



Legislation Text

File #: 20-570, **Version:** 1

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SUBJECT: Adoption of Resolution of Intent Regarding Annexation into Community Facilities District (CFD) No. 2003-2 (Services) for the Moraga, Phase 2 Subdivision and Setting a Public Hearing for November 2, 2020, and Acceptance of a Petition, Consent and Waiver from Lennar Homes for Annexation in the CFD No. 2003-2 (Services)

REPORT IN BRIEF

Requests the City Council to adopt a Resolution of intent to annex the Moraga Phase 2 Subdivision into Community Facilities District (CFD) No. 2003-2; and set a Public Hearing for November 2, 2020.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2020-69**, a Resolution of Intention of the City Council of the City of Merced, acting as the Legislative Body of the City of Merced Community Facilities District No. 2003-2 (Services), declaring its intention to annex area to said district and authorize the levy of a special tax within said annexation; and,
- B. Setting the Public Hearing for November 2, 2020.
- C. Accepting the petition, consent and waiver from Lennar Homes of California, Inc. and certain homeowners.

ALTERNATIVES

- 1. Approve the action as recommended by staff; or,
- 2. Requesting modification or amendment to the documents and provide direction to City staff regarding the same; or,
- 3. Decline to authorize action as recommended; or,
- 4. Continue to a future City Council meeting (time and date to be specified in motion).

AUTHORITY

Annexation of property into the City's existing CFD No. 2003-3 (Services) and designation of future annexation area of certain parcels pursuant to Merced City Charter, Section 200; Chapter 2.5 (commencing with Section 53311_ of Part 1 of Division 2 of Title 5 of California Government Code (the "Act"), commonly known as the "Mello-Roos Community Facilities Act of 1982;" and the City's Policy on new development.

DISCUSSION

The City approved a policy requiring all new development with the City to annex to a community

facilities district pursuant to the Mello-Roos Community Facilities Act of 1982, for the provision of certain services to new development. The services to be provided may include all or a portion of the following: police and fire protection services, maintenance of parks, landscaping, parkways, open space and storm drain maintenance, and other services authorized or to be authorized by the City's Municipal Code. The formation or annexation to the community facilities district is a condition of approval for new developments.

The property under consideration for annexation in the City's CFD for Services (CFD No. 2003-2) is located in the Moraga Phase 2 subdivision generally located at East Yosemite Avenue and Via Moraga (Attachment 1). Typically, the CFD is in place prior to a final map being recorded for a subdivision. When staff brought the final map to the City Council on October 21, 2019, staff believed the subdivision was part of Annexation No. 3 into the CFD for Services (2003-2) due to an incorrect recorded notice of lien listing both phases. However, recently, staff found that while the entire Moraga subdivision was proposed to be annexed with Annexation No. 3 in March 2006 (Attachment 2), a map which modified the annexation area to only include Moraga Phase 1 was subsequently recorded in May 2006 (Attachment 3). Therefore, Moraga Phase 2 was not included in the annexation to the CFD. In order to impose and collect the CFD tax, the City needs to annex Moraga Phase 2 (Attachment 1) into the CFD for Services (2003-2).

Before this error was discovered, six homes had been sold and ownership had changed. City staff is currently working with these homeowners to obtain the necessary consent documents to include them in the CFD. If we are unable to obtain the consent documents for annexation from these property owners prior to the adoption of the Resolution of Intent, these properties would need to be part of a future annexation area. If this is the case, staff will provide direction on the necessary action at the meeting.

The Rate and Method of Apportionment (RMA) was calculated with the original annexation in 2006 based on all 520 lots within the Moraga subdivision. Moraga Phase 1 contained 260 lots and Moraga Phase 2 also had 260 lots. The RMA from 2006 remains valid for both phases of Moraga, subject to the annual increases.

In addition to the adoption of the Resolution of Intent, City Council is being asked to accept the Petition, Consent and Waiver from Lennar Homes of California, Inc., (Attachment 4). This document is the petition from Lennar to be annexed into the CFD and it is also a consent and waiver to allow the public hearing and election to be held concurrently and waives the requirement at least 30 days between the adoption of the Resolution of Intent and the public hearing and waives any requirement to have the special election conducted within time periods specified in Section 53326 of the Act or in the California Election Code. This document also binds Lennar to having any future homebuyers who close escrow of their home prior to the completion of the CFD annexation sign the Form of Petition, Waiver and Consent found at Exhibit B of the Lennar Petition (Attachment 4). The City council is also being asked to accept consents from any of the six homeowners, if received.

City Council Action

Staff is recommending the City Council accept the Petition, Consent and Waiver from Lennar Homes of California, Inc. and certain homeowners, if any, adopt the Resolution of Intent at Attachment 5, and set the public hearing for November 2, 2020.

Provided there is no majority protest at the public hearing or election on November 2, 2020, this property would be annexed into the CFD. Should the proposition pass with a two-thirds vote from the qualified voters (the landowner), the City may levy the special tax pursuant to the amended rate and method of apportionment (Exhibit A of the Draft Resolution of Intent at Attachment 5).

IMPACT ON CITY RESOURCES

The annexation of this property into CFD No. 2003-2 (Services) would allow a special tax to be levied on these properties to cover the costs of landscape and storm drain maintenance and a portion of the costs for Police and Fire services to the project area. Fund 185-Moraga CFD has sufficient funding to pay for annexation costs.

ATTACHMENTS

1. Location Map
2. Original Annexation Map
3. Amended Annexation Map
4. Petition, Consent and Waiver -Lennar
5. Draft Resolution of Intent with RMA at Exhibit A