



<b>Town of Moraga</b>	<b>Agenda Item</b>
<b>Ordinances, Resolutions, Request for Action</b>	<b>VI.A.</b>

Meeting Date: May 30, 2012

**TOWN OF MORAGA**

**STAFF REPORT**

**To: Honorable Mayor and Councilmembers**

**From: Jill Keimach, Town Manager**

**Subject: Revenue Enhancement and Community Outreach to Neighborhoods (RECON) Update of Community Testing and Polling of One Percent Sales Tax and Community Facility District Potential Revenue Measures**

**Request**

Receive report from Godbe Research on May 30 on community survey to scientifically test the receptivity of public support of a one percent sales tax or a Community Facility District to repair the Town's failing neighborhood streets.

**Background**

On February 22, 2012 the Council received an update from the Revenue Enhancement Community Outreach to Neighborhoods (RECON) committee and responded to its request to narrow the number of potential revenue measures the Town should pursue to repair its failing roads. At that meeting, the Council selected three revenue measures the Town should pursue: 1) Bond measure based on assessed value of property (Ad Valorem Tax); 2) a Community Facility District (CFD) that allows for variation in the rate collected based on broad categories of land use (single family, multi family, public and private streets, commercial and vacant property); and 3) a Sales Tax.

Given the Town's rapid decline in its neighborhood roads and the Town Council's determination that the residents must be given an opportunity to decide whether they want to repair their infrastructure now and into the future, the RECON committee was tasked with developing a responsible and cost-effective program that would maintain and repair the Town's public roads and storm drainage facilities and be supported by the community.

At its April 25, 2012 meeting, the Town Council considered the three revenue measures, and based on the perceived inequities associated with a bond

1 measure or Ad Valorem Tax (tax based on the assessed property value), the  
2 Council directed staff and its polling consultants to test the community  
3 responsiveness to the two remaining revenue measures, a Community Facilities  
4 District and a One Percent Sales Tax.

5  
6 Community Facilities District (Mello Roos Act) – RECON considered a CFD with  
7 a target amount of \$100 per year per single family household on a public  
8 residential street. This level was selected for analysis because it is considered to  
9 be an amount that is acceptable in many communities and can easily be pro-  
10 rated up or down based on the survey results. For the \$100 scenario presented  
11 to the group by Randy Leptien, similar households on private streets would pay  
12 significantly less or about \$55 per year based on the absence of frontage  
13 benefits from the program.

14  
15 This Rate and Method of Apportionment (RMA) would yield approximately  
16 \$450,000 per year which could be bonded against. Depending on a number of  
17 factors, bond proceeds would be on the order of \$8 million.

18  
19 Sales Tax – The Town’s Administrative Services Director in consultation with the  
20 Town’s sales tax consultant, MuniServices, has estimated that a 1% sales tax  
21 would produce about \$900,000 annually. There are two types of sales tax: a  
22 special use tax (requiring a two-thirds majority at the polls) and a general  
23 purpose tax (requiring a simple majority). Based on extensive data from  
24 MuniServices, a number of cities that have enacted similar sales tax measures  
25 previously businesses have not experienced reductions in local sales of taxable  
26 merchandise due to add-on sales taxes

27  
28 As discussed further at the April 25 Council meeting, the RECON committee  
29 recommended further analysis on a combination plan that would first reduce the  
30 overall initial capital investment from \$25 million to \$14 million. The \$14 million  
31 initial investment could then ideally, assuming community acceptance, be split  
32 between residents and consumers. The CFD addresses the differences in the  
33 users of our roads from those that live on public and private roads and further  
34 subsidizes commercial properties in a effort to encourage economic development  
35 and balance any perceived impact on businesses.

36  
37 A Sales Tax measure would then capture the drivers from out of Moraga that  
38 shop at our discount retail shops, sharing the responsibility of road repair more  
39 equitably with those who drive on our roads.

40  
41 **Discussion**

42  
43 Because a Community Facilities District requires the Town Council, beginning on  
44 June 13<sup>th</sup>, to consider and adopt four key items, the survey results tabulated to  
45 date will be shared at this upcoming Special Council meeting on May 30.

46  
47 If the community determines through its survey results that a Community Facility  
48 District would be supported in Moraga, the Council would have to: adopt local  
49 goals and policies for use of Mello-Roos Act; approve and direct recording of

1 boundary map; and declare intention to incur bonded indebtedness and declare  
2 its intention to establish a CFD.

