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CITY OF OAKLAND

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Teresa Deloach Reed
Fire Chief

SUBJECT: Dissolving CFD No. 2013-1
(Wildfire Prevention District)

DATE: January 7, 2014

City Administrator
Approval

Date

12-16-13

COUNCIL DISTRICT: 1, 4, 6, & 7

RECOMMENDATION

Staff recommends that the City Council approve the following legislation:

An Ordinance Dissolving City of Oakland Community Facilities District No. 2013-1
(Wildfire Prevention District)

EXECUTIVE SUMMARY

A special mail ballot election, conducted within the boundaries of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) (the "CFD") concluded at 8:00 p.m. on Wednesday, November 13, 2013. Per Resolution No. 84768 C.M.S., titled "Resolution Declaring the Results of the City of Oakland's Community Facilities District No. 2013-1 (Wildfire Prevention District) Special Mail Ballot Election Held on Wednesday, November 13, 2013," a 2/3 favorable vote of the registered voters that voted was not attained. Therefore, authorization to levy a special tax ("Special Tax") to provide wildfire prevention and preparedness services to those properties for ten (10) years, following the expiration of the Wildfire Prevention Assessment District in January 2014, cannot be levied, making the CFD's existence moot.

NOTE: The CFD is a separate and distinct entity from the current Wildfire Prevention Assessment District (WPAD). The assessments billed for the final 2013-14 Fiscal Year of the WPAD will be allocated based on the advice and recommendation of the WPAD Advisory Committee (established by Resolution No. 78305 C.M.S., January 20, 12004) and in accordance with the WPAD enabling document (Ordinance No. 12556 C.M.S., November 18, 2003).

OUTCOME

Adoption of the ordinance will dissolve the CFD.

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BACKGROUND/LEGISLATIVE HISTORY

On July 2, 2013, the City Council adopted Resolution No. 84496 C.M.S., stating Council's intention to, among other things, establish "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et seq.*, of the California Government Code (the "Act"), to finance the cost of wildfire prevention services.

On August 2, 2013, the City Council held a noticed public hearing relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to finance wildfire prevention services. Subsequent to the hearing, the City Council adopted Resolution No. 84594 C.M.S., entitled "Resolution of Formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" and Resolution No. 84595 C.M.S., entitled "Resolution of the City Council of the City of Oakland Calling and Giving Notice for the Holding of a Special District Mail-Ballot Election for City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) on Wednesday, November 13, 2013."

On November 13, 2013, a special election was held within the CFD at which time the qualified electors failed to approve the ballot measure by the two-thirds vote required by the Act and, on December 10, 2013, the City Council adopted Resolution No. 84768 C.M.S., entitled "Resolution Declaring the Results of the City of Oakland's Community Facilities District No. 2013-1 (Wildfire Prevention District) Special Mail Ballot Election Held on Wednesday, November 13, 2013."

ANALYSIS

The failure of the measure to authorize the levying of a special tax to pay for enhanced wildfire prevention services in those areas of the Oakland hills that were impacted by the deadly October 1991 Oakland Hills Wildland/Urban Interface Fire makes continuation of CFD moot.

POLICY ALTERNATIVES

Keep the CFD in place, reserving the possibility of seeking electorate approval of the exact same tax rate for the identical services in the future, but with a shorter collection period (nine or fewer years, depending on if/when such a vote would occur), given that the existing rate and method established by CFD No. 2013-1 has a fixed sunset date of Fiscal Year 2023-24.

The Mello-Roos Act limits the City's ability to take this approach as follows:

Gov. Code 53329 After the canvass of returns of any election conducted pursuant to Section 53326, the legislative body shall take no further action with respect to authorizing the specified special tax within the community facilities district for one year from the date of the election if

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the question of authorizing that specified special tax fails to receive approval by two-thirds of the votes cast upon the question.

PUBLIC OUTREACH / INTEREST

In support of the CFD, local community organizations within the current WPAD actively worked to ensure that the safety and security of their neighborhoods would continue to receive the heightened fire prevention, suppression and preparedness activities WPAD funding has provided since 2004. A partial list of groups and individuals who endorsed a "yes" vote is posted on the website: <http://KeepOaklandFireSafe.org/endorsements.htm>

COORDINATION

This report has been reviewed by the Office of the City Attorney, the Budget Office, the Fire Department and pertinent information was coordinated with the engineering firm of Francisco & Associates, Inc., and the City's special counsel, Jones Flail, A Professional Law Corporation.

