

3013



Contra Costa County

TO: BOARD OF SUPERVISORS
FROM: John Cullen, County Administrator
DATE: July 8, 2008

SUBJECT: UPDATE REGARDING EAST CONTRA COSTA FIRE PROTECTION DISTRICT

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION:

1. RECEIVE update regarding governance structure changes;
2. ACKNOWLEDGE service level improvements as a result of consolidation;
3. ACKNOWLEDGE that aggressive growth in the far east County has resulted in a demand for additional service level improvements, and;
4. DIRECT District III and V Supervisors to continue working with the County Administrator, staff, and Acting Fire Chief to develop a plan for increasing service levels and improving community and fire suppression personnel safety and to report back to the Board of Supervisors.

FISCAL IMPACT:

There is no fiscal impact. This is a status report.

BACKGROUND:

Governance Structure

On February 12, 2008, the East Contra Costa Fire Protection District's Board of Directors, the City of Brentwood, and the City of Oakley approved resolutions proposing a change in the governing structure of the District from an appointed board of directors comprised of the Contra Costa Board of Supervisors to a board comprised of district resident directors appointed by the cities of Brentwood and Oakley, and the County of Contra Costa.

The County Board of Supervisors' Resolution 2008-89 (Attachment A), became effective

CONTINUED ON ATTACHMENT: YES NO SIGNATURE: *[Signature]*

RECOMMENDATION OF COUNTY ADMINISTRATOR APPROVE OTHER RECOMMENDATION OF BOARD COMMITTEE

SIGNATURE(S): _____

ACTION OF BOARD ON July 8 2008 APPROVED AS RECOMMENDED OTHER

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT none)

AYES: _____ NOES: _____

ABSENT: _____ ABSTAIN: _____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

Contact: Rich Seithel (335-1024)
cc: County Counsel
County Administration
East Contra Costa FPD

ATTESTED July 8 2008
JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISORS

BY: *[Signature]*, DEPUTY

immediately and does not expire. However, the Board was unable to proceed with a final governance change because of an inconsistency between the resolutions that were adopted by Brentwood (Resolution 2008-31 Attachment B) and Oakley (Resolution 12-08 Attachment C) on February 12, 2008.

Under the Fire Protection District Law of 1987, the current District Board cannot adopt a resolution changing the governing structure until both cities have adopted resolutions consenting to the change. Section 3 of Brentwood's resolution provided that Brentwood's consent be effective immediately but expire 60 days from February 12. (The 60 day authorization limit was set by Brentwood as a means to quicken final actions). Section 4 of Oakley's resolution provided that Oakley's consent not be effective until 60 days after February 12. (The 60 day pause period was set by Oakley as a means to negotiate desired property transfers). In reality, Brentwood's consent to the new governing board would expire at the same time Oakley's consent to the new board would become effective. Unless both cities are in consent at the same time to the new governing board, the current District Board cannot consider adopting a resolution establishing the new governing board.

Subsequently, the following actions occurred:

1. The Brentwood City Council, on April 8, 2008, extended their timeline to May 27 (Resolution 2008-84 – Attachment D);
2. The Oakley City Council, on April 8, 2008, extended their timeline to May 15 (Resolution 30-08 Attachment E);
3. The Oakley City Council, on May 13, 2008, rescinded their resolution (Resolution 47-08 Attachment F), and;
4. The Brentwood City Council, on May 27, 2008, proclaimed that their resolution expired. Furthermore, the Council accepted an informational report on the procedure for detaching the City of Brentwood from East Contra Costa Fire Protection District and to annex into Contra Costa County Fire Protection District. The Council also received information regarding LAFCO's application procedure for reorganizations. The Council directed staff to move forward in applying to LAFCO for a reorganization (Attachment G pgs. 6-8).

At this point, given Oakley's opposition and Brentwood's direction, an appointed Board of Directors is not probable. However, other options are available under the Fire Protection District Law. In summary of the July 19, 2007 memo from County Counsel on this subject (Attachment H), our governance options are:

- Elected Board of Directors – Board of Directors may be elected by a majority of voters in the district. This option first requires a ballot measure seeking the approval of an Elected Board of Directors, followed by an actual election of candidates at the next regular general election. All current responsibilities of the Board of Supervisors as East Contra Costa Fire Protection District would transfer to the newly elected Board.
- Fire Commission – A Fire Commission may be appointed by the Board of Supervisors as East Contra Costa Fire Protection District. Any and all of the Boards' powers can be delegated to the Fire Commission. The powers of the Fire Commission can include the ability to acquire property, appoint employees, enter into contracts, establish and enforce rules, etc.
- Status Quo – The Board of Supervisors continues as the Board of Directors and does not delegate any authority or powers and the District continues as a separate legal entity.

Consolidation and Service Levels

Prior to consolidation in 2002, the far east County service level was best described as rural. There was a heavy reliance on paid-on-call firefighters and a mixture of paid and volunteer management staff. Geographical boundaries between the three former Districts were firm and a regional approach to emergency calls was problematic. In addition, this service configuration was becoming compromised due to the changing nature of far east County from rural to a suburban community. However, following the consolidation of the three districts into the East Contra Costa Fire Protection District, significant improvements in service delivery have been made over the past four years.

Following is a table outlining the pre- and post-consolidation staffing comparisons: or

Stations	# of Career Station Safety Personnel		Increase
	Pre-Consolidation	Post-Consolidation	
Bethel Island #95	0	6	6
Oakley #93	0	6	6
Brentwood #54	6	6	0
Brentwood #52	6	6	0
Discovery Bay #58	6	6	0
Discovery Bay #59	6	6	0
Byron #57	6	6	0
Knightsen #94	0	6	6
Marsh Creek Station #51 ¹	6	9	3
Total Station Personnel	36	57	21

¹ Marsh Creek Station reflects the "Amador Contract" between the District and Cal-Fire. During this time the District also received an additional 2 AMR quick-response vehicles for a total of 3; and saw a reduction in management staff from 3 Fire Chiefs to 1.

It was estimated in the "2001 Davis Report: Evaluation of Fire Services and Financing Far-East Contra Costa County Fire Protection Districts" that population in year 2000 for the subject area was 82,020. It was recently estimated that population is now approximately 97,400. This 15,380 increase in residents represent an approximate 19% growth in population.

It was also estimated in the 2001 Davis Report that the combined District call volume was approximately 4,103. Statistics provided by Contra Costa County Fire Protection District's Dispatch Center indicate that there were approximately 5,775 calls in year 2007. This represents an increase of 1,672 calls or approximately 41%.

The Fire District's 2008-09 budget estimates revenue at \$12,884,613 and expenditures at \$12,346,311 (which includes an assumed 6% assessed value and growth rate), forecasts a year end balance of approximately \$538,302. The District has experienced several years of exceptional revenue growth within Far East County and now has a 2007-08 reserve fund balance of approximately \$6 million. However, with the current housing market crisis, our near future revenue growth will decline.

The Fire District strives to provide increased services for our many communities, and improve safety for fire suppression personnel. We have developed paid two man crews versus volunteer staffing at all fire stations. In the past two years, the District has replaced three fire engines; however, there is still a need to replace, at minimum, two more engines in the near future. Additionally, the District has determined the necessity to remodel four of our current stations that were not originally built to house personnel for 24/7 operations. We are also actively developing options for evolving to three man crews in high call volume areas as revenue would allow.

The call volume increase is representative of the transformation of the Far East County. Moving from a rural to a suburban community has resulted in more senior housing, apartment complexes, retail establishments, traffic volume, as well as, the continuing seasonal recreational use of the Delta.

Next Steps

The District 3 and 5 Supervisors, the County Administrator, and the District have worked closely with the communities within the East Contra Costa Fire Protection District to identify needs and steps to provide improved service levels. Given that an appointed Board of Directors (that would have provided local decision making for service level improvements) is not probable, the Board of Supervisors as East Contra Costa Fire Protection District will continue to initiate service improvements. Therefore, it is recommended that the District III and V Supervisors continue working with the County Administrator, staff, and Acting Fire Chief to develop a plan and budget for increasing service levels and improving community and fire suppression personnel safety and return to the District Board with specific action recommendations.