3  
4 If the community determines through the results of the survey, that it is receptive  
5 to a Sales Tax measure, the Council would consider on July 25 the ballot  
6 language to be placed on the November ballot.

7  
8 **Fiscal Impact**

9  
10 Should the Town Council ultimately decide to put a CFD or Sales Tax measure  
11 on the November 2012 general election, there will be additional costs associated  
12 with this process including legal review, County costs associated with the  
13 election itself and details like the number of pages in the measure booklet,  
14 number of voters, etc. The County costs for either a CFD or Sales Tax could  
15 range between \$4,000-\$15,000 in addition to our base costs.

16  
17 If the Council decides to not put a measure on the November ballot and conduct  
18 a mailed ballot election, the County cost to hold the election is \$6.00 per  
19 registered voter or about \$60,000.

20  
21 If the voters approve a CFD and the Town proceeds to a Bond, the fees can be  
22 reimbursed by the Bond proceeds.

23  
24 **Alternatives**

- 25 1. Direct the Town Manager to bring back to Council on June 13 draft  
26 resolutions to 1) consider and adopt local goals and policies for Mello-  
27 Roos (CFD); 2) approve Boundary Map; intent to form CFD; intent to incur  
28 indebtedness; 3) mail Notice to registered voters and property owners.  
29  
30 2. Direct the Town Manager to bring back to Council on July 25 the ballot  
31 language for Council consideration to place a Sales Tax measure on the  
32 November 6, 2012 election ballot to repair the Town's streets.  
33  
34 3. Decide to delay, postpone, and/or cancel the Town's consideration of a  
35 revenue measure until the community indicates it is willing to invest in its  
36 infrastructure.

37 **Recommendation**

38  
39 After hearing the results of the community survey, the Council is asked to provide  
40 the RECON committee direction on whether to place a measure for a proposed  
41 CFD for pavement and drainage rehabilitation or to place a one percent sales tax  
42 on the November 6, 2012 general election.

43  
44  
45 **Attachments:**

- 46 A. Procedural Process  
47

Procedural Process

Sales Tax Election Process

Section 2(b) of Article XIII C of the California Constitution (Prop. 218) states as follows:

“(b) *The election required by this subdivision [to authorize a new general tax] shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.*”

Consequently, if the Town Council wishes to put a general Sales Tax measure before the voters of Moraga, it must be placed on the November ballots in either 2012 or 2014.

CFD Process

A CFD must be approved by two-thirds majority of the registered voters who vote at either a special (mailed ballot) or general election. RECON is recommending that consultants be hired in order to meet the following deadlines to keep open the option of placing a CFD on the November 2012 ballot. The Town Council, however, can select any date for a CFD election either in a general election or special election (mail ballot), if it is held between 90 and 180 days following the adoption of the resolution of formation.

In order to place the question on the November 6, 2012 ballot, a number of preliminary proceedings must occur. At least two meetings of the Council, not less than 30 nor more than 60 days apart are required. At the first meeting the Council would approve resolutions of intention to form the CFD and to issue bonds and setting a public hearing. At the second meeting the Council would first consider and adopt local goals and policies for Mello-Roos (CFD), conduct the hearing, and approve the Hearing Report which would establish the Rate and Method of Apportionment and the Boundaries of the District which in this case would be identical to the incorporated limits of the Town.

Following the hearing, the Town’s Attorney would prepare and forward the description and arguments for measure to the County Election Department. This must be done prior to August 10 in order to make the November 6 ballot. Below is a draft schedule of proceedings leading up to the election for November.

April 25	Town Council approval of consultant expenses for background reports and CFD formation process for Council consideration in July
Mid-May	2nd telephone survey for revenue measure and information presented to Council
June 13	Town Council resolutions for: (1) Consider & adopt local goals and policies for Mello-Roos (CFD) (2) Approval of Boundary Map; intent to form CFD; intent to incur indebtedness (3) Mailed Notice to registered voters and property owners
July 25	Town Council shall: (1) Open, conduct, and close public hearing; (2) Confirm there is not a majority protest; (3) Consider whether to proceed with a CFD. If yes, then a. Adopt a resolution of formation, to which the final RMA is attached as exhibit; b. Adopt resolution deeming it necessary to incur bonded indebtedness; c. Adopt resolution calling election to seek registered voter approval of measure which combines 3 items to authorize levy of special tax in conformance with RMA, authorize issuance of indebtedness, and approve appropriations limit for CFD.