

COUNCIL AGENDA: 06-07-05

ITEM: 4.6

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 05-16-05

Approved

Date

5/24/05

Council District: 7

**SUBJECT: COMMUNITY FACILITIES DISTRICT NO. 11
(ADELINE – MARY HELEN) – PUBLIC HEARING AND SPECIAL
ELECTION**

RECOMMENDATION

It is recommended that Council hold a public hearing, conduct a special election and take the following actions related to the formation of Community Facilities District No. 11 (Adeline – Mary Helen).

1. Adoption of a resolution for each of the following items to:
 - a. Establish Community Facilities District No. 11 and authorize the levy of a special tax.
 - b. Declare the results of the special election; and if approved, direct the recording of the notice of the special tax lien for Community Facilities District No. 11.
2. Approval of an ordinance imposing the levy of special taxes for Community Facilities District No. 11.

CEQA: Exempt, File No. PP05-021

BACKGROUND

In 1992, Council adopted a Specific Plan for Communications Hill to define the development criteria for a dense, highly urbanized residential neighborhood of up to 5,000 dwelling units to be built on the hilly terrain bounded by Curtner Avenue to the north, Hillsdale Avenue and Capitol Expressway to the south, Monterey Road to the east, and State Route 87 to the west.

Development began on the southern portion of Communications Hill in 2001 and has progressed up the southern slope to the top of the hill. Tract No. 9354 is on the top of the hill. The lots on the northern slope of this Tract are situated below the adjacent gravity storm and sanitary sewer systems.

The undeveloped parcels adjacent to Tract No. 9354 on the northern side of the hill are owned by MTA Properties and the timeline for development of these parcels is uncertain. The Developer's negotiations with MTA Properties have been unsuccessful to secure utility encroachment rights for the installation of gravity fed storm and sanitary sewer systems, thus forcing the development to pursue the most cost-effective position of requiring pump stations to provide a connection to the existing systems on the southern hill for Tract No. 9354.

These pump stations are necessary for the orderly development of Communications Hill. When future development of the northern slope brings gravity services to lots serviced by the pump stations, the stations will be removed and the District disbanded.

Council adopted a resolution of intention on April 19, 2005, to form Community Facilities District No. 11 (Adeline - Mary Helen), hereinafter CFD No. 11, to authorize the levy of a special tax to fund the operation and maintenance of storm and sanitary pump stations for lots unable to connect to standard gravity fed City storm and sanitary sewer systems. The boundaries of CFD No. 11 are Altino Boulevard on the north, Senhorinha Street on the east, Adeline Avenue on the south and Donnici Street on the west.

ANALYSIS

At the June 7, 2005 meeting, Council will open a public hearing to receive and record any public comments. If there is not a majority protest from the qualified electors, at the close of the public hearing, Council may adopt a resolution authorizing the levy of a special tax within CFD No. 11.

As permitted by law, all qualified electors within CFD No. 11 have submitted waivers to expedite the election process. These unanimous waivers by the qualified electors, along with the concurrence of the City Clerk as the election officer, authorize the election to be held immediately upon the close of the June 7 public hearing for the formation of CFD No. 11.

Therefore, following the adoption of the resolution authorizing the tax levy, Council may conduct a special election for the property owners to vote on the special tax, and will direct the City Clerk to tabulate the ballots and report the results. If the election results in a two-thirds voter approval, the final actions for Council are the adoption of a resolution declaring the ballot tabulation results and approve an ordinance imposing the levy of a special tax on those properties within CFD No. 11.

The special tax for CFD No. 11 shall be collected at the same time and the same manner as ordinary ad valorem property taxes, provided that CFD No. 11 may, in any particular case, bill the taxes directly to the property owners off the County tax roll. The Director of Public Works of the City of San José, or another officer as designated by the City Manager, is the officer of the City who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the California Government Code.

Three attachments listed below, provide detail for CFD No. 11:

Attachment A	Proposed Boundaries Map
Attachment B	Description of Services
Attachment C	Rate and Method of Apportionment of Special Tax

OUTCOME

The desired outcome for these proceedings is the formation of a CFD to provide for the operation and maintenance of storm and sanitary pump stations necessary for the development of Tract No. 9354, and the continued orderly development of Communications Hill.

PUBLIC OUTREACH

City staff has been in contact with the property owner/developer regarding the district and its development plans. Ballots along with the Notice of Public Hearing were mailed to all the property owners within CFD No. 11. The Notice will be published in the *San José Post Record* on May 27, 2005.

COORDINATION

This memorandum, related documents and resolutions were prepared in coordination with the Departments of Transportation and Planning, Building, and Code Enforcement, the City Attorney's Office, City Manager's Budget Office and the City Clerk's Office.

COST IMPLICATIONS

The developer has submitted a deposit of \$20,000 to pay for district formation costs. Any unused funds will be returned to the developer. However, if all funds are exhausted prior to the certification of election results, the developer must provide additional funds to continue the process.