RESOLUTION NO. 2008/89

A RESOLUTION OF THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS consenting to a change in the governing structure of the East Contra Costa Fire Protection District from an appointed board of directors comprised of the Contra Costa County Board of Supervisors to a board comprised of directors appointed by the cities of Brentwood and Oakley and the County of Contra Costa.

Recitals

- A. On June 4, 2002, pursuant to Resolution No. 2002/358, the Contra Costa County Board of Supervisors approved an application to the Local Area Formation Commission of Contra Costa County ("LAFCO") to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into a single fire protection district called the "East Contra Costa Fire Protection District" and to dissolve the Oakley, Bethel Island, and East Diablo Fire Protection Districts, effective September 12, 2002.
- B. On August 14, 2002, pursuant to Resolution No. 02-24, LAFCO approved Contra Costa County's application to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into the East Contra Costa Fire Protection District (the "District").
- C. The District is an independent public agency organized, existing, and exercising essential government functions pursuant to the Fire Protection District Law of 1987 (Health and Safety Code sections 13800 through 13970).
- D. The District consists of unincorporated Contra Costa County territory and the territory of the cities of Brentwood and Oakley.
- E. In a fire protection district that contains unincorporated county territory and the territory of one or more cities, the Fire Protection District Law of 1987 authorizes two types of appointed boards of directors.
- F. One type of appointed board of directors can be comprised of only a county board of supervisors. (Health and Saf. Code, § 13837(b).) Pursuant to LAFCO Resolution No. 02-24, the Contra Costa County Board of Supervisors is currently the appointed District Board of Directors.
- G. Alternatively, an appointed board of directors can be comprised of directors appointed by a county board of supervisors and directors appointed by each city council located within district boundaries. (Health and Saf. Code, § 13837(a).) Under this structure, each entity's governing board appoints directors according to each entity's proportionate share of population. This type of appointed board requires each entity to appoint at least one

director to the board. The governing board of each entity can appoint its own members as directors, as long as each appointed director lives within the boundaries of the fire protection district.

- H. A change in the District board governing structure to a board consisting of directors appointed by the City Councils of Brentwood and Oakley and the Contra Costa County Board of Supervisors will not occur unless both city councils and the board of supervisors consent to the change.
- I. The County currently provides substantial administrative support to the District. The County Board of Supervisors affirms that no later than six months following the first meeting of the new District governing board, all administrative services will be provided at the sole cost and expense of the District and will no longer be provided by the County. The County Board of Supervisors further affirms that the District will not be funded by the general fund of the County.
- J. The change in the District's governing structure that the County Board of Supervisors consents to will not change the legal status of the East Contra Costa Fire Protection District as an independent public agency organized, existing, and exercising essential government functions pursuant to the Fire Protection District Law of 1987. This change in the District's governing structure will have no effect on any conditions of employment of any District employee and will have no effect on any of the District's assets, rights or liabilities.

NOW, THEREFORE, the Contra Costa County Board of Supervisors resolves as follows:

- 1. The Board of Supervisors consents to the following changes in the structure and composition of the District Board of Directors:
 - a. The Board of Directors of the East Contra Costa Fire Protection District will be comprised of nine directors.
 - b. The members of the Board of Directors of the East Contra Costa Fire Protection District will henceforth be appointed by the City Council of the City of Brentwood, the City Council of the City of Oakley, and the Board of Supervisors of the County of Contra Costa.
 - c. The Brentwood City Council will appoint four directors. The Oakley City Council will appoint three directors. The Contra Costa County Board of Supervisors will appoint two directors.
 - d. The Brentwood City Council, the Oakley City Council, and the Contra Costa

County Board of Supervisors may appoint its own members as directors, provided the members are otherwise eligible to serve on the District Board of Directors.

- e. Each director must be a resident of the District.
 - f. The term of office of each director will be four years or until his or her successor qualifies and takes office. Appointed directors will serve at the pleasure of their respective appointing authority and may be removed with or without cause upon a majority vote of the members of the appointing authority or if the director is no longer eligible to serve on the District Board of Directors.
 - g. Within 60 days of their initial appointment, the new District Board of Directors will meet and elect its officers at its first meeting. The officers of the District board will be a president, a vice president and a secretary or clerk. The secretary or clerk may be a member of the District board, or the District board may employ a clerk to perform the duties of the secretary. The District board may create additional officers and elect directors to those positions, provided that no District director may hold more than one office.
 - h. Any subsequent vacancy on the District Board of Directors will be filled by the appointing authority within 90 days of the vacancy.
 - i. Because the number of directors is based on the number of people residing in each participating jurisdiction, the 2010 United States Census and each Census thereafter will be the basis for future population determinations. Within 180 days of the issuance of Census numbers, the District Board of Directors will consider the numbers and if necessary reconstitute director composition to account for proportional population changes.
 - j. The change in the District's governing structure is to become effective 60 days after the date of adoption of the resolution implementing the change. After that date, the Board of Supervisors will no longer be the District Board of Directors.
2. The Board of Supervisors urges the appointed District Board of Directors to consider adopting a resolution, pursuant to Health and Safety Code section 13848, that would allow voters to determine whether the Board of Directors should be comprised of members elected directly by the public.
 3. The Board of Supervisors urges the appointed District Board of Directors to ensure, to the extent practicable, that the level of service in each community located within the District

will continue to be equivalent to the level existing in that community at the time the District governing structure is changed, and to take steps to improve service levels throughout the District.

PASSED AND ADOPTED on February 12 2008 by the following vote:

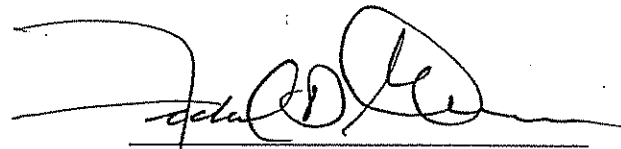
AYES: Giocia, Vilhena, Piepho, Borilla & Glover

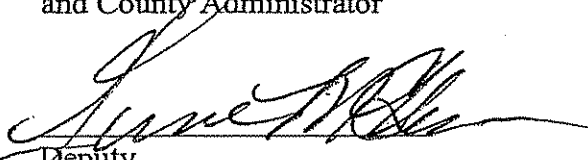
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

ATTEST: JOHN CULLEN
Clerk of the Board of Supervisors
and County Administrator


Board Chair

By: 
Deputy

[SEAL]

TLG:
H:\2008\ECCFPD\BOS consent resolution - final3.wpd

RESOLUTION NO. 2008-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD CONSENTING TO THE CREATION OF A NEW DISTRICT GOVERNING BOARD FOR THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT BASED ON PROPORTIONAL REPRESENTATION OF UNINCORPORATED PORTIONS OF THE COUNTY OF CONTRA COSTA, THE CITY OF BRENTWOOD AND THE CITY OF OAKLEY POPULATIONS; REQUESTING THAT THE EXISTING DISTRICT GOVERNING BOARD ADOPT THE NECESSARY RESOLUTIONS TO EFFECTUATE THE GOVERNING BOARD CHANGES TO PROVIDE FOR PROPORTIONAL POPULATION REPRESENTATION, METHOD OF APPOINTMENT, DIRECTOR QUALIFICATIONS VACANCIES AND ELECTION OF OFFICERS

WHEREAS, on June 4, 2002, the Contra Costa County ("County") Board of Supervisors by Resolution No. 2002/358 approved an application to the Local Area Formation Commission of Contra Costa County ("LAFCO") to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into a single fire protection district called the "East Contra Costa Fire Protection District" (the "District") and to dissolve the Oakley, Bethel Island, and East Diablo Fire Protection Districts, effective September 12, 2002; and

WHEREAS, on August 14, 2002, by Resolution 02-24, LAFCO approved the County application to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into the District; and

WHEREAS, the District is an independent public agency organized, existing and exercising essential government functions pursuant to the Fire Protection District Law of 1987 (Health and Safety Code sections 13800 through 13970) ("FPDL"); and

WHEREAS, the District consists of unincorporated Contra Costa County territory and the territory of the City of Brentwood ("Brentwood") and the City of Oakley ("Oakley"); and

