

**Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council acting as the Successor Agency to the Oakley Redevelopment Agency  
January 26, 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, 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 (Brady Houston, Almond Grove Elementary School Student)**

Brady Houston led the Pledge of Allegiance to the Flag. Mayor Romick thanked him.

**1.3 Proclamation Honoring Eagle Scout Justin Horrocks, Troop 297**

Mayor Romick presented the proclamation to Eagle Scout Justin Horrocks on behalf of the City Council.

**1.4 Update from Contra Costa Advisory Council on Aging (Grayce Smith, Appointee)**

Contra Costa Advisory Council on Aging Appointee Grayce Smith provided an update to the City Council and thanked the City Council for appointing her to the Council on Aging. She mentioned the Council on Aging is trying to address improving County response time to elder abuse reports and is working with legislators to assist seniors transitioning from nursing homes to their own homes by having items such as special diets covered under rehabilitation services. She added at the local level, her goal is to have informational fairs for seniors to better understand the services the County provides, become familiar with resources available to seniors and their families, and receive information on available technology that may allow seniors to remain in their own homes.

Mayor Romick thanked Ms. Smith and mentioned he looks forward to future reports.

## 2.0 PUBLIC COMMENTS

### Online Comment Forms

No online comment forms were submitted for Public Comments.

### Public Comment Cards

Chrisand Giles, Community Development Manager for Shea Homes, commented that Shea Homes has shut down development in Summer Lake North due to economic constraints resulting from the recession. She mentioned Shea Homes is ready to approach the City Council with a fire station proposal and requested the City Council consider meeting with Shea Homes without legal counsel involved so planning efforts can continue.

## 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 January 12, 2016 (Libby Vreonis, City Clerk)**

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

- 3.2 Accept Report Out of Closed Session Memo (William Galstan, Special Counsel)**
- 3.3 Waive the Second Reading and Adopt an Ordinance Prohibiting Marijuana Cultivation (William Galstan, Special Counsel)**
- 3.4 Waive the Second Reading and Adopt an Ordinance to Levy a Special Tax for Communities Facilities District No. 2015-2 (Parks, Street Light, Landscape and Stormwater Services) (Kevin Rohani, Public Works Director/City Engineer)**
- 3.5 Adopt a Resolution Approving a Land and Water Conservation Fund Grant Application for Nunn-Wilson Family Park Development Project (Kevin Rohani, Public Works Director/City Engineer)**
- 3.6 Adopt a Resolution Approving the Sale of Property Located at 101 Carol Lane (Bryan Montgomery, City Manager)**
- 3.7 Adopt a Resolution Confirming the Cost for Abatement of a Public Nuisance and Directing a Special Assessment and Lien Upon Said Parcel-4303 Redwood Drive (Troy Edgell, Code Enforcement Manager)**

**3.8 Approval of a Contract with Systems and Space to Provide Evidence Storage Equipment (Chris Thorsen, Chief of Police)**

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

**3.9 Adopt a Resolution Approving a Recognized Obligations Payment Schedule for the Fiscal Year 2016/2017 (Deborah Sultan, Finance Director)**

Items 3.3 and 3.5 were pulled from the consent calendar.

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

Item 3.3

Online Comment Forms

Chuck Varnado commented the proposed ordinance violates Proposition 215, if the City must act now to consider making it a 45-day moratorium instead of a ban, and including a sunset clause. He requested the ordinance be rewritten to ban commercial cultivation only, indicating it is the only activity covered by Medical Marijuana Regulation and Safety Act and that the City Council appoint an ad hoc committee or group to study the issue further and develop meaningful land regulations that will protect safety and patient access.

Paul Seger expressed concern that during the January 12, 2016 meeting, he believes Special Counsel William Galstan advised wrongly that the State may take the position that the Council must do the maximum by March 1 or State regulations will take effect. He commented the statement is false, misleading, not in the new laws and influencing negative responses from at least once councilperson. He also expressed concern that the meeting minutes from the same meeting included information that was not stated or implied to the City Council, quoting the information as: "Special Counsel William Galstan explained it would be possible to loosen provisions of a strict ordinance but may be difficult to tighten an ordinance past the March 1 deadline because the State may have more involvement in regulating it." His last concern stated was that the City is setting itself up for litigation.

