

August 3, 2010

August 11, 2010
Agenda Item 13

Local Agency Formation Commission-LAFCO
651 Pine Street
Martinez, CA

Dear Commissioners,

On 1/14/97 the Board of Supervisors' Resolution 97-16 authorized a vote to be held on 6/3/97 to consolidate the Orinda Fire Protection District with the Moraga Fire Protection District, into a single district known as Moraga-Orinda Fire Protection District (MOFD).

It is my understanding LAFCO authored the impartial analysis on this special measure which consolidated the Orinda Fire Protection District and the Moraga Fire Protection District into MOFD. LAFCO's approval of the consolidation was subject to various terms and conditions, including establishing separate service zones for Moraga and Orinda, and submitting to the voters a special tax or fire flow tax (Orinda zone) to be used for fire protection and suppression, emergency medical services, and equipment and related facilities.

The Board of Supervisors placed Orinda Ordinance 97-1 on the ballot which authorized the special tax or fire flow tax on Orinda zone properties. Even though this tax revenue was to be restricted for use in Orinda, I have been told the MOFD Directors have co-mingled the revenue produced as a result of Orinda Ordinance 97-1 with all MOFD revenue.

Ordinances 97-16 and 97-1 do not give MOFD the authority to charge an additional tax for EMS. **However, MOFD now charges a fee for EMS.** I consider this EMS fee the same as a tax without voter approval.

While the county average fire protection rate is 12.8, Orinda possibly has the highest fire protection tax rate in the county at 22.6. Orinda's tax rate of 22.6 is more than enough to provide Fire Protection and EMS services in Orinda. Yet, Orinda is paying **3 revenues** for EMS: **(a)** 22.6 Orinda Fire Protection rate, **(b)** Ordinance 97-1, a special tax which includes EMS and, **(c)** a fee for EMS without Orinda voter approval.

The Board of Supervisors and LAFCO acted as the authority for MOFD consolidation. I believe Orinda citizens need your protection to prevent the additional Emergency Medical Services fee assessed by the MOFD Board of Directors. Orinda Ordinance 97-1 already provides extra revenue for EMS. Hopefully, LAFCO will investigate this fee that has been added for Emergency Medical Services.

Sincerely,

Vincent J. Maiorana
23 Lost Valley Drive
Orinda, CA 94563
925-376-3931

Encl 1: Notice of Election

Encl 2: Ordinance 97-1

Encl 3: City of Orinda, Orinda and Moraga Fire District Merger

ENCL 1

UM

1

NOTICE OF ELECTION AND THE NOTICE

FIXING MARCH 14, 1997 AS FINAL DATE

TO SUBMIT ARGUMENTS

ON SPECIAL MEASURE

AT ELECTION ON TUESDAY, JUNE 3, 1997

MORAGA-ORINDA FIRE PROTECTION DISTRICT

CONTRA COSTA COUNTY, CALIFORNIA

NOTICE IS HEREBY GIVEN that a Special Election will be held in the Moraga-Orinda Fire Protection District, Tuesday, June 3, 1997.

NOTICE IS ALSO HEREBY GIVEN by the County Clerk of Contra Costa County, pursuant to Election Code Section 3784 that the above date is hereby fixed as the final date on which arguments for and against the following measure appearing on the ballot for the Special Vote Measure may be submitted to the County Clerk at 524 Main Street, Martinez, California 94553, for printing and distribution to the voters as provided by law:

"Shall the order adopted on January 14, 1997 by the Board of Supervisors of Contra Costa County to order the consolidation of the Orinda Fire Protection District and the Moraga Fire Protection District into a single district known as the Moraga-Orinda Fire Protection District be confirmed, subject to the terms and conditions specified in the order, including the election of District directors by five geographical divisions?"

"Shall the appropriations limit of the consolidated new Moraga-Orinda Fire Protection District, as established by the Local Agency Formation Commission of Contra Costa County by combining the appropriations limits of the Orinda Fire Protection District and the Moraga Fire Protection District, be confirmed at \$11,944,423, with annual adjustments for changes in cost of living and population?"

"Shall Ordinance 97-1, as adopted by Resolution 97-16 of the Contra Costa County Board of Supervisors, be approved to authorize a special tax on property on the secured tax roll in order to provide additional funds for fire protection, prevention and suppression and emergency medical services, equipment and related facilities, including water distribution facilities for fire suppression purposes, with the proceeds of such tax being restricted to use in the Orinda area?"

ENCL 2

2

ORDINANCE NO. 97-1

(An Ordinance of the Moraga-Orinda Fire Protection District
Authorizing a Special Tax For
Fire Protection and Prevention and Emergency Medical Services)

The Contra Costa County Board of Supervisors, acting as the Conducting Authority for the Moraga-Orinda Fire Protection District Consolidation on behalf of the District to be established upon completion of Consolidation proceedings, does ORDAIN as follows:

ARTICLE 1. PURPOSE AND INTENT. It is the purpose and intent of this Ordinance to authorize the levy of a tax on parcels of real property on the secured property tax roll of Contra Costa County that are within the Orinda Service Zone of the Moraga-Orinda Fire Protection District, comprising the area of the predecessor Orinda Fire Protection District, in order to augment funding to assist in providing adequate fire protection, prevention and suppression and emergency medical services, equipment and related facilities, including water distribution facilities for fire suppression purposes.

