



AGENDA

REGULAR JOINT MEETING OF THE OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY/ OAKLEY PUBLIC FINANCING AUTHORITY

Tuesday, October 09, 2018
6:30 PM

Oakley City Council Chambers, 3231 Main Street, Oakley, CA 94561

MISSION STATEMENT: The City of Oakley exists to build and enhance a quality community and to serve the public in a friendly, efficient, responsive manner.

VISION STATEMENT: The City of Oakley will be recognized as a model of civic participation and a vibrant Delta community where families live, work, play, shop and visit.

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A complete packet of information containing staff reports and exhibits related to each item is available for public review prior to an Oakley City Council and/or City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority meeting at Oakley City Hall, 3231 Main Street, Oakley, CA 94561. Any writings or documents provided to a majority of the Oakley City Council, Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency or Oakley Public Financing Authority regarding any item on this agenda will be made available for public inspection, during regular business hours, at the front counter in the Main Lobby of the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561.

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Please keep cell phones/electronic devices turned off during the meeting. Please be advised that City Council meetings are video recorded and attendees may appear on video.

1. OPENING MATTERS

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

- 1.1. Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority**
- 1.2. Pledge of Allegiance to the Flag (Mayor Pope)**
- 1.3. Update from East Contra Costa Fire Protection District Fire Chief Brian Helmick**
- 1.4. Proclamation Honoring Eagle Scout Mitchell Saunders, Boy Scout Troop 93**

[Proclamation](#)

2. PUBLIC COMMENTS

At this time, the public is permitted to address the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority on non-agendized items. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda. The Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority may respond to statements made or questions asked or may request Staff to report back at a future meeting on the matter. The exceptions under which the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority MAY discuss and/or take action on items not appearing on the agenda are contained in Government Code §54954.2(b)(1)(2)(3). Members of the public should submit any Speaker Cards for Public Comments in advance of the Mayor calling for Public Comments.

3. CONSENT CALENDAR

Consent Calendar items are typically non-controversial in nature and are considered for approval by the Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority with one single action. Members of the audience, Staff or the

Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority who would like an item removed from the Consent Calendar for purposes of public input may request the Mayor remove the item. Members of the public should submit any Speaker Cards related to the Consent Calendar in advance of the Consent Calendar being considered.

- 3.1. Approve the Minutes of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting and Special Meeting of the Oakley Public Financing Authority held September 25, 2018 (Libby Vreonis, City Clerk)**

[Minutes 9-25-18](#)

- 3.2. Waive the Second Reading and Adopt an Ordinance Amending Certain Sections of Chapter 9 of Title 2 of the Oakley Municipal Code Regarding the City's Conflict of Interest Code (Libby Vreonis, City Clerk)**

[Ordinance](#)

- 3.3. Adopt a Resolution of Acceptance of Real Property for the Dutch Slough Community Park Project (Derek P. Cole, City Attorney)**

[Staff Report](#)

- [1. Resolution of Acceptance](#)
- [2. Exhibit A to Resolution-Grant Deed](#)

- 3.4. Award of Construction Contract to Yelton Company Incorporated for the demolition and disposal of the buildings located at 3486 Main Street, for the Main Street and O'Hara Avenue Intersection Improvement Project – Capital Improvement Project Number 218 (Kevin Rohani, P.E., Public Works Director/City Engineer)**

[Staff Report](#)

- [1. Resolution](#)
- [2. Yelton Company Inc. Proposal](#)

- 3.5. Adopt a Resolution to authorize execution of the Joint Community Facilities Agreement between the City of Oakley and the East Contra Costa Fire Protection District corresponding to Community Facilities District Number 2018-1 for the financing of Fire Protection Services (Bryan H. Montgomery, City Manager/Kevin Rohani, P.E., Public Works Director/City Engineer)**

[Staff Report](#)

- [1. Resolution](#)
- [Exhibit A](#)

4. PUBLIC HEARINGS

4.1. Adoption of an Urgency Ordinance of the City of Oakley Adopting an Interim Measure Imposing a Moratorium on the Issuance or Renewal of Use Permits, Variances, Building Permits, Business Licenses or any other Entitlements or Permits Providing for the Use, Commencement, Establishment or Operation of Short-Term Rentals Within the City of Oakley (Joshua McMurray, Planning Manager)

Suggested Action: Staff recommendation: 1) Open the Public Hearing, 2) Receive the Staff Report, 3) Receive Questions from the City Council, 4) Receive Public Testimony, 5) Close the Public Hearing, 6) Deliberate, 7) Summarize the Deliberation, 8) Adopt the Urgency Ordinance (requires 4/5 vote of approval)

Staff Report

1. [September 25, 2018 Staff Report regarding Short-Term Rentals](#)
2. [Proposed Interim Emergency Ordinance](#)

5. REGULAR CALENDAR

5.1. Economic Development Update (Dwayne Dalman, Economic Development Manager)

6. REPORTS

6.1. CITY MANAGER

(a) City Manager's Report

6.2. OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

(b) Requests for Future Agendas

7. WORK SESSIONS

8. CLOSED SESSION

8.1. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to Government Code Section 54956.9(b) One

potential case.

8.2. Report Out of Closed Session (Steven Graham, Assistant City Attorney)

9. ADJOURN



Proclamation
honoring
Mitchell Saunders
Eagle Scout Recipient

WHEREAS, the City of Oakley, a place for families in the heart of the Delta, takes pride in its sense of community and citizen involvement; and

WHEREAS, the vision of the Boy Scouts of America is to prepare every eligible youth in America to become responsible, participating citizens and leaders, who are guided by the Scout Oath and Law; and

WHEREAS, Mitchell Saunders, an Oakley resident, is a member of Boy Scout Troop 93 and earned the rank of Eagle Scout on June 28, 2018, with his Court of Honor to be held on October 14, 2018; and

WHEREAS, this is the highest award a Scout can receive; few boys move up through the ranks of Scouting and only about 2% make it all the way to Eagle; and

WHEREAS, the Boy Scouts of America requires Eagle Scout candidates to complete worthy projects to improve their neighborhoods, their community and the region; and

WHEREAS, for his community service project, Mitchell directed a group of volunteers to design, build and install bat boxes in a Burrowing Owl Preserve. A single bat can eat nearly 8,000 insects per night; the bat boxes will help encourage the bat population and decrease the number of mosquitos and other similar, unwanted insects; and

WHEREAS, Mitchell earned 31 merit badges and was a recognized leader in Troop 93; and

WHEREAS, Mitchell's persistent progress through the ranks to achieve this prestigious award demonstrates his determination to prepare himself for a meaningful, productive role in society.

NOW, THEREFORE, BE IT RESOLVED that I, Randy Pope, Mayor of the City of Oakley on behalf of the Oakley City Council, do hereby honor Mitchell Saunders of Boy Scout Troop 93 on his achievement of attaining the rank of Eagle Scout, the highest rank in the Boy Scouts.

Dated: October 9, 2018

Randy Pope, Mayor

**Minutes of Oakley City Council/Oakley City Council Acting as the
Successor Agency to the Oakley Redevelopment Agency and Special
Meeting of the Oakley Public Financing Authority held
September 25, 2018**

1) OPENING MATTERS

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

Mayor Pope called the meeting to order at 6:30pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. In addition to Mayor Pope, Vice Mayor Claire Alaura and Councilmembers Doug Hardcastle, Kevin Romick and Sue Higgins were present.

**1.2 Pledge of Allegiance to the Flag
(Dylan-Xavier Harris, Student at Vintage Parkway Elementary School)**

Dylan-Xavier Harris, fourth grade student at Vintage Parkway Elementary School, led the Pledge of Allegiance.

The City Council thanked him.

**1.3 Introduction and Swearing In Ceremony of Oakley Police Officer Tyler Horn
(Chris Thorsen, Chief of Police and Libby Vreonis, City Clerk)**

Chief of Police Chris Thorsen introduced Officer Tyler Horn. He shared Officer Horn has served in the U.S. Marines, the Contra Costa Sheriff's Office and the City of Alameda Police Department.

City Clerk Libby Vreonis administered the Oath of Office to Officer Horn.

**1.4 Proclamation Recognizing September 2018 as Suicide Prevention Month in Oakley
(Vanessa Perry)**

On behalf of the City Council, Mayor Pope presented a proclamation recognizing September 2018 as Suicide Prevention Month in Oakley.

Members of the Out of the Darkness Walk, including former Councilmember Vanessa Perry, accepted the proclamation.

Mayor Pope mentioned the Out of the Darkness Walk will be held October 13, 2018, 9am-12pm (registration begins at 8am), at Cypress Grove Community Park in Oakley.

1.5 Update from Contra Costa County Library Commission Appointee Yolanda Pena Mendrek

Contra Costa County Library Commission Appointee Yolanda Pena Mendrek reported that the Commission has been busy trying to secure funding for local libraries. She mentioned libraries are for the public and adequate space is needed to serve the public, including students doing research and homework as well as other community members. She also mentioned she attended a legislative day to speak with representatives from around the country about the need for library funding, not just for big libraries, but small libraries like in Oakley where the library is shared between students and the public. She added that grants that they were advocating for were passed and funded. She announced the Commission will meet this Thursday; their last meeting was postponed. She commented that SCA-3, a measure introduced by Senator Bill Dodd (D-Napa), is on hold, but the bill will be revisited next year.

The City Council thanked her for her update.

2) PUBLIC COMMENTS

No online comments or public comment cards were submitted.

3) CONSENT CALENDAR

- 3.1 Approve the Minutes of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority Meeting held September 11, 2018 (Libby Vreonis, City Clerk)**
- 3.2 Accept Report Out of Closed Session Memo (Steven Graham, Assistant City Attorney)**
- 3.3 Waive the First Reading and Introduce an Ordinance Amending Certain Sections of Chapter 9 of Title 2 of the Oakley Municipal Code Regarding the City's Conflict of Interest Code and Adopt a Resolution Updating Job Classifications and Related Disclosure Categories as set forth in Section 2.9.008(a) of the Oakley Municipal Code Regarding the Conflict of Interest Code (Libby Vreonis, City Clerk)**
- 3.4 Award the contract to Universal Site Services for providing Porter Services at various City Parks and Facilities (Kevin Rohani, P.E, Public Works Director/City Engineer)**
- 3.5 Acceptance of work associated with Capital Improvement Project Number 177 – Bethel Island Road Culvert Rehabilitation Project (Kevin Rohani, Public Works Director/City Engineer)**
- 3.6 Ratify Election: Adopt Ordinance Number 13-18 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 168 within the Oakley Special Police Tax Area for Police Protection Services for the Duarte Estates Winery project at 1459 Kay Lane (Assessor Parcel Number (034-070-027) (Kevin Rohani, P.E., Public Works Director/City Engineer)**

- 3.7 Award of Construction Contract to Quality Sound for the Audio Video (AV) System installation at the new Oakley Recreation Center – Capital Improvement Project Number 194 (Kevin Rohani, Public Works Director/City Engineer)**
- 3.8 Approval of Letter to the Gubernatorial Candidates urging them to reject the proposed “WaterFix” project (Bryan Montgomery, City Manager)**
- 3.9 Waive the Second Reading and Adopt an Ordinance-Ranchettes at Neroly General Plan Amendment, Rezone and VTM (Joshua McMurray, Planning Manager)**

Councilmember Higgins requested Item 3.6 be pulled.

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

Item 3.6

Councilmember Higgins announced she will abstain from voting on item 3.6 as she is inside the noticing radius of the project. It was moved by Councilmember Romick and seconded by Vice Mayor Alaura to approve item 3.6. AYES: Alaura, Hardcastle, Pope, Romick. ABSTENTION: Higgins. (4-0-1)

4) PUBLIC HEARINGS

- 4.1 Kumon Center of Oakley Conditional Use Permit (CUP 03-18) - Conditional Use Permit to establish an educational facility at the Boparai Plaza, 4520 Main Street APN: 033-240-016 (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report.

Mayor Pope opened the public hearing.

The City Council did not have any questions.

No online comments or public comment cards were submitted.

Mayor Pope closed the public hearing.

Councilmember Hardcastle commented it is a great use of space being close to the school and he thinks it is a great idea.

Councilmember Higgins commented it is well needed and she is looking forward to it.

It was moved by Councilmember Romick and seconded by Vice Mayor Alaura to approve item 4.1. Motion was unanimous and so ordered. (5-0)

4.2 Castro Property Subdivision 9488 (TM 02-18) - Request for approval of a tentative map to subdivide a 5.02 acres parcel located on Machado Lane into 10 lots, and construct the associated public roadway (Ken Strelo, Principal Planner)

Principal Planner Ken Strelo presented the staff report. He mentioned Jason Vogan is present on behalf of the applicant should the City Council have any questions for him.

Mayor Pope opened the public hearing.

Councilmember Romick commented that the General Plan was adopted almost 20 years ago from the County and the City Council at that time did not make many changes to the existing zoning. He added that the applicant is not asking for amendments. He expressed he understands the neighbors' concerns, but as Oakley grows, there will be conflicts between old and new.

Vice Mayor Alaura commented that 15,000 sq. ft. lots are pretty big. She inquired if it is most likely that one-story homes will be constructed or if there will be a variation.

Mr. Strelo responded that one-story homes would make sense due to set backs.

Vice Mayor Alaura commented that she likes that the homes won't be crammed in particularly in that area that is surrounded by larger lots; it fits in better here than other places in Oakley. She referenced page 157 of the agenda which provides a map that indicates a 30-foot dedication to Contra Costa County. She requested staff explain why that part would be dedicated to the County.

Mr. Strelo responded that it is an old notation from an old map; the area will be dedicated to the City, not the County.

Vice Mayor Alaura inquired if the funds for the park requirement waived in lieu of fees applied would be used in general for parks or for something specific to this project area.

Mr. Strelo responded that the fees go into a pot fund, they wouldn't be applied to a park nearby the project area. He mentioned this development doesn't meet criteria for an on site park; therefore, 100% in lieu fees would apply.

Councilmember Hardcastle commented that it is good to see larger parcels and it looks good to him.

Councilmember Higgins inquired if curb, gutter and sidewalk will be installed on Machado Lane or each individual lot.

Mr. Strelo commented that homes will all be accessed through the court with their own driveways.

Councilmember Higgins inquired if all homes will have sidewalks or look like flag lots.

Mr. Strelo responded not flag lots; they will all have full frontage with their own aprons and driveways.

Councilmember Higgins inquired if the homes will be included in a fire community facilities district (CFD).

Mr. Strelo confirmed the homes will be included in a fire CFD.

Councilmember Higgins inquired why some trees have to be removed.

Mr. Strelo responded that it could be poor health or freedom to landscape, but the applicant may want to address the question. He explained protective trees would be mitigated for and the condition can be modified, but currently allows 3 to 1 or 12 to 1 ratio depending on the size of the trees, an in lieu fee, or combination of any of the three options.

Councilmember Higgins inquired if there will be a wall around the neighborhood.

Mr. Strelo responded that the homes will have good neighbor fences.

Councilmember Higgins inquired if the land will be sold to develop it.

Mr. Strelo responded that there are no plans to develop it unless the development to the west of the property happens; this is a 36-month approval of the map in which the applicant could return and ask for an extension.

Councilmember Higgins inquired if the homes will be on septic.

Mr. Strelo responded that the plans show water would eventually be hooked in.

Councilmember Higgins inquired if the zoning is changing.

Mr. Strelo confirmed the zoning is not changing.

Mayor Pope requested Mr. Strelo provide the options again regarding tree mitigation.

Mr. Strelo shared that condition of approval #24 provides the removal of a protected tree must be mitigated for with the replanting of trees at a 3 to 1 ratio--24" box trees, or 12 to 1 ratio for 15 gallon trees, or payment in lieu fees the City can use for other related tree incidents. He mentioned this subdivision already proposed the minimum number of trees required; therefore, staff recommendation would be to opt for in lieu fees.

