	Computation of Sign Area and Height
15.08.090	Maintenance
15.08.100	Non-conforming Signs
15.08.105	Substitution
15.08.110	Enforcement

15.08.010 Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

- A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
- B. Create an attractive economic and business climate.
- C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
- D. Protect and enhance the rural atmosphere of the city.
- E. Minimize adverse effects on public and private property.
- F. Prevent excessive and confusing sign displays.
- G. Reduce hazards to motorists and pedestrians.
- H. Enable the fair and consistent enforcement of sign regulations.
- I. Promote the public health, safety, and general welfare.

15.08.020 Definitions.

- A. Address Sign: A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
- B. Animated Sign: A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components.
- C. Awning: A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
- D. Awning Sign: A sign or graphic attached to or printed on an awning (see Sign Illustrations).
- E. Banner: A temporary commercial, noncommercial, or community event sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building or street light pole (see Sign Illustrations).

- F. **Billboard:** A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.
- G. **Building Marker:** A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.
- H. **Building Sign:** A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.
- I. **Canopy (or Marquee):** A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.
- J. **Commercial Center Entry Sign:** A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.
- K. **Commercial Sign:** Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.
- L. **Community Event Sign:** A banner advertising a City of Clayton community event as defined by the City Council in its policies pertaining to the usage of signage in the public right-of-way per Resolution 46-2007 or any subsequent revisions thereafter.
- M. **Directory Sign:** A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).
- N. **Flag:** Fabric, banner, or bunting containing distinctive colors, patterns, or symbols.
- O. **Ground Sign (or Freestanding Sign):** A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.
- P. **Incidental Sign:** An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives.
- Q. **Interior Sign:** A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.
- R. **Kiosk Sign:** A sign located on a small freestanding structure which has three (3) or more surfaces.
- S. **Mobile Billboard:** Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.
- T. **Monument Sign:** A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).

- U. Multiple Address Sign: A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.
- V. Mural: A work of art, containing no commercial message, applied to and made an integral part of an exterior wall.
- W. Neighborhood/District Entry Sign: A sign identifying a neighborhood or district (see Sign Illustrations).
- X. Noncommercial Sign: Any sign displaying a message that is not commercial.
- Y. Noncommercial Location Sign: A sign identifying a noncommercial use.
- Z. Nonconforming Sign: A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.
- AA. Off-Site Sign: A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.
- BB. On-Site Sign: A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.
- CC. Parapet or Parapet Wall: That portion of a building wall that rises above the roof level or eave line.
- DD. Pennant: A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).
- EE. Permanent Sign: Any sign intended for use for a period greater than thirty (30) calendar days.
- FF. Personal Property Sale Sign: A temporary commercial sign advertising a sale of personal property.
- GG. Pole Sign: A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).
- HH. Portable Sign: A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: signs designed to be transported by means of wheels; signs in the form of A-frames or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs do not include mobile billboards.
- II. Projecting Sign: A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).
- JJ. Real Estate Sign: A commercial sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.
- KK. Residential Open House Sign: A temporary commercial sign advertising an open house for a house for sale.
- LL. Roof Sign: A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.
- MM. Sign: Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.

- NN. Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports, poles, or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas visible from any position at one (1) time will be totaled.
- OO. Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.
- PP. Sign Illustrations: Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.
- QQ. String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, suspended from a rope, wire, or string in series, usually designed to move in the wind.
- RR. Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.
- SS. Subdivision Marketing Signs: Temporary commercial signs, including ground signs, wall-mounted signs, pole signs, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).
- TT. Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).
- UU. Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days.
- VV. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.
- WW. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).
- XX. Window Sign: A sign displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

15.08.030 Permit Procedures.

- A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the

property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. **Administrative Review and Approval.** The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.
 - a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.
 - b. Any sign proposed for a property consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.
 - c. All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a Corner Lot or Through Lot where signage is being proposed along multiple property frontages)
2. **Exception.** Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. **Planning Commission Review and Approval.** The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
 - a. Master sign plans.
 - b. Neighborhood/district entry signs.
 - c. Commercial center entry signs.
 - d. Subdivision marketing sign program.
 - e. Noncommercial locational signs.
 - f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
 - g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
 - h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. **Variance.** A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 **Exempt Signs.** The following signs shall not require review and approval by City:

- A. Address signs, provided the sign does not exceed two (2) square feet in area.
- B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
- C. Incidental signs.
- D. Legal notices posted by law.
- E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
- G. Temporary noncommercial signs on private real property, provided the aggregate signage displayed at one time does not exceed three (3) square feet in area per parcel.
- H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- I. Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.
- J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.
- K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.
- L. Flags, provided they are not used in a commercial manner or to advertise a business or its location.
- M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.
- N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.
- O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.
- R. Community event signs not exceeding twenty-four (24) square feet in area.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:

- A. Animated signs.
- B. Flags used in a commercial manner or to advertise a business or its location.
- C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.
- D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.
- E. Signs with lighting detrimental to surrounding property or prevents peaceful enjoyment of residential uses.
- F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.
- G. Roof signs.

- H. String pennants.
- I. Balloons and similar inflatable signs.
- J. Permanent signs mounted on fences or deck/balcony railings.
- K. Portable signs except as provided in Section 15.08.070 of this Chapter.
- L. Temporary signs are prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the City.
- M. Signs located on private property without the property owner's approval.
- N. Off-site signs except for:
 - 1. Temporary noncommercial signs.
 - 2. Residential open house signs.
 - 3. Garage or yard sale signs.
 - 4. Signs attached to trees, shrubs, or other natural features.
- O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

15.08.060 General Sign Requirements and Standards.

- A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:
 - 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
 - 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 - 3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
 - 4. No other non-exempt signs are allowed in these districts.
- B. Signs in the L-C District - Sign Permits. A sign permit is required in the L-C District for all non-exempt signs as follows:
 - 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
 - 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 - 3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
 - 4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
 - 5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.
- C. Signs in the L-C District - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C Districts in accordance with the following standards:
 - 1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.

2. Monument signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
 3. Pole signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
 4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
 5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
 6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
 7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
 8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel or more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
 9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
 10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
- D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C District shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

- A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
 1. The sign shall include only the name of the neighborhood or district.
 2. Lettering shall not exceed eighteen (18) inches in height.
 3. The top of the letters shall not exceed six (6) feet in height.
- B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
 1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.

2. The sign may be a pole sign or monument sign.
 3. The sign shall not exceed eight (8) feet in height.
 4. Lettering shall not exceed twenty-two (22) inches in height.
- C. Banners. Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:
1. Banner in lieu of permanent sign:
 - a. The banner shall be secured on all sides.
 - b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
 - c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
 2. Promotional banner. A second banner in addition to that noted above may be allowed subject to the following standards:
 - a. The banner may be a wall, window, or suspended sign.
 - b. The banner may only be displayed for up to thirty (30) days.
 - c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.
- D. Pennants. Pennants are allowed in commercial districts subject to the following standards.
1. Only one (1) pennant may be displayed by any one (1) business.
 2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
 3. The pennant shall not exceed two (2) feet in width or four (4) feet in length.
 4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
 5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.
- E. Portable Signs. Portable signs are allowed in commercial districts subject to the following standards:
1. Only one (1) portable sign may be displayed by any one (1) business.
 2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
 3. The sign shall not exceed three (3) feet in height or two (2) feet in width per face, except for an umbrella.
 4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
 5. The sign shall be displayed immediately adjacent to the business it advertises.
 6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.
 7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).
- F. Residential Open House and Personal Property Sale Signs. Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:

1. A total of one (1) on-site sign and up to six (6) off-site signs.
 2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
 3. The signs shall not exceed three (3) feet in height or two (2) feet in width.
 4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
 5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
 6. No signs shall be displayed on private property without the prior consent of the property owner.
 7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).
- G. Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:
1. The signs may include building signs and ground signs.
 2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
 3. No ground or pole sign shall exceed eight (8) feet in height.
- H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:
1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
 2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
 3. The sign may be in the form of a pole sign or a wall sign.
 4. The sign shall not exceed six (6) feet in height.
 5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
 6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.
- I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:
1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
 2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
 3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height or be located closer than every fifty (50) feet.

4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.
 5. The dimensions of any sign shall not exceed eight (8) feet in length, nor eight (8) feet in height, nor a total area of sixty (60) square feet.
- J. Master Sign Plan. At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

- A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- B. Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.
- D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090 Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100 Nonconforming Signs.

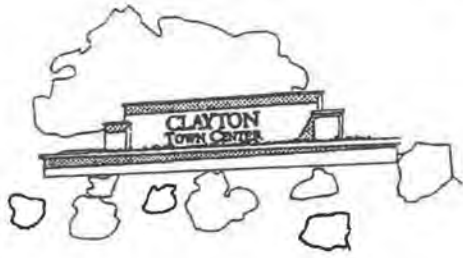
- A. Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.
- B. Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.
- C. Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

15.08.105 Substitution. In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

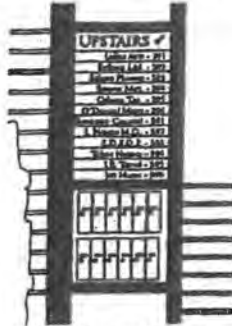
15.08.110 Enforcement. Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.

EXHIBIT B

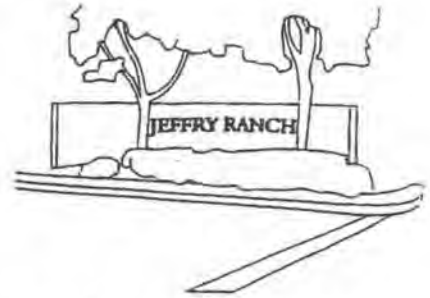
SIGN ILLUSTRATIONS



Monument Sign



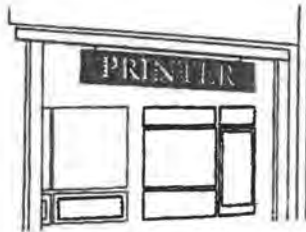
Directory Sign



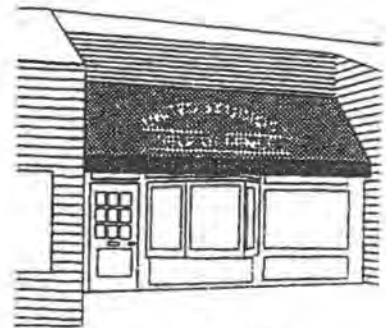
Neighborhood/District Entry Sign



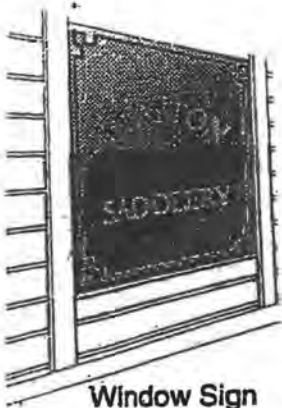
Wall Sign



Suspended Sign



Awning Sign



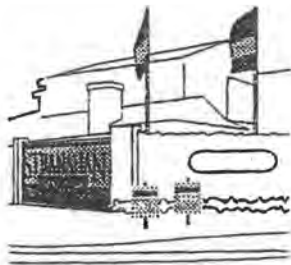
Window Sign



Pennant



Projecting Sign



Subdivision Marketing Signs



Banner



Pole Sign



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

DATE: JULY 18, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 15.08 – SIGN PROVISIONS OF THE CLAYTON MUNICIPAL CODE (ZOA-02-17)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, open the Public Hearing and 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. 475 by title and number only and waive further reading; and
2. Following the City Clerk's reading, by motion approve Ordinance No. 475 for Introduction to amend the Clayton Municipal Code Chapter 15.08 – Sign Provisions, in order to comply with the United States Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*; to prohibit mobile billboards; and to incorporate other best practices (ZOA-02-17) (**Attachment 1**).

