

January 2, 2019

VIA E-MAIL AND FACSIMILE

Claire Cooper City Clerk City of Petaluma 11 English Court Petaluma, CA 94952

Re: Safeway Fuel Center Project; Demand Letter to Cure or Correct Violations of Brown Act (Government Code Section 54960.1)

Dear Ms. Cooper:

We write on behalf of our client, Safeway, Inc., regarding the proposed Safeway Fuel Center Project (the "Project") at 335 S. Mc Dowell Boulevard in the City of Petaluma (the "City"). On December 3, 2018, the Petaluma City Council voted to adopt Resolution No. 2018-180 (the "Resolution," a copy of which is attached hereto as **Exhibit A**) purporting to uphold the appeal filed by JoAnn McEachin and others. Because the City Council took action on the Resolution in violation of the Brown Act (Government Code § 54950 *et seq.*), the Resolution is null and void. In accordance with Government Code Section 54960.1, we write to demand that the City Council vacate its decision and conduct another hearing in order to cure and correct the below-referenced violations of the Brown Act.

As you know, on June 26, 2018, the Petaluma Planning Commission voted to (i) adopt the Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Report Program per Resolution No. 2018-21A, and (ii) approve the Site Plan and Architectural Review ("SPAR") per Resolution No. 2018-21. The City duly filed a Notice of Determination ("NOD") on June 29, 2018, which was posted until July 30, 2018.

Prior to the June 26, 2018 Planning Commission hearing, public notice of (i) Intent to Adopt the MND, and (ii) Public Hearing for Consideration of SPAR was mailed and published in the Argus Courier on April 5, 2018 and June 14, 2018. The posted agenda stated:

Item 7B. Safeway Fuel Center. Site Plan and Architectural Review for development of a new gas station within the Washington Square Shopping Center. Improvements include a fuel center with 16 covered fuel pumping stations, a 697 square foot convenience store, two 20,000 gallon underground storage tanks, landscaping and parking. Project also includes the demolition of the existing 13,770 square foot commercial building and improvements to the existing bus transfer station and adoption of the Mitigated Negative



> Declaration for the associated project. Continued from the May 8, 2018 meeting. Project Location: 335 South McDowell Blvd. File Number: PLSR-13-0012 Staff: Adam Peterson, Senior Planner.

On July 9, 2018, an appeal stating general concerns regarding the Project (the "Appeal") was filed by JoAnn McEachin ("Appellant") on behalf of Friends of McDowell Elementary School, Little League children, and East Petaluma residents. The Appeal did not reference the MND nor did the Appellant file any legal challenge to the MND within the requisite timeframe.

A Petaluma City Council hearing was scheduled for September 17, 2018 on the Appeal. The hearing was subsequently continued to October 15, 2018 and then to December 3, 2018, wherein the City Council voted to adopt the Resolution purporting to uphold the Appeal. The Resolution orders the preparation of an environmental impact report ("EIR") and stays the Planning Commission's approval of the Project's Site Plan and Architectural Review ("SPAR"). The City Council's adoption of the Resolution violated the Brown Act in numerous ways.

First, the City Council violated Government Code section 54954.2 by taking action on an item that was not on its published agenda. An agenda must specifically state the action a body is proposing to take, including a proposed action under the California Environmental Quality Act ("CEQA"). (San Joaquin Raptor Rescue Center v. County of Merced (2013) 216 Cal. App. 4th 1167, 1178 [court rules that agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act "mandates that each item of business be described on the agenda, not left to speculation or surmise."].) None of the agendas for the multiple City Council hearings on the Appeal, attached hereto as **Exhibit C**, including the one posted when the Staff Report was released on November 27, 2018, indicated that the City Council would take action to require an EIR nor that it would stay the Planning Commission's SPAR approval.

The City was required to post an agenda that was not "in any sense confusing, misleading or unfairly opaque and that gave the public fair notice of the essential nature of what the council would be considering." (San Diegans for Open Government v. City of Oceanside (2016) 4 Cal.App.5th 637, 645.) However, since its first posting in early September 2018, the agenda description here changed multiple times both before and after the December 3, 2018 City Council hearing, each time with varying degrees of inaccuracy and incompleteness. During the "Approval of Proposed Agenda" segment of the October 1, 2018 City Council meeting, Councilmember Mike Healy requested that the agenda be made more "neutral." Subsequently, during the same "Approval of Proposed Agenda"

added.)

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A copy of the Appeal is attached hereto as **Exhibit B**. The name of the Appellant is incorrectly identified in the Resolution as "JoAnn McEachin and McDowell Elementary School, Little League Children and East Petaluma Residents" instead of "JoAnn McEachin on behalf of Friends of McDowell Elementary School, Little League Children and East Petaluma Residents." (Emphasis



segment of the November 19, 2018 City Council meeting, City Manager John Brown indicated that the generic agenda description, which had once again been revised, was a "placeholder."

The progression of agenda descriptions are as follows:

<u>September 10, 2018</u> – Item 2A (Approval of Proposed Agenda). *Safeway Appeal*.

September 17, 2018 – Item 6B (Public Hearings)

Resolution Denying the **Appeal** and Upholding the Planning Commission's Approval of Site Plan and Architectural Review for the **Safeway Fuel Center Project**.

October 1, 2018 – Item 2A (Approval of Proposed Agenda)

Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Site Plan and Architectural Review for the **Safeway Fuel Center Project**.

October 15, 2018 – Item 5B (Public Hearings)

Continuance of the Safeway Appeal to a Date Certain of December 3, 2018.

November 19, 2018 – Item 2A (Approval of Proposed Agenda)

PLACEHOLDER: Safeway Fueling Center Appeal.

December 3, 2018 – Item 5B (Public Hearings)-posted November 27, 2018

Resolutions for Council Action on the Appeal of the Planning Commission's approval of a Mitigated Negative Declaration and Site Plan and Architectural Review for the Safeway Fuel Center Project.

Lastly, the fact that the City revised the description on the posted agenda yet again on December 28, 2018 *after* the December 3, 2018 hearing underscores that the posted agenda description prior to the hearing was deficient. (*See*, attached **Exhibit D**.)

December 3, 2018 – Item 5B (Public Hearings)-posted December 28, 2018

Resolution 2018-180 N.C.S. Upholding the Appeal Filed by Joann McEachin as to the Mitigated Negative Declaration Approved by the Petaluma Planning Commission on June 26, 2018 by Resolution No. 2018-21A, Ordering the Preparation of an Environmental Impact Report In Accordance with Section 15064, Subdivisions (C) and (G) of the California Environmental Quality Act Guidelines, and Staying the Planning Commission's Approval of Site Plan and Architectural Review Pursuant to Resolution No. 2018-21 Adopted June 26, 2018 for the Safeway Fuel Center Project Located at 335 South McDowell Boulevard, Assessor's Parcel No. 007-820-046, File No. PLSR 13-0012,



Pending Certification of the EIR and City Council Review of the Project Site Plan and Architectural Review Approval.

The public notices provided by the City for the Project's December 3, 2018 City Council hearing likewise failed to inform the public that the City Council was poised to take any potential CEQA action.² Instead, the notices simply state that the City Council will consider an appeal of the Planning Commission's SPAR approval for the Project. The notices not only fail to comply with the requirements of state and local law (*see*, *e.g.*, Government Code § 65094 and Implementing Zoning Ordinance § 24.070.F), they underscore the deficiencies with the posted agenda description.

Second, it appears that certain documents were not made available for public inspection or review prior to City Council action on the Resolution as required by Government Code section 54957.5. A single, heavily redlined copy of a resolution prepared by City Staff on December 3, 2018 was only provided to me by City Attorney Danly after the December 3rd City Council hearing had commenced. This single copy, containing substantive changes, had to be shared by multiple representatives of Safeway and Fulcrum Property and could not be fully viewed by the parties given they were seated in various parts of the Council Chamber (seating was limited due to high attendance) and the fact that the hearing was already underway. Moreover, the Resolution does not appear to have been made available for public inspection by others as required by Government Code section 54957.5(c). Additionally, a September 17, 2018 email from Project supporters (attached hereto as Exhibit F) and a December 3, 2018 memorandum from Illingworth & Rodkin responding to and refuting the December 3, 2018 submittal by Appellant (attached hereto as Exhibit G), were not included in the Staff Report or otherwise made available for public review per Government Code section 54957.5(b).

Third, the City failed to disclose or report the "Anticipated Litigation" item contained on the September 10, 2018 and December 3, 2018 agendas. This item seems related to the Project, but this cannot be determined definitively because the City failed to comply with the noticing requirements under the Brown Act. The closed session appears to have been scheduled at the request of Councilmember Healy, and not at the direction of the City Council as required by Government Code section 54956.9(d)(2). (See July 24, 2018 email from Councilmember Mike Healy, attached hereto as **Exhibit H**.)³ Moreover, the agenda fails to disclose the "existing facts and circumstances" giving rise to a "significant exposure to litigation" as required by Government Code sections 54954.5(c) and 54956.9.

True and correct copies of the mailed and published public notices are attached hereto as **Exhibit E**.

A copy of this email was provided to Safeway by City Staff on December 21, 2018 in response to Safeway's November 19, 2018 Public Records Act request.



In closing we respectfully urge you to immediately cure and correct the Brown Act violations described above. At minimum, the City Council should rescind its adoption of the Resolution and provide proper public notice of any further hearing to consider the Project. Thank you for your consideration of Safeway's views on this matter. Please do not hesitate to contact me with any questions regarding this correspondence.

Very truly yours,

RUTAN & TUCKER, LLP

Matthew D. François

MDF:mtr

cc (via email):

Honorable David Glass, Mayor, City of Petaluma Eric Danly, City Attorney, City of Petaluma Natalie Mattei, Senior Real Estate Manager, Safeway, Inc. Mark Friedman, President, Fulcrum Property

EXHIBIT A

Resolution No. 2018-180 N.C.S. of the City of Petaluma, California

RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL UPHOLDING THE APPEAL FILED BY JOANN McEACHIN AS TO THE MITIGATED NEGATIVE DECLARATION APPROVED BY THE PETALUMA PLANNING COMMISSION ON JUNE 26, 2018 BY RESOLUTION NO. 2018-21A, ORDERING THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT IN ACCORDANCE WITH SECTION 15064, SUBDIVISIONS (C) AND (G) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES, AND STAYING THE PLANNING COMMISSION'S APPROVAL OF SITE PLAN AND ARCHITECTURAL REVIEW PURSUANT TO RESOLUTION NO. 2018-21 ADOPTED JUNE 26, 2018 FOR THE SAFEWAY FUEL CENTER PROJECT LOCATED AT 335 SOUTH McDOWELL BOULEVARD, ASSESSOR'S PARCEL NO. 007-820-046, FILE NO. PLSR 13-0012, PENDING CERTIFICATION OF THE EIR AND CITY COUNCIL REVIEW OF THE PROJECT SITE PLAN AND ARCHITECTURAL REVIEW APPROVAL

WHEREAS, Rutan & Tucker, LLP., on behalf of property owner Washington Square Associates, LLC., submitted an application for Site Plan and Architectural Review approval ("Application") to demolish an existing 13,770 square foot vacant building and construct a new 5,931 square foot fueling canopy, 16 fuel dispensers, a 697-square foot convenience store, and associated landscaping and appurtenant parking ("Project") located at 335 South McDowell Boulevard at APN 007-820-046 ("Property"); and

WHEREAS, the Notice of Intent to Adopt a Mitigated Negative Declaration and notice of a public hearing on the Application before the Petaluma Planning Commission was published in the Argus Courier on April 5, 2018 and mailed to residents and occupants within a 500-foot radius of the project site, in compliance with state and local law; and

WHEREAS, the public review period for the Initial Study/Mitigated Negative Declaration ran from April 5, 2018 to May 7, 2018 during which time the document was available for review at the City's Planning Division and on the City's website; and

WHEREAS, on May 8, 2018, the Planning Commission held a duly noticed public hearing, pursuant to Implementing Zoning Ordinance §24.010, to consider the Project; at which time all interested parties had the opportunity to be heard; and

WHEREAS, on May 8, 2018, the Planning Commission continued the item to a date certain of June 26, 2018 to allow interested parties an opportunity to review technical studies and comments received about the Project; and

WHEREAS, public notice of the continued June 26, 2018 public hearing before the Planning Commission was published in the Argus Courier on June 14, 2018 and mailed to all occupants and property owners within a 500-foot radius of the Project site and all public commenters on the project; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the Project on June 26, 2018, at which time all interested parties had the opportunity to be heard; and,

WHEREAS, at the June 26, 2018 public hearing, the Planning Commission considered the staff reports dated May 8, 2018 and June 26, 2018, analyzing the application, including the California Environmental Quality Act ("CEQA") determination included therein, and all comments received concerning the Project; and

WHEREAS, on June 26, 2018, prior to acting on the Site Plan and Architectural Review application, the Planning Commission adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared pursuant to the California Environmental Quality Act ("CEQA") for the Project via Resolution 2018-21A; and

WHEREAS, on June 26, 2018 following its action under CEQA the Planning Commission approved Site Plan and Architectural Review for the Project pursuant to Resolution 2018-21B, subject to conditions of approval listed in Exhibit 1 to the Resolution; and