Councilmember Romick inquired if the City Council is only approving the subdivision of the property into 10 lots, not landscape or curb, gutter and sidewalk.

Mr. Strelo confirmed the City Council is only approving the subdivision of the property into 10 lots, including the dedication of frontage and street.

Mayor Pope announced one public comment was received online. The comment was submitted by Steven and Michelle Macfadyen. They requested the applicant's request be denied as the homes will back up to their back fence ruining the ambience of their property that they have invested great money in to make it a show piece for the neighborhood.

Mayor Pope inquired how the Macfadyen's property will be separated by this project.

Mr. Strelo responded that he does not have fencing details, but typically a good neighbor (6-foot) wooden fence is used.

Mayor Pope closed the public hearing.

Councilmember Hardcastle commented that he would rather see more trees planted than collecting in lieu fees.

Councilmember Romick commented that mitigation would be placed on the developer who builds, not at this time.

Mayor Pope inquired if the developer would be required to plant within the project or elsewhere.

Mr. Strelo explained that if more trees are required to be planted pursuant to the replacement ratio, it would be required on the project site; if the City Council opts for in lieu fees, the City would determine where the plantings will occur.

Mayor Pope commented he is leaning toward in lieu fees.

Councilmember Romick commented the home owners will already be paying into the Habitat Conservancy Plan and part of preserving takes care of anything offsite; the City has never set up any place off site in the City where trees need to be planted; fees would go into use for general parks.

Councilmember Higgins inquired if the City Council has to agree only to an option for tree mitigation tonight or also decide where the trees are to be planted.

Mayor Pope responded the City Council only has to select an option for tree mitigation.

Mr. Strelo commented that there are 9 protected trees that could be impacted.

It was moved by Councilmember Romick to approve item 4.2 with 3-24" box trees to be planted on site for every protected tree taken away.

Mayor Pope inquired how big the tree would be that goes inside a 24" planter box.

Mr. Strelo responded that it depends on the species.

Councilmember Romick inquired if the tree must be a specific type to meet mitigation requirements.

Mr. Strelo responded that there is a Public Works team to help the developer to determine which trees are best suited for the neighborhood.

It was seconded by Councilmember Hardcastle to approve item 4.2 with 3-24" box trees to be planted on site for every protected tree taken away. Motion was unanimous and so ordered. (5-0)

5) REGULAR CALENDAR

5.1 **Waive the First Reading and introduce the attached Ordinance amending the Oakley Municipal Code by adding Title 5, Chapter 14, entitled “Short-Term Rentals” (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report.

Vice Mayor Alaura inquired if 30 days occupancy is the threshold when a property goes from a short-term rental to a long-term rental/legal residence and if it would be difficult to make someone leave after that point. She inquired if 29 days or less would be better.

Mr. McMurray responded that 30 days is the industry standard and threshold; however, it is at the City Council's discretion to change the number of days.

Mayor Pope commented that if someone established residency 30+ days, the property owner may have to evict that person.

Vice Mayor Alaura commented that she would like staff to look at the number of days and adjust if needed. She inquired if the ordinance would only apply to properties that are owned, but subleasing would not be allowed.

Mr. McMurray confirmed that the ordinance would only apply to properties that are owned, not subleased. He added it is in the application.

Councilmember Higgins inquired if they should apply for a business license as well.

Mr. McMurray confirmed the ordinance requires they apply for a short-term rental permit, a business license, and register for the City's transient occupancy tax (TOT).

Councilmember Higgins inquired which other cities' ordinances were reviewed.

Assistant City Attorney Steven Graham responded that the proposed ordinance is modeled after an ordinance he drafted for Sutter Creek; however, he also reviewed ordinances from the cities of Palm Springs, Santa Monica, Pasadena, and San Francisco.

Councilmember Higgins commented that Oakland and San Francisco require permanent residency and residents must spend 275 days in their own home.

Mr. McMurray commented that staff can include such revisions with consensus of the City Council.

Councilmember Higgins inquired if revisions can be made with the first reading of the ordinance.

Mr. McMurray explained revisions can be added in now or when staff brings the ordinance back prior to final adoption.

Councilmember Hardcastle commented that the public comments indicate other cities have stricter ordinances than the proposed ordinance; he doesn't want short-term rentals to be party houses impacting neighbors; therefore, the stricter, the better.

Mr. McMurray inquired if the table provided in the ordinance is not restrictive enough for the number of occupants.

Councilmember Hardcastle requested it be more restrictive.

Councilmember Romick commented the last thing he wants are party houses in Oakley with no limit on the number of people on the property. He mentioned there are probably not many seven bedroom homes in Oakley, but he understands the need for short-term rentals and a process. He added that it is great to have Oakley as a destination spot, but to reduce mayhem, it would be best to work with Police and if renters exceed the number of allowed nights to stay, evict them. He emphasized that the ordinance should give Police enough authority as needed to control situations. He mentioned he wants to be fair, but in neighborhoods, there are noise and other potential issues, regardless of any rental contract.

Vice Mayor Alaura commented that the ordinance should require it to be the owner's primary residence and only on occasion that the property would be rented as a short-term rental. She mentioned this requirement may help quell neighbors' concerns. She suggested that staff look at residency requirements such as mentioned by Councilmember Higgins.

Councilmember Higgins mentioned the residency requirement was brought up in email comments the City Council received and it is in San Francisco's ordinance.

Mayor Pope commented that the proposed ordinance refers to renting the entire house; the City shouldn't encourage people to rent out the entire home; he would support a residency requirement. He provided an example of a couple with extra rooms they may be willing to rent for a weekend.

Mr. McMurray responded that he believes the proposed ordinance already addresses any portion of the dwelling as written in the definition of a short-term rental.

Mayor Pope agreed with shortening the number of days for short-terms rentals.

Online Comments

Mayor Pope announced the City Council received four online comments which will be made part of the record.

Myria Jackson expressed concern with hotel-like rentals in residential neighborhoods, including her neighborhood. She suggested if an ordinance is considered, include a residency requirement, a 2-3 bedroom limit to avoid potential for parties, noise, and parking congestion, and provisions for monitoring as well as enforcement of violations. She requested the City Council not enact an ordinance that would allow for disruption and erosion of Oakley neighborhoods and lifestyles.

Rick Jackson requested the City Council consider a residency requirement to help maintain communities and suggested the City Council review San Francisco's ordinance.

Myron Jackson commented that a house on his street has been operating as a short-term rental since June and there have been issues with wild parties, noise, trash and police activity. He suggested the City Council review and consider San Francisco's ordinance which includes a residency requirement and other restrictions.

Randi Williams requested the City Council include a residency requirement like San Francisco has.

Public Comments

Sonia Quinones shared an experience that she, her family and neighborhood had three weekends ago with a short-term rental. She explained her daughter came home around 11:30 and there were 100+ cars on their street double-parked, people on their lawn, and people on their neighbors' lawn. She mentioned they were told by Police that 200 people were inside. She further explained that this house is being advertised as an event center, cars were speeding down the street, there were beer bottles everywhere, and many of the people attending what appeared to be a party were minors. She mentioned attendees didn't know if they were in Antioch or Oakley and one attendee said his dad rented the house for the party. She mentioned Police was called at 11:54 and approximately 100 kids fled. She mentioned she doesn't know if the City wants to use Police resources to keep responding to these incidents. She suggested the City Council consider primary residency requirements as in San Francisco. She inquired what the response time is for these incidents. She commented the property owner was called four times and couldn't come until neighbors called her a fifth time and told her 20 people were on the balcony; the property owner arrived later and claimed to Police that it is her house, leading Police to believe it is her primary residence. Ms. Quinones expressed that she doesn't want short-term rentals; the next incident could be a shooting.

Marcia Giusti, the property owner where the party occurred, commented she lives in San Francisco and was called by a neighbor regarding the incident; she waited twenty minutes to respond while she contacted the guest; the guest lied and said only six people were present; she called the guest again to inform him only 4 people are allowed and asked him to have others leave; and it took her an hour to get to the property because of the distance in which she lives. She mentioned Officer Todd arrived minutes after her and commented he was glad she was there so he could vacate everyone and she thinks over 100 people were vacated. She expressed she is very sorry that a guest broke her rules; she has very strict rules and respects her neighbors and wants her guests to also respect her neighbors. She requested the current code be amended to include short-term rentals with restrictions so as not to impact other short-term rentals that have not had any complaints. She mentioned she believes the incident was isolated and a "wait and see" approach may be a way to deal with the issue while state-wide legislation may soon address short-term rentals in cities; in the meanwhile, Code Enforcement could monitor.

Vice Mayor Alaura inquired how long she has owned the property and if she had resided in it before renting it out.

Ms. Giusti responded that she purchased the property in June and contacted the City to determine if the City had any code or permit requirements for Airbnb and was told that it did not.

Vice Mayor Alaura inquired if she owns properties in other cities used as short-term rentals.

Ms. Giusti responded she does not.

Mel Pate commented that the property is not advertised as the owner indicates; the advertisement shows that sixteen people are allowed. He mentioned this incident could have turned into an ugly situation; it was already concerning that ten to fifteen men were in a room in the home with women throughout the house. He added the wrong person could have gone to the door and this shouldn't be in a residential neighborhood; one time was too much.

Gilberto Ruiz commented that this is not the first incident; when the property owner first took title, there was a party and he came to the City and found out she had never requested permits. He mentioned it jeopardizes the safety of his family and neighbors, brings property values down, and causes potential for break-ins. He explained these are nice properties in which they have spent their life earnings to have; the owner can have the short-term rental in a tourist place, but Oakley, a residential place, is not that place; it is not a hotel. He suggested an ordinance should be in place to ensure this type of incident does not reoccur.

Councilmember Higgins inquired if the City must allow short-term rentals.

Mr. Graham responded that he can research a complete prohibition before the next meeting.

Councilmember Romick commented that he needs a better understanding of the breadth of short-term rental homes in the community, their long-term effect, if the City can prohibit them, what restrictions are available, and what authority the Police will have to respond to any concerns with short-term rentals.

Councilmember Higgins commented that the Fire Code should allow response.

Mayor Pope commented that the Fire Code would allow response but the Fire Marshall would have to respond.

Councilmember Romick commented that he wants to empower Police to react immediately without the property owner present, just like when parties are thrown by kids at their parents' house without permission. He added if the City is forced to allow them, there should be strict guidelines, including the three licenses Mr. McMurray referenced, and restrictions on the number of people based on the size of the home. He suggested staff tighten up the ordinance presented and bring it back at the next meeting or later, if needed.

Councilmember Hardcastle commented he wants the most restrictive policy so this type of incident doesn't happen again and include a provision for Police to be able to enforce now and break up anything like this that may happen in the future.

Councilmember Romick inquired what authority Police currently has in this type of situation.

Mr. Graham explained Police can currently respond under the City's noise ordinance and/or nuisance ordinance. He mentioned he can look at a prohibition on events like this in addition to the number of occupants being restricted.

Councilmember Romick commented he would like to have something in place now for strict enforcement and provide Police as much enforcement capability as possible. He mentioned if it takes longer to bring back more detail, he is fine with that.

Mr. Graham responded that if it is the City Council's direction is to prepare a moratorium to allow for more time for research, he can prepare it for the next meeting.

Councilmember Romick agreed that sounds like the direction the City Council wishes to provide.

Councilmember Higgins commented that she likes the idea of a moratorium. She suggested in this type of incident, Police could card everyone to determine if underage drinking has occurred.

Mayor Pope commented that renting entire house is problematic. He suggested having a moratorium in place and research what to allow. He also suggested proposing renting out a room or two, but not an entire house and require a license or permit subject to inspection by Police, Fire, Code Enforcement, etc. He added that he likes a prohibition on events.

Mr. Graham commented that no action is needed on the ordinance before the City Council this evening; he will work with staff to bring back a moratorium ordinance at the next meeting.

5.2 Approve the 20th Anniversary Cityhood Committee Proposed Events (Lindsey Bruno, Recreation Manager)

Recreation Manager Lindsey Bruno presented the staff report.

Three members of 20th Anniversary Cityhood Committee attended to present proposed events.

Lynell Fuller presented a 20th Anniversary logo that can be added on Police hats, staff and City Council shirts, City email signature blocks, City letterhead, and also be featured as a sticker or charm to display on wines created with Oakley grapes sticker or wine. She also presented commemorative street banners that could replace 16 of 45 existing banners which would reflect vineyards, water, families, etc. that embody Oakley.

Vera Martinez presented a Koda Dog Park Fundraiser. She shared that personalized bricks could be purchased for \$75 each and engraved with a pet's name and paw print to be placed at the dog park, She mentioned the money raised would be applied toward a shade structure at the dog park. She also shared an idea for a time capsule which can be placed in the wall of the Recreation center. She explained that the City, local schools,

scouts, the Friends of Oakley and other community organizations could contribute something to place in it. Lastly, she shared a utility box mural project that would involve Oakley artists painting utility boxes themed with Oakley history over the past 20 years.

Nancy Huffaker presented an art tile project to take place over the next 12 months which will include a potter who brings all the materials to a location and families can create a tile that will be glazed and displayed at the Oakley Recreation Center which is scheduled to open in April 2019. She announced the first tile-making event will be held January 16, 2019 at 6:30pm in the Oakley Library and a subsequent event will be held when the Oakley Recreation Center is dedicated in April 2019. She shared that 200 tiles are estimated to fit in the lobby of the new Oakley Recreation Center and the Friends of Oakley will donate the first 50 tiles. She also shared that trees will be planted around the Oakley Recreation Center (hopefully Oak trees) and plaques will be placed near the trees to recognize the first City Council.

Ms. Fuller shared other events include a fundraiser gala at the Oakley Recreation Center and working with local vineyard owners to place a special 20th Cityhood Anniversary label on wines made in Oakley.

Vice Mayor Alaura thanked committee members for presenting. She mentioned they have a small but excited and eager committee which takes dedication to meet monthly. She thanked them for being part of the committee. She commented she hopes to get Leadership Academy graduates to help with the proposed events. She shared they narrowed the list of events down to these presented, considering time and cost to implement. She added that she hopes everyone will enjoy the 20 year celebration events and that it brings attention that Oakley has been a City for 20 years and is on the map.

Councilmember Romick suggested the committee reach out soon to wineries regarding labeling to allow adequate time for research and approval.

Vice Mayor Alaura commented they have already reached out to Lucca Winery and budget will determine if they can do a label or charm.

Councilmember Romick suggested they reach out to all wineries soon; it can be difficult to find out year-to-year where the grapes are being outsourced as some growers have long-term contracts, others may change contracts, and some don't have anyone buying their grapes.

Councilmember Hardcastle commented he has friends who have made their own labels at home. He inquired what the amount of budget is that the committee has to work with.

Vice Mayor Alaura explained it is \$20,000, but they are also exploring sponsors to help fund the proposed events.

Councilmember Hardcastle commented that they are doing a great job and to keep it up.

Councilmember Higgins thanked the committee and inquired if there are only 200 tiles, if anyone will be left out.

Ms. Bruno responded that 2 walls can exhibit tiles with space for 200 tiles; if there are more than 200 that there could possibly be a rotating exhibit.

Councilmember Higgins mentioned she is excited about the events and thanked the committee members.

Mayor Pope thanked the committee for volunteering. He mentioned when the City Council approved the budget for the 20th Cityhood Anniversary, the goal was for events to be resident driven and that has happened. He thanked the committee for its time to propose and plan the events. He commented that the gala will be great, he hopes heritage trees will be planted and the plaques, tiles, utility boxes and time capsule are all great ideas. He mentioned he is a dog owner, wants shade at the dog park, suggested shade at the dog park when the City Council discussed approving the dog park, but he doesn't see how it ties into the 20th Cityhood Anniversary. He suggested maybe that is another committee function or every brick could reference 20 years.

