

RESOLUTION NO. 2015- 70

A RESOLUTION OF THE CITY OF MARINA CONFIRMING NO LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 AS AUTHORIZED BY ORDINANCE NO. 2007-09 FOR FISCAL YEAR 2015-16

WHEREAS, Ordinance 2007-09 authorized the levy of a special tax for the benefit of The City of Marina Community Facilities District 2007-2 starting in Fiscal Year 2008-09, and increasing each year by two percent (2%); and

WHEREAS the special tax has been levied each fiscal year as authorized, but was temporarily reduced to zero for Fiscal Years 2013/14 and 2014/15; and

WHEREAS the Administrator has calculated the Fiscal Year 2015/16 special tax to be \$1,032.22, and;

WHEREAS, the CFD administrator having further considered the special tax requirements in accordance with Exhibit A to Ordinance 2007-09, by which Community Facilities District 2007-2 was established and continues, has determined that a special tax for fiscal year 2015-2016 need not be assessed.

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

1. The City certifies that the special tax rate for FY 2015/16 is less than the maximum anticipated when the property owner(s) approved the rate in 2007, with a provision based on annual increase of two percent of the approved maximum special tax in effect in the prior fiscal year, and the CFD administrator desires to return the savings to the property owners by temporarily reducing the tax rate. Consequently, the special tax rate for FY 2015/16 is less than the full assessment the CFD administrator is authorized to impose. For reference only, the full, authorized, maximum special rate for the special tax per unit for Fiscal Year 2015-2016 is \$1,032.22.
2. It is the intent of the Council that, for purposes of Article XIID of the California Constitution, as well as applicable state law, no action taken in years subsequent to FY 2015/16 will constitute an "increase" in the special tax rate if that action would not have constituted an increase if the tax for FY 2015/16 were levied at the maximum rate. The Council declares that it would not have temporarily reduced the assessment rate for Fiscal Year 2015-2016 if restoring the full authorized rate in subsequent years would constitute an "increase."

PASSED AND ADOPTED by the City of Marina City Council at a regular meeting duly held on the 16th day of June, 2015, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Morton, Delgado

NOES, COUNCIL MEMBERS: None.

ABSTAIN, COUNCIL MEMBERS: None.

ABSENT, COUNCIL MEMBERS: O'Connell

Bruce C. Delgado, Mayor

ATTEST:

Anita Flanagan, Deputy City Clerk

June 8, 2015

Item No. **8f(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 16, 2015

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2015-,
CONFIRMING NOT TO LEVY THE SPECIAL TAX FOR THE CITY OF
MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 FOR FISCAL
YEAR 2015-16 AS AUTHORIZED BY ORDINANCE NO. 2007-09; AND
RESOLUTION NO. 2015-, CERTIFYING CITY OF MARINA COMPLIANCE
WITH STATE LAW (PROPOSITION 218) WITH RESPECT TO A SPECIAL
TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT
NO. 2007-2 AS AUTHORIZED BY ORDINANCE NO. 2007-09 FOR FISCAL
YEAR 2015-16**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2015-, confirming not to levy the special tax for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2015-16 as authorized by Ordinance No. 2007-09; and

BACKGROUND:

Pursuant to a special election held on July 17, 2007, on August 7, 2007, the City Council unanimously passed Ordinance No. 2007-09, forming the City of Marina Community Facilities District No. 2007-2 (commonly referred to as Locke-Paddon CFD). Ordinance 2007-09 also authorized an annual special tax levy for the purpose of landscape and park maintenance. The special tax was first levied for fiscal year 2008-09, in the amount of \$898.58 for each of the fifteen (15) assessed properties. Each subsequent year, Ordinance 2007-09 requires the special tax to be increased by two percent (2.00%) from the previous approved Maximum Special Tax. For the 2013/14 fiscal year only, the Council Adopted Resolution 2013-103 temporarily reducing the special tax to zero but affirmed that for future calculations, the full, authorized, maximum rate was \$992.14. Accordingly, the special tax for each fiscal year since inception has been as follows (NOTE: Monterey County requires that rates be divisible by 2 for placement on the rolls, so calculations are rounded each year):