WHEREAS, on July 9, 2018, JoAnn McEachin ("Appellant") filed an appeal on behalf of Appellant and McDowell Elementary School, Little League Children and East Petaluma Residents of the Planning Commission's adoption of Resolution 2018-21A approving a Mitigated Negative Declaration for the Project and adoption of Resolution 2018-21B approving Site Plan and Architectural Review for the Project ("Appeal"); and

WHEREAS, the Appeal included 15 additional signatures from members of the public; and

WHEREAS, the grounds for appeal given in the Appeal letter included: questioning the community need for the Project; the proximity of the Project to a day care, school and Little League ball park; traffic increase; project emissions and health impacts, and public awareness of the Project; and

WHEREAS, on September 6, 2018 public notice of an appeal hearing before the City Council on September 17, 2018 was published in the *Argus-Courier* and mailed to all property owners and occupants within 1,000 feet of the Property; and

WHEREAS, also on September 6, 2018 and again on September 11, 2018, counsel for the Applicant, Matthew Francois, submitted supplemental Project information, addressing, among other things, correspondence submitted regarding the Project on behalf of the Sierra Club and distances between the Project site and nearby schools and residences; and

WHEREAS, by letter dated September 12, 2018, Chris Thomas, Chief Business Official of Petaluma City Schools ("School District"), asserted that an Environmental Impact Report ("EIR") is required for the Project based on comments from Meridian Consultants regarding the approved Project Mitigated Negative Declaration addressing air quality, greenhouse gas emissions, hazardous materials, noise, and traffic, which comments were transmitted with Ms. Thomas' letter; and

WHEREAS, on September 14, 2018, the City received from Patrick Soluri, legal counsel for Appellant, correspondence challenging both the Planning Commission's adoption of Resolution No. 2018-21A approving the Project Mitigated Negative Declaration and the Commission's adoption of Resolution No. 2018-21B approving the Project Site Plan and Architectural review; and

WHEREAS, the Soluri September 14, 2018 correspondence asserted that the City Council possesses the discretion to deny, and should deny, the Project Site Plan and Architectural Review based on: considerations of the harmony of the development with its surroundings; the siting of the structure on the property; authority in the City's Implementing Zoning Ordinance ("IZO") permitting imposition of requirements more stringent than those of the IZO for discretionary projects; City General Plan policies regarding locating new stationary sources of air pollutants sufficient distances from residential facilities and facilities that serve sensitive receptors; California Air Resources Board ("CARB") guidance to avoid siting new sensitive land uses within 300 feet of a large gasoline dispensing facility; the proximity of the Project to the 4CS Petaluma Child Development Center at 401 S. McDowell Boulevard; a health risk analysis finding that the project would result in significant health risks to nearby sensitive receptors; siting of the Project creating disharmony; and the Project being contrary to the public health, safety and general welfare by exposing residents to health risks; and

WHEREAS, the Soluri September 14, 2018 correspondence also asserted that substantial evidence supports a fair argument that the Project may have significant environmental impacts because of conflicting expert analyses concerning: health risks, greenhouse gas emissions, traffic impacts, and hazardous materials impacts, and that therefore CEQA requires the preparation of an Environmental Impact Report ("EIR"); and

WHEREAS, the Soluri September 14, 2018 correspondence included Project traffic analysis prepared by Larry Wymer and Associates Traffic Engineering; and

WHEREAS, on September 17, 2018, the City received comments on the Project Mitigated Negative Declaration prepared by Fox and Kapahi on behalf of Appellant, which analyzed Project health risks and concluded that significant health impacts from the Project required that an EIR be prepared; and

WHEREAS, also on September 17, 2018, Mr. Francois representing the Applicant submitted to the City correspondence responding to Mr. Soluri's correspondence from September 14, 2018 asserting that Mr. Soluri misstates that standard of review applicable to the City's approval of the Project Site Plan and Architectural Review, that there is no substantial evidence of a fair argument that the Project may result in significant environmental impacts, and providing a technical memorandum from CHS Consulting Group responding to the traffic analysis of Larry Wymer and Associates; and

WHEREAS, also on September 17, 2018, the City received comments on the Project from Damien Breen, Deputy Air Pollution Control Officer, representing the Bay Area Air Quality Management District ("BAAQMD") noting that if the Applicant's current Project proposal differs from the equipment description contained in the Air District Authority to Construct permit issued for the Project, a new permit application requesting authorization for a change must be submitted, and

WHEREAS, the BAAQMD September 17, 2018 correspondence also commented regarding the health risk assessment ("HRA") prepared by Illingworth and Rodkin on behalf of the Applicant and recommended that the Applicant HRA use the AERMOD dispersion model rather than ISCST3 and run the model with 2 volume sources, and commented regarding the May 7, 2018 peer review of the HRA prepared by ESA Consultants for the District that the Project HRA should run at the maximum permitted throughput limit, that off-site teacher/worker maximum health impact should be addressed, suggesting that using full 2015 OEHHA HRA procedures would likely be more conservative and acceptable for CEQA purposes, and

concurred with Illingworth and Rodkin's May 8, 2018 response to the ESA peer review of the HRA regarding receptor height for children; and

WHEREAS, a staff report dated September 17, 2018 was prepared as Item 6.B of the September 17, 2018 City Council Agenda which analyzed the appeal and included and referenced numerous attachments comprising the record of decision before the Planning Commission for its June 26, 2018 consideration of the Project, and numerous comments received from members of the public after the Planning Commission approval, including public comments opposing the Project based on the Project's proximity to the adjacent day care, school, fields and perceived health effects, as well as traffic and congestion; and comments supporting the Project based on lowered gas prices, need for access to fuel, and ability to conduct one-stop shopping; and

WHEREAS, due to the extensive amount of information regarding the Project received shortly before and the day of the September 17, 2018 City Council hearing, staff recommended that the City Council continue the appeal to October 15, 2018 to permit staff to review and provide the Council analysis of the project information received, and to permit interested parties and members of the public to also review the information received prior to the appeal hearing; and

WHEREAS, at the duly noticed public hearing on the Project on September 17, 2018 the City Council continued the item to a date certain of October 15, 2018 without deliberation and without opening the public hearing in order to allow sufficient time to adequately review the new materials; and

WHEREAS, on October 10, 2018 the City received correspondence from Mr. Francois representing the Applicant including a response prepared by Illingworth and Rodkin to Mr. Soluri's September 14, 2018 correspondence, to the September 17, 2018 HRA prepared by Fox and Kapahi on behalf of Appellant, and to the September 17, 2018 BAAQMD letter; and

WHEREAS, the October 10, 2018 Illingworth and Rodkin response noted that the AERMOD air quality dispersion model had not been used for modeling potential impacts from any CEQA project in Petaluma due to the lack of local meteorological data required by AERMOD, that BAAQMD modeling guidance recommends the use of either AERMOD or ISCST3 models for CEQA related HRAs, and that Illingworth and Rodkin conducted a supplemental HRA using the AERMOD model and that analysis, included in the October 10, 2018 correspondence, also concludes that the Project will not result in any significant health risk impacts; and

WHEREAS, in a staff report prepared for Agenda Item 5B for the October 15, 2018 City Council meeting, staff summarized the Project-related information received since the September 17, 2018 City Council meeting and noted that a written response was anticipated from BAAQMD to the Fox and Kapahi September 17, 2018 HRA, and recommended that the hearing on the Appeal be continued to December 3, 2018, to permit review and consideration of the newly-submitted and anticipated Project information by City staff, decisionmakers, interested parties and members of the public; and

WHEREAS, at the October 15, 2018 City Council meeting the City Council continued the public hearing on the Project to a date certain of December 3, 2018 without opening the public hearing and without deliberation to allow additional time to review new materials, including new technical studies, and consult with responsible agencies for the project; and

WHEREAS, on November 13, 2018, the City received from Mr. Breen on behalf of BAAQMD correspondence dated November 8, 2018 responding to the September 17, 2018 Fox Kapahi HRA and the updated Illingworth and Rodkin HRA dated October 10, 2018; and

WHEREAS, the November 8, 2018 BAAQMD correspondence notes several key concerns regarding the Fox and Kapahi HRA, including its use of Santa Rosa meteorological data as being inappropriate because of wind patterns inconsistent with the Project area, use of benzene emission factors substantially higher than the BAAQMD standard benzene emission factor, and residential exposure assumptions inconsistent with BAAQMD HRA risk calculation procedures; and

WHEREAS, the November 8, 2018 BAAQMD correspondence found the October 10, 2018 Illingworth and Rodkin HRA to be acceptable and to have resolved BAAQMD's concerns expressed in the September 17, 2018 BAAQMD letter, and noted that BAAQMD has no further comments on the October 10, 2018 HRA, and that the Project includes a gas station configuration that differs from that approved in the current BAAQMD Authority to Construct permit, and that therefore the Applicant must apply for permit revisions; and

WHEREAS, Petaluma residents, neighbors, teachers and administrators of the McDowell Elementary School, 4Cs Child Development Center, and North Bay Children's Center, parents of students, and parents of children using the baseball fields have provided written and oral comments expressing concern regarding safety of the McDowell Boulevard and Maria Drive intersection due to traffic volumes and speeds, conflicts with pedestrians, and increased activity resulting from the Safeway Fuel Center, including: two commenters noting they have observed pedestrian/vehicle collisions and near-collisions in the Project area; another commenter observing that school-aged children walk home by themselves, and the crosswalk is already a danger; a commenter expressing concern about heavy traffic and foul balls getting hit next to a busy street; another commenter observing cars run stop signs while working at the snack shack at Murphy Field, and noting Maria Drive is heavily traveled and one of the main streets in that area; and

WHEREAS, Petaluma residents, neighbors, teachers and administrators of the McDowell Elementary School, 4Cs Child Development Center, and North Bay Children's Center, parents of students, and parents of children using the baseball fields have provided written and oral comments expressing concern that the Safeway Fuel Center would result in substantial changes to the "neighborhood spirit" that would be detrimental to the neighborhood making it less desirable and more dangerous; and

WHEREAS, on November 30, 2018 on behalf of Appellants, Mr. Soluri provided correspondence to the City disputing Mr. Francois' characterization of the City's discretion concerning approval of the Project and asserting that the City may overturn the Project SPAR approval because the Project is disharmonious with its surroundings and inconsistent with the public health safety and welfare, and providing supplemental health risk results from Fox and Kapahi using Petaluma wind data with the AERMOD model; and

WHEREAS, on December 1, 2018 on behalf of the Applicant, Mr. Francois provided correspondence to the City arguing that the Appellant did not explicitly appeal the City's approval of the Mitigated Negative Declaration within 30-days of the filing of the Notice of Determination with the Sonoma County Clerk, and therefore the approval of the MND was final and additionally, arguing that no substantial evidence of a fair argument of a significant

environmental impact had been submitted and therefore the City cannot lawfully require the preparation of an Environmental Impact Report for the Project; and

WHEREAS, on December 2, 2018 on behalf of the Applicant Mr. Francois provided correspondence to the City asserting that the Project will not result in significant health risks and that the City's discretion regarding approval of the Project is limited to design issues; and

WHEREAS, on December 3, 2018, on behalf of the Appellant Mr. Soluri's Legal Assistant forwarded to the City responses to comments on the Initial Study/Mitigated Negative Declaration for the Safeway Fuel Center dated December 3, 2018, which responses to comments assert that: independent scientific analyses support that gas stations should not be located near housing or vulnerable populations; the meteorological data used in the revised Health Risk Analysis submitted by Illingworth and Rodkin is not appropriate for predications at a range of less than 1 kilometer; the Applicant diesel particulate emissions estimates are understated; BAAQMD guidance calls for using an exposure duration of 70 years for risk assessments for gas stations; the BAAQMD November 8, 2018 letter notwithstanding, using Petaluma meteorological data with the AERMOD model reveals significant health risks; use of the CAPCOA benzene emission factor is appropriate; the Applicant and BAAQMD underestimate benzene emissions from the Project; and that CARB recommended setbacks for gas stations might be inadequate; and

WHEREAS, on December 3, 2018, on behalf of the Appellant Mr. Soluri submitted a letter responding to Mr. Francois' December 1 and 2 letters and asserting that the *Tahoe Vista* case does not apply to the City Council's *de novo* review of appeals of Planning Commission decisions, and that the *Friends of Davis* case does not apply to the appeal; and

WHEREAS, on December 3, 2018, on behalf of the Applicant, Illingworth and Rodkin submitted a response to the December 3, 2018 submittal from Fox and Kapahi asserting: that the Illingworth and Rodkin health risk modeling using AERMOD and EPA-approved procedures is appropriate and it is improper to draw correlations between the resolution of the meteorological data and the prediction accuracy of the dispersion model; comparing 5-mph travel emission factors used to compute idling emissions to travel emission factors for diesel emission analysis is not appropriate; that BAAQMD recommends using 30-year exposure duration for analyzing cancer exposure risk; that the Fox Kapahi benzene emission analyses are overstated due to California fueling station vapor recovery standards; and that BAAQMD uses benzene to compute health risks from gasoline evaporation; and

