AGENDA
SPECIAL CITY COUNCIL MEETING

Tuesday, October 27, 2026
5:30 PM
Oakley Council Chambers located at 3231 Main Street, Oakley, California 94561

Mission Statement: The City of Oakley will create a resilient future that fosters and attracts a vibrant and evolving community that welcomes and values all people.

Vision Statement: The City of Oakley celebrates our unique Delta lifestyle and small-town feel where we ***Live*** in a safe, dynamic community, ***Work*** together to build the future, and ***Play*** in our own backyard.

Agendas are posted in Oakley at Oakley City Hall, outside the gym at Delta Vista Middle School and outside the Library at Freedom High School. Agendas are also posted on the City's website at oakleyca.gov.

You can view reports on the City's website at oakleyca.gov. You can also view reports in person at City Hall, 3231 Main Street, during normal business hours. Any other documents distributed to members of the City Council regarding an item on this agenda are also made available in the lobby on the evening of the City Council meeting.

Pursuant to the Americans with Disabilities Act (ADA), the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance, please contact the City at least 48 hours prior to the meeting at 925-625-7000 or cityclerk@ci.oakley.ca.us.

Meeting online Link: https://zoom.us/j/93455380825

Meeting call in telephone number: 669-900-6833 | Meeting ID: 934 5538 0825 (*9 to request to speak | *6 to unmute/mute)

Online Participation:

Members of the public may attend the City Council meeting online via Zoom using the link above or watch the City Council meeting at oakleyca.gov or YouTube. Technical difficulties may occur from time to time. The City will follow the adopted Technology Disruption Policy outlined in City Council Resolution 36-26.

Public Comments:

Members of the public may address the Council on items of interest that are within the City's jurisdiction. In compliance with the Brown Act, the Council may not take action or have

discussion on any item that is not listed on the agenda. Public comment on items not listed on the agenda will be heard under the Public Comments section of the agenda. Public comments on items listed on the agenda will be heard as the Mayor calls the item. Please note that public comments are limited to three (3) minutes. The timer on the dais in front of the Mayor will change from green to yellow at one (1) minute and will turn red and beep at three (3) minutes.

In person public comment:

To provide an in-person public comment, please fill out a speaker card located in the lobby and give it to the City Clerk. Please indicate on the card if the topic is for general public comment or for a specific agenda item. The Mayor will call speakers to the podium by name when the item is opened for public comment.

Online Public Comment:

To provide public comment via Zoom, connect to the meeting online at the link above. Use the Raise Hand feature to request to speak (*9 on a telephone) when the Mayor opens public comment. The City Clerk will announce the names of online participants with their hands raised and invite each participant requesting to speak into the meeting as a panelist when it is their turn to speak. Once in the meeting as a panelist, unmute your microphone, turn on your camera if desired, and begin speaking. Once you are done speaking, the City Clerk will move you back to being an attendee.

Written public comment:

If you wish to enter comments into the public record, please complete the online public comment form by 4 pm the day of the meeting.

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. CALL TO ORDER AND ROLL CALL

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. PUBLIC COMMENTS

   The public is welcome at this time to address the City Council on items on the Consent Calendar or other items not listed on the agenda but within the Council's jurisdiction. There is an opportunity for the public to comment on other agenda items at the time they are discussed.

4. REGULAR CALENDAR

   4.1 Adopt a Resolution Declaring a Vacancy in the Office of the City Council for City Council District Five and Directing the City Clerk to provide the Notifications of Vacancy required by Law and to Coordinate the filling of the Vacant Office (Derek Cole, City Attorney)

Staff Report
1. Draft Resolution Declaring Vacancy in Council District Five

5. ADJOURN

STAFF REPORT

OAKLEY
CALIFORNIA

Approved and Forwarded to the City Council

DATE: October 27, 2026

TO: Hon. Mayor and Members of the City Council

FROM: Derek Cole, City Attorney

SUBJECT: Resolution of the City Council of the City of Oakley Declaring a Vacancy in the Office of the City Council for City Council District Five and Directing the City Clerk to Provide the Notifications of Vacancy Required by Law and to Coordinate the Filling of the Vacant Office

Background

Dr. George Fuller was elected to the Oakley City Council in November 2024 to represent City Council District Five.

On December 9, 2025, the City Council adopted a resolution establishing the schedule of regular City Council meetings for calendar year 2026. Consistent with the City's historical practice of reducing the frequency of meetings during the summer months, the resolution established only one regular City Council meeting for each of June, July, and August 2026. These meetings were scheduled for June 9, July 14, and August 11, 2026, respectively.