Vice Mayor Alaura suggested some surrounding bricks could reference the bricks were put in place during in honor of 20 years of Cityhood. She mentioned the shade structure will be expensive and the bricks will provide a start toward its purchase.

Mayor Pope commented that \$20,000 was approved as seed money. He shared that if more money is needed to get projects started, the City Council could probably find more money; it is not a blank check, but a reasonable amount. He thanked them for their hard work.

5.3 Adopt a Resolution of Necessity for the Acquisition of Property Located at 3460 Main Street (Scheer) (Derek Cole, City Attorney)

Assistant City Attorney Steven Graham presented the staff report.

Mayor Pope inquired what the final project will look like, specifically, how the grade is going to look and if it will isolate the property owners' access.

Public Works Director/City Engineer Kevin Rohani commented that the access road starts higher near Norcross and comes down closer to the platform and new bistro; it will not be street level, but 1-2 feet higher; the road is not intended to access private property parking lots.

Mayor Pope inquired if the temporary lot will go away and if it will be a permanent public parking lot which will have access to the properties.

Mr. Rohani commented there are 3 parking lots; one in the upper platform near the new medical office to be built, one temporary lot and one that will be located in the western area near the Ace Hardware building.

Councilmember Hardcastle commented that if an appraisal is conducted and the property owner doesn't approve, what happens. He requested the status.

Mr. Graham explained that the monetary value is excluded, but the property owners are represented by legal counsel and they are in the process of discussing their rights and obligations.

Councilmember Hardcastle inquired if everyone is cordial.

Mr. Graham confirmed it is a cordial action.

Mayor Pope commented he doesn't want to harm the existing property more than required.

It was moved by Councilmember Romick and seconded by Councilmember Higgins to adopt the Resolution of Necessity. Motion was unanimous and so ordered. (5-0)

6) REPORTS

6.1 CITY MANAGER

(a) City Manager

Acting City Manager Kevin Rohani shared that City Manager Bryan Montgomery is not in attendance as he is attending a work related conference. He reported that the City had a successful Heart of Oakley Festival this past weekend and the next festival, the Harvest Festival, will be held October 20. He also reported that Friday Night Bites will be held again October 5 in the Civic Center Plaza (5pm-9pm).

6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards and the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

Councilmember Romick reported that funding from a bond measure for schools that passed will be applied toward a performing arts center and career technical training center at Freedom High School. He shared he has been asked to participate in planning meetings for the career technical training program which will focus on residential and commercial construction training opportunities for high school students. He also reported that the Heart of Oakley Festival was successful; although it seemed like less people were in attendance, beer sales increased and food vendors expressed they were satisfied with sales.

Councilmember Hardcastle inquired if the career technical training program will focus on trades.

Councilmember Romick responded that it will focus on construction; the school will work with students in a 3-4 year program to prepare them for jobs directly out of high school. He added that there is need for construction workers in East County.

Councilmember Hardcastle commented that it sounds good.

Vice Mayor Alaura reported that she attended the League of California Cities' Annual Conference and at its business meeting, she voted on two resolutions which she has for review (and provided to the City Clerk's Office) if anyone would like to see them. She shared in result of her attendance at the Conference, she has a lot of questions and

ideas to share with staff. She also reported she attended the East Contra Costa Fire Protection District (ECCFPD) groundbreaking ceremony for the new fire station and questions regarding staffing being researched by ECCFPD. She also reported she attended the Freedom High School (FHS) homecoming parade and game; FHS won the game. She mentioned a player was injured and airlifted but she had heard by the next day the injury not very serious. She also reported she attended the freeway sign unveiling for Hayward Police Sergeant Scott Lunger who had ties to Oakley as a softball coach at FHS. She mentioned a portion of Highway 4 (from Laurel Road to Balfour Road) has been dedicated as a memorial in his memory.

Councilmember Hardcastle reported that the meeting he was supposed to attend was cancelled.

Councilmember Higgins reported that she attended almost all of the same events as Vice Mayor Alaura; however, she did not go to the ECCFPD groundbreaking ceremony due to work obligations. She mentioned she brought back a lapel pin from the League of California Cities' Annual Conference for the City Council.

Mayor Pope reported that he attended the ECCFPD groundbreaking, the honoring of fallen police Sergeant Scott Lunger, and the Heart of Oakley Festival.

(b) Requests for Future Agendas

Mayor Pope commented he would like to recognize a heroic act by a citizen at the next City Council meeting. He requested staff create a policy to recognize citizens. He also staff look into a CERT training program for Oakley residents only rather than a joint training with Brentwood.

Councilmember Higgins commented she requested a recognition program for citizens two months ago.

Councilmember Romick commented that there needs to be a set criteria for recognition of citizens. He suggested the Oakley Chamber of Commerce is more appropriate to identify people and businesses for Citizen of the Year as it is more involved with the business community; if the Chamber is interested in doing this as it has done in the past, the City could support it.

Councilmember Hardcastle commented that the new Oakley Recreation Center may provide a venue for a recognition event.

7) WORK SESSION

7.1 The Vines at Oakley Preliminary General Plan Amendment (PA 03-18) – Work Session to Discuss the Merits of a Potential Project to Amend the General Plan Land Use Designation on an approximately 9.74 acre site from SH to ML for the Purposes of a Single Family Residential Development (Kenneth Strelo, Principal Planner)

Principal Planner Ken Strelo presented the staff report.

Applicant Chris Zaballos with MLC Holdings, Inc., shared his presentation. He mentioned they plan for 63 single-family homes on the 10-acre site. He mentioned they have another project in Oakley, Village at Main, in progress. He shared that Meritage Homes is MLC's parent company; the 7th largest homebuilder in the country and they have built other projects in Oakley and local surrounding cities. He thanked the City Council for allowing a preliminary review process before they spend any money. He mentioned they believe the single-story homes are marketable to first-time home buyers, first move-up home buyers or buyers looking to downsize. He shared they are proposing to build 20 parking stalls in a lot on site, connect a walking path to Holly Creek Park; provide a landscape buffer, and provide additional amenities at Holly Creek Park such as a restroom or other needed items. He mentioned they envision access to the homes from Oakley Road and Thomas Drive; the size of lots are 4,200 sq. ft. to 7,000 sq. ft., and the design will be 1,800 sq. ft. to 2,600 sq. ft. ranch or country style homes with 3 to 5 bedrooms.

Councilmember Higgins inquired if 10 homes would have to be lost to get to the lower density.

Mr. Strelo commented that 10 homes would have to be lost to get to the current density.

Councilmember Higgins inquired if the homes would have curb, gutter and sidewalk and if owners would park in their own driveways.

Mr. Zaballos responded that the homes will have a 2 car garage and driveway, with 4 dedicated parking spaces per home.

Councilmember Higgins requested clarification that 10 homes would be lost to stay in the current density and that the parking lot could be used by residents rather than Holly Creek Park because there will be access from both sides.

Mr. Zaballos confirmed that is correct.

Councilmember Hardcastle inquired if MLC has considered senior living homes.

Mr. Zaballos responded that MLC does construct 55+ senior home communities and although these homes are not dedicated for that purpose, they could work for seniors.

Councilmember Hardcastle commented it is something that might be considered since shopping is located nearby.

Vice Mayor Alaura thanked him for his presentation. She commented she is not a fan of changing the density; it is only 10 homes and 53 is a good number. She mentioned she is not sure why parking would be placed across the street as opposed to next to the park. She mentioned Oakley residents may wish to park RV's on their property which may place their vehicles on the street and the 20 proposed parking stalls might be used by residents to park their vehicles rather than park users, especially if the lot is not located next to the park. She also mentioned if the homes are kept at 53 that restrooms or a dog park would free up the area at Holly Creek Park right now. She expressed her preference is to keep the density where it is now.

Mr. Zaballos explained that the project has to work with the amount they have to pay the landowner and 63 lots is what works for that equation.

Vice Mayor Alaura commented that she is concerned this is not a final map and it would have potential to go to 94 dwelling units if transferred to the hands of another developer.

Mr. Zaballos commented he understands her concerns and although the map could indicate that, he understands it is not Oakley's desire.

Councilmember Romick commented that regardless if the City Council decides to change the density, it would still have to come back to the City Council for approval if the lots increased. He suggested with 63 units; maybe one unit is lost to shift parking to the east and place a restroom there which is much needed for the community and soccer leagues that play there now. He shared that the property has been owned by the family for 40 years; it would be great to save and reuse some of the vines and include them in the landscaping of some of the homes to remind residents what the land once was. He expressed concern with Thomas Drive to Oakley Road becoming a racetrack and would like to see traffic mitigation on both streets, especially Thomas Drive. He added that he does not have a problem with the rezone.

Mr. Zaballos mentioned there a number of traffic calming mechanisms they can put in place to pinch people to slow down.

Councilmember Romick commented he wants to keep traffic off of existing neighborhoods and keep it on Oakley Road.

Mayor Pope commented he has the same concerns his colleagues have raised and also regarding the loss of vines; he suggested if the vines can be saved, they could be replanted or new vines could be planted symbolically. He suggested that traffic mitigation include a bottleneck design or environmental engineering instead of a straight shot through for the people who live there or who are going to the park, but not to use for a short cut. He mentioned the park has a trail system which leads up to where the parking lot is proposed; he suggested with development west of it, he would like to see the path continue so it interconnects. He mentioned he is not comfortable with multi-low. He expressed that allowing for additional units and smaller lots is an "ask" and the exchange for the City to make this sacrifice would be things to enhance the project, i.e., a restroom for the park or replanting vines in the landscape of the homes. He commented he would prefer an overlay to allow the project to move forward, but wouldn't allow another developer to go with multi-low or a project that the City Council really does not want. He inquired if the lots would be big enough for RV side access.

Mr. Zaballos responded that some lots will be big enough for RV side access.

Mayor Pope inquired if houses could be shifted to allow for RV side access.

Mr. Zaballos confirmed the lots could be shifted to accommodate RV side yard access.

Mayor Pope suggested that signage be included to indicate no storage of RVs in the parking lot. He mentioned he is willing to negotiate amenities in exchange for multi-low.

Mr. Zaballos inquired if they can come back with a more detailed plan for the City Council to review. He mentioned if they are at 53-54 units, it doesn't seem like to add 9 more would be a big deal, but 53 could be the number where the deal doesn't work; it is something they will need to examine.

Councilmember Higgins inquired if there will be a sound wall around the project.

Mr. Zaballos responded it will be a good neighbor fence.

Mayor Pope commented that Oakley Road provides a buffer of landscape.

Vice Mayor Alaura commented that there may be instances where a good neighbor fence needs to be enhanced for privacy or Frisbees going over the fence, for example, with houses facing the park.

Councilmember Romick commented that the trail is 5-6 feet below the fences facing the park; someone would have to deliberately throw something for it to go over a fence.

Mayor Pope commented that a resident may want the view by means of a lattice or wrought iron fence instead of a solid fence.

Councilmember Romick commented that on the other side of the park, houses back up to the park; there are no homes facing the fence. He mentioned a good neighbor fence with a cyclone fence on park side may more likely be what residents would want for privacy.

Mr. Zaballos commented there is a 12-foot grade difference.

Mayor Pope commented he would like to see more detail.

Public Comment

Mayor Pope apologized that some speaker cards had been overlooked. He called upon persons who submitted comment cards (below).

Item 7.1

Romano Marchetti inquired how many homes will be built for the project.

Mayor Pope responded 53-63 homes are proposed.

Mr. Marchetti commented that is too many homes; people have more cars than people living in homes now and this will result in too many cars. He inquired what happened to the plan less than two years ago to build seven houses per acre. He expressed his concern is traffic.

Item 5.3

CJ Sveen mentioned his comment was for item 5.3 regarding the eminent domain action and train station. He mentioned the realignment on Main Street has increased traffic and he has concern that the train station will further increase traffic. He shared that he

doesn't go through downtown any longer due to traffic and others may be doing same. He mentioned he attended meetings about the downtown and there was no mention of the train. He commented on the Scheer property, that if possible, if a counteroffer is proposed, the general public could approve the price. He mentioned he was concerned the property owner didn't have a say in the matter and is glad to hear they have due process.

Item 7.1

Scott Hobbs, property owner on Oakley Road, commented that his property will be impacted most by the project development; he has lived in his home for 30 years. He mentioned he is strongly opposed to more than 53 homes because someone else could develop condominiums or duplexes. He also mentioned he has a long, healthy relationship with the property owner and doesn't want to halt his plans, but he will have 9 neighbors that he doesn't have now if the project is approved; he doesn't want to lose the privacy he has now and a good neighbor fence would require him to maintain it jointly. He expressed concern with 4 vehicles per home and street parking, but shared his main concern is the fence; he wants to see a concrete structured fence. He commented that it was mentioned that the property is surrounded by high density properties which is inaccurate. He concluded if they want to transplant the vines, he will take all that they can give and transplant the vines on his 1.5 acres.

Councilmember Romick commented that they have successfully transplanted vines in Oakley and the sand is conducive to the vines.

Mayor Pope encouraged MLC to be good neighbors.

8) CLOSED SESSIONS

9) ADJOURN

There being no further business, the meeting was adjourned at 8:58 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AMENDING CHAPTER 9 TO TITLE 2 OF THE OAKLEY MUNICIPAL CODE
REGARDING THE CITY'S CONFLICT OF INTEREST CODE**

The City Council of the City of Oakley does ordain as follows:

Section 1. The following sections within Chapter 9 of Title 2 of the Oakley Municipal Code are hereby amended to read as follows:

2.9.008 Designated employees.

- a. Designated employees and their respective disclosure categories are adopted by resolution of the City Council, are on file with the Office of the City Clerk and are also available on the City's website. Officers, employees, and independent contractors holding these positions are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest. Therefore, these persons are subject to specific disclosure categories.

2.9.009(a-b) Successor Agency and Oversight Board (removed)

2.9.016 Prohibition on receipt of gifts in excess of \$470.

No designated employee shall accept gifts with a total value of more than \$470 in a calendar year from any single source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Subdivisions (e), (f), and (g) of California Government Code Section 89503 shall apply to the prohibitions in this section.

2.9.022 Disqualification.

- e. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.

Section 2. Severability.

In the event that any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. California Environmental Quality Act (“CEQA”) finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that this ordinance will not have a significant effect on the environment; therefore it is not subject to CEQA.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force and effect thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2018 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

STAFF REPORT

DATE: October 9, 2018
TO: Honorable Mayor and City Council Members
FROM: Derek P. Cole, City Attorney
SUBJECT: Resolution of Acceptance of Real Property for the Dutch Slough Community Park Project

Recommendation:

Adopt the Resolution of Acceptance of Real Property for the Dutch Slough Community Park Project.

Discussion:

In September of 2002, the City of Oakley (“City”) entered into a Memorandum of Understanding (“MOU”) with three property owners regarding the future development of approximately 271 acres of land generally located in the Dutch Slough area. One of the purposes of the MOU was to assist the City in obtaining land and funding for the construction of a community park in the Dutch Slough area. The Dutch Slough Community Park will be the City’s largest park as well as the main access point to the Dutch Slough Tidal Marsh Restoration Project. The MOU required the property owners place deeds and funding into escrow, to be released to the City upon approval of certain development entitlements.

Those development entitlements have been approved by the City and the property owners have certified compliance with the Escrow Agreement. This has resulted in a Grant Deed for approximately 8 acres in the Dutch Slough area, attached to the Resolution of Acceptance as Exhibit “A,” being released to the City by the escrow company. Under state law, the City Council must pass a Resolution of Acceptance prior to the recordation of the deed.

