



# Agenda Item

22

DATE: February 24, 2015

TO: Board of Supervisors

FROM: Alan Weaver, Director  
Department of Public Works and Planning

SUBJECT: Annex Proposed Tract No. 5688 to the County-Wide Mello-Roos Community Facilities District 2006-01 to Impose a Special Tax to Fund Enhanced Law Enforcement Services and Conduct a Public Hearing.

## RECOMMENDED ACTIONS:

1. Conduct public protest hearing regarding the proposed annexation of territory to Community Facilities District 2006-01.
2. If there is no "majority protest" within the County-Wide Mello-Roos Community Facilities District 2006-01 or the proposed annexation territory, overrule any protests, and adopt and authorize the Chairman to sign the Resolution Calling a Special Election for a vote of the qualified electors within the territory proposed for annexation to County-Wide Mello-Roos Community Facilities District 2006-01 (Police Protection Services) of the County of Fresno, for the combined propositions of Levying a Special Tax to finance enhanced police protection services, and including such annexation territory in the County-Wide Mello-Roos Community Facilities District 2006-01 for purposes of the appropriations limit of the County-Wide Mello-Roos Community Facilities District 2006-01.
3. Conduct the landowner voter special election (landowners owning 2/3 of the area of the proposed annexation territory must vote in favor) for the territory included in Tentative Map No. 5688 (Exhibit A).
4. Approve the canvass of the votes, and if the election is in favor of the Special Tax Levy and including the proposed annexation territory in the County-Wide Mello-Roos Community Facilities District 2006-01 for purposes of its appropriations limit, adopt and authorize the Chairman to sign the Resolution Declaring Results of landowner Special Election for proposed recordation of an Amendment to Notice of Special Tax Lien.

ADMINISTRATIVE OFFICE REVIEW \_\_\_\_\_

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Official Action of  
Board of Supervisors  
  
Deputy

SEE PAGE 6 FOR BOARD ACTION

UNANIMOUS \_\_\_\_\_ BORGEAS \_\_\_\_\_ MENDES \_\_\_\_\_ PACHECO \_\_\_\_\_ PEREA \_\_\_\_\_ POOCHIGIAN \_\_\_\_\_

- 5. Conduct the first reading of "An Ordinance of the County of Fresno Levying a Special Tax within Annexation Territory No. 8B of County-Wide Mello-Roos Community Facilities District 2006-01 (Police Protection Services) of the County of Fresno," waive reading of the Ordinance in its entirety, and set March 10, 2015, as the date for the second reading and approval of such Ordinance by your Board.**

The recommended actions will allow your Board to annex (Annexation 8B) Tentative Tract No. 5688 (Tract 5688) into Community Facilities District (CFD) No. 2006-01 (Police Protection Services) of the County of Fresno (CFD 2006-01) and impose a Special Tax on real property for the financing of enhanced police protection services (Police Protection Services) in accordance with the California Constitution and California Government Code Section 53311. The recommended actions include conducting a public protest hearing on the proposed annexation, adopting a resolution calling for a Special Election, holding a special election authorizing the Special Tax and inclusion of Annexation 8B territory in CFD 2006-01 for the purposes of the appropriations limit of CFD 2006-01, and conducting the first reading of an ordinance to levy the tax.

**ALTERNATIVE ACTION:**

There are no viable alternatives under current County policy. Annexation 8B into CFD 2006-01 is a condition of approval of Tract 5688, imposed to satisfy the requirements of certain policies in the County General Plan. If the recommended action is not approved, the County will not be able to annex the subject territory to CFD 2006-01 or levy a special tax for financing the Police Protection Services in Annexation 8B territory, and therefore, the conditions of approval for Tract 5688 will not have been satisfied.

**FISCAL IMPACT:**

There will be no net County cost associated with the recommended actions. All annexation costs are paid by the Developers/Landowners. The applicant has deposited with the County a total of \$12,000 to cover costs incurred by the County to conduct Annexation 8B proceedings. The Developer's deposit is in Trust/Special Revenue Fund 2400/subclass 34132. The Developer has entered into agreement with the County to deposit additional funds as necessary to cover any cost incurred beyond the initial deposit. Any funds remaining after the Annexation 8B proceedings are concluded will be returned to the Developer.

**DISCUSSION:**

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

The 2000 update to the Fresno County General Plan established, under Policy PF-G.2, that the County is to strive to maintain a minimum level of police protection services at two sworn officers per 1000 population in the unincorporated areas (excluding support positions, and sworn officers serving Countywide population, contract cities and grant specific populations). The Police Protection Services are intended to advance that policy of striving for a minimum level of service. The Act provides a mechanism to fund the Police Protection Services, in the form of a special tax on developed properties.

