

Minutes of the Special Meeting of the Oakley City Council and Regular Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Tuesday June 28, 2016

Special Meeting

1.0 OPENING MATTERS

1.1 Call to Order and Roll Call

Mayor Kevin Romick called the meeting to order at 6:00pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. In addition to Mayor Kevin Romick, Vice Mayor Sue Higgins, Councilmembers Randy Pope, Vanessa Perry and Doug Hardcastle were present.

2.0 PUBLIC COMMENTS

None.

3.0 CLOSED SESSION

Oakley City Council

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

Property:	3530 Main Street, APN 037-160-023
Agency Negotiator:	Kevin Rohani, Public Works Director/City Engineer
Negotiating Party:	Victoria Louise Mann; Julie Ann Favalora
Under Negotiation:	Price and terms of payment

4.0 ADJOURN

There being no further business, the special meeting was adjourned at 6:20 p.m.

Regular Meeting

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, Councilmembers Randy Pope, Vanessa Perry and Doug Hardcastle were present.

1.2 Pledge of Allegiance to the Flag

Mayor Romick led the Pledge of Allegiance.

1.3 Presentation regarding Protection of the Delta (Roger Mammon)

Roger Mammon provided current and historical information regarding the Delta. He mentioned water outflow/pumping, the ecosystem and water quality standards are some areas of concern. He urged the City Council to attend an upcoming meeting in Folsom and also to write a letter to the Fish and Game Commission to address the value of fisheries and oppose proposed changes.

Vice Mayor Higgins inquired if the tunnel project is on hold because of a lawsuit and if the purchase of the island was to obtain the surrounding water rights.

Mr. Mammon responded that the tunnel project is not on hold because of a lawsuit; the Environmental Impact Report is being rewritten. He mentioned there is speculation that the purchase of the island was to obtain the surrounding water rights which is being denied; but it has been said that the islands could also be used as a dumping site or staging for the tunnel project (but must meet CEQA requirements).

Mayor Romick inquired if the hold on the tunnel project is temporary. He mentioned the Holland Tract provides much of the water for surrounding areas; therefore, it is of great interest for the City.

Mr. Mammon indicated it is a temporary injunction. He commented it is certainly more expensive to treat water that is not clean to make it safe and potable.

Councilmember Hardcastle thanked Mr. Mammon for all of his years of service to the community.

1.4 Update from Contra Costa Transportation Authority Citizens Advisory Committee Representative, Michael Dupray

Michael Dupray was unable to attend the meeting but provided a written update which is on file with the City Clerk's Office.

1.5 Update from Contra Costa Community College District (LMC President, Bob Kratochvil)

Los Medanos College (LMC) President Dr. Robert Kratochvil provided an update regarding recent developments including Los Medanos College's ranking, participation by its Tech Team in NASA's Micro-gNExT program, establishment of its Veterans Resource Center, information regarding its participation with BART's Transit Career Ladders Training Program and LMC's graduation ceremony. He shared a short video.

Contra Costa Community College District Board Vice President Greg Enholm provided a handout with additional information.

2.0 PUBLIC COMMENTS

Online Comment Forms – None

Public Comment Cards

Meghan Bell discussed the fire services crisis in East County and recent events that kept fire services occupied for 8 hours, jeopardizing the health and safety of Oakley residents. She urged the City Council to take data from the fire task force to create a strong solution to the crisis and educate the community.

Vincent Wells, Firefighter and President of the United Professional Firefighters of Contra Costa County, Local 1230, acknowledged the comments of Ms. Bell and commented he was working at his station in Martinez the day that fire services were occupied for 8 hours and his crew was trying to get through traffic to respond to help with a fire in Antioch. He stressed that the crisis is a County problem and he would like to see Oakley and Brentwood discussing the crisis frequently on their agendas and educating the community of this crisis.

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 June 14, 2016 (Kim Carmody, Records Management Clerk)**

Oakley City Council

- 3.2 Award of Construction Contract to R & R Pacific Construction Co., for the Main Street Downtown Utility Improvement (Norcross Lane to 2nd Street) Project – CIP 165A (Kevin Rohani, Public Works Director/City Engineer)**