Fiscal Impact:

There is no fiscal impact of accepting the grant deed. The construction, operation, and maintenance of the Dutch Slough Community Park Project will have fiscal impacts that will be analyzed by the City Council at the time of approval of the project.

Conclusion:

If the City Council wishes to accept the property, then this Resolution should be adopted.

Attachments

- 1) Resolution of Acceptance
- 2) Exhibit A to Resolution – Grant Deed

Cc: Bryan Montgomery, City Manager

CITY OF OAKLEY

RESOLUTION NO. -18

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ACCEPTING
A GRANT DEED CONVEYING TO THE CITY OF OAKLEY CERTAIN
REAL PROPERTY INTERESTS**

WHEREAS, California Government Code Section 27281 provides that deeds or grants conveying an interest in fee or easement upon real estate to a political corporation or governmental agency for public purposes shall not be accepted for recordation without the consent of the grantee evidenced by its resolution of acceptance; and,

WHEREAS, certain real property interests have been presented to the City of Oakley (hereinafter “City”) for acceptance; and,

WHEREAS, the real property interests are set forth in a grant deed, attached hereto as Exhibit “A” and incorporated herein by this reference (hereinafter “Deed”); and,

WHEREAS, Exhibit “A” also sets forth the names of the grantor(s) of these real property interests as well as the locations of the real property interests; and

WHEREAS, the owner(s) of the real property interest described in Exhibit “A” have offered to convey to the City the real property interests therein; and

WHEREAS, the City Council of the City of Oakley does hereby find and determine that it is in the best interests of the City to accept the Deed.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley hereby finds and directs as follows:

1. The foregoing recitals are true and correct.
2. The Deed, which is described in Exhibit “A,” is hereby accepted by the City Council. The Mayor of the City of Oakley is hereby authorized by the City Council to execute any further documents necessary to accept the conveyance.
3. The City Clerk is hereby authorized and directed to cause the Deed to be recorded in the Office of the County Recorder for the County of Contra Costa.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 25th of September, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

Escrow No. 779142-002KAT
Property: 8 Acres
Dutch Slough

When Recorded Mail To:

City of Oakley

.

Attn:

APN 032-081-014 as to a portion

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, MRK Properties, LLC, a California limited liability company, Bruce R. Burroughs and Barbara M. Burroughs, Trustees of the B&B Burroughs Revocable Trust under Instrument dated June 16, 1994 and Ward N. Burroughs, as his separate property, hereby grants to the City of Oakley, a California municipal corporation, the real property in the City of Oakley, County of Contra Costa, State of California, and more particularly described in Exhibit "A" attached hereto and made a part hereof.

Dated: _____, 2003

MRK Properties, LLC,
a California limited liability company

By: Mary E. Burroughs
Mary E. Burroughs, Trustee of
The Mary E. Burroughs Revocable
Living Trust under Declaration
dated June 4, 1991, Member

By: Robert O. Burroughs
Robert O. Burroughs, Member

By: Katherine Burroughs Treat
Katherine Burroughs Treat, Member

Bruce R. Burroughs
Bruce R. Burroughs, Trustee

Barbara M. Burroughs
Barbara M. Burroughs, Trustee

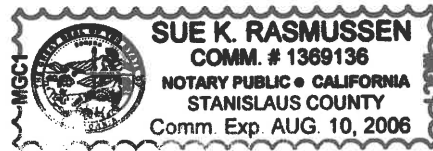
Ward N. Burroughs
Ward N. Burroughs

State of California)
County of Stanislaus) ss.

On September 24, 2003 before me, the undersigned, personally appeared Bruce A. Burroughs + Mary E. Burroughs ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Sue K. Rasmussen

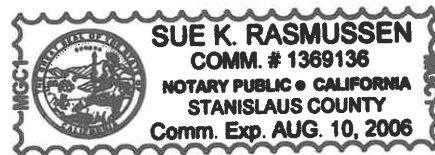


State of California)
County of Stanislaus) ss.

On September 24, 2003 before me, the undersigned, personally appeared Barbara M. Burroughs + Ward N. Burroughs ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Sue K. Rasmussen

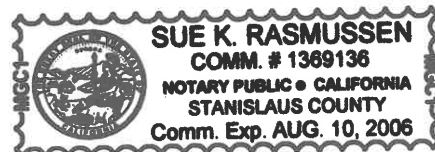


State of California)
County of Stanislaus) ss.

On September 24, 2003 before me, the undersigned, personally appeared Robert O. Burroughs ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Sue K. Rasmussen



STATE OF CALIFORNIA }ss
COUNTY OF CONTRA COSTA }

On September 25, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared Katherine Burroughs Treat personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____



City's Certificate of Acceptance
or Resolution substitute here

FEBRUARY 7, 2003
JOB NO.: 878-00

**LEGAL DESCRIPTION
8 ACRE PARCEL
BURROUGHS PROPERTY
OAKLEY, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND GRANTED TO BRUCE R. BURROUGHS AND BARBARA M. BURROUGHS, TRUSTEES OF THE B & B BURROUGHS REVOCABLE TRUST UNDER INSTRUMENT DATED JUNE 16, 1994, BY DEED RECORDED JANUARY 26, 1995, IN SERIES NO. 95-13406 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 20, TOWNSHIP 2 NORTH, RANGE 3 EAST, MOUNT DIABLO MERIDIAN;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE NORTHERN LINE OF SAID SECTION 20, NORTH 89°15'04" WEST 516.85 FEET;

THENCE, LEAVING SAID NORTHERN LINE, SOUTH 20°06'13" EAST 1443.15 FEET TO A POINT ON THE EASTERN LINE OF SAID SECTION 20;

THENCE, ALONG SAID EASTERN LINE, NORTH 00°52'57" EAST 1348.63 FEET TO SAID POINT OF BEGINNING.

CONTAINING 8.00 ACRES OF LAND, MORE OR LESS.

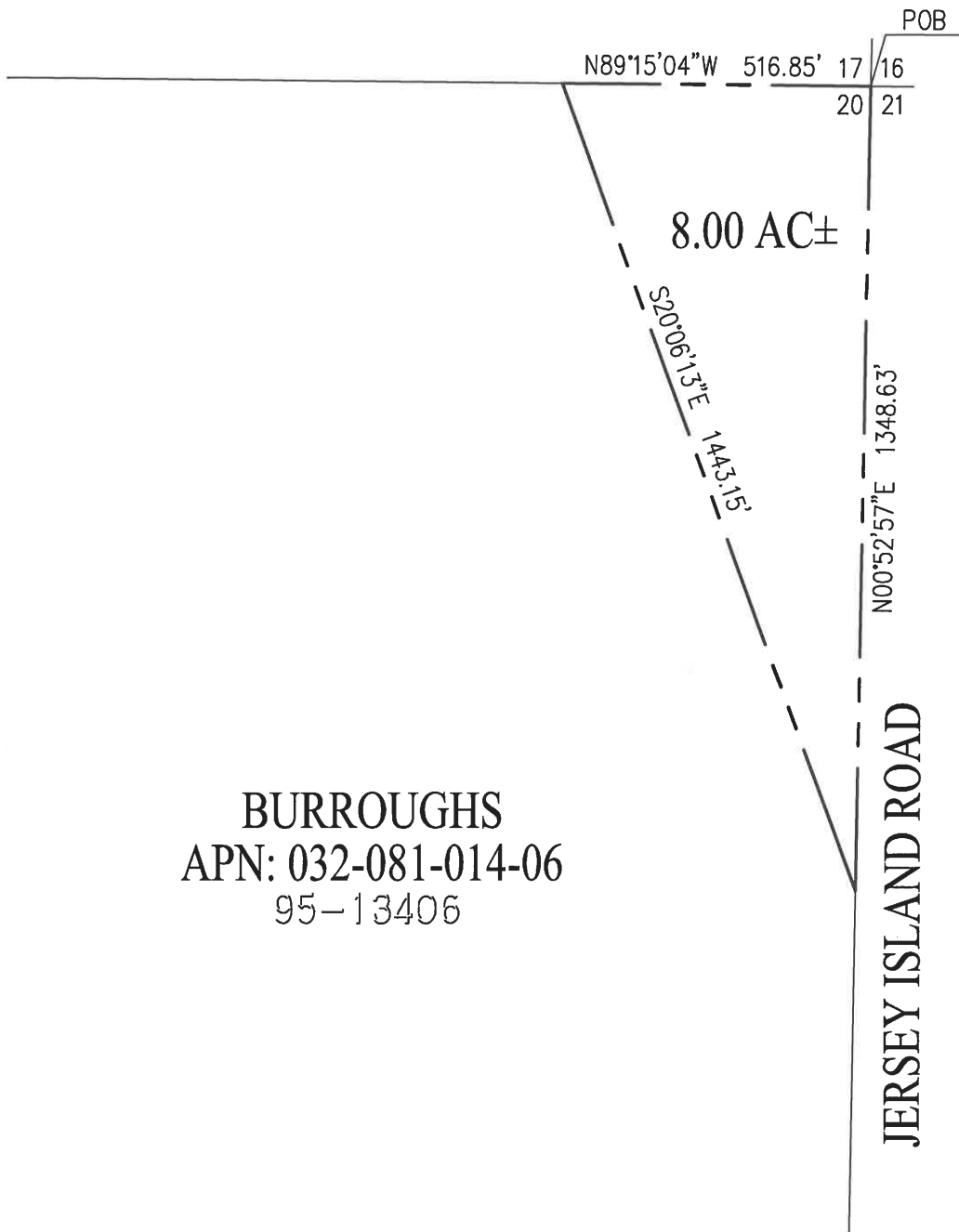
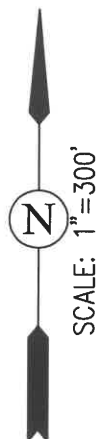
END OF DESCRIPTION



Christopher S. Harmison

CHRISTOPHER S. HARMISON
L.S. NO. 7176
EXPIRES: DECEMBER 31, 2003

EXCEPTING THEREFROM: Mineral rights as described and granted in the Grant Deed executed by Ernest C. Burroughs, et al, to Ernest C. Burroughs, et al recorded _____, 2003 as Instrument No. 2003- _____, Official Records.



BURROUGHS
 APN: 032-081-014-06
 95-13406

PLAT TO ACCOMPANY LEGAL DESCRIPTION

BURROUGHS PROPERTY
 8 ACRE PARCEL
 CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA
 DATE: MARCH 12, 2003

Carlson, Barbee, & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
 2603 CAMINO RAMON, SUITE 100 SAN RAMON, CALIFORNIA 94583
 TELEPHONE: (925) 866-0322 FAX: (925) 866-8575



STAFF REPORT

DATE: October 9, 2018

TO: Bryan Montgomery, City Manager *Approved and Forwarded to the City Council*

FROM: Kevin Rohani, P.E., Public Works Director/City Engineer

SUBJECT: Award of Construction Contract to Yelton Company Incorporated for the demolition and disposal of the buildings located at 3486 Main Street, for the Main Street and O'Hara Avenue Intersection Improvement Project – Capital Improvement Project Number 218

Background and Analysis

The City's Capital Improvement Program for FY 2018/19 includes a project to design and construct the intersection improvements at Main Street and O'Hara Avenue in downtown Oakley. The development of downtown Oakley is a priority for the City Council, with the goal to have a downtown that is thriving and vibrant, and will serve as a solid foundation for the economic vitality of the Oakley community.

The Main Street and O'Hara Avenue Intersection Improvement Project will complete the last section of the Main Street improvements on the north side of Main Street between Norcross Lane and 5th Street that was constructed in 2017.

The improvements at the Main Street and O'Hara Avenue intersection could not be constructed last year since the City did not have the required public right of way for the construction of this portion of Main Street, which left a gap in the improvements at this intersection. The acquisition of the public right of way has been completed and the next step is the demolition and disposal of several structures to get the site ready for the construction of the Main Street improvements.

Fiscal Impact

The funding for the demolition and disposal of buildings will be provided from the Capital Improvement Project FY 2018/19 budget from the TIF fund for this project.

Staff Recommendation

Staff has solicited bids from demolition contractors to demolish and dispose of the existing buildings at 3486 Main Street. On September 13, 2018, two (2) bids were received for the project:

- Yelton Company, Inc. \$84,000
- Sandstone Environmental Engineering, Inc. \$106,000

Yelton Company, Inc. was the lowest bidder for the project at a cost of \$84,000. This firm has previously worked in Oakley on several other demolition projects. They have a good track record and have performed well on all previous projects.

Due to variables associated with demolition projects, and to address unforeseen circumstances during the course of this operation; staff further recommends that the City Council authorize staff to execute future change orders to the construction contract as necessary in an amount not to exceed \$5,000 for work beyond what is defined in the base project bid.

Staff recommends that the City Council adopt the resolution approving the construction agreement with Yelton Company, Inc. for an amount not to exceed \$84,000, and authorizing the City Manager to execute said agreement.

Attachments

- 1) Resolution
- 2) Yelton Company, Inc. Proposal

RESOLUTION NO. __-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN AGREEMENT WITH YELTON COMPANY, INC. FOR THE DEMOLITION AND DISPOSAL OF THE BUILDINGS AT 3486 MAIN STREET FOR THE MAIN STREET AND O'HARA AVENUE INTERSECTION IMPROVEMENT PROJECT- CIP 218

WHEREAS, The development of downtown Oakley is a priority for the City Council with the goal to have a downtown that is thriving and vibrant, and will serve as a solid foundation for the economic vitality of the Oakley community; and

WHEREAS, the construction of roadway improvements at the intersection of Main Street and O'Hara Avenue requires the demolition and disposal of several buildings at 3486 Main Street; and

WHEREAS, the project notice to bidders for this demolition project was publicly advertised, with the bid period closing at 2:00 P.M. on Thursday September 13, 2018; and two (2) bids were received prior to the close of the bidding process; and

WHEREAS, Yelton Company, Inc. submitted the lowest responsible bid for a total cost of \$84,000 for the work; and

WHEREAS, the FY 18/19 budget has allocated \$250,000 from the TIF Fund for this improvement project, which a part of it will be used to pay for this demolition project, and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakley that the Agreement with Yelton Company, Inc. for the demolition and disposal of the buildings at 3486 Main Street for an amount not to exceed \$84,000, is approved and the City Manager is authorized to execute said Agreement and change orders in an amount not to exceed \$5,000 as necessary.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of October, 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

Yelton Company, Inc.
P.O. Box 2360
Vacaville, Ca 95696-2360
Office 707 451-3366 Fax 707 469-2881
Lic. #807638 C-21

Date: September 27 2018

To: City Of Oakley Public Works Dept. 3231 Main Street Oakley, CA

Scope of work & Estimate for: Building Demo And Disposal Project CIP #218
3486 Main Street Oakley, CA Units 1, & 5
3486 Main Street Oakley, CA Units 2,3,4 & 6

We propose to furnish all materials and perform all labor necessary to complete the following

INCLUDES:

Demo and removal of structures, at above location. Cap sewer lines right behind houses.

Asbestos and lead removal as per outlines in reports from ECS dated July 20 2018 and August 14 2018.

Demo permit included.

EXCLUDES: All import of backfill material if needed.

Any further testing or removal of hazardous materials.

Any disconnecting or capping off of utilities. Any bonds.

NOTES: Any further testing or removal of hazardous materials will be an additional charge. Contractor has all salvage rights. Yelton Company Inc. is an open shop contractor.

WE PROPOSE hereby to furnish material and labor-complete in accordance with the above specifications, for the sum of: **Eighty Four Thousand Eight Hundred And No/100**

PAYMENT TO BE MADE AS FOLLOWS:

PAYMENT IN FULL AT COMPLETION. Past due accounts subject to 1.5% per month fee. Customer agrees to pay for all legal fees and court costs for collection.

