



County of Fresno

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Legislation Text

File #: 19-0858, **Version:** 1

DATE: June 9, 2020

TO: Board of Supervisors

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

SUBJECT: Resolution Initiating Standby Charge Assessment Proceeding for County Service Area No. 1 (Tamarack Estates)

RECOMMENDED ACTION(S):

Adopt and authorize the Chairman to execute Resolution initiating an assessment proceeding under the Uniform Standby Charge Procedures Act for a standby charge assessment for water and sewer services for County Service Area No. 1, also known as Tamarack Estates.

Approval of the recommended action will initiate a proceeding to impose a standby charge assessment for water and sewer services in County Service Area No. 1 (CSA 1), which is also known as Tamarack Estates. A public meeting will be held on July 24, 2020 at 5:00 p.m., and public hearing on August 4, 2020 at 9:00 a.m., or as soon after as practicable, to conduct a majority protest hearing under Proposition 218, so that property owners within CSA 1 may indicate their support for, or opposition to, the proposed standby charge assessment.

A detailed Engineer's Report supporting the proposed standby charge assessment is on file with the Clerk of the Board. Exhibit A of this agenda item is a map of CSA 1, showing the parcels that would be affected by the proposed standby charge assessment. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no viable alternative action as operating costs have exceeded revenues since 2015 and reserves have been depleted

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. All costs associated with the request are paid for by the benefitted properties within CSA 1.

DISCUSSION:

Background

CSA 1 was formed in 1962 to provide community water, sewer, and snow removal services for the subdivision known as Tamarack Estates, located nine miles south of Huntington Lake. The subdivision contains a total of 45 lots, 38 of which are developed, 6 are undeveloped, and one contains a 10-unit motel.

Beginning in fiscal year 2006-07, the water and sewer service budgets were separated from snow removal

services. The water and sewer budget are currently funded with revenue from annual service charges as well as a portion of ad valorem property tax revenues allocated to CSA 1.

The last rate adjustment proceeding (Prop 218), by which the water and sewer annual service charges were increased, was conducted on November 1, 2005. The water and sewer annual service charge was increased to a total of \$1,201.95 per year for developed single family residential parcels (1 Equivalent Dwelling Unit (EDU)), \$4,567.40 for the parcel with the motel (3.8 EDUs), and \$125.52 for vacant parcels. The annual service charges were determined based on services, supplies, and labor costs at the time with no adjustments for inflation.

The costs of operating CSA 1 facilities have exceeded revenues since 2015 and will continue to do so unless the proposed standby charge assessment is levied. For the period from 2015 to today, the average annual operation and maintenance budget was \$97,344, while revenues from the water and sewer annual service charges have been constant at \$49,910. Ad valorem property tax revenues allocated to CSA 1 have not been sufficient to make up the difference. As a result, cash reserves have been depleted. Revenues need to be increased to not only meet expenses, but also, in accordance with Board of Supervisors (Board) policy adopted November 7, 2006, to build a cash reserve of a minimum of fifty percent of the average of the last three fiscal years' annual operation costs.

On June 29, 2019, Department of Public Works and Planning staff met with the Citizens Advisory Committee (CAC) and CSA 1 community members and discussed the need to initiate a Prop 218 to increase revenue due to the deficiency in funds to operate and maintain the CSA 1 facilities. The CAC and community indicated its desire to maintain and appropriately fund their community water and sewer system and recommended a Prop 218 to increase CSA 1 revenue. Department staff informed the CAC and CSA 1 community members on October 28, 2019, that Staff would prepare documents and recommend to the Board a Prop 218 to levy a standby charge assessment that is designed, in conjunction with the allocation of ad valorem property tax revenues to CSA 1, to generate revenue sufficient to maintain and appropriately fund the community water and sewer system, as desired by the CAC and the community. Department staff met with the CAC and CSA 1 community members again on May 29, 2020, to review the proposed standby charge assessment and the Proposition 218 process for a standby charge assessment.

Proposed Standby Charge Assessment

The proposed standby charge assessment for CSA 1 water and sewer facilities is designed to recover the following costs:

- the supply, treatment, and distribution of water;
- the collection, treatment, and disposal of raw sewage;
- an operations and maintenance reserve; and
- costs associated with administering utility bills, financial audit requirements, liability insurance and other administrative costs.

The calculation of the proposed standby charge assessment in the Engineer's Report begins with the total annual cost of services. The total cost is then allocated to each parcel in proportion to their EDU. The method is used because the level of special benefit provided by each of the services is equal per "dwelling unit." Each of the residential parcels in CSA 1 is assigned one EDU and the motel parcel is assigned 3.8 EDUs.

