

**Minutes of the Regular Joint Meeting of the Oakley City Council/
Oakley City Council Acting as the Successor Agency to the Oakley
Redevelopment/Oakley Public Financing Authority held
Tuesday, January 10, 2017**

1.0 OPENING MATTERS

Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

Mayor Sue Higgins 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 Sue Higgins, Vice Mayor Randy Pope and Councilmembers Doug Hardcastle, Claire Alaura and Kevin Romick were present.

1.2 Pledge of Allegiance to the Flag led by Justin Vargas, Vintage Parkway Elementary Student

Vintage Parkway Elementary Student Justin Vargas led the Pledge of Allegiance. The City Council thanked him.

1.3 Introduction of New Police Officer Michael Palmer (Chris Thorsen, Chief of Police)

Mayor Higgins announced that this item will be continued to the next meeting.

1.4 Update from Contra Costa Transportation Authority-Citizens Advisory Committee (Michael Dupray, Appointee)

Contra Costa Transportation Authority-Citizens Advisory Committee Appointee Michael Dupray reported that the Committee will review Walnut Creek's compliance checklist and possibly Oakley's as well at its next meeting to be held at the end of January.

2.0 PUBLIC COMMENTS

Public Comment Cards

None.

Online Comment Forms

None.

3.0 CONSENT CALENDAR

Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

- 3.1 Approve the Minutes of the Special Meeting of the Oakley City Council and Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority held December 13, 2016 (Libby Vreonis, City Clerk)**

Oakley City Council

- 3.2 Accept Report Out of Closed Session Memo (William Galstan, Special Counsel)**
- 3.3 Approval of the City of Oakley's Contra Costa Transportation Authority (CCTA) Growth Management Program Compliance Checklist for Allocation of Fiscal Year 2015/2016 and 2016/2017 Local Street Maintenance and Improvement Funds (Kevin Rohani, Director of Public Works/City Engineer)**
- 3.4 Adopt a Resolution approving Agreements with Garth Ruffner Landscape Architect and Freyer & Laureta, Inc. for Landscape Architectural and Engineering Design Services Associated with Capital Improvement Project Number 197-Oakley Community Dog Park at Nunn-Wilson Park (Kevin Rohani, Director of Public Works/City Engineer)**
- 3.5 Adopt a Resolution Authorizing the City Manager to Execute a Termination Agreement and Deed in Lieu of Foreclosure with Manuel's Five Star Restaurant, Inc. for Property Located at 3070 Main Street, Oakley (Dwayne Dalman, Economic Development Manager)**
- 3.6 Postponing the Election and Ratification of the Election to Create Zone 161 within the Oakley Special Police Tax Area Minor Subdivision MS 16-979 (Southwest corner of Laurel Road and Empire Avenue) (Kevin Rohani, Director of Public Works/City Engineer)**

Public Comment Cards

None.

Online Comment Forms

None.

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

4.0 PUBLIC HEARINGS-None

Oakley City Council

4.1 Request for Design Review (DR 03-16) for a new façade and remodel of an existing 717 square foot building and a 705 square foot addition to the rear of the building, Variance (VA 02-16) for a reduction in the rear yard setback on a 0.04-acre site located at 3530 Main Street (APN 037-160-023), and an Amendment to the Real Property Purchase Agreement dated June 28, 2016 (Joshua McMurray, Planning Manager)

Planning Manager Joshua McMurray presented the staff report.

Public Comment Cards

Applicant Juli Del Barba Favalora expressed concern with the Façade Improvement Program application requirements of having a tenant and requesting tax returns. She requested the City Council consider waiving the easement agreement deposit, waiving annexation fees for the landscape and lighting district as well as the police district, not require storefront doors and windows on the back of the building at this time, and extending the project completion date to December 31, 2017.

Matt Trost, General Contractor for the project, requested the City Council consider the requests made by Ms. Del Barba Favalora indicating she is fiscally responsible and he will complete the work in a timely manner.

