



CITY COUNCIL AGENDA STATEMENT



April 13, 2021

File ID: 21-0074

TITLE

PUBLIC HEARING TO CONSIDER CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES AUTHORIZED TO BE LEVIED WITHIN THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT AND EXPAND TERRITORY WHEREIN IMPROVEMENTS MAY BE LOCATED AND SERVICES MAY BE PROVIDED

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, MAKING CERTAIN DETERMINATIONS, CALLING A SPECIAL MAIL BALLOT ELECTION AND SUBMITTING TO THE QUALIFIED ELECTORS OF SUCH DISTRICT A PROPOSITION TO AUTHORIZE CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES AUTHORIZED TO BE LEVIED THEREIN AND EXPAND TERRITORY WHEREIN IMPROVEMENTS MAY BE LOCATED AND SERVICES MAY BE PROVIDED
- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DESIGNATING CERTAIN AUTHORIZED REPRESENTATIVES TO VOTE IN THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT SPECIAL MAIL BALLOT ELECTION

RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolutions.

SUMMARY

Formation proceedings for the Bayfront Project Special Tax Financing District (the "Bayfront District") were initiated on September 10, 2019. Following a special mail ballot election, an ordinance authorizing the levy of special taxes at rates not to exceed 5% of rent annually charged on hotel property and campsite property within the Bayfront District was adopted, with a maximum term of forty (40) years. The City now desires to consider changes to the rate and method of apportionment (the "Existing RMA") for the Bayfront District to increase the maximum special tax levy rate to 5.5% until June 30, 2060, with downward adjustments thereafter, raising an estimated \$33,000,000 annually; (b) extend the term of the authorization to levy the special tax until June 30, 2086; (c) expand the territory wherein improvements may be located and services provided; and (d) make minor procedural changes.

Change proceedings were initiated on February 16, 2021, with the adoption of Resolution 2021-030, declaring the intention of the City Council to consider the modification of the Existing RMA for the Bayfront District and expand the territory wherein improvements may be located and services provided; requesting

the applicable officer of the City prepare an Amended Bayfront Project Special Tax Financing District Report; and setting a public hearing related to the modification of the Bayfront District Existing RMA and the levy of special taxes for the Bayfront District for April 13, 2021 at 5:00 p.m.

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. Thus, no environmental review is required.

Notwithstanding the foregoing, the Project was adequately covered in previously adopted Environmental Impact Report UPD#83356- EIR-658/SCH# 2000508107.

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. Resolution No. 2019-169 was subsequently amended by the City Council on November 12, 2019 to increase the maximum bonded indebtedness for the Bayfront District from \$125,000,000 to \$175,000,000.

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 Port District, approved a Joint Community Facilities Agreement (the “Original JCFA”), 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 to submitting propositions to the qualified electors to:

1. authorize the levy of special taxes in the Bayfront District;
2. authorize the Bayfront District to incur a bonded indebtedness; and
3. establish an appropriations limit for the Bayfront District.

The November 19, 2019 public hearing was held pursuant to the provisions of Chula Vista Municipal Code Chapter 3.61 (the “Bayfront Project Special Tax Financing District Procedural Ordinance”).

At 12:00 pm on February 18, 2020, the City Clerk, acting as the election official, conducted a special election of the qualified electors of the Bayfront District (i.e. the landowners within the Bayfront District). The City

Clerk presided over the proceedings, verified the eligible voters, verified signatures, and presented the election ballots. The City Clerk then prepared and distributed certification of the election results on February 18, 2020. On that same date, the City Council adopted Resolution 2020-042, reciting the fact of the special mail ballot election and declaring the results of the election. With a majority of the electors voting yes on each of the three propositions, the Council then placed an ordinance authorizing the levy of a special tax in the Bayfront District on first reading (Ordinance No. 3481, second reading on February 25, 2020).