- 3.3 Acceptance of dedication of right of way related to Assessor's Parcel Numbers 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020 for improvements associated with the Main Street Improvement project in downtown - CIP No. 165 (Kevin Rohani, Public Works Director/City Engineer)**
- 3.4 Authorize the City Manager to execute a Reimbursement Agreement between the City of Oakley and Brookfield Emerson Land LLC for the City's portion of the frontage improvements related to the East Cypress Road Widening, north side between Cypress Grove to Emerson Ranch Way/Machado Lane (Kevin Rohani, Public Works Director/City Engineer)**
- 3.5 Adopt a Resolution Authorizing the City Manager to Execute an Agreement for Grazing Services with Damon Pombo in an Amount not to Exceed \$50,000 from July 1, 2016 through June 30, 2018 (Kevin Rohani, Public Works Director/City Engineer)**
- 3.6 Adopt a Resolution Approving the Memorandum of Understanding between the City and the Oakley Police Officers Association (Bryan Montgomery, City Manager)**
- 3.7 Authorize the City Manager to Execute an Agreement with Kennedy & Associates to Provide Contract Storm Water and Land Surveyor Services for City of Oakley in an Amount not to Exceed \$50,000 Annually from July 1, 2016 through June 30, 2018 (Kevin Rohani, Public Works Director/City Engineer)**
- 3.8 Adopt a Resolution Authorizing the City Manager to Execute Temporary Use Agreement with Terracare Associates for a Portion of Property Located at 5400 Neroly Road and 1033 Main Street (Kevin Rohani, Public Works Director/City Engineer)**
- 3.9 Approval of Parcel Map MS 16-978 Neroly Road Child Care Parcel (Kevin Rohani, Public Works Director/City Engineer)**
- 3.10 Approve the Memorandum of Understanding with Contra Costa County and Participating Cities Regarding a Technical Study to Evaluate Alternatives for Potentially Implementing Community Choice Energy within the Jurisdictions Included in the Study (Joshua McMurray, Planning Manager)**
- 3.11 Authorize the City Manager to execute an amendment to the Consulting Services Agreement with BKF Engineers, Inc. to provide Construction Support Services for the Main Street Downtown Improvement Project - CIP 165 (Kevin Rohani, Public Works Director/City Engineer)**

- 3.12 Award of construction contract to Yelton Company Inc. for demolishing and disposal of the buildings located at 3510 Main Street for the Main Street Downtown Improvement Project – CIP 165 (Kevin Rohani, Public Works Director/City Engineer)**
- 3.13 Adoption of a Resolution to Establish Special Speed Zones for Segments of Main Street (Kevin Rohani, Public Works Director/City Engineer)**
- 3.14 Ordinance making amendments to Chapter 12 of Title 6 of the Oakley Municipal Code Dealing with Floodplain Management and to Chapter 9 of Title 3 dealing with development agreements (Kevin Rohani, Public Works Director/City Engineer)**
- 3.15 Waive the Second Reading and Adopt Ordinance Accepting the Requirements Relating to Peace Officer Training and Recruitment (William Galstan, Special Counsel)**
- 3.16 Resolution Authorizing Access to State and Federal Level Summary Criminal History Information for Employment, Licensing and/or Certification (Chris Thorsen, Police Chief)**
- 3.17 Waive the Second Reading and Adopt an Ordinance Amending an Existing P-1 (Planned Unit Development) District for the Emerson Ranch Subdivision to Accommodate a Final Development Plan for the Project Titled “Emerson Neighborhood 6 – Woodbury”(Ken Strelo, Senior Planner)**

Items 3.6, 3.10 and 3.17 were pulled from the Consent Calendar.

Mayor Romick indicated that item 3.6 is removed from the agenda and will be addressed at a future meeting.

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

Item 3.10

Planning Manager Joshua McMurray discussed the technical study.

Vice Mayor Higgins inquired if Oakley already gave consent in 2015.

Mr. McMurray responded Oakley did; however, the MOU provides ability to join if it chooses to do so in the future.

Vice Mayor Higgins mentioned she doesn't approve because Contra Costa will not get majority of the say and customers would have to pay for operations.

Mr. McMurray explained the MOU doesn't lock the City into anything and the technical study doesn't lock the County into anything. He also clarified that members of the MCE arrangement do have representation.

Councilmember Hardcastle inquired why Oakley needs to sign MOU if not participating.

Mr. McMurray explained Oakley is currently listed as a non-participating city and the MOU does not lock the City into doing anything.

It was moved by Councilmember Pope and seconded by Councilmember Perry to approve Item 3.10. AYES: Hardcastle, Perry, Pope, Romick. NOES: Higgins. (4-1)

Item 3.17

Councilmember Pope indicated he will vote against the Ordinance therefore he pulled the item.

It was moved by Vice Mayor Higgins and seconded by Councilmember Perry to approve Item 3.17. AYES: Hardcastle, Higgins, Perry, Romick. NOES: Pope. (4-1)

Mayor Romick announced Item 5.1 will be heard before Public Hearings.

