


## STAFF REPORT

**Date:** August 8, 2017  
**To:** City Council  
**From:** Bryan Montgomery, City Manager   
**SUBJECT:** Approval of responses to Civil Grand Jury Reports No. 1706  
"Funding the East Contra Costa Fire Protection District" and No.  
1707 "Homelessness in the Cities."

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### Summary

The California Constitution established civil grand juries in each county. The California Code includes provisions on the formation of civil grand juries and their powers and duties. With respect to public agencies, civil grand juries are authorized to "investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit" (California Penal Code section 925a). The Code also stipulates that a written response will be provided by the city or joint powers agency within 90 days after the civil grand jury submits a report.

The Contra Costa Grand Jury has recently issued two reports that require a response from the City of Oakley: No. 1706 "Funding the East Contra Costa Fire Protection District" and No. 1707 "Homelessness in the Cities."

Staff has prepared the attached responses.

### Fiscal Impact

Staff time to prepare the responses to these Reports is estimated to have cost approximately \$500.

### Recommendation

Approve the draft responses and authorize the City Manager to forward them to the Civil Grand Jury.

### Attachments

1. Contra Costa Civil Grand Jury Reports Nos. 1706 and 1707, and corresponding draft response letters from the City.

August 9, 2017

Jim Mellander, Foreperson  
Contra Costa County Civil Grand Jury  
P.O. Box 431  
Martinez, CA 94553-0091  
[ctaadmin@contracosta.courts.ca.gov](mailto:ctaadmin@contracosta.courts.ca.gov)

**Re: Responses to Contra Costa County Grand Jury Report No. 1706, entitled  
"Funding the East Contra Costa Fire Protection District."**

Mr. Mellander:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1706, "Funding the East Contra Costa Fire Protection District." This response was reviewed and authorized by the City Council at the August 8, 2017 City Council Meeting.

#### **GRAND JURY FINDINGS**

**Finding # 8:** "The city has collected impact fees that have been earmarked for ECCFPD to use for capital improvements."

**Response:** The City agrees with this finding, but with some clarification. The development impact fees are restricted by law for capital improvements related to fire. The term "earmarked" could lead someone to believe that there is discretion as to whether these funds are for capital improvements or not – there is no discretion on that point. Further, while these funds may be merely transferred to ECCFPD for its use for these capital improvements, the funds may also be directed by the City for these purposes.

**Finding #9:** "The city has unallocated Community Facility Funds."

**Response:** The City disagrees with this finding. Assuming that the term "Community Facility Funds" relates to funds generated from a Community Facility District (CFD), all the funds generated from the CFD 2004-1 from the

Cypress Lakes (now Summer Lakes) Development in Oakley are remitted directed to ECCFPD are not held by the City of Oakley.

**Finding #10:** "The city does not always require that developers of residential and commercial properties establish Community Facilities Districts."

**Response:** The City disagrees with this finding. It is most often a condition of approval that a development at least annex to an existing CFD, if not form a new one. Other than the aforementioned CFD 2004-1 in Summer Lakes Development, the other CFD's do not include a fire services component.

## RECOMMENDATIONS

**Recommendation # 6:** "The city should consider adopting a policy to collect impact fees from all developers of residential and commercial properties to fund capital improvements needed to open future stations."

**Response:** The City has implemented this recommendation since Incorporation.

**Recommendation # 8:** "The city should consider adopting a policy to enter agreements with developers to establish Community Facility Districts to provide operating revenue for ECCFPD."

**Response:** The City Council intends to formally consider implementing this recommendation after careful thought of the following:

- Almost all residential developments in Oakley are already fully entitled with development agreements. These development agreements do not presently include this CFD requirement and establishing the CFD would have to be agreed to by the developers – the CFD cannot be unilaterally imposed by the City.
- Assuming the annual CFD amount would be similar to CFD 2004-1 (\$265), the new annual revenue for ECCFPD is likely only around \$40,000 per year (an average of 150 new homes each year). While that revenue will grow and compound each year, it is not a significant revenue source when a fire station costs well over \$3,000,000 per year to operate. (The compounded revenue from a new CFD for fire would not likely be much more than \$400,000 per year even after 10 years).