Bayfront District Change Proceedings

Negotiations between the City, the Port District, and RIDA Chula Vista, LLC (RIDA) related to the planned Bayfront resort hotel and Convention Center project (the “RHCC Project”) have progressed significantly since the February 2020 action levying the Bayfront District special tax. RIDA is now requesting an additional \$10 million contribution from the public agencies toward the construction of the Convention Center. In return, RIDA will accept primary responsibility for funding the 1,600-space parking garage (the “Parking Garage”) that will serve the RHCC Project. Total costs for the Parking Garage are currently estimated between \$35 million and \$40 million.

On February 16, 2021, staff brought forward an action to the City Council recommending modifying the special tax rate and term of the Bayfront District in order to provide the funding requested by RIDA and to address likely future capital and operating costs throughout the Bayfront District Area. Additional changes to expand the area in which the improvements and services funded by the Bayfront District may be provided were also recommended, along with a Third Amended and Restated Revenue Sharing Agreement (the “Third Amended RSA”) and an Amended and Restated Joint Community Facilities Agreement (the “Amended and Restated JCFA”). At that meeting, the City Council adopted Resolutions 2021-028, 2021-029, and 2021-030, approving the Third Amended and Restated RSA, approving the Amended and Restated JCFA, and declaring the intention of the City Council to consider the modification of the Existing RMA for the Bayfront District and the expansion of territory wherein improvements may be located and services provided; requesting the applicable officer of the City prepare an Amended Bayfront Project Special Tax Financing District Report; and setting a public hearing related to the modification of the Bayfront District Existing RMA and the expansion of territory wherein improvements may be located and services provided for April 13, 2021 at 5:00 p.m. The Amended Bayfront Project Special Tax Financing District Report has been prepared and is provided as Attachment 5.

The Existing RMA established the procedures for levying special taxes within the Bayfront District. Modifications to the term of the special tax and the special tax rate are proposed, along with minor procedural changes, as summarized below and detailed in the Amended Rate and Method of Apportionment (the “Amended RMA”) (Attachment 1).

Special Tax Term

The Bayfront District special tax is currently authorized to be levied as long as necessary to pay for authorized expenditures as specified in Section 3.61.080 of Chapter 3.61 of the Chula Vista Municipal Code (CVMC) for a period not to exceed the longer of:

- (a) forty years (40) from the first day of the month immediately following the effective date of the ordinance enacted by the City Council providing for the levy of the Special Tax; or

(b) the date on which all indebtedness of the Chula Vista Bayfront Facilities Financing Authority, with respect to which District Special Tax revenues have been pledged, has been paid in full.

A term of no later than June 30, 2086 proposed. The extended term is limited by the 66-year contract authority of the Port District and closely aligns with the expected term of the ground lease to be entered into between the Port District and RIDA for the RHCC.

Special Tax Rate

Property located in the Bayfront District is subject to the levy of a special tax equivalent to 5% of occupancy-based room rate revenues generated from visitor serving accommodations located on such property that are subject to the City's TOT. Property located in the Bayfront District anticipated to be subject to the special tax include hotels and campsites, as well as private residences operating as hotels (i.e. properties offered to the public for short-term rental purposes through Airbnb, Vrbo, etc.). For those properties which do not offer visitor serving accommodations subject to the City's TOT, the Bayfront District has no effect (i.e., private residences not offered to the public for short-term rental purposes, undeveloped land, other commercial uses, or non-operating hotels or campsites).

An increase in the initial special tax rate from 5.0% to 5.5% is proposed. This is required to generate the additional \$10 million requested of the public agencies by RIDA. For the additional term of the Bayfront District beyond the 40 years currently authorized, significant reductions in the tax rate are proposed, dropping to 2.5% effective July 1, 2060 and to 1.0% effective July 1, 2075. As previously described, the tax would terminate as of June 30, 2086.

District Boundaries

No changes are proposed to the previously adopted and recorded boundary map of the Bayfront District (Attachment 2).

The Port District owns approximately 212 (79%) of the 270 acres of taxable property within the proposed boundaries of the Bayfront District. The City owns approximately 6 acres (2%) of taxable property within such boundaries, and the Municipal Transit System (MTS) owns approximately 4 taxable acres (1.5%). The remaining approximately 48 acres of taxable property are privately owned (17.5%).