Mr. Murray clarified that the storefront doors and windows on the back of the building will not be required until the time of construction of the train platform.

Online Comment Forms

None.

Councilmember Romick inquired if there have been any changes or additions to the Façade Improvement Program requirements over the past 6 months.

Mr. McMurray confirmed there have not been any changes and staff has been consistent in asking for the same items from the applicant for months now.

Vice Mayor Pope commented he does not recall there being a needs-based assessment component to the application process. He mentioned he is fine with extending the project completion date to December 31, 2017 and while he does not wish to charge the applicant to annex into the lighting and landscape and police districts, he expects the applicant to join those districts and pay taxes within those districts. He also mentioned he approves the zero lot line, he likes the historical element of the building, and doors and windows are needed on both sides of the building.

Councilmember Hardcastle inquired if the Façade Improvement Program provided a loan from the City to the property owner and if so, he mentioned he could see why tax returns are required.

Economic Development Manager Dwayne Dalman responded that the requirement to provide tax returns is to ensure the ability to repay the limited public General Funds that are provided as a loan under the Program and also to determine if it is in the best interest of the City to grant funds to someone who may already have the ability to afford a project without a loan from the City. He added that the requirement to have a tenant in the building is to determine if the tenant will provide a positive impact to the Downtown area and also to make a determination with competing applications for the Program.

City Manager Bryan Montgomery added that the tenant may drive the decision for the best use of Project funds and the City has not received a completed application from the applicant for the Program.

Councilmember Hardcastle inquired if the City required a tear down of the old building in which the applicant had an antiques tenant, would it charge the applicant for a new tenant.

Mr. Montgomery explained the previous building that was demolished was more like a storage area for antiques than a business. He added that staff treats all applications equally according to code and if it is modified for the current requests, the Council may wish to consider the impact for future requests. He asked Mr. McMurray to further explain the discretion the City may exercise with regard to reviewing applications.

Mr. McMurray explained that if the applicant was requesting a change of use it would not have to go before the City Council for approval; however, here the applicant is requesting a change required by code to go before the City Council for approval in which reasonable conditions can be placed on the project. He mentioned that when an applicant annexes into the landscape and lighting and police districts the applicant benefits from those services for a fee. He added that a clause will be placed in the documents to protect the City from any liability.

Councilmember Alaura commented she is in support of the Downtown revitalization and existing businesses. She commended the applicant and staff for their efforts to work together on the project. She mentioned she likes the design and historical feel of the building and believes the back of the building should be developed. She suggested projects be reviewed on a case-by-case basis and while this project is not a new building, it will have a new business; therefore, it, like every business in the Downtown, should support the maintenance and services districts. She inquired if the annexation fees are initial or annual.

Mr. McMurray explained the annexation fees are initial fees; however, the City does not have the cost of the annual fees for this property for landscape and lighting and police district fees. He mentioned the renovation of the building will result in a reassessment of property taxes which will likely raise the property taxes for the property owners.

Councilmember Alaura commented she supports waiving the initial fees for annexation.

Councilmember Romick inquired if a property can still be included in the districts if the property owner does not pay the initial fee and he requested the amount of the fee.

Mr. Murray explained that the property can be included; however, this means that taxpayers will be paying the initial fee.

Mr. Montgomery clarified that the City could pay for the processing fees for the annexation, but not the annual assessments.

Mr. Murray added that the initial fee is \$6,250 to annex into the districts.

Councilmember Romick asked the applicant what the total cost of the investment will be when the project is complete.

Ms. Del Barba Favalora replied that construction costs will total \$350,000.

Mr. Trost explained that applicant is having to spend money to remodel a store that she didn't want to because the funds from the sale were less than expected; the funds from the sale do not cover the construction costs.

Councilmember Romick explained that his concern is not the impact waiving the initial fees will have on future applications because this project is unique; the building is being reduced in size; therefore, he supports waiving the initial fees.

