

OAKLEY



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Agenda Date: 02/23/2016
Agenda Item: 3.6

STAFF REPORT

Date: February 16, 2016
To: Mayor and Members of City Council
From: Derek P. Cole, City Attorney
Cc: Bryan H. Montgomery, City Manager; William R. Galstan, Special Counsel
Subject: Adopt a Revised Resolution Calling a Special Municipal Election for June 7, 2016, and Authorizing the Submission to the Voters a Ballot Measure establishing a Library Development Parcel Tax; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Filing Written Arguments

FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON FEBRUARY 23, 2016

At the previous City Council meeting held February 9, 2016, the Council approved Resolution 19-16, calling for an election on a special tax to fund the construction and operation of a new downtown library. Since this adoption, our office has reviewed recent legislation—AB 809, adopted in the previous legislative session—which may affect the language that must be used to describe the ballot language of this measure.

AB 809 states that for any “ordinance” calling for approval of a special tax, the ballot language must state two things:

- The phrase “shall the ordinance (stating the nature thereof) be adopted” must be used, requiring the use of the (weaker) passive voice to identify the measure (Elec. Code, § 13119(a)); and
- The ballot language must identify the amount of money to be raised from the measure annually in addition to stating the rate and duration of the proposed special tax. (Elec. Code, § 13119(b).)

Unfortunately, the statutes governing special-tax measures are jumbled and confusing, as they are scattered throughout several different codes and chapters within codes, and they are not consistently drafted. The City Attorney, for instance, has usually treated special tax measures as resolutions whenever he has drafted these for other agencies. However, the codes, including the one mentioned above, also recognize that special taxes may be adopted as ordinances.

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Although the code above does not by its terms apply to “resolutions” adopting special taxes, our office believes it is advisable to assume that the Legislature intended to include special tax measures adopted by resolution as also subject to the new ballot-language requirements. To be on the safe side, we accordingly request that the Council adopt a new resolution (which will supersede the resolution adopted at the previous meeting) that contains the following ballot language (with the principal changes shown in underline and bold text):

“To replace the small, outdated Oakley Library currently utilizing a portion of Freedom High School and construct and operate a new Library and Community Learning Center downtown, shall the ordinance establishing a \$7.75 per month per parcel Library Development Tax be adopted, raising approximately \$1.1 million annually, for 30 years starting fiscal year 2016/17, with independent financial audits ensuring funds are spent only on the Oakley Library and Community Learning Center?”

If the Council adopts the above language, the remainder of the ballot resolution will remain unchanged. The County Elections Office has set a deadline of March 11 for receipt of initiative measures, so the revised resolution will need to be adopted prior to that date to ensure the City can properly transmit it by the upcoming deadline.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AUTHORIZING THE IMPOSITION OF A SPECIAL TAX ON PARCELS OF
PROPERTY TO FINANCE THE CONSTRUCTION AND FURNISHING OF A
DOWNTOWN LIBRARY AND CALLING FOR AN ELECTION THEREON**

WHEREAS, in 1999, Oakley's Community Library moved to Freedom High School with the expectation that this move would be a temporary one;

WHEREAS, nearly 17 years later, the Library continues to be located at Freedom High School, and because limitations due to this location, is unable to provide the desired levels of collection, technology, space, parking, and visibility;

WHEREAS, the current location of the Library has no community meeting rooms; the Library has only one electrical outlet, leaving insufficient ability for persons to use laptops, tablets, and other technology; its shelf space is exhausted and it has no quiet study/work spaces; and family programming time is limited, as it must be scheduled after school hours;

WHEREAS, in light of these limitations, the City, with considerable stakeholder and public input, undertook an exhaustive process to evaluate the possibility of constructing and financing a new, stand-alone library;

WHEREAS, this evaluation has shown that a new, stand-alone library with 20,000 square feet of space can be constructed in downtown Oakley, immediately next to City Hall;

WHEREAS, preliminary architectural renderings for the new Downtown Library have been prepared and a financial evaluation has determined the cost to design, construct, and furnish the new Library would cost \$12 million;

WHEREAS, to finance the cost for this new library, the City has determined it is necessary to impose a monthly tax on every parcel within the City of \$7.75; and

WHEREAS, in proposing that the voters of the City consider such a special tax, the City Council finds that the adoption of this resolution and other City acts necessary to present the proposed tax to City voters are purely electoral and financial matters and thus are not a "project," as provided for in California Environmental Quality Act Guideline section 15378(b)(3) and (4).

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY
HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:**

SECTION 1. ENACTMENT OF SPECIAL TAX

As provided for in Chapter 7 to Title 3 of the Oakley Municipal Code, and if approved by the voters in the manner provided for below, there is hereby enacted within the City a special tax in the amount \$7.75 per month on every parcel of property located within the City for the purposes set forth in Section 2.

SECTION 2. PURPOSES OF SPECIAL TAX

The purpose of the special tax authorized herein shall be to provide funding for the planning, environmental, engineering, administrative, and architectural services necessary to construct and operate the Downtown Library, as well as the construction and furnishing of the Library. All proceeds from the special tax authorized herein shall be used exclusively for these purposes only.