This tax is a special tax within the meaning of Section 4 of Article XIII A of the California Constitution, and this Ordinance is enacted pursuant to Government Code Section 53978, Health and Safety Code Section 13911, and Government Code Section 50077. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is based, to the extent practical, upon the improvements to each parcel and, specifically, the risk of fire attendant to such improvements. Insofar as not inconsistent with this Ordinance, Government Code Section 53978, Health and Safety Code Section 13911 or Government Code Section 50077 and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Articles XIII and XIII A of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of the tax (Article IV of this Ordinance), as authorized by Government Code Section 53978(d) and Government Code Section 50077(b).

The revenues raised by this tax are to be used solely for the purposes of obtaining, furnishing, operating, and maintaining fire protection, prevention and suppression and emergency medical equipment, apparatus or facilities, including water distribution facilities for fire suppression purposes, for paying the

Exhibit C

OVER
1

2

salaries and benefits of firefighting and emergency medical personnel, and for such other fire protection, prevention and suppression and emergency medical expenses within the Orinda Service Zone as are deemed necessary by the Moraga-Orinda Fire Protection District.

ARTICLE II. DEFINITIONS. The following definitions shall apply throughout this Ordinance:

1. "Parcel" means the land and any improvements thereon, designated by an assessor's parcel map and parcel number and carried on the secured property tax roll of Contra Costa County; provided, however, that such parcels shall comply with Government Code Section 53087.4, as enacted by Section 1 of Chapter 1125 of the Statutes of 1986. For purposes of this Ordinance, parcel does not include any land or improvement outside the boundaries of the Orinda Service Zone nor any land or improvements owned by any governmental entity.

2. "Improved parcel" means any parcel upon which any combustible improvement exists.

3. "Unimproved parcel" means any parcel except an improved parcel.

4. "Combustible improvement" means any building or other improvement, including all attached parts of such building or other improvements, if any contents or part of the building or other improvement is capable of burning.

5. "Improvement" means those items included within the Revenue and Taxation Code Section 105 definition of improvements, except for (1) fences, poles and walls that are not a part of or connected to a structure and (2) trees and vines.

6. "Fiscal year" means the period of July 1 through the following June 30.

7. "Improved parcel fire risk factor" means the figure calculated for each combustible improvement on an improved parcel, according to the following formula:

$$\text{Improved parcel fire risk factor} = 18 \times F \times \sqrt{A} \times .55$$

Where:

F = the coefficient for the type of construction of the improvement, as specified in Section 310 of the Insurance Services Office Fire Suppression Rating Schedule, dated 1980. The type of construction of the improvement, which will determine the coefficient to be used, is to be determined in accordance with the definitions set forth in the aforesaid



**CITY OF ORINDA
ORINDA AND MORAGA FIRE DISTRICT MERGER**

On Tuesday, June 3, the voters of Orinda will be asked to decide an issue which is of critical importance to the community: the proposed merger of the Orinda and Moraga Fire Protection District and the associated paramedic - fire safety tax. Although the City of Orinda is not directly involved in the provision of fire protection and emergency medical services, nor would the City be the recipient of the proposed tax proceeds, we believe that the impacts of the merger on public safety services in Orinda are so substantial that the proposed ballot measures should receive the full attention of the voters and a complete discussion of the facts surrounding these measures.

Background

On October 9, 1996, the Local Agency Formation Commission (LAFCO) approved the application to merge the Moraga and Orinda Fire Protection Districts into a single independent fire district with a locally-elected Board of Directors. The application had been prepared by a citizens committee of representatives from both Orinda and Moraga and was submitted jointly by the City of Orinda, the Town of Moraga, the Orinda Fire Commission, and the Moraga Fire Commission as the project sponsors. As a result of the LAFCO approval, and at the request of the project sponsors, the ballot measures to complete the merger of the Moraga and Orinda Fire Protection Districts will appear on the June 3 ballot in Orinda as Measures A, B and C. All three

of these measures, summarized below, must be approved by Orinda voters to complete the merger:

- ◆ **Measure A** asks voters whether or not they approve the proposed merger of the Orinda and Moraga Fire Protection Districts into a single independent fire district with a locally elected Board of Directors.
- ◆ **Measure B** complies with State law in setting a spending limit for the new fire district. The new limit is equal to the combined spending limits which already exist separately for the Orinda and Moraga Fire Protection Districts. The Measure, then, does not increase spending authorization in total; it simply allows the new district to spend money which can already be spent separately by the two combining districts.
- ◆ **Measure C** asks voters to approve a special tax which can only be used to fund fire protection, prevention, and suppression services and equipment, including water supply improvements to enhance fire suppression services; and emergency medical services, equipment and related facilities. The proceeds of the tax, which requires a two-thirds voter approval, could only be spent within the boundaries of the existing Orinda Fire Protection District. The Moraga Fire Protection District already has voter approval to levy such a tax in their district boundary.