WHEREAS, Section 15064, subdivision (a), paragraph (1) of the CEQA Guidelines provides that if there is substantial evidence, in light of the whole record before a lead agency, that a project may have significant effect on the environment, the agency shall prepare a draft EIR; and

WHEREAS, Section 15064, subdivision (c) of the CEQA Guidelines provides that in determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency, and that before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial; and

WHEREAS, under *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, residents' personal observations of traffic conditions where they live and commute may constitute substantial evidence even if they contradict the conclusions of a traffic study, and

therefore, fact-based comments of the community may constitute substantial evidence that a fair argument can be made that the project may potentially result in adverse impacts related to circulation; and

WHEREAS, in accordance with CEQA, public testimony (or reasonable inferences from it) should be considered to constitute substantial credible evidence supporting a fair argument when the project *may* have a significant impact (*Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690); and

WHEREAS, Section 15064, subdivision (f) of the CEQA Guidelines provides that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency, and that if the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR, and if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect; and

WHEREAS, Section 15064, Subdivision (g) of the CEQA Guidelines provides that after application of the principles set forth in Section 15064, Subdivision (f) of the CEQA Guidelines, in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the principle that if there is disagreement among expert opinion supported by facts of the significance of an effect on the environment, the lead agency shall treat the effect as significant and shall prepare an EIR; and

WHEREAS, at a noticed public hearing on December 3, 2018, at which time all interested parties had the opportunity to be heard, the City Council considered the Appeal and all information submitted by City staff, the Applicant, the Appellant, interested parties and members of the public concerning the Project and the Appeal ("Record on Appeal"), all of which information comprising the Record on Appeal is hereby incorporated into and made a part of this resolution;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Petaluma as follows:

- 1. The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.
- 2. On December 3, 2018 the City Council fully considered all evidence presented before and at the duly noticed public hearing regarding this matter and comprising the Record on Appeal, and on the basis of the staff report, testimony and other evidence, and the record of proceedings herein, including the views held by members of the public in all areas affected as expressed in the whole Record on Appeal, the City Council hereby affirms the appeal of JoAnn McEachin filed with the City Clerk on July 9, 2018 on behalf of JoAnn McEachin and McDowell Elementary School, Little League Children and East Petaluma Residents as to the Mitigated Negative Declaration approved by the Petaluma Planning Commission on June 26, 2017 by Resolution No. 2018-21A.

- 3. Petaluma residents, neighbors, teachers and administrators of the McDowell Elementary School, 4Cs Child Development Center, and North Bay Children's Center, parents of students, and parents of children using the baseball fields have provided written and oral comments expressing concern regarding safety of the McDowell Boulevard and Maria Drive intersection due to traffic volumes and speeds, conflicts with pedestrians, and increased activity resulting from the Safeway Fuel Center, including: two commenters noting they have observed pedestrian/vehicle collisions and near-collisions in the Project area; another commenter observing that school-aged children walk home by themselves, and the crosswalk is already a danger; a commenter expressing concern about heavy traffic and foul balls getting hit next to a busy street; another commenter observing cars run stop signs while working at the snack shack at Murphy Field, and noting Maria Drive is heavily traveled and one of the main streets in that area. Petaluma residents, neighbors, teachers and administrators of the McDowell Elementary School, 4Cs Child Development Center, and North Bay Children's Center, parents of students, and parents of children using the baseball fields have provided written and oral comments expressing concern that the Safeway Fuel Center would result in substantial changes to the "neighborhood spirit" that would be detrimental to the neighborhood making it less desirable and more dangerous.
- 4. Fox and Kapahi, in the responses to comments on the Initial Study/Mitigated Negative Declaration for the Safeway Fuel Center dated December 3, 2018 submitted on behalf of Appellant, assert that: independent scientific analyses support that gas stations should not be located near housing or vulnerable populations; the meteorological data used in the revised Health Risk Analysis submitted by Illingworth and Rodkin is not appropriate for predications at a range of less than 1 kilometer; the Applicant diesel particulate emissions estimates are understated; BAAQMD guidance calls for using an exposure duration of 70 years for risk assessments for gas stations; the BAAQMD November 8, 2018 letter notwithstanding, using Petaluma meteorological data with the AERMOD model reveals significant health risks; use of the CAPCOA benzene emission factor is appropriate; the Applicant and BAAQMD underestimate benzene emissions from the Project; and CARB recommended setbacks for gas stations may be inadequate.
- 5. Illingworth and Rodkin, in response to the December 3, 2018 submittal from Fox and Kapahi on behalf of the Appellant, assert that: the Illingworth and Rodkin health risk modeling using AERMOD and EPA-approved procedures is appropriate, and it is improper to draw correlations between the resolution of the meteorological data and the prediction accuracy of the dispersion model; comparing 5-mph travel emission factors used to compute idling emissions to travel emission factors for diesel emission analysis is not appropriate; BAAQMD recommends using 30-year exposure duration for analyzing cancer exposure risk; the Fox Kapahi benzene emission analyses are overstated due to California fueling station vapor recovery standards; and BAAQMD uses benzene to compute health risks from gasoline evaporation.
- 6. The City Council hereby finds that in accordance with Section 15064, Subdivision (g) of the CEQA Guidelines, after application of the principles set forth in Section 15064, Subdivision (f) of the CEQA Guidelines, that it is not clear whether there is substantial evidence that the Project may have a significant effect on the environment, and that there is disagreement among expert opinions supported by facts submitted on

behalf of Applicant (the Illingworth and Rodkin analyses), on behalf of Appellant (the Fox Kapahi analyses), and on behalf of the BAAQMD, and therefore the City Council is guided by the principal that if there is disagreement among expert opinion supported by facts of the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

- 7. The City Council is also guided by the principles that residents' personal observations of traffic conditions where they live and commute may constitute substantial evidence even if they contradict the conclusions of a traffic study, and that therefore, fact-based comments of the community may constitute substantial evidence that a fair argument can be made that a project may potentially result in adverse impacts related to circulation, and that if there is disagreement among expert opinion residents' personal observations supported by facts of the significance of an effect on the environment, the City Council shall treat the effect as significant and shall prepare an EIR.
- 8. Accordingly, the City Council hereby orders the preparation of an EIR concerning the Project, in accordance with Section 15064, Subdivisions (c) and (g) of the CEQA Guidelines and all other applicable CEQA requirements, because there is disagreement among expert opinions supported by facts submitted on behalf of Applicant (the Illingworth and Rodkin analyses), on behalf of Appellant (the Fox Kapahi analyses), and on behalf of the BAAQMD, and because residents' observations supported by facts of traffic conditions that may result from the Project constitute substantial evidence supporting a fair argument that the Project may result in significant environmental impacts, and because residents' fact-based observations regarding traffic and traffic safety conflict with the results of expert traffic analyses that have been prepared concerning the Project, further supporting the need for preparation of an EIR concerning the Project.
- 9. The City Council hereby stays the Planning Commission's approval of Site Plan and Architectural Review for the Safeway Fuel Center project (PLSR 13-0012) located at 335 South McDowell Boulevard pursuant to Resolution No. 2018-21B adopted June 26, 2018, pending certification of an EIR concerning the Project and City Council review of the Project Site Plan and Architectural Review approval.

Under the power and authority conferred upon this Council by the Charter of said City, Approved as to I hereby certify the foregoing Resolution was introduced and adopted by the REFERENCE: Council of the City of Petaluma at a Regular meeting on the 3rd day of December foilm: 2018, by the following vote: Albertson; Barrett; Vice Mayor Healy; Kearney; King; Miller AYES: NOES: None ABSENT: Mayor Glass ABSTAIN: None ATTEST:

EXHIBIT B



GENERAL APPLICATION FORM

This form, together with corresponding application forms for specific permits, will become the permit document. There is no fee for this form.

Type of Application	For City Use Only				
☐ Conditional Use Permit: Minor / Major	Permit No: PLAP-18-000				
☐ Fence ☐ Home Occupation Permit	Project Name: Safeway Appea				
☐ Preliminary Review by Staff	Date Permit filed: 7 2 8				
☐ SPAR: Minor / Major ☐ Tentative Map: ≤4 /≥5 lots		ed: 7/9/18			
☐ Zoning Amendment: Minor Revision	Received by:				
Wother: Appeal	Approved by (if applicable):				
Property Information	Land Use In	formation (ask if unsure)			
Address/Location: 335 So McDowell Blue	Existing Use of I	Property:			
Assessor's Parcel No.:	General Plan Designation:				
Property Size:	Zoning Designation:				
	Historic Designation:				
Contact Information					
Owner:	Agent:	JOAnn McEachin			
Firm (opt.):	Firm (opt.):	•			
Phone:	Phone:	15-518-1950			
Email:	Email:	oann mceachin @gmailicom			
Address:		1512 Sierra Drive			
		Petaluma, CA 94954			
Authorization of Agent, Declaration of Accuracy, and Agreement for Inspection (not required for Home Occupation Permit applications) See attached letter					
I,, am the □ own	ner / 🗆 agent of the	e property for which the			
development or change is proposed. The above informati the best of my knowledge. I have read and agree with all		ocuments are true and accurate to			
Signature of Property Owner or Agent	. D	ate .			
I, the owner, hereby \square do $/\square$ do not authorize the agent application proceedings, and agree to allow employees of upon the subject property, as necessary, to inspect the pre-	authorized agents	of the City of Petaluma to enter			
Signature of Property Owner	$\overline{\mathrm{D}}$	ate .			
Page 1 of 1 General Application Form	·	Last updated: December 14, 2017			
City of Petaluma Planning Division 11 English Street, Petaluma, CA 94952	F	T: (707) 778-4470 or faster responses, please e-mail us at:			

For faster responses, please e-mail us at: planning@ci.petaluma.ca.us URL: http://cityofpetaluma.net/cdd/planning.html

Hours: 8 am - 5 pm Mondays through Thursdays. Closed Fridays

RECEIVED

JUL 09 2018

JoAnn McEachin on behalf of:

Friends of McDowell Elementary School, Little League children, and East Petaluma residents
1512 Sierra Drive
Petaluma, CA 94954

July 8, 2018

Petaluma City Council,

We, the undersigned, petition to appeal the decision by the Planning Commission to approve a building permit for a Safeway gas station on the corner of Maria Dr. and S. McDowell Blvd. Our objections are based on the following:

This project is only for the benefit of Safeway, not the community. Petaluma already has several gas stations - THREE in the area of this proposed site, including the Chevron where Safeway customers can get up to 20 cents off per gallon - and research has shown that, contrary to what Safeway would like us to believe, Safeway's reduced gas pricing has <u>not</u> brought down the pricing of other gas stations nearby.

The proximity of the proposed gas station is too close to the day care and school, as well as the Little League ball park. Just because the regulations differ for building a gas station near a school (allowed) as opposed to building a school near a gas station (not allowed), it doesn't make the proximity issue any less of a health and safety concern.

Traffic will increase. This is common sense. The intersection at S. McDowell and E. Washington is already congested, and more traffic from cars zipping off and on to Hwy. 101 for cheaper gas will only exacerbate the problem.

Cars waiting to turn off of McDowell and in line in the parking lot (potentially blocking the sidewalk) will be idling and spewing emissions causing health concerns for all in the community.

Add into the mix the city transit buses, retail delivery vehicles of all kinds, long gas trucks, and school buses; the physical area is just not safe for vehicles trying to make turns into and out of a gas station there.

And, lastly, California is the nation's leader in the purchase of electric cars: "...in some months, buyers in California purchase more than half of all the electric cars sold in the U.S." (Eric C. Evarts, Green Car Reports) We emphasize this to reenforce that the community of Petaluma does not need another gas station now.

This Safeway gas station issue has been cleverly under-advertised to the public. Many residents don't even know this project is being put forth. It is a hotly contested issue and needs to be heard by the City Council with full public participation.

We ask you to reverse the Planning Commission's conditional approval, despite (or perhaps in defiance of) the threat of a lawsuit by Safeway. The decision should be decided in court, if necessary. Potential court costs should not deter you from protecting the health and safety of our community. That would be a bad precedent and would send the wrong message to every potential applicant for a project in Petaluma now and in the future.

Sincerely.

JoAnn McEachin

Alam M'Eschi

Jan M. Fenfels

JoAnn McEachin Horst Steinfels 1512 Sierra Drive

Jawra Steinfels Oliver Steinfels

Laura Steinfels Oliver Steinfels 510 Crinella Drive

Adriann Saslow Adriann Soslow
Alex Saslow am Salare

S. McDowell Blvd.
1328 McKenzie Ave.

Kim Pierce Grouse Lane

Linda Hartrich 501 Cabrillo Court Petaluma 94954

Chris Mens 509 park lane Petaloma 94954 Cobert Doone Colwood Dr Petaluma 94954 Petaluma 94954 Shirley N. Donovan 1432 Quail Drive

Libby Pope 1420 Colwood Dr. Potaluma Robert Conklin 1125 Gum wood In Petaluma 94954

GLEN- RUDENSTEN 472 PAIN PLACE ON PETA GUNA CA 9495-X

Richard Sacker

1617 Madeina Circle

Petaluna, CX94954

Maria Perez

871 Whitney Wey

Petaluma, A 94954

Bernard Album

Bund Obum

1666 CTEEKVIEW Cir.

Peraluma, CA 04954

EXHIBIT C

CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson Teresa Barrett Mike Healy Gabe Kearney Dave King Kathy Miller



COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CITY MANAGER

John C. Brown

CITY CLERK

Claire Cooper

CITY ATTORNEY

Eric W. Danly

CONTACT INFORMATION

Phone (707) 778-4360 Fax (707) 778-4554 cityclerk@ci.petaluma.ca.us cityofpetaluma.net

AGENDA

Monday, September 10, 2018

REVISED AGENDA: REVISION NO. 1 - THURSDAY, SEPTEMBER 6, 2018

CALL TO ORDER - CLOSED SESSION - 6:15 P.M.

