

**Minutes of the Regular Joint Meeting of the Oakley City Council/
Oakley City Council Acting as the Successor Agency to the Oakley
Redevelopment Agency/Oakley Public Financing Authority held
Tuesday, May 9, 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, Councilmembers Claire Alaura and Kevin Romick were present. Councilmember Doug Hardcastle was absent.

**1.2 Pledge of Allegiance to the Flag led by Taylor DeRocher, Gehringer Elementary
School Student**

Gehringer Elementary Student Taylor DeRocher led the Pledge of Allegiance.

The City Council thanked her.

**1.3 Proclamation Recognizing May 21-27, 2017 as Emergency Medical Services Week
in Oakley**

Mayor Higgins presented the proclamation to Contra Costa County Emergency Medical Services and local firefighters.

Michelle Voos, Trauma Manager for Contra Costa County Emergency Medical Services, thanked the City Council and mentioned it is the 40th anniversary of the paramedic Emergency Medical Services system.

1.4 Proclamation Recognizing May 2017 as Building Safety Month in Oakley

Mayor Higgins presented the proclamation to City of Oakley Building Permit Manager Dean Hurney. He thanked the City Council and staff. He shared an informational video regarding Building services.

1.5 Proclamation Recognizing May 7-13, 2017 as Municipal Clerks Week in Oakley

Mayor Higgins presented the proclamation to City Clerk Libby Vreonis. She thanked the City Council and Oakley residents. She shared an informational video regarding City Clerk services.

1.6 Introduce New Oakley Police Officers Daniel Buck and Jason Waite and Recently Promoted Sergeants Paul Beard and Logan Cartwright and Administer them the Ceremonial Oath of Office

Chief of Police Chris Thorsen introduced Officers Daniel Buck and Jason Waite, and Sergeants Paul Beard and Logan Cartwright.

2.0 PUBLIC COMMENTS

Public Comment Cards

Gilbert Lee shared concerns regarding feral cats in Oakley; in particular, with his neighbor harboring feral cats which are encroaching onto his property, creating nuisances. He requested the City consider how the cats are to be handled.

Online Comment Forms

None.

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 Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting and Special Meeting of the Oakley Public Financing Authority held April 25, 2017 (Libby Vreonis, City Clerk)

Oakley City Council

3.2 Approve the Minutes of the Special Meeting of the Oakley City Council (Strategic Planning Meeting) held Tuesday, April 18, 2017 (Libby Vreonis, City Clerk)

3.3 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)

3.4 Waive the Second Reading and Adopt an Ordinance Amending Oakley Municipal Code Sections 1.5.209(c)(i), 1.5.209(c)(iv) and 1.5.210(a), Dealing with Administrative Appeal Hearings (William Galstan, Special Counsel)

- 3.5 Ratify Election: Adopt Ordinance 24-16 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 161 within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision 16-979 (Southwest corner of Laurel Road and Empire Avenue)
(Kevin Rohani, Director of Public Works/City Engineer)**
- 3.6 Ratify Election: Adopt Ordinance 04-17 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 163 within the Oakley Special Police Tax Area for Police Protection Services for Subdivision No. 9043 (Aspen Lane)
(Kevin Rohani, Director of Public Works/City Engineer)**
- 3.7 Ratify Election: Adopt Ordinance 05-17 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 164 within the Oakley Special Police Tax Area for Police Protection Services for Subdivision No. 9044 (Aspen Place)
(Kevin Rohani, Director of Public Works/City Engineer)**
- 3.8 Accept City of Oakley Quarterly Investment Report (3rd Quarter, Fiscal Year 2016/2017) (Deborah Sultan, Finance Director)**
- 3.9 Adopt a Resolution Approving the Purchase of a New Ford Patrol Vehicle
(Chris Thorsen, Chief of Police)**
- 3.10 Adopt Two Resolutions Initiating the Fiscal Year 2017-2018 Oakley Street Lighting and Landscape Assessment District No. 1 proceedings; Initiating the process and declaring the intention to levy and collect assessments, and setting June 13, 2017 as the date for the Public Hearing
(Kevin Rohani, Director of Public Works/City Engineer)**

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

- 3.11 Accept Successor Agency Quarterly Investment Report (3rd Quarter, Fiscal Year 2016/2017) (Deborah Sultan, Finance Director)**

Public Comment Cards

None.