According to the official minutes of the City Council meetings, Dr. Fuller attended the June 9, 2026 regular meeting. However, he was absent from both the July 14, 2026 and August 11, 2026 regular meetings. There is nothing in the record of the Council's proceedings to show Dr. Fuller requested or obtained permission from the City Council for either absence.

The same is true of the first regular City Council meeting in September, held on September 8, 2026. The minutes for that meeting indicate Dr. Fuller was absent and there is nothing in the Council record of him having requested or obtained permission for his absence.

California Government Code section 36513 establishes the circumstances under which a city councilmember's office becomes vacant because of consecutive absences from regular City Council meetings without permission. Subdivision (a) generally provides for a vacancy following 60 consecutive days of such absences. However, subdivision (b) establishes a 70-day period when a city council meets monthly or less frequently.

Because the City Council's adopted meeting schedule provided for only one regular meeting per month during June, July, and August 2026, the longer, 70-day period established by Government Code section 36513, subdivision (b), likely applies. That period commenced on June 10, 2026, the day after the last regular City Council

meeting Dr. Fuller attended during the summer months, and concluded on August 19, 2026 (i.e., 70 days from June 10, 2026).

Because Dr. Fuller did not attend either of the two regularly scheduled City Council meetings, and because there is nothing in the Council's record indicating he requested or obtained permission for his absences, the City Council may confirm whether, under section 36513, subdivision (b), the office of City Council District Five became vacant by operation of law on August 19, 2026.

If the City Council adopts the attached draft resolution, the resolution would formally confirm the vacancy and direct the City Clerk to provide the notifications required by law and to coordinate the process for filling the vacancy in accordance with the Oakley Municipal Code. The vacancy, if confirmed, could be filled by appointment or through a special election.

Analysis

The application of Government Code section 36513 to a councilmember's unexcused absences has been addressed in two published opinions of the California Attorney General involving circumstances similar to those here. Although Attorney General opinions are advisory and are not binding judicial precedent, both opinions recognize that substantial legal and factual questions may arise when determining whether a councilmember has vacated office because of absences without permission.

In *City of Bell Gardens* (2017) 100 Ops.Cal.Atty.Gen. 26, the Attorney General considered whether a councilmember had forfeited her office after missing three consecutive regular meetings without obtaining permission from the City Council. Although the councilmember asserted that her absences were justified by medical circumstances, the City maintained that she had never requested permission to be absent. The Attorney General observed that the meaning of "permission" under Government Code section 36513 had not been clarified by the statute, the city's municipal code, or judicial decisions. The Attorney General concluded that the circumstances presented "substantial questions of law and fact" concerning whether the councilmember had vacated her office.

Similarly, in *City of Moreno Valley* (2023) Cal. Atty. Gen. Opn. No. 22-1002, the Attorney General considered whether a councilmember had forfeited his office after missing regular meetings over a period exceeding 70 days, including a period during which the City Council observed a summer recess. The councilmember contended that his absences were justified and that he had provided advance notice to the City Manager. The Attorney General again recognized that neither Government Code section 36513 nor the case law defined the phrase "absent without permission." The Attorney General concluded that substantial questions existed concerning whether the

absences were excused, what procedures were necessary to obtain permission, and how the statutory attendance requirements applied during a summer recess.

The circumstances involving Dr. Fuller appear to have similarities to those of both Attorney General opinions. As in those matters, the official City Council minutes establish that Dr. Fuller failed to attend regularly scheduled meetings during the applicable statutory period. Moreover, as in *Moreno Valley*, the absences occurred during a reduced summer meeting schedule, likely implicating the longer, 70-day period established by Government Code section 36513, subdivision (b).

While neither Attorney General opinion conclusively resolves the legal questions presented here, both recognize that the forfeiture provisions of Government Code section 36513 may apply in comparable circumstances and that substantial questions concerning the interpretation and application of the statute deserve careful consideration.

Importantly, the Attorney General has also recognized that the City Council itself possesses primary authority to determine whether a vacancy exists in the office of one of its members, as made clear in Government Code sections 36512[1] and 36812[2], although that authority is subject to judicial review. (*City of Bell Gardens* (2017) 100 Ops.Cal.Atty.Gen. 26, fn. 3; see also *Klose v. Superior Court in and for San Mateo County* (1950) 96 Cal.App.2d 913, 922 [after city council investigated whether councilmember was a resident of the city, it found no vacancy in the councilmember's office.])