Mr. Montgomery suggested staff can amend the Purchase and Sale Agreement to reflect waiving the initial fees and if the Council desires, an extension of the project deadline.

It was moved by Vice Mayor Pope to adopt the resolution with changes including deferring back doors on the property until the rear of the property is developed, waiving the initial fees for annexation into the landscape and lighting and police districts and the applicant will join these districts, no easement fee but protect citizens with an easement, and extend the project deadline to December 2017. It was seconded by Councilmember Hardcastle.

Councilmember Alaura inquired if the Council desired to extend the project deadline until December 31, 2017.

Vice Mayor Pope amended the motion to adopt the resolution with changes including deferring back doors on the property until the rear of the property is developed, waiving the initial fees for annexation into the landscape and lighting and police districts and the applicant will join these districts, no easement fee but protect citizens with an easement, and the project deadline remains September 2017. It was seconded by Councilmember Hardcastle. Motion was unanimous and so ordered. (5-0)

5.0 REGULAR CALENDAR

Oakley City Council

5.1 Authorization to Negotiate Future Lease for Property Located at 3070 Main Street (Dwayne Dalman, Economic Development Manager)

Economic Development Manager Dwayne Dalman presented the staff report.

Councilmember Romick inquired how many other businesses inquired about leasing the property.

Mr. Dalman responded that six or seven other inquiries were made which shows good interest in Oakley's Downtown.

Vice Mayor Pope asked Mr. Dalman to explain the process that took place to accept applications.

Mr. Dalman explained that he spoke with a number of people who were interested in leasing the property; however, only three submitted applications (Buon Appetito, La Veranda and Gaby's Bar & Grill). He explained further that the property having an upstairs component did not work for everyone who inquired about leasing the property and some indicated the space was either too large or too small. He added that the process involved those interested submitting proposals and financials. He mentioned that the process was not conducted publicly; however, by word-of-mouth and through information being published in a newspaper, information was received or perceived publicly that the property may soon be available for lease. He discussed the concern for Carpaccio that if the public knew it was closing it could risk losing employees and events already scheduled.

Mayor Higgins inquired if the Council can consider a later proposal if it picks one of the three proposed tenants this evening.

Mr. Dalman responded that the Council can decide to accept additional proposals and direct staff to advertise.

Mayor Higgins inquired how long the City has been considering a new tenant.

Mr. Dalman explained that the City had knowledge of Carpaccio closing in the fall of 2016 and thereafter began to receive inquiries about the property.

Councilmember Alaura commented she would like to see the property remain a restaurant as it seems the best fit and requested the Council allow for additional proposals to be reviewed at the next meeting.

City Manager Bryan Montgomery suggested that if the Council selects one of the three proposed restaurants it would provide something to compare against. He mentioned

staff can accept additional proposals which would likely consist of a letter of interest and some background and present them at the next Council meeting.

Mayor Higgins and Councilmember Alaura were in agreement with Mr. Montgomery's suggestion.

Councilmember Hardcastle commented he believes many people already know about it and he is ready to decide tonight.

Vice Mayor Pope inquired when Buon Appetitio and La Veranda would be prepared to open if selected.

Mr. Dalman responded that both should be able to open fairly soon, possibly March, as no tenant improvements were requested.

Public Comment Cards

Sonia Rivas with Gaby's Bar & Grill expressed that they are disappointed that they have not been recommended by staff as the preferred tenant. She explained that her team has a good record of selecting the type of restaurant that will best work for an area and they offer flexibility of cuisine and change their menu on a regular basis. She added they have great marketing plans and experience in working with events and the community.

Online Comment Forms

None.

Mayor Higgins shared that she ate at Buon Appetitio and the food was good. She mentioned Gaby's Bar & Grill may compete with existing businesses such as Black Bear and Providence that already offer similar cuisine; therefore, she likes the idea of an Italian restaurant as it does not compete with cuisine offered by other restaurants in Oakley. She was in favor of choosing one of the proposed restaurants this evening and allowing time for additional proposals to be submitted.