Public Comment Cards

Suzzette Bartell spoke on behalf of persons present and absent tonight in opposition of the ordinance and urged the City Council to keep open minds with regard to the impact the ordinance will have on patients who grow responsibly for personal use and to consider extending the ordinance to commercial use and include a sunset clause similar to that adopted by Alameda County.

Mayor Romick expressed he is in favor of adopting the proposed ordinance and it can be revisited next January to review any changes in State law.

Vice Mayor Higgins expressed she does not want the prohibition.

Councilmember Perry agreed with Vice Mayor Higgins expressing concern with any unintended consequences and commented that she does not want to impose a prohibition on residents who may already be suffering medically and financially.

It was moved by Councilmember Hardcastle and seconded by Councilmember Pope to approve Item 3.3. AYES: Hardcastle, Pope, Romick. NOES: Higgins, Perry. (3-2)

### Item 3.5

#### Online Comment Forms

No online comment forms were submitted for Item 3.5.

#### Public Comment Cards

No public comments were submitted for Item 3.5.

Public Works Director/City Engineer Kevin Rohani presented the staff report regarding the community dog park.

Councilmember Hardcastle commented the dog park is a great plan, but expressed concern that the City's potential contribution to fund the park in addition to grant funds is high. He commented he would rather save the money for the future 50-acre park on East Cypress.

Mr. Rohani explained that the infrastructure, parking and ADA compliance measures all contribute to the estimated cost of the dog park; the City is trying to be frugal, yet meet all required standards. He added that the future 50-acre park will be a much larger project; it is estimated to cost \$50 million.

Vice Mayor Higgins expressed concern with ongoing costs of clean-up at the dog park and inquired if the City would be responsible for those costs.

Mr. Rohani commented the City will work with non-profit groups and outside sources to assist with clean-up at the dog park.

Councilmember Pope expressed concern with the siting of the dog park. He mentioned it appears it will be located between the existing playground and basin area which will eventually be a sports field. He inquired how long the City would have to wait if it decided to transfer to a different use if the dog park is does not work.

Mr. Rohani explained the storm drain basin area at the park will unlikely be conducive to a sports field and the playground area will be separated by fence from the dog park. He mentioned the area provides a safe environment and room for dogs to run.

City Manager Bryan Montgomery commented that he recalls that there is a process in the grant agreement by which the park may change to a similar use, possibly a 10-year period, but that it may not convert to a completely different use such as commercial.

Councilmember Perry commented the dog park is a great idea and was received positively by residents at a previous community meeting. She inquired when the application is due and if there is an opportunity to play with the pricing.

Mr. Montgomery responded that the amount must be decided upon in February. He commented that there could be some room for changes if the amount is divided between City funds and grant funds; however, if fully funded by grant funds, the State may not look favorably upon the City if changes are made or if the City decided not to build. He added the parking lot provides considerable expense to the project; however, it is needed as not to impact the surrounding neighborhood. He offered that City staff can explore other sites for the dog park, but it would miss the application deadline for the grant this year.

Mayor Romick inquired if a parking lot is needed.

Mr. Montgomery explained the parking lot is needed as to not impact the neighborhood.

Mr. Rohani added that parking and infrastructure is needed and City staff will proceed with due diligence.

Mayor Romick inquired if the park is built in an alternate location and if it were a park for kids, not for dogs, if it would cost the same.

Mr. Montgomery explained it would cost more because of playgrounds, etc.

Councilmember Hardcastle inquired if there are any grant opportunities the City is looking for at this time for other parks.

Mr. Rohani responded that City staff is always looking for grant opportunities, but none exist at this time for parks.

Councilmember Hardcastle expressed concern with having two projects, the dog park and library, that would use significant City funds. He mentioned there should be a way to reduce the amounts.

Councilmember Pope inquired where the funding comes from.

Mr. Montgomery explained funding would come from park impact fees and if those fees are insufficient to cover the project, the General Fund can lend funds to the park impact fees until

such fees are recovered in the future. He suggested if the City Council prefers to reduce the amount the City contributes to the project, the City Council provide direction to staff and inform staff where the project falls in priority to other projects.

Councilmember Perry inquired if the plan submitted this evening is the same plan submitted last year and if the amount is the same.

