

**Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment  
Tuesday, August 9, 2016**

**1.0 OPENING MATTERS**

***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

**1.1 Call to Order and Roll Call of the Oakley City Council and Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency**

Mayor Kevin Romick called the meeting to order at 6:30pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. In addition to Mayor Kevin Romick, Vice Mayor Sue Higgins and Councilmembers Doug Hardcastle, Randy Pope and Vanessa Perry were present.

**1.2 Pledge of Allegiance to the Flag**

Naviyah Vigil led the Pledge of Allegiance.

**1.3 Proclamation Recognizing the 2016 Freedom High School Track and Field Team**

Mayor Romick presented a proclamation recognizing the leadership of Coach Glenn Briggs and the scholastic performance of the 2016 Freedom High School Track and Field Team for being awarded the North Coast Section Scholastic Team for the Tri-Valley Area for the Spring of 2016 with a grade point average of 3.33.

**1.4 Proclamation Recognizing the 2016 Freedom High School Dance Line**

Mayor Romick presented a proclamation recognizing Coach Leslie Runzler and the 2016 Freedom High School Dance Line for being awarded the North Coast Section Grade Point Average Award for the second consecutive year with a team grade point average of 3.52.

**1.5 Presentation by Patty Finfrock of California Department of Water Resources Regarding Dutch Slough Tidal Marsh Wetland Restoration Project Update**

Patty Finfrock of California Department of Water Resources (DWR) mentioned DWR is involved in the Delta Levies Program, a legislative mandated program paid with public funds, in which it purchased 1,200 acres of land in Oakley in 2003 east of Big Break to restore to tidal marsh, and DWR received the necessary permit to begin construction to grade and provide native plants beginning in 2017. She added DWR is working with Ironhouse Sanitary District to obtain access to the vineyard area on the property.

## **1.6 Update from Fire Chief Hugh Henderson, East Contra Costa Fire Protection District**

East Contra Costa Fire Protection District (ECCFPD) Chief Hugh Henderson mentioned ECCFPD will allow voters to decide on the November 2016 ballot whether or not the ECCFPD should go to an elected board. If votes are in favor of an elected board, he explained the election for seats on the board would occur in 2017. He discussed the crisis mode of the District in its current state and the need for current and future funding for the District to provide adequate fire response to the community.

## **2.0 PUBLIC COMMENTS**

### **Public Comment Cards**

Dawn Morrow requested her comment to be read into the record which indicated the City of Oakley should not share any more parks with Oakley Unified Elementary School District as the District does not have the same upkeep standards as the City Parks Department.

### **Online Comment Forms**

None.

## **3.0 CONSENT CALENDAR**

### ***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

- 3.1 Approve the Minutes of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting held July 12, 2016 (Libby Vreonis, City Clerk)**

### ***Oakley City Council***

- 3.2 Waive the Second Reading and Adopt an Ordinance Adopting Text Amendments to Oakley Municipal Code Neighborhood Preservation Ordinance (Chapter 29 of Title 4) and the Zoning Ordinance (Chapter 1 of Title 9) Related to Residential Front Yards and Shipping Containers (RZ 01-16) (Ken Strelo, Senior Planner)**
- 3.3 Ratify Election: Waive the Second Reading and Adopt Ordinance 11-16 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 159 Within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision No. 14-978 (Bella Estates) (Kevin Rohani, Public Works Director / City Engineer)**

- 3.4 Adopt a Resolution Approving an Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Design Services Associated with Capital Improvement Project No. 189- Piper Lane Drainage Channel Full Trash Capture Device and Authorizing the City Manager to Execute the Agreement (Kevin Rohani, Public Works Director / City Engineer)**
- 3.5 Adopt a Resolution Approving the Agreement with Thomas Oakley, LLC for "Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry" for the Popeyes Louisiana Kitchen located at 101 Carol Lane (APNs 037-132-037 and 037-132-038) and Authorizing the City Manager to Execute the Agreement (Kevin Rohani, Public Works Director / City Engineer)**
- 3.6 Adopt a Resolution Accepting the Subdivision Improvements for Catamaran Park Associated with Subdivision 8955 (Summer Lake-Phase 2, Parcel A and B) and Beginning the Landscape Maintenance by the City (Kevin Rohani, Public Works Director / City Engineer)**
- 3.7 Resolution Accepting the Result of the Canvass of the June 7, 2016 Primary Election-Measure K (Oakley Downtown Library and Community Learning Center) (Libby Vreonis, City Clerk)**
- 3.8 Approve Responses to Civil Grand Jury Reports No. 1605 "Caring for Victims" and No. 1607 "Delta Levees in Contra Costa County" (Bryan Montgomery, City Manager)**
- 3.9 Adopt a Resolution of Acceptance Relating to the Donation to the City of Approximately 16.62 acres of Property Located North of the BNSF Rail Line Right-of-Way and East of Rose Avenue (APNs 037-191-019 and 037-191-025) (Bryan Montgomery, City Manager)**
- 3.10 Adopt a Resolution Approving a Deferred Improvement Agreement for New Life Ministries-4246 Empire Avenue (Southeast Corner of Empire Avenue and Meeks Lane) (Kevin Rohani, Public Works Director / City Engineer)**
- 3.11 Accept Quarterly Investment Report (4<sup>th</sup> Quarter Fiscal Year 2015-2016) (Deborah Sultan, Finance Director)**
- 3.12 Adopt a Resolution Establishing Certain City Police Fees (Deborah Sultan, Finance Director)**
- 3.13 Adopt a Resolution Regarding 2016-17 Compensation and Benefits Program and Employee Salary Ranges (Nancy Marquez-Suarez, Assistant to the City Manager/HR Manager)**

***Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

**3.14 Accept Quarterly Investment Report (4<sup>th</sup> Quarter Fiscal Year 2015-2016)  
(Deborah Sultan, Finance Director)**

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to approve the Consent Calendar. Motion was unanimous and so ordered. (5-0)

**4.0 PUBLIC HEARINGS**

***Oakley City Council***

**4.1 Approval of Subdivision Improvement Agreement, Subdivision Annexation and Assessment Deferral Agreement, Phase 1 Final Map and Modification of Conditions of Approval for Subdivision 9033 Gilbert Property (Northeast Corner of East Cypress Road and Sellers Avenue)  
(Kevin Rohani, Public Works Director/City Engineer)**

Public Works Director/City Engineer Kevin Rohani presented the staff report.

There were no public comments.

The City Council had no comments or questions.

It was moved by Councilmember Hardcastle and seconded by Councilmember Perry to adopt the Resolutions Authorizing the City Manager to Execute the Subdivision Improvement Agreement, Subdivision Annexation and Assessment Deferral Agreement, approve the Final Map for Subdivision 9033 Gilbert Property and adopt the Resolution approving the Modification of Conditions of Approval 104, 105, 106, 108, 109 & 110. Motion was unanimous and so ordered. (5-0)

**4.2 Acorn Self-Storage-An Application Requesting Approval of: 1) a General Plan Amendment (GPA 04-16) to Amend the Land Use Designation From Single-Family Low Density Residential (SL) to Commercial (CO); 2) a Rezone (RZ 06-16) from Unzoned to Planned Development (P-1); and 3) Design Review (DR 13-16) to Construct an Approximately 4.671-Acre Self-Storage Facility Including an Office and Resident Manager's Building on a Vacant Lot Located at 4275 Neroly Road (APN 041-021-025) (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report.

Councilmember Pope inquired if any traffic controls or traffic calming measures had been explored since the previous discussion of the matter.

Mr. McMurray explained that although the project scope does not require a traffic study, if the project is approved, the applicant would be required to widen Neroly Road along the frontage of the self-storage facility and pay a traffic impact fee.

The applicant, Jim Moita and Vincent Moita, provided a presentation regarding the proposed project and asked that the City Council not vote on the project at this time, but rather, allow the applicant to accept community feedback.

Mayor Romick reiterated that it is the applicant's desire to obtain community feedback and the City Council intends not to vote on the project at this time. He mentioned due to meeting schedules, the City Council would likely review the project in January 2017. He added that anyone in attendance to provide public comment can provide comment during this meeting or at the meeting to be held in 2017.

Councilmember Perry if the applicant's other self-storage businesses in Pittsburg and Brentwood were originally zoned residential and then rezoned commercial prior to being built.

Jim Moita explained the Pittsburg site was originally zoned residential and then rezoned commercial almost 20 years ago and the Brentwood site was not zoned and then annexed.

Councilmember Perry inquired of the distance between the Brentwood site and the proposed Oakley project site. She also inquired if the Brentwood site was at full occupancy.

Jim Moita responded that the distance between the two sites is approximately 3 miles and the Brentwood site is full.

Councilmember Perry inquired how many of the homes in the Rose Garden subdivision were built after the Brentwood facility was constructed.

Jim Moita responded he does not recall.

Councilmember Perry inquired how the applicant decided upon the proposed location in Oakley for this project.

Jim Moita explained the proposed project site is centrally located between its other two sites in Brentwood and Pittsburg and would work well operationally for its staff.

Councilmember Hardcastle inquired if the access gates at the proposed site will be quieter than the access gates at the Brentwood site and if lights from the proposed self-storage facility will shine into the nearby residential development.

Jim Moita responded the gates for the proposed site are elite gates and will be quiet. He added the gates have to be adjusted sometimes at the Brentwood site.

He commented that the lights at the proposed self-storage facility will shine down, not into the nearby residential development.

Vice Mayor Higgins inquired if customers would have 24-hour access in and out of the facility.

Jim Moita replied that they would not; only emergency situations would warrant someone on the premises after hours and the person entering must be licensed. He added that office hours would be 9am-6pm weekdays and 10am-5pm weekends; gate hours would be 6am-10pm.

Mayor Romick indicated a decision does not have to be made this evening; however, if anyone who submitted a speaker card would like to comment; he or she is welcome to comment or to indicate he or she will pass until the time the matter is considered.

Councilmember Perry commented that everyone was notified of this item on the agenda and she believes it should be heard this evening. She inquired if a decision could be made if the majority of the City Council approves.

