



Agenda Date: 01/27/2015

Agenda Item: 3.2

STAFF REPORT

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Date: Tuesday, January 27, 2015
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, Public Works Director/City Engineer
SUBJECT: Ratify Election: Approval of Ordinance No. 01-15, Establishing Zone 153 for a Special Tax for Police Protection for Subdivision 9032, Emerson Ranch, located north of E. Cypress and west of Sellers Ave

Background and Analysis

On September 14, 2010, the City Council approved Resolution 107-10 to subdivide the Emerson Ranch property into 567 single family parcels and one 22.88 acre commercial parcel through Vesting Tentative Map 9032. In 2013, Resolution 35-13 approved an amendment to the Emerson Ranch Final Development Plan to make minor modifications to the internal street circulation, park configuration, and lot sizes.

The Emerson Ranch property is located on the northwest corner of East Cypress Road and Sellers Avenue. Conditions of approval for the project require the applicant to augment police services. Currently, the City has a Police Services Special Tax (P-6) to facilitate augmentation of police services. The developer has requested that their development be annexed into the P-6 Special Taxing District. This is the last step to annex the Emerson Ranch Development into the P-6 Special Taxing District.

Fiscal Impact

There will be no financial impact to the City's General Fund. The applicants have funded all costs associated with the creation of Zone 153. The FY2014-15 special tax rate per single family parcel is \$964.42. Therefore, successful creation of the zone could provide up to \$548,630 in revenue annually when all of the units are occupied. The taxes will be collected on the property tax rolls commencing in Fiscal 2015-2016.

Recommended Action

Conditions of approval for subdivision 9032 require the property owners to augment police services. On December 9, 2014, the City Council waived the first reading and introduced an ordinance, subject to voter confirmation, calling for an election to be held on January 13, 2015. One (1) ballot was issued and returned before the deadline of 6:30 p.m. on January 13, 2015.

Conclusion

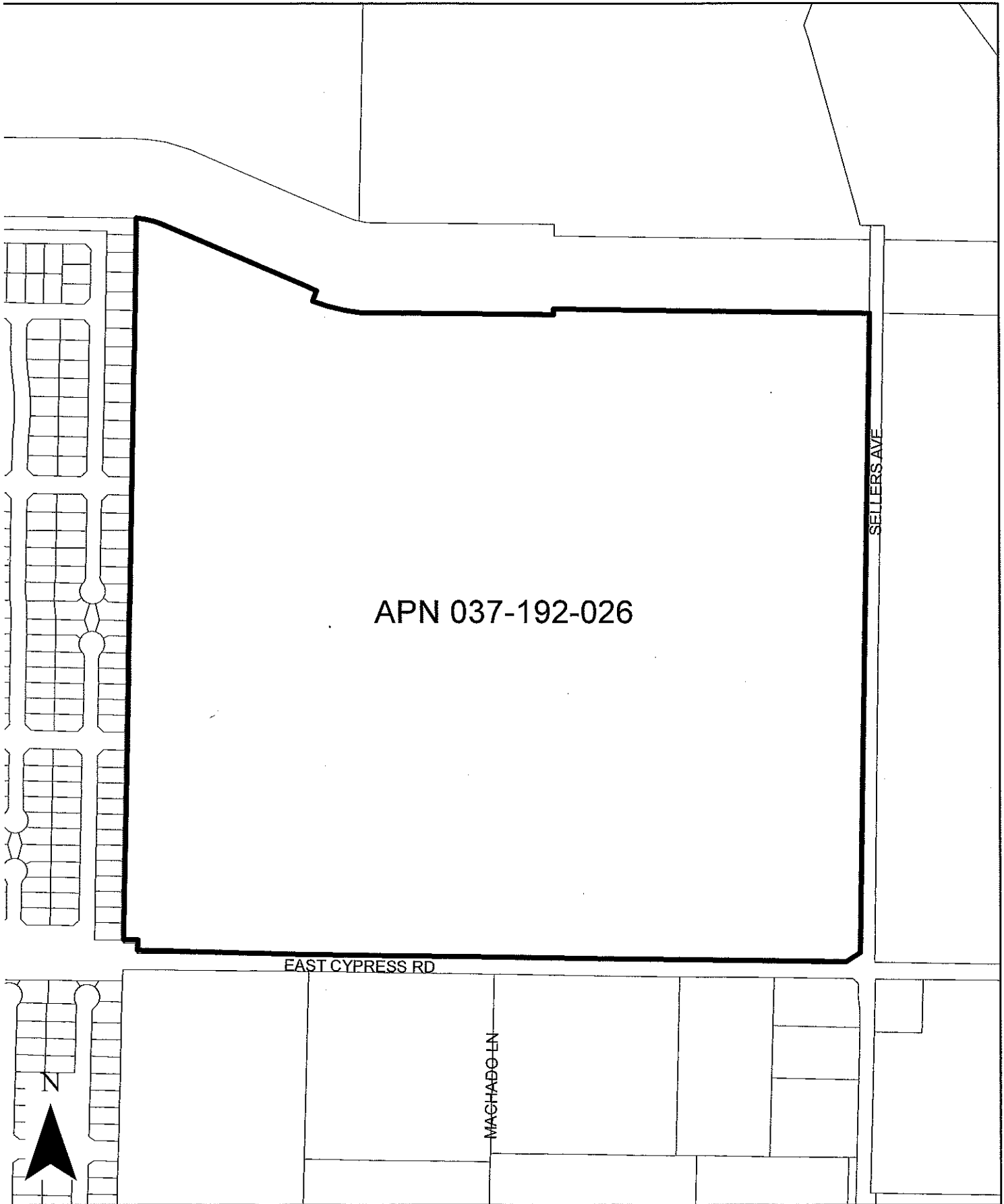
Staff recommends that the City Council ratify the election wherein Ordinance No. 01-15 was approved by appropriate property owners establishing a special police tax for police protection.