All material to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation insurance.

Acceptance of Proposal

Date Of Acceptance: _____

Yelton Company Inc.,

Charles W. Yelton
 President

STAFF REPORT

DATE: October 9, 2018

TO: Bryan Montgomery, City Manager *Approved and Forwarded to the City Council*

FROM: Kevin Rohani, P.E., Public Works Director/City Engineer

SUBJECT: Adopt a Resolution to authorize execution of the Joint Community Facilities Agreement between the City of Oakley and the East Contra Costa Fire Protection District corresponding to Community Facilities District No. 2018-1 for the financing of Fire Protection Services

Background and Analysis

On August 9, 2016, the Oakley City Council adopted Resolution 124-16 which approved the Phase 1 Final Map of Subdivision No. 9033 (Gilbert Property), which consists of 222 residential lots, Parcel A (9.23 acres with a park and stormwater pond), Parcel B (61.89 acres for Phase 2 development which will consist of 359 residential lots), and Landscape Parcels C, D, E, F and G. At build-out, there is a total of 581 residential units planned for the Gilbert Property project.

The Conditions of Approval for Subdivision 9033 (Gilbert Property) require the property owner(s) to form a funding mechanism to mitigate their development's financial impact on fire protection services, which are currently provided by the East Contra Costa Fire Protection District (the "District"). The property owner(s) for Subdivision 9033 (Gilbert Property) has requested the City assist them with the formation of Community Facilities District No. 2018-1 ("CFD No. 2018-1") to satisfy this condition of development. On September 11, 2018, the City Council initiated proceedings for the formation of CFD No. 2018-1 by adopting Resolution of Intention No. 113-18 (the "Resolution of Intention"). The Public Hearing pursuant to the Resolution of Intention was set for Tuesday, October 23, 2018.

CFD No. 2018-1 will have the ability to fund the fire protection services described in Exhibit A (Description of Services) of the adopted Resolution of Intention and will initially consist of Subdivision 9033 (Gilbert Property) as shown on the attached Boundary Map. The Boundary Map also includes a "Future Annexation Area" which is contiguous to the City's boundaries. This future annexation area will allow for future development projects and/or property within the City to annex into CFD No. 2018-1 with property owner and City Council's approval.

Pursuant to Section 53316.2 of the California Government Code, the City may fund the proposed fire protection services through CFD No. 2018-1 only pursuant to a Joint Community Facilities Agreement (“JCFA”) between the City, as the public agency forming CFD No. 2018-1, and the District, as the public agency that will provide the fire protection services. The City and the District have determined that it would be of benefit to the residents of each of their respective jurisdictions to enter into a JCFA to provide for the financing of fire protection services through CFD No. 2018-1. The Board of Directors for the District adopted a Resolution authorizing the Fire Chief to execute a JCFA with the City at their October 1, 2018 Board meeting.

Under JCFA (assuming it is approved), beginning with FY 2019-20, each fiscal year the City will provide the District with CFD No. 2018-1 special tax revenues, less an amount to be determined by the City to reimburse the City for administrative costs estimated to be incurred in connection with the formation and administration of CFD No. 2018-1, which the City will retain.

Fiscal Impact

There will be no financial impact to the City's General Fund. The property owner(s) for the Gilbert property has funded all costs associated with the formation of CFD No. 2018-1. The proposed FY 2018-19 special tax rate for CFD No. 2018-1 is consistent with the tax rate corresponding to existing ECCFPD CFD No. 2004-1 (Fire Services) that is levied on parcels in the Summer Lake development and shown in the table below.

Table No. 1 - Developed Property	
Land Use Classification	Fiscal Year 2018/19 Maximum Special Tax
Single-Family Parcel	\$279.62 per Parcel

The Gilbert property project is expected to consist of 581 single-family residential units at build-out. Parcels located within the boundaries of CFD No. 2018-1 may be taxed for the ensuing fiscal year once a building permit has been issued by June 30th prior to the ensuing fiscal year. Therefore, successful formation of CFD No. 2018-1 could provide up to \$162,459.22 (FY 2018-19 dollars) in revenue annually when the formation is finalized, and all building permits associated with the Gilbert Property have been issued. The taxes can be collected on the property tax rolls commencing in FY 2019-20.

The annual maximum special tax shall be increased each fiscal year by applying the percentage increase, if any, in the Consumer Price Index for the San Francisco All Urban Wage Earners Category for the prior calendar year to the Maximum Special Tax in effect for the current fiscal year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

Staff Recommendation

Staff recommends that City Council adopt the Resolution to authorize execution of the Joint Community Facilities Agreement between the City of Oakley and the East Contra Costa Fire Protection District corresponding to Community Facilities District No. 2018-1 for the financing of Fire Protection Services.

- | | |
|--------------------------|--|
| October 9, 2018 | City Council adopts Resolution authorizing execution of JCFA |
| October 15, 2018 | City Clerk publishes Notice of Public Hearing (at least once a minimum of 7 days prior to the Public Hearing) |
| October 23, 2018 | City Council holds Public Hearing (at least 30, but not more than 60 days after adoption of the Resolution of Intention) and considers the following actions: <ul style="list-style-type: none">1) Adopt Resolution of Formation of CFD;2) Adopt Resolution Calling Special Landowner Election for CFD;3) Conduct Election;4) Adopt Resolution Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien within CFD;5) Take First Reading of Ordinance Levying Special Tax within CFD. |
| October 30, 2018 | City Clerk files the Notice of Special Tax Lien with the County Recorder's Office (must be completed within 15 days of the adoption of the Resolution Confirming Results of Election and directing the recordation of the Notice of Special Tax Lien) |
| November 13, 2018 | Second Reading of Ordinance Levying Special Tax within CFD |
| November 27, 2018 | Publication of Ordinance (within 15 days after its passage) |

Attachments

- 1) Resolution to authorize execution of the JCFA between the City of Oakley and the East Contra Costa Fire Protection District corresponding to Community Facilities District No. 2018-1 for the financing of Fire Protection Services;
 - a. Exhibit A - Joint Community Facilities Agreement
 - i. Boundary Map
 - ii. Rate and Method of Apportionment of the Special Tax

RESOLUTION NO. ____-18

**A RESOLUTION OF THE CITY COUNCIL
ADOPTING JOINT COMMUNITY FACILITIES AGREEMENT**

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the “Act”), the City Council (the “Council”) of the City of Oakley (the “City”) is authorized to establish a community facilities district and to act as its legislative body;

WHEREAS, the City is in the process of forming a community facilities district that is expected to be named “City of Oakley Community Facilities District No. 2018-1 (Fire Protection Services)” (the “CFD”) for the purpose of levying a special tax (the “CFD Special Tax”) to finance certain services within the boundaries of the City of Oakley, including fire protection services (the “CFD Fire Services”);

WHEREAS, the East Contra Costa Fire Protection District (the “District”) desires to provide the CFD Fire Services;

WHEREAS, Pursuant to Section 53316.2 of the Act, the City of Oakley may finance the CFD Fire Services through the CFD only pursuant to a joint community facilities agreement between the City of Oakley, as the public agency forming the CFD, and the District, as the public agency that will provide the CFD Fire Services; and

WHEREAS, the City of Oakley and the District have determined that it would be of benefit to the residents of each of their respective jurisdictions to enter into a Joint Community Facilities Agreement to provide for the financing of the CFD Fire Services by the City of Oakley through the CFD.

NOW, THEREFORE, the City Council of the City of Oakley resolves as follows:

1. Joint Community Facilities Agreement. This Council hereby authorizes and directs the Mayor, the City Manager, the Finance Director, and the City Attorney (each, an “Authorized Officer”) to execute, and the City Clerk is directed to attest, on behalf of the City, the Joint Community Facilities Agreement attached hereto as Exhibit A, together with any changes therein or additions thereto deemed advisable by any Authorized Officer, whose execution thereof shall be conclusive evidence of the approval of any such changes or additions.
2. Effective Date. This resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th day of October, 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

EXHIBIT A
JOINT COMMUNITY FACILITIES AGREEMENT

JOINT COMMUNITY FACILITIES AGREEMENT

For

City of Oakley Community Facilities District No. 2018-1 (Fire Protection Services)

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this “**Agreement**”), dated as of _____, 2018, is by and between the City of Oakley, a municipal corporation and general law city (the “**City**”) and the East Contra Costa Fire Protection District (the “**District**”)

BACKGROUND

A. The City is conducting proceedings for the establishment of a community facilities district, which the parties expect to be named "City of Oakley Community Facilities District No. 2018-1 (Fire Protection Services)" (the “**CFD**”), within Subdivision 9033 (commonly known as the Gilbert Property), which is anticipated to contain 581 residential units at build out, and certain other territory within a Future Annexation Area, as further described and depicted on the Boundary Map for the CFD (collectively "Service Area"), attached hereto as Exhibit A, under the Mello-Roos Community Facilities Act of 1982, as amended, Part 1 (commencing with Section 53311) of Division 2 of Title 5 of the California Government Code (the “**Act**”).

B. The City is forming the CFD for the purpose of levying a special tax (the “**CFD Special Tax**”) to finance certain types of services including, but not limited to (1) the annual operation, maintenance and servicing of emergency and non-emergency calls for services, including but not limited to emergency medical services, fire suppression, rescue and emergency remediation of hazardous conditions; (2) payment for the operation and maintenance of fire stations, equipment, vehicles, and other appurtenant facilities, etc.; and (3) any other appurtenant services or expenses necessary to ensure the continued annual operation and maintenance of the services previously referenced (the “**CFD Fire Services**”) within the Service Area.

C. The City is conducting the proceedings to establish the CFD pursuant to a petition from the landowner of the Gilbert Property. As twelve registered voters have not lived in the Service Area within the last 90 days, the City intends to conduct a landowner election to form the CFD. Pursuant to Section 53313 of the Government Code, the CFD Fire Services will be in addition to those provided in the territory of the CFD before the CFD was created, and the CFD Fire Services will not supplant services already available within that territory when the CFD was created.

D. The CFD Fire Services will be provided by the District.

E. Pursuant to Section 53316.2 of the Government Code, the City may finance the CFD Fire Services through the CFD only pursuant to a joint community facilities agreement

between the City, as the public agency forming the CFD, and the District, as the public agency that will provide the CFD Fire Services.

F. The City and the District have determined that it would be of benefit to the residents of each of their respective jurisdictions to enter into this Agreement to provide for the financing of the CFD Fire Services by the City through the CFD.

AGREEMENTS

In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the City and the District agree as follows:

1. Agreement. This Agreement constitutes a “joint community facilities agreement”, within the meaning of Section 53316.2 of the Government Code pursuant to which the CFD will be authorized to finance the CFD Fire Services.

2. Determination of Annual Special Tax Levy. Each March 1, the City shall notify the District in writing of the estimated Maximum Special Tax revenue for the subsequent fiscal year, taking into account the cost-of-living increase permitted by the Rate and Method of Apportionment of the Special Tax, attached hereto as Exhibit B. No later than each June 30, the District shall send a written request to the City of the District’s desired amount of the Special Tax levy for the subsequent year. If the District has not sent such a written request to the City by June 30, the City shall levy the Special Tax at the Maximum Special Tax rate then established by the Rate and Method.

2. Allocation of Special Taxes.

(a) CFD Special Tax Revenues received by the City each fiscal year shall be allocated as follows: (i) first to the City, in an amount to be determined by the City, to reimburse the City for administrative costs actually incurred or estimated to be incurred by the City in connection with the formation and administration of the CFD, and (ii) second, the remainder to the District to pay for CFD Fire Services.

(b) The parties acknowledge that, pursuant to Section 53313 of the Government Code, because the CFD Special Tax was approved by a landowner vote, the CFD Special Taxes may only finance the CFD Fire Services to the extent that they are in addition to the fire protection services provided in the territory of the CFD before the CFD was created, and the CFD Fire Services may not supplant fire protection services already available within that territory when the CFD was created.

3. Indemnification.

a. Indemnification by the City. The City shall assume the defense of, indemnify and save harmless, the District, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the City with respect to this Agreement; provided, however, that the City shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

b. Indemnification by the District. The District shall assume the defense of, indemnify and save harmless, the City, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the District with respect to this Agreement; provided, however, that the District shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

4. Term. Unless otherwise agreed in writing by the City and the District, this Agreement shall terminate upon the termination of the levy of the Special Tax.

5. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Agreement may not be assigned by either of the parties thereto.

7. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

8. Amendments. Amendments to this Agreement shall be made only by written instrument executed by each of the parties hereto.

9. Notices. Under this Agreement, notices shall be sent by first class mail or messenger as follows:

If to the City:	City of Oakley 3231 Main Street Oakley, CA 94561 Attn: City Manager
-----------------	--

If to the District:	East Contra Costa Fire Protection District 150 City Park Way Brentwood, CA, 94153 Attn: Fire Chief
---------------------	--

10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first-above written.

CITY OF OAKLEY

By: _____

Its: _____

APPROVED AS TO FORM

By: _____
City Attorney

EAST CONTRA COSTA FIRE
PROTECTION DISTRICT

By: _____
Fire Chief

APPROVED AS TO FORM

By: _____
Legal Counsel

EXHIBIT A
BOUNDARY MAP

PROPOSED BOUNDARY MAP
CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2018-1
(FIRE PROTECTION SERVICES)
CITY OF OAKLEY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLEY THIS
____ DAY OF _____, 2018.

LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED
BOUNDARIES OF CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT
No. 2018-1, CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE
OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE
CITY OF OAKLEY, AT A REGULAR MEETING THEREOF, HELD ON
THE ____ DAY OF _____, 2018, BY ITS RESOLUTION
No. _____.

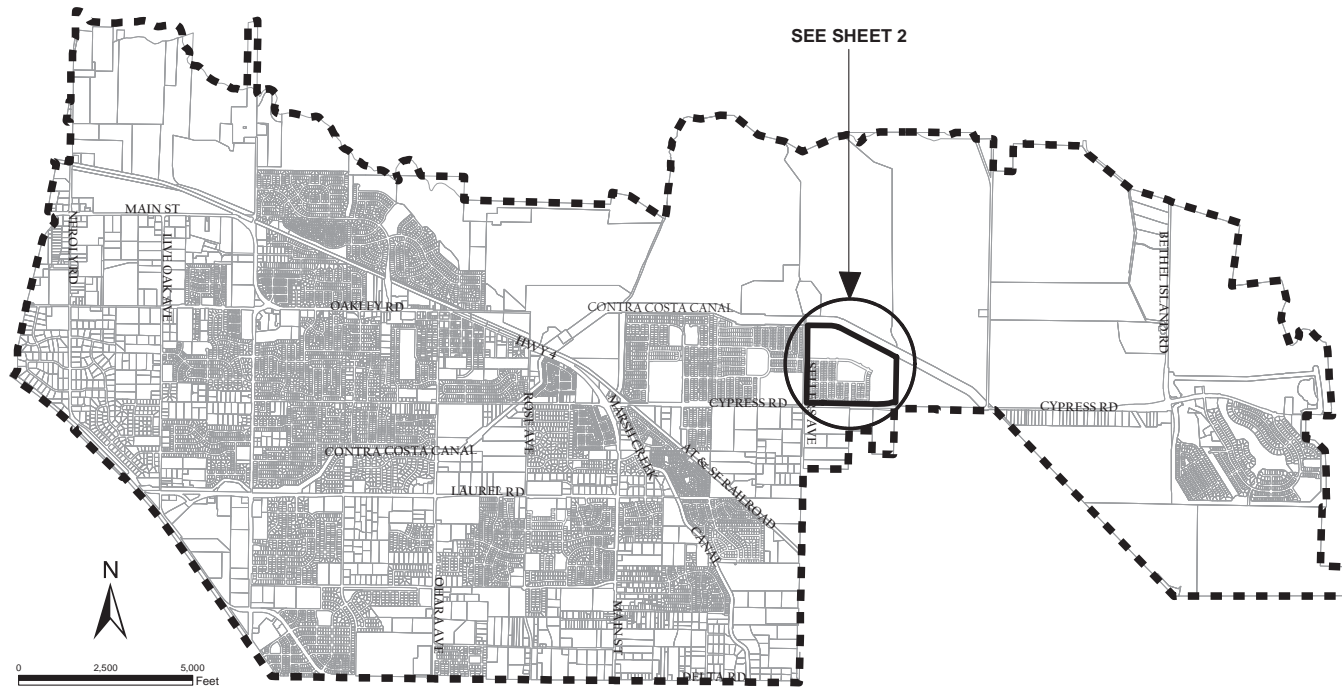
LIBBY VREONIS, CITY CLERK
CITY OF OAKLEY
CONTRA COSTA COUNTY
STATE OF CALIFORNIA

FILED THIS ____ DAY OF _____, 2018, AT THE HOUR
OF ____ M IN BOOK ____ OF MAPS OF ASSESSMENT
AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____, DOCUMENT
No. _____ IN THE OFFICE OF THE COUNTY RECORDER
IN CONTRA COSTA COUNTY, STATE OF CALIFORNIA.