Special Counsel William Galstan confirmed a decision could be made if the majority of the City Council approves. He suggested a motion either to table the item until next year or approve or deny.

Councilmember Hardcastle commented that the applicant has offered to reach out to the community and discuss any concerns so the option is also available to allow him to do so.

#### Public Comment Cards

Cynthia Kay commented she and her family are strongly opposed to the self-storage or any other business at the proposed site. She explained the residents do not benefit from it and it is not conducive to the values of the neighborhood: safety, preserving open space and serenity. She added there are already 6 storage facilities nearby and another site proposed; another is not needed.

Therese Clenney declined to comment.

Ty Becerra expressed safety concerns with things that could be stored at the proposed facility such as hazardous materials and with traffic through the surrounding neighborhood which has no sidewalks or streetlights.

Gerald Hardt requested the City Council consider the proposed facility be located elsewhere such as further down on Neroly Road near the waste water treatment plant or to require mitigation (traffic and safety control, safe entrance and exit to proposed facility, and pedestrian/bicycle paths) before approving the proposed project.

Carol Commons expressed concern that a self-storage facility will devalue homes in the surrounding neighborhoods. She mentioned the neighborhood is quiet and does not want lights shining from the facility. She suggested the applicant look to other commercial property within the city or the City consider common interest development.

Gil Johnson expressed concern that more self-storage facilities will devalue Oakley's image, they will bring other people to Oakley who don't reside in the city, and that inexperienced drivers will be operating large trucks in neighborhoods surrounding the proposed facility. He added that the City would be allowing a non-tax generating business near homes.

Joe Metcalf commented that the proposed location of the self-storage facility is not what the neighborhood desires; the neighborhood does not want it to be placed as a buffer between the homes and train track; it would be an eyesore and would degrade property values. He expressed concern regarding his property value, family and neighborhood safety.

Terese Olan commented in opposition of the project.

Ken Graunstadt, owner of the property, commented that the railroad nearby could be running at any time and if the property is not used for self-storage, it is zoned for housing which would likely be smaller lots and of lesser value (low-income housing). He shared photos of a defaced public notice board containing information about the proposed project and expressed dismay with regard to that type of behavior in Oakley.

Lorraine Maxson provided signatures of 174 residents who oppose the project. She mentioned allowing another self-storage is not consistent with Oakley's small town feel. She suggested the City Council consider allowing open space, a trail or park at the site and not rezone it commercial, retail or P-1.

Howard Hobbs commented a traffic problem currently exists at the proposed entrance; the line of sight is limited and the speed of vehicles is of concern. He provided pictures of an auto accident at the site to the City Council and mentioned it is a hazard area; regardless of the traffic information provided in the staff report.

Bob Kegle provided written comment to the City Council and verbally commented that the proposed self-storage facility is not desired near the prestigious neighborhoods, commercial zoning would disrupt the existing neighborhood, residents in the area desire to preserve the neighborhood as it exists, and he felt the applicant was dishonest in stating to him that the property was already rezoned commercial.

Roy Maxson commented that the proposed self-storage site is not suited for the neighborhood of custom and semi-custom homes. He added self-storage facilities are a magnet for homeless and crime and will generate expense for the City for clean-up costs of garbage dumps and Police response to vagrants, theft, trespassing, illegal dumping and auto accidents.

Mary Anne Johnson commented the surrounding neighborhoods have no sidewalks or street lights and the residents like it this way. She added the proposed self-storage facility would increase traffic, light, noise, alarms, illegal dumping, break-ins and Police response. She expressed concern that the proposed facility would adversely impact the neighborhoods' quality of life and lower property values. She requested the City Council consider a park at the location or leaving it "as is".

Frank Bermudez commented he is a licensed realtor and is opposed to the rezone and building of the self-storage facility because he believes it will negatively impact noise, light, safety and property values in surrounding neighborhoods. He mentioned a Georgia State University Department of Real Estate study which shows the impact of commercial development on residential properties can be upward of 10-15% devaluation and indicated the nuisance of the self-storage facility would have to be disclosed when selling a home in the surrounding neighborhoods. He suggested the City Council consider an alternative site. He requested the City Council oppose the rezone and self-storage facility.

Richard Brophy expressed concern with alarm noise and criminal activity at the proposed self-storage facility and also with decline of property values in the surrounding neighborhoods. He mentioned when he moved here the General Plan showed the property zoned low-density residential housing and requested the City Council consider preserving the zoning and surrounding neighborhoods rather than approving a rezone for the property owner to profit. He requested the City Council compare the impact of the reduction of property tax revenue to the City if home values decline as a result of the proposed facility and the tax that would be generated from the proposed facility. He provided the City Council a copy of the General Plan and submitted articles to the City Council regarding criminal activity associated with self-storage facilities.

Juan Ruiz spoke in opposition to the proposed facility. He commented that length of construction and noise has not been addressed, explaining that his house shook for months when the PG&E pipeline replacement project occurred. He added that the applicant's statement that storage unit renters are fingerprinted doesn't disclose how many people are denied from renting the units; it doesn't prove anything; criminal activity cannot be prevented.