Fiscal Year	Per Parcel Tax	Total Special (to be) Collected
FY 08/09	\$ 898.58	\$ 13,478.70
FY 09/10	\$ 916.56	\$ 13,748.27
FY 10/11	\$ 934.90	\$ 14,023.24
FY 11/12	\$ 953.60	\$ 14,303.70
FY 12/13	\$ 972.68	\$ 14,589.78
FY 13/14	\$ 992.14	\$ -
FY 14/15	\$ 1,011.98	\$ -
FY 15/16	\$ 1,032.22	\$ -
FY 16/17	\$ 1,052.86	\$ 7,305.00

ANALYSIS:

Each year's special tax is collected by the Monterey County Tax Collector, and then distributed to the City. When received by the City, special taxes are credited in the accounting system to Fund 37 - CFD No. 2007-2 Locke Paddon. Likewise, as expenditures and costs are incurred on behalf of the District, invoices are coded by City Staff, paid through the Accounts Payable system, and posted to Fund 37 expenditure accounts. At June 30, 2015, the unexpended fund balance in Fund 37 (cumulative tax revenue in excess of expenditures since inception) is projected to be approximately \$10,573. Expected landscaping, utilities and administrative expenditures for this coming fiscal year (2015-2016) will be \$7,410.00 (“**EXHIBIT A**”).

Based on the history of expenditures of this district, and upon reconsideration, it is the opinion of the CFD administrator (the City Manager) that the present operating fund balance exceeds: (1) the total of the budgeted costs directly related to the service area; and (2) the administrative expenses; and (3) the anticipated delinquent special taxes based on Fiscal Year 2014-2015. Therefore, the special tax need not be assessed for Fiscal Year 2015-2016 upon the condition that the resolution to be adopted by the Council acknowledges that:

- (1) the special tax rate for FY 2015/16 is less than the maximum anticipated when the property owner(s) approved the rate in 2007 and the CFD administrator desires to return the savings to the property owners by temporarily reducing the tax rate and consequently the special tax rate for FY 2015/16 would be less than the full assessment the CFD administrator is authorized to impose; and
- (2) for purposes of Article XIID of the Calif. Constitution no action taken in years subsequent to FY 2015/16 will constitute an “increase” in the special tax rate if that action would not have constituted an increase if the tax for FY 2015/16 were levied at the maximum rate.

Section 2 of Ordinance 2007-09 requires the CFD Administrator (the City Manager) '...to determine each year, without further action of this Council, the Special Tax...and...without further action of this Council, to provide all necessary and appropriate information to the Monterey County Auditor...necessary to effect the correct and timely billing and collection of the Special Tax... .'

However, Monterey County will not impose or collect the special tax on the District's behalf unless the City submits, in a form provided by the County, a certification of compliance with State Law (Proposition 218) that includes a hold harmless and indemnification provision for administrative expenses of the County associated with collection of the City's taxes, assessments, fees or charges, other than the Constitutionally authorized 1% ad valorem tax.

Attached is a resolution which, if adopted by the Council will satisfy the County's certification, hold-harmless and indemnification requirements with respect to the City of Marina Community Facilities District No. 2007-2 Special Tax for the 2015-16 fiscal year.

For the following fiscal year (FY 16/17), the Engineering Division is recommending a revised special tax assessment of \$487/year.

FISCAL IMPACT:

Special assessments finance the CFD's approved landscape maintenance services. Total to be credited to the district is as follows:

Fund 37 Community Facilities District No. 2007-2 \$ 0.00

CONCLUSION:

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

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer, Engineering Division
Community Development Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Acting City Engineer
City of Marina

Lauren Lai, CPA
Finance Director
City of Marina

Layne P. Long
City Manager
City of Marina