Online Comment Forms

None.

Item 3.1 was pulled from the Consent calendar by Mayor Higgins.

It was moved by Councilmember Romick and seconded by Vice Mayor Pope to approve the remainder of the Consent Calendar. Motion was unanimous and so ordered. (4-0)

Item 3.1

Mayor Higgins requested that the amount Vice Mayor Pope discussed regarding Summer Lake residents' portion of CFD funds and her comments regarding the email City Manager Bryan Montgomery sent be included in Section 6.1 of the minutes. She also requested that Section 6.1 of the minutes reflect that Councilmember Romick stated Mayor Higgins is correct (currently reads "Mayor Pope").

It was moved by Councilmember Romick and seconded by Councilmember Alaura to approve Item 3.1 as amended. Motion was unanimous and so ordered. (4-0)

4.0 PUBLIC HEARINGS-None

Oakley City Council

- 4.1 Laurel Plaza Mini-Mart and Gas Station– An application requesting approval of a Conditional Use Permit (CUP 04-17) and Design Review (DR 03-17) for approval of a new 3,819 square foot convenience store, a fueling island with 6 multiple product dispensers under a new 55 foot by 88 foot fuel island canopy and a new 25 foot by 80 foot car wash tunnel with outdoor vacuums. The 1.28-acre project site is located within the existing Laurel Plaza shopping center and is designated Commercial in the Oakley 2020 General Plan and zoned Retail Business (RB). The Project is located at the northwest corner of Laurel Road and O'Hara Avenue (APN: 035-510-002) (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report.

Councilmember Alaura followed up on concerns raised by the Citizen Planning Advisors regarding the safety and security measures on the sale of alcohol that would be taken given the proximity of the site to schools.

Mr. McMurray explained the conditions in the resolution regulate the hours and type of alcohol sales and a security plan would have to be submitted at the time of the building permit process. He added that when the applicant submits its application to ABC, ABC will consult closely with the City. He mentioned typically alcohol sales are 600 feet from a school, but cannot be used as a sole reason to deny an application. He shared Police expressed no concerns and the Rite Aid previously proposed for the site would have also had beer and wine sales.

Councilmember Alaura inquired if the specific details of the security plan would be discussed at a later date.

Mr. McMurray confirmed the security plan would be addressed at the building permit stage.

Councilmember Alaura inquired if one additional ADA parking space would be possible.

Mr. McMurray explained that one ADA space is the minimum amount required pursuant to the Building Code. He deferred to the applicant to answer whether or not the site plan could be redrawn to include an additional ADA parking space as an additional ADA parking space would require more room on each side of the parking space.

Vice Mayor Pope commented with that the Laurel/Empire mini-mart and gas station project, the gas pumps will be away from the street and the building will be on the street side. He inquired why the same design is not proposed for this project.

Mr. McMurray explained that the site at Laurel/Empire is a gateway entrance to the City and the building frontage at that location was desired at the corner. He mentioned staff shared that concept with the applicant and some initial concept plans were floated around, but gas stations prefer a canopy on the street side to provide visibility; therefore, if a canopy was going to be proposed, staff recommended it should be a high-quality canopy. He mentioned it is proposed to be a high-quality, enhanced canopy with a tiled roof; it will provide structure presence and meets design guidelines.

City Manager Bryan Montgomery added that the difference with the Laurel/Empire project and the proposed project is that the Laurel/Empire project does not have residents on the back side. He explained moving fuel as far away as possible on the site from residents seems to make sense. Also, the grade of Laurel Avenue is lower near this site; therefore, the building would appear too close to the street.

Vice Mayor Pope expressed concern that the City is treating applicants differently. He mentioned there are neighbors to the north and he is concerned the vacuums are too close to the homes. He inquired if there are hours of restricted use.