BACKGROUND AND DISCUSSION

The City Council conducted a public hearing on May 16, 2017 to review the subject Ordinance. Following the closure of the public hearing, the City Council expressed a concern pertaining to an increase proposed in the allowable square footage for "temporary noncommercial signs" (Section 15.08.040G) (**Attachment 2**). The Ordinance, as initially presented to both the Planning Commission and the City Council, would have allowed up to thirty (30) square feet in area per parcel for temporary noncommercial signs. The City Council's concerns with this large amount of

square footage stemmed from the historical discussion and its resultant policy direction during the last update of the City's Sign Provisions, which restricted the size of campaign signs (now termed temporary noncommercial signs) to three (3) square feet. In the initially proposed draft of the City's Sign Provisions, the majority of the proposed revisions were in response to the ruling by United States Supreme Court in the case of *Reed vs. Town of Gilbert, Arizona*, which determined the provisions of a municipality's sign code must be content-neutral; this distinction resulted in placing campaign signs, nonprofit organization signs, and community event signs, amongst others under the same umbrella called temporary noncommercial signs. The City Council expressed a lack of interest in allowing thirty (30) square feet for temporary noncommercial signs due to campaign signs falling into that designation and because of the community's concerns regarding visual clutter during campaign season.

However, an unintended consequence of this three (3) square-foot restriction under current provisions of our Sign Code would prohibit all of the City's community event banners (e.g. Oktoberfest, Library Book Sale, 4th of July, etc.) from being displayed at the City Council approved locations due to the size of the banners exceeding three (3) square feet. Therefore, staff has not only revised the Sign Provisions in regards to reducing temporary noncommercial signs from thirty (30) to three (3) square feet in area to address the City Council's concerns, but staff also added provisions regarding community event signs as being allowable up to twenty-four (24) square feet in area. *Reed vs. Town of Gilbert, Arizona* did not have any restrictions regarding government speech; therefore, the City is allowed to create different parameters governing community events signs separate from temporary noncommercial signs. For clarity, these proposed modifications are shown in a redline format utilizing the previously reviewed and considered 15.08 – Sign Provisions document (**Attachment 3**).

Per Government Code Section 65857, any modification by the legislative body (in this case, the City Council) to the proposed Ordinance not previously considered by the Planning Commission, shall first be referred back to the Planning Commission for a report and recommendation. Therefore, in compliance with this section of the Government Code, the City Council proposed modifications as well as staff's recommendation to address the unintended consequences regarding community event signs were considered by the Planning Commission at its meeting on June 27, 2017. The Planning Commission determined the modifications were satisfactory by 5-0 vote (**Attachment 4**).

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 IMPACT

There is no direct fiscal impact to implement this Ordinance.

ATTACHMENTS

1. Ordinance No. 475 with the following Exhibits: [16 pp.]
 - Exhibit A – Clayton Municipal Code Sections 15.08 – Sign Provisions
 - Exhibit B – Sign Illustrations
2. Excerpt from May 16, 2017 City Council Staff Report and Minutes [22 pp.]
3. Excerpt from June 27, 2017 Planning Commission Staff Report [2 pp.]
4. Redline Changes to Chapter 15.08 – Sign Provisions with Proposed City Council Modifications [12 pp.]



Agenda Date: 8-1-2017

Agenda Item: 9b

STAFF REPORT

Approved:

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: August 1, 2017

SUBJECT: Designation of Voting Delegate and Alternate Delegate for League of California Cities 2017 Annual Conference being held September 13 through 15, in Sacramento and the City's position on the two (2) League Conference General Resolutions.

RECOMMENDATION

If budgetary action allows, it is recommended the City Council consider designating one of its members as the Voting Delegate and one member as the Alternate to represent the City of Clayton during the 2017 League of California Cities Annual Business Meeting.

BACKGROUND

The League of California Cities' "Annual Conference" is scheduled for Wednesday, September 13 through Friday, September 15 in Sacramento. A Business Meeting will take place on Friday, September 15, 2017 at noon. Councilmember Pierce serves on the League's Transportation, Communications and Public Works Policy Committee (12 years), Mayor Diaz serves on the League's Public Safety Policy Committee (3 years) and is the City's representative to the East Bay Division of the League of California Cities.

League Bylaws provide that each City is entitled to one vote in matters affecting municipal or League policy. Per the attached Annual Conference Voting Procedures, a City official must have in possession the City's Voting Card and be registered with the Credentials Committee to cast that City's vote. A voting card will be issued to the City officials designated by the City Council on the attached Voting Delegate Form.

Conference registration is required for voting delegates. There are two (2) General Resolutions submitted in advance (Attachment B).

FISCAL IMPACT

During the last 8 fiscal years the vast majority of conference and training budget for all personnel of the City, including the City Council, was eliminated or significantly curtailed, except for League Division and Mayors' Conference attendance. If the Council wishes to send a delegate, funds will need to be expended.

Subject: Designation of Voting Delegate for 2017 League Annual Conference

Date: August 1, 2017

Page 2 of 2

The cost of conference registration is \$575 per person for the full event plus lodging and transportation expenses. The Fiscal Year 2017-2018 Budget, adopted on June 20, 2017, included in Legislative Department 01 account number 7372 Conferences/Meetings of \$1,000. In the past the City has not paid for lodging expenses at an Annual Conference when it is held in the northern California or Bay Area vicinity.

Attachment – A. League of California Cities Annual Conference Voting Procedures (4 pages)

B. League of California Cities Annual Conference Resolutions (36 pages)

C. Conference Program (2 pages)

MAY 11 2017

City of Clayton



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Council Action Advised by July 31, 2017
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May 3, 2017

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 13 – 15, Sacramento**

The League's 2017 Annual Conference is scheduled for September 13 – 15 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 15, at the Sacramento Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, September 1, 2017. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 13, 8:00 a.m. – 6:00 p.m.; Thursday, September 14, 7:00 a.m. – 4:00 p.m.; and Friday, September 15, 7:30 a.m.– Noon. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, September 1. If you have questions, please call Carly Shelby at (916) 658-8279.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2017 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by Friday, September 1, 2017. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, September 1, 2017

League of California Cities
ATTN: Carly Shelby
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: cshelby@cacities.org
(916) 658-8279

[Home](#) > [Education & Events](#) > [Annual Conference](#) > [For Attendees](#) > Tentative Schedule

ATTACHMENT B

Tentative Schedule

For Attendees

For Presenters

For Exhibitors

TENTATIVE SCHEDULE OF EVENTS

As of May 26, 2017 (subject to change)

Wednesday, September 13

8:00 a.m. - 6:00 p.m.	Registration Open
9:00 - 11:00 a.m.	Policy Committees
9:00 - 11:00 a.m.	AB 1234 Ethics Training
8:30 a.m. - 1:00 p.m.	City Clerks Workshop
11:00 a.m. - 12:00 p.m.	Department Business Meetings
12:00 p.m. - 1:15 p.m.	Regional Division Lunches
12:45 - 1:15 p.m.	First Time Attendee Orientation
1:30 - 3:30 p.m.	Opening General Session - Keynote Address
3:45 - 5:00 p.m.	Education
5:00 - 7:00 p.m.	Grand Opening Expo Hall & Host City Reception (exhibitor exclusive; no competing events)
7:00 - 10:00 p.m.	CitiPAC Leadership Reception

Thursday, September 14

7:00 a.m. - 4:00 p.m.	Registration Open
8:15 - 9:30 a.m.	Education
9:00 a.m. - 4:00 p.m.	Expo Open
9:45 - 11:45 a.m.	General Session - Keynote Address
11:30 a.m. - 1:00 p.m.	Attendee Lunch in Expo Hall
1:00 - 2:15 p.m.	General Resolutions Committee
1:00 - 2:15 p.m.	Education
2:15 - 2:45 p.m.	Caucus Board Meetings
2:45 - 4:00 p.m.	Education
4:00 - 5:30 p.m.	Board of Directors Meeting
4:15 - 5:30 p.m.	Education

5:30 - Evening	Networking Receptions
Friday, September 15	
7:30 a.m. - 12:00 p.m.	Registration Open
7:30 - 9:15 a.m.	Regional Division Breakfasts
8:00 - 9:15 a.m.	Education
9:30 - 10:45 a.m.	Education
11:00 a.m. - 12:15 p.m.	Education
12:30 - 2:30 p.m.	Closing Luncheon with Voting Delegates & General Assembly

NOTE: Conference Registration is required to attend Department meetings, Division Meetings, and General Assembly/Annual Business Meeting as an attendee and/or Voting Delegate.

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*Annual Conference
Resolutions Packet*

2017 Annual Conference Resolutions



*Sacramento, California
September 13 – 15, 2017*

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees.

POLICY COMMITTEES: One policy committee will meet at the Annual Conference to consider and take action on the resolutions referred to it. The committee is Public Safety. The committee will meet from 9:00 – 11:00 a.m. on Wednesday, September 13, at the Hyatt Regency. The sponsors of the resolutions have been notified of the time and location of the meeting.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 14, at the Hyatt Regency in Sacramento, to consider the report of the policy committee regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 15, at the Sacramento Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 14. Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principles around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

LOCATION OF MEETINGS

Policy Committee Meetings

Wednesday, September 13

Hyatt Regency Sacramento

1209 L Street, Sacramento

9:00 – 11:00 a.m.: Public Safety

General Resolutions Committee

Thursday, September 14, 1:00 p.m.

Hyatt Regency Sacramento

1209 L Street, Sacramento

Annual Business Meeting and General Assembly Luncheon

Friday, September 15, 12:30 p.m.

Sacramento Convention Center

1400 J Street, Sacramento

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee
 2 - General Resolutions Committee
 3 - General Assembly

PUBLIC SAFETY POLICY COMMITTEE

		1	2	3
1	Implement Strategies to Reduce Negative Impacts of Recent Changes to Criminal Laws			
2	Local Control for Emergency Medical Response			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: www.cacities.org. The entire Resolutions Packet will be posted at: www.cacities.org/resolutions.

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

ACTION FOOTNOTES

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

KEY TO ACTIONS TAKEN

- | | |
|-----|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

2017 ANNUAL CONFERENCE RESOLUTIONS

RESOLUTION REFERRED TO PUBLIC SAFETY POLICY COMMITTEE

1. **A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING UPON THE GOVERNOR AND LEGISLATURE TO ENTER INTO DISCUSSION WITH LEAGUE AND OTHER PUBLIC SAFETY STAKEHOLDERS TO IDENTIFY AND IMPLEMENT STRATEGIES THAT WILL REDUCE THE UNINTENDED NEGATIVE IMPACTS OF EXISTING CRIMINAL LAW**

Source: City of Whittier

Concurrence of five or more cities/city officials: Cities: La Mirada; Lakewood; Monrovia; Pico Rivera; Rolling Hills; Santa Fe Springs; and South Gate

Referred to: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

WHEREAS, during the past several years, State legislative changes have made fundamental alterations to the fabric of California's criminal justice system. Many of those changes have been needed and necessary, as not all crimes should be punished with jail sentences; and

WHEREAS, California cities, counties, and the State, however, are facing increased crime which endangers the health and safety of police officers, residents, business owners, and property due to some of these legislative changes which created a situation where violent and career criminals are serving little to no prison time; and

WHEREAS, negative impacts from State legislative changes have been far reaching and crime rates and the number of victims are skyrocketing throughout California. The negative impacts of these laws were unintended when voters and legislators approved the laws, which were instead intended to help lower the prison population in California prisons and appropriately rehabilitate non-violent offenders; and

WHEREAS, incentives for offenders to voluntarily enroll in substance abuse programs have diminished, which has had the effect of eroding the safety of our communities; and

WHEREAS, AB 109 transferred nearly 45,000 felons from the State prison system to local jail facilities, which were not designed to house criminals on a long-term basis and were unprepared for such an increase in incarcerations, resulting in lower-level criminals being released early, directly impacting rising property crime rates throughout the State; and

WHEREAS, many probationers who have severe mental illness are released into communities where they continue to commit crimes that adversely impact the safety of community members and drain the resources of probation departments and police departments throughout the state; and

WHEREAS, Proposition 47, The Safe Neighborhoods and Schools Act, downgraded a number of serious crimes from felonies to misdemeanors—drug possession, repeated shoplifting, forging checks, gun theft, and possession of date-rape drugs; and

WHEREAS, Proposition 57 categorizes rape by intoxication, rape of an unconscious person, human trafficking involving sex with minors, drive-by shooting, assault with a deadly weapon, domestic violence, hate crime causing physical injury, and corporal injury to a child as “non-violent” felonies and offenders convicted of violating such laws are able to avoid appropriate prison sentences; and

WHEREAS, under Proposition 57, criminals who commit multiple crimes against multiple victims will be eligible for release at the same time as offenders who only committed a single crime against a single victim and allows repeat criminals to be eligible for release after the same period of incarceration as first time offenders; and

WHEREAS, cities must join together to voice their concerns for these legislative changes that have created an adverse impact on the safety of residents and businesses in local communities.