Vice Mayor Pope commented he has eaten at all three restaurants, the food and service was good and any of the three would make a great fit; however, he would prefer to see a kids menu offered by the restaurant chosen as Oakley is a "Place for Families". He excluded La Veranda based upon its financials and indicated he is leaning toward Buon Appetitio because it would be the best fit for the site, it would be a somewhat seamless transition and would have existing clientele. He mentioned he does not want the application process to have a feeling of secrecy; therefore, he agreed to allow more time for public input and additional proposals. He added that more time may also allow the newspaper to make a correction; the City is not a lessor of the property; it is the mortgagee (Carpaccio was purchasing the property, not leasing it). He asked staff if additional proposals could be obtained before the next Council meeting.

Mr. Montgomery explained it would depend on how much detail the Council desires. He mentioned more detail may require 2-4 weeks.

Vice Mayor Pope inquired if anyone from La Veranda or Buon Appetito was present.

Mr. Dalman responded that no one from La Veranda was present.

A gentleman in the audience raised his hand and indicated he was in attendance on behalf of La Veranda.

Vice Mayor Pope thanked representatives of Buon Appetito and Gaby's Bar & Grill for attending and commented he believes Italian food is the best fit as a bar and grill already exists in the City.

Councilmember Hardcastle agreed with Vice Mayor Pope and commented he is fine with allowing additional proposals for a couple more weeks. He mentioned he has received emails indicating Buon Appetito comes highly recommended and he believes it will be a seamless transition.

Councilmember Alaura thanked representatives of Buon Appetito and Gaby's Bar & Grill for attending. She mentioned the additional time will allow for additional proposals and for anyone wishing to revise their proposals. She added she is leaning toward Buon Appetito because she does not want to take customers away from an existing bar and grill business. She added that the rent and stipulations proposed by others may not be beneficial to the City with regard to income on the property. She also mentioned she is not sure if it is La Veranda's best interest to open a location in Oakley so close to their existing location in Pittsburg. She commented Buon Appetito would offer a more seamless transition and she would like to see additional proposals brought back at the next meeting.

Councilmember Romick thanked Carpaccio for taking a risk on Oakley. He explained at the time Carpaccio came into the Downtown, there were very few restaurants willing to open. He added that he does not believe it was Carpaccio's food, but other extenuating circumstances that caused Carpaccio's business to decline. He commented that staff is constantly reaching out to potential businesses to come to Oakley and he does not want to see a vacancy in the Downtown. He mentioned he is leaning toward Buon Appetito and will look at additional proposals.

It was moved by Vice Mayor Pope and seconded by Councilmember Alaura to tentatively select Buon Appetito as a tenant and direct staff to accept additional proposals to be considered by the Council at its next meeting. Motion was unanimous and so ordered. (5-0)

5.2 Consideration of a Letter from the City Council Affirming the Principles of You, Me, We = Oakley! (Sue Higgins, Mayor)

Mayor Higgins mentioned after attending a You, Me, We = Oakley! (YMWO!) meeting along with Councilmembers Hardcastle and Alaura, she felt that the Council should stand behind its community by reaffirming the principles outlined in the YMWO! Pledge.

Councilmember Hardcastle requested that the word "can" be added to sentence number 8 of the Pledge so it reads, "I, as a member of the Oakley community, will acknowledge that everyone has unique qualities which can contribute to our community and make this the beautiful City it is today."

Councilmember Alaura commented she is in favor of the letter and shared that she recalls when YMWO! originated in Oakley, but she had not seen its Pledge. She expressed that it was wonderful forward thinking to have the Pledge in place and commended staff and the committee for their work.

Public Comment Cards

Simon Mendez commented he has volunteered with YMWO! for four years and commended the City Council and YMWO! program for building a strong, safe and welcoming community for all.

Bill La Spada commented it is important to strengthen the community during these times and he hopes the principles will help guide the community to love and respect one another, purposefully resist anger and fear, embrace hope, and provide the next generation hope and promise.