4.0 PUBLIC HEARINGS

4.1 Proposed Amendment to Chapter 1 of Title 9 of the Oakley Municipal Code ("Zoning Ordinance") as well as applying the Affordable Housing Overlay Zone (AHO) to 9 specific Properties in Order to Comply with the City Approved and State Certified 2015-2023 Housing Element (RZ 08-16) (Joshua McMurray, Planning Manager)

Planning Manager Joshua McMurray presented the staff report.

Vice Mayor Higgins inquired if notices were sent to properties within the 500 ft. radius.

Mr. McMurray explained that the requirements were 300 ft. when the project was implemented therefore those guidelines were implemented. He added he had not received any correspondence from anyone noticed.

Councilmember Perry inquired if the properties on Elm Lane zoned commercial would meet RHNA requirements if they receive the overlay.

Mr. McMurray explained additional sites would not have to be identified if the overlay was already in place and a developer subsequently wished to build.

Councilmember Pope thanked staff for their work and resident involvement to help choose the sites.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (5-0)

4.2 Daub 4 Kidz Bingo Hall (CUP 01-16) – Recommend Denial on a Request for a Conditional Use Permit to Operate a Bingo Hall at 2105-2107 Main Street (Ken Strelo, Senior Planner)

Senior Planner Ken Strelo presented the staff report.

Councilmember Hardcastle inquired if an analysis on parking has been conducted.

Mr. Strelo responded that an analysis on parking has been conducted and staff does not believe parking will be impacted significantly.

Public Comment

Landlord Bob Garrison on behalf of Sierra Pacific commented that a portion of the space has been leased to a Karate studio and language has been included in the lease to limit where patrons can park and the landlord can provide security to enforce the parking requirements at the expense of the tenant. He mentioned his current security person took pictures of parking during the proposed time the tenant intends to operate and it is not utilized greatly. He added the applicant has been a great tenant of his in Pittsburg and he supports her operating in Oakley.

Brian Nissen commented that he is confused why security is an issue. He explained that the applicant has been very helpful in supporting local athletics.

Sam Belleci commented he represents the Flor Do Oakley hall in Oakley and security is for patrons' safety. He added that the bingo operation does not conflict with their bingo schedule and that people often ride together to play bingo so parking should not be an issue. He added he supports the tenant's proposed operation.

Linda Adams commented that the applicant has always been supportive of her children and athletics. She fully supports the applicant's proposed bingo operation.

Teri Eslinger commented she is actively involved in bingo and the applicant provides great support to the community. She fully supports her bingo operation.

Wolfgang Croskey commented he is the agent representing the applicant and he has experienced directly the benefit of her support to the local communities. He fully supports her bingo operation.

Vice Mayor Higgins inquired if a conditional use permit is issued in that area if it can be revoked.

Mr. Strelo explained the use of the property is of concern because it is an assembly use in a shopping center which can change the dynamic of a shopping center and a conditional use permit issued could be irrevocable with regard to assembly use and another tenant could continue the same use until it expires, or the use is not exercised for a 180 consecutive day period.

Councilmember Perry inquired if the organization is a 501(c) and who runs the operation.

The applicant responded the organization is a 501(c) and volunteers run the operation.

Mayor Romick inquired of the intended hours of operation and how it is decided which organization receives funding.

The applicant responded proposed business hours are 4pm-10:30pm, Friday through Sunday, possibly one additional day. She added the organization's Board meets monthly to decide on the recipients and require the recipients to provide receipts for reimbursement.

Councilmember Hardcastle inquired what percentage of profit goes to the community after expenses.

The applicant responded 100% goes to the community.

Vice Mayor Higgins inquired if this is the only location available or if other locations had been explored.

The applicant commented that bingo tables require a certain amount of space that is consistent and guaranteed (where they will not be cancelled for another event) and to rent a place per night is more expensive.

Councilmember Pope disagreed with the findings from items 3 and 4 on the staff report. He expressed he doesn't believe it will change the character of the shopping center or General Plan. He commented that the property owner has great interest in maintaining the property and for the City to restrict the property, outside of violating any conditions, could constitute a taking. He commented he would approve the use.

Mayor Romick inquired if there is any tax revenue difference between the bingo operation as opposed to a retail storefront.

City Manager Bryan Montgomery responded he is not aware of any direct tax revenue that would come from the bingo operation. He added the use is what is in

question as it is not a permitted use and doesn't provide the tax revenue that a business typically permitted in the center would provide.