The Department of Public Works and Planning (Department), on September 14, 2004, was directed to use the Act to fund Police Protection Services in developing unincorporated areas of the County, including later annexations, such as the area of the proposed Annexation 8B.

On October 28, 2014, your Board directed staff to return and detail the process, timeline, and costs necessary to amend the County's General Plan to address Policies PF-G.2 and PF-G.4, dissolve existing Community Facility Districts (CFD), remove conditions of approval/mitigation measures on existing approved subdivision maps, and rescind Board Resolution No. 11-018 relating to Statement of Goals and Policies for the use of the Mello-Roos Community Facilities Act of 1982 to finance Police Protection Services.

On December 9, 2014, staff returned to your Board to present the information requested at the October 28, 2014 Board hearing. At the December 9, 2014 Board hearing, your Board directed staff to review the impact that eliminating or otherwise amending either PF-G.2 or PF-G.4 would have on the County's General Plan and to return to your Board at a later date. No action was taken to remove the requirement that, as a condition of map approval, the territory represented by Tract 5688 still needs to be annexed into CFD 2006-01. Therefore, at the request of the Developer, the Department is proceeding with Annexation 8B. On January 13, 2015, your Board adopted a Resolution of Intention, which authorized the Department to proceed with the annexation requirements. Your Board also accepted and approved an agreement with the developers/landowners, who petitioned for the annexation to the existing CFD 2006-01 for Tract 5688 and waived time limits and requirements for the protest hearing and special election. That agreement also required that all proceedings to include Annexation 8B in the District and record the amendment to the Notice of Special Tax Lien be completed no later than April 21, 2015. The agreement is clear that the County does not guarantee any particular result in the proceeding.

On February 16, 2015, a Notice of Public Hearing was published in a newspaper of general circulation, and on February 9, 2015, the Notice of Public Hearing was mailed to the affected landowner. It should be noted that the Sheriff's Department was notified on January 15, 2015, of your Board's approval of the Resolution of Intention on January 13, 2015, which authorized the Department to proceed with today's hearing for the annexation of the subject territory.

Services: The services to be financed will be County sworn officers providing Police Protection Services (including all related facilities, equipment, vehicles, and supplies for such service). While no individual sworn officer will be dedicated to this area exclusively, the Sheriff's Office Area Commander will assign officers to a dedicated number of hours and provide an accounting of related shifts and rates. Any proceeds from the special tax from Annexation 8B must be separately accounted for and spent on these Police Protection Services. By approving the recommended actions, your Board identifies that there will be an increased demand for services within CFD 2006-01 and that the services to be provided will not supplant any level of services currently being provided in the area.

Plan for Providing Services: The services to be financed in Annexation 8B are the same services that may be provided in all of CFD 2006-01, as well as any other territory that may later be annexed to CFD 2006-01. All of those services will be provided in common with each other.

Properties Taxed: All properties within Annexation 8B and described in Exhibit A will be taxed unless exempt by law (e.g., publicly owned property) or by provisions of the Special Tax Rate and Method of Apportionment (in the accompanying Resolution of Intention). The Special Tax Rate and Method of Apportionment for CFD 2006-01 will also apply to Annexation 8B.

Who Votes in the Special Tax Election: The landowner voting procedures apply to the levy of the special tax within the territory proposed for annexation as long as there have been less than 12 registered voters residing in the combined territories proposed for annexation for each of the 90 days before the Public Protest Hearing. If there are 12 or more registered voters within this time limitation, the Mello-Roos Community Facilities Act of 1982 (Gov. Code, § 53311 et seq.) requires that the vote must be by registered voters residing within the proposed annexation territories. In this instance, the landowner procedures will be used.

Each landowner is able to cast one vote per acre of land or portion of an acre of land that he or she owns (area by Assessor's Parcel Number (APN)) within their respective CFD 2006-01 boundary areas. In this case, Tract 5688 contains 31.38 acres and 31.00 votes with 25 residential lots

Board Actions: the Act requires a series of County actions to annex to CFD 2006-01 and to levy the special tax to pay for the new law enforcement services in the proposed annexation territory. These areas are not contiguous and the law allows for this separation. Staff recommends that the following necessary steps be taken:

1. Your Board will hold a noticed public "protest" hearing. At the hearing, if there is no "majority protest" in the proposed annexation territory and in the existing CFD 2006-01, your Board may proceed with the annexation to the District.