NOW, THEREFORE, BE IT RESOLVED by the General Assembly of the League of California Cities, assembled in Sacramento on September 15, 2017, to:

1. Direct League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent and future criminal law based on appropriate documentation by local agencies to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.
2. Promote an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction.
3. Continue to advocate to place into law that for the purposes of Section 32 of Article I of the California Constitution, a violent offense includes any of the following:
 - Murder or voluntary manslaughter.
 - Mayhem.
 - Rape.
 - Sodomy by force, violence, duress, menace, or threat of great bodily harm.
 - Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
 - Lewd acts on a child under the age of 14 years.
 - Any felony punishable by death or imprisonment in the state prison for life.
 - Any other felony in which the defendant inflicts great or serious bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.
 - Attempted murder.
 - Assault with intent to commit rape or robbery.

- Assault with a deadly weapon or instrument on a peace officer.
 - Assault by a life prisoner on a non-inmate.
 - Assault with a deadly weapon by an inmate.
 - Arson.
 - Exploding a destructive device or any explosive with intent to injure.
 - Exploding a destructive device or any explosive causing great bodily injury.
 - Exploding a destructive device or any explosive with intent to murder.
 - Robbery.
 - Kidnapping.
 - Taking of a hostage by an inmate of a state prison.
 - Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
 - Any felony in which the defendant personally used a dangerous or deadly weapon.
 - Escape from a state prison by use of force or violence.
 - Assault with a deadly weapon.
 - Extortion as defined in Penal Code section 518, or threats to victims or witnesses as defined in Penal Code section 136.1, which would constitute a felony violation of Penal Code section 186.22.
 - Carjacking.
 - Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft.
 - Throwing acid or flammable substances with intent to injure.
 - Continuous sexual abuse of a child.
4. Request the State to improve the Smart Justice platform to provide an effective statewide data sharing to allow state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.
 5. Encourage the collection and organization of real world data from cities and counties on the universe of post-release community supervision (PRCS) offenders.
 6. Encourage cities throughout California to join in these advocacy efforts to mitigate the unintended negative impacts of recent policy changes to the criminal justice system.
 7. Call for the Governor and the Legislature to work with the League and others stakeholders to consider and implement such criminal justice system reforms.

//////////

Background Information on Resolution No. 1

Source: City of Whittier

Background:

During the past several years, State legislative changes have made fundamental alterations to the fabric of California's criminal justice system. Some changes have been needed, as not all crimes should be punished with jail sentences. These changes included AB 109 as well as Propositions 47 and 57.

Approved in 2011, AB 109 was approved, transferring nearly 45,000 felons from the State prison system to local jail systems, resulting in lower-level criminals being released early. Then, Proposition 47, so called The Safe Neighborhoods and Schools Act, was approved by California voters in 2014. It reclassified and downgraded a number of serious crimes from felonies to misdemeanors. Similarly, Proposition 57, called The Public Safety and Rehabilitation Act, was approved by voters in 2016 and allows the State to provide for the release of up to 30,000 criminals convicted of "non-violent" felonies, including rape by intoxication, driveby shooting, human trafficking involving sex act with minors, assault with a deadly weapon, to name a few. Additionally, under Prop 57 repeat criminals are eligible for release after the same period of incarceration as first time offenders.

Now, California cities and counties are facing increasing crime rates which are being connected to these legislative actions which created a situation where violent and career criminals are serving little to no prison time while low-level offenders commit multiple crimes with limited consequences. This increasing level of crime endangers the health and safety of our residents, police officers, and property. Negative impacts from these State legislative changes have been far reaching, and crime rates and the number of victims are increasing throughout California. The negative impacts of these laws were unintended when voters and legislators approved the laws, which were instead intended to help lower the prison population in California prisons and appropriately rehabilitate non-violent offenders.

As an example, the Public Policy Institute of California reports since 2015:

- California has experienced an uptick in overall crime
- Property crime is up 145%, violent crime up 54%
- One in four Californians view violence and street crime in their community as a substantial problem
- Arrests dropped 31% for property crimes and 68% for drug offenses (due to Prop. 47)
- The report concludes auto theft increase is a direct result of AB109

To make matters even worse, during the past two years we've seen officers shot, wounded and killed in communities throughout California including Whittier, Downey, Lancaster, Palm Springs, San Diego, Stanislaus County, and Modoc County. Further, the number of U.S. police officers killed in the line of duty hit a five-year high in 2016. The National Law Enforcement Officers Memorial Fund's preliminary report shows that this year's 135 fatalities were a 10% increase over the 123 officers who died in the line of duty last year.

When taken together the increases in crime in our communities and reductions in arrests for many crimes plus violent attacks against police officers underscores the need for a call to action amongst California's state and local leaders. This conference resolution is an important first step and seeks to initiate both a dialogue as well as actions to begin reforming California's criminal justice system by requesting that League staff analyze the negative impacts of recent criminal law, identify necessary changes, and work with stakeholders to promote support for such advocacy efforts. The resolution also calls on the Governor, Legislature, cities, and other stakeholders to work together toward reforms.

The resolution contains three specific reforms:

1. Address Issues with AB 109

The conference resolution promotes the amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction.

2. Revise the Definition of Violent Crime

The resolution calls for the League to advocate to place into law for the purposes of Section 32 of Article I of the California Constitution, a violent offense includes any of the following crimes:

- Murder or voluntary manslaughter
- Mayhem
- Rape
- Sodomy by force, violence, duress, menace, or threat of great bodily harm
- Oral copulation by force, violence, duress, menace, or threat of great bodily harm
- Lewd acts on a child under the age of 14 years
- Any felony punishable by death or imprisonment in the state prison for life
- Any other felony in which the defendant inflicts great or serious bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven
- Attempted murder
- Assault with intent to commit rape or robbery
- Assault with a deadly weapon or instrument on a peace officer
- Assault by a life prisoner on a non-inmate
- Assault with a deadly weapon by an inmate
- Arson
- Exploding a destructive device or any explosive with intent to injure
- Exploding a destructive device or any explosive causing great bodily injury
- Exploding a destructive device or any explosive with intent to murder
- Robbery
- Kidnapping
- Taking of a hostage by an inmate of a state prison

- Attempt to commit a felony punishable by death or imprisonment in the state prison for life
- Any felony in which the defendant personally used a dangerous or deadly weapon
- Escape from a state prison by use of force or violence
- Assault with a deadly weapon
- Extortion as defined in Penal Code section 518, or threats to victims or witnesses as defined in Penal Code section 136.1, which would constitute a felony violation of Penal Code section 186.22
- Carjacking
- Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft.
- Throwing acid or flammable substances with intent to injure.
- Continuous sexual abuse of a child.

3. Data Sharing

The resolution requests the State to improve the Smart Justice platform to provide an effective statewide data sharing to allow state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.

//////////

League of California Cities Staff Analysis on Resolution No. 1

Staff: Tim Cromartie
 Committee: Public Safety

Summary:

This Resolution seeks to address increases in crime in the wake of AB 109 (2011), Proposition 47 (2014), which reclassified a host of felony offenses as misdemeanors, and Proposition 57 (2016), which revised the rules of parole for what are designated “non-violent” offenders under the California Penal Code, but in fact comprise a number of criminal acts that are violent in nature, or may be committed to facilitate a violent outcome (for example, discharging a firearm from a motor vehicle).

This Resolution would direct staff to seek legislation expanding the term “violent felony” as defined in the California Penal Code; to tighten the criteria for the release of non-violent, non-serious, non-sex offender inmates; to mandate consideration of an inmate’s entire criminal history as part of the deliberations involving whether to grant individual parole; and to consider creation of a task force that would be charged with issuing a report recommending further changes in law, and supported by documentation collected by local agencies and other key stakeholders.

Background:

Since 2011, changes in state law, starting with AB 109, altered the fabric of California's criminal justice system. In 2011, AB 109 began to shift nearly 45,000 felons from the state prison system to local county jails. Prior to AB 109, many of California's more heavily populated counties already had jail systems that were operating under court-ordered or self-imposed population caps. As a result, AB 109 implementation triggered changes in that county jails experienced over time an influx of a rougher class of offender, and many lower level petty criminals committing new offenses were simply booked and released, serving no jail time at all.

Proposition 47 followed in 2014, reclassifying a host of felony offenses as misdemeanors and increasing the threshold amount for a felony charge of grand theft from \$450.00 to \$900.00. The effect of this change was to significantly stimulate the volume of petty theft, shoplifting, auto theft, and organized retail theft (shoplifting involving multiple persons with cell phones, designated getaway drivers, and a pre-determined escape route often involving a short trip to a major highway). Proposition 57, approved by voters in 2016, facilitates the potential early release of a large number of "non-violent" offenders by providing that inmates are eligible for parole once they have served 100% of their base sentence, without regard to any time served as a result of any sentencing enhancements. The universe of "non-violent" offenders could include individuals who have committed the following offenses: rape by intoxication, attempted drive-by shooting, assault with a deadly weapon, throwing acid with the intent to disfigure, to name but a few offenses. Since current law defines a "non-violent offender" based on the individual's most recent commitment offense, even if the individual is a repeat offender, the State Parole Board must still consider that person's parole application.

This state of affairs includes factors such as a higher proportion of offenders at large on our city streets, many of whom have had little in the way of rehabilitation programming while incarcerated, some with drug habits, who are more violent now than when initially incarcerated. Unless they engage in major illegal activity (murder, rape, arson, armed robbery), the available sanctions for any violations they commit, such as flash incarceration, i.e. temporary incarceration for 48-72 hours in a city or county jail, scarcely provide a meaningful deterrent to further criminal activity.

Communities in California are now facing increasing crime rates which can be linked to these recent legislative changes, which probation officers and local law enforcement are struggling to monitor and contain a situation in which a dramatically increase universe of offenders are at large in our communities.

The Public Policy Institute of California reports that since 2015:

- California has experienced an increase in overall crime
- Property crime is up 145%
- Violent crime is up 54%
- One in four Californians view violence and street crime in their community as a substantial problem
- Arrests dropped 31% for property crimes and 68% for drug offenses (due to Prop. 47)
- The report concludes auto theft increase is a direct result of AB 109

Support:

Cities of La Mirada, Lakewood, Monrovia, Pico Rivera, Rolling Hills, Santa Fe Springs, and South Gate

Opposition:

None received.

Fiscal Impact:

The collective and cumulative effect of the current criminal justice policies has led to increased pressure on county general funds for increased resources for probation supervision and incarceration in county jails, as well as identical pressure on municipal general funds related to increased law enforcement activity and in some areas, increased emergency medical services calls. Should the objectives outlined by the resolution be achieved, those pressures will be alleviated to a significant but undetermined amount.

Comment:

This measure is a response to a trend of rapidly mounting frustration among cities beset by calls for more law enforcement resources as a result of ongoing, sustained criminal activity. There is a growing sense among law enforcement professionals and local elected officials that current policies which have reduced criminal penalties, reclassified felonies as misdemeanors and facilitated what amounts to early release of many offenders who are not truly non-violent, will in time result in a high-profile tragedy involving significant loss of life.