A. ROLL CALL

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Threat of litigation pursuant to Paragraph (4) of Subdivision (D) of Section 54956.9: One potential case.

LITIGATION: Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9: Friends of Lafferty Park, Bill Kortum, Larry Modell, Bruce Hagen, Matt Maguire, David Keller and Mary Fuller McChesney v. Pikachu II, LLC, Kimberly Pfendler, as Trustee of the Kimberly Pfendler Marital Trust, Richard Rochat Tavernetti and William E. Tavernetti, as Trustees of the Richard Rochat Tavernetti Irrevocable Trust, and Does 1 through 100, Sonoma County Superior Court action number SCV-253148.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

Prior to adjournment into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session.

ADJOURN TO CLOSED SESSION

EVENING SESSION â€" 6:45 P.M.

CALL TO ORDER - EVENING SESSION - 6:45 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

PROCLAMATIONS

Pain Awareness Month - September 2018

National Patriotism Week - September 10-16, 2018

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

GENERAL PUBLIC COMMENT

During General Public Comment, the public is invited to make comments on items of public interest that are within the City Council's subject matter jurisdiction and that are not listed on the current agenda. Public comments are limited to three minutes per person. Depending on the number of persons wishing to address the Council, time will be allocated in equal shares totaling no more than twenty minutes. Please fill out a speaker card (available at the rear of the Council Chambers) and submit it to the City Clerk. Speaker cards for General Public Comment will not be accepted after the meeting begins. The Mayor will call on individuals whose names appear on the speaker cards. If more than three persons wish to address Council on the same topic, they are encouraged to select a spokesperson. Please be ready to step forward to the microphone as soon as the previous speaker has concluded his/her comments. (Cal. Gov't. Code §54954.3(a), Petaluma City Council Rules, Policies and Procedures, III(A)).

1. APPROVAL OF MINUTES

A. Approval of Minutes of Regular City Council/PCDSA Meeting of Monday, December 18, 2017.

1.A-DraftDec182017Minutes

B. Approval of Minutes of Regular City Council/PCDSA Meeting of Monday, April 2, 2018.

1.B-DraftApr022018Minutes

C. Approval of Minutes of Regular City Council/PCDSA Meeting of Monday, July 16, 2018.

1.C-DraftJul162018Minutes

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, September 17, 2018.

2.A-TentativeAgendaSept92018

3. CONSENT CALENDAR

- A. Resolution 2018-136 N.C.S. Accepting Claims and Bills for July 2018. (Garberolio)
 - 3.A-ClaimsBillsJuly2018
- B. Resolution 2018-137 N.C.S. to Receive and File the City Treasurer's Quarterly Report Dated June 30, 2018. (Garberolio)
 - 3.B-Treasurer's Quarterly
- C. Resolution 2018-138 N.C.S. Accepting Completion of the Downtown Accessibility Improvements Project, CIP Project No. C16501602. (St. John/Moresco)
 - 3.C-AccessibilityImprovements
- D. Resolution 2018-139 N.C.S. Accepting Completion of the Construction Contract for the Community Center Parking Lot Rehabilitation Project. (St. John/Stutsman)
 - 3.D-ParkingLotRehab
- E. Resolution 2018-140 N.C.S. Endorsing the "Diesel Free By '33"

 Statement of Purpose and Authorizing the Mayor to Sign the Pledge on Behalf of the City of Petaluma. (Brown)
 - 3.E-DieselFree
 - 3.E-DocumentReceivedAfterAgendaDistribution-1
- F. Adoption (Second Reading) of Ordinance 2662 N.C.S. Amending the City of Petaluma Municipal Code and Implementing Zoning Ordinance Regulating Small Cell Facilities.

 (Alverde/Tennenbaum) Staff Report Revised with Agenda Revision No. 1 Thursday, September 6, 2018.
 - 3.F-SmallCellFacilities Rev.1
 - 3.F-DocumentReceivedAfterAgendaDistribution-1

6. PUBLIC HEARING

A. Resolution 2018-141 N.C.S. Authorizing the Allocation of FY 2018-19 Supplemental Law Enforcement Service Funds for the

<u>Computer Aided Dispatch/Records Management System.</u>
(Garberolio)

6.A-LawEnforcementFunds

4. UNFINISHED BUSINESS

A. Resolution 2018-142 N.C.S. Increasing Inclusionary Housing Inlieu Fees Payable as Required by Program 4.3 in the City of Petaluma's General Plan 2025, 2015-2023 Housing Element as Adopted by Resolution No. 2014-190 N.C.S. and Replacing the Housing In-lieu Fees Set by Resolution No. 2003-241 N.C.S; and Introduction (First Reading) of an Ordinance 2663 N.C.S. Amending the Text of Chapter 3 Entitled "Development and Land Use Approval Requirements" of the Implementing Zoning Ordinance, Ordinance 2300 N.C.S., to Add Inclusionary Housing Requirements. (Castellucci)

4.A-InclusionaryHousingRev1

5. **NEW BUSINESS**

- C. Resolution 2018-143 N.C.S. Approving the Purchase and Installation of Emergency Communication Equipment in an Amount Not to Exceed \$65,001.00 and Authorizing the City Manager to Execute All Documents Necessary to Complete the Purchase. (Savano)
 - 5.C-EmergencyEquipment
- D. Resolution 2018-144 N.C.S. Authorizing Award of Contract for the FY 18/19 Water Services Project and Wilson-Webster Street Water Main Replacement Project to Team Ghilotti, Inc. (St. John/Stutsman)
 - 5.D-Wilson-WebsterStreet
- A. <u>Introduction (First Reading) of Ordinance 2664 N.C.S. Ratifying</u>
 Lease with North Bay Animal Services. (Danly)
 - 5.A-AnimalServices

B.

Introduction (First Reading) of an Ordinance 2665 N.C.S. Approving an Airport Hangar Ground Lease with Golden State Lumber. (Danly)

5.B-GoldenStateLumber

E. Award of a Contract to W. Brown Creative Partners for City

Manager Recruitment Services and Selection of

Councilmembers to Serve on a Subcommittee to Represent the

City Council Through the Recruitment Process. (Brown)

5.E-CityManagerRecruitment

COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

In accordance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office at (707) 778-4360 (voice) or (707) 778-4480 (TDD). Translators, American Sign Language interpreters, and/or assistive listening devices for individuals with hearing disabilities will be available upon request. A minimum of 48 hours is needed to ensure the availability of translation services. In consideration of those with multiple chemical sensitivities or other environmental illness, it is requested that you refrain from wearing scented products. The City Clerk hereby certifies that this agenda has been posted in accordance with the requirements of the Government Code.

In accordance with Government Code §54957.5, any materials of public record relating to an agenda item for a regular meeting of the City Council that are provided to a majority of the members less than 72 hours before the meeting will be made available at the City Clerk's Office, 11 English Street, during normal business hours. Materials of public record that are distributed during the meeting shall be made available for public inspection at the meeting if prepared by the City or a member of its legislative/advisory body, or the next business day after the meeting if prepared by some other person.

For accessible meeting information, please call (707) 778-4360 or TDD (707) 778-4480.

5

Agendas and supporting documents can be found at: http://cityofpetaluma.net/cclerk/archives.html.

TENTATIVE AGENDA

All Regular Meetings include Closed Session at 6:00 p.m. unless otherwise stated.

REGULAR CITY COUNCIL/PCDSA MEETING MONDAY, SEPTEMBER 17, 2018 – EVENING – 6:45 P.M.

1. CONSENT CALENDAR

- A. Resolution Authorizing the **Purchase** of **One 2019 Chevrolet Tahoe** from Winners Chevrolet in Colfax in the Amount of \$37,751.00, Plus an Estimated \$8,000.00 for the Purchase of Standard Accessory Equipment, and Authorizing the City Manager to Execute All Documents Necessary to Complete the Purchase. (Savano)
- B. Resolution Authorizing the Submittal of Project List for the **California State of Good Repair Program.** (St. John/Hall)
- C. Ratification of **PPMMA Memorandum** of **Understanding**. (Reeve)

2. UNFINISHED BUSINESS

- A. Adoption (Second Reading) of Ordinance Ratifying Lease with **North Bay Animal Services.** (Danly)
- B. Adoption (Second Reading) of Ordinance Approving New Airport Ground Lease for **Golden State Lumber.** (Danly)
- C. Adoption (Second Reading) of an **Ordinance** Amending the Text of Chapter 3 entitled "Development and Land Use Approval Requirements" of the **Implementing Zoning Ordinance**, Ordinance 2300 N.C.S., to Add Inclusionary Housing Requirements. (Castellucci)
- D. Resolution to Approve City of Petaluma Projects Identified in the North Bay Water Reuse Program **Phase 2 Final Environmental Impact Report/Environmental Impact Statement** and Make Certain Findings Therewith (St. John/Walker)

3. NEW BUSINESS

- A. Resolution Amending the Classification and Compensation Plan by Establishing the Classification and Pay Range of **Airport/Marina Manager**. (Reeve)
- B. Short-Term Vacation Rental Program Review. (Alverde)
- C. Resolution Authorizing the City Manager to Execute an Agreement for Funding for Class III Bike Routes with the Bay Area Air Quality Management District.

 (St. John/Beatty)
- D. Resolution Authorizing Award of Contract for the **Sewer Main Rehabilitation Project 18/19.** (St. John/Moresco)

- E. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Blue Source LLC for **Fuel Credit Services for the Biomass to Biofuels Project.** (St. John/Walker)
- F. Introduction (First Reading) of an Ordinance Authorizing the City Manager to Execute all Documents Relating to the Assignment and/or Exercise of Option for Properties in **Petaluma's First Time Homebuyer Program**; the Transfer of the Land to the Housing Land Trust of Sonoma County and Sale of the Improvements to a Qualified Buyer Subject to Affordability Restrictions; and an Affordability Agreement with the Housing Land Trust to Maintain the Property in Petaluma's First Time Homebuyer Program. (Castellucci)
- G. Resolution Appointing Council Liaison to **Sonoma County Homeless Program Board of Directors**. (Castellucci)

4. PUBLIC HEARINGS

- A. Public Hearing to Receive Comments on the 2017-2018 Proposed Consolidated Annual Performance Evaluation Plan (CAPER) and Adoption of a Resolution Approving the Community Development Block Grant CAPER and Authorizing the City Manager to Submit the CAPER as Required by the Department of Housing and Urban Development. (Castellucci)
- B. Safeway Appeal. (Hines)

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CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson Teresa Barrett Mike Healy Gabe Kearney Dave King Kathy Miller



COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CITY MANAGER

John C. Brown

CITY CLERK

Claire Cooper

CITY ATTORNEY

Eric W. Danly

CONTACT INFORMATION

Phone (707) 778-4360 Fax (707) 778-4554 cityclerk@ci.petaluma.ca.us cityofpetaluma.net

AGENDA

Monday, September 17, 2018

REVISED AGENDA: REVISION NO. 1 - THURSDAY, SEPTEMBER 13, 2018

CALL TO ORDER - CLOSED SESSION - 6:15 P.M.

A. ROLL CALL

CLOSED SESSION

Conference with Labor Negotiators: Pursuant to California Government Code Section 54957.6. Agency Designated Representatives: Scott Brodhun and Amy Reeve. Petaluma Professional & Mid-Managers Association, Unit 4 - Professional, Unit 9 - Mid-Managers; and Unit 11 - Confidential. - Added with Agenda Revision No. 1 - Thursday, September 13, 2018.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION - 6:45 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

GENERAL PUBLIC COMMENT

During General Public Comment, the public is invited to make comments on items of public interest that are within the City Council's subject matter jurisdiction and that are not listed on the current agenda. Public comments are limited to three minutes per person. Depending on the number of persons wishing to address the Council, time will be allocated in equal shares totaling no more than twenty minutes. Please fill out a speaker card (available at the rear of the Council Chambers) and submit it to the City Clerk. Speaker cards for General Public Comment will not be accepted after the meeting begins. The Mayor will call on individuals whose names appear on the speaker cards. If more than three persons wish to address Council on the same topic, they are encouraged to select a spokesperson. Please be ready to step forward to the microphone as soon as the previous speaker has concluded his/her comments. (Cal. Gov't. Code §54954.3(a), Petaluma City Council Rules, Policies and Procedures, III(A)).