The proposed total annual assessment per EDU, for the first year, FY 2020-21, is \$2,550.00 of which \$1,878.00 is attributable to the water system, and \$672 is attributable to the sewer system.

The maximum total amount to be collected from all assessed properties in the first year (FY 2020-21) is \$121,890.00 of which \$89,768.40 is attributable to the water system assessment and \$32,121.60 is attributable to the sewer system assessment.

The maximum total annual amount for all assessed properties in CSA 1 for the following five years will be:

1. FY 2020-21	\$121,890.00
2. FY 2021-22	\$125,546.70
3. FY 2022-23	\$129,313.34
4. FY 2023-24	\$133,192.79
5. FY 2024-25	\$137,188.39

The maximum assessment for each year, for the first 5 years, as presented above includes a maximum inflation factor of 3%. After the fifth year, Assessments may continue to be increased annually by a factor equal to the average annual change for the San Francisco-Oakland-San Jose Consumer Price Index - All Items (SFCPI-U) up to a maximum of 3% over the prior year. The factored increase will only be imposed as necessary to cover costs related to the cost of operations and maintenance of the facilities and only for an amount up to the actual SFCPI-U, but no more than 3%.

Summary of the Proposition 218 Procedures

The process of levying the standby charge assessment on real property within CSA 1, must conform to the requirements of Proposition 218, California Constitution as Articles XIII C and XIII D. The particular requirements applicable to standby charge assessments are in Article XIII D, section 4. The proceeding must also comply with the Uniform Standby Procedures Act, found in the California Government Code beginning at section 54984.

Under Proposition 218, a notice, including a standby charge assessment ballot, will be mailed to all of the property owners within the District no later than 45 days before the public protest hearing scheduled for August 4, 2020.

Engineer's Report

The Engineer's Report is on file with the Clerk of the Board and available for public inspection in its entirety.

Standby Charge Assessment Ballot Measure

Owners of property within CSA 1 will be given the opportunity, in a standby charge assessment ballot proceeding, also called a "majority protest proceeding," to indicate their support of, or opposition to, in a single standby charge assessment ballot measure, the proposed standby charge assessment to provide for the cost of local utility water and sewer services.

Standby Charge Assessment Ballot Process

For the standby charge assessment, a single standby charge assessment ballot per parcel within CSA 1, along with a detailed notice and related standby charge assessment ballot instructions, will be mailed by the Clerk of the Board to the record property owners identified in the Engineer's Report as receiving a special benefit from water and sewer services. For an assessment ballot to be counted, it must be properly executed and delivered before or on the Board's public hearing date of 9:00 a.m. on August 4, 2020 as follows:

- (a) By U.S. mail so that it is received by the Clerk of the Board no later than 9:00 a.m. on August 4, 2020; or

- (b) otherwise delivered to the Clerk of the Board no later than 9:00 a.m. on August 4, 2020; or
- (c) delivered at the Board's public hearing itself on August 4, 2020, before the close of public testimony during the hearing.

Standby charge assessment ballots will remain unopened and in the charge of the Clerk of the Board until they are opened and tabulated by the Board's designated officials (e.g., Director of Public Works and Planning, or designees), after the conclusion of public testimony at the recommended August 4, 2020 Board public hearing, assuming that the Board concludes the public hearing on that day.

Substitute standby charge assessment ballots will also be made available for owners who previously returned their standby charge assessment ballot (or substitute standby charge assessment ballot) and then wish to change or withdraw their standby charge assessment ballot (or substitute standby charge assessment ballot). Substitute standby charge assessment ballots will also be made available for owners who state that they did not receive or lost their standby charge assessment ballot, or that their standby charge assessment ballot (or substitute standby charge assessment ballot) is unusable.

If more than one of the record owners of an identified parcel wishes to submit a standby charge assessment ballot, they may do so prior to the conclusion of public testimony at the Board's public hearing, but only by using the County-provided co-owner standby charge assessment ballot for such purpose. Co-owner standby charge assessment ballots will indicate the amount of the proposed standby charge assessment to be imposed upon the identified parcel, but there shall be allocated to each properly completed and timely submitted co-owner standby charge assessment ballot the standby charge assessment in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the Board by documentation provided by the record owner(s).

In either case, such co-owner standby charge assessment ballots and substitute standby charge assessment ballots, will be provided once the property owner executes an appropriate County request form, also to be made available upon request to the Clerk of the Board, to ensure orderly standby charge assessment ballot proceedings. Standby charge assessment ballots substitute standby charge assessment ballots and co-owner standby charge assessment ballots will have the same standby charge assessment ballot measure.

All properly completed and timely returned standby charge assessment ballots will be tabulated at the conclusion of the Board's public hearing. The standby charge assessment shall not be imposed if the standby charge assessment ballots submitted in opposition to the proposed standby charge assessment exceed 50% of the validated ballots submitted.