Existing League Policy:

In regard to incarceration policy, the League supports stiffer penalties for violent offenders. In 2014, the League joined the California Police Chiefs in opposing Proposition 47, which reduces sentencing penalties for specified non-serious and non-violent drug and property crimes. It directed that the following offenses would be treated as misdemeanors, in most instances irrespective of the circumstances:

- Commercial Burglary
- Forgery
- Passing Bad Checks
- Grand Theft
- Receipt of Stolen Property
- Petty Theft with a Prior Offense
- Drug Possession

In 2013, the League Board of Directors approved a resolution pertaining to AB 109 (2011), which implemented Public Safety Realignment and brought significant changes to the state's incarceration policy. Specifically, it provided that specified categories of felony offenders previously sentenced to state prison, would prospectively be sentenced to terms in county jails.

The League's Resolution had two significant components relevant to this resolution:

- 1) It urged the Governor's office to adjust the implementation of Public Safety Realignment so that the criteria examined to evaluate the appropriateness of release of non-violent, non-serious, non-sex offender inmates would include their total criminal and mental

- history, instead of merely the most recent criminal conviction for which they are currently committed; and
- 2) It urged the Governor's office to expedite the development of an effective statewide data sharing mechanism allowing state and local law enforcement agencies to rapidly and efficiently share offender information to assist in tracking and monitoring the activities of AB 109 and other offenders.

Finally, the League in 2016 opposed Proposition 57, which altered rules for parole eligibility for non-violent felons, potentially facilitating parole before an individual has served any time toward a sentencing enhancement, and ushered in new rules for good time behavior seeking to incentivize inmates to undergo rehabilitation programming of an educational/vocational nature.

RESOLUTION REFERRED TO PUBLIC SAFETY POLICY COMMITTEE

2. A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING LEGISLATION AMENDING GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS

Source: City of Tracy

Concurrence of five or more cities/city officials: Cities: Lathrop, Lodi, Manteca, Stockton, and Consumnes Fire Department (Cities of Elk Grove and Galt)

Referred to: Public Safety Policy Committee

Recommendation to General Resolutions Committee:

WHEREAS, Government Code Section 38611 was last amended in 1957 and does not contain language clarifying the broad scope of emergency services as provided by present day fire departments; and

WHEREAS, Government Code Section 38611 requires further definition for general law and charter cities in determining service levels for the delivery of emergency services commensurate with the resources provided by the local government body; and

WHEREAS, pursuant to Section 7 of Article XI of the California Constitution, municipal governments are vested with police power which imposes on the responsibility to protect public safety and public health and municipal governments must provide or contract for fire and/or emergency medical services; and

WHEREAS, the local provision of fire protection services, rescue services, emergency medical services, hazardous material emergency response services, ambulance services, and other services relating to the protection of lives and property is critical to the public peace, health, and safety of the state; and

WHEREAS, local fire and/or emergency medical services are financed by local taxpayers and the availability and use of such services is determined by the local governing body of the jurisdiction to which services are directly provided; and

WHEREAS, amending Government Code Section 38611 would provide the chief of a fire department specific authority to protect public safety and public health within the jurisdictional boundaries of the fire department.

RESOLVED, that the League of California Cities General Assembly, assembled at the League Annual Conference on September 15, 2017 in Sacramento, calls for the Governor and the Legislature to work with the League and other stakeholders to amend Government Code Section 38611 clarifying the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

//////////

Background Information on Resolution No. 2

Source: City of Tracy

Background:

In 1980, the State Legislature enacted the Emergency Medical Services (EMS) Act in response to the development of paramedic services and a concern that there was a lack of medical oversight and coordination of emergency medical services. The EMS Act contains 100 different provisions in nine separate chapters of the California Health and Safety Code. The EMS Act created a two-tiered system that established a State EMS Agency to coordinate state-wide EMS activities and to develop state-wide minimum EMS policies and a local tier (Local EMS Agency) to plan, implement and evaluate an EMS System. The statute also includes language that establishes *“The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS Agency.”* In each county, the local EMS Agency sets local EMS policy, administers and provides medical oversight for cities and special fire districts to deliver EMS services within the county.

In the late 1970’s, as the EMS Act was being developed, the League of California Cities weighed heavily concerning the impact of the proposed EMS Act on cities. The League of California Cities argued against depriving a city of local control over EMS service levels. The League of California Cities wrote, *“We believe (local control) is important because city taxpayers financially support (EMS) programs and city management is responsible for their efficient utilization. The city council is responsible for the level of service and the cost of the program, wholly unrelated to the medical questions.”* Based on that argument, additional language was included in the EMS policy that allowed local agencies that were providing EMS service to continue (and even obligated) them to continue to provide EMS services at the same levels as prior to 1980. This addition to the EMS Act (Section 1797.201 – became known as “201

Rights”) has been very controversial and has led to several lawsuits between cities/special districts and local EMS Agencies.

The City of Tracy in San Joaquin County has become the epicenter on the issue of local control as it relates to who has the authority to determine which resources will respond to medical emergencies. Several incidents have been noted where poor patient outcomes were the result of a failed county policy (SJCEMS Agency Policy 3202) that restricts local fire departments from responding to “low-level” emergencies. The EMS policy decisions within San Joaquin County have potential implications on every local community within the state of California and increasingly threaten local control.

Proposed Amendment

The proposed amendment to Government Code Section 38611 would clarify local control and allow the local governing bodies to determine which services are directly provided within their respective jurisdictions. The existing law is extremely limited in scope having been last amended in 1957, at a time when fire departments did not routinely provide many of the specialized services of today. Changes in services provided include but are not limited to hazardous materials response, specialized rescue, and emergency medical services. The amendment aims to support the long-standing tradition in California of local control over the types, levels, and availability of these services.

////////

League of California Cities Staff Analysis on Resolution No. 2

Staff: Tim Cromartie
Committee: Public Safety

Summary:

This resolution calls for the Governor and the Legislature to work with the League and other stakeholders to amend Government Code Section 38611 clarifying the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Background:

In 1980, the State Legislature enacted the Emergency Medical Services (EMS) Act in response to the development of paramedic services and a concern that there was a lack of medical oversight and coordination of emergency medical services. The EMS Act contains 100 different provisions in nine separate chapters of the California Health and Safety Code. The EMS Act created a two-tiered system that established a State EMS Agency to coordinate state-wide EMS activities and to develop state-wide minimum EMS policies and a local tier (Local EMS Agency) to plan, implement and evaluate an EMS System.

The statute also includes language that establishes *“The medical direction and management of an emergency medical services system shall be under the medical control of the medical director*

of the local EMS Agency.” In each county, the local EMS Agency sets local EMS policy, administers and provides medical oversight for cities and special fire districts to deliver EMS services within the county.

In the late 1970’s, as the EMS Act was being developed, the League of California Cities weighed heavily concerning the impact of the proposed EMS Act on cities. The League argued against depriving a city of local control over EMS service levels. The League wrote, *“We believe (local control) is important because city taxpayers financially support (EMS) programs and city management is responsible for their efficient utilization. The city council is responsible for the level of service and the cost of the program, wholly unrelated to the medical questions.”* Based on that argument, additional language was included in the EMS policy that allowed local agencies that were providing EMS service to continue (and even obligated) them to continue to provide EMS services at the same levels as prior to 1980. This addition to the EMS Act (Section 1797.201 – became known as “201 Rights”) has been very controversial and has led to several lawsuits between cities/special districts and local EMS Agencies.

The City of Tracy in San Joaquin County has become one of the epicenters on the issue of local control as it relates to who has the authority to determine which resources will respond to medical emergencies. Several incidents have been noted where poor patient outcomes have been attributed by some observers to a county policy (SJCEMS Agency Policy 3202) that restricts local fire departments from responding to “low-level” emergencies. The EMS policy decisions within San Joaquin County have potential implications on every local community within the state of California and increasingly threaten local control.

Support:

Cities of Lathrop, Lodi, Manteca, City of Stockton, and Consumnes Fire Department (Cities of Elk Grove and Galt)

Opposition:

None received.

Fiscal Impact:

This resolution, if its directive can be achieved, will have no direct fiscal impact on cities. It will however, provide an atmosphere in which cities that have invested significant resources in building up and maintaining an independent EMS capability can have confidence that it will be deployed as intended.

Comment:

While this resolution calls for very specific action to clarify the rules governing emergency medical services, ideally it would be more generally worded to allow greater flexibility in pursuing legislative and other solutions to a problem that has existed for decades, spawning both legislation and multiple incidents of litigation.

However, it accurately expresses the legitimate frustration of cities in their efforts to provide emergency medical services (EMS) while abiding by the directives of their local emergency medical services authorities (LEMSA’s), which are county entities. Counties have broad

discretion under existing case law in how they administer EMS under the doctrine of medical control. To the degree there is dissatisfaction on the part of cities within a given county or counties, the following should be noted:

- 1) A task force convened by the California Emergency Medical Services Authority, the state entity with jurisdiction over this subject matter, made significant headway in crafting regulations governing the provision of ground emergency medical transport -- until disputes over local control and the criteria under which a local (municipal) agency could lay claim to the exclusive right to provide EMS in a specific operating area led to a lawsuit being filed by the California Fire Chiefs Association. That suit effectively suspended the work of the Task Force.
- 2) Over the past two decades, multiple attempts at legislation to resolve this issue have been tried, most without success. It was in part the multiple attempts at legislation that triggered the formation of the above-referenced task force.

Existing League Policy:

The League supports the fire service mission of saving lives and protecting property through fire prevention, disaster preparedness, hazardous-materials mitigation, specialized rescue, etc. as well as cities' authority and discretion to provide all emergency services to their communities.

The League supports and strives to ensure local control of emergency medical services by authorizing cities and fire districts to prescribe and monitor the manner and scope of pre-hospital emergency medical services, including transport through ambulance services, all provided within local boundaries for the purpose of improving the level of pre-hospital emergency medical service.

The League supports legislation to provide the framework for a solution to longstanding conflict between cities, counties, the fire service and LEMSA's particularly by local advisory committees to review and approve the EMS plan and to serve as an appeals body. Conflicts over EMS governance may be resolved if stakeholders are able to participate in EMS system design and evaluation and if complainants are given a fair and open hearing.

The League opposes legislation, regulations and standards that impose minimum staffing and response time standards for city fire and EMS services since such determinations should reflect the conditions and priorities of individual cities.

The League supports Emergency 911 systems to ensure cities and counties are represented on decisions affecting emergency response.

LETTERS OF CONCURRENCE

Resolution No. 1

**Implement Strategies to Reduce Negative Impacts of
Recent Changes to Criminal Laws**



CITY OF LA MIRADA
DEDICATED TO SERVICE

13700 La Mirada Boulevard
La Mirada, California 90638

P.O. Box 828
La Mirada, California 90637-0828

Phone: (562) 943-0131 Fax: (562) 943-1464
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July 11, 2017

LETTER OF SUPPORT

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

SUBJECT: 2017 CONFERENCE RESOLUTION STRATEGIES TO IMPROVE NEGATIVE IMPACTS OF CRIMINAL LAW

Dear Committee:

The City of La Mirada supports the League of California Cities Annual Conference Resolution proposed by the City of Whittier calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of La Mirada has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. Specifically, since 2014 the City of La Mirada has seen property crime increase by 41 percent. The proposed resolution seeks to correct these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include one's total criminal and mental health history instead of only the most recent criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms to enhance public safety in our community. For these reasons, the City of La Mirada strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,

CITY OF LA MIRADA



Ed Eng
Mayor

EE:JB:vdr

Ed Eng
Mayor

Lawrence P. Mowles
Mayor Pro Tem

Steve De Ruse, D. ~~Mo.~~
Councilmember

John Lewis
Councilmember

Andrew Sarega
Councilmember

Jeff Boynton
City Manager

Steve Croft
Vice Mayor

Ron Piazza
Council Member



Diane DuBois
Mayor

Jeff Wood
Council Member

Todd Rogers
Council Member

July 10, 2017

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2017 Conference Resolution – Notice of Support
Strategies to Improve Negative Impacts of Criminal Law**

Dear Committee:

The City of Lakewood supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

Like other cities, Lakewood has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts. These include:

- Request League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes and work with key stakeholders to promote support for resulting advocacy efforts.
- Promote an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent."
- Request that the State improve the "Smart Justice" platform to allow state and local law enforcement agencies to rapidly share information to track offenders and encourage data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Lakewood strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,

A handwritten signature in cursive script that reads "Diane DuBois".