WHEREAS, in a fire protection district that contains unincorporated county territory and the territory of one or more cities, the FPDL authorizes two types of appointed boards of directors; and

WHEREAS, one type of appointed board of directors can be comprised of only a county board of supervisors. (Health and Saf. Code, § 13837(b).) Pursuant to LAFCO Resolution No. 02-24, the County Board of Supervisors is currently the appointed District Board of Directors; and

WHEREAS, alternatively, an appointed board of directors can be comprised of directors appointed by a county board of supervisors and directors appointed by each city council located within district boundaries. (Health and Saf. Code, 13837(a).) Under this structure, each entity's governing board appoints directors according to each entity's proportionate share of population. This type of appointed board requires each entity to appoint at least one director to the board. The governing board of each entity can appoint its own members as directors, as long as each appointed director lives within the boundaries of the fire protection district; and

WHEREAS, the District, County, Brentwood and Oakley desire to change the District board governing structure and how District board members are appointed so as to provide

proportional population representation for the County, Brentwood and Oakley pursuant to State Health and Safety Code § 13800 et seq; and

WHEREAS, representatives of the City Councils of Brentwood and Oakley and the County Board of Supervisors have met and reached agreement on the structure and composition of the District Board of Directors from a board comprised of the County Board of Supervisors to a board comprised of directors appointed by Brentwood, Oakley, and the County; and

WHEREAS, Brentwood, Oakley and the County affirm that the District will not be funded by the general funds of the County, Brentwood or Oakley; and

WHEREAS, it is the intent of the three agencies that the new District governing board will be effective within sixty (60) days of the District governing board adopting the implementing resolution; and

WHEREAS, it is the intent of the three agencies to complete the transition, from the County providing District administrative support to the new District governing board providing District administrative support, within 6 (six) months of the first meeting of the new District governing board; and

WHEREAS, it is the intent of the three agencies to consider the option of a separately elected board of directors in the future; and

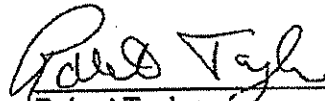
WHEREAS, the change in the District's governing structure will not change the legal status of the District as an independent public agency, organized, existing, and exercising essential government functions pursuant to the FFDL. This change in the District's governing structure will have no effect on any conditions of employment of any District employee and will have no effect on any of the District's assets, rights or liabilities.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Brentwood:

1. Consents to the creation of a new District governing board as set forth in the attached Exhibit "A" which is incorporated herein by this reference.
2. Requests that the District adopt the necessary resolutions to effectuate the changes set forth in Exhibit "A."
3. Determines that in the event that Oakley, the County or District does not, within sixty (60) days of the adoption of this Resolution, adopt resolutions amending the structure of the District governing board in the manner described herein, this Resolution will be automatically repealed with no further action of this Council.

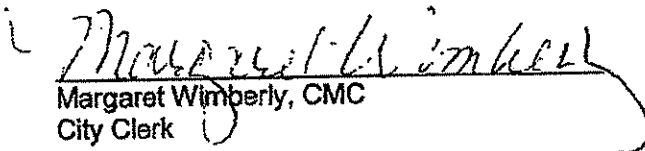
PASSED, APPROVED AND ADOPTED by the City Council of the City of Brentwood at a regular meeting held on the 12th day of February 2008 by the following vote:

AYES: Bechel, Brockman, Richey, Stonebarger, Taylor
NOES: None
ABSENT: None
ABSTAIN: None



Robert Taylor
Mayor

ATTEST:



Margaret Wimberly, CMC
City Clerk

EXHIBIT "A"
EAST CONTRA COSTA FIRE PROTECTION DISTRICT GOVERNING BOARD

(The following is based on Health and Safety Code Sections 13800 et. seq. Fire Protection District Law of 1987 and unless otherwise stated all citations are to the Health and Safety Code)

1. Total Number of District board members: 9 (§ 13842)
2. Director Composition:

City of Brentwood:	4
City of Oakley:	3
Contra Costa County:	2
3. Method of Appointment.
 District board members will be appointed by the City Council of Brentwood, the City Council of Oakley, and the Board of Supervisors of the County.
4. Method of Determining Populations of Member Cities and Unincorporated Areas of the County.
 The 2010 United States Census and each Census thereafter will be the basis for future population determinations. Within 180 days of the issuance of Census numbers, the District board will consider the numbers and if necessary reconstitute Director composition to account for proportional population changes.
5. Director Qualifications.
 Each director shall be a resident of the District (§ 13841)
6. Term of Office (§ 13843; Election Code § 10507).
 The term of office of each director will be four years or until his or her successor qualifies and takes office. Appointed directors will serve at the pleasure of their respective appointing authority and may be removed with or without cause upon a majority vote of the members of the appointing authority or if the director is no longer eligible to serve on the District board.
7. Vacancies.
 A vacancy on the District board shall be filled by the appointing authority within 90 days of the vacancy. (§ 13852; Election Code § 1779)
8. Election of Officers (§ 13853).
 Within 60 days after their initial appointment, the new District board will meet and elect its officers. The officers of the District board shall be a president, vice president and a secretary or clerk. The secretary or clerk may be a member of the District board, or the District board may employ a clerk to perform the duties of the secretary. The District board may create additional officers and elect directors to those positions, provided that no District director may hold more than one office.

RESOLUTION NO. 12-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONSENTING TO THE CREATION OF A NEW DISTRICT GOVERNING BOARD FOR THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT BASED ON PROPORTIONAL REPRESENTATION OF UNINCORPORATED PORTIONS OF THE COUNTY OF CONTRA COSTA, THE CITY OF OAKLEY AND THE CITY OF BRENTWOOD POPULATIONS; REQUESTING THAT THE EXISTING DISTRICT GOVERNING BOARD ADOPT THE NECESSARY RESOLUTIONS TO EFFECTUATE THE GOVERNING BOARD CHANGES TO PROVIDE FOR PROPORTIONAL POPULATION REPRESENTATION, METHOD OF APPOINTMENT, DIRECTOR QUALIFICATIONS VACANCIES AND ELECTION OF OFFICERS

WHEREAS, on June 4, 2002, the Contra Costa County ("County") Board of Supervisors by Resolution No. 2002/358 approved an application to the Local Area Formation Commission of Contra Costa County ("LAFCO") to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into a single fire protection district called the "East Contra Costa Fire Protection District" (the "District") and to dissolve the Oakley, Bethel Island, and East Diablo Fire Protection Districts, effective September 12, 2002; and

WHEREAS, on August 14, 2002, by Resolution 02-24, LAFCO approved the County application to consolidate the Oakley, Bethel Island, and East Diablo Fire Protection Districts into the District; and

WHEREAS, the District is an independent public agency organized, existing and exercising essential government functions pursuant to the Fire Protection District Law of 1987 (Health and Safety Code sections 13800 through 13970) ("FPDL"); and

WHEREAS, the District consists of unincorporated Contra Costa County territory and the territory of the City of Oakley ("Oakley") and the City of Brentwood ("Brentwood"); and

WHEREAS, in a fire protection district that contains unincorporated county territory and the territory of one or more cities, the FPDL authorizes two types of appointed boards of directors; and

WHEREAS, one type of appointed board of directors can be comprised of only a county board of supervisors. (Health and Saf. Code, § 13837(b).) Pursuant to LAFCO Resolution No. 02-24, the County Board of Supervisors is currently the appointed District Board of Directors; and

WHEREAS, alternatively, an appointed board of directors can be comprised of directors appointed by a county board of supervisors and directors appointed by each city council located within district boundaries. (Health and Saf. Code, 13837(a).)