1. APPROVAL OF MINUTES

None.

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, October 1, 2018.

2.A-TentativeAgendaOctober12018

3. CONSENT CALENDAR

A. Resolution 2018-145 N.C.S. Authorizing the Purchase of One 2019 Chevrolet Tahoe from Winners Chevrolet and Standard Accessory Equipment in the Amount Not to Exceed \$48,852.65, and Authorizing the City Manager to Execute All Documents Necessary to Complete the Purchase. (Savano)

3.A-PurchaseChevTahoe

- B. Resolution 2018-146 N.C.S. Approving a Project List for Submittal to the California State of Good Repair Program. (St. John/Hall)
 - 3.B-StateofGoodRepair
- C. Adoption (Second Reading) of Ordinance 2664 N.C.S. Ratifying Lease with North Bay Animal Services. (Danly)
 - 3.C-NorthBayAnimalServices
- D. Adoption (Second Reading) of Ordinance 2665
 N.C.S. Approving an Airport Hangar Ground Lease with Golden
 State Lumber. (Danly)
 - 3.D-GoldenStateLumber
- E. Adoption (Second Reading) of Ordinance 2663 N.C.S. Amending the Text of Chapter 3 entitled "Development and Land Use Approval Requirements" of the Implementing Zoning Ordinance Ordinance 2300 N.C.S., to Add Inclusionary Housing Requirements. (Castellucci)
 - 3.E-InclusionaryHousing

4. **UNFINISHED BUSINESS**

A. Resolution 2018-147 N.C.S. to Approve City of Petaluma Projects Identified in the North Bay Water Reuse Program Phase 2 Final Environmental Impact Report/Environmental Impact Statement and Make Certain Findings Therewith. (St. John/Walker)

4.A-WaterReuseProgram

5. NEW BUSINESS

A. Resolution 2018-148 N.C.S. Amending the Classification and Compensation Plan by Establishing the Classification and Pay Range of Airport and Marina Manager, Authorizing the Position Allocation of Airport and Marina Manager, and Eliminating Airport Division Manager. (Reeve)

5.A-Airport-MarinaManager-PDF-531KB

B. Short-Term Vacation Rental Program Review. (Alverde)

5.B-VacationRental

C. Resolution 2018-149 N.C.S. Authorizing the City Manager to Execute an Agreement for Partial Funding of the City of Petaluma Bikeway Project with the Bay Area Air Quality Management District. (St. John/Beatty)

5.C-BikeRoutes

D. Resolution 2018-150 N.C.S. Authorizing Award of Contract for the Sewer Main Replacement FY 18/19 Project to Pat Nelson Construction. (St. John/Moresco)

5.D-SewerReplacementProject

5.D-Attach3

E. Resolution 2018-151 N.C.S. Authorizing the City Manager to Execute a Professional Services Agreement with Blue Source LLC for Fuel Credit Services for the Biomass to Biofuels Project. (St. John/Walker)

5.E-BlueSource

F. Introduction (First Reading) of an Ordinance 2666 N.C.S. Authorizing the City Manager to Execute All Documents Relating to the Assignment and/or Exercise of Option for Properties in Petaluma's First Time Homebuyer Program; the Transfer of the Land to the Housing Land Trust of Sonoma County and Sale of the Improvements to a Qualified Buyer Subject to Affordability Restrictions; and an Affordability Agreement with the Housing Land Trust to Maintain the Property in Petaluma's First Time Homebuyer Program. (Castellucci)

5.F-FTHB-PDF-1.3MB

G. Resolution 2018-152 N.C.S. Recommending Appointment of Council Member Gabe Kearney to the Sonoma County Homeless System of Care Leadership Council, Which is Replacing the Sonoma County Continuum of Care Board. (Castellucci)

5.G-SystemofCare-PDF-1.5MB

6. PUBLIC HEARINGS

A. Public Hearing to Receive Comments on the 2017-2018

Proposed Consolidated Annual Performance Evaluation Plan
(CAPER) and Resolution 2018-153 N.C.S. Approving the
Community Development Block Grant 2017-2018 Consolidated
Annual Performance and Evaluation Report (CAPER) and
Authorizing the City Manager to Submit the CAPER as Required
by the Department of Housing and Urban Development.
(Castellucci)

6.A-CAPER-PDF-907KB

- B. Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Site Plan and Architectural Review for the Safeway Fuel Center Project. (Hines) This item was continued to the Monday, October 15, 2018 Regular City Council/PCDSA Meeting.
 - 6.B-SafewayAppeal
 - 6.B-Attachment 1 Safeway Appeal CC Reso
 - 6.B-Attachment 2 Appeal Application Form

6.B-Attachment 3 - Resolution #2018-21A 6.B-Attachment 4 - Resolution #2018-21B 6.B-Attachment 5 - Staff Report 6-26-18 PC 6.B-Attachment 6 - Staff Report 5-8-18 PC 6.B-Attachment 7 - Public Draft IS MND Safeway Fuel Center (3.29.18)6.B-Attachment 7 Appendix A - Traffic Study 6.B-Attachment 7 Appendix B -Traffic Impact Study Update S 6.B-Attachment 7 Appendix C - Health Risk Assessment Emmissions Assessment So 6.B-Attachment 8 - Safeway Response to Comments 6.B-Attachment 9 - Safeway MMRP (4.12.18) 6.B-Attachment 10 - Applicant Supplemental Information 6.B-Attachment 11 Ilingworth Rodkin Response to Comments - 05-08-2018 6.B-Attachment 12 - Complete Plans 08.13.2014 6.B-Attachment 13 - Applicant Supplementa Information, 9-7-2018 6.B-Attachment 14 - Public Correspondence Prior to May 2018 6.B-Attachment 15 - Public Correspondence After May 8 to June 26 Public Correspondence 6.B-Attachment 16 After packet distribution updated June 26 2018 🦠 6.B-Attachment 17 - Public Correspondence After Appeal Filed 6.B-DocumentReceivedAfterAgendaDistribution-1 6.B-DocumentReceivedAfterAgendaDistribution-2 6.B-DocumentReceivedAfterAgendaDistribution-3 6.B-DocumentReceivedAfterAgendaDistribution-4

- 6.B-DocumentReceivedAfterAgendaDistribution-5
- 6.B-DocumentReceivedAfterAgendaDistribution-6
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- 6.B-DocumentReceivedAfterAgendaDistribution-29.1-FoxReport
- 6.B-DocumentReceivedAfterAgendaDistribution-29.1-Exhibit-1
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5. **NEW BUSINESS**, continued

H. <u>Discussion and Direction Regarding Topics for Program Presentations for the 2019 General Membership Meetings of the Mayors' & Councilmembers' Association of Sonoma County.</u>
(Brown)

5.H-MCTopics-PDF-94KB

COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

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Agendas and supporting documents can be found at: http://cityofpetaluma.net/cclerk/archives.html.

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CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson Teresa Barrett Mike Healy Gabe Kearney Dave King Kathy Miller

CITY MANAGER
John C. Brown

CITY CLERKClaire Cooper

CITY ATTORNEY
Eric W. Danly

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COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CONTACT INFORMATION

Phone (707) 778-4360 Fax (707) 778-4554 cityclerk@ci.petaluma.ca.us cityofpetaluma.net

AGENDA

Monday, October 1, 2018

Revised Agenda: Revision No. 1 - Thursday, September 27, 2018

CALL TO ORDER - CLOSED SESSION - 6:15 P.M.

A. ROLL CALL

CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to California Government Code Section 54957.6. Agency Designated Representatives: Scott Brodhun and Amy Reeve. Peace Officers' Association of Petaluma, Unit 6 - Police.— Added with Agenda Revision No. 1 - Thursday, September 27, 2018.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

Prior to adjournment into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session.

ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION - 6:45 P.M. 6:55 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN) – Added with Agenda Revision No. 1 – Thursday, September 27, 2018.

PROCLAMATIONS

Domestic Violence Awareness Month - October 2018

Fire Prevention Week Oct 7-13, 2018

Children's Environmental Health Day - October 11, 2018

GENERAL PUBLIC COMMENT

During General Public Comment, the public is invited to make comments on items of public interest that are within the City Council's subject matter jurisdiction and that are not listed on the current agenda. Public comments are limited to three minutes per person. Depending on the number of persons wishing to address the Council, time will be allocated in equal shares totaling no more than twenty minutes. Please fill out a speaker card (available at the rear of the Council Chambers) and submit it to the City Clerk. Speaker cards for General Public

Comment will not be accepted after the meeting begins. The Mayor will call on individuals whose names appear on the speaker cards. If more than three persons wish to address Council on the same topic, they are encouraged to select a spokesperson. Please be ready to step forward to the microphone as soon as the previous speaker has concluded his/her comments. (Cal. Gov't. Code §54954.3(a), Petaluma City Council Rules, Policies and Procedures, III(A)).

1. APPROVAL OF MINUTES

None.

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, October 15, 2018

2.A-Oct152018TentativeAgenda-PDF-13KB

3. CONSENT CALENDAR

A. Resolution 2018-154 N.C.S. Accepting Claims and Bills for August 2018. (Garberolio)

3.A-ClaimsBills-PDF-3.6MB

B. Resolution 2018-155 N.C.S. Opposing Proposition 6: Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative. (Brown)

3.B-Prop6-PDF-320KB S→

C. Resolution 2018-156 N.C.S. Authorizing Submittal of a Transportation for Clean Air Grant Application to the Bay Area Air Quality Management District for Route 24 Commuter Shuttle Service. (St. John/Hall)

3.C-ShuttleGrant-PDF-172KB

D. Adoption (Second Reading) of Ordinance 2666
N.C.S. Authorizing the City Manager to Execute all Documents
Relating to the Assignment and/or Exercise of Option Agreement
for Properties in Petaluma's First Time Homebuyer Program; the
Transfer of Land to the Housing Land Trust of Sonoma County
and Sale of the Improvements to a Qualified Buyer Subject to

Affordability Restrictions; and an Affordability Agreement with the Housing Land Trust to Maintain the Property in Petaluma's First Time Homebuyer Program. (Castellucci)

3.D-HousingLandTrust-PDF-1.2MB

4. **NEW BUSINESS**

- A. Resolution 2018-157 N.C.S. Authorizing Award of Contract for the Fire Station 2 & 3 Restroom Renovation Project to Kevin Mack Construction, Inc. (St. John/Ramirez)
 - 4.A-FireRestrooms-PDF-282KB
- B. <u>Discussion and Possible Direction on a Ban on the Sales and Use of Fireworks in Petaluma. (Brown)</u>
 - 4.B-Fireworks-PDF-2MB
 - 4.B-DocReceivedAfterAgendaDistribution-1-PDF-1MB
 - 4.B-DocReceivedAfterAgendaDistribution-2-PDF-33KB

COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

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TENTATIVE AGENDA

All Regular Meetings include Closed Session at 6:00 p.m. unless otherwise stated.

REGULAR CITY COUNCIL/PCDSA MEETING MONDAY, OCTOBER 15, 2018 – EVENING – 6:45 P.M.

1. PRESENTATION

A. **Red Ribbon Week** (Dick Sharke)

2. PROCLAMATION

A. North Bay Science Discovery Day – October 27

3. CONSENT CALENDAR

- A. Ratification of **PPMMA Memorandum** of **Understanding.** (Reeve)
- B. Resolution Accepting Completion of Work by the City's **Weed Abatement**Contractor and Authorizing the City Clerk to File a Notice of Completion with the
 Sonoma County Recorder's Office and Authorizing City Staff to Release the 10%
 Retention Fee for Services Performed by the City's Weed Abatement Contractor.
 (Power)
- C. Resolution Repealing the City of Petaluma's **Conflict of Interest Code** (Resolution No. 2016-194 N.C.S.) and any Conflicting Resolutions and Adopting by Reference the Model Conflict of Interest Code Set Forth in Title 2, Section 18730 of the California Code of Regulations and Taking Related Actions. (Cooper)
- D. Resolution Authorizing the Submission of a "Cal-Recycle Grant Application." (St. John)

4. NEW BUSINESS

- A. Resolution Approving Sale of **Petaluma Community Development Successor Agency Owned Property** Located at Industrial Drive between Auto Center Drive and Old Corona Road, Assessor Parcel Number 150-020-07. (Alverde)
- B. Resolution of the City Council of the City of Petaluma Declaring the City Council's Intention to Form the **Petaluma Tourism Improvement District** and Giving Notice of the Time and Place of a Public Meeting and a Public Hearing on the Establishment of the District and the Levy of Assessments. (Brown)

5. PUBLIC HEARINGS

A. Public Hearing and Action to Adopt Resolution Confirming the Cost of **Abatement of Weeds** and Confirming Approving of the Forwarding of Unpaid Bills to the County Assessor's Office for Collection as Assessments. (Power)

B. Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Site Plan and Architectural Review for the **Safeway Fuel Center Project.** (Hines) – Continued from the **September 17**, **2018 Regular City Council/PCDSA Meeting.**

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CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson Teresa Barrett Mike Healy Gabe Kearney Dave King Kathy Miller



COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CITY MANAGER

John C. Brown

CITY CLERK

Claire Cooper

CITY ATTORNEY

Eric W. Danly

CONTACT INFORMATION

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AGENDA

Monday, October 15, 2018

REVISED AGENDA: REVISION NO. 1 - THURSDAY, OCTOBER 11, 2018

CALL TO ORDER - CLOSED SESSION - 5:30 P.M.