Diane DuBois
Mayor

Lakewood



July 11, 2017

President JoAnne Mounce
The League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter of Support for the Resolution Brought Forward by the City of Whittier Regarding the Unintended Negative Consequences of Recent Legislative Changes to California's Criminal Justice System

Dear Ms. Mounce:

The City of Monrovia strongly supports the Resolution brought forth by the City of Whittier, which asks the League of California Cities (League) to initiate and facilitate further discussion between the Governor, the State Legislature, and other key public safety stakeholders regarding the legislative changes that have been made to California's criminal justice system during the past few years.

Taken together, Assembly Bill 109, Proposition 47, and Proposition 57 have reshaped how we approach public safety issues in our State. And certainly, the identified measures have resulted in measurable and positive impacts to California's criminal justice system, such as a decrease in the State prison system population. However, the cumulative effect of these legislative actions have had several significant unintended consequences, which have resulted in California cities now needing to address increasingly complex public safety challenges.

For example, in the City of Monrovia, violent and property crimes increased by 19% when comparing 2016 crime levels against 2015 rates. On-the-street information being provided by our Police Officers seems to correlate that the increasing levels of crime are connected with the legislative changes that have been enacted in California during the past several years. Additionally, the public safety issues we are experiencing in Monrovia are not occurring in a vacuum, as other neighboring jurisdictions are reporting similar concerns that impact our region as a whole.

Given these factors, we believe that California's overall criminal justice system needs to be carefully reexamined for potential methods to mitigate these emerging public safety issues. The City of Whittier's Resolution represents a positive first step, which includes the formation of a task force to examine possible criminal justice system modifications in greater detail. We believe that such a step would be a move in the right direction for California.

For these reasons, the City of Monrovia strongly supports the Resolution brought forth by the City of Whittier. Of course, please feel free to contact me if I can provide any additional information. I can be reached at (626) 932-5501, or via email at ochi@ci.monrovia.ca.us.

Best regards,

A handwritten signature in blue ink, appearing to read "Oliver Chi".

Oliver Chi
City Manager



René Bobadilla, P.E.
City Manager

City of Pico Rivera

OFFICE OF THE CITY MANAGER

6615 Passons Boulevard · Pico Rivera, California 90660

(562) 801-4379

Web: www.pico-rivera.org · e-mail: rbobadilla@pico-rivera.org

City Council

Bob J. Archuleta

Mayor

Gustavo V. Car

Mayor Pro Tem

David W. Armenta

Councilmember

Gregory Salcido

Councilmember

Brent A. Tercero

Councilmember

July 12, 2017

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2017 Conference Resolution
Strategies to Improve Negative Impacts of Criminal Law
Notice of Support**

Dear Committee:

The City of Pico Rivera supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of Pico Rivera has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. Following are some specific impacts provided by the Pico Rivera Sheriff's Department:

Part I crimes

Robbery is up 10.26% in 2017 compared to 2016

Larceny Theft is up 4.09% in 2017 compared to 2016

Part II crimes

Weapon Law is up 9.68% in 2017 compared to 2016

Felony Transport & or Sales of controlled substance (except Marijuana) is up 44.44% compared to 2016

Misdemeanor Possession of a Controlled Substance (excluding Marijuana) is up 56.06% compared to 2016

Under the influence of Narcotic is up 28.57% in 2017 compared to 2016

The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

General Resolutions Committee

2017 Conference Resolution – Strategies to Improve Negative Impacts of Criminal Law

Notice of Support

July 12, 2017

Page 2

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Pico Rivera strongly supports this resolution to strategically address criminal justice reforms.

Best regards,



René Bobadilla, P.E.
City Manager
City of Pico Rivera



July 12, 2017

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2017 Conference Resolution
Strategies to Improve Negative Impacts of Criminal Law
Notice of Support**

Dear Members of the General Resolutions Committee:

As a member of the Rolling Hills City Council, I support the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and with other public safety stakeholders to identify and implement strategies that will relieve the unintended negative impacts of existing criminal law.

The City of Rolling Hills has seen increases in burglaries, mail/package theft and other property related crime that may have resulted from a combination of legislative actions and voter-approved initiatives. The City has also seen a significant jump in identity theft. The proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

General Resolutions Committee

July 12, 2017

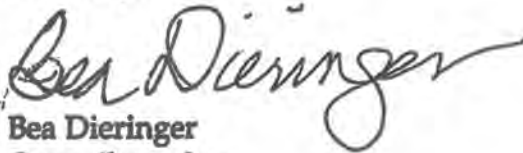
Re: 2017 Conference Resolution Strategies to Improve Negative Impacts of Criminal Law -
Notice of Support

Page 2

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, I strongly support this resolution to strategically address criminal justice reforms.

Sincerely,



Bea Dieringer
Councilmember
City of Rolling Hills

RC:BD:hl

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July 11, 2017

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2017 Conference Resolution
Strategies to Improve Negative Impacts of Criminal Law
Notice of Support**

Dear Committee:

The City of Santa Fe Springs supports the League of California Cities Annual Conference Resolution calling on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

The City of Santa Fe Springs has seen increases in property crime that may have resulted from a combination of legislative actions and voter-approved initiatives. In addition, the City of Santa Fe Springs contracts with the Whittier Police Department for Law Enforcement Services. In February, Whittier Police Department Officer Keith Boyer was gunned down by a AB 109 offender in a heinous act of indiscriminate violence. We feel strongly that AB 109 and the loosening of oversight and control over recidivist offenders was at least partially responsible in Officer Boyer's death. We believe that the proposed annual conference resolution seeks to turn around these negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The resolution directs League staff to consider creating a task force with other organizations and jointly commission a report on the unintended negative impacts of recent criminal law to identify necessary changes, working with key stakeholders to promote support for resulting advocacy efforts.

The resolution also promotes an amendment of appropriate sections of AB 109 to change the criteria justifying the release of non-violent, non-serious, non-sex offender inmates to include their total criminal and mental health history instead of only their last criminal conviction. It encourages continued advocacy to make "violent offenses" include crimes that meet the plain language definition of "violent".

The resolution further asks the State to improve the Smart Justice platform to allow state and local law enforcement agencies to rapidly share information to track offenders, and encourages data collection on post-release community supervision offenders.

William K. Rounds, Mayor • Jay Sarno, Mayor Pro Tem
City Council
Richard J. Moore • Juanita Trujillo • Joe Angel Zamora
City Manager
Thaddeus McCormack

July 10, 2017

Page 2

2017 Conference Resolution

The passage of this resolution would provide a range of important reforms that would enhance public safety in our community. For these reasons, the City of Santa Fe Springs strongly supports this resolution to strategically address criminal justice reforms.

Sincerely,



William K. Rounds, Mayor
City of Santa Fe Springs

William K. Rounds, Mayor • Jay Sarno, Mayor Pro Tem
City Council
Richard J. Moore • Juanita Trujillo • Joe Angel Zamora
City Manager
Thaddeus McCormack



City of South Gate

8650 CALIFORNIA AVENUE + SOUTH GATE, CA 90280-3075 + (323) 563-9543
WWW.CITYOFSOUTHGATE.ORG FAX (323) 569-2678

MARIA DAVILA, Mayor
MARIA BELEN BERNAL, Vice Mayor
DENISE DIAZ, Council Member
JORGE MORALES, Council Member
AL RIOS, Council Member

July 11, 2017

General Resolutions Committee
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: 2017 ANNUAL CONFERENCE RESOLUTION: STRATEGIES TO IMPROVE
NEGATIVE IMPACTS OF CRIMINAL LAW-NOTICE OF SUPPORT**

Dear Committee:

As a Council Member of the City of South Gate, and a Member of the League's Public Safety Policy Committee, I am writing to express my support of the City of Whittier's 2017 Annual Conference Resolution (Resolution.) The proposed Resolution calls on the Governor and Legislature to enter into discussion with the League and other public safety stakeholders, to identify and implement strategies that will improve the unintended negative impacts of existing criminal law.

Cities in Los Angeles County have experienced increases in property crimes that may have resulted from a combination of legislative actions and voter-approved initiatives. The proposed Resolution seeks to remedy many of the negative impacts from existing criminal law and considers proactive measures that could reduce such impacts.

The passage of this Resolution would provide a range of important League directives to address the growing public safety concerns in these communities. For these reasons, I strongly support this Resolution to strategically address criminal justice reforms.

Sincerely,

Jorge Morales
Council Member

LETTERS OF CONCURRENCE
Resolution No. 2

Local Control for Emergency Medical Response



COSUMNES FIRE DEPARTMENT

10573 E Stockton Blvd.
Elk Grove, CA 95624

(916) 405-7100
Fax (916) 685-6622
www.yourcsd.com

July 13, 2017

The Honorable JoAnne Mounce, President
League of California Cities
1400 K Street
Sacramento, California 95814

**RE: RESOLUTION THAT SUPPORTS LEGISLATION TO AMEND GOVERNMENT
CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL**

Dear President Mounce,

The Cosumnes CSD Fire Department, which encompasses the Cities of Elk Grove and Galt supports the proposed resolution that would support legislation to amend Government Code Section 38611 to clarify the definition of local control as it pertains to emergency services.

A core function of local government is the ability to determine and provide the appropriated level of emergency response resources. Allowing Local Emergency Medical Services Agencies (LEMSAs) to determine when and how local fire agencies respond to emergencies circumvents the role of Fire Chiefs and municipal and special fire district legislative bodies. It should be the role of the Fire Chief to determine the required service levels and the role of the local legislative bodies to support the Fire Chief's recommendations based on community expectations, community risk reduction strategies and available resources.

Therefore, the Cosumnes CSD Fire Department supports the proposed resolution and future legislation that would serve to ensure local government determines their emergency response service levels. If further clarification is required, please let me know.

Sincerely,

Michael W. McLaughlin
Fire Chief



Office of the City Manager

390 Towne Centre Dr. – Lathrop, CA 95330
Phone (209) 941-7220 – fax (209) 941-7248
www.ci.lathrop.ca.us

July 14, 2017

The Honorable JoAnne Mounce, President
League of California Cities
1400 K Street
Sacramento, CA 95814

Sent to Via Email to: Meg Desmond mdesmond@cacities.org <<mailto:mdesmond@cacities.org>>

Re: RESOLUTION THAT SUPPORTS LEGISLATION TO AMEND GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL

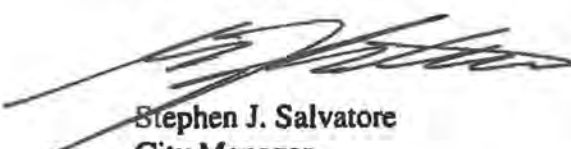
Dear President Mounce,

The City of Lathrop supports the proposed resolution that would support legislation to amend Government Code Section 38611 to clarify the definition of local control as it pertains to emergency services.

A core function of local government is the ability to determine and provide the appropriated level of emergency response resources. Allowing Local Emergency Medical Services Agencies (LEMSAs) to determine when and how local fire agencies respond to emergencies circumvents the role of Fire Chiefs and municipal and special fire district legislative bodies. It should be the role of the Fire Chief to determine the required service levels and the role of the local legislative bodies to support the Fire Chief's recommendations based on community expectations, community risk reduction strategies and available resources.