JOSEPH E. CANCEMILLA
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

ASSESSOR PARCELS WITHIN BOUNDARY: FOR PARTICULARS OF
LINES AND DIMENSIONS OF PARCELS, REFERENCE IS MADE
TO THE ASSESSOR PARCEL MAPS OF CONTRA COSTA COUNTY.

SEE SHEET 2



LEGEND

-  Community Facilities District No. 2018-1 Boundary
-  Future Annexation Area, City of Oakley Boundary
-  Parcels

PROPOSED BOUNDARY MAP
CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT No. 2018-1
(FIRE PROTECTION SERVICES)
 CITY OF OAKLEY
 COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA



Reference number	Assessor's Parcel Number	Reference number	Assessor's Parcel Number	Reference number	Assessor's Parcel Number	Reference number	Assessor's Parcel Number
1	032-081-022	59	032-520-058	117	032-530-039	175	032-530-097
2	032-520-001	60	032-520-059	118	032-530-040	176	032-530-098
3	032-520-002	61	032-520-060	119	032-530-041	177	032-530-099
4	032-520-003	62	032-520-061	120	032-530-042	178	032-530-100
5	032-520-004	63	032-520-062	121	032-530-043	179	032-530-101
6	032-520-005	64	032-520-063	122	032-530-044	180	032-530-102
7	032-520-006	65	032-520-064	123	032-530-045	181	032-530-103
8	032-520-007	66	032-520-065	124	032-530-046	182	032-530-104
9	032-520-008	67	032-520-066	125	032-530-047	183	032-530-105
10	032-520-009	68	032-520-067	126	032-530-048	184	032-540-001
11	032-520-010	69	032-520-068	127	032-530-049	185	032-540-002
12	032-520-011	70	032-520-069	128	032-530-050	186	032-540-003
13	032-520-012	71	032-520-070	129	032-530-051	187	032-540-004
14	032-520-013	72	032-520-071	130	032-530-052	188	032-540-005
15	032-520-014	73	032-520-072	131	032-530-053	189	032-540-006
16	032-520-015	74	032-520-073	132	032-530-054	190	032-540-007
17	032-520-016	75	032-520-074	133	032-530-055	191	032-540-008
18	032-520-017	76	032-520-075	134	032-530-056	192	032-540-009
19	032-520-018	77	032-520-076	135	032-530-057	193	032-540-010
20	032-520-019	78	032-520-077	136	032-530-058	194	032-540-011
21	032-520-020	79	032-530-001	137	032-530-059	195	032-540-012
22	032-520-021	80	032-530-002	138	032-530-060	196	032-540-013
23	032-520-022	81	032-530-003	139	032-530-061	197	032-540-014
24	032-520-023	82	032-530-004	140	032-530-062	198	032-540-015
25	032-520-024	83	032-530-005	141	032-530-063	199	032-540-016
26	032-520-025	84	032-530-006	142	032-530-064	200	032-540-017
27	032-520-026	85	032-530-007	143	032-530-065	201	032-540-018
28	032-520-027	86	032-530-008	144	032-530-066	202	032-540-019
29	032-520-028	87	032-530-009	145	032-530-067	203	032-540-020
30	032-520-029	88	032-530-010	146	032-530-068	204	032-540-021
31	032-520-030	89	032-530-011	147	032-530-069	205	032-540-022
32	032-520-031	90	032-530-012	148	032-530-070	206	032-540-023
33	032-520-032	91	032-530-013	149	032-530-071	207	032-540-024
34	032-520-033	92	032-530-014	150	032-530-072	208	032-540-025
35	032-520-034	93	032-530-015	151	032-530-073	209	032-540-026
36	032-520-035	94	032-530-016	152	032-530-074	210	032-540-027
37	032-520-036	95	032-530-017	153	032-530-075	211	032-540-028
38	032-520-037	96	032-530-018	154	032-530-076	212	032-540-029
39	032-520-038	97	032-530-019	155	032-530-077	213	032-540-030
40	032-520-039	98	032-530-020	156	032-530-078	214	032-540-031
41	032-520-040	99	032-530-021	157	032-530-079	215	032-540-032
42	032-520-041	100	032-530-022	158	032-530-080	216	032-540-033
43	032-520-042	101	032-530-023	159	032-530-081	217	032-540-034
44	032-520-043	102	032-530-024	160	032-530-082	218	032-540-035
45	032-520-044	103	032-530-025	161	032-530-083	219	032-540-036
46	032-520-045	104	032-530-026	162	032-530-084	220	032-540-037
47	032-520-046	105	032-530-027	163	032-530-085	221	032-540-038
48	032-520-047	106	032-530-028	164	032-530-086	222	032-540-039
49	032-520-048	107	032-530-029	165	032-530-087	223	032-540-040
50	032-520-049	108	032-530-030	166	032-530-088	224	032-540-041
51	032-520-050	109	032-530-031	167	032-530-089	225	032-540-042
52	032-520-051	110	032-530-032	168	032-530-090	226	032-540-043
53	032-520-052	111	032-530-033	169	032-530-091	227	032-540-044
54	032-520-053	112	032-530-034	170	032-530-092	228	032-540-045
55	032-520-054	113	032-530-035	171	032-530-093	229	032-540-046
56	032-520-055	114	032-530-036	172	032-530-094		
57	032-520-056	115	032-530-037	173	032-530-095		
58	032-520-057	116	032-530-038	174	032-530-096		

Legend

- CFD No. 2018-1 Boundary
- Parcel Lines

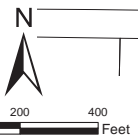


EXHIBIT B

RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Special Taxes (as hereafter defined) in the City of Oakley Community Facilities District No. 2018-1 (Fire Protection Services) (the “CFD” or “CFD No. 2018-1”) shall be levied and collected each Fiscal Year according to the tax liability determined by the Administrator through the application of the appropriate Special Tax rate for Taxable Property, as described below. All property in CFD No. 2018-1, unless exempted by law or by the provisions of Section E herein, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2018-1, unless a separate rate and method of apportionment of special tax is adopted for such annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“**Accessory Unit**” means a second Residential Unit of reduced size (e.g., granny cottage, etc.) that shares a Parcel with a Residential Unit. An Accessory Unit shall not be considered a separate Residential Unit for purposes of this RMA and will not be levied a Special Tax.

“**Acre**” or “**Acreage**” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map, Parcel Map or functionally equivalent map or instrument recorded in the Office of the County Recorder. In the absence of such map, the Administrator will make the final “Acre” or “Acreage” determination utilizing available spatial and Geographic Information Systems (GIS) data.

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“**Administrative Expenses**” means the actual or reasonably estimated costs incurred by the City or their designee, acting for and on behalf of the CFD as the Administrator thereof, to compute, determine, levy and collect the Special Taxes, including salaries of City staff and a proportionate amount of the City’s general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the administration of the CFD; the costs of collecting installments of the Special Taxes, including charges levied by the County, the costs related to the preparation of required reports; and any other costs required to administer the CFD as determined by the Administrator. Administrative expenses shall also include amounts estimated or advanced by the City, public agency, or the CFD for any other administrative purposes related to the CFD.

“**Administrator**” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” or **“APN”** means a unique number assigned to an Assessor’s Parcel by the County Assessor for purposes of identifying a property.

“Authorized Services” means the public services authorized to be funded by CFD No. 2018-1 as set forth in the documents adopted by the Council when CFD No. 2018-1 was formed.

“Building Permit” means a building permit having a building structure improvement valuation over \$50,000. Building Permits for the construction of ancillary structures such as fences, swimming pools, retaining walls, etc. are excluded.

“Capital Reserves” means any amounts that shall be collected, accumulated, and/or held for the CFD in each Fiscal Year to provide for asset replacement, long-term capital projects, or other large anticipated expenditures.

“CFD” or **“CFD No. 2018-1”** means the City of Oakley Community Facilities District No. 2018-1 (Fire Protection Services).

“City” means the City of Oakley.

“City Manager” means the City Manager of the City of Oakley.

“Council” means the City Council of the City of Oakley, acting as the legislative body for CFD No. 2018-1.

“County” means the County of Contra Costa.

“County Assessor” means the Contra Costa County Assessor.

“County Land Use Code” means the land use code assigned to an Assessor’s Parcel as indicated in the records of the County Assessor.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a Building Permit was issued for a Single-Family Property on or prior to June 30 of the preceding Fiscal Year in which Special Taxes are to be levied. In the absence of a Building Permit, any Parcel of Taxable Property shall be classified as “Developed Property” if it has been occupied by a user as determined by the Administrator on or prior to June 30 of the preceding Fiscal Year.

“Final Map” or **“Parcel Map”** means a Final Map, Parcel Map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), that creates lots that do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” or “Parcel Map” shall not include an Assessor’s Parcel Map or subdivision map or portion thereof, that

does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Land Use Classification" means the current or intended use of a Taxable Parcel as determined by the Taxable Parcel's County Land Use Code.

"Maximum Special Tax" means the maximum Special Tax determined in accordance with Section C herein, which can be levied in any Fiscal Year.

"Operating Reserves" means any amounts that shall be collected, accumulated, and/or held for the CFD in each Fiscal Year to provide for necessary cash flow for the first six months of each Fiscal Year, working capital to cover operation, maintenance, and service cost overruns or any unexpected expenditures, funds to cover delinquencies in the payment of Special Taxes, and a reasonable buffer to prevent large variations in annual Special Tax levies.

"Property Owner" means the Property Owner of record per current County Assessor records unless more current information is available such as a recorded deed of sale, etc.

"Proportionately" means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property within each respective Tax Zone.

"Public Property" means, for each Fiscal Year: (i) any property within the boundaries of CFD No. 2018-1 that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2018-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"RMA" means this Rate and Method of Apportionment of Special Tax.

"Residential Unit" means an individual building structure for a residential use as defined per the County Assessor.

"Single-Family Property" means a Parcel designated by the County Assessor's Land Use Code as having a single-family residential land use and a Residential Unit, excluding residential condominium parcels. If it is determined by the Administrator that the County Assessor has assigned an incorrect County Land Use Code, or the assigned County Land Use Code does not correctly describe the intended or current use of the Taxable Parcel, the Administrator may assign the appropriate Land Use Classification to the Taxable Parcel described in Section C below.

"Special Tax" means the tax levied on Taxable Property within CFD No. 2018-1 to pay the annual Special Tax Requirement.

“Special Tax Requirement” means, the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; (iii) any amounts needed to establish or replenish Operating Reserves and Capital Reserves; and (iv) amounts needed to cover any delinquencies in the payment of the Special Tax which occurred in the previous Fiscal Year or, based on delinquency rates in prior years, that may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

“Taxable Property” or “Taxable Parcels” means all Assessors’ Parcels within the boundaries of CFD No. 2018-1 that are not exempt from the Special Tax pursuant to law or Section E herein.

“Tax Zone” means a mutually exclusive geographic area within which the Special Tax may be levied pursuant to this RMA. All property within CFD No. 2018-1 at the time of CFD Formation is within Tax Zone 1. Additional Tax Zones may be created when property is annexed to CFD No. 2018-1, and a separate Maximum Special Tax shall be identified for property within the new Tax Zone at the time of such annexation. The Assessor’s Parcels included within a new Tax Zone established when such Parcels are annexed to CFD No. 2018-1 shall be identified by Assessor’s Parcel Number in the Unanimous Approval Form that is signed by the owner(s) of the Parcels at the time of annexation.

“Unanimous Approval Form” means that form executed by the record owner of fee title to a Parcel or Parcels annexed into CFD No. 2018-1 that constitutes the Property Owner’s approval and unanimous vote in favor of annexing into CFD No. 2018-1, and the levy of the Special Tax against his/her Parcel or Parcels pursuant to this RMA.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2018-1 that are not classified as Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall: (i) identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within CFD No. 2018-1, (ii) determine the Land Use Classification for each Taxable Parcel, (iii) determine whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, and (iv) determine the Special Tax Requirement for the CFD.

In any Fiscal Year, if it is determined that a Final Map or Parcel Map for a portion of property in CFD No. 2018-1 was recorded after the last date upon which the County Assessor will incorporate the newly-created Parcels into the then current tax roll, and the County Assessor does not yet recognize the new Parcels that will be created by the Final Map or Parcel Map, and one or more of the newly-created Parcels would meet the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or Parcel Map by determining the Special Tax that applies separately to each new Parcel that will be created by that Final Map or Parcel Map, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or Parcel Map.

C. MAXIMUM SPECIAL TAXES

1. **Developed Property** - The Fiscal Year 2018-19 Maximum Special Tax for all Taxable Parcels of Developed Property within Tax Zone No. 1 with a Land Use Classification of a Single-Family Property, is below in Table No. 1:

Table No. 1 - Developed Property	
Land Use Classification	Fiscal Year 2018/19 Maximum Special Tax
Single-Family Parcel	\$279.62 per Parcel

2. **Escalation of Maximum Special Tax**

Commencing on July 1, 2019, and each July 1 thereafter, the Maximum Special Tax Rates for Developed Property shown in Table No. 1, shall be increased by applying the percentage increase, if any, in the Consumer Price Index for the San Francisco All Urban Wage Earners Category for the prior calendar year to the Maximum Special Tax in effect for the current fiscal year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and levy all Parcels of Taxable Property therein as follows:

Step 1: Each Parcel of Developed Property shall be levied Proportionately up to 100% of the Maximum Special Tax for such Fiscal Year until the amount levied is equal to the Special Tax Requirement;

The Special Tax for CFD No. 2018-1 shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 2018-1.

E. EXEMPTIONS

No Special Tax shall be levied on Parcels of Undeveloped Property, Public Property or any privately-owned Parcels that are non-developable, such as common areas, wetlands, and open space, parks, etc. except as otherwise provided in this RMA and in the Act.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning Special Taxes. In

addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City through an ordinance or resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G. TERM OF THE SPECIAL TAX

The Special Tax shall be levied in perpetuity if Authorized Services are being provided and is necessary to pay the Special Tax Requirement.

H. PREPAYMENT OF SPECIAL TAX

The Maximum Special Tax may not be prepaid and shall continue to be levied in accordance with Section D of this Rate and Method of Apportionment on an annual basis on all Taxable Property in CFD No. 2018-1 for the purpose of funding ongoing Authorized Services.