A. ROLL CALL

CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to California Government Code Section 54957.6. Agency Designated Representatives: Scott Brodhun and Amy Reeve. Peace Officers' Association of Petaluma, Unit 6 - Police.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9: Peace Officers' Association of Petaluma v. City of Petaluma, Sonoma County Superior Court action number SCV-263236.

LITIGATION: Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9: Friends of Lafferty Park, Bill Kortum, Larry Modell, Bruce Hagen, Matt Maguire, David Keller and Mary Fuller McChesney v. Pikachu II, LLC, Kimberly Pfendler, as Trustee of the Kimberly Pfendler Marital Trust, Richard Rochat Tavernetti and William E. Tavernetti, as Trustees of the Richard Rochat Tavernetti Irrevocable Trust, and Does 1 through 100, Sonoma County Superior Court action number SCV-253148.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS: Pursuant to California Government Code Section 54956.8. Property: Assessor's Parcel Numbers 048-142-013, 048-142-014, and 048-142-015. Agency negotiator: John C. Brown. Negotiating party: 196 Cinnabar LLC. Under negotiation: Price and terms of payment. – Removed with Agenda Revision No. 1 – Thursday, October 11, 2018.

CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Paragraph (2) of subdivision (D) of Section 54956.9: One potential case. – Added with Agenda Revision No. 1 – Thursday, October 11, 2018.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

Prior to adjournment into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session.

ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION – 6:45 P.M.

A. ROLL CALL

- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

PRESENTATION

Red Ribbon Week (Dick Sharke)

PROCLAMATIONS

North Bay Science Discovery Day - October 27

<u>Celebrate El Dia de Los Muertos Petaluma - October 1 - November 2, 2018</u>

Small Business Saturday - November 24, 2018

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

GENERAL PUBLIC COMMENT

1. APPROVAL OF MINUTES

None.

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, November 5, 2018. - Agenda Revision No. 1 - Thursday, October 11, 2018.

2.A-Nov52018TentativeAgendaREVISED-PDF-29KB

3. CONSENT CALENDAR

A. Resolution 2018-158 N.C.S. Accepting Completion of Work by the City's Weed Abatement Contractor and Authorizing the City Clerk to File a Notice of Completion with the Sonoma County Recorder's Office and Authorizing City Staff to Release the 10%

Retention Fee for Services Performed by the City's Weed Abatement Contractor. (Power)

- 3.A-WeedAbatement-PDF-173KB
- B. Resolution 2018-159 N.C.S. Repealing the City of Petaluma's Conflict of Interest Code (Resolution No. 2016-194 N.C.S.) and any Conflicting Resolutions and Adopting by Reference the Model Conflict of Interest Code Set Forth in Title 2, Section 18730 of the California Code of Regulations and Taking Related Actions. (Cooper)
 - 3.B-ConflictofInterest-PDF-646KB

5. PUBLIC HEARINGS

- B. Continuance of the Safeway Appeal to a Date Certain of December 3, 2018. (Hines) Continued from the September 17, 2018 Regular City Council/PCDSA Meeting.
 - 5.B-SafewayAppeal-PDF-2.1MB
 - 5.B-DocumentReceivedAfterAgendaDistribution-1-PDF-3.3MB
 - 5.B-DocumentReceivedAfterAgendaDistribution-2-PDF-82KB
 - 5.B-DocumentReceivedAfterAgendaDistribution-3-PDF-84KB
 - 5.B-DocumentReceivedAfterAgendaDistribution-4-PDF-84KB

4. **NEW BUSINESS**

- A. Introduction (First Reading) of an Ordinance 2667 N.C.S.

 Approving a Land Purchase Agreement Between Foothill Family

 Motors Group LLC and the City of Petaluma Regarding Real

 Property Commonly Known as Industrial Drive and Auto Center

 Drive (APN 150-020-07) and Authorizing the City Manager to

 Execute all Documents Necessary to Complete the Sale.

 (Alverde)
 - 4.A-LandPurchase-PDF-1.2MB
- B. Resolution 2018-160 N.C.S. Declaring the City Council's Intention to Form the Petaluma Tourism Improvement District and Giving Notice of the Time and Place of a Public Meeting and

- <u>a Public Hearing on the Establishment of the District and the Levy of Assessments. (Brown)</u>
- 4.B-TourismImprovDistrict-PDF-1.3MB
- 4.B-DocumentReceivedAfterAgendaDistribution-1-PDF-824KB

5. PUBLIC HEARINGS, continued

A. Public Hearing and Resolution 2018-161 N.C.S. Confirming the Cost of Abatement of Weeds and Confirming Approval of the Forwarding of Unpaid Bills to the County Assessor's Office for Collection as Assessments. (Power)

5.A-WeedAbatementCost-PDF-252KB

COUNCIL COMMENT

CITY MANAGER COMMENT

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CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

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CITY MANAGER
John C. Brown

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CITY ATTORNEY Eric W. Danly City Hall Coun 11 E Petalum

1st & 3rd Mondays of each month City Hall Council Chambers

11 English Street Petaluma, CA 94952

COUNCIL MEETINGS

CONTACT INFORMATION

Phone (707) 778-4360 Fax (707) 778-4554 cityclerk@ci.petaluma.ca.us cityofpetaluma.net

AGENDA

Monday, November 19, 2018

CALL TO ORDER - CLOSED SESSION - 4:30 P.M.

A. ROLL CALL

CLOSED SESSION

PUBLIC EMPLOYEE APPOINTMENT: Paragraph (1) of subdivision (b) of California Government Code Section 54957. Title: City Manager.

CONFERENCE WITH LEGAL COUNCIL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Paragraph (2) of subdivision (D) of Section 54956.9: One potential case.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

Prior to adjournment into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session.

ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION - 6:45 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

PROCLAMATION

<u>Proclamation and Presentation for Retiring City Manager John</u> **Brown.**

GENERAL PUBLIC COMMENT

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soon as the previous speaker has concluded his/her comments. (Cal. Gov't. Code §54954.3(a), Petaluma City Council Rules, Policies and Procedures, III(A)).

1. APPROVAL OF MINUTES

None.

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, December 3, 2018.

2.A-Dec3TentativeAgenda-PDF-80KB

3. CONSENT CALENDAR

A. Resolution 2018-168 N.C.S. Authorizing the City of Petaluma to Accept a U.S. Department of Homeland Security FY 2017

Assistance to Firefighter's Grant Award for a Regional Tow Vehicle in the Amount of \$77,841.00. (Thompson)

3.A-TowVehicleGrant-PDF-1.1MB

B. Resolution 2018-167 N.C.S. Approving Purchases of Three Utility Trucks from Henry Curtis Ford, Hansel Auto Group in the Amount of \$128,994.21 and Authorizing the City Manager to Execute all Documents Necessary to Complete the Purchase. (St. John/Carothers)

3.B-Trucks-PDF-99KB

C. Letter to the Food and Drug Administration Responding to a Request for Comments Regarding the Use of the Names of Dairy Foods in the Labeling of Plant-Based Products. (Alverde)

3.C-Labeling-PDF-198KB

4.A. Adoption (Second Reading)of Ordinance 2668 N.C.S. (General Plan); Ordinance 2669 N.C.S. (Enterprise Funds); Ordinance 2670 N.C.S. (Utilities Funds); Ordinance 2671 N.C.S. (Internal Service Funds);

Ordinance 2672 N.C.S. (Special Revenue and Trust Funds); and, Ordinance 2673 N.C.S. (Capital Projects and Debt Funds) Amending Ordinances 2649, 2650, 2651, 2652, 2653, 2654, N.C.S. to Change Certain Appropriations for the Operations of the City of Petaluma from July 1, 2018 to June 30, 2019. (Garberolio)

- 4.A-Appropriations-PDF-422KB
- 4.B. Adoption (Second Reading) of Ordinance 2674 N.C.S. Amending the Text of Section 7.110 (Short-Term Vacation Rentals) of the City's Implementing Zoning Ordinance, Ordinance 2300 N.C.S. (Alverde)
 - 4.B-ShortTermVacationRentals-PDF-231KB
- 4. UNFINISHED BUSINESS
- 5. PUBLIC HEARINGS
 - A. Resolution 2018-169 N.C.S. Approving a Non-Substantive Amendment to the City of Petaluma General Plan 2025. (Hines)
 - 5.A-GeneralPlan-PDF-12.3MB
 - B. Resolution 2018-170 N.C.S. Amending the Inclusionary Housing Program in the City of Petaluma's General Plan 2025, 2015-2023 Housing Element as Adopted by Resolution No. 2014-190 N.C.S. (Castellucci)
 - 5.B-InclusionaryHousing-PDF-531KB

COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

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TENTATIVE AGENDA

All Regular Meetings include Closed Session at 6:00 p.m. unless otherwise stated.

REGULAR CITY COUNCIL/PCDSA MEETING MONDAY, DECEMBER 3, 2018 – EVENING – 6:45 P.M.

1. PRESENTATION

A. Safety Committee 2018 Report

2. CONSENT CALENDAR

- A. Resolution Accepting Claims and Bills for October 2018. (Garberolio)
- B. Resolution to Receive and File the **City Treasurer's Quarterly Report** Dated September 30, 2018. (Gaberolio)
- C. Resolution Declaring Canvass of Returns and Results of the **Regular Municipal Election Held November 6, 2018** in Consolidation with the Statewide General Election. (Cooper)
- D. Resolution Accepting Completion of the **Fire Station #1 Roof Overlay and Replacement Project.** (St. John/Ramirez)
- E. Resolution Authorizing Award of Contract for the **Local Hazard Mitigation Plan** to _______. (consultant selection expected in a couple weeks) (St. John/Ramirez)
- F. Resolution Accepting Completion of the **Petaluma Community Center Concrete Floor Slab Moisture Vapor Control Project.** (St. John/Ramirez)
- G. Resolution Authorizing Award of Contract for the **Petaluma Police Department Exterior Painting Project** to _______. (St. John/Beatty or Ramirez)
- H. Resolution Awarding Bid to ______ for **Tertiary Pond Modular Floating Cover** in the Amount of \$______. (St. John/Walker)
- I. Ratification of **PPMMA Memorandum** of **Understanding**. (Reeve)

3. PUBLIC HEARINGS

- A. PLACEHOLDER: Safeway Fueling Center Appeal. (Hines)
- B. Resolution Declaring Results of Majority Protest Proceedings and Establishing the **Petaluma Tourism Improvement District**. (Brown)

4. NEW BUSINESS

- A. Resolution Approving and Authorizing the City Manager to Execute the Owners' Association Agreement Between the City of Petaluma and the **Petaluma Lodging Association**. (Brown)
- B. Resolution to Approve the 2019 **Downtown Petaluma Business Improvement District**Annual Report and Related Budget; Declaring the Intention to Levy the 2018 Annual

- Assessment; and Setting a Public Hearing on the Proposed 2019 Annual Assessment. (Garberolio)
- C. Resolution Approving a Loan Agreement with a New Limited Partnership that will be Affiliated with Burbank Housing Development Corporation, in Connection with the Acquisition and Rehabilitation of **Old Elm Village** and Authorizing the City Manager to Sign Documents Related to the Rehabilitation and Financing of the Project. (Castellucci)
- D. Resolution Authorizing the City Manager to Execute a **Freeway Maintenance Agreement and a Utility Maintenance Agreement** between the Department of Transportation and the City of Petaluma. (St. John/Stutsman)
- E. Resolution Authorizing Award of Contract for the FY 18/19 Water Services Project and Wilson-Webster Water Main Replacement Project to Team Ghilotti, Inc. (St. John/Stutsman)

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CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson
Teresa Barrett
Mike Healy
Gabe Kearney
Dave King
Kathy Miller



COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CITY MANAGER

Scott Brodhun (Interim)

CITY CLERK

Claire Cooper

CITY ATTORNEY

Eric W. Danly

CONTACT INFORMATION

Phone (707) 778-4360 Fax (707) 778-4554 cityclerk@ci.petaluma.ca.us cityofpetaluma.net

AGENDA

Monday, December 3, 2018

CALL TO ORDER CLOSED SESSION - 6:00 P.M.

A. ROLL CALL

CLOSED SESSION

- * CONFERENCE WITH LEGAL COUNCIL ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: One potential case.
- * CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to California Government Code Section 54957.6. Agency Designated Representatives: Scott

Brodhun and Amy Reeve. Peace Officers' Association of Petaluma, Unit 6 - Police.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

Prior to adjournment into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session.

ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION - 6:45 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

PRESENTATION

* Safety Committee 2018 Report

Presentation-SafetyProgram >>>

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

GENERAL PUBLIC COMMENT

During General Public Comment, the public is invited to make comments on items of public interest that are within the City Council's subject matter jurisdiction and that are not listed on the current agenda. Public comments are limited to three minutes per person. Depending on the number of persons wishing to address the Council, time will be allocated in equal shares totaling no more than twenty minutes. Please fill out a speaker card (available at the rear of the Council Chambers) and submit it to the City Clerk. Speaker cards for General Public Comment will not be accepted after the meeting begins. The Mayor will call on individuals whose names appear on the speaker cards. If more than three persons wish to address Council on the same topic, they are encouraged to select a spokesperson. Please be ready to step forward to the microphone as soon as the previous speaker has concluded his/her comments. (Cal. Gov't. Code §54954.3(a), Petaluma City Council Rules, Policies and Procedures, III(A)).

1. APPROVAL OF MINUTES

None.

2. APPROVAL OF PROPOSED AGENDA

A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday,

December 17, 2018.

2.A-December172018TentativeAgenda

3. CONSENT CALENDAR

A. Resolution Accepting Claims and Bills for October 2018. (Garberolio)

3.A-ClaimsBills

B. Resolution to Receive and File the City Treasurer's Quarterly Report Dated September 30, 2018. (Gaberolio)

3.B-TreasurerReport

C. Resolution Declaring Canvass of Returns and Results of the Regular Municipal Election Held November 6, 2018 in Consolidation with the Statewide General Election. (Cooper)

3.C-ElectionResults

D. Resolution Accepting Completion of the Fire Station 1 Roof Replacement Project. (St. John/Ramirez)

3.D-FireStationRoofComp

E. Resolution Accepting Completion of the Petaluma Community Center Concrete Floor Slab Moisture Vapor Control Contract. (St. John/Ramirez)

3.E-ConcreteFloorCompletion

4. NEW BUSINESS

A. Resolution to Approve the 2019 Downtown Petaluma Business Improvement District Annual Report and Related Budget; Declaring the Intention to Levy the 2019 Annual Assessment; and Setting a Public Hearing on the Proposed 2019 Annual Assessment. (Garberolio)

4.A-DPBID

B. Resolution Authorizing the City Manager to Execute a Freeway Maintenance and a Utility Agreement between the Department of Transportation and the City of Petaluma. (St. John/Stutsman)

4.B-FreewayMaintUtilityAgreement

C. Resolution Amending Resolution No. 2018-144 N.C.S. Authorizing Award of

Contract for the FY 18/19 Water Services Project and Wilson-Webster Water Main Replacement Project to Team Ghilotti, Inc. (St. John/Stutsman)

4.C-Wilson-WebsterWaterMain

5. PUBLIC HEARINGS

- A. Public Hearing Regarding the Proposed Formation of a Petaluma Tourism Improvement District. (Brodhun)
 - 5.A-TourismImprovementDistrict
- B. Resolutions for Council Action on the Appeal of the Planning Commission's approval of a Mitigated Negative Declaration and Site Plan and Architectural Review for the Safeway Fuel Center Project. (Hines)
 - 5.B-SafewayFuelCenterAppeal-StaffReport
 - 5.B-SafewayFuelCenterAppeal-Attachment1
 - 5.B-SafewayFuelCenterAppeal-Attachment2
 - 5.B-SafewayFuelCenterAppeal-Attachment3
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 - 5.B-SafewayFuelCenterAppeal-Attachment5toAttachment3
 - 5.B-SafewayFuelCenterAppeal-Attachment6toAttachment3
 - 5.B-SafewayFuelCenterAppeal-Attachment7toAttachment3
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- 5.B-SafewayFuelCenterAppeal-Attachment6
- 5.B-SafewayFuelCenterAppeal-Attachment7
- 5.B-SafewayFuelCenterAppeal-Attachment7-ExhibitA-Part1
- 5.B-SafewayFuelCenterAppeal-Attachment7-ExhibitA-Part2
- 5.B-SafewayFuelCenterAppeal-Attachment8
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COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

In accordance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office at (707) 778-4360 (voice) or (707) 778-4480 (TDD). Translators, American Sign Language interpreters, and/or assistive listening devices for individuals with hearing disabilities will be available upon request. A minimum of 48 hours is needed to ensure the availability of translation services. In consideration of those with multiple chemical sensitivities or other environmental illness, it is requested that you refrain from wearing scented products. The City Clerk hereby certifies that this agenda has been posted in accordance with the requirements of the Government Code.

In accordance with Government Code §54957.5, any materials of public record relating to an agenda item for a regular meeting of the City Council that are provided to a majority of the members less than 72 hours before the meeting will be made available at the City Clerk's Office, 11 English Street, during normal business hours. Materials of public record that are distributed during the meeting shall be made available for public inspection at the meeting if prepared by the City or a member of its legislative/advisory body, or the next business day after the meeting if prepared by some other person.

4480.



Agendas and supporting documents can be found at: http://cityofpetaluma.net/cclerk/archives.html.

EXHIBIT D

CITY OF PETALUMA, CALIFORNIA REGULAR MEETING OF THE CITY COUNCIL/ PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY (PCDSA)

MAYOR

David Glass

COUNCIL MEMBERS

Chris Albertson
Teresa Barrett
Mike Healy
Gabe Kearney
Dave King
Kathy Miller



COUNCIL MEETINGS

1st & 3rd Mondays of each month City Hall Council Chambers 11 English Street Petaluma, CA 94952

CITY MANAGER

Scott Brodhun (Interim)

CITY CLERK

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CONTACT INFORMATION

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AGENDA

Monday, December 3, 2018

CALL TO ORDER - CLOSED SESSION - 6:00 P.M.

A. ROLL CALL

CLOSED SESSION

- * CONFERENCE WITH LEGAL COUNCIL ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Paragraph (2) of subdivision (d) of Section 54956.9: One potential case.
- * CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to California Government Code Section 54957.6. Agency Designated Representatives: Scott Brodhun and Amy Reeve. Peace Officers' Association of Petaluma, Unit 6 Police.

PUBLIC COMMENT ON CLOSED SESSION ITEMS

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ADJOURN TO CLOSED SESSION

CALL TO ORDER - EVENING SESSION - 6:45 P.M.

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. MOMENT OF SILENCE

AGENDA CHANGES AND DELETIONS (TO CURRENT AGENDA ONLY)

PRESENTATION

* Safety Committee 2018 Report

Presentation-SafetyProgram Sales

REPORT OUT OF CLOSED SESSION (ACTIONS TAKEN)

GENERAL PUBLIC COMMENT

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1. APPROVAL OF MINUTES

None.

2. APPROVAL OF PROPOSED AGENDA

- A. Approval of Agenda for Regular City Council/PCDSA Meeting of Monday, December 17, 2018.
 - 2.A-December172018TentativeAgenda

3. CONSENT CALENDAR

- A. Resolution 2018-171 N.C.S. Accepting Claims and Bills for October 2018. (Garberolio)
 - 3.A-ClaimsBills
- B. Resolution 2018-172 N.C.S. to Receive and File the City Treasurer's Quarterly Report Dated September 30, 2018.

 (Gaberolio)
 - 3.B-TreasurerReport
- C. Resolution 2018-173 N.C.S. Declaring Canvass of Returns and Results of the Regular Municipal Election Held November 6, 2018 in Consolidation with the Statewide General Election.

 (Cooper)
 - 3.C-ElectionResults
- D. Resolution 2018-174 N.C.S. Accepting Completion of the Fire Station 1 Roof Replacement Project. (St. John/Ramirez)
 - 3.D-FireStationRoofComp

E. Resolution 2018-175 N.C.S. Accepting Completion of the Petaluma Community Center Concrete Floor Slab Moisture Vapor Control Contract. (St. John/Ramirez)

3.E-ConcreteFloorCompletion

4. **NEW BUSINESS**

A. Resolution 2018-176 N.C.S. Approving the 2019 Downtown Petaluma Business Improvement District Annual Report and Related Budget; Declaring the Intention to Levy the 2019 Annual Assessment; and Setting a Public Hearing on the Proposed 2019 Annual Assessment. (Garberolio)

4.A-DPBID

- B. Resolution 2018-177 N.C.S. Authorizing the City Manager to Execute a Freeway Maintenance and a Utility Agreement between the Department of Transportation and the City of Petaluma. (St. John/Stutsman)
 - 4.B-FreewayMaintUtilityAgreement
- C. Resolution 2018-178 N.C.S. Amending Resolution No. 2018-144
 N.C.S. Authorizing Award of Contract for the FY 18/19 Water
 Services Project and Wilson-Webster Water Main Replacement
 Project to Team Ghilotti, Inc. (St. John/Stutsman)

4.C-Wilson-WebsterWaterMain

5. PUBLIC HEARINGS

A. Resolution 2018-179 N.C.S. Declaring the Results of Majority Protest Proceedings and Authorizing Formation of the Petaluma Tourism Improvement District and the Levy of Assessments In Accordance with California Streets and Highways Code Section 36600 et. seg. and Authorizing the City Manager to Execute on Behalf of the City a Contract with the Petaluma Lodging Association Conditioned on the Petaluma Lodging Association Incorporating as a Legal Entity and Entering a Contract with the City to Administer the District. (Brodhun)

5.A-TourismImprovementDistrict

- B. Resolution 2018-180 N.C.S. Upholding the Appeal Filed by Joann McEachin as to the Mitigated Negative Declaration Approved by the Petaluma Planning Commission on June 26, 2018 by Resolution No. 2018-21A, Ordering the Preparation of an Environmental Impact Report In Accordance with Section 15064, Subdivisions (C) and (G) of the California Environmental Quality Act Guidelines, and Staying the Planning Commission's Approval of Site Plan and Architectural Review Pursuant to Resolution No. 2018-21 Adopted June 26, 2018 for the Safeway Fuel Center Project Located at 335 South McDowell Boulevard, Assessor's Parcel No. 007-820-046, File No. PLSR 13-0012, Pending Certification of the EIR and City Council Review of the Project Site Plan and Architectural Review Approval. (Hines)
 - 5.B-SafewayFuelCenterAppeal-StaffReport
 - 5.B-SafewayFuelCenterAppeal-Attachment1
 - 5.B-SafewayFuelCenterAppeal-Attachment2
 - 5.B-SafewayFuelCenterAppeal-Attachment3
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COUNCIL COMMENT

CITY MANAGER COMMENT

ADJOURN

In accordance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office at (707) 778-4360 (voice) or (707) 778-4480 (TDD). Translators, American Sign Language interpreters, and/or assistive listening devices for individuals with hearing disabilities will be available upon request. A minimum of 48 hours is needed to ensure the availability of translation services. In consideration of those with multiple chemical sensitivities or other environmental illness, it is requested that you refrain from wearing scented products. The City Clerk hereby certifies that this agenda has been posted in accordance with the requirements of the Government Code.

In accordance with Government Code §54957.5, any materials of public record relating to an agenda item for a regular meeting of the City Council that are provided to a majority of the members less than 72 hours before the meeting will be made available at the City Clerk's Office, 11 English Street, during normal business hours. Materials of public record that are distributed during the meeting shall be made available for public inspection at the meeting if prepared by the City or a member of its legislative/advisory body, or the next business day after the meeting if prepared by some other person.

For accessible meeting information, please call (707) 778-4360 or TDD (707) 778-4480.



Agendas and supporting documents can be found at: http://cityofpetaluma.net/cclerk/archives.html.

EXHIBIT E



PUBLIC HEARING FOR CONSIDERATION OF AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF SITE PLAN AND ARCHITECTURAL REVIEW

SAFEWAY FUEL CENTER PROJECT

PLAP-18-0001 335 SOUTH MCDOWELL BOULEVARD APN 007-820-046

NOTICE IS HEREBY GIVEN, to all interested persons that the City Council will consider an appeal of the Planning Commission's approval of Site Plan and Architectural Review (SPAR) of the Safeway Fuel Center project as summarized below:

PROJECT DESCRIPTION: On June 26, 2018 the Planning Commission adopted Resolution No. 2018-21B approving Site Plan and Architectural Review for the Safeway Fuel Center project, including development of a new gas station on a 0.71 acre site located at 335 South McDowell Boulevard, within the Washington Square Shopping Center. Site improvements include the construction of a 5,932 square foot fueling canopy covering 16 fueling positions, a 697 square foot convenience store, two 20,000 gallon underground storage tanks, landscaping and parking. Site preparation will include the demolition of the existing 13,770 square foot commercial building and associated existing site improvements. Offsite improvements consist of modifications to the adjacent Transit Center to increase the width of the bus turnout area to allow for buses to queue outside of the Maria Drive travel lane. Additionally, the Transit Center amenities will be enhanced to include new shelters, seating, landscaping and ancillary improvements.

PROJECT LOCATION: The project is located at 335 S. McDowell Blvd, within the Washington Square Shopping Center.

ENVIRONMENTAL REVEIW: An Initial Study (IS) was prepared for the project and published for public review period that extended from April 5, 2018 to May 7, 2018. The Planning Commission adopted Resolution No. 2018-21A approving the Mitigated Negative Declaration on June 26, 2018.

CITY COUNCIL MEETING DATE/TIME: Monday, September 17, 2018, at or after 6:45 p.m.

MEETING LOCATION: City Council Chambers, City Hall of Petaluma, 11 English Street, Petaluma, CA.