Paul Wolowic commented that his neighborhood was not aware of the proposed self-storage facility, but since finding out about the proposed facility, it has come together in the past 6 weeks to address its concerns. He expressed his belief is that there was a missed step in notifying the surrounding neighborhoods. He requested the City Council vote against the proposed facility and approve an alternative site in an existing commercial zone.

#### Online Comment Forms

Cynthia Kay, Therese Clenney, Ty Becerra, Gerald Hardt and Carol Commons requested to speak.

Debbie Flores requested the City Council consider generating revenue in the City of Oakley through shopping and dining (similar to Livermore and Lodi) instead of having fast food restaurants, gas stations and self-storage facilities to preserve property values.

Stina Johnson expressed concern with location, traffic, crime and safety regarding the proposed self-storage facility. She explained there are no sidewalks in the neighborhood near the facility in which trucks/traffic to/from the facility may travel and Neroly Road is narrow for traffic.

Councilmember Perry provided clarification that the item was on the agenda for preliminary discussion at the City Council in November 2015; the meeting was noticed to property owners within a 300-foot radius of the proposed site, and at that time, the City Council requested that notice be provided to property owners within a 500-foot radius of the proposed facility when the item was brought back for a decision, this evening. She expressed concern regarding the location of the facility and indicated that in her opinion, traffic has not been adequately addressed. She mentioned existing commercial property should be used and the proposed site is better left as open space than for the proposed facility.

Councilmember Pope clarified that the City does not own the property and that the City should not control what a private property owner does with his or her property. He added that he does not base his decisions on revenue and that the City would receive more revenue if the property remains zoned residential in impact fees. He commented that traffic mitigation is needed at the location regardless of what is developed on the property. He suggested if the facility is approved, the entrance to the facility should be located near the underground easement and cut-through traffic should be prohibited on Placer Drive. He commented that he does not like the corner exit. He also suggested that the facility be designed so it does not appear as one long, monotonous building and that alarms should not be audible. He reiterated that the City does not own the property; therefore, it cannot make a trail or park at the location as had been suggested by some residents; the property owner can decide on another project if a self-storage facility is not approved for the site. He explained if the issues mentioned cannot be addressed, the project may not be viable. He added that there is a balancing of the interests of property owners.

Vice Mayor Higgins commented that there is no benefit to the City in approving the proposed project and that historically commercial projects that abutted up to residential property have been denied in the City.

Councilmember Hardcastle commented that the applicant should have the opportunity to meet with the residents. He added that parks have been suggested by some residents; however, residents don't always want to pay for parks. He suggested everyone work together for a viable plan.

Councilmember Perry commented many of the homeowners near the proposed facility built or purchased their homes with the understanding the site was zoned single family low-density residential and they should not have to wait until a later date for the City Council to make a decision. She requested the matter be decided upon this evening.

Special Counsel William Galstan commented that the resolution provided to the City Council this evening was written to approve the project. He suggested that if the City Council should decide to deny the proposed facility, staff revise the resolution and bring it back to the City Council at the next meeting on the Consent Calendar to reflect denial of the proposed facility.

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to tentatively deny the rezone and General Plan amendment. AYES: Hardcastle, Higgins, Perry, Romick. NOES: Pope. (4-1)

Mayor Romick announced a 5 minute recess at 8:55 p.m. The City Council reconvened at 9 p.m.

- 4.3 Oakley Gateway Self-Storage and 7-Eleven- An Application Requesting Approval of: 1) a General Plan Amendment (GPA 05-16) to Amend the Land Use Designation from Public and Semi-Public Facilities (PS) to Commercial (CO); 2) a Rezone (RZ 07-16) from Public and Semi-Public (P) to General Commercial (C); 3) Tentative Parcel Map (TPM 02-16) to Subdivide 3.63 Acres into Two Parcels; 4) Conditional Use Permit (CUP 02-16) to Establish a Self-Storage and Gas Station; and 5) Design Review (DR 14-16) to Construct an Approximately 101,997-Square Foot (sf) Self-Storage Facility Including a Convenience Store with a Six Multi-Product Dispenser Fueling Station with Canopy. The Project Site is an Approximately 3.63-Acre Vacant Lot Located at 3979 Empire Avenue (Southwest Corner of Laurel Road and Empire Avenue) APN: 053-071-050 (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report.

Vice Mayor Higgins inquired how many units would be included in the facility and if a U-turn would be placed in the road near the facility.

Mr. McMurray explained that the City Council would be considering only the footprint for the project this evening, not the number of units at the facility. He added that staff suggests a U-turn on Laurel Road at the intersection of Neroly Road.

Councilmember Perry inquired who pays for the U-turn and if it is possible to get a gas station and 7-Eleven without a self-storage facility.

Mr. McMurray responded the applicant would pay for the U-turn and it is up to the developer regarding excluding the self-storage facility.

Councilmember Hardcastle inquired if there is a set number of units proposed for the self-storage facility and if the use could be changed later if the City Council approves it now as a self-storage.