I. REVIEW/APPEALS OF THE SPECIAL TAX

The Administrator may establish such procedures, as it deems necessary to undertake the review of any such appeal. The Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any property owner appeals, as herein specified.

Any property owner who believes that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the Administrator regarding such error. If following such consultation, the Administrator determines that an error has occurred; the Administrator in consultation with the City Manager shall take any of the following actions to correct the error:

- Amend the Special Tax levy on the property owner's Property Tax Bill for the current Fiscal Year, or
- Have the CFD reimburse the property owner for the amount of overpayment for the current Fiscal Year if CFD funds are available, or
- Grant a credit against, eliminate or reduce the future Special Taxes on the property owner's Assessor's Parcel(s) for overpayment for the current Fiscal Year.

If following such consultation and action (if any by the Administrator), the property owner believes such error still exists, such person may file a written notice with the City Manager appealing the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action (if any by the City Manager), the property owner believes such error still exists, such person may file a written notice with the City Council appealing the amount of the Special Tax levied on such Assessor's Parcel. If the City Council determines an error exists; the Administrator shall take any actions as described above, in order to correct the error. The decision of the City Council shall be final and binding to all persons.

J. REPEAL OF THE SPECIAL TAX

If the levy of the Special Tax is repealed by initiative or any other action participated in by the property owners of Assessor's Parcels in CFD No. 2018-1, the City shall cease to levy the Special Tax and shall cease to be obligated to provide the Authorized Services for which the Special Tax was levied. The obligation to provide the Authorized Services previously funded by the repealed Special Tax shall become the joint obligations of the property owners of Assessor's Parcels within CFD No. 2018-1.

K. SEVERABILITY

The invalidity or unenforceability of any provisions of this Rate and Method of Apportionment of Special Tax shall not affect the validity or enforceability of any other provision of this Rate and Method of Apportionment of Special Tax, which shall remain in full force and effect.



STAFF REPORT

DATE: October 9, 2018

TO: Bryan Montgomery, City Manager

Approved and Forwarded to the City Council

FROM: Joshua McMurray, Planning Manager

SUBJECT: ADOPTION OF AN URGENCY ORDINANCE OF THE CITY OF OAKLEY ADOPTING AN INTERIM MEASURE IMPOSING A MORATORIUM ON THE ISSUANCE OR RENEWAL OF USE PERMITS, VARIANCES, BUILDING PERMITS, BUSINESS LICENSES OR ANY OTHER ENTITLEMENTS OR PERMITS PROVIDING FOR THE USE, COMMENCEMENT, ESTABLISHMENT OR OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY OF OAKLEY

Summary and Recommendation

The Oakley Municipal Code does not define, enable or permit short term rentals of any kind and there are no enforcement provisions specific to short term rentals in the Municipal Code. This lack of specificity currently limits the City's enforcement efforts on short term rentals as a land use, and focuses instead on the related symptomatic or incidental problems, such as responding to noise complaints or the conduct of other unpermitted activities. It is also difficult to determine if and when a given private residence is being used as a short term rental. Without appropriate regulations, a short-term rental business could locate in the City of Oakley in a manner that is inconsistent with the City's goals and vision for our community.

Staff recommends that the Council adopt the attached interim emergency ordinance temporarily prohibiting the establishment and operation of a short-term rental businesses while the City completes further study and adopts an appropriate ordinance and regulations regarding the location, licensing and operation of such businesses. The attached ordinance is an urgency measure which requires approval by four-fifths of the City Council. It will become effective immediately upon adoption.

Background and Analysis

Staff brought forward an Ordinance to regulate short-term rentals at the September 25, 2018 City Council Meeting (Staff Report attached). The City Council has received complaints and public comments at its September 25, 2018 meeting indicating that the proliferation of non-hosted short-term rentals within the City adversely affects the

October 9, 2018

quality of life and the character of the City's residential neighborhoods. The City Council directed Staff to bring back an urgency moratorium that would allow the City to not allow short-term rentals as the City researches and drafts an appropriate Ordinance.

The City's Municipal Code does not expressly allow short-term rental land uses, but short-term rentals are currently taking place within the City. The unregulated expansion of short-term rentals would undermine the City's achievement of its long-term planning goals and investments. In addition, short-term rentals pose challenges for enforcement and tax collection because precise information on their locations, availability, revenues earned, and actual occupancy rates are difficult to obtain. In brief, short-term rentals pose an immediate threat to public health, safety, and welfare.

The City has an overriding interest in planning and regulating the use of property within the City because without stable, well-planned neighborhoods, the quality of life and the character of the City's neighborhoods can quickly deteriorate and suffer adverse social, environmental, and economic conditions. A moratorium on non-hosted short-term rentals would allow time for the City to revise its zoning code to provide for regulation of non-hosted short-term rentals in a manner that protects public health, safety, and welfare.

Government Code Section 65858 allows a local agency to adopt an interim ordinance prohibiting any uses which may be in conflict with a zoning proposal which the City is considering or intends to study within a reasonable period of time. The interim ordinance may be adopted as an urgency measure, without following the procedures otherwise required for a zoning ordinance, provided the City determines that the ordinance is necessary to protect the public health, safety and welfare. Staff believes there is ample evidence to support and justify such a finding in this case. The interim ordinance will be effective for an initial 45 day period and may be extended twice, in specified maximum increments, for a total period not to exceed 2 years.

Summary of Moratorium

The proposed moratorium on short-term rentals provides that any residential property owner in the City of Oakley will be prohibited from renting the residential property, or having an intermediary rent the property, for a term of less than 30 days.

The California Constitution vests the City with the authority to impose a moratorium on short-term rentals to protect the health, safety, and welfare of its citizens, and to regulate zoning. In addition, the California Government Code enables the City to immediately protect and preserve the public peace, health, and welfare by prohibiting any uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body, planning commission or planning department is considering. Therefore, the City can impose a moratorium provided it can demonstrate the need for it.

California Environmental Quality Act (CEQA)

October 9, 2018

The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and it prevents changes in the environment pending the completion of the contemplated municipal code review.

Fiscal Impact

There is no direct fiscal impact associated with the adoption of the attached ordinance; however, implementation of the ordinance may result in indirect costs arising out from the preparation of the additional studies and periodic reports to the City Council required by the ordinance.

Recommendation

Staff recommends that the Council adopt the attached interim emergency ordinance temporarily prohibiting the establishment and operation of a short-term rental businesses while the City completes further study and adopts an appropriate ordinance and regulations regarding the location, licensing and operation of such businesses. The attached ordinance is an urgency measure which requires approval by four-fifths of the City Council. It will become effective immediately upon adoption.

Attachments

1. September 25, 2018 Staff Report regarding Short-Term Rentals
2. Proposed Interim Emergency Ordinance

STAFF REPORT

DATE: September 25, 2018

TO: Bryan Montgomery, City Manager *Approved and Forwarded to the City Council*

FROM: Joshua McMurray, Planning Manager

SUBJECT: **An Ordinance Adding Chapter 14 of Title 5 of the Oakley Municipal Code regarding the Permitting of Short-Term Rentals within the City Limits**

Background and Analysis

This is a City-initiated amendment to the Oakley Municipal Code dealing with the Permitting of Short-Term Rentals within the City Limits. Within the past several months, there have been a handful of inquiries from residents who live next to or near properties currently being advertised and rented out as a “short-term rental”. At the time this Staff Report was written, searching on Airbnb.com resulted in 10 properties being rented either on a nightly or weekly basis and searching vrbo.com resulted in 2 such properties. With the absence of any defined definitions and/or regulations on the subject matter, the City does not have an application process or an enforcement mechanism in regards to this type of rental.

The purpose of this new Chapter (Title 5, Chapter 14, entitled “Short-Term Rentals”) is to establish regulations for the use of a privately owned dwelling unit as short-term rentals in order to minimize the adverse effects of short-term rentals on the surrounding residential neighborhoods, to ensure that short-term rentals are consistent with the City’s municipal code, and to preserve the residential character of the neighborhoods where short-term rentals are located.

As described in the “Purpose” section of the Draft Ordinance, this new Chapter is not intended to provide any person with the right or privilege to use a dwelling unit as a short-term rental where such use is not otherwise allowed by law, homeowner’s association agreement, rental agreement, or any applicable conditions, covenants, and restrictions to the dwelling unit that may prohibit the use of such dwelling unit as a short-term rental.

The proposed amendment to the Oakley Municipal Code define a “Short-term rental unit” as follows:

"Short-term rental unit" means a privately owned residential dwelling, such as, but not limited to, a single family dwelling or multiple family building, apartment unit, condominium, duplex, as those terms are defined at Section 9.1.202 of this Code or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for any period of 30 consecutive days or fewer. A short-term rental unit does not include a hotel or motel, as those terms are defined at Section 9.1.202 of this Code, or other business in which rooms are rented as the principal use of a building devoted to lodging. A short-term rental unit shall be considered a "hotel" for the purposes of Chapter 3.2 of this Code related to Uniform Transient Occupancy Tax."

The Ordinance also details when a short-term rental permit is required, the application process and approval requirements, the operational requirements and standard conditions placed on a permit, and procedures for violations of the Ordinance.

California Environmental Quality Act (CEQA): The amendments to the Zoning Code are exempt from CEQA pursuant to Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not subject to CEQA.

Fiscal Impact

Staff time and costs associated with drafting and adopting the ordinance are onetime costs. Once the ordinance is in place, the City will need to establish a Short Term Rental Permit Application Fee that will be charged to any property establishing a short-term rental as detailed within the attached Ordinance. Pending the adoption of a Fee, applications can be reviewed and approved based on a time and materials charge.

In addition to the application fee, the owner or operator of a short-term rental will be required to obtain a transient occupancy registration certificate for purpose of its obligation to pay transient occupancy taxes under Chapter 3.2 of this Oakley Municipal Code.

Recommendation

Staff recommends the City Council waive the first reading and introduce the attached Ordinance amending the Oakley Municipal Code by adding Title 5, Chapter 14, entitled "Short-Term Rentals".

Attachments

1. Proposed Ordinance Adding Chapter 14 to Title 5 of the Oakley Municipal Code

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF OAKLEY REGARDING**

The City Council of the City of Oakley, California does ordain as follows:

Section 1. The Oakley Municipal Code is hereby amended by adding Title 5, Chapter 14, entitled "Short-Term Rentals" to read as follows:

TITLE 5, CHAPTER 14 SHORT-TERM RENTALS

Section 5.14.102 Title of Ordinance

This Chapter shall be referred to as the "Short-Term Rental Ordinance."

Section 5.14.104 Purpose

- A. The purpose of this Chapter is to establish regulations for the use of privately owned dwelling unit as short-term rentals in order to minimize the adverse effects of short-term rentals on the surrounding residential neighborhoods, ensure that short-term rentals are consistent with the City's municipal code, and preserve the residential character of the neighborhoods where short-term rentals are located.
- B. This Chapter is not intended to provide any person with the right or privilege to use a dwelling unit as a short-term rental where such use is not otherwise allowed by law, homeowner's association agreement, rental agreement, or any applicable conditions, covenants, and restrictions to the dwelling unit that may prohibit the use of such dwelling unit as a short-term rental.

Section 5.14.106 Definitions

- A. For purposes of this Chapter, the following words and phrases shall have the following meanings:
 - 1. "Applicable laws, rules and regulations" means any laws, rules, regulations and codes (whether local, state or federal) pertaining to the use and occupancy of a privately owned dwelling unit as a short-term rental.
 - 2. "Applicant" means the owner of the short-term rental unit or the owner's authorized agent or representative, referred to within as an "operator."
 - 3. "City Manager" means that person acting in the capacity of the City Manager of the City of Oakley or his or her designee.
 - 4. "Good neighbor brochure" means a document prepared by the City that summarizes the general rules of conduct, consideration, and respect, including without limitation provisions of the Oakley Municipal Code and other applicable laws, rules, or regulations, pertaining to the use and occupancy of short-term rental units.

5. "Local contact person" means the person designated by the owner or the operator who shall be available 24 hours per day, seven days per week for the purpose of: (1) responding within 60 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit; and (2) taking remedial action to resolve any such complaints. The local contact person may be the owner or operator.
6. "Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to a short-term rental.
7. "Operator" means the owner or the designated agent or representative of the owner who is responsible for compliance with this Chapter.
8. "Property" means a residential legal lot on which a short-term rental unit is located.
9. "Responsible person" means an occupant of a short-term rental unit who is at least 21 years of age and who is legally responsible for ensuring that all occupants of the short-term rental unit and their guests comply with all applicable laws, rules, and regulations pertaining to the use and occupancy of a short term rental unit.
10. "Short-term rental unit" means a privately owned residential dwelling, such as, but not limited to, a single family dwelling or multiple family building, apartment unit, condominium, duplex, as those terms are defined at Section 9.1.202 of this Code or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for any period of 30 consecutive days or fewer. A short-term rental unit does not include a hotel or motel, as those terms are defined at Section 9.1.202 of this Code, or other business in which rooms are rented as the principal use of a building devoted to lodging. A short-term rental unit shall be considered a "hotel" for the purposes of Chapter 3.2 of this Code related to Uniform Transient Occupancy Tax.
11. "Short-term rental permit" means a permit that allows the use of a privately owned residential dwelling as a short-term rental unit pursuant to the provisions of this Chapter.
12. "Transient" for purposes of this Chapter means any person who seeks to rent or who does rent a short-term rental unit for a period less than 30 consecutive days or fewer.

Section 5.14.108 Authorized agent or representative

- A. Unless an owner intends to directly provide for the short-term occupancy of a short-term rental unit, the owner shall designate an operator who shall ensure compliance with the requirements of this Chapter on behalf of the owner.
- B. Notwithstanding subsection (A), the owner shall not be relieved from any personal responsibility for compliance with the requirements of this Chapter and shall be subject to any applicable remedies for noncompliance, regardless of whether such noncompliance was committed by the operator or the occupants of the short-term rental unit or their guests.

Section 5.14.110 Short-term Rental Permit Required

- A. It shall be unlawful for an owner or operator to rent any short-term rental unit to any transient without having a valid short-term rental permit issued by the City pursuant to the provisions of this Chapter.
- B. A short-term rental permit shall be valid for a period of one (1) year from the date of issuance, and shall be renewed on or prior to the anniversary of the original permit issuance to remain valid.
- C. A short-term rental permit may not be transferred to another owner or operator, does not run with the land, and is valid only for the original location for which it is issued.

Section 5.14.112 Application

- A. The owner or operator must submit the following information on a short-term rental permit application form provided by the City:
 - 1. The name, address, and telephone number of the owner of the short-term rental unit;
 - 2. The name, address, and telephone number of the operator, if the owner will not directly provide for the short-term rental;
 - 3. The name, address, and twenty-four hour telephone number of the local contact person;
 - 4. The address of the proposed short-term rental unit;
 - 5. The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed short-term rental unit;
 - 6. Acknowledgement that the operator has received and reviewed the good neighbor brochure and will provide the brochure to all transients;
 - 7. A copy of a transient occupancy registration permit issued under Section 3.2.006(d) of this Code;
 - 8. Such other information as the City Manager deems reasonably necessary to administer this Chapter; and
 - 9. Payment of the application fee established separately by resolution of the City Council.
- B. A short-term rental permit application may be denied if the applicant has had a prior short-term rental permit for the same unit revoked within the 12 calendar months that preceded the effective date of the application.
- C. Within 14 days of a change of property ownership, change of operator, or any other change in material facts pertaining to the information contained in the short-term rental permit application form, the owner or operator shall submit an application and requisite application

fee for a new short-term rental permit, which must be obtained prior to continuing to rent the short-term rental unit.

