

RESOLUTION NO. 2015-63

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA OF
FORMATION OF COMMUNITY FACILITIES DISTRICT**

**CITY OF MARINA
Community Facilities District No. 2015-1
(The Dunes)**

WHEREAS, the City Council (this "Council") of the City of Marina (the "City") has adopted a resolution entitled "A Resolution of the City Council of the City of Marina of Intention to Establish A Community Facilities District" (the "Resolution of Intention"), stating its intention to form (i) the "City of Marina Community Facilities District No. 2015-1 (The Dunes)" (the "CFD") and (ii) the "City of Marina Community Facilities District No. 2015-1 (The Dunes) (Future Annexation Area)" (the "Future Annexation Area") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act");

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and the Future Annexation Area and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein;

WHEREAS, on this date, this Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD and the Future Annexation Area;

WHEREAS, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD and the Future Annexation Area, the services to be provided therein and the levy of such special tax were heard and a full and fair hearing was held;

WHEREAS, at the hearing evidence was presented to this Council on such matters before it, including a special report (the "Report") as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and this Council at the conclusion of said hearing is fully advised in the premises;

WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes;

WHEREAS, written protests have not been filed with the City Clerk against the proposed annexation of the Future Annexation Area to the CFD by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the proposed boundaries of the CFD, or (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the Future Annexation Area, (iii) owners of one-half or more of the area of land in the proposed CFD or (iv) owners of one-half or more of the area of land in the Future Annexation Area.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Marina, as follows:

1. **Recitals Correct.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed CFD, the proposed Future Annexation Area and the proposed special tax to be levied within the CFD have not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All prior proceedings taken by this City Council in connection with the establishment of the CFD and the Future Annexation Area and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. **Name of the CFD and the Future Annexation Area.** The community facilities district designated "City of Marina Community Facilities District No. 2015-1 (The Dunes)" of the City is hereby established pursuant to the Act. The future annexation area designated "City of Marina Community Facilities District No. 2015-1 (The Dunes) (Future Annexation Area)" is hereby established pursuant to the Act.

5. **Boundaries of CFD.** The boundaries of the CFD and the Future Annexation Area, as set forth in the map of the CFD heretofore recorded in the Monterey County Recorder's Office on May 6, 2015, at 8:43 a.m., in Book 5 of Maps of Assessment and Community Facilities Districts at Pages 13, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD and the Future Annexation Area.

Parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval (each, a "Unanimous Approval") of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

6. **Description of Services.** The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the "Services"). The City intends to provide the Services on an equal basis in the original territory of the CFD and, when it has been annexed to the CFD, the Future Annexation Area.

7. **Special Tax.**

a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as may be prescribed by this Council.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein.

c. Territory in the Future Annexation Area will be annexed into the CFD and a special tax will be levied on such territory only with the Unanimous Approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed into the CFD. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the Future Annexation Area, is intended to be levied annually within the Future Annexation Area, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as may be prescribed by this City Council. As required by Section 53339.3(d) of the Act, the Council hereby determines that the special tax proposed to pay for Services to be supplied within the Future Annexation Area shall be equal to any special tax levied to pay for the same Services in the existing CFD, except that a higher or lower tax may be levied within the Future Annexation Area to the extent that the actual cost of providing the Services in the Future Annexation Area is higher or lower than the cost of providing those Services in the existing CFD. In so finding, the Council does not intend to limit its ability to levy a special tax within the Future Annexation Area to provide new or additional services beyond those supplied within the existing CFD.

8. Increased Demands. It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of development occurring in the CFD and the Future Annexation Area. The Services are in addition to those provided in the territory of the CFD and the Future Annexation Area as of the date hereof and will not supplant services already available within the territory of the CFD and the Future Annexation Area as of the date hereof.

9. Responsible Official. The Finance Director (or his or her designee) of the City of Marina, City Hall, 211 Hillcrest Avenue, Marina, California 93933, telephone number (831) 884-1278, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the Special Tax.

10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the City ceases.

11. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at \$2,000,000 and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the Constitution.

12. Election. Pursuant to the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

13. Effective Date. This resolution shall take effect from and after the date of its passage and adoption.

PASSED, APPROVED AND ADOPTED this 2nd day of June, 2015, by the following roll call vote:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

CITY OF MARINA

Bruce C. Delgado, Mayor

ATTESTED:

Anita Sharp, Deputy City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Marina at a regular meeting thereof held on the 2nd day of June, 2015, and that the foregoing is a full, true and correct copy of said Resolution.

