



## STAFF REPORT

**Date:** April 15, 2015  
**To:** Mayor and Members of City Council  
**From:** William R. Galstan, Special Counsel *William R. Galstan*  
**Cc:** Bryan H. Montgomery, City Manager; Derek P. Cole, City Attorney;  
Dan Gomez, Chief of Police  
**Subject:** Ordinance Establishing Police Department

### FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON APRIL 28, 2015

#### Summary and Recommendation

- a) Waive reading of ordinance;
- b) Introduce by title only an ordinance adding Article 3 to Chapter 2 of Title 2 of the Oakley Municipal Code, establishing a Police Department.

#### Fiscal Impact

Adoption of this ordinance *per se* will not have any financial impact. The policy decision already made by the City Council to create a city Police Department is expected to make the funding of police services more efficient.

#### Background and Analysis

Although Oakley has always had a "police department", this has been a contract service provided by the Sheriff's Department. The City Council has determined to bring police services "in house" and thus it is appropriate to formally establish a City police department and generally outline its functions. As an example, our Municipal Code already has provisions about the offices of City Manager and Finance Director.

The attached ordinance is designed to become "operative" immediately upon termination of the police services contract with the County. A City Police Department would then be created. The duties and responsibilities of the Police Chief are outlined in the ordinance.

Under the city manager form of government, the Police Chief is appointed by the City Manager and serves at the pleasure of the City Manager, Government Code Sec. 34856. (In non-city manager cities, the City Council appoints the Police Chief, Government Code Sec. 36505, but this is a rare situation.)



Clearly, the appointment and retention of the Police Chief is a matter of great interest to the City Council. There are techniques whereby the Council, or a subcommittee, can be involved in the interview process. Ultimately, of course, the Council's satisfaction with the Police Chief is controlled through the Council's satisfaction with the City Manager.

The proposed ordinance grants to the Police Chief the powers specified for police chiefs in state law, Government Code Sec. 41601 – 41612. These include the powers to suppress riot and crime in the same manner as the powers granted to county sheriffs, the control and supervision of police officers, the obedience to arrest warrants, the charge of prisoners, and the collection of any fees prescribed by ordinance. The only responsibility that the ordinance deletes from the Police Chief is the requirement under Government Code Sec. 41610 to make a monthly statement of all monies handled by the Department. The ordinance specifies that this shall be the responsibility of the Finance Director.

The ordinance also provides that the staffing level of the Police Department shall be determined by the City Council through the budget process. Sworn officers are given the powers granted by State law, and shall be subject to the same requirements, such as POST training and certification.

Oakley will want to become a member agency of the Commission on Police Officer Standards and Training ("POST"), a statewide organization established by the Legislature to provide uniform standards for officer training and certification. This office has contacted POST inquiring as to the procedure for becoming a member agency. If we receive information from their office in time to include in this agenda, staff will propose a separate agenda item in that regard. If not, we will place an item on an upcoming agenda in the near future.

Finally, the ordinance also authorizes the City Manager, if funds have been provided by the Council, to appoint a "provisional" Police Chief and other officers, who shall have the responsibility to plan, organize, recruit and otherwise prepare for the implementation of the new Police Department.

### **Optional Action**

The adoption of the proposed ordinance may not be absolutely necessary to create a Police Department, but it does seem proper to do so, given the relatively large size and important functions of the Department. However, an option would be to do nothing regarding the adoption of an ordinance.



**Attachment**

Ordinance adding Article 3 to Chapter 2 of Title 2 of the Oakley Municipal Code, creating a City police department.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADDING  
ARTICLE 3 TO CHAPTER 2 OF TITLE 2 OF THE OAKLEY MUNICIPAL CODE,  
ESTABLISHING A POLICE DEPARTMENT**

The City Council of the City of Oakley does ordain as follows:

Section 1. Article 3 is hereby added to Chapter 2 of Title 2 of the Oakley Municipal Code, to read as follows:

**Article 3. POLICE DEPARTMENT**

**2.2.302. Department created.**

There is hereby created in the government of the City of Oakley a Police Department for the protection of public safety, enforcement of laws and the performance of other duties as specified by the City Council and the City Manager.

**2.2.304. Police Chief.**

The City Manager shall appoint the Police Chief, who shall serve at the pleasure of the City Manager. The Police Chief shall have operational control over the Department, although the City Manager shall be deemed the Hiring Authority for all of the employees of the Department. The Police Chief shall have all of the powers and duties specified in Government Code sections 41601 through 41611, and successor legislation, except that financial accounting of receipts shall be made by the Finance Director. The Police Chief shall also have the authority to promulgate rules, regulations and policies for the operation of the Department.

**2.2.306. Employees.**

The number of sworn and non-sworn members and employees of the Department shall be determined by the City Council in the budget adoption process. Sworn peace officers shall have all the powers that are authorized by state law, including arrest and ability to issue citations, and shall be subject to all requirements imposed upon sworn peace officers established by state law. Sworn officers also have the authority to issue administrative citations for the violation of city ordinances.

Section 2. California Environmental Quality Act (CEQA) Finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not subject to CEQA.

Section 3. Severability.

In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

Section 5. Operative.

Although this Ordinance shall become effective as stated above, it shall not become operative until the termination of the police services contract between the City and Contra Costa County, whereupon it shall become operative immediately. Prior to this Ordinance becoming operative, the City Manager shall have the authority, if funds have been appropriated for such purpose by the City Council, to appoint a provisional Police Chief and other members of the Department, who shall have the duty to plan, organize, recruit, and otherwise prepare for the implementation of the City police department and who shall assume the regular duties of their positions once this Ordinance becomes operative.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on \_\_\_\_\_, 2014 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
Doug Hardcastle, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date