Proposed Resolution to Initiate

Approval of the recommended action will initiate the process to impose a standby charge assessment for water and sewer services. In general, by approving the resolutions, the Board makes key findings, determinations, and authorizations as follows:

- (a) Describes the reason for the standby charge assessment and the parcels to be assessed.
- (b) States that an Engineer's Report under Article XIID Section 4 of the California Constitution and Government Code Section 54984.3 and 54717 is on file with the Clerk of the Board.
- (c) Declares the proposal to levy and collect assessments in CSA 1 for the cost of local utility water and sewer services.
- (d) Authorizes and directs the Director of Public Works and Planning (Director) or designees, to prepare the

standby charge assessment ballots and standby charge assessment ballot instructions, any materials for the change, withdrawal, or substitution of standby charge assessment ballots, including substitute standby charge assessment ballots and substitute standby charge assessment ballot instructions, any materials for co-owner standby charge assessment ballots, including co-owner standby charge assessment ballots, and any other forms and materials, as the Director, or designees, deem necessary or appropriate, with respect to the submission of standby charge assessment ballots by record property owners of the parcels to be assessed, under Section 53753 of the California Government Code.

- (e) Authorizes and directs the Director, or designee, to prepare a notice of the public hearing, and specifies that the notice shall also contain information required by Proposition 218, as well as a standby charge assessment ballot and standby charge assessment ballot instructions.
- (f) Authorizes and directs the Clerk of the Board to sign and mail, postage prepaid, in the United States mail, no later than June 19, 2020, the notice to the record property owners of the parcels to be assessed. On the face of the envelope in which each notice is sent, there shall appear, in no smaller than 16-point bold type, the words "OFFICIAL BALLOT ENCLOSED." Upon the Clerk of the Board's completion of the mailing of the notices, the Clerk is directed to file with the Board an affidavit setting forth the time and manner of the compliance with the requirements of this resolution for mailing the notices.
- (g) Designates and authorizes the Director, or designees, who may be any employees of Department of Public Works and Planning that he appoints, to tabulate the assessment ballots submitted, and not withdrawn, in support of or in opposition to the proposed standby charge assessment. Each of those persons may, in their discretion appoint assistants, including, but not limited to, any employees of the County Administrative Office, including further any employees of the Office of the Clerk of the Board, to perform such tabulation of standby charge assessment ballots. The Board also finds and determines that each of such persons is an impartial person who does not have a vested interest in the outcome of imposing the proposed standby charge assessment proceeding.
- (h) Provides that if the Board imposes the proposed standby charge assessment, the resolution imposing the assessment shall provide that the amount of the standby charge assessment will change in successive years through Fiscal Year 2024-25 as stated in Exhibit B to the resolution, and Exhibit A to the Engineer's Report, after which the standby charge assessment can only be increased by the inflation factor equal to the average annual change for the San Francisco-Oakland-San Jose Consumer Price Index - All Items (SFCPI-U) up to a maximum of 3% over the prior year, until the standby charge assessment is reduced or terminated, or there is a new proceeding to increase any or all of the assessments. If new or increased assessments are proposed, the Board will comply with the notice, protest, and hearing procedures in Government Code section 53753.
- (i) Provides that if the Board imposes the proposed standby charge assessment, the resolution imposing the standby charge assessment shall provide that the standby charge assessment will be collected annually at the same time, and in the same manner, and subject to the same penalties, as the general taxes of the County.
- (j) Provides that if the Board imposes the proposed standby charge assessment, the resolution imposing the standby charge assessment shall provide that the Director is authorized and directed to timely deliver, or cause their designee to timely deliver, to the Auditor-Controller/Treasurer-Tax Collector, for each fiscal year for which the standby charge assessment is levied by this resolution, a true and complete roll of the standby charge assessment in the amounts provided by Exhibit B to the levying resolution, and Exhibit A to the Engineer's Report.
- (k) Provides that if the Board imposes the proposed standby charge assessment, the resolution imposing

the standby charge assessment shall provide that the Director is authorized and directed to perform, or cause their designee to perform, beginning for Fiscal Year 2025-26 and each fiscal year after for which the standby charge assessment is levied by the levying resolution, the inflation calculation required by Exhibit B to the levying resolution, and Exhibit A to the Engineer's Report, for purposes of the annual roll of the standby charge assessment delivered to the Auditor-Controller/Treasurer-Tax Collector, as described above.

(l) Provides that the Resolution shall take effect immediately upon its adoption.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A

On file with Clerk - Resolution of Initiation

On file with Clerk - Engineer's Report

CAO ANALYST:

Debbie Paolinelli