Mr. Murray explained that a rough estimate is 1,000 +/- units proposed for the facility (depends on the market) and a change of use would require City Council approval.

Councilmember Pope inquired how long the frontage is on Laurel Road for the project.

Mr. McMurray responded it is approximately 515 feet.

Eric Whann, on behalf of the applicant, provided a PowerPoint presentation regarding the proposed project. He explained that he has been working for the past 2 years to market the site for retail development and the only interest shown is from gas stations. He added the self-storage facility would likely include approximately 750 units.

Councilmember Pope inquired how the proposed site might tie in to the neighboring vineyard.

Mr. Whann explained that a trellis and landscaping will be placed between the site and the vineyard (nothing will exist on the easement portion) to provide aesthetic flow/harmony.

Councilmember Perry inquired of the timeline for completion if approved.

Mr. Whann responded that construction can happen in phases; although he anticipates the high demand for self-storage units will cause the project to move quickly.

Councilmember Hardcastle inquired if customers would have access to gas pumps from both Laurel Road and Empire Avenue.

Mr. Whann confirmed customers would have access to gas pumps from both Laurel Road and Empire Avenue and a U-turn is proposed on Laurel Road to also allow customers heading westbound to turn around to access the pumps.

Mayor Romick expressed concern with phasing the project and mentioned he would want to see the 7-Eleven up first. He inquired what the traffic difference would be if a full retail center was placed at the corner of Laurel Road and Empire Avenue as opposed to the proposed project.

Mr. Whann explained that a retail center would have a greater impact on traffic.

Vice Mayor Higgins inquired if trucks can access the proposed facility to provide gasoline.

Blair Skellie, representing 7-Eleven, responded that there is a truck route for trucks to provide gasoline to the proposed facility. She added that 7-Eleven is a stop-and-go location; it is not a destination, and Laurel Road lacks gas and food establishments. She shared some slides of the design of the proposed 7-Eleven.

Mayor Romick mentioned there is a 7-Eleven located less than 1 mile away from the proposed site. He inquired if the new site would take business away from the existing 7-Eleven.

Ms. Skellie replied that it would not; the locations service two different areas.

Councilmember Perry inquired what safety measures would be implemented to ensure gasoline does not leak into the neighboring water treatment plant, if the 7-Eleven store will be accessible from both Laurel Road and Empire Avenue, and if it would be possible to locate the building further away from the intersection to provide better visibility.

Ms. Skellie responded that gas tanks are state of the art and equipment would constantly monitor for any gasoline leaks, the 7-Eleven store will be accessible from both Laurel Road and Empire Avenue, and it was not their preference to have the store located on the corner; it was the direction the City Council provided.

Mr. Whann added that Contra Costa Water District will review all plans for construction.

Councilmember Pope inquired if diesel fuel will be sold at the proposed site.

Ms. Skellie affirmed diesel fuel will be sold at the proposed site.

Councilmember Pope expressed concern that 7-Eleven is a 24/7 operation that sells alcohol and could become a congregation area. He inquired if 7-Eleven may be willing to end alcohol sales at midnight.

Ms. Skellie commented it is something that could be considered.

#### Online Comment Forms

Rebecca Farris commented that she is not opposed to the rezone, but she is opposed to the type of businesses proposed on the site. She expressed concern regarding an increase in foot and auto traffic and that the proposed businesses are not welcoming and do not best represent a gateway to the Delta.

Lynsey Goodrich commented in opposition to the proposed convenience store, gas station and public storage facility. She expressed concern with loitering, crime, traffic and safety.

Sandra Rusch expressed concern regarding crime, traffic and noise that may increase with the development. She suggested a gas station would be better located directly off the freeway.

#### Public Comment Forms

Cliff Olson expressed concern regarding traffic and safety. He asked the City Council to consider how a 7-Eleven may impact the identity and image of the City when it is the first place that people see when entering the City.

Susie Gillilan expressed concern regarding more accidents and fatalities at the intersection, increased traffic and people congregating around the 7-Eleven. She opposed the 7-Eleven mentioning there is another 7-Eleven down the street.

Martin Lauffer expressed concern with traffic, crime, and intersection visibility. He added that more self-storage facilities are not needed.

Angela Lowrey inquired who will operate the 7-Eleven and make decisions. She suggested someone local would be preferred. She also inquired what kind of community investment will be made by the owner.

Ms. Skellie responded that the store will be franchised and a local person would be preferred. She mentioned 7-Eleven believes in community engagement and has already connected with a local elementary school and the Chamber of Commerce.

Councilmember Perry commented she is concerned about the amount of self-storage facilities in the City. She mentioned Laurel Road is convenient and the traffic signals can be adjusted as needed for traffic.

Councilmember Pope commented he appreciates the applicant's efforts to bring development to the area. He mentioned there is a need for a U-turn at the intersection and a plan for crime prevention. He expressed that he did not envision the corner of the intersection to have a 7-Eleven as it is the prime gateway to the City; however, he appreciates the effort in its design. He

suggested if the project is approved, that recycled water be used during construction as opposed to potable water. He inquired if the applicant would consider adding curb, gutter and sidewalk further down Empire Avenue where it is needed since the applicant would not have to add it on the 515-foot frontage area where it already exists.

