

MARINWOOD COMMUNITY SERVICES DISTRICT

Agenda for the Special Meeting of the Board of Directors

Thursday, July 30, 2015

6:00 PM - Marinwood Community Center Classroom

- A. 6:00 PM CALL TO ORDER AND PLEDGE OF ALLEGIANCE
- B. 6:05 PM RESOLUTION 2015-09: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARINWOOD COMMUNITY SERVICES DISTRICT CALLING A SPECIAL ELECTION ON TUESDAY, NOVEMBER 3, 2015, ORDERING THAT A QUESTION RELATING TO THE LEVY OF A SPECIAL TAX BE SUBMITTED TO THE VOTERS AT THE SPECIAL ELECTION, AND REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN CONSENT TO THE CONSOLIDATION OF THE SPECIAL DISTRICT ELECTION WITH THE UNIFORM DISTRICT ELECTION TO BE HELD ON SAID DATE AND TO RENDER SPECIFIED SERVICES TO THE DISTRICT PURSUANT TO SECTION 10400 OF THE ELECTIONS CODE.
BOARD ACTION: APPROVE RESOLUTION
- C. 6:25 PM CLOSED SESSION
Personnel exemption; The Board may meet in closed session to confer with its designated representatives to Marinwood Professional Firefighters regarding wages, benefits and working condition matters, pursuant to Government Code section 54957.6
- D. 7:30 PM ADJOURN

RESOLUTION NO. 2015-09

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARINWOOD COMMUNITY SERVICES DISTRICT CALLING A SPECIAL ELECTION ON TUESDAY, NOVEMBER 3, 2015, ORDERING THAT A QUESTION RELATING TO THE LEVY OF A SPECIAL TAX BE SUBMITTED TO THE VOTERS AT THE SPECIAL ELECTION, AND REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN CONSENT TO THE CONSOLIDATION OF THE SPECIAL DISTRICT ELECTION WITH THE UNIFORM DISTRICT ELECTION TO BE HELD ON SAID DATE AND TO RENDER SPECIFIED SERVICES TO THE DISTRICT PURSUANT TO SECTION 10400 OF THE ELECTIONS CODE

WHEREAS, pursuant to its rights, powers and authority under State law, the Board of Directors of the Marinwood Community Services District (the "District") may call a Special Election to be held in the District on November 3, 2015 for the purpose of submitting a ballot measure to the voters of the District; and

WHEREAS, pursuant to the authority of Section 61121 of the California Government Code, and other applicable law, the District may levy a special tax on all parcels of real property in the District for the purpose of providing park, open space and street landscape maintenance, subject to the approval by a two-thirds vote of the qualified voters of the District voting in an election on the issue; and

WHEREAS, the County of Marin will conduct a uniform district election on November 3, 2015; and

WHEREAS, it is desirable that this Special District Election be consolidated with the Uniform District Election to be held on the same date and that within said District the precincts, polling places and election officers of the elections be the same, and that the County Election Department of the County of Marin canvass the returns of the Special District Election, and that this consolidated election be held in all respects as if there were only one election.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MARINWOOD COMMUNITY SERVICES DISTRICT DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing findings are true and correct.

SECTION 2. Pursuant to Section 61120 of the California Government Code, the Board of Directors hereby determines that the amount of revenue available to the District is inadequate to meet the costs of providing park, open space and street landscape maintenance.

SECTION 3. Pursuant to its rights, powers and authority, the Board of Directors of the District does hereby call a Special District Election to be held on November 3, 2015 and orders the following question to be submitted to the voters at the Special District Election:

"To provide park, open space and street landscape maintenance, shall an ordinance be adopted to replace the existing special tax of \$189.56 per parcel with a special tax of

\$189.56 per unit on each parcel within the Marinwood Community Services District, with an annual cost of living adjustment, and to increase the District appropriations limit by the amount of the proceeds received from the special tax?”

SECTION 4. The Board hereby approves the proposed ordinance to be submitted to the voters, as attached to this Resolution as Exhibit A and incorporated herein by reference. The proposed measure is a special tax as defined in Article XIIC of the California Constitution and shall not take effect unless and until approved by a vote of at least two-thirds of the voters voting on the question at said Special District Election. The full text of the ordinance shall be printed on the voter pamphlet.

