County of Fresno

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Legislation Details (With Text)

File #:	19-0267	**Name:**	Annexation No. 10A to CFD 2006-01 County-Wide Mello-Roos (Police Protection Services) Special Election / Protest
		In control:	Public Works & Planning
On agenda:	6/4/2019	**Final action:**	6/4/2019
Enactment date:		**Enactment #:**	Resolution No. 19-237, Resolution No. 19-238

Title: Conduct public protest hearing regarding proposed annexation of territory to Community Facilities District 2006-01; if no "majority protest" within County-Wide Mello-Roos Community Facilities District 2006-01 or proposed annexation territory, overrule any protests, and adopt and authorize Chairman to execute Resolution Calling a Special Election for vote of qualified electors within territory proposed for annexation to County-Wide Mello-Roos Community Facilities District 2006-01 (Police Protection Services) of County of Fresno, for combined propositions of Levying a Special Tax to finance enhanced police protection services, and including such annexation territory in County-Wide Mello-Roos Community Facilities District 2006-01 for purposes of appropriations limit of County-Wide Mello-Roos Community Facilities District 2006-01; conduct landowner voter special election (landowners owning two-thirds of the area of the proposed annexation territory must vote in favor) for territory included in Annexation Territory No. 10A of Community Facilities District No. 2006-01 (Exhibit A); approve canvass of votes, and if election is in favor of Special Tax Levy and including proposed annexation territory in County-Wide Mello-Roos Community Facilities District 2006-01 for purposes of its appropriations limit, adopt, and authorize Chairman to execute Resolution Declaring Results of landowner Special Election for proposed recordation of Amendment to Notice of Special Tax Lien; conduct first hearing on Ordinance Levying a Special Tax within Annexation Territory No. 10A of County-Wide Mello-Roos Community Facilities District 2006-01 (Police Protection Services) of County of Fresno; waive reading of Ordinance in its entirety; and set second hearing for June 18, 2019; designate County Counsel to prepare fair and adequate summary of proposed Ordinance; and direct Clerk of the Board to post and publish required summary in accordance with Government Code, Section 25124(b)(1)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Exhibit A, 3. Ordinance Levying Special Tax, 4. Resolution No. 19-237, 5. Resolution No. 19-238, 6. Certificate of Concurrence, 7. Ordinance Summary, 8. Additional Information

Date	Ver.	Action By	Action	Result
6/4/2019	1	Board of Supervisors	Conducted Hearings	Pass
6/4/2019	1	Board of Supervisors	Conducted Hearings	Pass
6/4/2019	1	Board of Supervisors	Conducted Hearings	Pass

DATE: June 4, 2019

TO: Board of Supervisors

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

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SUBJECT: Annexation of Territory into County-Wide Mello-Roos Community Facilities District No. 2006-01 to Impose a Special Tax to Fund Law Enforcement Services and Conduct a Public Hearing.

RECOMMENDED ACTION(S):

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 execute 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 two-thirds of the area of the proposed annexation territory must vote in favor) for the territory included in the Annexation Territory No. 10A of Community Facilities District No. 2006-01 (Exhibit A).**

4. **Approve 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 execute the Resolution Declaring Results of landowner Special Election for proposed recordation of an Amendment to Notice of Special Tax Lien.**

5. **Conduct first hearing on an Ordinance Levying a Special Tax within Annexation Territory No. 10A of County-Wide Mello-Roos Community Facilities District 2006-01 (Police Protection Services) of the County of Fresno; waive reading of Ordinance in its entirety; and set the second hearing for June 18, 2019.**

6. **Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**

7. **Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

Approval of the recommended actions will allow your Board to begin the process of annexing the territory within Tract Map Nos. 4934 (Tract 4934), 4976 (Tract 4976), 5430 (Tract 5430), 6189 (Tract 6189), and 6226 (Tract 6226); plus the 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) and the levying of a special tax for Police Protection Services to residential development within as residences are occupied (Annexation 10A). This item pertains to locations in District 5

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended actions 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 actions. 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 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.

Services: The services to be financed will be County sworn officers providing Police Protection Services (including all related facilities, equipment, vehicles, and supplies for all such services). 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 10A 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 10A are the same services that may be provided in all of CFD 2006-01 and any other territory that may later be annexed to the CFD. All of those services will be provided in common with each other.

Properties Taxed: All properties within Annexation 10A 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 be the same as for proposed Annexation 10A, subject to the annual escalation factor.

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 Police Protection Services. On April 23, 2019, your Board adopted Resolution No. 19-138 to declare your Board's intention to annex territory to CFD 2006-01 within the boundaries as shown in Annexation Territory No. 10A. 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 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 as follows:

- In the proposed territory of Annexation 10A: if there are protests by landowners owning half or more of the territory of land in the proposed annexation territory or,
- In the existing CFD 2006-01: if there are protests by landowners owning half or more of the territory of land in the existing CFD 2006-01 or,
- If there are written protests from 50% or more registered voters, or six registered voters, whichever is more, residing within Annexation 10A; or if there are written protests from 50% or more of the registered voters, or six registered voters, whichever is more, residing in the existing CFD 2006-01; then registered voter protest rules also apply in each such separate

instance.

2. Next, your Board will conduct a special landowner election of the special tax levy, which may be immediately after the protest hearing. The special tax needs to be approved by two-thirds of the landowners (or their authorized representatives) whose land is subject to the tax. The ballot for the special election also includes the question of whether the CFD 2006-01 appropriations limit (currently $323,748,642) should include the proposed annexation territory. Each landowner in the proposed annexation territory gets one vote for each acre or portion of an acre of land that such landowner owns in such territory as of the close of the public protest hearing. If not all of the landowners are present at that hearing, the Clerk of your Board would mail out the ballots, and the votes shall be conducted at the next available Board meeting.

3. 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 will have been less than 12 registered voters residing in the combined territory proposed for annexation for each of the 90 days before the close of the Public Protest Hearing below. Otherwise, those votes must be by registered voters residing within the proposed annexed territory. In this case, the landowner procedures will be used. Each landowner may cast one vote per acre of land within their respective property.

4. If the election is successful, your Board then would annex the territory to CFD 2006-01, and the Clerk of the Board would record an amendment to the existing Notice of Special Tax Lien for CFD 2006-01 to include the lots in the annexation territory.

5. Your Board will be asked to adopt an amendment to the ordinance authorizing the levying of the special tax. If the election is completed today, as described above, the first reading of this ordinance may occur today.

Tax Levy: If approved by the landowner voters, 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 1st and May 1st of each year. The first possible tax year is FY 2019 -20.

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

REFERENCE MATERIAL:

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
On file with Clerk - Resolution Calling Special Election
On file with Clerk - Resolution Declaring Results Landowner Special Election

On file with Clerk - Ordinance Levying Special Tax
On file with Clerk - Certificate of Concurrence

CAO ANALYST:

Sonia M. De La Rosa