SECTION 3. METHOD OF COLLECTION

The City hereby directs the Contra Costa County Treasurer/Tax Collector to collect the special tax authorized herein for the initial Fiscal Year 2016-2017, on the same tax roll at the same time and in the same manner, and subject to the same penalties as the property taxes fixed and collected by the County on behalf of the City. The County may deduct its reasonable costs incurred for such services before remittal to the District.

The special tax, together with all penalties and interest thereon, shall constitute a lien upon each parcel of property upon which it is levied until it has been paid, and such special tax, together with all penalties and interest thereon, shall, until paid, constitute a personal obligation to the City by the person(s) who own(s) the parcel of property on the date the special tax is due.

SECTION 4. EFFECTIVE DATE OF SPECIAL TAX

The special tax shall become effective following the approval of this resolution and subsequent approval by two-thirds of voters voting on proposition set forth in Section 9. If approved, the special tax shall be collected beginning in fiscal year 2016-17. The tax shall be continued to be collected for 30 years.

SECTION 5. SPECIAL ACCOUNT

Upon the effective date of this special tax, the City is hereby directed to create a separate account into which all revenue raised by the special tax shall be placed. Should any surplus money be generated by this special tax in any year, such surplus shall be expended in the following year, in the discretion of the City

Council, only for the purposes stated in Section 2. In no event shall surplus money generated by this special tax be used for any purpose other than as authorized herein.

SECTION 6. ANNUAL REPORT

The City shall cause a report to be filed with the City Council no later than June 30 of each year, commencing on June 30, 2018, and at least once a year thereafter, which shall contain both of the following: (i) the amount of funds collected and expended under this Resolution; and (ii) the status of any project required or authorized to be funded to carry out the purposes set forth in this Resolution.

SECTION 7. EXEMPTIONS

The special tax authorized herein shall not be imposed upon a federal or state agency, any local agency, or any parcel of property which is exempt from ad valorem taxes under any other applicable law.

SECTION 8. APPROPRIATIONS LIMIT

To the extent the Board proposes to increase the City's spending limit under Article XIII B of the California Constitution, this resolution authorizes the increase of that limit by an amount equal to the proceeds of the taxes for the first year the special tax authorized herein is imposed.

SECTION 9. CALL FOR ELECTION

An election is called for June 7, 2016 to consider the following question:

<i>To replace the small, outdated Oakley Library currently utilizing a portion of Freedom High School and construct and operate a new Library and Community Learning Center downtown, shall the ordinance establishing a \$7.75 per month per parcel Library Development Tax be adopted, raising approximately \$1.1 million annually, for 30 years starting fiscal year 2016/17, with independent financial audits ensuring funds are spent only on the Oakley Library and Community Learning Center?</i>	YES	
	NO	

SECTION 10. CONSOLIDATION

Pursuant to Part 3, commencing with Section 10400, Division 10 of the Elections Code, the Contra Costa County Registrar of Voters is requested to consolidate

this election with other elections held on the same day in the same territory or in the territory that is in part the same.

SECTION 11. COUNTY ADMINISTRATION OF ELECTION

Pursuant to Section 10002 of the Elections Code, the City Council hereby request the Board of Supervisors of Contra Costa County to permit the County Elections Official to render services necessary to place this measure on the ballot of the next general municipal election and to conduct the election of this ballot measure. The City Council recognizes that additional costs may be incurred by the County by reason of these services and agrees to reimburse the County for these costs.

SECTION 12. CONDUCT OF ELECTION

The election on this measure shall be held, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, the returns made, and a result ascertained and determined, and all other proceedings conducted in connection with the election, under the regulations of the Registrar of Voters of Amador County, in accordance with the provisions of the law governing general municipal elections in general law cities.

SECTION 13. ARGUMENTS IN FAVOR OR IN OPPOSITION

Anyone may submit primary arguments on this ballot measure pursuant to Election Code Section 9280, et.seq. Such primary arguments shall not exceed 300 words in length and shall be submitted to the City Clerk no later than 5:00 p.m. on February 23, 2016. Anyone may submit rebuttal arguments to the primary arguments pursuant to Election Code Section 9285 subsection (a), the provisions of which are hereby adopted. Such rebuttal arguments shall not exceed 250 words in length and shall be submitted to the City Clerk no later than 5:00 p.m., on March 4, 2016. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any argument submitted. If more than one argument is submitted in favor of or in opposition to the proposed measure, the City Clerk shall select the argument to be utilized in accordance with Elections Code section 9287.

SECTION 14. IMPARTIAL ANALYSIS

The City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure pursuant to Election Code Section 9280, and submit it to the City Clerk no later than 5:00 p.m. on March 4, 2016.

SECTION 15. DESIGNATION OF MEASURE TEXT

The City requests the Elections Official publish only the following portions of this Resolution as the measure text to be published in the Voter's Pamphlet: The Title of this Resolution, all "Whereas" clauses, Sections 1 through 8 above, and the adoption block and signatures/attestations provided below.

NOW, THEREFORE, BE IT FURTHER RESOLVED the City Council hereby rescinds Resolution 19-16, adopted on February 9, 2016, as this Resolution is intended to replace that previous resolution.

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the 23rd day of February, 2016, by Councilmember _____, who moved its adoption, which motion being duly seconded by Councilmember _____, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Kevin Romick, MAYOR

ATTEST:

Libby Vreonis, CITY CLERK Date