Note: a "majority protest" would occur under any one of the following conditions:

- Protest by landowners owning one half or more of the territory of land in the proposed annexation territory; or
  - Protest by landowners owning one half or more of the territory of land in the existing CFD 2006-01; or
  - Protest by 50 percent or more of the registered voters, or by six registered voters, whichever is more, residing within the proposed annexation territory; or
  - Protest by 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the existing CFD 2006-01.
2. Next, your Board conducts a landowner voter special election regarding (1) the Special Tax levy and (2) whether the initial annual appropriations limit of the CFD 2006-01 should include the proposed annexation territory. The landowner voter special election may take place immediately after the protest hearing because the qualified electors (i.e., the developers/landowners) have unanimously consented to waive the election time requirements that are otherwise applicable. In addition, there is on file with the Clerk to the Board, the Certificate of Concurrence from the Clerk to the Board, as your Board's designated elections official, consenting to shortening the time for a special landowner election within the boundaries of the proposed Annexation Territory. If not all of the landowners are present at the hearing, the Clerk to your Board will mail out the ballots, and the vote shall be conducted at the next available Board meeting. If the landowner voters do not approve the special tax levy, no further action is needed and the matter is concluded.
  3. If the landowner voters approve the special tax levy, your Board will then annex the territory to the CFD 2006-01, the Clerk to your Board will record an amendment to the existing Notice of Special Tax Lien for the CFD 2006-01 to include the lots in this annexation territory.

4. Your Board is being asked to adopt an ordinance authorizing the levying of the Special Tax for the annexation territory. If the election is completed today, as described above, the first reading of this ordinance will occur today.

Tax Levy: If approved, the special tax will be levied on the County's regular tax roll each year for each lot in the annexation territory starting upon the issuance of the Certificate of Occupancy for each dwelling that occurs between January 1<sup>st</sup> and May 1<sup>st</sup> of each year. The first possible tax year is 2015-16.

The maximum special tax rate for CFD 2006-01 for fiscal year 2014–2015 is \$626.99 per Single Family Dwelling (SFD) and \$462.55 per Multi-Family Dwelling (MFD). The special tax rate may be increased by your Board at a later date in accordance with an annual escalation factor for fiscal year 2015-2016. The annual factor is the sum of the Consumer Price Index (CPI) increase for Urban Wage Earners and Clerical Workers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area and three percent of the then-current police protection services costs. Administration costs are limited to ten percent of total special tax receipts. If administration costs do not exceed ten percent of service costs in any year, the savings may be applied toward the costs of the services. The applicable CPI increase is not known at this time; therefore, the maximum tax for fiscal year 2015-2016 cannot be calculated or established by your Board.

CEQA: The implementation of the annexation of territory to the CFD 2006-01 carries out the County's General Plan (Policy PF-G.2). Therefore, no further action under CEQA is necessary. The creation of CFD 2006-01, including the annexation of territory to the CFD 2006-01, is a financing mechanism to allow for the financing of Police Protection Services; as such, it is not a project under CEQA. (CEQA Guidelines §15378(b) (4)).

REFERENCE MATERIAL:

BAI #21, September 14, 2004  
BAI #12, February 1, 2005 – Resolutions R-05-058 and R-05-059  
BAI #34, March 28, 2006 – Resolution R-06-196  
BAI #21, May 2, 2006 – Resolution R-06-293 and R-06-294  
BAI #61, May 23, 2006 – Resolution R-06-366  
BAI #16, July 19, 2011  
BAI #31, August 9, 2011 – Resolution R-11-283  
BAI #27, September 18, 2012 – Resolution R-12-342  
BAI #11, October 28, 2014  
BAI #06, December 9, 2014  
BAI #26, January 13, 2015 – Resolution R-15-008

**CONDUCTED PUBLIC PROTEST HEARING. NO PROTESTS RECEIVED.**

**CLOSED PUBLIC PROTEST HEARING.**

Motion by:	Mendes	Second by:	Perea
Ayes:	Mendes, Perea, Borgeas, Pacheco, Poochigian	Noes:	None
Abstentions:	0	Absentees:	0

**CONFIRMED THAT THERE WAS NO MAJORITY PROTEST. ADOPTED AND AUTHORIZED THE CHAIRMAN TO SIGN THE RESOLUTION CALLING A SPECIAL ELECTION FOR A VOTE OF THE QUALIFIED ELECTORS WITHIN THE TERRITORY PROPOSED FOR ANNEXATION TO COUNTYWIDE MELLO-ROOS COMMUNITY FACILITIES DISTRICT 2006-01 (POLICE PROTECTION SERVICES) OF THE COUNTY OF FRESNO.**

Motion by:	Perea	Second by:	Mendes
Ayes:	Perea, Mendes, Borgeas, Pacheco	Noes:	Poochigian
Abstentions:	0	Absentees:	0