COST SUMMARY/IMPLICATIONS/BUDGET

1. **COST OF PROJECT:** The cost of establishing the Community Facilities District and conduct of the election is anticipated to be approximately \$201,000 - \$216,000, excluding existing staff time. The cost items include, but are not limited to, the following items:
 - 1) Special Tax Engineering Services (\$26,000)
 - 2) Election Costs (\$160,000 - \$170,000)
 - 3) Legal Counsel (\$15,000 - \$20,000)
2. **SOURCE OF FUNDING:** An estimated \$24,900 is available from the Fire Department's existing FY 2012-13 General Purpose Fund budget. Election costs are available in the Elections Project Fund. Another \$213,000 is included in the adopted FY 2013-15 budget from the General Purpose Fund.
3. **FISCAL IMPACT:** The failure to attain a 2/3 majority vote means the City of Oakland will not receive approximately \$1,900,000 annually from Fiscal Year 2014-15 through Fiscal Year 2023-24 to cover the additional wildfire prevention services that the Oakland Fire Department has provided for the past 10 years, under the Wildfire Prevention Assessment District. Potential loss of services include the goat grazing program, wood chipping program, enhanced vegetation management, roving fire patrols and public outreach.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic sustainable opportunities contained in this report.

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Environmental: There are no environmental opportunities associated with this report.

Social Equity: There are no direct social impacts associated with the City Council action requested in this report.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact: Bill Uber, Special Projects Assistant, at (510) 238-6811.

Respectfully submitted,



TERESA DELOACH REED
Chief, Oakland Fire Department


Prepared and Reviewed by:
William Roy Uber, Special Projects Assistant (Temporary PT)
Office of the City Administrator

Legislative Documents:

- (1) An Ordinance Dissolving City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)

INTRODUCED BY COUNCILMEMBER ED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY


City Attorney

2013 DEC 24
OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE DISSOLVING CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT)

WHEREAS, on July 2, 2013, the City Council of the City of Oakland, adopted Resolution No. 84496 C.M.S. entitled "A Resolution of Intention of the City of Oakland to Establish City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) in the Current Wildfire Prevention Assessment District Area, Schedule a Public Hearing, Levy a Special Tax to Finance Certain Public Services and Approving a Proposed Boundary Map for Community Facilities District No. 2013-1 Pursuant to the Mello-Roos Community Facilities Act of 1982," stating its intention to establish "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California Government Code (the "Act"), to finance the cost of wildfire prevention services; and

WHEREAS, notice was published as required by the Act relative to the intention of the City Council to form the CFD; and

WHEREAS, the City Council held a noticed public hearing as required by the Act relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to finance the costs of the wildfire prevention services; and

WHEREAS, at the hearing, all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of special taxes in the CFD were heard, substantial evidence was presented and considered by the City Council and a full and fair hearing was held; and

WHEREAS, subsequent to the hearing, on August 2, 2013, the City Council adopted Resolution No. 84594 C.M.S., entitled "Resolution of Formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" and Resolution No. 84595 C.M.S., entitled "Resolution of the City Council of the City of Oakland Calling and Giving Notice for the Holding of a Special District Mail-Ballot Election for City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) on Wednesday, November 13, 2013" (the "Resolution Calling Election"), which resolutions adopted a definition of the services to be financed by the CFD, established the CFD, authorized the levy of a special tax with the CFD and called an election within the CFD on the ballot measure identified in the Resolution Calling Election; and

WHEREAS, on November 13, 2013, a special election was held within the CFD at which the qualified electors failed to approve the ballot measure identified in the Resolution Calling Election by the two-thirds vote required by the Act, and, on December 10, 2013, the City Council adopted Resolution No. 84768 C.M.S., entitled "Resolution Declaring the Results of the City of Oakland's Community Facilities District No. 2013-1 (Wildfire Prevention District) Special Mail Ballot Election Held on Wednesday, November 13, 2013"; and

WHEREAS, Section 53338.5 of the Act authorizes the City Council, by ordinance, to dissolve the CFD upon determining that (a) the CFD is not obligated to pay any outstanding debt and (b) the CFD has no authorization to levy any special tax; and

WHEREAS, the City Council wishes to dissolve the City pursuant to the Act; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby finds that the recitation of facts set forth in the preceding clauses is true and correct. The City Council further finds that because the qualified electors of the CFD did not approve the ballot measure identified in the Resolution Calling Election, the CFD is not obligated to pay any outstanding debt and the CFD has no authorization to levy any special tax.

Section 2. Dissolution of the CFD. By the passage of this Ordinance, the City Council hereby dissolves the CFD.

Section 3. Effective Date. This Ordinance shall take effect 30 days from the date of final passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____