Mr. McMurray responded that the condition is not in the proposed ordinance, but could easily be added. He shared that the City's noise ordinance was discussed with the applicant and would prohibit the level of noise of a vacuum between the hours of 10pm-7am; the applicant will not allow vacuums to operate during those hours. He mentioned when Rite Aid was proposed for the site, the loading dock was proposed at the rear of the site; there were other noise considerations for that project. He shared that the noise assessment study took into consideration the 8-foot masonry wall built for sound prior to the project and the study did not result in recommendations for any additional mitigation measures for the vacuums or car wash tunnel than that already constructed.

Mr. Montgomery added that the sound study does not require it, but some future commercial buildings are also planned closer to the sound wall which would provide additional sound and smell attenuation.

Councilmember Romick commented that the Council has expressed its preference with gas stations is to have the building close to the street rather than the pumps and as more stations may be proposed on Laurel, applicants should be made aware. He

mentioned he is willing to consider the pumps closer to the street at this location because of the proximity to residences and the tight corner, but he wants to see better than average landscaping, something incredibly attractive. With regard to the car wash, he mentioned there is a car wash at the Arco station at the corner of Main Street and E. Cypress which is much closer to residences than the proposed car wash. He recommended the proposed car wash have the same operating hours as the Arco car wash and comply with the City's noise ordinance.

Mayor Higgins inquired if the car wash will have a pull down gate when not in operation.

Mr. McMurray commented the applicant may wish to respond.

Mayor Higgins inquired if the restrooms can be all-gender and if they can each have a changing table.

Mr. McMurray mentioned staff doesn't get into that much detail at this stage. He commented the applicant may wish to respond.

Applicant Leslie Burnside, Senior Project Manager with Barghausen Consulting Engineers, Inc., representing Keylock Enterprises, along with Ross Hillesheim with Keylock Enterprises, addressed the City Council's concerns. With regard to the changing tables, Mr. Hillesheim stated it is a reasonable request, a closed gate on the car wash is in his best interest as the car wash contains valuable equipment; he doesn't want children or people on street to run through the car wash and people don't need to wash a car at 3am. He mentioned with regard to the corner building that Chevron is a premier station in California and he does not believe they would approve a project with the mini-mart on the corner. He indicated they will do a great job on this property.

Ms. Burnside requested the plan be approved with direction to continue working with staff.

Mr. Hillesheim mentioned the POS system won't allow cashiers to sell products requiring an I.D. without an I.D.

Ms. Burnside asked Mr. Murray if the parking is under or over the number of spaces required.

Mr. McMurray responded that the parking is right where it needs to be.

Ms. Burnside inquired if an additional ADA space is added and a standard space is lost, if it would create a variance.

Mr. Montgomery commented two parking spaces would likely be lost if another ADA space is added.

Mr. McMurray responded that a reciprocal parking easement could be considered with the owner of the property, there may be room for a parallel space, and there could be an opportunity to allow a condition to explore an additional ADA parking space.

Councilmember Alaura requested the condition be explored.

Ms. Burnside commented they would take a look at it.

Public Comment Cards

Robert Lenoy expressed concern regarding the negative impact created with the development of the 24-hour mini-mart, gas station, and vacuum islands at the northwest corner of Laurel Road and O'Hara Avenue. He provided copies of a detailed study he performed to determine the need of services, impact on sound levels in the residential neighborhood, and safety concerns for children at the adjacent elementary school and shared those results.

Roberto Estrada objected to the project and shared concerns regarding the low sound wall elevation between the neighborhood and proposed project, the smell of gasoline, crime associated with element that frequents mini-marts late at night, the 24-hour operation, and safety of children crossing the lot and minors taking alcohol. He suggested a smaller grocery store might be a better fit (i.e., Trader Joe's or Lunardi's).