Under this structure, each entity's governing board appoints directors according to each entity's proportionate share of population. This type of appointed board requires each entity to appoint at least one director to the board. The governing board of each entity can appoint its own members as directors, as long as each appointed director lives within the boundaries of the fire protection district; and

WHEREAS, the District, County, Brentwood and Oakley desire to change the District board governing structure and how District board members are appointed so as to provide proportional population representation for the County, Brentwood and Oakley pursuant to State Health and Safety Code § 13800 et seq; and

WHEREAS, representatives of the City Councils of Brentwood and Oakley and the County Board of Supervisors have evaluated changing the structure and composition of the District Board of Directors from a board comprised of the County Board of Supervisors to a board comprised of directors appointed by Brentwood, Oakley, and the County; and

WHEREAS, Oakley, Brentwood and the County affirm that the District will not be funded by the general funds of the County, Oakley or Brentwood; and

WHEREAS, it is the intent of the three agencies that the new District governing board will be effective within sixty (60) days of the District governing board adopting the implementing resolution; and

WHEREAS, it is the intent of the three agencies to complete the transition, from the County providing District administrative support to the new District governing board providing District administrative support, within 6 (six) months of the first meeting of the new District governing board; and

WHEREAS, it is the intent of the three agencies to consider the option of a separately elected board of directors in the future; and

WHEREAS, the change in the District's governing structure will not change the legal status of the District as an independent public agency, organized, existing, and exercising essential government functions pursuant to the FPD. This modification in the District's governing structure will not change the current collective bargaining agreement or any of the District's assets, rights or liabilities.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Oakley:

1. Consents to the creation of a new District governing board as set forth in the attached Exhibit "A" which is incorporated herein by this reference.
2. Requests that the District adopt the necessary resolutions to effectuate the changes set forth in Exhibit "A."

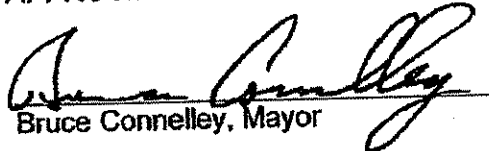
3. Determines that in the event that Brentwood, the County or District does not, within sixty (60) days of the adoption of this Resolution, adopt resolutions amending the structure of the District governing board in the manner described herein, this Resolution will be automatically repealed with no further action of this Council.

4. This resolution and the City's consent to the creation of the new District governing board shall not be effective until 60 days after the date of its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 12th day of February 2008, by Councilmember Romick, who moved its adoption, which motion being duly seconded by Councilmember Anderson, was upon voice vote carried and the resolution adopted by the following vote:

AYES:	Anderson, Connelley, Romick
NOES:	Nix, Rios
ABSTENTIONS:	None
ABSENT:	None

APPROVED:


Bruce Connelley, Mayor

ATTEST:


Nancy Ortenblad, City Clerk

EXHIBIT "A"
EAST CONTRA COSTA FIRE PROTECTION DISTRICT GOVERNING BOARD

(The following is based on Health and Safety Code Sections 13800 et. seq. Fire Protection District Law of 1987 and unless otherwise stated all citations are to the Health and Safety Code)

1. **Total Number of District board members:** 9 (§ 13842)

2. **Director Composition:**

City of Brentwood:	4
City of Oakley:	3
Contra Costa County:	2

3. **Method of Appointment.**

District board members will be appointed by the City Council of Brentwood, the City Council of Oakley, and the Board of Supervisors of the County.

4. **Method of Determining Populations of Member Cities and Unincorporated Areas of the County.**

The 2010 United States Census and each Census thereafter will be the basis for future population determinations. Within 180 days of the issuance of Census numbers, the District board will consider the numbers and, if necessary, reconstitute Director composition to account for proportional population changes.

5. **Director Qualifications.**

Each director shall be a resident of the District (§ 13841)

6. **Term of Office (§ 13843; Election Code § 10507).**

The term of office of each director will be four years or until his or her successor qualifies and takes office. Appointed directors will serve at the pleasure of their respective appointing authority and may be removed with or without cause upon a majority vote of the members of the appointing authority or if the director is no longer eligible to serve on the District board.

7. **Vacancies.**

A vacancy on the District board shall be filled by the appointing authority within 90 days of the vacancy. (§ 13852; Election Code § 1779)

8. **Election of Officers (§ 13853).**

Within 60 days after their initial appointment, the new District board will meet and elect its officers. The officers of the District board shall be a president, vice president and a secretary or clerk. The secretary or clerk may be a member of the District board, or the District board may employ a clerk to perform the duties of the secretary. The District board may create additional officers and elect directors to those positions, provided that no District director may hold more than one office.

RESOLUTION NO. 2008-84

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD
EXTENDING THE TIME LIMIT FOR THE EAST CONTRA COSTA FIRE PROTECTION
DISTRICT TO ADOPT A RESOLUTION AMENDING THE STRUCTURE OF ITS
GOVERNING BOARD**

WHEREAS, the City of Brentwood ("Brentwood"), the City of Oakley ("Oakley"), the County of Contra Costa ("County") and the East Contra Costa Fire Protection District ("District") desire to change the District board governing structure and how District board members are appointed so as to provide proportional population representation for the County, Brentwood and Oakley pursuant to State Health and Safety Code § 13800 et seq; and

WHEREAS, representatives of the City Councils of Brentwood and Oakley and the County Board of Supervisors have met and reached agreement on the structure and composition of the District Board of Directors from a board comprised of the County Board of Supervisors to a board comprised of directors appointed by Brentwood, Oakley, and the County; and

WHEREAS, Resolution No. 2008-31, adopted by the Brentwood City Council on February 12, 2008, provided for a sixty (60) day time limit in which Oakley, the County and the District were required to adopt resolutions amending the structure of the District governing board or Resolution No. 2008-31 would be automatically repealed; and

WHEREAS, the sixty (60) day time limit is to expire on or about April 12, 2008; and

WHEREAS, continuing discussions between the County and Oakley have delayed the District's adoption of a resolution amending the structure of the District governing board in the manner described herein; and

WHEREAS, in the interest of intergovernmental cooperation and a desire to ensure the long term success of the District, the City Council has agreed to extend the time limit for the District to adopt a resolution amending the structure of its governing board in the manner described herein for a period of forty-five days from April 12, 2008.

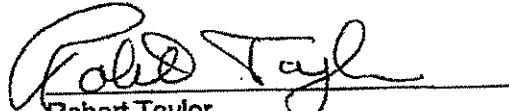
NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Brentwood hereby:

1. Amends Section 3 of Resolution 2008-31 in its entirety to read as follows:

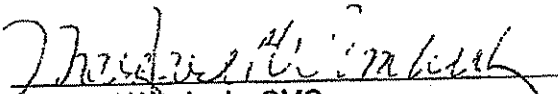
"3. Determines that in the event that Oakley, the County or District does not, within forty-five (45) days from April 12, 2008, adopt resolutions amending the structure of the District governing board in the manner described herein, this Resolution will be automatically repealed with no further action of this Council."

PASSED, APPROVED AND ADOPTED by the City Council of the City of Brentwood at a regular meeting held on the 8th day of April 2008 by the following vote:

AYES: Beanel, Brockman, Stonebarger, Taylor
NOES: Richey
ABSENT: None
ABSTAIN: None


Robert Taylor
Mayor

ATTEST:


Margaret Wimberly, CMC
City Clerk

RESOLUTION NO. 30-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY EXTENDING THE EFFECTIVE DATE OF RESOLUTION NO. 12-08 CONSENTING TO PROPOSED CHANGES TO THE GOVERNING BOARD FOR THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT

WHEREAS, the Oakley City Council adopted Resolution No. 12-08 on February 12, 2008 consenting to proposed changes to the governing board for the East Contra Costa Fire Protection District ("District"), a copy of which is attached hereto; and

WHEREAS, item #4 of Resolution No. 12-08 provided for an effective date 60 days from its adoption to allow time for discussions and resolution of various other pending matters involving Contra Costa County ("County"); and

WHEREAS, the County has yet to resolve these matters and has not accepted solutions proposed by the City; and

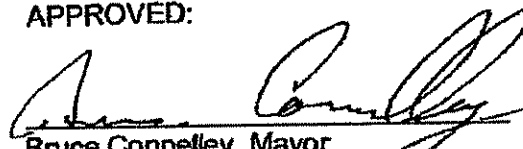
WHEREAS, the Oakley City Council remains hopeful that the County will resolve the pending matters in the near future.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the effective date of aforesaid Resolution No. 12-08, including the City Council's consent to the proposed changes to the governing board of the District, is hereby extended until May 15, 2008. The City Council further directs the City Manager to continue discussions with County and to present a proposed agreement on the pending matters at the May 13, 2008 City Council Meeting.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 8th day of April 2008, by Councilmember Romick, who moved its adoption, which motion being duly seconded by Mayor Connelley, was upon voice vote carried and the resolution adopted by the following vote:

AYES:	Anderson, Connelley, Romick
NOES:	Nix, Rios
ABSTENTIONS:	None
ABSENT:	None

APPROVED:


Bruce Connelley, Mayor

ATTEST:


Nancy Ortenblad, City Clerk

RESOLUTION NO. 47-08**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY RESCINDING RESOLUTIONS 12-08 AND 30-08 CONSENTING TO PROPOSED CHANGES TO THE GOVERNING BOARD FOR THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT**

WHEREAS, the Oakley City Council adopted Resolution No. 12-08 on February 12, 2008 consenting to proposed changes to the governing board for the East Contra Costa Fire Protection District ("District"), a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, Item #4 of Resolution No. 12-08 provided for an effective date 60 days from its adoption to allow time for discussions and resolution of various other pending matters involving Contra Costa County ("County"); and

WHEREAS, these pending matters were not resolved prior to the effective date of Resolution No. 12-08, the City Council further extended the effective date until May 15, 2008 by adopting Resolution 30-08, a copy of which is attached hereto as Exhibit "B"; and

WHEREAS, the Oakley City Council has determined that the pending matters with the County should be discussed separately from the Fire District matters addressed in Resolutions 12-08 and 30-08; and

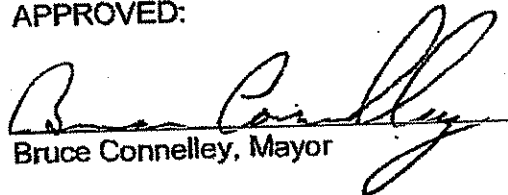
WHEREAS, the Oakley City Council has further determined that the governing board model for the Fire District proposed by Resolutions 12-08 and 30-08 is not in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the aforesaid Resolutions 12-08 and 30-08, including the City Council's consent to the proposed changes to the governing board of the District, are hereby rescinded.

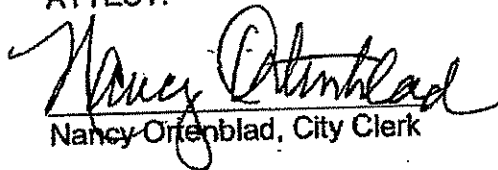
The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 13th day of May 2008, by Councilmember Nix, who moved its adoption, which motion being duly seconded by Councilmember Anderson, was upon voice vote carried and the resolution adopted by the following vote:

AYES:	Anderson, Nix, Rios, Romick
NOES:	Connelley
ABSTENTIONS:	None
ABSENT:	None

APPROVED:


Bruce Connelley, Mayor

ATTEST:


Nancy Ortenblad, City Clerk



**CITY OF BRENTWOOD
CITY COUNCIL AND
REDEVELOPMENT AGENCY
MEETING MINUTES
TUESDAY, 7:00 P.M.
MAY 27, 2008
COUNCIL CHAMBER**

Chris Becnel
Robert A. Brockman

Robert Taylor, Mayor

Brandon Richey
Erick Stonebarger

CALL TO ORDER CITY COUNCIL/REDEVELOPMENT AGENCY (07:02 PM)

Pledge of Allegiance (07:02 PM)

Roll Call (07:03 PM)

Present: Becnel; Brockman; Richey; Stonebarger; Taylor

PRESENTATIONS (07:03 PM)

- A. Recognize student winners of the City of Brentwood Youth Commission Scholarship. (C. Bronzan/B. Gary)

Park and Recreation Supervisor, Barbie Gary, introduced the following 2008 Youth Commission scholarship winners: Madison Trudell, Liberty High School, Jordan Dietrick, Liberty High School, and Matthew Brennaman, Liberty High School. Daniella Bay, Heritage High School, was not in attendance. Ms. Gary announced the Youth Commission fundraiser, Tour de Starbucks bike ride, May 31, 2008.

PUBLIC COMMENTS (07:06 PM)

Harry York, Chamber of Commerce, spoke about the Economic Summit and asked for Council support of AB 2168, which loosened standards for roadside farms and u-pick farms and stands.

Barbara Guise said Tri Delta Transit won Summit International Awards for creativity in the television and radio spot categories. The youth of the community could purchase a wrist band and travel all day on Tri Delta Transit for \$45 during the months of June through August.

Karen Kops, president of the Homeless Animals Response Program (H.A.R.P), honored Randy Bither and her staff at Doggie Depot. Randy had groomed many homeless animals and donated hours of service, which helped with adoptions. A certificate of appreciation was presented to Ms. Bither.

CONSENT CALENDAR (07:13 PM)

1. Approved minutes of the City Council/Redevelopment Agency meeting of May 13, 2008. (M. Wimberly)
2. Accepted a Proclamation recognizing June as National Safety Month. (K. Chew)
3. Adopted Resolution 2008-118 accepting the bid and approving the purchase of a 250-KW mobile power generator from California Diesel and Power; and authorizing the City Manager or her designee to execute a purchase order and necessary documents in an amount not to exceed \$92,492.33. (B. Grewal/ C. Ehlers/ E. Brennan)
4. Adopted Resolution 2008-119 authorizing the submittal of grant applications, for up to five years, to the California Integrated Waste Management Board for funding from the Targeted Rubberized Asphalt Concrete Incentive Grant Program and authorizing the City Manager or her designee to execute any and all documents necessary to secure grant funds for the Pavement Management

Program, CIP 336-30830. (B. Grewal/ C. Ehlers/ J. Gallegos)

5. Adopted Resolution 2008-120 approving and authorizing the City Manager or her designee to execute an amendment to the Professional Services Agreement and other related documents with Lone Tree Trucking for a total agreement amount not to exceed \$164,900 (\$72,000 for fiscal year 2007/08 and \$92,900 for fiscal year 2008/09). (B. Grewal/ C. Ehlers/ K. Vickers)
6. Adopted Resolution 2008-121 calling and giving notice of the holding of a general municipal election to be held on Tuesday, November 4, 2008, for the election of Mayor and two [2] Councilmember's; Adopted Resolution 2008-122 requesting the Board of Supervisors of the County of Contra Costa to consolidate the election and adopting regulations for candidates statements, and Adopted Resolution 2008-123 adopting Regulations for candidates for elective office pertaining to candidates statements submitted to the voters at an election (D. Landeros/M. Wimberly)
7. Adopted Resolution 2008-124 accepting the Sage Glen Estates Trail Improvements and the Lighting and Landscape District for Subdivision No. 8854, Castello Property, located at the northeast corner of Balfour Road and Fairview Avenue, by Western Pacific Housing, Inc. (C. Bronzan/R. Stromgren/L. Stadlbauer)
8. Adopted Resolution 2008-125 accepting the Siena Village Park Improvements for Subdivision No. 8953, Siena Village located at 301 Cortona Way by Siena Partners LLC. (C. Bronzan/R. Stromgren/L. Stadlbauer)
9. Adopted Resolution 2008-126 certifying that the City of Brentwood is in compliance with the Measure C Growth Management Program and authorizing the City Manager or designee to execute the Growth Management Checklist for calendar years 2006 and 2007 for allocation of Measure C Local Street Maintenance & Improvement funds. (B. Grewal/S. Kersevan)
10. Adopted Resolution 2008-127 approving the speed limits for sections of Walnut Boulevard and O'Hara Avenue within the City of Brentwood. (B. Grewal/S. Kersevan)
11. Adopted Resolution 2008-128 accepting public improvements for maintenance; accepting the Subdivision Maintenance Bond; and releasing the Subdivision Improvement Securities for Subdivision No. 8539, Casitas Del Sol, located at the northwest corner of Sycamore Avenue and Barbara Street developed by RHS Construction. (B. Grewal/D. Galey)
12. Adopted Resolution 2008-129 approving and authorizing the City Manager or designee to consent to an Assignment and Assumption Agreement between Suncrest Homes 25, LLC and Discovery Builders, Inc. to assign the Property Acquisition Agreement relating to Tentative Subdivision Map No. 8954, located south of Lone Tree Way and east of O'Hara Avenue. (B. Grewal/D. Galey)
13. Adopted Resolution 2008-130 approving the contract documents, awarding the bid and authorizing the City Manager or designee to execute a construction contract and necessary documents for the American Avenue Improvements, CIP Project No. 336-31681, with Granite Construction Company, in the Base Bid amount of \$110,995.00, plus Bid Alternate "A" in the amount of \$42,775.00, plus Bid Alternate "B" in the amount of \$53,708.00 for a bid total amount of \$207,478.00. (B. Grewal/P. Eldredge)
14. Adopted Resolution 2008-131 approving and authorizing the City Manager to sign the extension and revision to the 2003/2008 Memoranda of Understanding ("MOU") for the Brentwood Employee Associations - Public Works and Miscellaneous Office Divisions, as well as the Mid-Managers Group for one year with the option to extend by one additional year, and adopted Resolution 2008-132 to comply with the Internal Revenue Code Section 414(h)(2) regarding continued employer payment of the employee retirement contribution. (K. Chew/P. Standley)