Mr. Rohani confirmed it is the same plan and amount. He provided clarification that the dog park will be difficult to build with \$400,000; another option would be to postpone the project.

Mayor Romick expressed concern with delaying the project another year as there will always be other projects for it to compete with and the City is financially positioned better now than it was last year when the project concept was approved.

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to approve Item 3.5. AYES: Higgins, Perry, Pope, Romick. NOES: Hardcastle. (4-1)

#### 4.0 PUBLIC HEARINGS-None

#### 5.0 REGULAR CALENDAR-None

#### 6.0 REPORTS

##### **6.1 CITY MANAGER**

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

None.

###### **(b) Discussion Regarding Planning Advisory Committee/Planning Commission**

City Manager Bryan Montgomery presented the staff report. He mentioned when the City previously had a separate body for a Planning Commission, there were five staff members to handle planning matters and now there are only two staff members; therefore, if the City Council desires to reinstate that separate body, the additional impact and work would require another staff member to be hired and trained prior to the reinstatement. He added that the Council may wish to consider the cost to applicants as their fees would increase as well. He suggested that the City Council may wish to consider a less costly approach, a citizen planning advisory committee. He shared that four residents have expressed interest in being part of this type of committee.

#### Online Comment Forms

Mike Burkholder encouraged the City Council to reject the staff report as Oakley is the only City in Contra Costa County without a formal planning commission and he believes the cost to have a formal planning commission provided in the staff report is inaccurate.

He requested Mayor Romick provide the public with the same opportunity to get involved as Mayor Romick had when serving on Oakley's Planning Commission. He expressed that a formal planning commission will work to improve Oakley through the ideas of many, not a select few.

Paul Seger commented in favor of a planning commission and expressed concern with regard to the cost of a formal planning commission being inflated in the staff report.

#### Public Comment Cards

Dawn Morrow commented the City Council often defers to City staff regarding planning matters when it should seek public input. She inquired of the qualifications of the City Councilmembers, other than Mayor Romick, to make planning decisions. She inquired why it would cost \$10,000 per year to have a committee that would be conducting review by email and why planning documents are not made available online in advance of projects being approved. She requested the City Council consider using the dog park money for a Planning Commission.

Angela Lowrey suggested the City Council consider creating an advisory group with one spokesperson to communicate with the City Council and test it for one year. She explained there are residents in the community who care, are committed, and want to be involved.

Mayor Romick commented he served on the Planning Commission during the City's busiest time of growth and it requires people other than just the members and planners (i.e., the City Attorney and engineers) to attend the meetings. He mentioned the Planning Commission does not have the authority to veto City Council decisions. He also mentioned that the City is barely recovering from the recession and when development reaches a peak again, it may be time to have a Planning Commission, but at this time the work just isn't there to necessitate hiring additional staff, creating a Planning Commission, and involving all of the people that would need to attend the meetings. He recommended considering it in the budget in future years when there is more growth. He thanked Ms. Lowrey for her suggestion and supported the idea of a group to engage public participation.

Councilmember Perry commented the time is now to act as a lot of people are ready to be involved and public engagement is important. She mentioned if staff is at its capacity, it is time to consider hiring additional staff. She inquired how staff arrived at the cost estimate of \$125,000 for a Planning Commission. She commented that she reached out to comparable cities and the cost was considerably lower in all of the cities she contacted.

Mr. Montgomery explained that staff's estimate includes hiring a full-time Associate Planner (\$88,000-\$101,000, includes salary and benefits) or full-time Assistant Planner (about \$10,000 less than an Associate Planner), plus costs of the Planning Commission. He commented that the amounts obtained from comparable cities could not have included staffing costs; they are cities that already have staff to handle Planning Commission matters, whereas Oakley would have to hire another staff member.

Councilmember Hardcastle suggested that Citizen Academy graduates be chosen to assist and advise on planning matters. He commented that the City Council asks planning related questions of staff for clarification and to obtain their input. He added that he would question a City Council that does not ask such questions.

Mr. Montgomery responded to Councilmember Hardcastle's suggestion by adding that each Councilmember could select two graduates or other residents to consult on planning and/or other matters.

Councilmember Hardcastle mentioned the agenda that is available on the City's website is the same agenda the City Council receives.

