



COUNCIL AGENDA: 11-08-05

ITEM: 4.5

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 10-19-05

Approved

Date

10/27/05

Council District: 2

**SUBJECT: COMMUNITY FACILITIES DISTRICT NO. 12 (BASKING RIDGE)
SPECIAL ELECTION**

RECOMMENDATION

- a) Conduct a special election regarding Community Facilities District No. 12 special tax.
- b) Adoption of a resolution declaring 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. 12.
- c) Approval of an ordinance imposing the levy of special taxes for Community Facilities District No. 12.

CEQA: Resolution No. 71360, PP05-36.

BACKGROUND

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 for the maintenance of a sanitary sewer pump station, a unique secondary storm drain system and other infrastructure, including the enhanced landscaped areas in the public right-of-way, open space and easement areas within the boundaries of the CFD. On August 9, 2005, Council held a public hearing to receive and record public comments. Since there was not a majority protest from the qualified electors at the close of the public hearing, Council called a special election for the CFD for Tuesday, November 8, 2005.

ANALYSIS

At this November 8, 2005 Council meeting, Council will conduct a special election for the property owners to vote on the special tax associated with the CFD. At the end of the special election, Council may 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 will be the adoption of a resolution declaring the ballot tabulation results and approval of an ordinance imposing the levy of a special tax on those properties within the CFD.

The special tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes, and providing that in any particular case, the CFD may 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 as listed below, provide detail for the CFD:

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 this proceeding is the formation of a CFD to provide for the maintenance of landscaping, a sanitary sewer pump station, and other infrastructure associated with the Basking Ridge Development.

PUBLIC OUTREACH

City staff has been in contact with the property owner/developer regarding the formation of the district and its development plans. Ballots were mailed to all the property owners within the CFD.

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. 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.

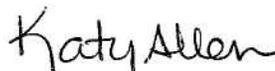
BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amount For Contract	2005-06 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 Proposed 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