Councilmember Hardcastle commented that the existing sidewalks on the 515-foot frontage area would have to be torn out and reconstructed to accommodate the project. He mentioned he likes the idea of the gas station at the intersection.

Mayor Romick expressed that it is difficult to obtain retail in Oakley until the City grows. He commented that kids do not congregate at the 7-Eleven at Main Street and Empire Avenue. He added people need places to store their things.

It was moved by Councilmember Hardcastle and seconded by Councilmember Perry to adopt the Mitigated Negative Declaration (included as a finding to proposed General Plan resolution and referenced in the proposed Rezone ordinance and Tentative Parcel Map, Conditional Use Permit and Design Review resolution), Adopt a resolution approving the General Plan Amendment, as conditioned; waive the first reading and introduce an ordinance approving the Rezone, as conditioned; and adopt a resolution approving the Tentative Parcel Map, Conditional Use Permit and Design Review, as conditioned. Motion was unanimous and so ordered. (5-0)

## 5.0 REGULAR CALENDAR

### *Oakley City Council*

#### **5.1 East Contra Costa Fire Protection Board Appointments (Libby Vreonis, City Clerk)**

##### **a. Reappointment of Councilmember Randy Pope to Seat with Two-Year Term Commencing September 1, 2016**

Councilmember Perry commented she thought the City Council had decided to seek residents as appointees rather than Councilmembers.

It was moved by Councilmember Hardcastle and seconded by Mayor Romick to reappoint Councilmember Randy Pope for another two-year term. Motion was unanimous and so ordered. (5-0)

##### **b. Appoint a New Member to Seat with Two-Year Term Commencing October 1, 2016**

The City Council interviewed the two applicants, Brian Oftedal and Conrad Fromme. Applicants Mohammad Kesser Jawed and Adam Langro were not present.

It was moved by Councilmember Hardcastle and seconded by Councilmember Pope to appoint Brian Oftedal for a two-year seat. Motion was unanimous and so ordered. (5-0)

**5.2 Adopt a Resolution Authorizing the Submission to the Voters of a Ballot Measure establishing a Utility Users Tax and a Related Advisory Ballot Measure; Directing the City Attorney to Prepare an Impartial Analysis; Setting Priorities for Filing Written Arguments and Requesting Consolidation of the Ballot Measures with the November 8, 2016 Election  
(Derek Cole, City Attorney and Bryan Montgomery, City Manager)**

City Manager Bryan Montgomery presented the staff report.

Special Counsel William Galstan mentioned the City received a letter from Ironhouse Sanitary District (ISD) requesting exemption from the Utility Users Tax (UUT) as it is exempt from other utilities. He explained that the City may exempt ISD; however it may impose the UUT on sewer services for property owners and that a more sophisticated question proposed by ISD is if the percentage collected for the UUT is through property tax, if it may convert the matter into a higher percentage vote requirement than a 50% +1 majority. He advised that the City Council proceed with considering the ordinance as written.

Councilmember Perry inquired if the wording of the ballot needs to be confirmed this evening.

Mr. Galstan confirmed it would need to be decided.

Mayor Romick inquired how staff arrived at the amount of the tax.

Mr. Montgomery explained staff reviewed other cities' UUT average revenue and examined how a similar tax would fit into Oakley. The estimate provided by the consultant was approximately \$230-\$260 per household, per year, but could vary if usage of utilities is low. He mentioned sewer, water, electricity (no solar), gas and cable are the utilities included in the UUT and the estimated revenue at a 4.5% UUT is \$2.6-\$2.7 million per year (roughly the amount needed to fund the operation, not construction, of one additional fire station in Oakley).

Councilmember Hardcastle inquired if all special districts are exempt from the UUT.

Mr. Montgomery confirmed the proposed ordinance was written to exempt all special districts from the UUT.

Councilmember Hardcastle inquired if he understood correctly that the water district and school district benefit from fire protection services, but don't want to pay for it.

Mr. Galstan commented there is a general constitutional provision to not destroy other government agencies through tax.

#### Online Comment Forms

Richard Tyson commented he wished to speak at the meeting. He was not present when called upon.

William Carpenter commented that he is on a fixed income and he is opposed to any increase in taxes until the City spends more responsibly on necessities such as fire services and road repair instead of spending on aesthetic items such as landscaping, lighting, fountains, facades and other items such as parking lots and property for a railway stop.

Michelle Buchholz suggested the City Council check out the webpage for a volunteer fire department in Mahwah, New Jersey. She expressed opposition to the UUT, indicating that it will significantly increase costs for both her household and business.

#### Public Comment Forms

Sharon Kuykendall commented she is a Summer Lakes subdivision resident and requested the City Council consider her subdivision exempt from the tax since residents of the subdivision are currently paying an assessment to fund the fire station that Shea Homes was supposed to build. She inquired if UUT funds will be allocated to fund that fire station.

Mr. Montgomery responded that staff would recommend the UUT funds be allocated for that fire station. He mentioned the recommendation to the City Council is that Summer Lakes residents be reimbursed by the Fire District for fire assessments that these residents already pay.