Anita Sharp, Deputy City Clerk

EXHIBIT A

CITY OF MARINA Community Facilities District No. 2015-1 (The Dunes)

DESCRIPTION OF SERVICES

The Community Facilities District will fund, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), including all related administrative costs, expenses and related reserves:

- Street Maintenance
- Sidewalk Maintenance
- Curb & Gutter Maintenance
- Decorative Lighting Maintenance
- Storm Drain Maintenance

EXHIBIT B

**CITY OF MARINA
Community Facilities District No. 2015-1
(The Dunes)**

**RATE AND METHOD OF APPORTIONMENT
OF SPECIAL TAX**

Insert Rate and Method here

EXHIBIT B

CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2015-1 (THE DUNES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in the City of Marina Community Facilities District No. 2015-1 (The Dunes) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2015-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Accessory Unit” means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

“Acre” or **“Acreage”** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of the CFD: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City, a designee thereof, or both); costs of collecting the Special Taxes; costs associated with preparing Special Tax disclosure statements and responding to public inquiries, protests, or appeals regarding the Special Taxes; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City for any other administrative purposes of the CFD, including attorney's fees, costs associated with annexations to the CFD, and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“Administrator” means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” or **“APN”** means a unique number assigned to an Assessor’s Parcel by the County Assessor for purposes of identifying a property.

“Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

“CFD” or **“CFD No. 2015-1”** means the City of Marina Community Facilities District No. 2015-1 (The Dunes).

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2015-1 was adopted by the City Council.

“City” means the City of Marina.

“City Council” means the City Council of the City of Marina, acting as the legislative body of CFD No. 2015-1.

“County” means the County of Monterey.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a use permit or building permit for new construction of a residential or non-residential structure (which shall not include a permit issued solely for construction of the foundation if another permit remains to be issued for vertical construction of the building) was issued prior to June 30 of the preceding Fiscal Year.

“Escalation Factor” means, in any Fiscal Year, the lesser of (i) the percentage increase, if any, in the Construction Cost Index for the San Francisco region in the twelve (12)-month period ending June 1 of the prior Fiscal Year, as published in the Engineering News Record (or other comparable source if the Engineering News Record is discontinued or otherwise not available), or (ii) four percent (4.0%). If, in any Fiscal Year, it is determined that the Construction Cost Index decreased in the prior Fiscal Year, the Escalation Factor shall be zero, and there shall be no corresponding decrease in the Maximum Special Taxes calculated pursuant to Section C below.

“Final Map” means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, *et seq.*) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

“Fiscal Year” means the period starting on July 1 and ending on the following June 30.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

“Non-Residential Property” means, in any Fiscal Year, all Parcels of Developed Property that are not Residential Property or Public Property. If a structure on a Parcel is a mixed-use building that includes Residential Units, the Special Tax levied on the Parcel shall be calculated based on applying the Special Tax only to the Residential Units in the building.

“Proportionately” means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Undeveloped Property.

“Public Property” means, in any Fiscal Year: (i) all Parcels within the boundaries of the CFD that are owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) all Parcels within the boundaries of the CFD that are encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Residential Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of one or more Residential Units.

“Residential Unit” means an individual single-family detached unit, an individual residential unit within a duplex, halfplex, triplex, fourplex, townhome, live/work or condominium structure, or an individual apartment unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Special Tax” means any tax levied within the CFD to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) establishment of reserves, (iii) Administrative Expenses, and (iv) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred in prior Fiscal Years.

“Taxable Property” means all Assessor’s Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section E below.

“Tax Zone” means a mutually exclusive geographic area within which the Special Tax may be levied pursuant to this RMA. *All of the property within CFD No. 2015-1 at the time of CFD Formation is within Tax Zone 1.* Additional Tax Zones may be created when property is

annexed to the CFD, and a separate Maximum Special Tax shall be identified for property within the new Tax Zone at the time of such annexation. The Assessor's Parcels included within a new Tax Zone established when such Parcels are annexed to the CFD shall be identified by Assessor's Parcel Number in the Unanimous Approval Form that is signed by the owner(s) of the Parcels at the time of annexation.