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and approve, approve with modifications, or deny the appeal.

IF YOU CANNOT ATTEND: You can send a letter to the Planning Division, City of Petaluma, 11 English Street, Petaluma California, 94952. You can also hand deliver letters prior to the meeting or e-mail comments. All Planning Commission meetings are televised on the Petaluma Community Access Cable Channel 28.

FOR MORE INFORMATION: You may contact Olivia Ervin, at (707) 778-4556 or <u>oervin@m-group.us</u> and/or Heather Hines at (707) 778-4316 or <u>hhines@m-group.us</u>. You can also come to the Planning Division to review the project file. The office is open Monday through Thursdays from 8:00 a.m. to 5:00 p.m. City Hall is closed Fridays.

Efforts will be made to accommodate persons with disabilities. The City Manager's office must be notified at (707) 778-4345 within 5 days from date of publication of this notice if you need special accommodations.

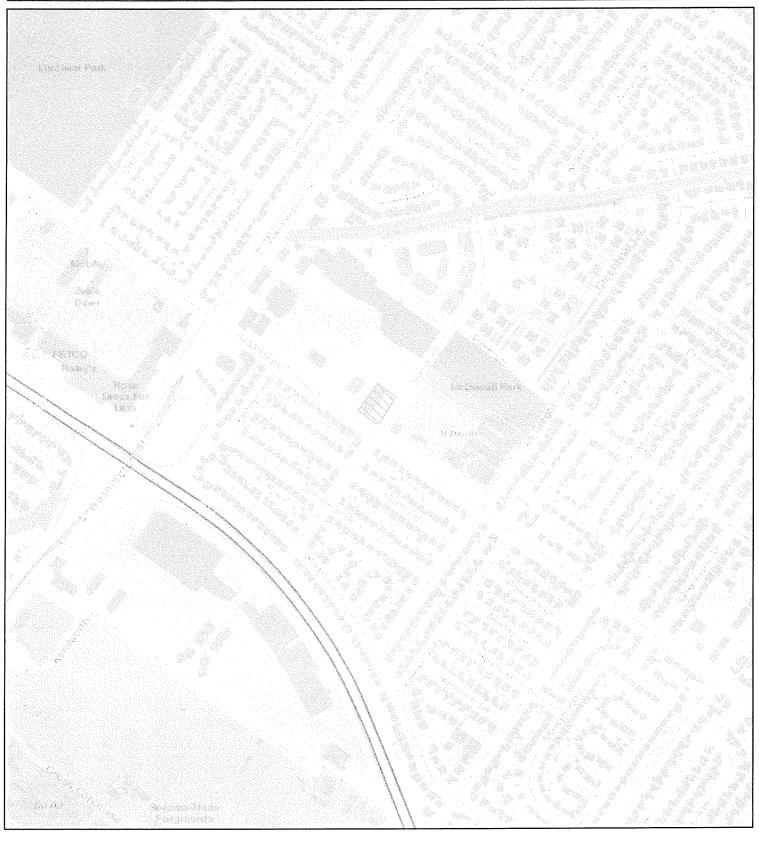
For accessible meeting information: Please call (707) 778-4360 or TDD (707) 778-4480

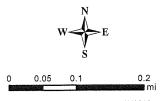


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335 South McDowell Blvd.









PUBLIC HEARING FOR CONSIDERATION OF AN AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF SITE PLAN AND ARCHITECTURAL REVIEW

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2819212 - Pub Sept 6, 2018

1ti.

EXHIBIT F





From:

David Glass <daveglass@comcast.net>

Sent:

Thursday, December 20, 2018 3:57 PM

To:

Danly, Eric

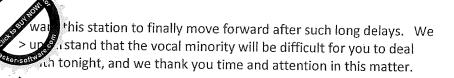
Subject:

Fwd: We Support Safeway Gas Station

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---> ----- Original Message -----> From: SCWS <scws@sonic.net> > To: councilman.albertson@gmail.com, teresa4petaluma@comcast.net, > mayordavidglass@gmail.com, mthealy@sbcglobal.net, > councilmemberkearney@me.com, kathleencmilleroffice@gmail.com, > davekingpcc@gmail.com > Date: September 17, 2018 at 9:41 AM > Subject: We Support Safeway Gas Station > We know you will have a small and vocal minority at your meeting > tonight that will oppose the Safeway gas station, but we want to let > you know that we believe that the majority of people in Petaluma support the lower prices > that we believe the Safeway gas station will bring. For years we have > purchased ALL of our gas out of town, primarily at the Costco gas > station in Rohnert Park and the Safeway gas station in Novato because > it was so much cheaper than anything in Petaluma. This is the chance > for Petaluma to reclaim that lost tax revenue. > Now I know that those that oppose the gas station will claim its going > to be bad for the environment. The reports that I have read online do > not support this. > They will claim that it will not lower prices, and that it will not > solve our gas price issue. They will claim that the long lines of > idling cars will produce pollution and harm children at the school across the street. > They claim the onslaught of cars going to and from the station will > cause traffic issues. > > The same group of about a dozen people have been making these claims online > for some time now. The primary flaw we see in their argument is that if > the prices are not going to be good, then why will there be long lines of > idling cars waiting at such a busy station? If the prices are not good, it > will not have lines or idling cars, but the fact is that even they > know that it WILL be a busy station because the gas prices WILL be so > much lower that people WILL flock to it. > > In these times of budget shortfalls, and the looming repeal of the > state gas tax in November that we believe will take place, the city > should look to the future and reclaim the tax revenue Petaluma it is

> We suspect that you have done your own polling in this matter and know that the majority of people

> losing to surrounding cities and bring lower gas prices to its people.





> Thank you for your time.

>

- > Peter P
- > April P
- > Emma P
- > Bonnie M
- > Dennis M
- > Barbara B
- > Warren H
- > Philip H
- > Patricia H
- > Shontay E
- > Bob O
- > Karen O
- > Johnathan K
- > Rose K
- > Samantha P
- >
- >
- >

EXHIBIT G

ILLINGWORTH & RODKIN, INC.

429 E. Cotati Ave Cotati, California 94931

Tel: 707-794-0400 www.illingworthrodkin.com Fax: 707-794-0405 illro@illingworthrodkin.com

MEMO

Date:

December 3, 2018

To:

Natalie Mattei

Senior Real Estate Manager Albertsons Companies 11555 Dublin Canyon Road Pleasanton, CA 94588

From:

James A. Reyff

Illingworth & Rodkin, Inc.

429 E. Cotati Ave Cotati, CA 94931

RE:

Safeway Fuel Center CEQA document - Petaluma, CA

SUBJECT: Safeway Fuel Center Health Risk Assessment - Response to 12/03/2018

Submittal from Phyllis Fox and Ray Kapahi - Job#13-205

This memo provides our response to comments regarding the Petaluma Safeway gas station project ("Project") made by Phyllis Fox and Ray Kapahi in a supplemental report dated December 3, 2018.

Given the short time provided to respond, we developed these responses to the primary issues brought up:

Use of WRF Model

The Commenters claim that the WRF model is not intended to be used nor appropriate for use for a site specific HRA at this fine level. The HRA AERMOD modeling utilized meteorological data prepared using the recent EPA-accepted methods. New U.S. EPA modeling guidelines (40 CFR Part 51, Appendix W, effective February 16, 2017) allows the use of prognostic meteorological data using the U.S. EPA's Mesoscale Model Interface Program ("MMIF") pre-processor to generate inputs for regulatory modeling applications using the meteorological preprocessor model ("AERMET") and AERMOD. The EPA developed the MMIF to process MM5 (Mesoscale Model 5) or WRF (Weather Research and Forecasting) model data for input to various models including AERMOD. The WRF model uses objective analysis to process archived observations of upper data from sites in the region to analyze the observed data and outputting them into a regular grid. These gridded data are then used with the MMIF model.

Regulatory modeling applications are as, or more, stringent than health risk modeling requirements. As such, the data used for the HRA modeling is appropriate for use. The AERMOD data prepared with a the MMIF model used WRF model data and EPA-approved procedures as part of the process in producing the AERMOD meteorological data.

The commenters state that "The minimum resolution available with WRF model as used in the most recent HRA is in the range of 1 to 4 kilometers. Given this resolution, it is not possible to make accurate predictions within 50 to 100 meters." The grid resolution of the data produced by the WRF model that is used by the MMIF model for use in developing local meteorological parameters needed by AERMOD, including wind speed and direction data. As stated above, data produced from the MMIF model using WRF data is accepted by the EPA for regulatory modeling purposes. It is improper to draw these correlations between the resolution of the meteorological data and the prediction accuracy of the dispersion model.

Additionally, it should be noted that the MMIF-based meteorological data used for the HRA are the only meteorological data available for use in AERMOD. There are no adequate local sources of meteorological data for use in preparing AERMOD data, which is the reason why the EPA-approved method using MMIF was used to produce modeling data.

Understated DPM by a factor of 4

The HRA used aggregated 5 mph emission factors to model idle emissions and then used the composite speed from EMFAC2014 that represents vehicle travel in Sonoma County for the weighted mix of vehicle expected at the project. The Commenters are comparing 5-mph travel emission factors used to compute idling emissions to the travel emission factors, which is not an appropriate comparison. Note that the aggregate emission rates include other vehicle classes that would be using the station (e.g., light-duty trucks). Heavy-duty trucks would only visit the project site to make deliveries.

Exposure Duration for Cancer Risk

The Commenters continue to claim that use of 30-year exposure duration is inconsistent with BAAQMD guidance and understates public risk. Please see our response to this original comment in our October 10, 2018 response (p5 under "Exposure Duration"). The 70-year exposure duration with older CAPCOA guidance applies to only the facility that BAAQMD is permitting. As BAAQMD pointed out in their September 17, 2018 comment, use of the 30-year exposure with the 2015 OEHHA guidance yields more conservative results. The 30-year exposure duration with recommended 2015 OEHHA guidance parameters is what BAAQMD recommends for CEQA analyses. BAAQMD concurred with the HRA in their November 8, 2018 letter. Note that the previous 2014 assessment followed the guidance that is currently recommended in BAAQMD's New Source Review guidelines (i.e., 70-year exposure with less protective parameters such as child and infant breathing rates).

Underestimated Benzene Emissions

The Commenters claims that benzene emissions were significantly underestimated, by inappropriately citing SCAQMD guidance. The emission factor used by the Commenter's in their analysis is higher than those emissions factors. One reason is that the Commenter's are not considering that over 85-percent of the vehicles using the project will be equipped with on-board vapor recovery systems. This rate will increase to nearly 100 percent during the early years of the project. While the Commenters refer to a study for fueling stations in the Midwest and Northwest that reports higher vent emissions from fueling stations (Hilpert study), they fail to recognize that California stations are required to utilize enhanced vapor recovery that controls vent pipe emissions. The emission factors reported by the Commenters are overestimated and not reflective of emissions factors currently applicable to California. The BAAQMD concurred with the emission factors utilized in the Project study.

Other TACs

The Project assessment addressed impacts from construction activity (emissions of diesel particulate matter) vehicles using the station, including diesel particulate matter from diesel vehicles, and benzene from evaporative emissions. Gasoline evaporation includes other toxic air contaminants but those that occur at higher rates than benzene have much lower toxicity levels and those that have higher toxicity levels have much lower emissions rates. That is why BAAQMD uses benzene to compute health risks from gasoline evaporation.

EXHIBIT H





Re: From Brian Sobel

From: Michael Healy (mthealy@sbcglobal.net)

To: brian@sobelcommunications.com

Date: Tuesday, July 24, 2018 11:37 AM PDT

I really wish Mark had not submitted that very unfortunate guest op ed. But it probably wasn't enough to flip my vote. I will be recommending that the city attorney have a closed session under the "threatened litigation" exception prior to Sep. 17 so that there can be a frank discussion of the legal issues.

Mike

On Tuesday, July 24, 2018 11:13 AM, Brian Sobel brian@sobelcommunications.com wrote:

Hi Mike,

Hope all is going well and great chatting with you the other day. I am reaching out to you concerning the Washington Square Shopping Center and Safeway gas station appeal. As we discussed, I am giving the applicants some assistance in finalizing their plans. Given your comments at the Planning Commission hearing and absent a different legal theory, I believe your legal position asserting the City has no sustainable option, wins the day. As you are aware the Planning Commission's decision of June 26 has been appealed and we are told the appeal is currently scheduled for the September 17 City Council meeting. At your convenience, the applicant would very much appreciate the opportunity to meet with you and provide any additional detail you may need and to answer any questions. I have also attached the recent op/ed that appeared in the *Argus Courier* authored by Mark Friedman, along with a summary memo prepared by FM3 concerning the June 2018 poll of 502 likely Petaluma voters. The team has also created a website (petalumasafewaygas.com) that contains additional details about the project.

I will give you a call over the next couple of days to see if you can find a spot on your calendar for us to come by your office. I will also be reaching out to your colleagues as well. Thanks! Warmly.

Brian

Brian Sobel

Sobel Communications
775 Baywood Drive, Suite 203
Petaluma, CA 94954
(T) 707.762.3509
(C) 707.953.6626
www.sobelcommunications.com