Mr. Galstan explained it was an administrative decision to reimburse rather than exempt Summer Lakes residents.

Sue Gilbreath submitted a speaker card but was not present when called upon.

David DalPorto requested the City Council consider how the UUT may impact agricultural property in Oakley as agricultural land owners rely on PG&E to pump water for crops.

Hal Bray submitted a speaker card and request it be entered into the record. He inquired of the cost per household for the tax and how the revenue the tax would generate was calculated.

Susan Morgan commented she supports a solution to solve the fire services crisis; however, she opposed East Contra Costa Fire Protection District's proposed measure earlier this year because it was legally flawed and the adverse consequences of it passing and being challenged would have far outweighed its benefit. She mentioned the UUT is the best immediate alternative and suggested the configuration be changed to include telecom (as it generates the highest revenue of all the utilities), remove sewage (it is a fixed fee, not usage based) and reduce the UUT to 4% which would be consistent with what Brentwood is proposing.

Chad Davisson, General Manager of Ironhouse Sanitary District, commented that the Board did not take a position on the UUT one way or another, but indicated that he wants to provide clarification that sewer fees are not based upon consumption but rather are a property-related fee, based on property type. He added the action taken this evening could have an impact on Proposition 218 rate-setting process, requiring public outreach as to the basis of the tax increase and a public hearing. He commented that his intent is to work through any of these issues prior to taking the ballot measure to the voters.

Dawn Morrow submitted a speaker card and request it be entered into the record. She commented she understands that 3 fire stations are recommended for Oakley and inquired if there will be another tax when Oakley wants to put in a 3<sup>rd</sup> fire station.

It was moved by Councilmember Hardcastle and seconded by Councilmember Perry to continue the meeting past 11 p.m., address this item and one closed session matter and be briefed by email as to the other two closed session items. Motion was unanimous and so ordered. (5-0)

Dezi Pina inquired if the UUT funds go to the General Fund if the funds could be allocated to another item other than fire services.

Mayor Romick commented that an advisory question will be placed on the ballot to indicate if the voters are in favor of having the revenue from the UUT used to restore and enhance fire and emergency medical response services in Oakley and an independent advisory committee will monitor the revenue from the UUT.

Mr. Montgomery explained that a benefit of having the UUT measure structured as a general purpose tax is that there is a greater likelihood of it passing as it requires only 50% + 1 votes to pass as opposed to the measure being specifically allocated for fire funds which would require 2/3 votes to pass. He mentioned a citizen review board would be able to independently provide direction how to use the funds. He commented with regard to ISD, the UUT is an independent decision of the voters to pay a tax which is not affected by Proposition 218.

Mr. Galstan pointed out that the revenue will be allocated annually during public review of the budget. He mentioned that if the Council prefers to have telecom

included it must make a decision before Friday and the UUT would likely have to be recalculated.

Councilmember Hardcastle commented that anytime there has been a rate increase with ISD, it took several months to send notices to the public and conduct a hearing before rates were raised. He requested clarification how this process is different than that.

Mr. Montgomery responded that this process does not require Proposition 218 procedures (public notice and hearing of rate increase). He explained by it going to the voters, the decision is a stronger due process procedure.

Councilmember Hardcastle inquired how agricultural property might be best addressed.

Mr. Montgomery responded that if it is a for-profit business, it would be subject to the UUT.

Mr. Galstan explained that after the election, the UUT cannot be increased, but can be decreased; therefore, the City Council could decide to make exemptions at a later date, for example for agricultural users, qualified low-income households or solar owners.

Mr. Montgomery added that there is a severability clause in the ordinance; if one part of the ordinance is found to be invalid, it would not make the entire ordinance unlawful.

Councilmember Hardcastle inquired if the total cost of the UUT on the November ballot is \$20,000.

Mr. Montgomery explained that is a very conservative estimate; however, there is no way to know until Friday when all ballot measures have been submitted in the County.

Councilmember Perry pointed out that telecom appears to be the utility with the lowest opposition.

Mr. Montgomery explained that including telecom could make the UUT more or less likely to pass; for example, if a household has multiple phones, it could be impacted more than other households.

Angela Lowrey inquired if the UUT would violate Proposition 218 and double tax residents for sewer (once by taxing ISD and second by taxing residents).

Mr. Montgomery responded that the UUT taxes the user, not the agency; therefore, the UUT would be a percentage of the annual user fee for sewer added to the annual user fee.

Councilmember Pope commented the UUT needs to pass to fund the fire department and at 4.5%, it does not appear it will pass. He recommended considering Brentwood's plan: an escalator; lowering it to 3% the first year, then raising it to 6% the second year and include gas, electricity, cable and telecom (excluding internet). He commented sewer is regulated how much can be charged. He added it would be clean if Oakley had 3% and mentioned Brentwood is also supplementing with fire impact fees and its' General Fund. He suggested a 3% assessed valuation gift, move 1% to the Fire District, and if this is done each year, it will not impact City services. He added that the fire assessment should apply to new construction.