Section 5.14.114 Criteria for Approval and Renewal of a Short-term Rental Permit

- A. The applicant has the burden of proof to demonstrate compliance with each applicable criterion for approval or renewal of the permit.
- B. To receive permit approval, an applicant must demonstrate the following:
 - 1. The owner or operator shall demonstrate that it will comply with all the obligations and requirements of Sections 5.14.116 and 5.14.118.
 - 2. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, etc.) shall be required with each annual permit application and renewal. It is the owner's responsibility to ensure that the short-term rental unit is and remains in substantial compliance with all applicable laws, rules and regulations including those regarding fire, building and safety, and health and safety.
 - 3. At the time of application, the owner or operator of a short-term rental shall not have been found to be in non-compliance of any provision of this Code for the subject short-term rental unit. A voluntary assurance of compliance or negotiated compliance agreement will satisfy the requirement that there be no pending actions or violations.
 - 4. The owner or operator shall have a current business license in accordance with the Chapter 3.5 of this Code.
 - 5. The owner or operator shall have obtained a transient occupancy registration certificate for purpose of its obligation to pay transient occupancy taxes under Chapter 3.2 of this Code.

Section 5.14.116 Operational Requirements and Standard Conditions

- A. The owner or operator shall use reasonably prudent business practices to ensure that the short-term rental unit is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject short-term rental unit, including this Chapter.
- B. The minimum number of days that a short-term rental unit shall be occupied is three days, two nights. Occupancy of a short-term rental unit by any transient for fewer than three days, two nights is prohibited.
- C. The maximum number of overnight guests for a short-term rental unit shall not exceed two persons per bedroom, except that children under the age of 4 shall not be counted for purposes of calculating this limitation so long as the children sleep in the same bedroom as at least one of their parents or legal guardians. Additional daytime guests are allowed between the hours of 7:00 a.m. and 10:00 p.m., with the maximum daytime guests not to exceed two persons per bedroom with a maximum of 20 guests allowed for five bedrooms or more. The following table illustrates the maximum number of occupants:

Number of Bedrooms	Total of Overnight Occupants	Total Daytime Occupants (Including Number of Overnight Occupants)
0 - Studio	2	4
1	2	4
2	4	8
3	6	12
4	8	16
5	10	20
6	12	20
7	14	20

- D. A short-term rental unit shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting, or any advertising mechanism.
- E. All parking associated with a short-term rental unit shall be entirely on-site, in the garage, carport, and driveway or otherwise off of the public street.
- F. Occupants of the short-term rental unit shall comply with all standards and regulations stated in Title 4, Chapter 2 of this Code concerning noise.
- G. The owner or operator shall provide each occupant of the short-term rental unit with the following information prior to occupancy of the unit and shall post such information in a prominent location within the unit:
 1. The contact information for the operator, or if no operator then the contact information for the the owner, with 24-hour availability;
 2. The maximum number of overnight occupants and the maximum number of daytime occupants as permitted under this Chapter;
 3. Trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property;
 4. A copy of Title 4, Chapter 2 of this Code concerning noise; and
 5. Notification that the occupant or owner may be cited or fined by the City in accordance with this Code.

Section 5.14.118 Operations

- A. While a short-term rental unit is rented, the owner, operator, or local contact person shall be available 24 hours per day, seven days per week for the purpose of responding within 60 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit or their guests.
- B. The owner, operator, or local contact person shall use reasonably prudent business practices

to ensure that the occupants and/or guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental unit.

- C. Prior to occupancy of a short-term rental unit, the owner or operator shall obtain the name, address, and a copy of a valid government identification of a responsible person and require such responsible person to execute a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the short-term rental unit and their guests with all applicable laws, rules, and regulations pertaining to the use and occupancy of the short-term rental unit.
- D. Prior to occupancy of a short-term rental unit, the owner or operator shall obtain from the responsible person the make, model and license of all vehicles of overnight occupants' vehicles to be parked at the property.
- E. The owner, operator, or local contact person shall, upon notification that the responsible person and/or any occupant and/or guest of the short-term rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term unit, promptly respond within 60 minutes and appropriate manner to immediately halt or prevent a recurrence of such conduct by the responsible person and/or any occupants and/or guests. Failure of the owner, and/or operator to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental unit within 60 minutes in an appropriate manner shall be subject to all administrative, legal, and equitable remedies available to the City.
- F. The owner, operator, or local contact person shall report to the City Manager the name, violation, date, and time of disturbance of each person involved in three or more disorderly conduct activities, disturbances, or other violations of any applicable law, rule, or regulation pertaining to the use and occupancy of the subject short-term unit within 24 hours of the third violation or disturbance.
- G. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the City's authorized waste hauler on scheduled trash collection days. The owner or operator shall use reasonably prudent business practices to ensure compliance with all the provisions of Title 4, Chapter 20 of this Code.
- H. The owner or operator shall post the current short-term rental permit number on or in any advertisement appearing in any newspaper, magazine, brochure, trade paper, website, etc., that promotes the availability or existence of a short-term rental unit.
- I. The City Manager shall have the authority to impose additional conditions on the use of any short-term rental unit to ensure that any potential secondary effects unique to the subject short-term rental unit are avoided or adequately mitigated.
- J. The standard conditions set forth herein may be modified by the City Manager, or designee, upon request of the owner or operator based on site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term rental unit. All requests must be in writing and shall identify how the strict application of the standard conditions creates an

unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short-term rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of the standard conditions shall not further exacerbate an already existing problem.

Section 5.14.120 Violations

- A. A violation of any provision of this Chapter by any occupant, owner, or operator shall constitute grounds for modification, suspension, or revocation of the short-term rental permit. In addition, the failure of the owner or operator to satisfy any of its obligations and requirements of Title 3, Chapter 2 of this Code concerning transient occupancy taxes shall be an independent basis for modification, suspension, or revocation of any permit issued under this Chapter.
- B. Whenever any owner or operator fails to comply with any provision of this Chapter, the City, after giving the operator or owner ten days written notice specifying the time and place of a hearing before the City Council, and requiring him to show cause why the short-term rental permit should not be modified, suspended, or revoked, may modify, suspend, or revoke the permit held by the operator or owner.
- C. The City may enforce this Chapter, including the terms and conditions of any permit granted under this Chapter, by any means provided for in Title 1, Chapter 5 of this Code or by any other means authorized by law.

Section 5.14.122 Fees

- A. The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

Section 2. Severability.

In the event that any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. California Environmental Quality Act (“CEQA”) finding.

The City Council has analyzed this ordinance and determined it is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force and effect thirty (30) days from and after the date of

its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2018 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF OAKLEY ADOPTING AN INTERIM MEASURE IMPOSING A MORATORIUM ON THE ISSUANCE OR RENEWAL OF USE PERMITS, VARIANCES, BUILDING PERMITS, BUSINESS LICENSES OR ANY OTHER ENTITLEMENTS OR PERMITS PROVIDING FOR THE USE, COMMENCEMENT, ESTABLISHMENT OR OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY OF OAKLEY.

WHEREAS, pursuant to the City of Oakley’s police power, the City Council of the City of Oakley ("City Council") has the authority to enact and enforce ordinances and regulations for the public peace, morals and welfare of the City and its residents; and

WHEREAS, at a regular public meeting on September 25, 2018, the City Council considered an ordinance that would have amended the Oakley Municipal Code for the purpose of permitting owners of residential dwellings to rent, offer to rent, or advertise for rent said dwellings to a person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days, i.e., “Short-Term Rentals;” and

WHEREAS, at the regular public meeting on September 25, 2018, the City Council receiving public testimony from residents living near locations where unpermitted Short-Term Rentals have operated that expressed significant concerns to the City Council of excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal vehicle parking and the accumulation of refuse which required responses from police, Code Enforcement and other City services; and

WHEREAS, California Government Code Section 65858 provides that, without following the procedures otherwise required prior to the adoption of a zoning ordinance and for the purpose of protecting the public safety, health and welfare, the City Council may adopt, as an urgency measure, an interim ordinance prohibiting any uses which may be in conflict with “a contemplated general plan, specific plan, or zoning proposal that the City Council, planning commission or the planning department is considering or studying or intends to study within a reasonable time”; and

WHEREAS, the City Council is concerned that Short-Term Rentals, which are essentially commercial uses operating within residential zones, may be incompatible with residential uses without effective regulation, and the City Council believes that development standards and implementation regulations for Short-Term Rentals require careful consideration and thorough study; and

WHEREAS, to address these issues, as well as the community concerns regarding the proliferation and operation of Short-Term Rentals, it is necessary for the City Council study the potential impacts such uses may have on the public health, safety and welfare;

WHEREAS, based on the foregoing facts and the facts presented to the City Council at the meeting at which this Ordinance is introduced and adopted, the City Council finds that issuing use permits, variances, building permits, business licenses, certificates of occupancy, or any other applicable entitlements or permits providing for the use, commencement, establishment and/or

operation of Short-Term Rentals prior to the City's completion of its study of the legality, potential impact and regulation of such Short-Term Rentals, would pose a current and immediate threat to the public health, safety or welfare, and that a temporary moratorium on the issuance of use permits, variances, building permits, business licenses, certificates of occupancy, and any other applicable entitlements is thus necessary; and

WHEREAS, this Ordinance is an interim urgency ordinance adopted pursuant to the authority granted to the City by Government Code Section 65858 and is for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency are:

1. The City has received a number of public nuisance complaints emanating from Short-Term Rentals, involving the following:
 - a. Loud, unnecessary and unusual noises, which have disturbed the peace and quiet of neighborhoods and caused discomfort and annoyance to residents of those neighborhoods;
 - b. Apparent over-occupancy of units, which may pose a public health and safety risk;
 - c. Excessive on-street parking affecting the ability of residents to park their vehicles within a reasonable distance from their homes; and
 - d. Accumulation of trash and debris, including alcoholic beverage containers, in the front yards of Short-Term Rentals, neighboring properties, and rights-of-way.
2. After receiving complaints of this nature, the City has committed resources to investigate and study the impacts of Short-Term Rentals on the surrounding community; and
3. Absent the adoption of this Ordinance, the continued existence of unpermitted Short-Term Rentals in the City and an increase in the number thereof may result in an even greater increase in nuisance conditions negatively affecting the well-being of the community, thereby diminishing property values and introducing incompatible land uses to existing neighborhoods or in close proximity thereto; and
4. Absent the adoption of this Ordinance, an increase in the number and location of Short-Term Rentals may increase the burden upon City services due to enforcement of the established standards and regulations relating to the issuance of permits for Short-Term Rentals; and

5. As a result, it is necessary to establish a temporary, forty-five (45) day moratorium on the issuance or renewal of any use permits, variances, building permits, business licenses, certificates of occupancy, or any other applicable entitlements or permits providing for the use, commencement, establishment and/or operation of new Short-Term Rentals in the City, pending completion of the City's study of the potential impacts of Short-Term Rentals, and possible implementation regulations relating to the issuance of permits for Short-Term Rentals; and
6. In addition, it is necessary to prohibit, as a public nuisance, the use of property in any zone of the City for purposes of Short-Term Rental for the duration of this Ordinance, or any extension thereof; and

WHEREAS, the City Council determines, by at least a four-fifths (4/5) vote, that this urgency ordinance is a matter of City-wide importance, is a reasonable and necessary measure designed for the immediate preservation and protection of the public health, safety or welfare of the community, and is in accord with the public purposes and provisions of applicable State and local laws and requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and it prevents changes in the environment pending the completion of the contemplated municipal code review.

SECTION 2. INCORPORATION.

The recitals and statements of fact set forth in the preamble to this Ordinance are true and correct, constitute a substantive part of this Ordinance, and are incorporated herein by this reference. Based on those facts, the City Council finds, determines and declares that this Ordinance is necessary as an emergency measure for the immediate preservation of the public peace, health or safety pursuant to, and as authorized by, Section 65858(a) of the California Government Code. Accordingly, this Ordinance shall become effective immediately upon adoption.

SECTION 3. DIRECTION; DEFINITION.

It is necessary to establish a temporary, forty-five (45) day moratorium on the commencement, establishment and/or operation of new Short-Term Rentals in the City and on any applications for renewal of Short-Term Rental permits existing on the date this Ordinance is adopted, pending completion of the City's study of the potential impacts and regulation of Short-Term Rentals, and

possible amendments to the City's zoning ordinance and related provisions of the Oakley Municipal Code to ensure that adequate development standards and implementation regulations are in effect prior to permitting Short-Term Rentals within the City of Oakley. To that end, the City Manager, with the assistance of the City Attorney, or their designees, are directed to analyze the appropriateness of Short-Term Rentals within the City limits of the City of Oakley, including but not limited to, the desirability of Short-Term Rentals, the appropriateness and effectiveness of separation requirements from adjacent sensitive land uses, and the extent of adequate development standards and regulatory controls, should Short-Term Rentals be deemed appropriate. For purposes of this Ordinance, "Short-Term Rentals" shall mean a privately owned residential dwelling, such as, but not limited to, a single family dwelling or multiple family building, apartment unit, condominium, duplex, as those terms are defined at Section 9.1.202 of this Code or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for any period of 30 consecutive days or fewer. A short-term rental unit does not include a hotel or motel, as those terms are defined at Section 9.1.202 of this Code, or other business in which rooms are rented as the principal use of a building devoted to lodging.

SECTION 4. MORATORIUM ESTABLISHED.

In accordance with the authority granted to the City of Oakley by California Government Code Section 65858 and for the reasons set forth herein above, commencing as of the effective date of this Ordinance and continuing thereafter for a period of forty-five (45) days to and including November 23, 2018, no approvals may be made or issued by the City, its officers or employees of any applications for a use permit, variance, building permit, business license or any other applicable entitlement or permit, for the use of any land within the City as a Short-Term Rental or the commencement, establishment or operation of a Short-Term Rental thereon. For the period of this Ordinance, or any extension thereof, a Short-Term Rental shall be considered a prohibited use in any zoning district of the City and neither the Planning Commission, the City Council nor City staff shall approve any use permit, license, certificate of occupancy, zoning code or general plan amendment authorizing the use of any land within the City as a Short-Term Rental.

SECTION 5. PROHIBITION.

No person shall commence or establish the operation of any Short-Term Rental, as defined in this Ordinance, within the City limits of the City of Oakley during the period this Ordinance is in effect.

SECTION 6. VIOLATION A PUBLIC NUISANCE.

The commencement, establishment or operation of any Short-Term Rental, as defined in this Ordinance, within the City limits of the City of Oakley during the period this Ordinance is in effect is declared to be a public nuisance and poses a current and immediate threat to the public health, safety and welfare. No property in any zone of the City is to be used for purposes of a Short-Term Rental during the period this Ordinance is in effect. The use of any property for such purpose shall be a public nuisance. A violation of this Ordinance shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief as well as any other available civil remedies. Additionally, any person that violates this

Ordinance may be subject to the City's applicable administrative remedies, including, but not limited to, the remedies provided in Title 1 of this Code.

SECTION 7. SEVERABILITY.

The City Council of the City of Oakley hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 8. REPORT.

The City Manager is authorized and directed to prepare the report required by paragraph (d) of California Government Code Section 65858 describing the measures taken to alleviate the condition which led to adoption of this Ordinance for presentation to the City Council no later than ten (10) days prior to the expiration of this Ordinance.

SECTION 9. EFFECTIVE DATE; FOUR-FIFTHS VOTE REQUIRED.

This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths (4/5) vote of the total members of the City Council and shall be in effect for forty-five (45) days from the date of adoption, unless extended by the City Council as provided in California Government Code Section 65858.

SECTION 10. PUBLICATION.

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in a newspaper of general circulation, published and circulated in the City of Oakley.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Oakley held on the ____ day of _____, 2018, and passed and adopted as an urgency measure on that date, by the following roll call vote, and shall be and become effective immediately:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date