Future revenues associated with this recommendation will be programmed in a new fund to be established for this purpose (the Community Facilities District #11 [Adeline – Mary Helen] Fund). Recommended actions to establish this fund will be brought forward to Council at a later date.

These actions are in compliance with the Council-approved Budget Strategy in that staff costs are funded by the developer's deposit. If the special tax is approved by the qualified electors, the

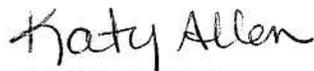
costs of services provided through the district will be funded through annual special taxes on the properties within the district.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	Approp. Ordinance	Last Budget Action (Date, Ord. No.)
465	4485	CFD #11 Feasibility Study	137741	\$20,000	N/A	Section 2.40	3/29/05 Ord. No. 27386
		Total		\$20,000	N/A		

CEQA

Exempt, File No. PP05-021



KATY ALLEN

Director, Public Works Department

Attachments
HF:TMB
CMcfd11election.doc

ATTACHMENT A

CERTIFICATIONS

(1) CITY CLERK
 FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS _____ DAY
 OF _____ 2005.

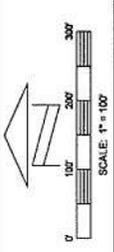
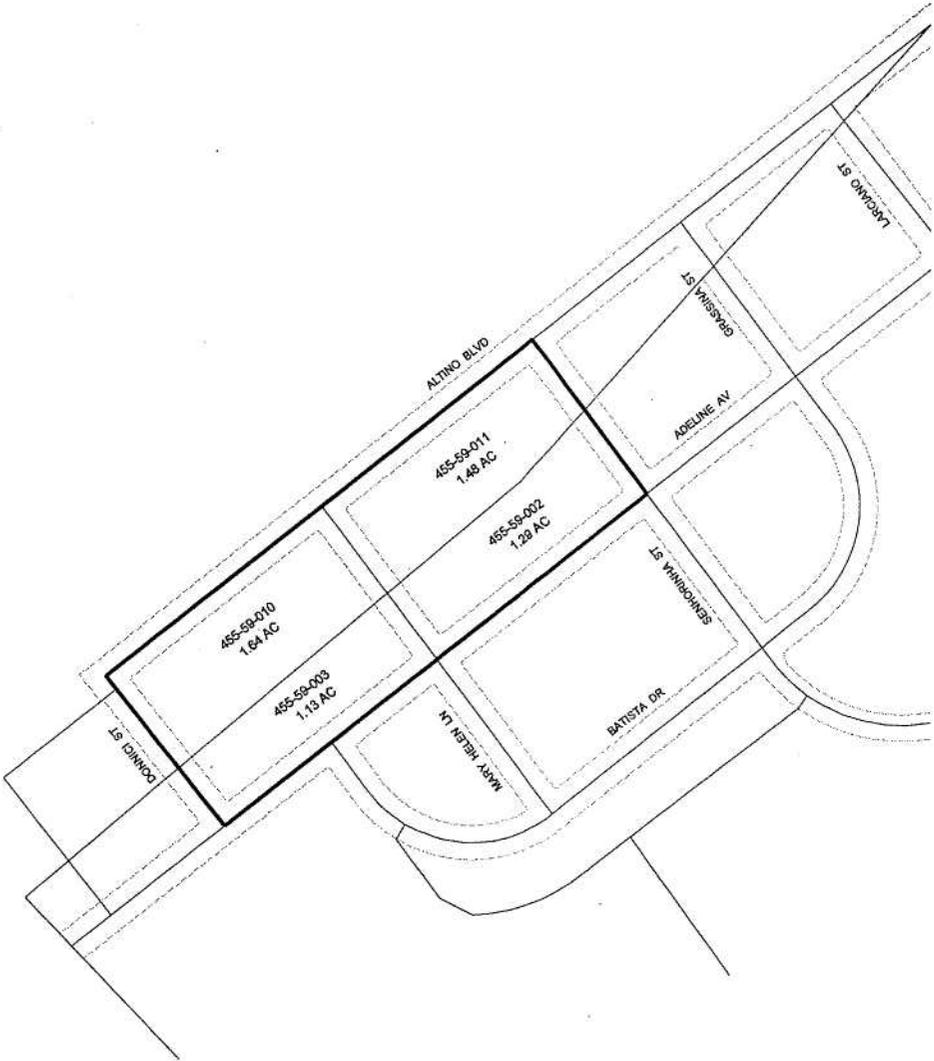
LEE PRIDE, CMC
 CITY CLERK

(2) CITY COUNCIL
 I HEREBY CERTIFY THAT THE MAPS SHOWING PROPOSED BOUNDARIES OF COMMUNITY
 FACILITIES DISTRICT NO. 11 (ADELINE - MARY HELEN), CITY OF SAN JOSE, COUNTY OF SANTA
 CLARA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF SAN JOSE AT A
 REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____
 2005, BY ITS RESOLUTION NO. _____.