15. Adopted Resolution 2008-133 accepting the O'Hara and Lone Tree landscape improvements in the common area for Steeplechase LLD, Subdivision No. 8674, located west of O'Hara Avenue between Neroly Road and Lone Tree Way by Richmond American Homes of California, Inc. (C. Bronzan/R. Stromgren/L. Stadlbauer)
16. Adopted Resolution 2008-134 accepting the work performed by Carrier Corporation Inc. for the Aquatic Complex Improvements Project, CIP Project No. 352-52403, and directing the City Clerk to file a Notice of Completion with County Recorder. (C. Bronzan/M. Azamey)
17. (1) Adopted Resolution 2008-135 adopting a Mitigated Negative Declaration; and (2) Adopted Resolution 2008-136 approving the appeal of and approving an amendment to the design review (DR 05-27) for the City Block retail center to allow for a left-in turn pocket for westbound traffic at the main Balfour Road entrance. The center is located at the southwest corner of the intersection of Griffith Lane and Balfour Road. (C. McCann/D. Hill)
18. Waived second reading and adopted Ordinance No. 859 for a Rezone (RZ 07-02) to add Chapter 17.740, Residential Condominium Conversions, to the Brentwood Municipal Code establishing criteria for condominium conversions of all multi-family residential projects with five (5) and more units within the City limits. (C. McCann/D. Hill)
19. Approved warrants from Warrant lists dated April 23, 2008; April 30, 2008 and May 07, 2008. (P. Ehler/L. Schelbert)

CONSENT CALENDAR ACTIONS (07:14 PM)

Motion: Approve Consent Calendar Items 1 - 19, with the modification to Item 13, as recommended.

Moved by Brockman, seconded by Stonebarger.

Vote: Motion carried 5-0.

Yes: Becnel; Brockman; Richey; Stonebarger; Taylor

PUBLIC HEARINGS (07:14 PM)

20. Adopted Resolution 2008-X 1) Adopting the Negative Declaration and 2) Adopting the 2008/09-2012/13 Capital Improvement Program. (P. Ehler/K. Breen)

Director of Finance and Information Systems, Pam Ehler, presented a staff report on the Capital Improvement Program (CIP) budget. The CIP budget had been taken to the Planning Commission on May 6, 2008, for compliance with the General Plan and review of the Negative Declaration. Staff was presenting for adoption the 2008/09 Fiscal year CIP budget and the remaining four years were placeholders for budgetary projections. All agreements and contracts over \$50,000 would come to Council for approval for each project.

Mayor Taylor opened the public hearing.

Motion: Close the public hearing.

Moved by Brockman, seconded by Richey.

Vote: Motion carried 5-0.

Yes: Becnel; Brockman; Richey; Stonebarger; Taylor

Council Member Richey encouraged staff to examine the CIP budget and remove unnecessary items due to budget cutbacks.

Council Member Stonebarger asked if the Community Facilities Districts (CFD's) were taxes that were currently being collected or was that something the City would bond for.

Director of Finance and Information Systems, Pam Ehler, said the CFD's were assessments the City was currently collecting every year.

Council Member Stonebarger expressed concerns about the use of the general fund for City Hall and redevelopment funds for the parking structure.

Council Member Richey agreed with Council Member Stonebarger.

Vice Mayor Brockman asked about San Jose Avenue and what would happen if the developer did not start developing there and if the City had funds available to pursue that item.

Director of Public Works/City Engineer, Bailey Grewal, said the westerly extension of San Jose Avenue would tie into Sand Creek Road and ten to twenty percent was reimbursable, otherwise it was the developer's responsibility. The City was working with the developer since there would be changes to their project on the timing and there was a development agreement with the City which would be brought to Council regarding timing, and when the improvements would be done.

Director of Finance and Information Systems, Pam Ehler, said with regard to the reimbursements, the credits given against the fees were given only at the time the permit was pulled.

Motion: Adopt Resolution 2008-137 1) Adopting the Negative Declaration and 2) Adopting the 2008/09-2012/13 Capital Improvement Program.

Moved by Brockman, seconded by Becnel.

Vote: Motion carried 4-1.

Yes: Becnel; Brockman; Richey; Taylor

No: Stonebarger

PUBLIC COMMENT (07:23 PM)

Michelle Myers, East Diablo Youth Soccer League (EDYSL), expressed concerns about Sunset field. She asked to have a turf, all-weather field installed that would bring tournaments to Sunset and visitors to the City.

The City Clerk read the title of Ordinance 859.

OLD BUSINESS (07:28 PM)

21. Accepted Management Partners Affordable Housing Obligations and Options Assessment Report; and authorize staff to begin pursuing Recommendations 1 through 7, or recommendations formulated by the Council, to promote financial sustainability of the City's Housing Administration Fund to continue its purpose to manage and oversee the programs and projects authorized by City's Affordable Housing Ordinance. (C. McCann/G. Rozenski)

Redevelopment Agency Manager, Gina Rozenski, presented a staff report regarding the management and operations of the City's housing programs, which were dependent on the collection of developer fees. In 2007, staff identified that the operational and administration costs to manage the Housing Program were financially unsustainable due to a slowdown in residential development. She introduced Andy Belknap, Management Partners.

Andy Belknap, Management Partners, presented an overview regarding sustainability and found the program was not financially sustainable at build out. He said initial recommendations included consolidation of the Housing Division and Redevelopment Agency. Objectives were to deliver housing that met the needs for all income levels, complied with State and local housing mandates and provided services in a cost effective manner. He spoke about the analysis, and said he felt there were more programs in the City than necessary. The City was above and beyond in implementing programs and a leader in the area of affordable housing. Development had paused and home values had declined, which resulted in a financial squeeze on the affordable housing programs and revenues which had been used to fund the program were not available. He offered recommendations that would align the City's Housing Program with current realities. He had looked at the affordable housing program in coordination with the Housing Element update. A detailed implementation action plan was in the staff report and he felt it was important to move forward to make the program as financially sustainable as possible.

Council Member Stonebarger asked if there was an element within the Affordable Housing Plan for certain careers and what type of priorities it provided.

Redevelopment Manager, Gina Rozenski, said there was an element in the Affordable Housing Plan. She continued with the staff report and said there were nine or twelve recommendations by Management Partners outlined in the staff report. Staff had prepared the seven point action plan, assisting with the City's Housing Administration Fund, while continuing to deliver customer service to implement the Ordinance to provide housing to all income levels of the community and comply with the City's Housing Element, which needed to address State and local housing mandates. The Land Use and Development Committee recommended the Council accept the seven point action plan and promote financial sustainability of the Affordable Housing Program. Staff requested the authority to begin pursuing the recommendations, some of which would return to Council as budget related items.

Mayor Taylor opened public comments.

Mayor Taylor closed public comments.