Therefore, the City of Lathrop supports the proposed resolution and future legislation that would serve to ensure local government determines their emergency response service levels. If further clarification is required, please let me know.

Thank you,



Stephen J. Salvatore
City Manager

Cc: Members of the City of Lathrop City Council
Lathrop Manteca Fire Chief, Gene Neely
Tracy City Manager, Troy Brown
Tracy Fire Chief, Randall Bradley
Central Valley Regional Public Affairs Manager LOCC, Stephen Qualls

CITY COUNCIL

DOUG KUEHNE, Mayor
ALAN NAKANISHI,
Mayor Pro Tempore
MARK CHANDLER
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807
www.lodi.gov cityclerk@lodi.gov

STEPHEN SCHWABAUER
City Manager
JENNIFER M. FERRAIOLI
City Clerk
JANICE D. MAGDICH
City Attorney

July 19, 2017

The Honorable JoAnne Mounce, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING
LEGISLATION AMENDING GC §38611 TO CLARIFY DEFINITION OF LOCAL
CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL
OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT
EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS**

The City of Lodi supports the proposed resolution to support legislation amending Government Code §38611 to clarify the definition of local control providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Accordingly, we concur in the submission of the resolution for consideration by the League of California Cities General Assembly at its annual meeting on September 15, 2017.

Government Code Section 38611 does not contain language clarifying the broad scope of emergency services as provided by present day fire departments. The code requires further definition for general law and charter cities in determining service levels for the delivery of emergency services commensurate with the resources provided by the local government body. Amending Government Code Section 38611 would provide the chief of a fire department specific authority to protect public safety and public health within the jurisdictional boundaries of the fire department.

The City of Lodi is in strong support of providing statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Sincerely,



Doug Kuehne
Mayor, City of Lodi

DK/JMF

cc: Larry Rooney, Fire Chief, City of Lodi
Randall Bradley, City of Tracy, randall.bradley@ci.tracy.ca.us
Stephen Qualls, League of California Cities, squalls@cacities.org



CITY OF MANTECA - FIRE DEPARTMENT

1154 S. UNION ROAD • MANTECA, CA 95337
(209) 456-8300 • FAX (209) 923-8936

July 13, 2017

League of California Cities
1400 K Street, Suite 400
Sacramento CA 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING LEGISLATION AMENDING GOVERNMENT CODE SECTION 38611 TO CLARIFY THE DEFINITION OF LOCAL CONTROL PROVIDING BROAD STATUTORY AUTHORITY FOR LOCAL OFFICIALS TO DETERMINE EMERGENCY SERVICE LEVELS AND DIRECT EMERGENCY MEDICAL RESPONSE WITHIN THEIR JURISDICTIONS

To Whom It May Concern:

This letter confirms that the City of Manteca supports the resolution on Emergency Medical Services submitted to the League of California cities by the City of Tracy. The City of Manteca believes that local control of Emergency Services is critical to ensure that the best possible service and protection of our citizens/taxpayers is provided.

We appreciate the City of Tracy's willingness to bring this crucial issue to the forefront.

Respectfully,

Greg Showerman, Acting City Manager

Date: 13 July 2017

Kyle Shipherd, Fire Chief

Date: 13 July 2017

MICHAEL TUBBS
Mayor

ELBERT HOLMAN
Vice Mayor
District 1



CITY OF STOCKTON

OFFICE OF THE CITY COUNCIL
CITY HALL • 425 N. El Dorado Street • Stockton, CA 95202
209 / 937-8244 • Fax 209 / 937-8568

DAN WRIGHT
District 2

SUSAN LOFTHUS
District 3

SUSAN LENZ
District 4

CHRISTINA FUGAZI
District 5

JESÚS ANDRADE
District 6

July 13, 2017

The Honorable JoAnne Mounce, President
League of California Cities
1400 K Street
Sacramento, CA 95814

SUBJECT: Resolution of the League of California Cities Supporting Legislation Providing Broad Statutory Authority for Local Officials to Determine Emergency Service Levels - SUPPORT

Dear President Mounce,

On behalf of the City of Stockton, I wish to voice our support of the City of Tracy proposed resolution for consideration by League membership. Stockton supports this resolution for the following reasons:

- 1) The City of Stockton Legislative Program seeks the broadest authority for the City Council to make decisions locally, particularly related to the local exercise of police powers;
- 2) The City of Stockton Legislative Program advocates for efforts that impact the City's ability to enhance the well-being, quality of life, health, and safety of residents;
- 3) The City of Stockton has experienced challenges and frustrations in delivering the highest quality of emergency medical services to our residents due to provision of the Emergency Medical Services (EMS) Act.
- 4) Amendments to the EMS Act would clarify local control and allow governing bodies to determine which services are directly provided within their respective jurisdictions.

For these reasons, the City of Stockton concurs with and supports the City of Tracy proposed resolution for consideration by League membership.

MICHAEL TUBBS
MAYOR

MT:cc

cc: Stockton City Councilmembers
Kurt Wilson, Stockton City Manager

MINUTES
CLAYTON FINANCING AUTHORITY
REGULAR MEETING
November 1, 2016

1. **CALL TO ORDER AND ROLL CALL** - the meeting was called to order by President Geller at 9:41 p.m. in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road. **Board of Directors present:** President Geller, Vice President Diaz, Board Members Haydon, Pierce and Shuey. **Board of Directors absent:** None. **Staff members present:** Executive Director Napper, Secretary Brown, and General Counsel Subramanian.
2. **CLOSED SESSION** – None.
3. **PUBLIC COMMENTS** – None.
4. **CONSENT CALENDAR** – It was moved by Board Member Pierce, seconded by Board Member Shuey, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).
 - (a) Approved the minutes of the regular meeting of January 19, 2016.
 - (b) Approved the Clayton Financing Authority's Audited Financial Statement for Fiscal Year 2015-2016.
5. **ACTION ITEMS** - None.
6. **BOARD ITEMS** – None.
7. **ADJOURNMENT**- On call by President Geller the meeting adjourned at 9:43 p.m.

Respectfully submitted,

Janet Brown, Secretary

Approved by
Board of Directors, Clayton Financing Authority

Jim Diaz, President



Agenda Date: 8-1-2017

Agenda Item: 3b Fin

CLAYTON FINANCING AUTHORITY

STAFF REPORT

TO: HONORABLE PRESIDENT AND BOARDMEMBERS

FROM: EXECUTIVE DIRECTOR

MEETING DATE: 01 AUGUST 2017

**SUBJECT: TRANSFER OF FUNDS FOR CITY CAPITAL IMPROVEMENT
CITY HALL HVAC REPLACEMENT PROJECT**

RECOMMENDATION

It is recommended the Board of Directors of the Clayton Financing Authority (CFA), by Consent Calendar minute motion, authorize the transfer of \$170,126.06 from Account No. 405-119-00 to the City of Clayton's Capital Improvement Project Budget (Fund 303) to gap fund its recently-awarded City Hall HVAC Replacement Project.

BACKGROUND

At its public meeting held on 18 July 2017, the Clayton City Council awarded a competitively-bid contract to Servi-Tech Controls, Inc., in the amount of \$253,398.00 to replace the 20-year old heating, ventilation and air conditioning system (HVAC) in the historic City Hall. Its existing HVAC has largely failed with the boiler inoperative and the air conditioning units functioning at 40% in a City public facility having a 24/7 operational schedule due to its housing of the Clayton Police Station. After using \$94,902 budgeted initially in FY 2015-16 General Fund excess monies for the HVAC's replacement expense, the capital improvement project still required gap funds in the amount of \$170,126.06 to underwrite the necessary replacement.

Consequently, the Clayton City Council approved awarding the low-bid contract to include the use of Clayton Financing Authority discretionary monies to fulfill the contractual monetary obligation. It is now necessary for the CFA's Board of Directors to formally authorize and allocate the required project monies.

FISCAL IMPACT

The Clayton Financing Authority holds the proceeds of a real property sale to Endashiian, Inc. for its subsequent lease-build of the Longs Drugs Store at the corner of Center Street and Clayton Road (now CVS/Pharmacy). From the initial land sale of \$805,000, the present balance of these unrestricted-use funds is \$714,729.

The proposed allocation and transfer of \$170,126.06 from CFA account no. 405-1199-00 to City Fund 303 (CIP Budget) will leave an unencumbered balance of \$544,602.94 (68% of original principal value).

Respectfully submitted,



Gary A. Napper
Executive Director

- Attachments: 1. Bid Form of Servi-Tech Controls, Inc. [1 pg.]
2. Staff Report from 18 July 2017 City Council meeting [5 pp.]

SECTION 00400
BID FORM

EXHIBIT 1

BID FORM

NAME OF BIDDER: Servi-Tech Controls, Inc.

The undersigned, hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all addenda, if any, for the following Project:

HVAC REPLACEMENT AT THE CLAYTON CIVIC CENTER

We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project in strict accordance with the Contract Documents for the following **TOTAL BID PRICE:**

\$ 253,398.00

BID PRICE (IN NUMBERS)

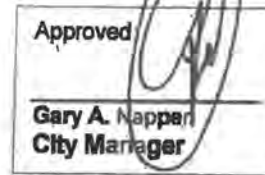
Two Hundred & Fifty Three Thousand, Three Hundred & Ninety Eight Dollars

BID PRICE (IN WRITTEN FORM)

In case of discrepancy between the written price and the numerical price, the written price shall prevail.

Agenda Date: 7-18-2017Agenda Item: 8a

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAINTENANCE SUPERVISOR

DATE: July 18 2017

SUBJECT: AWARD OF CONTRACT FOR THE HVAC REPLACEMENT PROJECT AT CLAYTON CITY HALL AND ALLOCATION OF FUNDS FOR THE CAPITAL REPLACEMENT PROJECT

RECOMMENDATIONS

It is recommended the City Council approve and authorize the following necessary actions to replace an aging and dysfunctional 20-year old HVAC system including the following major components: VAV Air Handling Unit, Split-System Condensing, System Controller, and Hot Water Boiler at Clayton City Hall:

1. Award a low-bid competitive contract to Servi-Tech Controls, Inc. in the amount of \$253,398.00 for replacement of the HVAC Replacement at the Clayton City Hall, per the Bid Specifications dated May 2017 which include the following components: VAV Air Handling Unit, Split-System Condensing, Hot Water Boiler and labor for installation; and
2. Approve the additional allocation of \$170,126.06 from either the City General Fund Reserve or the Clayton Financing Authority's unrestricted funds to the City Hall HVAC Systems Replacement Project.

BACKGROUND

In February 2012 the City commissioned an on-site technical study performed by Entek Engineering on the various HVAC systems at the City's two main public buildings: Clayton City Hall and the Clayton Community Library. The report was presented to the Clayton City Council in March 2013 with its findings on the condition of the facilities' HVAC systems. One of the most pressing concerns at the time was the HVAC chiller unit in the Clayton Community Library. It was noted in the Report this particular chiller was coming to the end of its useful operational life (20 years) and was originally undersized for the cooling load expected of it during the warmer summer months. The Clayton City Council subsequently awarded a contract for the replacement of the Clayton Community Library Chiller in February 2014 with the work completed by that summer.

In the same HVAC report dated 2013 the Clayton City Hall building's HVAC systems were also evaluated and the report noted the following:

The service life of the air handler is fifteen (15) years and the boiler is twenty five (25) years.

Now, the City Hall equipment has aged to twenty (20) years old with the air handler already past its expected operational life and the boiler is failing before its full expected operational life span of twenty five (25) years. In that Report it was also noted the HVAC system was of a fairly modern design and was actually meeting the cooling and heating demands of the building. However, over the past year the HVAC condensing units have started to fail from a total of five (5) units normally working to cool the 3-story building to now only two (2) units still in operation. This brought down the total cooling capacity of the building to 40% of its normal operation, which during hot days does not meet the cooling demands of the building or provide an adequate temperature-controlled environment for the employees. During this same time period the boiler also started to fail with a leak to its heating coil; the boiler has now completely failed this past April and it was shut down. With the boiler being shut down the result is there is no longer any heating capacity at this time for City Hall.

