

ORDINANCE NO. 02-06

AN ORDINANCE LEVYING SPECIAL TAXES
WITHIN COMMUNITY FACILITIES DISTRICT
NO. 1

(Eden Shores)

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

Section 1. Recitals.

WHEREAS, on May 28, 2002, this City Council (the "Council") of the City of Hayward (the "City"), adopted a resolution entitled "A Resolution of Intention to Establish a Community Facilities District" stating its intention to establish Community Facilities District No. 1 (Eden Shores) of the City (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 acquisition of certain facilities (the "Facilities"); and

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

WHEREAS, the Council has 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 Facilities; and

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

WHEREAS, subsequent to the hearing, this City Council adopted resolutions entitled "A Resolution of Formation of Community Facilities District" (the "Resolution of Formation"), "A Resolution Determining the Necessity to Incur Bonded Indebtedness" (the "Resolution Determining Necessity") and "A Resolution Calling Special Election," which resolutions established the CFD, authorized the levy of a special tax with the CFD, determined the necessity to incur bonded indebtedness in the CFD and called an election within the CFD on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within the CFD, respectively; and

WHEREAS, on July 9, 2002, a special election was held within the CFD at which the eligible landowner-electors approved such propositions by the two-thirds vote required by the Act;

Section 2. By the passage of this Ordinance the Council hereby authorizes and levies special taxes within the CFD pursuant to the Act, at the rate and in accordance with the formula set forth in the Resolution of Formation, which Resolution is by this reference incorporated herein. The special taxes are hereby levied commencing in fiscal year 2002-2003 and in each fiscal year thereafter until payment in full of any bonds issued by the City for the CFD (the "Bonds"), all as contemplated by the Resolution of Formation and the Resolution Determining Necessity.

Section 3. The City Manager or his designee of the City is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

Section 4. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Resolution of Formation.

Section 5. All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of principal of and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

Section 6. The special taxes shall be collected either by direct billing of the property owner or in the same manner as ordinary ad valorem taxes are collected and, in either case, shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Council may provide for other appropriate methods of collection by resolutions of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

Section 7. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the special tax to the remaining parcels within the CFD shall not be affected.

Section 8. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City.

Section 9. Pursuant to Section 620 of the City Charter, this Ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of
Hayward, held the 9th day of July, 2002, by Council Member Ward.

ADOPTED at a regular meeting of the City Council of the City of Hayward
held the 9th day of July, 2002, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: Roberta Cooper
Mayor of the City of Hayward

DATE: July 23, 2002

ATTEST: Constance
for City Clerk of the City of Hayward

APPROVED AS TO FORM:

M. O. Zedler
City Attorney of the City of Hayward

Daily Review

c/o ANG Newspapers
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(800) 595-9595 opt.4

CITY OF HAYWARD
777 B STREET, ATTN: CONNIE MACIAS
HAYWARD CA 94541

PROOF OF PUBLICATION

FILE NO.

In the matter of

ORDINANCE NO. 02-06

The undersigned deposes that he/she is the Public Notice Advertising Clerk of the DAILY REVIEW, a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order Nos. 234 933 AND 244 264), which is published and circulated daily in said county and state.

The PUBLIC NOTICE

was published in every issue of the DAILY REVIEW on the following date(s):

7/20/02

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Hamere Seble
Public Notice Advertising Clerk

Legal No. 0000121386

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

WHEREAS, the Council has 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 Facilities; and

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

WHEREAS, subsequent to the hearing, this City Council adopted resolutions entitled "A Resolution of Formation of Community Facilities District" (the "Resolution of Formation"), "A Resolution Determining the Necessity to Incur Bonded Indebtedness" (the "Resolution Determining Necessity") and "A Resolution Calling Special Election," which resolutions established the CFD, authorized the levy of a special tax with the CFD, determined the necessity to incur bonded indebtedness in the CFD and called an election within the CFD on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within the CFD, respectively; and

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Section 3. The City Manager or his designees of the City is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

Section 4. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Resolution of Formation.

Section 5. All of the collections of the special tax shall be used as provided for in the and in the Resolution of Formation including, but not limited to, the payment of principal of interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

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Section 7. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is not collectible on any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the special tax to the remaining parcels within the CFD shall not be affected.

Section 8. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City.

Section 9. Pursuant to Section 620 of the City Charter, this Ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward held the 2th day of July, 2002, by Council Member Ward.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the 2th day of July, 2002, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Jimenez, Hilson, Rodriguez, Ward, Dowling, Henson

MAYOR: Cooper

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: */s/ Angelina Reyes*
City Clerk of the City of Hayward

APPROVED AS TO FORM:

/s/ Michael O'Toole
City Attorney of the City of Hayward

#121386 Daily Review
July 20, 2002