Mayor Higgins read Mike Dupray's comment. He commented that he would like to propose an additional community benefit agreement requirement be made to contract with an appropriate company to install a fast charging station at the site in accordance with the Governor's Zero Emission Vehicle Action Plan. He added the Laurel/Empire location is the perfect place due to its proximity to Hwy 4 and EV owners in the area would benefit as well as EV owners traveling between Highways 99 and 15, bringing more revenue to the City and making it a destination spot.

Online Comment Forms

None.

Mr. Lenoy inquired if the schools had been notified of the project.

Mr. McMurray responded that notice was provided to the superintendent.

Vice Mayor Pope expressed his concern again that applicants are being treated differently. He commented a reconfiguration of the site plan with a building on the corner may help with kids using the gas station as a cut-through to and from school. He also commented that the property is zoned commercial so it is not a change of use. He mentioned the area is underserved with fueling stations; therefore, he believes the site is a good location. He expressed preference to have the existing sound wall raised to provide sound attenuation at all levels of elevation, a berm with good landscaping to prevent kids from cutting across and to hide pumps, and to have restrictions on times of use of vacuums and the car wash written in

the conditions. He requested that the applicant maintain a higher level of service and expectation similar to that of the Chevron on Main Street and E. Cypress. He indicated he will not approve the project as brought forth tonight; it needs more work. He commented that the traffic flow on the lot from the pumps to the car wash to the vacuums needs to be reconfigured and the parking spaces are very limited.

Mr. McMurray responded that staff has had extensive discussions with the applicant regarding the building on the corner and the location of the lot provides only right in, right out access on both Laurel and O'Hara; the applicant would have difficulty meeting safety standards in its industry with fueling trucks coming onto the property if the layout were configured differently.

Mr. Montgomery added that the shortest access for students to cut through is the existing paved area. He mentioned Blackhawk Properties owns the property and has someone in line for the adjacent parcel in which traffic flow would circulate onto Laurel.

Councilmember Alaura commented she was not yet on the City Council during previous discussions of having gas pumps away from the street, but that in this particular location pumps near the street would be better with the proximity of the residences, but aesthetically it may not be the prettiest; landscaping will be needed to combat pumps near the street. She requested security measures for the carwash, noise and time restrictions, and to move vacuums toward the front of the site. She also requested the applicant share its safety plan regarding alcohol and tobacco product sales with the schools during the building permit process to provide assurance that students will not have access to the items. She mentioned she is not aware of any issues with alcohol and tobacco sales to students at the gas station on Main and E. Cypress, but if there are, she would like to know and that information could be shared.

Councilmember Romick commented that hopefully in a couple of years Laurel Road will be complete, it will become the busiest street in Oakley, and drivers will want gas stations on Laurel. He added the majority of gas stations provided in the report given tonight are currently in Brentwood and people are not going to want to travel down the road to Brentwood to get gas; it will be important to have gas stations on the busiest street in Oakley to serve the need. He expressed he wanted the building on the corner, but in this particular situation, he can see the compromise of having the pumps near the street to take them away from the homes. He mentioned when Safeway comes across the street and other stations up and down Laurel, the gas pumps will not be near the street. He requested berms with trees and bushes to minimize people traversing through the gas pump area and time and safety restrictions on the car wash similar to that of the Arco station car wash on Main and E. Cypress. He mentioned with those items, he is willing to approve the item and landscaping can be worked out with staff.

Special Counsel William Galstan commented the City Council has options for action: it can approve the project and add any necessary conditions, it can continue the item for another time (1 month) to allow the applicant time to provide more information or graphics, or it can announce its tentative decision tonight to deny the resolution but a resolution would have to be brought back for its approval because the resolution is written for approval tonight.

Mayor Higgins commented that there is a lot of traffic at Laurel, there is pick-up and drop-off of kids at O'Hara Middle School, and there are kids walking to Freedom High School; therefore, the landscape is going to be helpful to prevent cut-through. She expressed her preference is to have the pumps near the front of the site away from the housing and improve the masonry wall so it is higher.

Councilmember Romick moved to approve the item with additional conditions including hours of operation of the car wash clarified, enhanced landscaping, and same gender restrooms.