Fiscal Impact

There is no immediate fiscal impact associated with the consideration of this item. Should the City Council office for District Five be declared vacant, however, one option for filling the vacancy (or if no appointment is made) would be filling the vacancy by special election. The City could incur significant costs for the County's administration of such an election, but this Office does not have an estimate of such costs as of this writing.

Staff Recommendation

The City Council should consider the adoption of the draft resolution confirming the Office of City Council member for District Five has become vacant.

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[1] Section 36512, subdivision (b) vests the power to fill a vacancy in the city council, providing the options of filling the vacancy by appointment or calling a special election.

[2] The relevant portion of Section 36812 states, "the city council is judge of the qualifications of its members and of election returns."

Attachments

1. Draft Resolution Declaring Vacancy in Council District Five

RESOLUTION NO. XX-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONFIRMING A VACANCY IN THE OFFICE OF THE CITY COUNCIL FOR CITY COUNCIL DISTRICT FIVE AND DIRECTING THE CITY CLERK TO PROVIDE THE NOTIFICATIONS OF VACANCY REQUIRED BY LAW AND TO COORDINATE THE FILLING OF THE VACANT OFFICE

WHEREAS, Dr. George Fuller was elected to serve as a member of the Oakley City Council in the November 2024 General Election; Dr. Fuller was elected to represent City Council District Five; and

WHEREAS, on December 9, 2025, the City Council adopted Resolution No. __-25 establishing the dates of the regular meetings of the City Council for 2026 ("Meeting Resolution"); and

WHEREAS, consistent with past practices for City Council meetings during the summer months, the Meeting Resolution implemented a reduced meeting schedule for June, July, and August; during these months, only one regular City Council meeting was declared as a regular meeting for each month; the meetings for these months were held on June 9, July 14, and August 11, 2026, respectively; and

WHEREAS, the Minutes from the June 9, 2026 regular City Council meeting confirm Dr. Fuller was present during the single meeting held in June 2026; and

WHEREAS, as reflected in the Minutes of the July 14, 2026 and August 11, 2026 regular City Council meetings, however, Dr. Fuller was absent from the regular City Council meetings held in July and August, 2026; and

WHEREAS, the Minutes for the September 8, 2026 regular City Council meeting also indicate Dr. Fuller did not attend that meeting; and

WHEREAS, California Government Code section 36513, subdivision (a) provides, "If a city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy"; and

WHEREAS, California Government Code section 36513, subdivision (b) provides, "Notwithstanding subdivision (a), if a city council meets monthly or less frequently than monthly and a city councilmember is absent without permission from all regular city council meetings for 70 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy"; and

WHEREAS, because the Meeting Resolution provided that only one regular meeting was held in June, July, and August, 2026, Dr. Fuller's meeting attendance during those months was likely governed by subdivision (b) of Government Code section 36513; this subdivision precluded him from being absent without permission for the regular City Council meetings for 70 days consecutively from the date of the last regular meeting he attended; and

WHEREAS, because the official Minutes of the City Council's regular meetings indicate that Dr. Fuller attended the June 9, 2026 regular meeting, the 70-day period provided in subdivision (b) of Government Code section 36513 commenced the next day from that date (i.e., June 10, 2026) and ended on August 19, 2026; and

WHEREAS, during this 70-day period between June 10, 2026 and August 19, 2026, Dr. Fuller did not attend either of the regular City Council meetings for the months of July and August, 2026; and

WHEREAS, Dr. Fuller also did not request or obtain permission for his absences from either of these regular City Council meetings; and

WHEREAS, Dr. Fuller further did not request or obtain permission for his absence from the September 8, 2026 regular City Council meeting; and

WHEREAS, because Dr. Fuller did not request or obtain such permission for his absences from the regular July and August, 2026 meetings, or for the first regular meeting in September 2026, his absences from these meetings were without permission.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that finds that pursuant to California Government Code section 36513, subdivision (b), the office of the City Council for District Five became vacant on August 19, 2026 and remains vacant because of Dr. Fuller's absences without permission from the July 14, 2026 and August 11, 2026 regular City Council meetings; and

BE IT FURTHER RESOLVED that the City Council of the City of Oakley directs the City Clerk to take such actions as are necessary to provide notifications required by law of the vacancy in the District Five office and to coordinate the filling of the vacancy in accordance with the Oakley Municipal Code.

PASSED AND ADOPTED by the City Council of the City of Oakley this 27th day of October 2026 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Hugh Henderson, Mayor

ATTEST:

_____
Kim Snodgrass, City Clerk