Councilmember Perry inquired if the 180-day time frame of non-use could be reduced.

Mr. Strelo commented that is a provision of the City Code and he isn't aware of that time frame being reduced as a condition of approval.

City Attorney Derek Cole added that the City Code stipulates the 180-day provision, but that an alternative condition of approval could be considered.

Mr. Cole also confirmed that the conditional use permit could include a duration of the conditionally permitted use and the use could also have an expiration date. Any renewal of the conditional use permit would then require another public hearing before the City Council for consideration.

Mr. Montgomery suggested that a condition also include a non-transferable provision and that the 2 to 3 year duration for this conditional use permit. Any extensions would require City Council review and approval and during that review a determination could be made if another use at that time is more appropriate.

Mayor Romick commented that the City Council must decide what the best use of the property for the community is as it must with other properties.

It was moved by Councilmember Hardcastle and seconded by Mayor Romick to deny the request for a conditional use permit. AYES: Romick. NOES: Hardcastle, Higgins, Perry, Pope. (1-4)

It was the consensus of the majority of the City Council to provide direction to staff to explore the legality of conditions of duration and transferability of the conditional use permit.

Councilmember Pope added that the cost of police response should be factored in as well.

Mr. Montgomery responded that the Chief of Police can assist with providing some options and has in the past recommended private security, not paying City officers to do it. He added that there can be a revocation process included.

Mayor Romick continued the item to the City Council meeting to be held July 12, 2016.

5.0 REGULAR CALENDAR

5.1 Consideration and Adoption of Resolution of Support for the Countywide Imposition of One Half of One Percent Sales Tax to Fund Transportation Improvements in Contra Costa and Conditionally Amend the Growth Management Program in the Measure J Transportation Expenditure Plan to match that found in the 2016 Proposed Transportation Expenditure Plan (Kevin Romick, Mayor)

Hisham Noeimi, Engineering Manager for Contra Costa Transportation Authority, provided information regarding the proposed sales tax measure and benefits it would have for transportation within the County.

Councilmember Hardcastle commented that there has been a great deal of research that has gone into the proposed sales tax measure by many different interest groups and it would be of transportation benefit to support the measure.

Mayor Romick thanked Mr. Noeimi for his presentation.

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

5.2 Agreement for the purchase of real property, 3530 Main Street, Oakley APN 037-150-023 for Main Street improvement Project (Bill Galstan, Special Counsel)

City Manager Bryan Montgomery thanked staff and the property owners for working together. He mentioned there was compromise between City needs and a portion of the property that the property owners wish to retain.

Public Works Director/City Engineer Kevin Rohani provided the City Council with information regarding the compromise reached with the property owners.

Mayor Romick thanked the property owners.

Public Comment Card

Juli DelBarba Favalora commented that she and her family have been working diligently with City staff and the agreement reached was reasonable to both parties.

Councilmember Perry thanked Ms. Favalora and her family.

Councilmember Pope echoed the same comment. He requested assurance that the project move forward timely.

Ms. Favalora indicated there have been some obstacles, but they are moving forward to meet the date specified in the agreement.

City Manager Bryan Montgomery suggested \$175,000 could be remitted to the owners but if construction does not commence by August 31, \$20,000 would remain with the City. He explained this amount would allow the City to complete the project.

Ms. Favalora suggested the agreement could indicate the owners would have to reimburse the amount if it is not completed by the date specified in the agreement. She committed to reimburse the City if the front of the building is not removed by August 31.

Councilmember Hardcastle requested to have a guarantee that the work will be done in a specified period of time.

Ms. Favalora explained that the estimate to complete construction is a 6-month period, but if the work is not complete, she hopes an extension would be granted.

Mr. Rohani commented staff will continue to work with the owners closely to have the entire project completed by the date specified.

Vice Mayor Higgins thanked staff and the owners and suggested the City recognize their contribution to Oakley.

Mayor Romick suggested a plaque be created to recognize the family as part of a Founders Plaza area.

Fred Del Barba thanked Kevin and the City Council. He commented he and his wife Shirley fully support the agreement.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to approve the resolution. Motion was unanimous and so ordered.
(5-0)

5.3 Approval of new Engineering Design Standards for City of Oakley (Kevin Rohani, Public Works Director/City Engineer)

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

Councilmember Pope commented many of the trees in City parks are slow-growing and don't provide shade.

Mr. Rohani responded that there are different categories for trees in open spaces and other spaces; this design standard will provide options for trees that work for the community and City to maintain.