SECTION 5. Pursuant to the requirements of Section 10400 of the California Elections Code, the Board of Supervisors of the County of Marin is hereby requested to consent and agree to the consolidation of the Special District Election with the Uniform District Election on Tuesday, November 3, 2015, for the purpose of submitting the above-described ballot measure to the voters of the District.

SECTION 6. The District hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418 of the California Elections Code.

SECTION 7. The ballots to be used at the election shall be in form and content as required by law.

SECTION 8. The District Manager is authorized, instructed and directed to contract with the County of Marin to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment, personnel and paraphernalia that may be necessary in order to properly and lawfully conduct the election, at costs to be reimbursed by the District.

SECTION 9. In all particulars not recited in this resolution, the Special District Election shall be held and conducted as provided by law for holding district elections. All persons qualified and registered to vote in the District as of the date of said election shall be entitled to vote.

SECTION 10. Notice of the time and place of holding the election is given, and the District Secretary is authorized, instructed and directed to give further or additional notice of the election in time, form and manner as required by law.

SECTION 11. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 12. The County Election Department is hereby requested to render the following services to the District relating to the conduct of the election to be held on November 3, 2015: Preparation of voter indexes; voter counting by precinct; verification of signatures; drayage and rental of polling places; printing of measures and arguments; printing of sample and official ballots; appointment and notification of election officers; mailing of sample ballots and polling place notification; provision of precinct supplies; training of precinct workers; processing of absentee ballots; central counting; canvass of votes.

SECTION 13. The Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 14. The District recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 15. The District Secretary is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Marin forthwith.

SECTION 16. The District Secretary is hereby directed to forward a copy of the measure to be voted on at the Special District Election and the District general counsel is hereby directed to prepare an impartial analysis of the measure.

SECTION 17. The Board of Directors hereby authorizes any of its members to submit a ballot argument in favor of or against the measure to be voted on at the Special District Election.

SECTION 18. The District Secretary shall certify to the passage and adoption of this Resolution and enter it into the official records of the District.

PASSED, APPROVED, AND ADOPTED on this ___ day of _____ 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Tarey Read, Board President

ATTEST:

Carolyn Sullivan, Secretary to the Board

EXHIBIT A

ORDINANCE NO. _____

(See Attached)

ORDINANCE NO. _____

**AN ORDINANCE OF THE MARINWOOD COMMUNITY SERVICES DISTRICT
IMPOSING A SPECIAL TAX TO FINANCE PARK, OPEN SPACE AND STREET
LANDSCAPE MAINTENANCE SERVICES AND AUTHORIZING AN INCREASE IN
THE APPROPRIATIONS LIMIT FOR THE MARINWOOD COMMUNITY SERVICES
DISTRICT**

**THE PEOPLE OF THE MARINWOOD COMMUNITY SERVICES
DISTRICT DO HEREBY ORDAIN AS FOLLOWS:**

Section 1. Authority, Purpose and Intent.

Pursuant to the authority of Section 61121 of the California Government Code, and other applicable law, there is hereby levied and assessed a special tax by the Marinwood Community Services District on all parcels of real property in the Marinwood Community Services District for each fiscal year. It is the sole purpose and intent of this ordinance to impose a special tax to provide park, open space and street landscape maintenance services.

Section 2. Special Tax Imposed.

A special tax for the purpose specified in Section 4 of this ordinance shall be imposed on all parcels of real property in the Marinwood Community Services District for each fiscal year, commencing with fiscal year 2016-17. The amount of the special tax for fiscal year 2016-17 shall be \$189.56 per unit.

Beginning with fiscal year 2017-18 and for each fiscal year thereafter, the amount of the special tax per unit may increase by the percentage by which the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose Area published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor to that index, increased in the previous calendar year.

The records of the Marin County Assessor as of March 1st of each year shall determine the use and improvement of each parcel for the calculation of the special tax applicable to that parcel in the following fiscal year.

For the purposes of this ordinance, the term "unit" shall mean:

(A) For residential use property, any building or portion thereof used or designed as a separate dwelling accommodation, with cooking, living and sleeping facilities.

(B) For all other improved property, any portion of a building or structure or other improved real property which is occupied or designed to be occupied by a separate business establishment required to be licensed as such pursuant to the Marin County Code of Ordinances.