- Acknowledging that new CFD revenue would only be a very small part of the funding solution, it needs to be acknowledged that other new revenue measures will need to be considered. If one of those is a new tax approved by the voters, all those paying this CFD for fire will not be very inclined to support a new tax measure. Perhaps some mechanisms could be employed with the creation of the CFD that could possibly exempt these CFD-paying residents from the tax, but there may be some legal ramifications and restrictions to such an exemption.
  
- A vast majority of the new growth in Oakley will take place in property tax rate areas that include a much larger share of the 1% property tax going to ECCFPD – approximately 12%. This is a percentage/share that is more similar to what other fire districts receive and these new homes will generate significantly more revenue per home than other homes currently provide.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1706. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Sincerely,

Bryan H. Montgomery  
City Manager

cc: City Council

August 9, 2017

Jim Mellander, Foreperson  
Contra Costa County Civil Grand Jury  
P.O. Box 431  
Martinez, CA 94553-0091  
[ctaadmin@contracosta.courts.ca.gov](mailto:ctaadmin@contracosta.courts.ca.gov)

**Re: Responses to Contra Costa County Grand Jury Report No. 1707, entitled  
"Homelessness in the Cities."**

Mr. Mellander:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1707, "Homelessness in the Cities." This response was reviewed and authorized by the City Council at the September August 8, 2017 City Council Meeting.

#### **GRAND JURY FINDINGS**

**Finding # 1:** "CORE teams are most likely to be the first point of entry for the homes into the County's Coordinated Entry System."

**Response:** The City believes this finding is accurate.

**Finding #2:** "CORE teams can successfully identify a homeless individual in need of physical or mental health services."

**Response:** The City believes this finding is accurate.

**Finding #3:** "CORE teams have the resources to identify if there are vacant shelter beds available in the County."

**Response:** The City does not have firsthand knowledge of the facts related to this finding, but is hopeful that this finding is accurate.

**Finding #4:** "CORE teams are equipped and have the authorization to transport homeless individuals to a medical facility or to a homeless shelter."

**Response:** The City does not have firsthand knowledge of the facts related to this finding, but is hopeful that this finding is accurate.

**Finding #5:** "CORE teams build trust between the homeless and police departments."

**Response:** The City agrees with this finding.

**Finding #9:** "The cities of Antioch, Concord, Pittsburg and Walnut Creek, which are the CBDG entitlement cities, are the only cities in Contra Costa County that have an approved written homeless plan to end or reduce homelessness in their respective jurisdictions."

**Response:** The City does not have firsthand knowledge of the facts related to this finding, but believes that this finding to be accurate.

**Finding #10:** "The city appears to be in compliance with the California Housing Accountability Act."

**Response:** The City agrees with this finding.

## RECOMMENDATIONS

**Recommendation # 1:** "The city should consider establishing CORE teams either by partnering with one or more cities in the region or by funding its own team."

**Response:** The City believes that it is important to state that social services are primarily the function of counties in California, not cities. With that said, the City has been coordinating with County staff and CORE representatives and Oakley Police Officers have already participated in discussions held by CORE representatives with homeless in Oakley. Unlike counties, cities do not have a funding source for social service activities.

**Recommendation # 2:** "The city should consider providing incentives for developers to construct housing for the extremely low income, very low income and homeless populations."

**Response:** The City of Oakley is one of the few communities in the State that has in the past more than met its affordable housing requirements. The City's

financial resources are very limited and it is unlikely that cash incentives would be deemed higher than the many other priorities competing for those financial resources. The City will consider other non-cash incentives that may be helpful with this effort.

**Recommendation # 3:** "The city should consider using Successor Agency funds, CDBG and other federal housing funds, impact fees and city general funds to assist in funding housing for the extremely low income, very low income and homeless populations."

**Response:** As mentioned above, the City does not intend on implementing this recommendation.

**Recommendation # 4:** "The city should consider adopting a five-year comprehensive homeless plan, as soon as possible with a target date of January 1, 2019, to reduce the homeless population in the City."

**Response:** The City does not intend on implementing this recommendation.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1707. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Sincerely,

Bryan H. Montgomery  
City Manager

cc: City Council