Councilmember Alaura seconded the motion and added other conditions including exploring an additional ADA accessible parking space, vacuums located away from the residential area, and the wall to be evaluated so it is truly 10 feet for all of the neighbors behind the site.

Councilmember Romick accepted the modifications to the motion.

Councilmember Alaura seconded the motion with all modifications included.

AYES: Alaura, Romick; NOES: Pope, Higgins (opposing same gender restrooms),
ABSENT: Hardcastle.

Mr. Montgomery commented that State law would dictate what the City would require with regard to the restrooms which would happen during plan review, it cannot be conditioned during design review.

Councilmember Romick amended his motion to approve the item, including all additional conditions mentioned with the exception of the restrooms.

Councilmember Alaura seconded the motion.

AYES: Alaura, Higgins, Romick; NOES: Pope; ABSENT: Hardcastle.

4.2 Waive the First Reading and Introduce an Ordinance Adopting Accessory Structures Zoning Text Amendments to Sections 9.1.404 (Single Family Residential Districts), 9.1.1122 (Yards) and 9.1.1802 (Accessory Structure Developmental Regulations) (RZ-01-17) (Ken Strelo, Senior Planner)

Senior Planner Ken Strelo presented the staff report.

Councilmember Alaura commented she likes allowing flexibility for front and rear yards, but inquired what happens with structures already denied or that have had code enforcement action that would now be allowed if the amendments are adopted. She inquired if the City has records of denied structures and if there would be an opportunity for staff to inform those affected to proceed with their plan.

Mr. Strelo responded that he is not sure if records exist for every case; he will need to speak with Code Enforcement and evaluate the staff time involved. He shared that staff

provided an extension of time for a recent permit submitted as staff couldn't approve the structure until the amendments are effective.

Councilmember Alaura commented that she understands staff time, but she doesn't want, for example, a neighbor saying he/she couldn't have a structure a year ago, but he/she sees a neighbor installing the same thing now. She requested staff explore it.

Public Comment Cards

Mark Sergeant expressed concern with Code Enforcement telling him he has too much concrete in his front yard and he expressed opposition to the proposed ordinance amendments. He mentioned he built a patio cover without a permit for a homeowner and the setback for the home was only within a couple of feet difference of being code compliant. He commented he doesn't understand why this case is being treated differently than other homes around the homeowner. He also commented the proposed amendments create a problem because the 30-50% set back means that residents can no longer cover their entire property.

Online Comment Forms

None.

Councilmember Romick commented when people move into neighborhoods they make a choice to give up some rights and what is good for one person may not be good for his neighbor, but code regulations are in place for a purpose and the City Council must find accommodations and compromises for neighbors to live amongst each other.

Vice Mayor Pope inquired if the total square feet of the yard is changing or if the distance from the property line is changing with increasing the amount of maximum coverage.

Mr. Strela responded that the total square feet of the yard is changing as well as the distance from the property line. He mentioned the maximum is only for the rear yard set back, not necessarily the entire back yard. He mentioned the distance for a structure attached to the home would be reduced because it would now be treated the same as a detached shed or detached patio cover where it could now encroach up to three feet of the side or rear property line. He mentioned the amendment triples the distance it can encroach into the rear yard.

Vice Mayor Pope commented the 50% only triggers when you're into the setback and perhaps that was some of the confusion the speaker also had. He mentioned back yards are private property for the property owner to have free enjoyment up to the point where it interferes with the free enjoyment of a neighboring property; at that point regulations must compromise the free enjoyment. He commented Code Enforcement doesn't proactively look into back yards for violations; the City operates on a complaint driven basis; he suggested everyone be a good neighbor and tell neighbors what you

plan to do to avoid complaints. He mentioned he believes the proposed regulations provide more flexibility.

Mr. Montgomery shared that permits are needed for safety and even if residents are fine with structures being built without permits, contractors should obtain them for the safety of all. He mentioned the licensed contractor stated he built a structure without a permit; it is unacceptable behavior and unsafe for any contractor to build without permits; the City will not allow it.

