



CITY COUNCIL AGENDA STATEMENT



November 3, 2020

File ID: 20-0431

Title

PUBLIC HEARING REGARDING ANNEXATION OF TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT)

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT) AND IMPROVEMENT AREA "C" THERETO
- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), DECLARING THE RESULTS OF A SPECIAL ELECTION IN THAT TERRITORY DESIGNATED AS COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), IMPROVEMENT AREA "C," ANNEXATION NO. 11 AND ADDING SUCH TERRITORY TO SUCH IMPROVEMENT AREA

RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolutions.

SUMMARY

Bonita Glen Investors, LLC has requested the City conduct proceedings to establish a perpetual funding mechanism for their share of the Otay Ranch Preserve in conformance with development requirements. On September 22, 2020, the City Council initiated the Community Facilities District No. 97-2 (Preserve Maintenance District) (CFD No. 97-2) annexation proceedings by adoption of Resolutions 2020-219 and 2020-220. Tonight's actions are the next steps in the formal proceedings to annex the territory within Bonita Glen (referred to as "Annexation No. 11") into CFD No. 97-2 and Improvement Area "C" thereof: (a) conducting a public hearing pertaining to the proposed annexation and (b) immediately following such public hearing, conducting an election of the qualified electors of Annexation No. 11 regarding the authorization to levy special taxes within Annexation No. 11 and, following the canvass of the ballots received, declaring the results of such election.

Special taxes levied within Improvement Area "C" fund the costs of the Resource Monitoring Program as well as Preserve Operations and Maintenance consistent with the requirements of the Otay Ranch Resource Management Plan Phases I and II, plus a pro-rata share of Administrative Expenses of CFD No. 97-2. The City

has retained the services of Willdan Financial Services as special tax consultant and Best, Best and Krieger LLP as legal counsel to provide assistance during the proceedings. Tonight's action will complete the formal proceedings to annex Annexation No. 11 to CFD No. 97-2 and Improvement Area "C" thereof. See Attachment 1 for the Annexation Map.

ENVIRONMENTAL REVIEW

The City's Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

In July 1998, Council formed CFD No. 97-2 (Preserve Maintenance District). CFD 97-2 was originally divided into two Improvement Areas: "A" and "B." Improvement Area "A" funds the cost of the Resource Monitoring Program, as well as Preserve Operations and Maintenance within the boundaries of the Otay Ranch Preserve. Improvement Area "B" only funds the Resource Monitoring Program within that same area. Improvement Area "C" was formed in 2003, in conjunction with the annexation of Brookfield Shea Otay Ranch Village Eleven into CFD No. 97-2, and funds both the Resource Monitoring Program and Preserve Operations and Maintenance, consistent with the requirements of the Otay Ranch Resource Management Plan Phases I and III, and includes the pro-rata share of administrative expenses of CFD No. 97-2.

Proposed Special Tax

The rate and method of apportionment of the special taxes authorized to be levied within the existing boundaries of CFD No. 97-2 has four categories of taxation, as follows:

- All developed single family and multi-family residences for which a building permit has been issued are taxed based on the square footage of the structure. Developed industrial and commercial parcels are taxed on the acreage of the parcel.
- All final mapped residential, industrial and commercial parcels for which a building permit has not been issued are taxed based on the acreage of the parcel.
- Property not categorized as Developed or Final Mapped Property is taxed based on the acreage of the parcel.
- Exempt property includes all publicly owned parcels and Homeowner's Association parcels. These are not subject to the special tax.

The proposed maximum special tax rates in the rate and method of apportionment were determined at the time of formation of CFD No. 97-2 in 1998.

Collection of Taxes

At the beginning of each fiscal year, the City shall determine the amount of Special Tax Liability (budget plus reserve) of each Improvement Area. Then, the special taxes will first be levied within each of the

Improvement Areas on the Developed Parcels therein to fund the Special Tax Liability for such Improvement Area. If this pool of funds is not enough to fund the Special Tax Liability for such Improvement Area, as may be the case in the early years of development, CFD No. 97-2 will levy the special tax on the vacant land within such Improvement Area, starting with Final Mapped Property. The special taxes on vacant land covering any portion of the Special Tax Liability not funded from special taxes on Developed Parcels within an Improvement Area will cease once the Improvement Area has been fully developed. If the Special Tax Liability for any fiscal year for an Improvement Area is less than the maximum special tax authorized to be levied on the Developed Parcels within such Improvement Area, the actual rate of the special taxes to be levied on such Developed Property in that specific year will be reduced accordingly.

Following is a brief discussion of some key issues relating to the “Rate and Method of Apportionment (RMA) of Special Taxes” proposed to be established for the Annexation No. 11 to be annexed to Improvement Area “C” of CFD No. 97-2 (See Attachment 2 for the full RMA document):

- The Maximum Special Tax rates increase each year by a factor equal to the annual percentage change in the San Diego Consumer Price Index.
- The RMA provides that the annual budget for any year may include an amount deemed necessary to maintain an adequate level of the operating reserve fund.
- The maximum special tax rates are based on the original RMA established for CFD No. 97-2 when it was formed. If the actual square footage of residential development and/or the acreage of non-residential (industrial and commercial) development within Improvement Area “C” meets or exceeds the estimates on which the special tax rates were based, the actual special tax rate levied annually within Improvement Area “C” to fund the Special Tax Liability for Improvement Area “C” may be less than the authorized maximum special tax.

Approved Maximum Special Taxes

The approved maximum special tax rates for Fiscal Year 2020/2021 for Improvement Area “C” of CFD No. 97-2 are as follows:

Table 1. Maximum Special Tax for Monitoring

Special Tax Category	Maximum Special Tax (Monitoring)
Category I – Residential (per square foot)	\$0.0084
Category I – Non-Residential (per acre)	\$136.67
Category II – Final Mapped Property (per acre)	\$136.67
Category III – Undeveloped Property (per acre)	\$88.21

Table 2. Maximum Special Tax for Operations & Maintenance

Special Tax Category	Maximum Special Tax (Operations & Maintenance)
Category I – Residential (per square foot)	\$0.0134
Category I – Non-Residential (per acre)	\$216.97
Category II – Final Mapped Property (per acre)	\$216.97

Category III – Undeveloped Property (per acre)	\$140.04
--	----------

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 1, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

CURRENT-YEAR FISCAL IMPACT

All costs of annexation of Annexation No. 11 are being borne by the developer and the on-going administration will be funded entirely by CFD No. 97-2. The City will recover the full cost of staff time expended in CFD No. 97-2 formation and administration activities in perpetuity.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund as a result of this action. All ongoing costs will be paid by CFD No. 97-2.

ATTACHMENTS

1. Annexation Map
2. Rate and Method of Apportionment

Staff Contact: Kimberly Vander Bie