Council Member Richey said the Housing Program had too many subprograms to operate within its means and he asked staff to look at what the City could afford. The City was ahead of where it needed to be in both program and numbers in comparison to other cities. Affordable housing was good in appropriate numbers and too much would negatively impact the City in numerous ways. He felt the use of the general fund to support the program was a misuse of the funds and needed to be addressed immediately.

Vice Mayor Brockman said he felt the affordable housing programs had been excessive and he had asked for a change. The movement of the Housing Division to within Redevelopment was pro active and rentals were costing the City more than the City could rent them for. He was not in favor of using the general fund to subsidize the program.

Council Member Stonebarger asked about the effect on the general fund.

Redevelopment Manager, Gina Rozenski, said there was no effect on the general fund and staff proposed that there be a loan from the Affordable Housing in-lieu fee, which was 80 percent of the developer in-lieu fee, and shifting a portion of staff costs to the Redevelopment Agency. There still remained an unfunded balance that staff was not going to be able to administer because of the significant decrease in developer fees. She proposed a loan from the Affordable Housing Trust Fund and was not proposing a hit to the general fund. When the City was built out, and when the Redevelopment Agency sunsets, the program would be in existence since there were units the City had created and would need to maintain. In the future, the program would need to find a different funding source, rather than the Redevelopment Agency and developer fees.

Council Member Stonebarger was not in favor of using the general fund. He spoke about State mandates and said the City was a leader in affordable housing. He asked to make priorities to bring in the types of people in careers to build the community.

Vice Mayor Brockman said the City had programs that allowed opportunity, which placed the City as a leader, and programs would cost money to run and the City was being pro active.

Redevelopment Manager, Gina Rozenski, said the Housing Element must address how the City would meet the State and local mandates. When a Housing Element was not certified by the State lawsuits from housing advocates could happen. There was the risk of not meeting the Housing Element and not being certified.

Council Member Richey said there was plenty of affordable housing in the City.

Redevelopment Manager, Gina Rozenski, said the City Administration fund would be close to \$3,000 in its fund balance at the end of the fiscal year and there would be no other funds to operate the program as of July 1, 2008.

Director of Finance and Information Systems, Pam Ehler, said the amount of the loan was \$284,000 and the in-lieu fee fund would generate approximately \$300,000 to \$350,000 in interest next year.

The loan was less than what the fund would make in interest.

Council Member Becnel said the City needed to begin financial and legal analysis to on selling housing units and he was not interested in selling the units in a depressed housing market. He spoke about how the economic downturn made Council look at spending. He agreed the City had been above and beyond in the area of affordable housing and it needed to be trimmed back. The Land Use and Development Subcommittee did not want a hit to the general fund. He felt this was a step to trimming the program and there were programs that needed to be administered since some units had deed restrictions that went out for 40 years and the City was looking at the long term implications. The most serious problem was the Rental Housing Element.

Mayor Taylor asked to fast-track program changes and have that completed within the year due to the Housing budget.

Council Member Richey said he felt that recommendations 1 - 7 in the staff report would assist the City. He did not believe that by reallocating funds was the right way to go. If the program could not be run within its means, then staff needed to be reduced. Before taking the affordable housing in-lieu fund, via the low interest loan, the City needed to look at the program and make immediate cuts where necessary. There were opportunities for cutting back without coming close to violating State laws and exposure to litigation. He did not see a reference in the staff report as to when the program would be discontinued.

Council Member Stonebarger asked about an analysis.

Vice Mayor Brockman said the City could not increase the rental fee and staff was already limited, and the program had to be monitored. The program was starting to cost the City money and needed to be changed.

Council Member Becnel said that staff had already been cut.

Redevelopment Manager, Gina Rozenski, said there had been another Housing Manager that retired and was not replaced. That was when the Housing and Redevelopment Divisions merged and the existing staff was trying to absorb those functions. In the 2007/2008 budget, was \$970,000 which she had cut by \$500,000 from the program, in addition to a reduction in staff. Out of the remaining \$475,000 she was proposing \$225,000 for staff reallocation to the Agency. The remaining \$264,000 would be the loan amount from the 80 percent part of the in-lieu fee, which would not affect the general fund.

Council Member Richey said the report did not address reducing the program so it could be appropriately managed within its means.

Council Member Stonebarger said he hoped the item would return to Council before the year was out and felt it needed to be evaluated.

Vice Mayor Brockman said this had to be back before June 2009 for the Affordable Housing Ordinance review as part of the General Plan.

Motion: Accept Management Partners Affordable Housing Obligations and Options Assessment Report; and authorize staff to begin pursuing Recommendations 1 through 7, or recommendations formulated by the Council, to promote financial sustainability of the City's Housing Administration Fund to continue its purpose to manage and oversee the programs and projects authorized by City's Affordable Housing Ordinance.

Moved by Brockman, seconded by Becnel.

Vote: Motion carried 4-1.

Yes: Becnel; Brockman; Richey; Taylor

No: Stonebarger

22. Informational report on the process of detaching from Contra Costa Fire District and Annexing to Contra Costa Fire Protection District for providing service to the City of Brentwood. (D. Landeros)

City Manager, Donna Landeros, presented a staff report outlining the procedural steps that would be involved if the City were to apply to the Local Agency Formation Commission (LAFCO) to detach from East Contra Costa Fire District and be annexed to Contra Costa County Fire (ConFire). City Council and staff, along with the County and City of Oakley, had spent over the last three years involved in the master plan process to improve the level of fire service within East Contra Costa Fire Protection District. Last September, the City thought there was an agreement with all three agencies to participate in an Appointed Board and it would have been a governance model that would have allowed the City of Brentwood, City of Oakley and Contra Costa County to make decisions with weighted votes. The City of Oakley and the County did not reach agreement on the Appointed Board so the Council requested information on annexing to ConFire.

The concept of approaching LAFCO and applying for annexation to ConFire is not an easy course to take. The staff report identified the procedural steps and the City will not know if LAFCO will allow that and if it was allowed, what was the property tax level they would allow the incorporated area of the City to carry with it to ConFire and what would be the gap. If Council directed staff to return with a resolution to initiate the process, a fiscal analysis would be prepared that would need to go with the application to LAFCO. She said staff would use the City Gate consultants and she requested Council direction.

Council Member Richey asked about the consultants and their experience.

City Manager, Donna Landeros, said the consultants had experience with LAFCO. Additional resources may be needed and she was confident the consultants could give the City good advice.

Council Member Stonebarger asked if the City would have to go through the same LAFCO process if the City wanted to exit the current Fire District and create another and obtain funding.

City Manager, Donna Landeros, said the City would need to go through the same process even without funds.

Mayor Taylor said the City was still under County jurisdiction at this time.

City Manager, Donna Landeros, explained with the appointed board, the City would at least have had an opportunity to have a weighted vote to talk about next steps. The appointed board would have been a mechanism for taking the next steps and being at the table. The City was back to status quo, which had been unacceptable for the last few years.

Mayor Taylor said the City's coverage was still governed by the County.

City Manager, Donna Landeros, stated the City had no official say in the decision making.

Mayor Taylor opened public comments.

Stephen Smith expressed concern about what had happened between the County and the City of Oakley and said the regional approach had been very promising as well as important. The annexation consolidated was a second best choice and did nothing to resolve the local governance issue and damaged the regional approach. Local firefighters were under-paid, stations under-manned, and the citizens under-served. He was concerned about the delay, said response times did not even come close to national standards, and he urged Council and staff to push for a resolution.

Mayor Taylor closed public comments.

Vice Mayor Brockman said the City had looked at ConFire, which was expensive. The City had to follow the process to obtain local governance and bring the City to the level it deserved. LAFCO did not want to split districts and there was the issue of taxes and costs. The County had the resources with all of the tax dollars and the citizens in the area would need to pay a certain amount. There would be the necessity to increase or find revenue to pay for services. He believed it would be more expensive for the City to have its own department than going with ConFire. He felt it would be ideal if ConFire took in the City, even though the City would lose the governance issue. The

pay; resources and fire houses would be there and it came down to the taxes and he said he was in favor.

Council Member Richey said the best opportunity to consolidate or annex with Consolidated Fire was now and he wished to move forward.

Council Member Stonebarger said the City had given the regional approach its best and the goal was to get to the desired staffing for citizens. If ConFire was the quickest and best way to do that, he was in favor.