Mayor Higgins requested clarification that only structures are being discussed, not concrete.

Mr. Strelo confirmed that only structures are being addressed by the proposed ordinance amendments.

It was moved by Vice Mayor Pope and seconded by Mayor Higgins to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (4-0)

4.3 Waive the First Reading and Introduce an Ordinance Adopting Zoning Text Amendments Adding Section 9.1.1232 to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code Related to Regulations on Unattended Donation Bins (RZ 02-16) (Ken Strelo, Senior Planner)

Senior Planner Ken Strelo presented the staff report.

Councilmember Romick commented he recalls there being a State law years ago that requires retail establishments to have the donation bins at certain locations; other than that he thinks the donation bins are a great idea.

Special Counsel William Galstan mentioned there have been some court decisions that have protected free speech, the idea being the donation bins send a message that there are poor in communities needing assistance which he does not believe is a compelling argument. He added the 9th Circuit is currently reviewing a case and upon its decision, if the proposed ordinance becomes invalid, the City Council can rescind it. He mentioned the ordinance is modeled after Sacramento's ordinance which seems to work well.

Councilmember Alaura commented that Gehringer Elementary School had a donation bin in its parking lot and it took up parking spaces and became a dumping ground so it was eventually removed. She mentioned not all donation bins are non-profit; some are for-profit. She mentioned many organizations have permanent locations which she prefers to be used for drop off of items. She added that she does not prefer to allow the donation bins, but if the City Council decides to approve them, the location, aesthetic and safety aspects need to be regulated.

Vice Mayor Pope commented the purpose of the ordinance is because the City wants to regulate them and there are problems even with permanent charity locations having

stuff dumped when closed. He indicated that the Revenue Code provided in the staff report provides that only non-profits can solicit donations of clothing; therefore, no permits should be issued to for-profit organizations for the donation bins.

Mayor Higgins inquired if the donation bins will only be allowed at commercial sites and no longer at Freedom High School.

Mr. Strelo responded that Liberty Union High School District may be exempt from the Oakley Municipal Code.

Mayor Higgins inquired if the donation bins could be at Freedom High School without a permit.

Mr. Strelo responded that donation bins could be at Freedom High School without a permit.

Public Comment Cards

None.

Online Comment Forms

None.

It was moved by Vice Mayor Pope and seconded by Councilmember Romick to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (4-0)

4.4 Waive the First Reading and Introduce an Ordinance Authorizing the City to Join Marin Clean Energy (Joshua McMurray, Planning Manager)

Planning Manager Joshua McMurray presented the staff report. He provided an update regarding cities that have joined Marin Clean Energy (MCE) or are considering joining MCE. He provided the City Council a letter from MCE to the Contra Costa County Board of Supervisors.

Vice Mayor Pope inquired what date the rates were provided in attachment # 7.

Mr. McMurray responded the rates are dated April 1, 2017. He explained that last year he provided more detail, a tier-by-tier comparison; however, he was unable to provide that same information at this time as the information has not yet been updated by PG&E.

Councilmember Romick commented that he reached out to some Councilmembers in other communities who use MCE and they had positive comments to share regarding the transition process with MCE. He mentioned that MCE's letter discusses working along the northern waterfront collecting energy and Oakley is part of the Northern

Waterfront Initiative; MCE may be advantageous in that it provides solar opportunities which may help secure a buyer for the City's development along Bridgehead and the waterfront.

Vice Mayor Pope commented that PG&E has a minimum Feed-In Tariffs (FIT) whereas MCE doesn't have the same minimum. He inquired if MCE has a maximum.

Applicant Dawn Weisz, CEO of MCE, responded that she believes PG&E's cap on size is the same as MCE's cap, but she will need to confirm. She explained MCE has a FIT with a 1 megawatt cap, but MCE is working on something to allow more than 1 megawatt for certain projects; there would be no cap and they will be priced differently. She further explained that the expanded FIT is being explored to accommodate the size of facilities available along the northern waterfront. She mentioned opportunities along the northern waterfront include solar and energy storage and the expanded FIT will be tailored to meet those needs.