Section 3. Annual levy.

The Board of Directors shall annually by an affirmative vote of at least a majority of its members establish the amount of the special tax levy, in an amount that does not exceed the maximum amount specified in Section 2 of this ordinance. The special tax shall not be measured by value of the property.

Section 4. Special Fund, Use of Tax Proceeds.

The proceeds of the special tax imposed by this ordinance shall be placed in a special fund to be used solely for the purpose of providing park, open space and street landscape maintenance services.

Section 5. Collection.

The special tax imposed by this ordinance shall be collected in the same manner, on the same dates, and shall be subject to the same penalties and interest as other charges and taxes fixed and collected by the County of Marin on behalf of the Marinwood Community Services District. Said special tax, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and said special tax, together with all penalties and interest thereon, shall constitute until paid, to the extent authorized by law, a personal obligation to the Marinwood Community Services District by the persons who own the parcel on the date the tax is due.

Section 6. Amendment.

The Board of Directors shall be empowered to amend this ordinance by an affirmative vote of at least a majority of its members to carry out the general purposes of this ordinance, to conform the provisions of this ordinance to applicable state law, to modify the methods of collection, or to assign the duties of public officials under this ordinance.

In no event shall the Board of Directors amend this ordinance to increase the amount of the special tax established in Section 2 of this ordinance, unless approved by two-thirds of the voters voting thereon.

Section 7. Exemptions.

The special tax shall not be imposed upon any parcel that is exempt from the special tax pursuant to any provision of the Constitution, California State law, or any paramount law. The Board of Directors by resolution may adopt exemptions to the special tax imposed by this ordinance.

Section 8. Appropriations Limit.

The appropriations limit of the Marinwood Community Services District established under Article XIII B, Section 6 of the California Constitution shall be increased by the amount of the proceeds received from the special tax imposed by this ordinance.

Section 9. Special Tax Accountability Measures.

The District Manager shall annual file a special tax accountability report with the Board of Directors. The report shall contain both of the following: (a) the amount of funds collected and expended for each special tax imposed by the District and (b) the status of any project required or authorized to be funded by such special tax. As required by Section 50075.3 of the California Government Code, as such law is amended from time to time.

Section 10. Repeal of Ordinance No. 16.

Ordinance No. 16 of the Marinwood Community Services District imposing a special tax for park, open space and street landscape maintenance is hereby repealed in the event that the tax imposed by this ordinance is adopted and becomes effective. Notwithstanding the previous sentence, the collection and enforcement of liens or obligations for the special tax previously levied under Ordinance No 16 shall continue in effect until such time as the collection and enforcement procedures have been completed.

Section 11. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable. The Board of Directors, and the electorate by referendum, do hereby declare that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof, be declared invalid or unconstitutional

Section 12. Effective Date.

This ordinance shall be adopted and become effective immediately upon approval by two-thirds of the voters voting thereon, at an election to be held on November 3, 2015.

Section 13. Attestation.

The President is hereby authorized to attest to the adoption of this ordinance by signing where indicated below.

I hereby certify that the foregoing ordinance was PASSED, APPROVED AND ADOPTED by the people of the Marinwood Community Services District voting on the 3rd day of November, 2015.

By:

Board President

ATTEST:

Secretary to the Board

Eric Dreikosen

From: Justin Kai <kai.justin@gmail.com>
Sent: Tuesday, July 28, 2015 1:41 PM
To: Eric Dreikosen
Subject: Fwd: Grady Ranch number of parcels

Eric,

Please include this email and the following thread in the special meeting packet as an update to my letter included in the July agenda packet.

Planning Manager Jeremy Tejirian with the County confirmed after our July board meeting that the proposed area to be developed on Grady Ranch consists of only one parcel, as opposed to three, as I thought it was through my research of County documents. The correction in revenue in my graph should be noted that instead of generating \$568.68 per year for three parcels for Grady Ranch, it would actually only be revenue of \$189.56 per year as a singular parcel.