Attachments

- Attachment 1: Diagram
- Attachment 2: One (1) ballot
- Attachment 3: Ordinance

EXHIBIT A
SPECIAL POLICE TAX AREA ZONE 153
CITY OF OAKLEY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

Attachment 1



**CITY OF OAKLEY
Community Facilities District No. 2015-1
(Emerson Ranch Maintenance)**

**OFFICIAL BALLOT
SPECIAL TAX ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Oakley no later than the hour of 6:30 p.m. on Tuesday, January 13, 2015, either by mail or in person. The City Clerk's office is located at 3231 Main Street, Oakley, California.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Oakley and obtain another.

BALLOT MEASURE: Shall the City of Oakley be authorized to annually levy a special tax solely on lands within the City of Oakley Community Facilities District No. 2015-1 (Emerson Ranch Maintenance) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on January 13, 2015, commencing in the City's fiscal year 2015-16, to pay for the municipal services for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of \$10,000,000?

YES: X
NO:

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Number of acres: 140.25

Number of Votes: 141

Property Owner: Brookfield Emerson Land LLC, a Delaware limited liability company



Authorized Representative

CITY OF OAKLEY

ORDINANCE NO. 01-15

**AN ORDINANCE OF THE CITY OF OAKLEY
ESTABLISHING ZONE 153 FOR A SPECIAL TAX FOR
POLICE PROTECTION FOR SUBDIVISION 9032**

The Voters of the City of Oakley do ordain as follows:

Section 1. Purpose. Intent and Authority.

It is the purpose and intent of this Ordinance to authorize the levy of a tax on parcels of real property on the secured property tax roll of Contra Costa County that are within Zone 153 (Subdivisions 9032) of the Oakley Special Police Tax Area in order to provide funding for police protection to serve the property and persons within said Zone.

This Tax is a special tax within the meaning of Section 4 of the Article XIII A of the California Constitution. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is levied on a parcel and use of property basis. Insofar as not inconsistent with this Ordinance or with legislation authorizing special taxes and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Article XIII of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of this tax (Section 4 of this Ordinance), as authorized by law.

The revenues raised by this tax are to be used solely for the purposes of obtaining, furnishing, operating, and maintaining police protection equipment or apparatus, for paying the salaries and benefits of police protection personnel, and for such other police protection service expenses as are deemed necessary for the benefit of the residents of Zone 153.

This Ordinance is enacted pursuant to the authority of Government Code Section 53978.

Section 2. Definitions.

The following definitions shall apply throughout this Ordinance.

A. "Constant first year dollars" shall mean an actual dollar amount which, in years subsequent to the first fiscal year the tax is levied, shall have the same purchasing price as the base amount in first fiscal year dollars as measured by the actual cost of services for the City of Oakley's cost of obtaining police services, measured currently using its contract with the Contra Costa County Sheriff's Department. The base amount shall be

the amount of tax per parcel as specified in Section 3.A herein. The adjustments from actual to constant dollars shall be made by use of the actual cost of services, as specified in Section 3.B herein.