Online Comment Forms

Teresa Flores, Michael Dupray, Daisy Poblano, Rev. Ken, Ana Sanchez and Brenda Reyes-Perez submitted online comment forms supporting the letter.

It was moved by Councilmember Hardcastle and seconded by Vice Mayor Pope to accept the letter. Motion was unanimous and so ordered. (5-0)

6.0 REPORTS

6.1 CITY MANAGER

City Manager Bryan Montgomery recognized staff and citizens for keeping drains free and clear of debris which is important with the heavy rains the City has experienced over the past week. He mentioned the City invested in storm water infrastructure which allows for proper drainage during heavier rains; he thanked the City Council and staff for their work. He also mentioned free sand and bags are available to residents behind the Senior Center if needed.

(a) 2016-2018 Strategic Plan Update

Mr. Montgomery announced staff has provided an update of the City's 2016-2018 Strategic Plan and welcomed the Council to provide comments or request any changes.

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 Pope announced he attended the East Contra Costa Fire Protection District Board meeting yesterday and the Fire Chief announced his resignation to occur March 31; the Board is searching immediately for his successor. He commented that credit should be given to staff with regard to storm drainage as the system is working as designed.

Councilmember Romick mentioned the outside committees to which he has been appointed have been on holiday break over the past month. He requested staff work with veterans groups to distribute signs to the community toward the end of May for veterans and pet owners to post that would make people aware of the impact fireworks have on residents and lessen their impact. He shared a sample sign that read "Combat Veteran Lives Here, Please be Courteous with Fireworks."

Councilmember Hardcastle mentioned he asked staff to post on marquee boards in the City before New Year's Eve, "Respect our Vets, Protect our Pets", to educate the community regarding the impact fireworks has on community members.

Mayor Higgins announced she attended Wreaths Across America at the Union Cemetery to represent the City and local Veterans and shared there are over 475 veterans buried in the Union Cemetery. She mentioned she attended the Ironhouse Sanitary District (ISD) Board swearing in ceremony and Councilmember Alaura will be following up with ISD regarding its Jersey Island biosolids project. She also mentioned she attended the Water Board swearing in ceremony; she encouraged everyone to attend the next Water Board meeting as a 4% rate increase is being proposed. She announced Stand Down planning is underway and meetings are being held the first and third Thursday of each month; they are seeking volunteers. She asked Vice Mayor Pope to discuss the size of the Fire Board.

(A power outage occurred at 8:20 p.m. during the meeting).

Vice Mayor Pope commented that the Fire Board approved moving from an appointed board to an elected board and set the election to consolidate with the general election during even years which must be approved by voters on a ballot before 2018.

(b) Requests for Future Agendas

None.

7.0 WORK SESSIONS-None

8.0 CLOSED SESSIONS

Oakley City Council

8.1 CONFERENCE WITH LEGAL COUNSEL-SIGNIFICANT EXPOSURE TO LITIGATION

(Pursuant to Government Code Section 54956.9(d)(2))

Three potential cases.

8.2 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9(d)(1))

City of Oakley v. Shea Homes, a limited partnership

Contra Costa Superior Court Case No. MSC16-00439

8.3 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9(d)(1))

Michael Rasooly v. The City of Oakley

Contra Costa Superior Court Case No. MSN16-1462

8.4 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9(d)(1))

City of Oakley v. James M. Scelsi

Contra Costa Superior Court Case No. MSN16-1620

8.5 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9(d)(1))

City of Oakley v. Craig Davidson

Contra Costa Superior Court Case No. MSC15-01280

City Attorney Derek Cole announced that he would provide a written update to the City Council regarding the Closed Session items due to the power outage and if any members of the City Council would like to discuss any of the items at the next meeting during Closed Session, the items may be placed on the next meeting agenda.

8.6 Report Out of Closed Session (Derek Cole, City Attorney)

No report.

9.0 ADJOURN

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully Submitted,

Libby Vreonis
City Clerk