“Unanimous Approval Form” means that form executed by the record owner of fee title to a Parcel or Parcels annexed into the CFD that constitutes the property owner's approval and unanimous vote in favor of annexing into the CFD and the levy of the Special Tax against his/her Parcel or Parcels pursuant to this RMA.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property in the CFD that are not Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) whether each Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) in which Tax Zone each Assessor's Parcel is located, (iii) whether each Parcel of Developed Property is Residential Property or Non-Residential Property, and (iv) the Special Tax Requirement for the then-current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. MAXIMUM SPECIAL TAXES

1. Developed Property, Tax Zone 1

The Maximum Special Tax for Fiscal Year 2015-16 for all Parcels of Residential Property in Tax Zone 1 is \$437.23 per Residential Unit. The Maximum Special Tax for Fiscal Year 2015-16 for all Parcels of Non-Residential Property in Tax Zone 1 is \$5,187 per Acre. On July 1, 2016 and each July 1 thereafter, these Maximum Special Tax amounts shall be adjusted by the Escalation Factor. If property is annexed into the CFD and a separate Tax Zone is established for such property, Maximum Special Tax rates will be identified for Developed Property in the new Tax Zone in the Unanimous Approval Form signed by the annexing property owner.

2. Undeveloped Property, Tax Zone 1

The Maximum Special Tax for Fiscal Year 2015-16 for all Parcels of Undeveloped Property in Tax Zone 1 is \$5,187 per Acre, which amount shall, on July 1, 2016 and each July 1 thereafter, be adjusted by the Escalation Factor. If property is annexed into the CFD and a separate Tax Zone is established for such property, Maximum Special Tax rates will be identified for Undeveloped Property in the new Tax Zone in the Unanimous Approval Form signed by the annexing property owner.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and levy the Special Tax on all Parcels of Taxable Property as follows:

Step 1. The Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

Step 2. If additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied, when combined with the amount levied pursuant to Step 1, is equal to the Special Tax Requirement.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD, and the Special Tax shall be equally subject to foreclosure if delinquent. The Special Tax shall be levied in perpetuity as necessary to pay the Special Tax Requirement.

E. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Public Property, except as otherwise provided in the Act.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by resolution of the City Council for purposes of clarifying any vagueness or ambiguity in this RMA.

May 13, 2015

Item No. **9b**

Honorable Mayor and Members
Of the Marina City Council

City Council Meeting
of June 2, 2015

**CONDUCT A PUBLIC HEARING, HOLD A SPECIAL ELECTION, AND
CONDUCT RELATED PROCEEDINGS FOR CITY OF MARINA COMMUNITY
FACILITIES DISTRICT NO. 2015-1 (THE DUNES)**

REQUEST:

It is recommended that the City Council take the following actions:

1. Receive and file the Community Facilities District Report prepared by Jones Hall.
2. Conduct a public hearing regarding the establishment of Community Facilities District No. 2015-1 (The Dunes) (the “CFD”) and an area designated for future annexation into the CFD (the “Future Annexation Area”), and the levy of special taxes within the CFD, and the types of public services to be funded by the special taxes.
3. If no majority protest has been filed pertaining to the establishment of the CFD, (including the Future Annexation Area), the levy of special taxes or the authorized public services to be funded by the special taxes, adopt the following resolutions:
 - a. A Resolution of the City Council of the City of Marina of Formation of Community Facilities District
 - b. A Resolution of the City Council of the City of Marina calling Special Landowner Election
4. Request that the City Clerk tabulate the ballots cast in the special election to be held at tonight’s meeting.
5. If the results of the special elections reveal that the propositions have received the affirmative vote of two-thirds of the votes cast, take the following actions:
 - a. Adopt A Resolution of the City Council of the City of Marina Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien
 - b. Adopt a motion to introduce and waive the first reading of the Ordinance Levying Special Tax within the CFD.

BACKGROUND:

The City Council had previously approved a Development and Disposition Agreement (“DDA”) with Marina Community Partners (“MCP”) in 2005 for the transfer of property from the City to MCP for a housing development known as “The Dunes Development.” A key component of the DDA required The Dunes Development to be “fiscally neutral” to the City, and to that end, the DDA required MCP to form a special district, such as a landscape maintenance district or Community Facilities District, to pay for the costs of services to maintain the public streets, landscaping and related infrastructure to be owned by the City at The Dunes Development.

The City received a petition from Shea Homes, the assignee of MCP for certain portions of the Dunes Development, requesting the City to create the CFD to levy a special tax to fund all or a part of the public services (the “Services”) required to maintain infrastructure to be owned by the City at The Dunes Development, which will include streets, sidewalks, curbs & gutters, decorative lighting and storm drains. In addition, the petition requested the City to designate a Future Annexation Area, which is an area in which additional parcels can be annexed into the CFD in the future if all owners of the parcels being annexed execute a unanimous consent to annexation.

