



CITY COUNCIL AGENDA STATEMENT



December 1, 2020

File ID: **20-0497**

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, LEVYING THE SPECIAL TAX THEREIN FOR FISCAL YEAR 2020-2021

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

Formation proceedings for the Bayfront Project Special Tax Financing District (the “Bayfront District”) were initiated on September 10, 2019. A special mail ballot election to consider the formation of the Bayfront District was held, with all ballots due to the City Clerk no later than noon, February 18, 2020. An ordinance authorizing the levy of special taxes within the Bayfront District was approved on February 25, 2020. Tonight’s action will continue the formal formation proceedings by determining the Special Tax to be levied for fiscal year 2020-2021.

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 the proposed activity consists of the creation of a governmental fiscal/funding mechanism which does 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.

Notwithstanding the foregoing, the project was adequately covered in previously certified Final Environmental Impact Report UPD#83356-EIR-658/SCH#2005081077 for the Chula Vista Bayfront Master Plan. Thus, no further environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On September 10, 2019, the City Council initiated proceedings to form the Bayfront District with the adoption of City Council Resolution Nos. 2019-167, 2019-168, and 2019-169, adopting a boundary map of

the Bayfront District, declaring the intention of the City Council to establish the Bayfront District and to authorize the levy of a special tax therein, and declaring the necessity of the Bayfront District to incur a bonded indebtedness, respectively.

On November 19, 2019, the City Council held a public hearing and took additional formation actions, approving Resolution Nos. 2019-218, 2019-219, 2019-220, 2019-221 and 2019-222. These resolutions approved an Amended and Restated Revenue Sharing Agreement by and between the City and the San Diego Unified Port District (the "Port District"), approved a Joint Community Facilities Agreement by and between the City and the Port District, approved forming and establishing the Bayfront District and submitting the levy of special tax to the qualified electors, deemed it necessary to incur a bonded indebtedness of the Bayfront District, and called a special mail ballot election.

At 12:00 pm on February 18, 2020, in the City Clerk's office, the City Clerk, acting as the election official, conducted a special election and the qualified electors of the Bayfront District (i.e. the landowners within the district) voted on the levy of special taxes, authorizing the Bayfront District to incur a bonded indebtedness, and establishing an appropriations limit for the Bayfront District. Included on the ballot, Proposition A, was approved on February 18, 2020, which authorized the Bayfront Project Special Tax Financing District (the "District") to levy special taxes at rates not to exceed 5% of Rent charged on Hotel Property and Campsite Property (as such terms are defined in Resolution No. 2019-220 accompanying this ballot) within the District, until the end of the term set forth in such resolution, raising an estimated \$30,000,000 annually to finance Improvements and Services.

On February 25, 2020, the City Council approved and adopted Ordinance No. 348 authorizing the levy of special taxes on taxable properties located in the District pursuant to the Rate and Method of Apportionment of Special Taxes and to annually determine the special tax to be levied within the District; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant to the Rate and Method.

Tonight, the Council will consider authorizing a special tax rate of 5% for fiscal year 2020-2021. The Special Tax authorized by the Bayfront Project Special Tax Financing District (the "District") shall be levied on all Taxable Property and collected within the District in an amount determined by the City Council of the City of Chula Vista, acting as the legislative body of the District, through the application of the rate and method of apportionment of the Special Tax. All of the real property within the District, unless exempted by law or by the provisions of the rate and method of apportionment, shall be taxed.

Every Fiscal Year, each Assessor's Parcel shall be classified as Taxable Property or Exempt Property. In addition, each Assessor's Parcel of Taxable Property shall be further classified as Campsite Property or Hotel Property. All Campsite Property and Hotel Property shall be subject to the levy of the Special Tax. For each Fiscal Year, the City Council shall, by resolution adopted on or before May 31st preceding such Fiscal Year, levy the Special Tax on each Assessor's Parcel classified as Campsite Property or Hotel Property at a rate not to exceed the Maximum Annual Special Tax Rate. For each succeeding Fiscal Year, the Special Tax shall be levied at the same rate as the rate levied in the preceding Fiscal Year unless the City Council

shall, by resolution adopted by May 31st of the preceding Fiscal Year, levy the Special Tax at a different rate than the rate levied in the preceding Fiscal Year not to exceed the Maximum Annual Special Tax Rate. The Special Tax associated with Rent that is charged for Occupancy by Transients shall be considered levied at the same time the Transient ceases such Occupancy. If a Public Property is classified as Campsite Property or Hotel Property due to the grant of a lease or other possessory interest in such Assessor's Parcel of Public Property to the Operator of a Campsite or Hotel thereon, the Special Tax shall only be levied during such time that such grant of lease or possessory interest is effective and shall cease upon the termination or expiration of such grant of lease or possessory interest.

The Special Taxes will be due and remitted with the Operator's payment of transient occupancy taxes as set forth in Chapter 3.40 of the Chula Vista Municipal Code (Chapter 3.40). If a Landowner is not an Operator, the Landowner shall cause the Operator to remit the Special Taxes imposed with the Operator's payment of transient occupancy tax. Such Landowner obligation may be met by including a requirement to remit the Special Taxes in a lease or other real property instrument for a Campsite Property or Hotel Property (each as defined in the Rate and Method of Apportionment) and enforcing such requirement, as provided for in the real property instrument. However, the Special Tax is not imposed on the Transient (as defined in Chapter 3.40), but on the parcel or possessory interest in a parcel containing a Hotel or Campsite (as such terms are defined in Chapter 3.61). The Operator may, but is not required to, pass the Special Tax through to the Transients and collect it with Rent (as defined in Chapter 3.40). Despite the method of collection and administration, the Special Tax is distinct from the City's transient occupancy tax and, subject to the Rate and Method of Apportionment, may be enforced, in the event of nonpayment, as provided in the Mello-Roos Community Facilities Act of 1982, including through a judicial foreclosure; however, the City Council reserves the right to utilize any other lawful means of billing, collecting, and enforcing the Special Taxes, including billing on the secured property tax roll, direct and supplemental billing, any other legal authority to collect delinquent Special Taxes, penalties and interest and when lawfully available, judicial foreclosure of the lien of the Special Taxes.

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

All expenses incurred by the City in undertaking the proceedings to consider the formation of the Bayfront District and subsequently authorizing, issuing, and selling bonds of the Bayfront District to finance the acquisition and construction of eligible public or private facilities will be reimbursed from future Bayfront District bond proceeds or special tax revenues, resulting in no net impact to the General Fund or the Development Services Fund.

ONGOING FISCAL IMPACT

The cost to administer the Bayfront District, if established, and the issuance of bonds by the Bayfront District shall be paid from the proceeds of special taxes to be levied within the Bayfront District or the proceeds of bonds issued by the Bayfront District. There is, therefore, no ongoing fiscal impact to the City's General Fund or Development Services Fund as a result of this action.

ATTACHMENTS

1. Resolution

Staff Contact: Meya Alomar, Finance Department