Mr. Montgomery explained that the base in Oakley is smaller than in Brentwood; every 1% in UUT revenue is approximately \$600,000, whereas every 1% in property tax revenue is approximately \$40,000. He added that 3% has a higher probability of passing, but revenue would be less.

Councilmember Pope suggested the City and other agencies contribute. He mentioned other agencies take advantage of fire services, but they don't currently pay for them.

Mayor Romick commented that the discussion is regarding the UUT and there was no input by other agencies prior to this evening.

Councilmember Perry supports looking into the City providing some funding and other agencies contributing funds toward fire services.

Mr. Montgomery explained that Oakley receives developer fees; however, a good portion of it was used to construct Fire Station 93 and approximately \$150,000 is remaining. He commented that he had not heard Brentwood was using General Fund revenue, but rather CFD funds. He added that new growth would have an assessment for fire and the UUT and while any revenue would be helpful, the length of time to receive the revenue may not help fund what is needed immediately.

Councilmember Pope indicated it could be a component of the UUT to provide a revenue stream for continuing years.

Mr. Montgomery expressed concern that the amount collected through new growth would not be enough to fund fire services for future years because the cost of operating fire stations will continue to rise.

Councilmember Perry commented that 4% is needed; 3% will not provide enough revenue, even if the City contributes.

Mayor Romick mentioned that multiple users of telecom services could be in the same household which would increase the amount they pay; therefore, those households would be more likely to vote against the UUT.

Mr. Montgomery mentioned the survey indicated that 60% of persons polled voted against telecom being included in the UUT and 62% voted against sewer being included in the UUT.

Councilmember Perry commented that the sample size for the survey was very small and sewer has no cost variation for usage; therefore, once added, there is no changing it.

Councilmember Pope expressed concern regarding the impact the UUT could have on small business owners.

Vice Mayor Higgins reminded the City Council that if no action is taken, the UUT will not make the November ballot and then nothing is gained for fire protection services.

Councilmember Pope expressed that something must be done; any amount will provide some improvement toward fire services.

Mr. Montgomery explained that in the current crisis situation for fire protective services, home/fire insurance rates are already starting to rise for some residents in the District.

Councilmember Perry mentioned that a fire insurance agent attended Brentwood's meeting and indicated that some residents are already seeing a \$580. increase in insurance rates if a fire station is not located within a 5 mile radius which will continue to increase each year. She added it is irresponsible for Oakley to count on Brentwood to solely carry the tax.

Councilmember Pope expressed he prefers a 3% UUT.

Councilmember Perry indicated she would prefer a 4% UUT and is torn between including telecom or sewer.

Mr. Montgomery mentioned if the City Council prefers to include telecom, staff has the telecom language Brentwood approved, but he believes it may hurt UUT passage.

Councilmember Hardcastle mentioned in his time visiting precincts, no one has ever commented to him that they approve of an increase in taxes.

Councilmember Perry expressed that education and outreach will be very important to try to get the UUT to pass.

It was moved by Mayor Romick to approve the UUT at 3.5%, excluding telecom and including sewer.

Councilmember Hardcastle inquired if lowering the percentage means that something is better than nothing.

Mayor Romick confirmed it is with the understanding that the problem will continue to worsen if nothing is done.

The motion was seconded by Councilmember Hardcastle. Motion was unanimous and so ordered. (5-0)

Mayor Romick reminded everyone that the City Council is not raising taxes by this decision; it is allowing the voters to decide whether or not to improve fire services on the November ballot.

## 6.0 REPORTS

### **6.1 CITY MANAGER**

#### **(a) City Manager**

None.

### **6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY**

#### **(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Comments**

Councilmember Perry announced the Oakley Chamber of Commerce will hold its monthly Chamber Mixer tomorrow evening at the Furry Friend Food Relief Program located at 1300 Central Boulevard in Brentwood. She mentioned the owners are Oakley residents. She encouraged all attending to bring dog or cat food to donate in exchange for a raffle ticket for a chance to win tickets to the Chamber's Wine and Whiskey event.

#### **(b) Requests for Future Agendas**

None.

## 7.0 WORK SESSIONS-None

## 8.0 CLOSED SESSIONS

### *Oakley City Council*

#### **8.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Government Code Section 54956.8)**

<b>Property:</b>	<b>305 Fifth Street, APN 035-163-007</b>
<b>Agency Negotiator:</b>	<b>Joshua McMurray, Planning Manager</b>
<b>Negotiating Party:</b>	<b>Gil Hagar, FSP Properties, LLC</b>
<b>Under Negotiation:</b>	<b>Price and terms of payment</b>

#### **8.2 CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION (Pursuant to Government Code section 54956.9(b)) Two potential cases.**

#### **8.3 Report out of Closed Sessions (William Galstan, Special Counsel)**

The City Council considered closed session item 8.1 and Special Counsel William Galstan indicated the City Attorney would brief the City Council on the other two cases by email. No reportable action was taken and direction was given to staff.

## 9.0 ADJOURN

There being no further business, the meeting was adjourned at 12 a.m.

Respectfully Submitted,

Libby Vreonis  
City Clerk