Councilmember Alaura thanked staff and the Citizen Planning Advisors for all of the work they did and information they provided that helped her form her conclusion. She commented there were other choices, but the decision came down to choose either MCE or East Bay Clean Energy (EBCE). She mentioned many cities have chosen MCE, but she believes that is because EBCE is not up and running yet. She explained this is a binding agreement the City is entering into and there is no backing out; it will be in effect forevermore. She shared that MCE did such a great job in other communities and she is sure it could do a great job here, but residents are not being provided an opportunity to know what EBCE could do for them. She explained that the City shouldn't exclude MCE, but it might be worth waiting for EBCE to be able to compare what both have to offer. She commented she doesn't feel there is a rush to make a decision. She shared her main reasons for wanting to wait is that (1) the voting system with MCE is based on load; Oakley will never have load comparable to some of the bigger cities; therefore, Oakley's vote will not count as much, whereas EBCE offers one vote per city which may provide Oakley a better even playing field with other cities, and (2) MCE spoke only about Richmond as its biggest job project whereas EBCE will create a job plan with each joining city. She expressed Oakley may gain by waiting to see if its options are better in the future, EBCE rates are undetermined but would be likely be competitive, and an MCE spokesperson mentioned MCE is helping to develop EBCE. She further explained that MCE has done things well, but sometimes improvements are made with the second generation and she is willing to wait to see what EBCE has to offer. She added if the rush to join is to waive a fee, EBCE is willing to extend its waiver, and if MCE is still available as a choice in the future when EBCE is up and running, she would hope MCE would be willing to waive its fee at that time as well.

Councilmember Romick requested clarification from the applicant regarding Councilmember Alaura's understanding of the voting system offered by MCE and EBCE. He explained he thought it was the opposite; EBCE's voting system is based on load, whereas MCE offers equal votes for cities.

Ms. Weisz explained EBCE votes are subject to a weighted vote, whereas MCE offers ½ of the vote tied to a 1 person, 1 vote methodology and the other ½ of the vote tied to load. She explained an analysis conducted compared Oakley in the two systems and Oakley would have a greater vote in MCE because there are larger members in EBCE. She explained sometimes size can be a liability not just in voting, but in other areas. She explained MCE has built a strong financial track record which has provided it more ability to build projects; it has built more local projects than any California CCA combined. She explained it takes a few years to build projects and that is the only reason why MCE is not in other places now.

Councilmember Alaura commented she stands corrected on the voting issue and thanked the applicant for clarification. She mentioned she feels holding off is best until the City Council can compare apples to apples.

Vice Mayor Pope commented that the City Council needs to make a decision; it can always be said something may be better in the future and he doesn't want to see the City Council getting caught in analysis paralysis. He explained the thing that initially attracted him to MCE is that it is smaller, more nimble, and able to adapt than a big, bureaucratic company, but he feels some of that was compromised in MCE's letter to the Board of Supervisors; it sounds more like a job program than an energy supplier and he would prefer to see the best, cleanest energy affordable for ratepayers, not at the expense of charging Oakley ratepayers higher rates. He mentioned he would like to see projects bid to provide ratepayers the best economy for their dollars rather than MCE being pressured by special interest groups. He explained he wouldn't vote for MCE if it couldn't provide energy cheaper than PG&E; even with the penalty fee, MCE is still able to produce energy cheaper than PG&E which is a good thing. He commented he doesn't think EBCE will come in as a more nimble, innovative group than MCE; big is not always better; MCE will become big with all cities coming on board and is able to produce energy cheaper and cleaner.

Mayor Higgins commented she attended the City's public meetings regarding clean energy she and thought it was mentioned that the energy would not be available until 2018.

Ms. Weisz responded that MCE is currently purchasing power that serves all of the load of its current customer base; therefore, there is no need to wait; however, to serve Oakley customers, MCE would need to procure Oakley's customer load which would take about six-months which includes performing an analysis, undertaking procurement, and providing customer outreach; therefore, the likely enrollment date would be May 2018. She noted MCE has energy to serve the load the day customers begin receiving energy from MCE.