DEBRA J. GARCIA
 CITY CLERK

(3) COUNTY RECORDER
 FILED THIS _____ DAY OF _____ 2005, AT THE HOUR OF _____
 O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY
 FACILITIES DISTRICTS AT PAGES _____ IN THE OFFICE OF THE COUNTY RECORDER
 OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.
 FILE NO. _____ FILE PAID: _____

BRENDA DAVIS, COUNTY RECORDER
 COUNTY OF SANTA CLARA



LEGEND	
	PROPOSED DISTRICT BOUNDARY
	PROPOSED STREET RIGHT OF WAY
	PROPERTY LINE
	ASSESSOR'S PARCEL NUMBER
	PARCEL AREA IN ACRES

CITY OF SAN JOSE
 CAPITAL OF SILICON VALLEY
 PUBLIC WORKS DEPARTMENT
 TRANSPORTATION AND DEVELOPMENT DISTRICTS DIVISION
BY: JULIA BERNIERI

CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
**PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 11**
 (ADELINE - MARY HELEN)
 FISCAL YEAR 2004-05
 SHEET 1 OF 1

ATTACHMENT B

DESCRIPTION OF PROPOSED SERVICES

The services proposed to be financed by Community Facilities District No. 11 (Adeline - Mary Helen) (the "CFD No. 11") of the City of San José will provide for the maintenance of storm and sanitary pump stations, including any appurtenances related to the operation of the pump stations and storm water detention pond. Maintenance of the improvements may include but will not be limited to necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for the safe and proper maintenance of items set forth below. This list identifies those improvements that are authorized for maintenance by the CFD No. 11; however, not all items on this list are guaranteed to be funded by the district.

Items authorized to be maintained:

- Sanitary sewer pump station
- Storm water pump station
- Storm water detention pond
- Electrical pedestal and generator that support the storm and sanitary pump stations
- Force mains
- Storm and sanitary mains
- Weed abatement around the pump station facilities and detention pond
- Litter and graffiti removal at pump station facilities and retaining wall
- Retaining wall
- Landscaping and irrigation
- Fencing and gates
- Drainage ditches
- Site lighting

ATTACHMENT C

RATE AND METHOD OF APPORTIONMENT

A Services Special Tax shall be levied on all Taxable Parcels within Community Facilities District No. 11 (Adeline - Mary Helen) (the "CFD No. 11"), and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Santa Clara County Recorder's Office.

"Act" means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, and Chapter 14.27 of Title 14 of the Municipal Code of the City.

"Administrator" means the individual(s) designated by the City to administer CFD No. 11 in accordance with the authority and powers granted by the City Council.

"Airspace Parcel" means an Assessor's Parcel that shares common vertical space of an underlying land parcel with other parcels that have been assigned Assessor's Parcel numbers.

"Assessor's Parcel" or "Parcel" means a lot, parcel or Airspace Parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Santa Clara designating parcels by Assessor's Parcel number.

"City" means the City of San José.

"City Council" means the City Council of the City of San José, acting as the legislative body of CFD No.11.

"Developed Property" means, in any Fiscal Year, all Taxable Property for which a building permit for new construction has been issued prior to June 30 of the preceding Fiscal Year.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Final Map” means a final map, or portion thereof, approved by the Director of Public Works pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) and Chapter 19.16 of the San José Municipal Code.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San José area for all urban consumers.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Residential Property” means Parcels of Developed Property for which a building permit was issued for construction of a residential structure, including single family detached, duplex, triplex, fourplex, townhome, condominium or apartment units.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of CFD No.11, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

“Taxable Property” means all Assessors’ Parcels within the boundaries of CFD No. 11 that are not exempt from the Special Tax pursuant to law or Section E below.

“Unit” means a residential dwelling unit, including individual single-family detached, duplex (2 units), triplex (3 units), fourplex (4 units), townhome, condominium or apartment units.

B. MAXIMUM SPECIAL TAX

The Maximum Special Tax for Residential Property in CFD No. 11 is \$625 per Unit for Fiscal Year 2005-06. Beginning January 2, 2006 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the average annual change in the Index that has occurred since the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

C. CALCULATION OF THE SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied on Units receiving Special Storm and Sanitary Services as follows:

- 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- 2: Calculate the total Special Tax revenues that could be collected from Units receiving Special Storm and Sanitary Services within CFD No. 11 based on application of the Maximum Special Tax rates determined pursuant to Section C above;
- 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on Units receiving Special Storm and Sanitary Services pursuant to section C above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD No.11, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the registered voters voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax on Units receiving Special Storm and Sanitary Services pursuant to section C above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax against Units receiving Special Storm and Sanitary Services in equal percentages up to 100% of the Maximum Special Tax for each Parcel until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

D. COLLECTION OF THE SPECIAL TAX

The Special Tax for CFD No. 11 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 11 may (under the authority provided in the Act), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Acts of 1982.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the information and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.