Thank you,
Justin Kai

Justin Kai
kai.justin@gmail.com
[415.215.7865](tel:415.215.7865)

Begin forwarded message:

From: "Tejirian, Jeremy" <JTejirian@marincounty.org>
Date: July 22, 2015 at 2:34:47 PM PDT
To: "'Justin Kai'" <kai.justin@gmail.com>
Cc: "Drake, Jocelyn" <JDrake@marincounty.org>
Subject: RE: Grady Ranch number of parcels

Hi Justin, sorry I've been a little slow to reply but the only Assessor's Parcel involved in the Grady Pre-application is 164-310-15, which is a single legal lot of record. They have not indicated to us that they intend to subdivide this lot, but if they do then they will need to submit a subdivision application along with the Master Plan Amendment application. I have not heard from the applicant and I can't predict when they will submit an application, but we will create a project web page for once we receive it so people can stay up to date. Please let me know if you have any other questions before then. Thanks.

Jeremy Tejirian, AICP
PLANNING MANAGER

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite #308
San Rafael, CA 94903
415 473 3798 T
415 473 7880 F
CRS Dial 711
JTejirian@marincounty.org

From: Justin Kai [mailto:kai.justin@gmail.com]

Sent: Wednesday, July 08, 2015 11:16 AM

To: Tejirian, Jeremy

Subject: Grady Ranch number of parcels

Hey Jeremy,

Can you let me know how many parcels the proposed Grady Ranch development consists of?

Thanks,

Justin

Justin Kai

kai.justin@gmail.com

415.215.7865

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

July 8th, 2015

District Manager Eric Dreikosen
Marinwood CSD Board of Directors
775 Miller Creek Road,
San Rafael, CA 94903

Dear District Manager Eric Dreikosen, Fellow Board Members and the public of Marinwood,

In preparation for the July 14th board meeting, I wanted to help clarify important points relating as to why it is necessary and possible to restructure the Marinwood CSD Park Maintenance Parcel Tax potentially into an MCSD Park Maintenance Per Unit Tax. Please include this letter into the upcoming July agenda packet.

Background: Since its creation, the Marinwood CSD Park Maintenance Tax has generally been collected on a per household basis. This is due to the fact that Marinwood has historically been a development consisting of a single unit home per parcel. Now with the continuing potential for the introduction of multi-family residential units on singular parcels into the District, the desired result of receiving the Park Tax on a per household basis would become unfulfilled and compromised. It is safe to assume that the new residents of said developments would be using our parks and open space that the tax is intended to maintain. Therefore in an effort to be proactive, the need to restructure the Park Maintenance Parcel Tax into a Per Unit Tax has arisen.

Borikas v. Alameda Unified School District: It has been previously brought to the District's attention that the case of *Borikas v. Alameda Unified School District* potentially has some bearing on this issue. To summarize, in the case of Borikas, the school district was attempting to set different tax rates for commercial property vs residential. Under the Government Code Section 61121(a) the District is required to apply special taxes "uniformly". The courts found that structuring different tax rates for residential versus commercial was considered to be an un-uniform application of the tax, making such a tax structure invalid. The CSD's special taxes fall under this same code section, and so must be applied uniformly as well.

Since the tax re-structure being proposed is simply on a per unit basis, regardless of whether said unit is residential or commercial, etc, than a restructure on this basis should be considered uniform and should therefore be valid.

Precedence established by our own MCSD Fire Tax: The issue has been raised that a parcel tax cannot be applied in a non-uniform manner, as demonstrated with the Borikas case regarding residential versus commercial property. However, as long as a special tax is applied uniformly to all property types, there is not an issue.

Precedence for the understanding of "uniform" extends beyond all parcels needing to pay an equal amount. This understanding exists even within our own District. Both of our Park Maintenance Tax and our Square Footage Fire Tax are both special/parcel taxes that fall under Article XIII C and D of the California Constitution. The Fire Tax adheres to the uniformity requirement through its uniform square footage tax application to all types of property. This uniform application results in parcels paying differing amounts of the special tax, just as a uniform Per Unit Tax would also do.

The Square Footage Fire Tax also demonstrates that a parcel/special tax can be implemented through a different measure, such as based on square footage, other than solely on a per parcel basis.