Mayor Higgins inquired about certification.

Ms. Weisz explained that MCE must submit compliance filings to the California Public Utilities Commission (CPUC) and the California Energy Commission to verify every kilowatt hour of energy MCE buys and every kilowatt of renewable energy MCE buys

must be transferred through the WREGIS system which tracks renewable energy and allows the CPUC to verify that MCE has purchased and delivered the power.

Mayor Higgins inquired if PG&E has raised rates because of infrastructure.

Ms. Weisz responded that PG&E cannot charge different rates in different communities, but they have seen some changes in PG&E transmission and distribution rates, some rate changes related to San Bruno, some rate changes related for transmission upgrades and some rate changes related to gas rates (which MCE does not supply).

Mayor Higgins inquired if MCE is looking for the latest and greatest technology.

Ms. Weisz shared that MCE received a \$1.7 million grant from the California Energy Commission to have a distributed energy resources pilot project and perform work for the State of California regarding how to use load shifting to store energy during the highest cost period of day to help keep costs low for customers. She added there is a lot of innovative technology becoming available which MCE would like to deploy on a large scale in the future. She also shared MCE received a \$1.3 million grant from the CPUC for 2 years to perform energy efficient work in communities. She mentioned MCE has been in business 10 years and is well known, respected, and its focus is taking it to the next level.

Mayor Higgins commented that the City began the process in 2015; she is ready to make a decision.

Public Comment Cards

None.

Online Comment Forms

None.

It was moved by Vice Mayor Pope and seconded by Councilmember Romick to waive the first reading and introduce the ordinance. AYES: Higgins, Pope, Romick; NOES: Alaura; ABSENT: Hardcastle.

5.0 REGULAR CALENDAR-None

6.0 REPORTS

6.1 CITY MANAGER

(a) City Manager

City Manager Bryan Montgomery thanked those involved with the "Movie in the Plaza", *Moana*, last weekend. He shared the next "Movie in the Plaza" will be held June 17. He announced

tickets are still available for the Taste of Oakley event to be held Saturday at 6pm in the City Council Chambers.

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 Higgins reported she attended the Oakley Oversight Board meeting where Bill Swenson was appointed as Chair and she was appointed as Vice Chair for another year.

Councilmember Alaura reported she attended a Diablo Water District (DWD) meeting and DWD is working with Seeno to bring water lines in for its housing projects.

Mayor Higgins inquired if there has been any discussion of purple pipe.

Councilmember Alaura commented she wasn't aware of purple pipe. She continued her report, sharing that DWD is looking at upgrading its logo and may incorporate Mt. Diablo into the logo; they will discuss two designs during the next meeting. She also reported that she attended the Ironhouse Sanitary District (ISD) meeting where volunteers were awarded for assisting with 6th grade Science Week and ISD had received a regional award and now received a statewide award for 6th grade Science Week. She asked ISD representative, Pete Zirkle, if he may be able to respond to Mayor Higgins' question regarding developers putting in purple pipe.

Mr. Zirkle commented he would look into it and report back.

Mayor Higgins reported she attended the East Contra Costa Fire Protection Board meeting with City Manager Bryan Montgomery, Falcon Fest at Freedom High School, the Mayors Conference, and the "Movie in the Plaza". She also reported she had coffee with Principal Manke and Ms. Manke shared how the school is working toward achieving more ABC's. She announced Stand Down on the Delta will be held August 11-14 at the Contra Costa Fairgrounds and it is seeking volunteers.

(b) Requests for Future Agendas

None.

7.0 WORK SESSION

8.0 CLOSED SESSION

Oakley City Council

8.1 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

8.2 CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION – INITIATION OF LITIGATION Pursuant to CA Govt. Code Section 54956.9(d)(2) One potential case.

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

No action was taken and direction was provided to staff.

9.0 ADJOURN

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

Respectfully Submitted,

Libby Vreonis
City Clerk