Authorized Improvements

No changes are proposed to the previously adopted list of authorized improvements. Attachment 3 lists the types of improvements to be financed by the Bayfront District. The proposed resolution expands the territory in which the improvements may be located to be consistent with the Amended and Restated JCFA, including explicitly authorizing improvements to be located in, or immediately adjacent to, the Bayfront District area.

Authorized Services

No changes are proposed to the previously adopted list of authorized services. Attachment 4 lists the authorized services eligible for Bayfront District funding. The proposed resolution expands the territory in

which the services may be provided to be consistent with the Amended and Restated JCFA, including explicitly authorizing services to be provided in or immediately adjacent to, the Bayfront District area.

The proposition ("Proposition A") to be submitted to the electors is as follows:

PROPOSITION A

Shall the measure to amend the Bayfront Project Special Tax Financing District to: (a) increase the maximum special tax levy rate to 5.5% until June 30, 2060, with downward adjustments thereafter, raising an estimated \$33,000,000 annually; (b) extend the term of the authorization to levy the special tax until June 30, 2086; (c) expand the territory wherein improvements may be located and services provided; and (d) make minor procedural changes, all as set forth in Resolution No. ---- accompanying this ballot, be approved?

Resolutions

There are two (2) resolutions on today's agenda that, if adopted, will accomplish the following:

Resolution A: The RESOLUTION CALLING AN ELECTION is a formal action submitting to the qualified electors of the Bayfront District a proposition describing the proposed changes to the Bayfront District, and performs the following:

- (a) calls for a mail ballot special election to be held on July 13, 2021;
- (b) submits Proposition A to the qualified electors of the Bayfront District;
- (c) authorizes arguments for and against the propositions, argument rebuttals, and directs the City Attorney to prepare an impartial analysis of the propositions; and
- (d) establishes election procedures.

Resolution B: The RESOLUTION DESIGNATING CERTAIN AUTHORIZED REPRESENTATIVES TO VOTE is a formal action authorizes and directs the City Manager, or designee, to vote for an on behalf on the City in favor of the Proposition in the special mail ballot election.

Notice

All qualified electors within the Bayfront District have been notified of the public hearing through the mail as well as published notice in the Star News.

Future Actions

Adoption of tonight's resolutions call for a mail ballot special election to be held on July 13, 2021. All ballots must be received by the City Clerk by 12:00 p.m. on this date. The qualified electors will be asked to vote on the proposed changes. Once the votes are cast, Council will be requested to certify the results of the election. Arguments in favor of or against the proposition and the City Attorney's impartial analysis must be submitted to the City Clerk no later than April 27, 2021. Rebuttal arguments must be filed with the City Clerk no later than May 7, 2021.

Pursuant to CVMC Chapter 3.61, the qualified electors of the Bayfront District will be landowners, i.e., the owners of land within the Bayfront District with each such owner receiving one (1) vote for each acre or a portion of an acre located within the boundaries of the Bayfront District. The Bayfront District will be authorized to levy such special taxes pursuant to the Amended RMA and expand the territory wherein the improvements may be located and the services may be provided if 2/3rds of the votes actually cast in the election approve Proposition A. The San Diego County Registrar of Voters has certified that there are no persons registered to vote within the proposed boundaries of the Bayfront District (see Attachment 6).

Additional future actions include approval of a Project Implementation Agreement to establish the terms and conditions pursuant to which the Bayfront District will finance the acquisition of public improvements to be constructed by RIDA, the levy of special taxes, and actions associated with incurring debt.

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 financing 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 Bayfront District change proceedings and any subsequent borrowings to finance the acquisition and construction of eligible public or private facilities will be reimbursed from future Bayfront District financing 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 and any borrowings by the Bayfront District shall be paid from the proceeds of special taxes to be levied within the Bayfront District or the proceeds of such borrowings. 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. Amended Rate and Method of Apportionment (RMA)
2. Boundary Map
3. Authorized Improvements
4. Authorized Services
5. Amended District Report
6. Certification of Registered Voters
7. Letter of Concurrence of Election Official

Staff Contact: Tiffany Allen, Director of Development Services