**CONDUCTED SPECIAL LANDOWNER ELECTION PER RECOMMENDED ACTION THREE (3) OF AGENDA ITEM**

**APPROVED CANVASS OF VOTES. ALL BALLOTS RETURNED WERE MARKED YES. ADOPTED AND AUTHORIZED THE CHAIRMAN TO SIGN THE RESOLUTION DECLARING RESULTS OF LANDOWNER SPECIAL ELECTION FOR PROPOSED RECORDATION OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN. CONDUCTED FIRST READING OF "AN ORDINANCE OF THE COUNTY OF FRESNO LEVYING A SPECIAL TAX WITHIN ANNEXATION TERRITORY NO. 8B OF COUNTY-WIDE MELLO-ROOS COMMUNITY FACILITIES DISTRICT 2006-01 (POLICE PROTECTION SERVICES) OF THE COUNTY OF FRESNO," WAIVED READING OF THE ORDINANCE IN ITS ENTIRETY, AND SET MARCH 10, 2015, AS THE DATE FOR THE SECOND READING AND APPROVAL OF SUCH ORDINANCE.**

Motion by:	Mendes	Second by:	Perea
Ayes:	Mendes, Perea, Borgeas, Pacheco	Noes:	Poochigian
Abstentions:	0	Absentees:	0

# EXHIBIT A

ANNEXATION MAP NO. 88 OF  
COMMUNITY FACILITIES DISTRICT NO. 2006-01 (POLICE PROTECTION SERVICES),  
COUNTY OF FRESNO, STATE OF CALIFORNIA

SITE #1

PREPARED BY:  
STRAHM ENGINEERING ASSOCIATES, INC.  
5100 N. Sixth St. # 117, Fresno CA. 93710  
PH. (559) 227-9690 FAX (559) 227-9860

## LEGEND

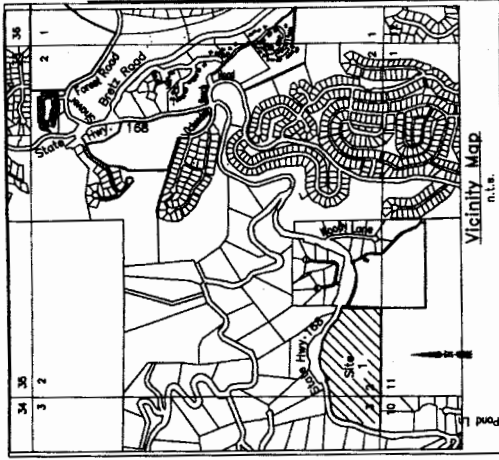
TRACT 5688 AND REMAINDER/OTD BOUNDARY

TRACT 5688 LOT LINES

ASSESSMENT NUMBER

(1)

ASMT. No.	ASSESSOR'S PARCEL No.	SITE No.	TRACT MAP No.
1	130-410-01	1	5688
2	130-430-28	1	5688 & REMAINDER



I, HEREBY CERTIFY THAT THE WITHIN MAP SHOWING BOUNDARIES OF ANNEXATION NO. 88 OF COMMUNITY FACILITIES DISTRICT NO. 2006-01 (POLICE PROTECTION SERVICES), COUNTY OF FRESNO, STATE OF CALIFORNIA, WAS PREPARED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO AT A REGULAR MEETING HELD ON THE 15<sup>TH</sup> DAY OF JANUARY, 2015, BY ITS RESOLUTION NO. 15-0033.

FILED IN THE OFFICE OF THE CLERK TO THE BOARD OF SUPERVISORS THIS 15<sup>TH</sup> DAY OF JANUARY, 2015.

*Paula C. Doherty*  
CLERK TO THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO

FILED THIS 15<sup>TH</sup> DAY OF JANUARY, 2015, AT THE HOUR OF 11:00 O'CLOCK A.M. IN BOOK 147, PAGE 11, OF THE MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT NO. 2006-01, INSTRUMENT NO. 2006-01, IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA.

*Paul Doherty* Recorder

*Ramona Rodriguez* DEPUTY RECORDER  
FRESNO COUNTY RECORDER

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE FRESNO COUNTY ASSESSOR'S MAP FOR THOSE PARCELS LISTED.

THE FRESNO COUNTY ASSESSOR'S MAP SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS AND PARCELS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO APPROVED THE ORIGINAL BOUNDARY MAP OF THE DISTRICT, ENTITLED "MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2006-01 (POLICE PROTECTION SERVICES), COUNTY OF FRESNO, STATE OF CALIFORNIA", WHICH WAS FILED PURSUANT TO SECTION 3111 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE, ON APRIL 3, 2006, IN BOOK 41, AT PAGES 80 AND 81 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AS INSTRUMENT NO. 2006006894.

SHEET 1 OF 1 SHEETS