Vice Mayor Higgins agreed with Councilmember Hardcastle's suggestion and recommended anyone assisting with planning review items attend the next League of California Cities planning training and it be discussed during the next budget session.

Councilmember Pope commented he is an advocate of having a planning commission; however, prior to the City's Leadership Academy, only one person expressed interest in participating. He mentioned now that more people are interested, he is more enthusiastic about the idea; however, now may not be the time to implement it. He agreed with Councilmember Hardcastle's suggestion. He added he would like to see noticing requirements increased from 300 feet to 500 feet. He suggested if the City Council chooses to reinstate a separate body planning commission, that the City Council may wish to consider having 1 Council meeting per month and the Planning Commission meeting could fall on the other Tuesday.

Mayor Romick summarized the City Council's discussion indicating the City Council has somewhat of a consensus to not have a planning commission at this time, but rather have 2-3 advisors for each Councilmember, to include it in the budget discussion, to increase notification requirements from 300 feet to 500 feet and to bring back these discussions on a future agenda.

Mr. Montgomery inquired if there is a consensus of the City Council to have 1 City Council meeting and 1 Planning Commission meeting each month.

Mayor Romick expressed his concern with having only 1 Council meeting per month is that the meetings would likely end very late. He suggested staff review how long meetings currently run and report back to the Council.

### **(c) Discussion Regarding Recycled Materials for Playgrounds**

City Manager Bryan Montgomery and Public Works Director / City Engineer Kevin Rohani presented the staff report.



Vice Mayor Higgins commented on January 22, two senators requested President Obama to rule if rubber synthetic playground materials are safe or linked to cancer. She requested staff explore if there is an option to use a different material.

Mr. Rohani explained there have been over 50 studies in the United States and abroad regarding the safety of rubber synthetic playground materials which have not been conclusive that such materials are linked to cancer. He mentioned staff can use more traditional materials (i.e., sand or tanbark), but there is a cost associated with maintenance of traditional materials. He added that the City does not wish to endanger the health and safety of the community. He shared samples of materials being used and explained the materials have benefits such as being ADA approved, requiring lower maintenance and longevity.

Mr. Montgomery commented staff has received a grant for the rubber synthetic playground materials; therefore, staff will need direction from the Council regarding whether or not it is something the Council desires to continue to use. He mentioned sand and tanbark lose their safety after long use and there are maintenance costs to groom or clean up areas in which these materials are used.

Mr. Rohani further explained that tanbark has to be leveled each year because it disperses easily which can impair ADA compliance.

Mayor Romick commented that there are always concerns with new products and he would be reluctant to say don't use it, but perhaps moderate use of the product.

Vice Mayor Higgins suggested if the material currently exists in a park, leave it there; however, do not put any additional material in and do not apply for grant funds for more of the same material.

Councilmember Hardcastle commented there is a park he visited in another city that had soft, rubber cushioning.

Mr. Rohani explained that new materials are being used as technology evolves.

The consensus of the City Council was to not have staff seek new grants for this material unless further studies further demonstrate it is safe.

## **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 commented that the 2% increase was approved by Diablo Water District and Relay for Life will be held in Oakley May 21-22.

Councilmember Pope announced the next East Contra Costa Fire Protection Board meeting will be held at Oakley City Hall February 1 beginning at 6:30 p.m. He invited all to attend.

**(b) Requests for Future Agendas**

Councilmember Pope requested staff research if the City or County is required to provide fire protection services if a fire district is no longer able to financially sustain operation.

Mayor Romick added that staff should also look into what financial circumstance would qualify a fire district to cease operation and what the process would be to cease operation and transfer that operation to the responsible agency.

7.0 WORK SESSIONS-None

8.0 CLOSED SESSION

*Oakley City Council*

**8.1 CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Initiation of litigation pursuant to California Government Code Section 54956.9(c):  
One potential case.

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

City Attorney Derek Cole reported that the City Council authorized the City Attorney to commence litigation against a single party and in accordance with Government Code Sec. 54957.1, the City shall, upon request, identify the defendant and the details concerning the action after the action is commenced.

9.0 ADJOURN

There being no further business, the meeting was adjourned at 8:40 p.m.

Respectfully Submitted,



Libby Vreonis  
City Clerk