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

5.4 Green Infrastructure Requirements Presentation – (Billilee Saengchalern, Assistant Engineer and Kevin Rohani, Public Works Director/City Engineer)

Assistant Engineer Billilee Saengchalern presented the staff report and discussed a permit which grants permission to the City to discharge storm water flows to the waters of the United States for a period of 5 years. She mentioned within the permit there is a State-mandated requirement for green infrastructure which she explained in detail.

Councilmember Hardcastle inquired how PCB will be detected and reduced.

Ms. Saengchalern responded that it will be detected and reduced through a building demolition ordinance in which the City will receive a credit. She added that consultants can test certain projects and have identified and estimated certain areas that may contain PCB.

Mayor Romick commented that land owners such as DuPont would be responsible for reductions on their property, but if they do not, he inquired if the City will be held responsible for such reductions.

Ms. Saengchalern responded that green infrastructure requirements (reductions) would apply to capital improvement projects and the City can place conditions on other projects to ensure there is compliance with the plan for reductions.

Vice Mayor Higgins inquired if any new construction may mitigate the permit requirements (reductions).

Ms. Saengchalern responded that the requirements have varied due to the requirements at the time of the vesting tentative map for certain construction projects.

No action was required of the City Council on this item.

5.5 Replacement of Oakley Municipal Code Section 4.18 – Shopping Cart Retrieval and Prevention of Shopping Cart Removal Ordinance (Troy Edgell, Code Enforcement Manager)

Code Enforcement Manager Troy Edgell presented the staff report.

Public Comments

Jessalynn Greenblatt with Grocery Outlet requested the City Council consider fining persons who take carts from store premises instead of placing the entire burden on store owners to monitor carts.

Councilmember Perry inquired if a provision can be included to fine persons taking carts from store premises.

Mr. Edgell responded that it is possible; however, the store owner may have to testify in court which may not be time or cost effective.

Councilmember Pope pointed out the ordinance already addresses it.

City Attorney Derek Cole commented that it could be a misdemeanor but would likely be reduced to an infraction.

City Manager Bryan Montgomery commented that the City will continue its efforts to stop people who have carts off store premises and ask them to be returned. He added that the City would like to see the stores' plans for cart control and carts should be clearly marked as to which store they belong.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to approve the resolution. Motion was unanimous and so ordered.
(5-0)

6.0 REPORTS

6.1 CITY MANAGER

(a) City Manager

City Manager Bryan Montgomery introduced Kiyoka Fisher-Samson who is filling in for the City Clerk for this meeting. He invited everyone to attend the Cityhood Celebration at the Freedom High School Basin Saturday, July 2 beginning at 6 p.m.

He commented he was able to sit on the fire task force and a lot of great work was done, including work that lead up to opening up a fourth station. He added a recent survey was conducted and the amount of taxes needed to meet the Master Plan was not supported by the voters. He mentioned fire services are in crisis and a funding measure could be considered by the Fire District or City on the November ballot but a decision would need to be made in early August.

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

Vice Mayor Higgins announced she attended a recent Water Board meeting and the next meeting will be held in two weeks on Wednesday. She requested staff research the amount needed for a Master Plan. She commented she would like to see a community-wide garage sale on a community date such as the same day as the Cityhood Celebration. She mentioned she attended a paint night fundraiser for Veterans and there is another to be held for Furry Friends this Friday.

Councilmember Pope announced he attended the Habitat Conservancy meeting yesterday but there was no quorum so no action was taken. He added he attended the East Contra Costa Fire Protection District Board meeting Monday June 20 and the discussion was the Master Plan for a good fire district service model. In order for Oakley to participate in the proposed model, a 9% utility user tax was estimated. He mentioned Oakley is unique in that it has a station to add, but funding is not complete to operate it. He indicated the Fire District is not contemplating any other funding measures, but is trying to address the matter with the State. He commented the matter may have to be resolved locally. He mentioned the Fire Board voted to be an elected board. He invited everyone to attend the next Fire Board meeting on July 11 and the Cityhood Celebration July 2.

Councilmember Hardcastle announced he attended a recent Tri-Delta Transit meeting and they are scheduled to have electric buses in the next year and they currently offer reasonably priced student summer bus passes. He mentioned the next TransPlan meeting will be held Thursday. He recognized the Recreation staff mentors for their work with Summer Blaze.

(b) Requests for Future Agendas

None.

7.0 WORK SESSIONS-None

8.0 CLOSED SESSIONS

8.1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Pursuant to Government Code Section 54957)

Title: City Manager

9.0 ADJOURN

There being no further business, the meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Libby Vreonis
City Clerk