



CITY COUNCIL AGENDA STATEMENT



July 23, 2019

File ID: ~~19-0262~~
19-0366

TITLE

ORDINANCE OF THE CITY OF CHULA VISTA ADDING CHAPTERS 3.60 AND 3.61 TO THE CHULA VISTA MUNICIPAL CODE RELATING TO COMMUNITY FACILITIES DISTRICTS GENERALLY AND THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT (SECOND READING AND ADOPTION)

RECOMMENDED ACTION

Council adopt the ordinance.

SUMMARY

Community Facilities Districts (CFDs) are used as a public financing mechanism in the City of Chula Vista. The *City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts* (the "Goals and Policies") and the City's CFD Ordinance ratify and govern the use of CFDs in the City. Codifying the CFD Ordinance as Chapter 3.60 of the Chula Vista Municipal Code (CVMC) is recommended. Additional edits to the CFD Ordinance to expand the list of authorized public facilities and services to include certain facilities and services to be financed in a future special tax district on the Chula Vista Bayfront are also recommended, along with the adoption of CVMC Chapter 3.61 (Bayfront Project Special Tax Financing District Procedural Ordinance).

The Council approved the first reading of a similar ordinance on April 9, 2019 (see Agenda item 19-0120), with the second reading scheduled for April 16, 2019 (Agenda item 19-0234). The version of the ordinance published with the April 16 second reading was incorrect and a second reading of the ordinance is required. Additional modifications to the ordinance are proposed, necessitating a new first reading. Approval of a resolution rescinding the previous first reading and placement of a revised ordinance on first reading is recommended.

ENVIRONMENTAL REVIEW

The Director of Development Services 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 State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The Mello-Roos Community Facilities Act of 1982 (the “Mello-Roos Act”) provides local jurisdictions with an alternative method of financing certain public capital facilities and services, especially in developing areas and areas undergoing rehabilitation. Special tax districts formed pursuant to the Mello-Roos Act are referred to as Community Facilities Districts, or CFDs.

On April 28, 1998 the Council adopted Ordinance 2730, enacting the City of Chula Vista Community Facilities District Ordinance (the “CFD Ordinance”). In adopting the CFD Ordinance pursuant to its Charter City authority, the City incorporated the Mello-Roos Act with modifications to accomplish the following: (1) include all maintenance activities authorized by the Landscaping and Lighting Act of 1972 (the “1972 Act”); (2) include maintenance activities not listed in the Mello-Roos Act or the 1972 Act (i.e. monitoring activities on privately owned parcels within the Otay Ranch Preserve and maintenance of pedestrian bridges and community gardens); and (3) establish an operating reserve fund for open space districts.

Staff recommends codifying the CFD Ordinance as CVMC Chapter 3.60 (Community Facilities Districts – General) for increased transparency and simplified administration. Updates to the ordinance for consistency with CVMC standards are also recommended, including replacing the *Declaration of Policy* section with a *General Intent* section, the addition of a *Definitions* section, and minor reordering of sections. Additional modifications to further expand the list of explicitly authorized services and facilities are also recommended, as described below. A similar ordinance was placed on first reading by the City Council on April 9, 2019 (the “April 9 Ordinance”). Adoption of Resolution A rescinds the Council action placing the April 9 Ordinance on first reading. A redline comparison of the April 9 Ordinance and the proposed ordinance is provided as Attachment 1.

Chula Vista Bayfront Special Tax District

On May 8, 2012, the City of Chula Vista and the San Diego Unified Port District entered into a Bayfront Master Plan Financing Agreement (the “Financing Agreement”) for the Chula Vista Bayfront Master Plan (CVBMP). The Financing Agreement identified the rights and obligations of each agency, with respect to the financing, development, and construction of public improvements, infrastructure, and a planned convention/conference center in the CVBMP area. The Financing Agreement was subsequently amended and restated to recognize additional rights and obligations of the respective agencies, effective June 20, 2017.

In Section 4.2.2(d) of the Financing Agreement both parties acknowledged a mutual desire to explore the creation of a vehicle by which additional occupancy-based revenues, in an amount up to one-half of the current Transient Occupancy Tax (TOT) for certain projects within the CVBMP area, could be applied to the cost of public improvements and/or the planned convention/conference center. The Financing Agreement recognized the creation of a district under the Mello-Roos Act or the CFD Ordinance as a possible public financing mechanism for this purpose and the parties agreed to consider the creation of such a district.

Formation efforts for a Bayfront special tax district are underway and will be brought forward to the Council for consideration in summer 2019. In undertaking the formation of the Bayfront special tax district, the need to further amend the CFD Ordinance to authorize additional services and facilities not explicitly authorized by the Mello-Roos Act was identified.

Additional services and facilities to be authorized by the CFD Ordinance include the following:

- Transportation services (e.g. public shuttle operations); and
- Promotion of public events and tourism within the district; and
- Security, sanitation, graffiti removal, street and sidewalk cleaning and other municipal services supplemental to those normally provided by the City; and
- Repair and replacement of facilities the district maintains and/or operates; and
- Parking improvements; and
- Energy efficiency, water conservation, and renewable energy improvements; and
- Ecological and sustainability educational improvements.

In further support of a future Bayfront special tax district, the adoption of CVMC Chapter 3.61 (Bayfront Project Special Tax Financing District Procedural Ordinance) is recommended. As proposed, Chapter 3.61 establishes a procedure for financing certain facilities, maintenance, and services to serve the CVBMP area, through the establishment of a Bayfront Project Special Tax Financing District (the “Bayfront District”).

Chapter 3.61 incorporates the provisions of the Mello-Roos Act and the California Streets and Highways Code, while identifying certain provisions that will not apply or that will be modified. Examples include explicitly authorizing the Bayfront District to finance the acquisition, construction, expansion, reconstruction, replacement, rehabilitation, upgrade, and maintenance of a convention center facility and replacing the Mello Roos Act’s two-year limit on capitalized interest with a provision allowing the City Council to establish the period of capitalized interest which may be financed by the Bayfront District.

Additional modifications and exclusions of Mello-Roos Act provisions largely relate to the formation process for the future Bayfront District, which will require an election of landowners, not registered voters. The Bayfront District special tax will be levied by hotel and campsite operators on transient occupants (hotel and campsite visitors). The tax will not be assessed on traditional residential uses. As such, it is more appropriate for the district electors to be the landowners, rather than the registered voters of the district, as required under the Mello-Roos Act.

As previously described, a similar ordinance was placed on first reading by the City Council on April 9, 2019. Adoption of Resolution A rescinds the Council action placing the April 9 Ordinance on first reading. A redline comparison of the April 9 Ordinance and the proposed ordinance is provided as Attachment 1.

Next Steps

If approved, CVMC Chapters 3.60 and 3.61 will be effective 30 days after the second reading of the ordinance. Staff intends to return with a Resolution of Intent to form the previously described Bayfront District immediately following the effective date of the ordinance. The date of the public hearing to consider establishment of the Bayfront District will be set at that time.

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 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no current year fiscal impact. All costs associated with preparation of the report and proposed resolution and ordinance are funded by existing current year appropriations.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact resulting from codifying the existing CFD Ordinance. Approving updates to the CFD Ordinance to allow for the financing of additional facilities and services in CFDs and adopting the Bayfront Project Special Tax Financing District Procedural Ordinance support development of the Chula Vista Bayfront.

ATTACHMENTS

1. Redline comparison of the April 9 Ordinance and the proposed ordinance.

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