On April 6th, 2015, the City Council approved the Resolution of Intention, which expressed the intention of the Council to create the CFD and the Future Annexation Area, and set the time and place for tonight’s public hearing regarding the CFD.

On May 19, 2015, the City Council conducted a public hearing and took public comments regarding the Services Funding Agreement and continued the discussion to future council meeting.

ANALYSIS:

The proposed annual amount of the special taxes to be levied to fund all or a part of the Services required for maintaining the infrastructure to be owned by the City of Marina at The Dunes Development is estimated to be \$437.33 per residential unit and will be escalated each year to adjust for inflation. Engineering staff has prepared this estimate in conjunction with the City Manager and Shea Homes Limited Partnership. Any shortfall in annual special tax revenues during periods of home construction will be funded by Shea per the Services Funding Agreement previously approved by City Council.

PUBLIC HEARING AND TONIGHT’S ACTIONS:

The City Council has initiated proceedings to consider the establishment of the CFD under the Act. Tonight’s Public Hearing will provide the public an opportunity to provide testimony regarding the establishment of the CFD and the Future Annexation Area, the levy of special taxes within the CFD, and the types of public services to be funded by the special taxes. In addition, the owners of land within the CFD may submit written protests against the formation of the CFD, the furnishing of the services within the CFD, or levying the special tax. If a majority protest exists, the City would be required to suspend all or a part of the CFD formation proceedings. Because the sole landowner within the CFD has submitted a petition requesting the City to form the CFD, no landowner protests are expected.

If no majority protest has been submitted by the close of the public hearing, the Council may take the remaining actions necessary for the CFD formation proceedings, which are as follows:

1. Adopt the Resolution of Formation. This resolution forms the CFD, establishes the boundaries of the CFD, approves the rate and method of apportionment of the special taxes and approves the list of public services authorize to be funded by the special taxes.
2. Adopt the Resolution Calling Special Landowner Election. This resolution sets out the terms and conditions for an election to be conducted by the City Clerk as the election official for a vote to be taken by the landowners of record within the CFD. The registrar of voters has certified that there are no registered voters within the proposed CFD, thus the vote will be by the owners of land. Shea Homes Limited Partnership is currently the sole landowner, and will therefore be the only entity submitting a special tax ballot.

3. Conduct Landowner Election. The City Clerk will then open the ballots and announce the results of the election. Two propositions are set forth in the landowner ballot: authorizing the annual special tax levy within the CFD to pay for the authorized public services, and approving an annual appropriations limit for the CFD. Under the Act, these propositions must receive the affirmative vote of two-thirds of the votes cast. (Here, there is a single landowner submitting a single ballot.)

4. Adopt Resolution Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien. This resolution confirms the results of the election and directing recording of a notice of special tax lien, which is recorded against the parcels in the CFD to put future owners on notice of the lien of the special taxes. The City Clerk will complete the Canvass and Statement of Result of Election attached as an exhibit to this resolution.

5. Introduce Ordinance Levying Special Taxes. Adopt a motion to introduce and waive the first reading of the Ordinance levying special taxes within the CFD. The adoption of the ordinance is scheduled for the June 2, 2015 Council meeting.

CONCLUSION AND NEXT STEPS:

Upon the successful conclusion of these proceedings, the CFD will be formed and the City will be authorized to levy special taxes to fund the specific public services described in the Resolution of Formation. The next steps to complete the formation of the CFD are:

1. Record Notice of Special Tax Lien (within 15 days after tonight's meeting)
2. Second Reading and Adoption of Ordinance Levying Special Tax, scheduled for June 2, 2015
3. Effective Date of Special Tax Ordinance (30 days after adoption, anticipated to be July 2, 2015)

The resolutions and related documents have been prepared and reviewed by the City's consultant team, which includes bond counsel (Jones Hall), financial advisor (Fieldman, Rolapp and Associates) and special tax consultant (Goodwin Consulting).

FISCAL IMPACT:

There is a projected impact to the City's General Fund to make up any annual shortfall in special tax revenues during periods of buildout, that would be paid by Shea Homes under Services Funding Agreement.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina

Attachments:

1. CFD Report
2. A Resolution of the City Council of the City of Marina of Formation of Community Facilities District
3. A Resolution of the City Council of the City of Marina calling Special Landowner Election
4. A Resolution of the City Council of the City of Marina Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien
5. Ordinance Levying Special Tax