BID SPECIFICATIONS AND PROJECT BIDDING

With both the heating and cooling systems starting to fail, the City asked Marken Mechanical Service, Inc. (the City's current HVAC maintenance service company) for a quote to replace both the existing HVAC cooling system and the boiler with like-kind equipment. Its quoted pricing came in at \$85,375.00 for a 25-ton package A/C unit and a new boiler using the building's existing electrical and piping with no upgrades to the overall HVAC system or addressing applicable Building or Electrical Code upgrades that may be needed. Since this contemplated work is subject to the State of California Public Works Competitive Bidding statutes for being over the \$5,000 threshold in cost for a public works project, the City was obligated to submit this work to a competitive bid process.

Staff solicited a proposal from the Diseno Group to evaluate and prepare the necessary bid specs and drawings for the proposed replacement of the cooling and heating system at Clayton City Hall. Their work was started in March 2017 and the Diseno Group also evaluated any deficiencies in the existing HVAC systems for the building; this technical review included any equipment that would be coming to the end of its useful life. Another concern was to ensure any new system installed would be fit within the confined spaces of the existing historic building with the proper alignment of any new equipment for the purpose of vent hook-ups between the inside to the outside of the building. This requirement was important to the project so as to limit any structural changes to the buildings walls of historic City Hall or to the HVAC equipment pad. The City Hall walls are made of rock and reinforced concrete that are over two feet thick in this location and the existing pad has limited area to accommodate equipment and make the necessary hook-ups to the existing utilities.

As preparation of the bid sets was moving forward some issues became apparent to the Diseno Group engineer that some of the HVAC system did not meet current code requirements. Two of the largest Code upgrades needed were to properly and adequately vent the boiler to the outside, and the electrical disconnects for the boiler pumps that are

oddly located behind the boiler need to be relocated. Since these two components were not up to current codes, each needed to be addressed in the replacement project and added to the bid specifications and project cost. Further technical discoveries identified some other major equipment that needed to be replaced at the same time as the replacement of the HVAC systems; these included the controller that operates the HVAC system, an electrical phase converter for the new cooling equipment, a new damper for the hot water heater, and various valves and gauges.

The City's technical consultant (Diseno Group engineer) also evaluated making upgrades to the types of equipment used to cool and heat the building for better energy efficiency. After reviewing some of the options, the added initial costs of the new equipment or the ongoing higher maintenance costs did not support the expense upgrade to a higher efficiency system (note: this critique was also performed when the City commissioned an HVAC Evaluation Report in 2012, and the earlier investigation arrived at the same conclusion). These evaluated conclusions were present in either the type of cooling systems used (chilled water cooling coil vs refrigerant cool coil), or raising the efficiency rating of the hot water boiler (from 80% to 95% efficiency), which would require changing out all the zone hot-water re-heat coils to achieve the energy savings for use of a new high efficiency boiler (note: there are twenty (20) zones located throughout the building). The newly-designed HVAC system proposed for funding and specified to heat and cool City Hall does meet and conform to all current State of California energy efficient standards under Title 24 of the Building Code.

At the advertised bid opening, the City received seven (7) timely bids ranging from a low bid of \$253,398.00 to a high bid of \$372,000.00, with the lowest responsive and responsible bidder being Servi-Tech Controls, Inc., in the amount of \$253,398.00. Its bid came within our HVAC technical consulting engineer's estimated cost for this project of \$256,229.00.

Staff recommends the City Council accept Servi-Tech Controls, Inc. bid since:

- 1) It meets the City's bid specifications for installation of the equipment associated with the HVAC replacement at the Clayton City Hall;
- 2) It is within the estimated cost prepared by the City's technical engineering firm (Diseno Group) for this installation; and
- 3) If a City Council determination is to reject the bid and reopen bidding, the probable time line moves this critical project into the winter months before installation could be completed, which action results in a City facility worksite having no source of heating, adequate cooling, and with no guarantee the City would receive better pricing.

LOW BIDDER

Out of the seven (7) bids received, Servi-Tech Controls, Inc. is the lowest responsive and responsible bidder. City staff contacted several of Servi-Tech Controls, Inc.'s references and each had positive reports on the HVAC projects they were involved in with no complaints. The references listed by Servi-Tech Controls, Inc. were of similar projects with retrofit and replacement of HVAC components such as the project the City is currently undertaking.

Subsequent to the bid opening, the City did receive a protest from one of the unsuccessful bidders that successful bidder Servi-Tech Controls, Inc. did not list all of its sub-contractors, as per City bid specifications. The protest claimed that Servi-Tech Controls, Inc. should have included a sub-contractor for the crane work that was not listed on the City's sub-contractor form section 00440; the protester alleged this work constituted more than the 0.5% of the cost of the project and that any bidding contractor must list a sub-contractor that is above the 0.5% of total contract costs. After City staff contacted the apparent low bidder about this protest, Servi-Tech Controls informed the City the cost for its crane operations is below the 0.5% of the overall contract amount so it is not obligated to list that item on the City's sub-contractor form section 00440 of the bid forms that were submitted with its bid package to the City.

FISCAL IMPACT

The total capital cost of this facility maintenance/replacement project will be \$253,398.00.

In February 2017, the City Council allocated \$94,902 in FY 2015-16 General Fund excess monies to address this facility capital replacement need. To date, costs incurred in the project are:

Diseno Group – project & bid specifications:	\$ 7,950.00
City Engineer review/bid preparation:	\$ 1,880.06
Costs Expended to date:	\$ 9,830.06

Funds required for completion of this Capital Project:

Servi-Tech Controls, Inc. HVAC replacement Bid:	\$ 253,398.00
Diseno Group construction mgt. services:	\$ 1,800.00
Total Funds Needed:	\$ 255,198.00

Minus Project funds allocated and available to date:

FY 2015-16 General Fund excess monies:	(\$ 84,071.94)
Project Gap Funds required:	\$ 170,126.06

OPTIONS FOR PROJECT FUNDS

1. General Fund Reserves

This significant facility maintenance issue is beyond the City's normal operating budget for repairs and maintenance to the HVAC system using General Fund monies. In FY 2017-18, the entire budget allocated \$10,000 for minor HVAC repairs and maintenance. In addition, the City treasury does not receive sufficient annual revenues to create sinking funds for the replacement and significant repair of its public facilities. Consequently, the major source of

eligible funds for an expense of this size would be the City's General Fund Reserves, which balance as of June 30, 2017 is \$5,764,845.

2. Clayton Financing Authority Land Sale Proceeds

When the Clayton Financing Authority (CFA) sold the underlying real property to Endashiaan, Inc. for its lease-build of the Longs Drugs Store (aka CVS/Pharmacy), the CFA realized a net proceed of \$805,000. In previous years the CFA approved a partial use of these monies to aid the City's picnic and tot lot facilities at Clayton Community Park. The present balance of these unrestricted funds is \$714,729, and may be a source of project gap funding (note: if use of CFA funds for this project are preferred, the August 1, 2017 regular meeting will include a CFA agenda with a Consent Calendar item authorizing allocation of these CFA funds to this capital project).

City Council action is requested in its motion to designate which source of funds should be allocated for the remaining Project funding of \$170,126.06.

- Exhibits:
1. Servi-Tech Controls, Inc. bid.
 2. Engineer's Estimate for HVAC replacement
 3. Diseno Group proposal for construction management services
 4. Photos - Air Handler Pad (2) Boiler Room (2)

MINUTES
REGULAR MEETING
OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

July 18, 2017

1. **CALL TO ORDER AND ROLL CALL** – the meeting was called to order at 8:06 p.m. by Vice Chair Catalano. Board Members present: Vice Chair Catalano, Board Members Diaz, Haydon, and Pierce. Board Members absent: Chairman Shuey. Staff present: City Manager Gary Napper, General Legal Counsel Mala Subramanian, GHAD General Manager Rick Angrisani, and Secretary Janet Brown.

2. **PUBLIC COMMENTS** – None.

3. **CONSENT CALENDAR** – It was moved by Board Member Pierce, seconded by Board Member Diaz, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

- (a) Approved the Board of Directors' minutes for its regular meeting of June 20, 2017.
- (b) Accepted the written resignation of Mr. Rick Angrisani (Permco Engineering and Management) as GHAD General Manager.

4. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the Geological Hazard Abatement District (GHAD) proposed real property tax assessments for Fiscal Year 2017-2018.

District Manager Rick Angrisani presented the staff report noting at the Board's June 20th meeting a recommendation was approved to increase the annual real property assessments by the allowable 3.78% increase in annual San Francisco- Bay Area Consumer Price Index (CPI). If this action is not approved, the Oakhurst Geological Hazard Abatement District will not be able to continue funding the maintenance and monitoring tasks in the affected areas during the coming fiscal year.

Vice Chair Catalano opened the Public Hearing to receive public comments.

Joseph Beaty, 110 Crow Place, thanked staff for answering his previous questions earlier today and providing him with District information he needed prior to this evening's meeting. While much of that information answered most of his questions for tonight, Mr. Beaty then expressed concerns with a possible conflict with Proposition 218 regarding excess funds of approximately \$12,500 in this year's GHAD Budget.

City Manager Napper advised while he is not certain about such a provision in Proposition 218 affecting the GHAD's Budget as described, he noted the Board might recall that when the FY 2017-18 GHAD Budget was recently approved in June, he indicated at that time the GHAD Budget omitted a necessary expenditure of approximately \$10,000 to \$12,000 for further geotechnical consultants' work monitoring and reading the inclinometers and piezometers, and that staff would be returning in August or September to amend the GHAD budget accordingly. City Manager Napper further clarified monies levied and collected by GHAD are not part of the City's General Fund; rather, the tax levies stay in the GHAD account as a Special Revenue District Fund.

General Legal Counsel Subramanian indicated the possible excess monies are already budgeted. Since the GHAD has a very lean budget, it is not uncommon to have a reserve, with the excess funds already allocated; therefore, it is not a violation of Proposition 218.

Vice Chair Catalano closed the Public Hearing.

It was moved by Board Member Pierce, seconded by Board Member Diaz, to adopt GHAD Resolution No. 02-2017 Ordering Improvements and Confirming Real Property Assessments for Fiscal year 2017-18. (Passed; 4-0 vote).

5. **ACTION ITEMS**

6. **BOARD ITEMS** – None.

7. **ADJOURNMENT** - on call by Vice Chair Catalano the meeting adjourned at 8:16 p.m.

Respectfully submitted,

Janet Brown, Secretary

Approved by the Board of Directors
Oakhurst Geological Hazard Abatement District

David T. Shuey, Chairman



Agenda Date: 8-1-2017
Agenda Item: 3b GHAD

GHAD STAFF REPORT

TO: HONORABLE CHAIRPERSON AND BOARD MEMBERS

FROM: RICK ANGRISANI, GENERAL MANAGER

DATE: AUGUST 1, 2017

SUBJECT: CONSIDER APPROVAL OF PROPOSALS RECEIVED FOR MONITORING AND INSPECTIONS ALONG KELOK WAY AND PEBBLE BEACH DRIVE AND A RESOLUTION AMENDING THE DISTRICT'S FISCAL YEAR 2017-18 BUDGET

RECOMMENDATION

Approve the proposals for geotechnical monitoring and inspection services on Kelok Way and Pebble Beach Drive, and adopt the Resolution amending the GHAD's FY 2017-18 Budget.

BACKGROUND

After several years of drought, the Bay Area received extremely heavy rains during the past rainy season. In order to determine the impact, if any, of the rains on hillside areas of interest along Kelok Way and Pebble Beach Drive, the District needs to perform periodic monitoring and inspection of the facilities installed in those areas.

