



COUNCIL AGENDA: 08-09-05

ITEM: 4.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 07-20-05

Approved

Katy Allen

Date

7/27/05

Council District: 2

**SUBJECT: COMMUNITY FACILITIES DISTRICT NO. 12 (BASKING RIDGE) –
PUBLIC HEARING**

RECOMMENDATIONS

It is recommended that Council hold a public hearing and call a special election on November 8, 2005 at 1:30 p.m. to tabulate the ballots and to report the results related to the formation of Community Facilities District No. 12 (Basking Ridge).
CEQA: Resolution No. 71360, PP05-36.

BACKGROUND

The territory bounded by Community Facilities District No. 12 (Basking Ridge) is a planned community that will develop 213 single-family detached residential units and open space. Due to the unique terrain of the area, development of this area would require installation of a sanitary sewer pump station, a unique secondary storm drain system, detention ponds/basins, drainage ditches and swales, and other infrastructure atypical for such a development. These needed improvements, including the enhanced landscaped areas in the public right-of-way, open space and easement areas have special maintenance needs that are above standard City maintenance. Hence, the formation of a Community Facilities District is required to provide funding for the maintenance and operation of all these extraordinary improvements.

On June 28, 2005, Council adopted a resolution of intention to establish Community Facilities District No. 12 (the "CFD") to authorize the levy of special taxes on the properties within the CFD for maintenance services.

ANALYSIS

At the August 9, 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 call a special election on November 8, 2005 for the qualified electors to vote on the levy of the special tax. Council will then direct City staff to mail ballots to the qualified electors, which in this case are the landowners within the proposed CFD.

If the election results in a two-thirds voter approval, the final actions for Council will be the adoption of a resolution authorizing the levy of a special tax within the CFD, the adoption of a resolution that declares the ballot tabulation results, and an ordinance imposing the levy of the special tax on those properties within the CFD as described in the report. The special tax for the CFD shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided that the CFD shall reserve the right to bill the taxes directly to the property owner.

Three attachments, as listed below, provide detail for the district:

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

OUTCOME

The desired outcome for these proceedings is the formation of a Community Facilities District to provide for the operation and maintenance of the improvements to facilitate development within the district.

PUBLIC OUTREACH

City staff has conducted meetings with the developers and owner. The Notice of Public Hearing, as required by regulation, will be mailed to the property owner within the CFD by July 26, 2005 and published in the *San José Post Record* by August 3, 2005.

COORDINATION

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

COST IMPLICATIONS

The developer has submitted a deposit of \$30,000 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 #12 (Basking Ridge) 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 qualified electors approve the special tax, the costs of services provided through the district will be funded through annual special taxes on the properties within the district.

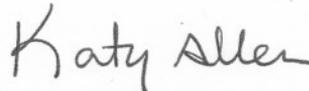
BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amount For Contract	Proposed Capital Budget	Last Budget Action (Date, Ord. No.)
465	4555	CFD #12 Feasibility Study	137751	\$10,000	N/A	Page V-832	MBA #60 6/21/05*
		Total		\$10,000	N/A		

* The 2005-2006 Adopted Capital Budget for this project includes a \$10,000 rebudget that was approved by City Council on June 21, 2005.

CEQA

Resolution No. 71360, PP05-36.



KATY ALLEN
Director, Public Works Department

Attachments

HF:TMB:PJ
CMcfd12hearing.doc

CERTIFICATIONS

(1) CITY CLERK
 FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS _____ DAY OF _____ 2006.

LEE PRICE, CITY CLERK
 CITY OF SAN JOSE

(2) CITY COUNCIL
 I HEREBY CERTIFY THAT THE WITH IN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 12 (BASKING RIDGE), 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 _____, 2006 BY ITS RESOLUTION NO. _____

LEE PRICE, CITY CLERK
 CITY OF SAN JOSE

(3) COUNTY RECORDER
 FILED THIS _____ DAY OF _____, 2006, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES AT _____ PAGES _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.
 FILE NO.: _____ FEE PAID: _____

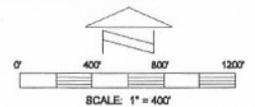
BRINDA DAVIS, COUNTY RECORDER
 COUNTY OF SANTA CLARA



LOCATION MAP

CITY OF SAN JOSE
 CAPITAL OF SILICON VALLEY
PUBLIC WORKS DEPARTMENT
 TRANSPORTATION AND DEVELOPMENT SERVICES DIVISION
 BY ANGELA BERTHOFF

LEGEND		
	DISTRICT BOUNDARY	1 REFERENCE NUMBER
	STREET RIGHT OF WAY	123-12-123 ASSESSOR'S PARCEL NUMBER (APN)
	PROPERTY LINE	1.23 AC PARCEL AREA IN ACRES



CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 12 (BASKING RIDGE)
 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. 12 (Basking Ridge) (the "CFD No. 12") of the City of San José will provide for the maintenance of various improvements associated with the Basking Ridge development project. 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 safe and proper maintenance of the items set forth below. This list identifies improvements authorized for maintenance by the CFD No. 12; however, not all items on this list are guaranteed to be funded by the district.

Items Authorized to be Maintained

- Open spaces and slopes
- Non-urban storm system
- Storm water detention ponds/basins
- Drainage swales/ditches
- Emergency vehicle access roadway
- Maintenance access roadways
- Screening trees
- Trails and paved pathways
- Sanitary sewer pump station
- Retaining walls
- Landscaping and irrigation
- Weed abatement around the pump station facilities and detention pond
- Litter and graffiti removal at pump station facilities and retaining wall

ATTACHMENT C

RATE AND METHOD OF APPORTIONMENT

A Services Special Tax shall be levied on all Taxable Parcels within Community Facilities District No. 12 (Basking Ridge) (the "CFD"), 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.

"Administrator" means the individual(s) designated by the City to administer the CFD 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 or 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 the CFD.

"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.

"Electors" means the qualified voters, who are either the registered voters residing within the CFD (when there are at least 12) or the landowners within the CFD.

"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 Jose area for all urban consumers for all items.

“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.

“Non-Residential Property” means Parcels of Developed Property within the CFD that are not Residential Property.

“Ordinance” 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.

“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, (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.

“Subsequent Non-Residential Property” means (i) a Parcel of Non-Residential Property which had, in any prior Fiscal Year, been taxed as Residential Property, or (ii) a Parcel that was, in the City’s sole discretion, expected to be Residential Property and subsequently had a building permit issued for a non-residential use. Notwithstanding the foregoing, if the City determines that, in conjunction with a particular Parcel being changed from a residential to a non-residential designation, there was a corresponding transfer of the residential land uses to another Parcel in the CFD, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD 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 is \$1,534 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 all Parcels of Developed Property as follows:

- Step 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section B above;
- Step 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property pursuant to Section B above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the Electors 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 all Parcels of Developed Property pursuant to Section B above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax on all Parcels of Developed Property 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 the CFD shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the CFD may (under the authority provided in the Ordinance), 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 Act of 1982. If a Parcel had been taxed in any prior Fiscal Year as Residential Property and becomes Subsequent Non-Residential Property, the City has the discretion to levy a Special Tax against such Parcel if the Special Tax revenues generated from the Parcel are needed to meet the Special Tax Requirement.

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 interpretation 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.