

RESOLUTION NO. 2009-211

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 Safety 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 the limits of the agency by which they were appointed; 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 ninety (90) 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 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.

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) and a resident of the agency by which they are appointed.

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 90 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.

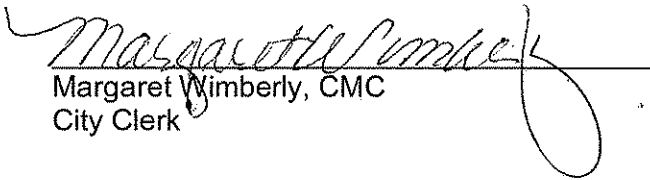
PASSED, APPROVED AND ADOPTED by the City Council of the City of Brentwood at a regular meeting held on the 27th day of October 2009 by the following vote:

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



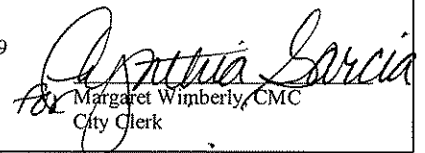
Robert Taylor
Mayor

ATTEST:


Margaret Wimberly, CMC
City Clerk

I, Margaret Wimberly, City Clerk of the City of Brentwood, do hereby certify this is a true and correct copy of Resolution 2009-211 of the City Council of the City of Brentwood, California, adopted on the 27th day of October, 2009.

Date: November 3, 2009


Margaret Wimberly, CMC
City Clerk