



Board Agenda Item 56

DATE: June 18, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Ordinance Levying a Special Tax in Annexation 10A to Community Facilities District No. 2006-01 for Enhanced Police Protection Services.

RECOMMENDED ACTION(S):

Conduct second hearing on and adopt an Ordinance Levying a Special Tax within Annexation Territory No. 10A of County-Wide Mello-Roos Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno; and, waive reading of Ordinance in its entirety.

Approval of the recommended action will allow your Board to annually impose a special tax for Police Protection Services to residential development within as residences are occupied on real property located within Tract Map Nos. 4934 (Tract 4934), 4976 (Tract 4976), 5430 (Tract 5430), 6189 (Tract 6189), and 6226 (Tract 6226); and territory for maps not yet on file, for the parcels identified by Assessor's Parcel Numbers (APN) 300-340-13S, 300-340-60S, 300-350-28S, 300-542-03, 300-542-15S, 300-542-16S, 300-542-17S, 300-542-18S, 300-542-32, 300-542-33, 300-542-39, 300-542-40, 300-542-41, 300-542-48, 300-542-51, and 300-542-52 as shown in the map of Annexation Territory No. 10A (Exhibit A), to County-Wide Community Facilities District (CFD) No. 2006-01 (Police Protection Services) (CFD 2006-01). This item pertains to locations in District 5.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended action and reject the Developers' request to annex future areas of planned and expected residential developments to CFD 2006-01; however, that would deny the Developers the ability to meet one of the Conditions of Approval for the affected and expected Tract Maps, which is annexation into CFD 2006-01.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. On March 26, 2019, your Board authorized an Agreement with 3B Development, Inc.; Ashlan & Hayes Investments, LLC; Assemi Group, Inc.; Grantor Real Estate Investments, LLC; Locans Investments, LLC; Millerton Investments, LLC; and, WC Millerton Developers, Inc. (Developers) that required a deposit of \$2,142.86 by each of the Developers, for a total deposit of \$15,000, with the County to establish a trust account to pay the actual fees, costs, and expenses incurred by the County for its performance under the agreement. The agreement included conducting public hearings and proceedings in connection with annexing and incorporating the project territory to CFD 2006-01; developing the method of apportionment; imposing and implementing the special taxes (including, but not limited to, recording any notice of lien and imposing the initial levy); establishing the initial appropriations limit for the project territory under the California Constitution; processing, reviewing, and preparing documents and comments; and, performing other related work and activities. If the annexation

costs exceed the initial deposit, then the agreement requires that the Developers deposit additional funds with the Department of Public Works and Planning upon receipt of an invoice. Any funds remaining in the trust account after annexation is completed or abandoned will be returned to the Developers; thereafter, assuming the annexation is completed, future Department staff costs to administer the annexation to CFD 2006-01 project territory will be paid through the special tax on the annexed properties.

On July 10, 2018, the Board adopted Resolution No. 18-255 setting the maximum rates for the Special Tax for developed properties within CFD 2006-01 for FY 2018-19. Commencing FY 2018-19, the Single-Family Dwelling (SFD) tax rate for CFD 2006-01 has been established at an initial maximum rate of \$714.77 per SFD with an annual escalation factor, which shall be the Consumer Price Index (CPI) plus 3% of service cost increases, as detailed below. Also, commencing FY 2018-19 the initial maximum tax rate for Multi-Family Dwelling (MFD) development was determined to be \$537.67 per dwelling unit with the same annual escalation factor as SFDs. Unless increased by the Board using the annual escalation factor later this year with the item typically brought forward by the Sheriff-Coroner-Public Administrator's Office (Sheriff's Office) in July, the new maximum rates are the same rates that will be applicable to all units in CFD 2006-01.

The maximum tax rates for CFD 2006-01 provide for an annual escalation factor adjustment every three years (i.e., the escalation factor increase in every third year will be reduced if the CPI plus 3% exceeds the actual costs of services). Per Board direction, administration costs are limited to 10% of the total special tax. If administration costs do not exceed 10% of total special tax in any year, then the savings may be applied toward the costs of the services, but in any event, the special taxes are limited to the then current maximum special tax rates.

DISCUSSION:

County Policy

On February 9, 1993, the Board adopted a policy for the use of the Mello-Roos Community Facilities Act of 1982 (Act) for bond financing of public facilities for private development projects.