The GHAD General Manager requested and received a proposal from Stevens Ferrone & Bailey in an amount of \$5,200 for the Kelok Way area. He also received a proposal from Berlogar Stevens and Associates in the amount of \$4,300 for the Pebble Beach Drive area. Both proposals are similar in cost to previous proposals and staff recommends their approval by the Board.

Subject: Monitoring Proposals and Budget Amendment

Date: August 1, 2017

Page 2 of 2

FISCAL IMPACT

Since the recently-approved budget omitted expenditures for geotechnical consultant monitoring and inspection services, it is necessary to formally amend the FY 2017-18 GHAD Budget. The approved budget indicated an excess of approximately \$12,000 in revenue, so there will be no negative fiscal impact on the District by this \$9,500 expenditure.

CONCLUSION

Staff recommends approval of the attached proposals and the attached Resolution amending the District's FY 2017-18 budget.

Attachments: Resolution
Stevens Ferrone & Bailey Proposal dated July 21, 2017
Berlogar Stevens & Associates Proposal dated July 24, 2017

GHAD RESOLUTION NO. - 2017

**A RESOLUTION AMENDING THE FISCAL YEAR 2017-18 BUDGET TO
INCLUDE THE EXPENDITURE OF \$9,500.00 FOR MONITORING AND
INSPECTION OF INCLINOMETERS, DEWATERING WELLS AND SITE
AREAS ALONG KELOK WAY AND PEBBLE BEACH DRIVE**

**THE BOARD OF DIRECTORS
OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT
City of Clayton, California**

WHEREAS, the Oakhurst Geological Hazard Abatement District's (herein "GHAD") Budget was approved at the Board of Director's meeting on June 20, 2017; and

WHEREAS, the approved budget did not include any expenditures for monitoring and inspections by geotechnical consultants; and

WHEREAS, the GHAD General Manager has recommended that due to the excessive rains this past rainy season, the GHAD should perform monitoring and inspection of inclinometers, piezometers, and wells to determine the impact, if any, of the rainy season; and

WHEREAS, the GHAD General Manager has obtained proposals from Stevens Ferrone and Bailey Engineering Company, Inc. (Kelok Way area) and Berlogar Stevens & Associates (Pebble Beach Drive area) for a total cost of \$9,500.00;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Directors of the GHAD that its Fiscal Year 2017-18 Budget shall be amended to include an expenditure of \$9,500.00 for said geotechnical consultant monitoring and inspection services and reports.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the GHAD at a regular public meeting thereof held on August 1, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE BOARD OF DIRECTORS OF GHAD

DAVID SHUEY, Chairman

ATTEST:

Janet Brown, Secretary

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed by the Board of Directors of the GHAD at a regular public meeting thereof held on August 1, 2017.

Janet Brown, Secretary

July 21, 2017

Mr. Rick Angrisani
Oakhurst Geologic Hazard Abatement District
1470 Civic Court, Suite 320
Concord, CA 94520

Re: Proposal to Provide Geotechnical Monitoring and Inspection Services
Inclinometers/Piezometers/Wells at Kelok Way, Clayton, California
SFB Proposal No: 555-2.pro 2

Mr. Angrisani:

In accordance with your request, Stevens, Ferrone & Bailey Engineering Company, Inc. (SFB) is providing this proposal to perform semi-annual (twice per year) geotechnical services to monitor some of the inclinometer casings, water pressure in some of the piezometers, and water levels in some of the open pipe piezometers and dewatering wells located within Kelok Way and within the north facing slope located immediately to the north and below Kelok Way; the approximate locations of the proposed monitoring points are shown on the attached location map. Many of the locations include several devices such as inclinometer casing, vibrating wire piezometers, and open pipe piezometers/wells. We also propose on inspecting the discharge rate of the dewatering wells, perform geotechnical evaluation of the accumulated data, and prepare a summary report after each monitoring session providing the results of the monitoring. This proposal is based on our understanding of the site history, previous monitoring performed at the site, and the construction of six Kelok Way dewatering wells and associated outlet pipes. It is also our understanding that the Oakhurst Geologic Hazard Abatement District has limited funds for monitoring and requests that not all the points located in and near Kelok Way be monitored to reduce costs.

We propose on monitoring the following existing installations:

Inclinometer Casings (total of 7):

- a) BGC SI-1
- b) CEG SI-1
- c) CSA SI-1, SI-2, SI-3
- d) W SI-1 and W SI-5

Please be aware that CSA SI-4 can no longer be monitored due to excessive casing deformation (we are unable to insert the inclinometer the full depth of the casing; in June 2014, the inclinometer could not be inserted deeper than 52 feet indicating excessive landslide shearing occurring within the ground at a depth of about 52 feet).

Vibrating Wire Piezometers (12 total):

- a) 3 piezometers in CSA SI-1, SI-2, SI-3, and SI-4

Open Pipe Piezometers (14 total):

- a) W SI-1, W-2, W-3, W-4, W SI-6, W-6
- b) CEG PZ-1 and PZ-2
- c) BGC SI-1
- d) CEG SI-1 and CEG SI-3
- e) CSA SI-1 and CSA SI-2
- f) MW-1

Dewatering Wells (6 total):

- a) W-1, W-2, W-3, W-4, W-5, and W-6

1.0 SCOPE OF SERVICES

1.0 Inclinator Casing Monitoring: Monitor the existing inclinometer casings listed above on a semi-annual basis using a Digitilt probe. Our measurements would be compared to our baseline readings performed back in June 2014. Each casing will be monitored to the fullest depth possible except for CSA SI-3. CSA SI-3 will be monitored to a depth of about 150 feet since no obvious lateral movement below a depth of about 100 feet was indicated by previous monitoring results performed by others.

1.1 Vibrating Wire Piezometer Monitoring: Monitor the vibrating wire pressure transducers (VWT) listed above on a semi-annual basis using an RST instruments readout or similar device to record the water pressure at each specific transducer depth location.

1.2 Open Pipe Piezometers and Dewatering Wells: Measure and record water levels in open pipe piezometers and dewatering wells listed above on a semi-annual basis.

1.3 Visual Inspections: Perform visual inspections of the dewatering well system on a semi-annual basis, including the collector box and associated storm drain pipe. Perform visual inspection on a semi-annual basis of the ongoing pavement and walkway cracking at the Kelok Way cul-de-sac.

1.4 Geotechnical Engineering Evaluation: Perform a brief geotechnical evaluation of the accumulated monitoring and inspection data. Prepare geotechnical opinions based on the results of the evaluation.

1.5 Presentation of Monitoring and Inspection Results: On a semi-annual basis, prepare and submit a geotechnical engineering summary report presenting the results of the monitoring, measurements, and inspections described above (including printouts of inclinometer casing measurements, VWT piezometer pressure levels, and open pipe piezometer and dewatering

well water levels). The summary report would include a summary of our geotechnical opinions based on the results of the accumulated data.

2.0 COST

The fee to perform each monitoring, inspection, and evaluation session will be a lump sum of \$5,200. Any authorized, additional work not included in the above scope of services would be charged on a time and materials basis in accordance with our attached Schedule of Charges.

3.0 SCHEDULE

The monitoring, inspection, and evaluation sessions will require approximately two weeks to complete and will conclude with the submittal of the summary report.

We thank you for considering our firm and look forward to being of service to you. If you have any questions concerning this proposal, please contact me.

Sincerely,

Stevens, Ferrone & Bailey
Engineering Company, Inc.






Ken Ferrone, PE, GE, CEG
President

Copies: Addressee (1 by e-mail)





KEY

- 
 Approximate Locations of Inclinator Casings, Vibrating Wire Piezometers, Open Pipe Piezometers & Dewatering Wells Monitored by SFB Except for CSA SI-4
- 
 Approximate Location of Dewatering Well Outlet Pipe Collector Box Monitored by SFB
- 
 Approximate Locations of Inclinator Casings, Vibrating Wire Piezometers & Open Pipe Piezometers Not Monitored by SFB



NO LONGER ABLE TO MONITOR CASING AT CSA SI-4

NOTE: Base Map Taken From As-Built Rough Grading Plan of Northeast Valley - Tracts 7260, 7261 & 7264 Prepared by UDI-Tetrad Consulting Engineers, Inc. and Dated Oct 1996, and Google Earth Image.

APPROXIMATE SCALE: 1" = 150' 	DATE		1600 Willow Pass Court Concord, CA 94520 Tel 925.688.1001 Fax 925.688.1005 www.SFandB.com	SITE PLAN		FIGURE
	PROJECT NO.			KELOK WAY MONITORING LOCATION MAP		1
	555-2			Clayton, California		

STEVENS, FERRONE & BAILEY ENGINEERING COMPANY, INC. (SFB)

SCHEDULE OF CHARGES *Subject to periodic modifications*

PERSONNEL HOURLY RATE SCHEDULE

Professional Employees	Principal Engineer/Engineering Geologist	235.00
	Geotechnical Engineer/Certified Engineering Geologist	185.00
	Professional Engineer/Senior Storm Water Engineer	175.00
	Staff Engineer	145.00
	Technician Supervisor	145.00
	Storm Water Specialist	135.00
Technical Inspectors	Soil Technician - Straight Time	118.00
	Special Inspector - Straight Time	118.00
Technical Staff	CADD Operator	135.00
	Laboratory Technician	110.00
	Technical Support	110.00

Other Charges:

- Engineering technicians are union members (Operating Engineers Local Union #3). Engineering technicians are charged overtime rates (1.5 x straight time) for hours worked outside of project work hours on Monday through Friday and within project work hours on Saturdays; double time rates apply for hours outside of project work hours on Saturday and within project work hours on Sundays and holidays; triple time rates apply for hours worked outside of project hours on Sundays and holidays.
- Testing equipment and company vehicles are billed at \$15.00 per hour of field time.
- Outside consultant fees, overnight delivery and messenger charges, computer programs, permits, additional insurance, fares, shipping, rented equipment and other similar project-related costs including out-sourced reproduction, drilling and analytical laboratory services, special testing equipment, travel expenses, meals and lodging are billed at cost plus 20 percent.
- Per labor laws, some professional staff is paid overtime and will be billed accordingly.
- Mileage is billed for professional staff and technicians/inspectors at \$0.85 per mile measured round trip from the office to the project (not applicable when a Technician/Inspector is dispatched in a company truck with testing equipment in which case the \$15.00 per hour equipment/vehicle charge applies.)
- In lieu of charging for miscellaneous costs such as individual additional report and letter copies (both color & black and white), CADD plotter prints, telephone and cell phone time, photos and associated equipment, standard overnight deliveries, facsimiles, pdf document preparation, computer time, commonly used software programs, and e-mail generation and protection systems, an additional 5 percent fee on the invoice amount will be charged.
- If an invoice is not paid by the due date, then the unpaid balance will accrue interest at eighteen percent (18%) per annum compounded daily until paid in full.
- SFB reserves the right to modify this schedule of charges at any time.

Via E-Mail Only

July 24, 2017
Job No. 2947.102

**BERLOGAR
STEVENS &
ASSOCIATES**

Oakhurst Geologic Hazard Abatement District
c/o Permco Engineering
1470 Civic Court Suite 320
Concord, California 94520

Attention: Mr. Rick Angrisani

Subject: Slope Inclinometer Monitoring Program
Open Space Slope Below Lots 59 through 61
Pebble Beach Drive
Clayton, California

Gentlemen:

This presents our proposal to take readings on Slope Inclinometers SI-1 and SI-2 located adjacent to Lot 60 and to inspect the V-ditches behind lots 59 through 61 to map apparent displacements.

We propose to take one set of readings, process the data, map apparent displacements in the V-ditches and submit a report of our findings for a Fixed Fee of \$4,300. If you agree to this scope of work please send us authorization to move forward.

Respectfully Submitted,

BERLOGAR STEVENS & ASSOCIATES



Matt Gessner
Staff Engineer

MG/FB:aw



Frank Berlogar
President

U:\@@@Public\1-Pleasanton\z Fin Proj Pleas\2947 - Pebble Beach Dr\Oakhurst clayton prop June '17 - 29657.docx