

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

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 and will also contact ECCFPD to determine if a District-wide CFD might be a better approach. The City would want to consider the following factors as part of the consideration of a CFD:

- 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.

Sincerely,



Bryan H. Montgomery
City Manager