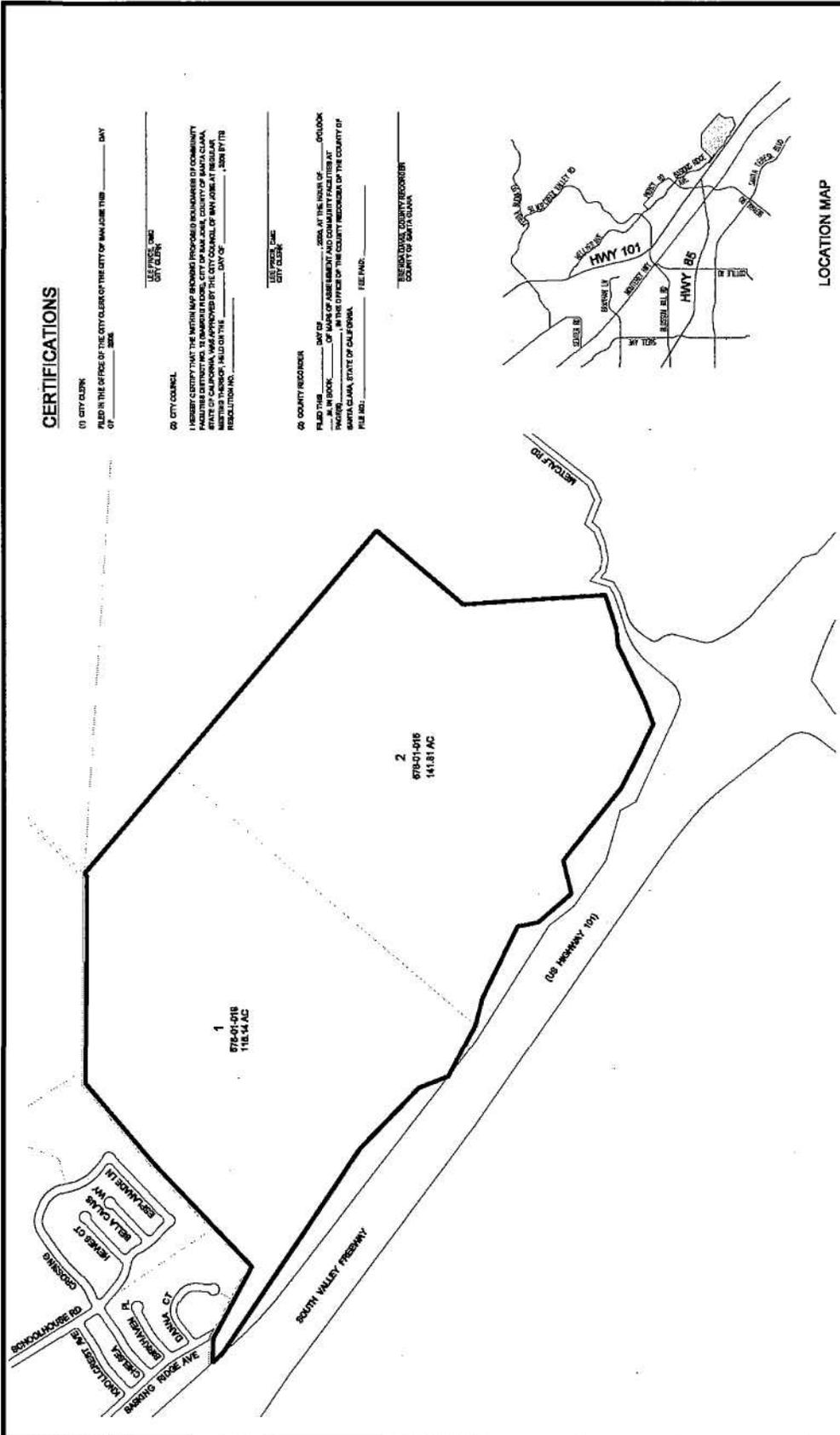
Director, Public Works Department

Attachments

HF:TMB

CMcfd12election.doc

ATTACHMENT A



CERTIFICATIONS

01 CITY CLERK
 READ IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS _____ DAY
 OF _____ 2005.

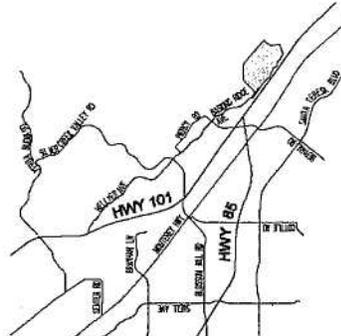
LEE PRICE, CMG
 CITY CLERK

02 CITY COUNCIL
 I HEREBY CERTIFY THAT THE MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 12, BASKING RIDGE, CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WAS PREPARED AND SUBMITTED TO THE CITY COUNCIL OF SAN JOSE AT REGULAR MEETING HELD ON THE _____ DAY OF _____ 2005 AT THE REGULATION NO. _____.

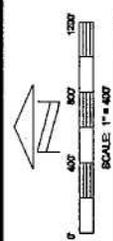
LEE PRICE, CMG
 CITY CLERK

03 COUNTY RECORDER
 I, _____, CLERK OF THE COUNTY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE MAP OF BASKING RIDGE AND COMMUNITY FACILITIES DISTRICT NO. 12, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, FILE NO. _____.

THESE BOUNDARIES WERE RECORDED
 IN THE OFFICE OF THE COUNTY RECORDER
 COUNTY OF SANTA CLARA



LOCATION MAP



LEGEND

	DISTRICT BOUNDARY	1	REFERENCE NUMBER
	STREET RIGHT OF WAY	123-12-123	ACRES/AREA IN ACRES
	PROPERTY LINE	1.25 AC	ACRES/AREA IN ACRES

CITY OF SAN JOSE
 PUBLIC WORKS DEPARTMENT
 CAPITAL OF SILICON VALLEY
 www.sanjoseca.gov

CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
**PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 12**
 (BASKING RIDGE)
 FISCAL YEAR 2005-06
 SHEET OF 1

ATTACHMENT B

DESCRIPTION OF SERVICES

The services proposed to be financed by Community Facilities District No. 12 (Basking Ridge) (the "CFD") 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; 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 OF SPECIAL TAX

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 Jose-San Francisco-Oakland area for all urban consumers for all items.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section B 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 the 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 the 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 the 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 the 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.