Council Member Becnel said he felt the City had experienced a total failure of leadership from the elected officials in the County and City of Oakley. The issues were that firefighters were paid half as much as others in the County, and staffed less and it was because the County would not come up with dollars for far East County. If the City could de-annex and go to Contra Costa Fire, the City would be giving money to an organization run by people who had demonstrated a fundamental incapacity to treat far East County fairly. Unless there was more money, it would still leave the firefighters under-paid and under-staffed. He felt the County had shown a disregard for the people in East County.

Mayor Taylor said he felt Council had done the right thing and it was with great regret that it was not accomplished and the City needed to move on.

Motion: Accept the informational report on the process of detaching from Contra Costa Fire District and Annexing to Contra Costa Fire Protection District for providing service to the City of Brentwood, and direct staff to pursue annexation to ConFire and return to Council with additional information.

Moved by Brockman, seconded by Richey.

Vote: Motion carried 4-1.

Yes: Brockman; Richey; Stonebarger; Taylor

No: Becnel

INFORMATIONAL REPORTS FROM COUNCIL MEMBERS (08:34 PM)

Mayor Taylor reported on his attendance at the Economic Summit with Congressman McNerney.

REQUESTS FOR FUTURE AGENDA ITEMS (08:35 PM)

Council Member Stonebarger spoke about the ordinance that addresses Police staffing levels at 1.5 officers per 1,000 residents and currently, the City was at 1.2 officers per 1,000 residents.

Mayor Taylor spoke about the soccer comment that was made earlier by East Diablo Youth Soccer League and asked if a staff report was needed.

Director of Parks and Recreation, Craig Bronzan, said the item could be done as part of the weekly update.

ADJOURNMENT (08:37 PM)

In honor of James A. Frank, former Police Chief. A moment of silence followed.

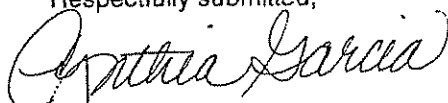
Motion: Adjourn

Moved by Richey, seconded by Stonebarger.

Vote: Motion carried 5-0.

Yes: Becnel; Brockman; Richey; Stonebarger; Taylor

Respectfully submitted,


Cynthia Garcia, CMC
Assistant City Clerk

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Contra Costa County
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Date: July 19, 2007

To: Supervisor Mary N. Piepho, District 3
Supervisor Federal D. Glover, District 5

From: Silvano B. Marchesi, County Counsel
By: Thomas L. Geiger, Deputy County Counsel **TG**

Re: **SUMMARY OF EAST CONTRA COSTA FIRE PROTECTION DISTRICT
GOVERNING BOARD STRUCTURES**

This memo summarizes the possible options for restructuring the East Contra Costa Fire Protection District ("ECCFPD") board of directors, which is currently governed by the Contra Costa County Board of Supervisors. This memo is prepared for your July 20, 2007 meeting with city officials.

Under one option, the ECCFPD board of directors could become an elected board if a majority of voters in the district approve the change. A second option would be for the current board to appoint a fire commission that would have the authority to act on behalf of the ECCFPD in certain matters. Another alternative would be for the membership of the board to be changed from a board consisting only of county supervisors to a board consisting of directors appointed by county supervisors and city council members. This type of board could be a board where the appointed directors are county supervisors and city council members themselves.

Existing Board Structure

In a fire district that contains unincorporated county territory and the territory of one or more cities, the fire district's board of directors can be comprised of all five members of a county board of supervisors. (Health and Saf. Code, § 13837(b).)¹ This type of board is considered an appointed board of directors. This is the governing structure that currently exists, with the Contra Costa County Board of Supervisors as the appointed ECCFPD board of directors.

Under the Fire District Law, a fire protection district is considered an independent district, regardless of whether a fire protection district is governed by a board of supervisors.

¹ The Fire Protection District Law of 1987 (Health & Saf. Code, §§ 13800-13970; the "Fire District Law") is the statute that governs the ECCFPD. All further statutory references are to the Health and Safety Code.

This means that the ECCFPD is a separate legal entity, even though all five members of the Contra Costa County Board of Supervisors sit as the ECCFPD's board of directors. Whether or not the governing structure of the ECCFPD changes, the ECCFPD will still be a separate legal entity.²

Other Board Structures

1. Elected Board of Directors

The current board can be changed to an elected board of directors. A majority of voters in the district must approve a change from an appointed board to an elected board. (§ 13848(a).) If a majority of voters voting on the question approves of changing from an appointed district board to an elected district board at a general election or a special election, the members of the district board will be elected at the next general district election. (§ 13848(d).)

An elected board of directors can be elected at large or by divisions. (§ 13846(a).) If a board is elected at large, each director must be a resident of the fire district. (§ 13841.) "Elected by division" means the election of each member of the district board by voters of only the respective election division. (§ 13846(b).) If an elected board is elected by division, each board member must live in the division that he or she represents. (§§ 13841, 13846(f).)

2. Fire Commission

In a fire district where a board of supervisors is the appointed district board, the board of supervisors may establish a fire commission and delegate any or all of its powers to that commission. (§ 13844.) A fire commission makes decisions and acts on behalf of the fire protection district, as to those powers delegated to it. It is not merely an advisory committee.

The powers of a fire district are listed in sections 13860 through 13879 of the Fire District Law. These powers include the power to acquire property, to sue and be sued, to appoint employees and determine their pay, to employ counsel, to enter into and perform contracts, and to establish and enforce rules and regulations. (§ 13861.)

Fire commissioners are appointed by the board of supervisors. (§ 13841.) A fire commission must have five or seven commissioners. Some or all of the fire commissioners may

² This summary assumes the boundaries of the ECCFPD would not change under any of the possible options discussed below. As long as the ECCFPD's boundaries do not change, the Local Agency Formation Commission would not be involved in any change to the ECCFPD's governing structure.

be councilmembers of cities that are located in the fire district. (§ 13844.) Each fire commissioner must be a resident of the fire protection district. (§ 13841.)

If a board of supervisors establishes a fire commission, the board must determine whether the commissioners will serve at the pleasure of the board of supervisors (that is, for an indefinite term subject to removal at any time), or will serve staggered terms of four years subject to removal only for cause. (§ 13844.)

The establishment of a fire commission, delegation of powers, and appointment of commissioners can be accomplished by resolution. (See § 13856(b).)

3. Appointed Board of Directors

The membership of the current board can be changed from a board consisting only of county supervisors to a board consisting of directors appointed by county supervisors and city council members. (§ 13837(a).)

For this type of appointed board, each entity's governing board (the board of supervisors and each city council) appoints directors according to each entity's proportionate share of population. This type of appointed board requires each entity to appoint at least one director to the board. (§ 13837(a).) The number of directors cannot exceed 11 members. (§ 13837(a); see also § 13842 [board of directors consists of 3, 5, 7, 9, or 11 members].) Each appointed director must be a resident of the fire protection district. (§ 13841.)

The governing board of each entity (the board and each council) can appoint its own members as directors. (§ 13837(a).) This type of appointed board requires each director to be a resident of the fire protection district. (§ 13841.) Under this type of board, any county supervisor who does not live within the boundaries of the fire protection district cannot serve on the governing board.

Restructuring the existing board to a board consisting of directors appointed by county supervisors and city council members, or to a board where the appointed directors are county supervisors and city council members themselves, can be accomplished by the adoption of resolutions by each city and the existing board, as follows. (See § 13856(b).)

First, each city could adopt a resolution consenting to the establishment of a board consisting of directors appointed by county supervisors and city council members, or a board where the appointed directors are county supervisors and city council members themselves. Second, if each city adopts such a resolution, the existing ECCFPD governing body (the board of supervisors) could then adopt a resolution establishing a board consisting of directors appointed

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Supervisor Federal D. Glover
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by county supervisors and city council members, or a board where the appointed directors are county supervisors and city council members themselves.

TLG:

cc:

Board of Supervisors
John Cullen, County Administrator
Rich Seithel, Special Districts Analyst
William Weisgerber, Interim Chief, East Contra Costa Fire Protection District