B. "Actual Cost of Services" means the estimated fully-loaded average cost for the positions of police officer, Sergeant and Lieutenant [or comparable positions while the City contracts for police services with Contra Costa County] as provided to the City by the Contra Costa County Sheriff's Department during or about March of each calendar year.

C. "Fiscal year" means the period of July 1 through the following June 30.

D. "Oakley Special Police Tax Area" includes all properties within the jurisdictional limits of the City of Oakley.

E. Oakley Special Police Tax Area Zone 153 (hereinafter called "Zone") means that portion of the incorporated area of the City of Oakley located within the boundaries as shown on the map Exhibit A hereto.

F. "Parcel" means the land and any improvements thereon, designated by an assessor's parcel map and parcel number and carried on the secured property tax roll of Contra Costa County. For the purposes of this Ordinance, parcel does not include any land or improvements outside and boundaries of Zone 153 nor any land or improvements owned by any governmental entity.

G. Pursuant to Government Code §53978, "voter" means a person owning real property within the Zone at the time this Ordinance was adopted, as shown on the last equalized assessment role prepared by the Contra Costa County Assessor's Office.

Section 3. Amount and Level of Taxes.

The tax per year on each parcel in the Zone shall not exceed the amount applicable to the parcel, as specified below.

A. For First Fiscal Year:

The tax per year for the first fiscal year (July 1, 2014 through June 30, 2015) shall be the amount of Tax Per Parcel for a Property Use Code Category as set forth on Exhibit B hereto. If any new development, including new residential units, is completed prior to the tax being effective for the first fiscal year, the owner of the Parcel, as shown on the latest assessment roll, shall pay the tax for the remainder of such fiscal year on a pro-rated basis to the City, no later than receipt of Certificate of Occupancy or final building permit inspection.

B. For Subsequent Fiscal Year:

In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to the first fiscal year, the tax per year shall be adjusted as set forth below to reflect any increase in the Actual Cost of Services beyond the first fiscal year the tax is levied.

In June or July of each year, City Council shall determine the amount of taxes to be levied upon the parcels in the Zone for the then current fiscal year as set forth below.

For each Property Use Category on Exhibit B, the tax per year on each parcel for each fiscal year subsequent to the first fiscal year shall be an amount determined as follows:

$$\begin{array}{l} \text{Tax Per Parcel} \\ \text{For then Current} \\ \text{Fiscal Year} \end{array} = \begin{array}{l} \text{Tax Per Parcel} \\ \text{For First} \\ \text{Fiscal Year} \end{array} \times \begin{array}{l} \text{(Actual Cost of Services} \\ \text{for immediately} \\ \text{Preceding Fiscal Year)} \\ \text{(Actual Cost of Services} \\ \text{for First Fiscal Year} \\ \text{of Levy)} \end{array}$$

Provided, however, that in no event shall the tax per parcel for any fiscal year be less than the amount established for the first fiscal year.

C. The taxes levied on each parcel pursuant to this Article shall be a charge upon the parcel and shall be due and collectible as set forth in Section 4, below.

Section 4. Collection and Administration.

A. Taxes as Liens Against the Property.

The amount of taxes for each parcel each year shall constitute a lien on such property, in accordance with Revenue and Taxation Code Section 2187, and shall have the same effect as an ad valorem real property tax lien until fully paid.

B. Collection.

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and are to be collected in the same manner in which the County of Contra Costa collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with this Ordinance, the times and procedure regarding exceptions, due dates, installment payments, corrections, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax:

- i) The secured roll tax bills shall be the only notices required for this tax, and

- ii) The homeowners and veterans exemptions shall not be applicable because such exemptions are determined by dollar amount of value.

C. Costs of Administration by County.

The reasonable costs incurred by the County officers collecting and administering this tax shall be deducted from the collected taxes.

Section 5. Severability Clause.

If any article, section, subsection, sentence, phrase of clause of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The voters of the Zone hereby declare that they would have adopted the remainder of this Ordinance, including each article, section, subsection, sentenced phrase or clause, irrespective of the invalidity of any other article, section, subsection, sentence, phrase or clause.

Section 6. Effective Date and Posting.

This Ordinance shall take effect immediately upon its confirmation by two-thirds of the voters voting within the Zone in an election to be held on January 13, 2015 so that taxes shall first be collected hereunder for the tax year beginning July 1, 2015. If not confirmed by two-thirds of the voters participating in the election, this Ordinance and the tax approved herein shall not become effective.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on January 13, 2015 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Doug Hardcastle, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date