Difference in revenue generated per parcel vs per unit: To best demonstrate the adverse financial impacts of the existing Park Tax structure with the introduction of multi-family housing on singular parcels into the District, I've calculated the difference in revenue generated on a per parcel basis, vs a per unit basis. To further best demonstrate this, I've used recent examples from active and inactive development proposals that would be included in the District:

Grady Ranch (active proposal)	# of parcels	# of proposed units	Difference in revenue generated
	3 parcels	224 units	
Revenue generated @ \$189.56 per X (2015-2016 assessed rate)	\$568.68 per year	\$42,461.44 per year	+ \$41,892.76 for the District w/ a per unit tax

Marinwood Plaza-Bridge (in-active proposal)	# of parcels	# of proposed units	Difference in revenue generated
	4 parcels	82 units	
Revenue generated @ \$189.56 per X (2015-2016 assessed rate)	\$758.24 per year	\$15,543.92 per year	+ \$14,785.68 for the District w/ a per unit tax

The difference in revenue generated, or lost depending on your perspective, is astounding. Remember that this loss or generation of additional revenue for the District would be on an annual and on-going basis. Also know that additional parcels exist other than Grady and Marinwood Plaza (such as Oakview, St Vincent's/Silviera, etc) within, adjacent to or in close proximity to the District, which would likely be annexed into the District, have also been zoned to allow for multi-family residential units on singular parcels.

Conclusion: Based on the legal and financial understandings outlined above, It would be prudent for the District to pro-actively re-structure it's Park Maintenance Tax before the inclusion of multi-family residential housing on singular parcels enters the District. This recommendation is made in the fiscal best interest for the District and our residents. This tax re-structure would apply uniformly to any type of multi-unit property on singular parcels, whether it be commercial, retail, market-rate residential or affordable residential units, etc. This recommendation does not hinder or enable any development of any sort, but instead only seeks to ensure that the District receives its appropriate collection of the special tax in question.

To best achieve this, I further recommend that the District authorize our General Counsel not to exceed \$10K in legal fees to prepare the ballot measure, resolution calling the election, resolution requesting consolidation with the County election and the implementing tax ordinance to execute restructuring the park maintenance parcel tax into a per unit tax. Any portions of this process, which can be executed by MCSD staff, should be done so in an effort to keep outside legal costs to a minimum. Once ready, the board would need to reconvene at a special meeting to approve and submit to the County before the August 7th County ballot measure submission deadline, for voters to approve in the November General Election.

Thank you all for your consideration.

Sincerely,



Justin Kai

240 Cobblestone Drive
San Rafael, CA 94903

415.215.7865
kai.justin@gmail.com

Marinwood CSD Board

July 27, 2015

Dear Board

I will be unable to attend your "special" board meeting scheduled for July 30. I urge you to take no action regarding placing a tax/fee increase on the ballot.

First – Why is it necessary to hold a "special" meeting to do this? If the intent of the increase is to effect a basically new tax on properties in our community shouldn't a full public hearing be held as has been the practice in the past? Since the increase is ostensibly for multi-unit parcels and no new ones are close to being developed for at least three years, according to Supervisor Connelly, why does it warrant a "special" board meeting at this time? Please vote no on the pending resolution and take the proper steps to inform the community of the reason for the increase and allow time for community feedback.

Second – the proper name for this increase is the "Cameron Case" tax increase. His property and a couple of others are the only ones currently that would have to pay the additional tax/fee. A few years ago, Cameron divided his house to have basically two "family" units with his wife and him occupying one side and his son and family the other. The current wording of the tax would impose an additional fee on Cameron. In addition, I am aware of a few other homes that have been divided over the years to include multiple family units; they too would be required to pay the increase. Why is the board targeting them?

Third – There is a planned senior assisted living development for the area along the freeway behind the weigh station. Has any consideration be given that most likely seniors in assisted living situations would not increase the burden on our parks? The argument for an increase by living unit breaks down here.

Fourth – The argument that the park tax was intended to be a "family" tax has no basis in history. The last increase in the Park tax was developed by determining the amount needed and dividing by the number of parcels in the CSD. There has never been a historical discussion about the fee being applied to a family unit. The argument for a "family" appears to be made up and should not be put forth to the community as such. It will be properly attacked as untrue.

In summary, there appears to be no need to put this increase on the ballot this year other than to tax already existing families. A full public hearing not a sneaky "special" board meeting should occur prior to any vote by the board. Consideration should be given to seniors in assisted needs situations. A change to how the tax is applied should be considered as to possible making the tax apply only to multi-unit dwellings over a certain threshold, say five units, in order not to effect existing properties.

Thank you for considering these points.

Bruce Anderson