The 2000 Fresno County General Plan established, under Policy PF-G.2:

“The County shall strive to maintain a staffing ratio of two sworn officers serving unincorporated residents per 1,000 residents served. (This count of officers includes all ranks if deputy sheriff personnel and excludes all support positions and all sworn officers serving county wide population interests such as bailiffs, and sworn officers serving contract cities and grant specific populations).”

To provide funding for this service and to find the most equitable means for the users to pay for the service in developing areas of the County, various mechanisms of ongoing financing were reviewed. The Act provides the needed funding mechanism for the Police Protection Services.

On September 14, 2004, the Department received direction from the Board to use the Act to fund additional Police Protection Services in developing unincorporated areas of the County, including later annexations, such as the area of the proposed Annexation Project Territory, shown on Exhibit A.

On February 7, 2006, the Board approved the use CFD 2006-01, which contained a standard tax rate to be used for subdivision maps. CFD 2006-01 is a single CFD based on a “seed” District with subsequent annexations to it. On January 11, 2011, the Board adopted Resolution No. 11-018, restating and adopting the goals and policies for use of the Act to finance Police Protection Services in developing unincorporated areas of the County.

On March 26, 2019, the Board accepted and approved an agreement with the developers, who petitioned for the annexation to the existing CFD 2006-01 and waived time limits and requirements for the protest hearing and special election. The agreement required that all proceedings to annex to the District and record the amendment to the Notice of Special Tax Lien be completed no later than June 18, 2019.

On April 23, 2019, the Board adopted Resolution of Intention No. 19-138, which authorized the Department to proceed with the annexation requirements.

On May 22, 2019, the Notice of Public Hearing was published in a newspaper of general circulation, and on May 15, 2019, the Notice of Public Hearing was mailed to the affected landowners. It should be noted that the Sheriff's Office was notified on May 14, 2019, of the Board's approval of the Resolution of Intention No. 19-138 on April 23, 2019, which authorized the Department to proceed with today's hearing for the annexation of the subject territory.

On June 4, 2019, the Board took the following actions:

- Conducted the public protest hearing of qualified landowner-voters (there was no majority protest).
- Approved the Resolution calling for a special election of landowners in the Annexation Territory.
- Conducted a special election of qualified landowner-voters (100% approval by the Developers).
- Directed the recordation of an Amendment to Notice of Special Tax Lien.
- Conducted the first reading of the proposed Ordinance to Levy a Special Tax (waiving reading of the entire Ordinance) that will finance the Police Protection Services in Annexation Territory 10A.
- Set June 18, 2019 as the date for the second reading and approval of the proposed Ordinance.

The Amendment to Notice of Special Tax Lien was recorded after the Board's direction on June 4, 2019. Prospective purchasers of parcels in Annexation Territory 10A and companies doing title searches prior to transfers or sales of those parcels will have a notice of such lien in the public record of the County Recorder's Office.

The proposed Ordinance authorizes the annual levy and collection of the special tax, commencing FY 2019-20, as noted above, and allows the annual determination of the amount to be levied up to the maximum rates authorized by the Board in prior actions, in perpetuity or until the Board terminates the special tax. The Ordinance also notes that the tax shall be collected in the same manner as ordinary ad valorem taxes unless otherwise determined by the CFD Administrator (i.e., the Sheriff or Designee), such as by direct billing taxpayers, to meet CFD 2006-01 financial obligations, and places the responsibility for annual determination and tax roll inclusion on the CFD Administrator.

A copy of the proposed Ordinance has been on file with the Clerk of the Board since the first reading of this Ordinance by the Board. The special tax rate and method of apportionment, including the initial dollar amount of the rate is included as an exhibit to the proposed Ordinance.

The special tax rate procedures meet all the requirements of the California Constitution and the Government Code sections governing the Mello-Roos Community Facilities Act of 1982 (Government Code, Sections 53311 and following).

The County timely published the notice of the proposed adoption of this Ordinance by your Board.

If your Board approves the proposed Ordinance, it will provide the basis for your Board's future annual levy of the special tax within Annexation Territory 10A, which may be done either by resolution or ordinance, or by other action if permitted by then applicable law. It is anticipated that such action would be done by resolution.

REFERENCE MATERIAL:

BAI #10, June 4, 2019
BAI #49, April 23, 2019
BAI #46, March 26, 2019
BAI #36, July 10, 2018
BAI #26, June 12, 2018
BAI #10, January 11, 2011
BAI #15, February 7, 2006
BAI #21, September 14, 2004
BAI #5, February 9, 1993

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Ordinance

CAO ANALYST:

Sonia M. De La Rosa