



## Legislation Text

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**File #:** 08-0740, **Version:** 1

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Recommendation to receive supporting documentation into the record, and hold a public hearing to receive public comment; adopt resolution affirming formation of City of Long Beach Community Facilities District (CFD) No. 2007-2 (Belmont Shore), authorizing the levy of Special Tax within the CFD, preliminarily establishing an annual appropriations limit for the CFD, and resubmitting the special tax levy and establishment of the appropriations limit to qualified electors of the CFD;

In 1988, the City Council formed the City of Long Beach Community Facilities District No. 1 (Belmont Shore) (CFD 1) to provide a means to finance parking improvements in the Belmont Shore area of the City. CFD 1 was authorized to levy a special tax on commercial property located within CFD 1, and the revenues from that special tax, along with revenues derived from parking meters in the Belmont Shore area, have been used to finance various parking and related improvements, as well as to pay debt service on parking meter revenue bonds issued by the City in 1993 to finance parking improvements in that area. The Parking Commission has identified an additional parking lot located at 189 Park Avenue that it would like the City to acquire and improve in the Belmont Shore area, and alley way improvements that need to be made to enhance parking in the area. CFD 1 does not have the authority to fund these new improvements. City Staff, working with various financial and legal consultants, have determined that the most efficient and economical way to provide funds for the new improvements would be for the City to form a new community facilities district (CFD) under the authority of the City's Special Tax Financing Improvement Law, with boundaries (that set forth the area to be taxed by the CFD) the same as those for CFD 1, and with maximum tax rates the same as for CFD 1, for the express purpose of financing the purchase of the parking lot, refinancing the 1993 bonds and allowing for possible future financing of additional parking improvements.

On November 13, 2007, the City Council adopted two resolutions of intention with respect to the formation of the new CFD. RES-07-1308 expressed the intention of the City Council to establish the new CFD No. 2007-2 (Belmont Shore), and approved the boundaries for the proposed CFD, determined the rate and method of apportionment of special taxes to be levied in the new CFD, and initiated proceedings to levy the special tax in the proposed CFD. RES-07-1309 declared the intention of the City Council for the CFD to have a maximum bonded indebtedness of \$5.8 million.

On December 11, 2007, the City Council held a public hearing regarding the CFD and, following the public hearing, the City Council adopted resolutions forming the CFD, determining the necessity to incur bonded indebtedness for the CFD, and calling for a special election of the owners of property in the CFD for March 3, 2008, with respect to the CFD. The election was concluded on March 3, 2008, and less than the then required two thirds of the votes cast in the election were in favor of the ballot propositions.

Under the voting procedure in effect for the March 3, 2008 election, and as required by the City's Municipal Code in effect at that time, each owner of a parcel in the proposed CFD received one vote for each acre, or portion of an acre, of land in the CFD that they owned. This requirement resulted in those owning very small parcels having the same voting power as those with significantly larger

parcels, or those who owned multiple small parcels that aggregated less than one acre. Thus, the owner of one small parcel that would have to pay only a small portion of the annual special tax in the proposed CFD had disproportionately larger voting power over those owners that would bear a significantly greater share of the annual special tax burden.

In order to remedy the unfair voting requirements, on May 13, 2008, the City Council adopted an ordinance which amended the Municipal Code to allow the City Council to authorize an alternative allocation of votes in CFD elections to better reflect the relative burden of CFD special taxes on the parcels to be included in a proposed CFD. Specifically, as amended by the ordinance, the Municipal Code now allows the City Council in situations where the City Council finds that such alternative method of voting is more reflective of the burden of the special tax to be levied in the proposed CFD, to provide that each landowner in a proposed CFD have a vote for each dollar of special tax that may be levied on such landowner's land to be included in the proposed CFD, based upon the proposed rate and method of apportionment of special tax for the proposed CFD, and the special taxes thereby to be levied in the first full fiscal year following formation of the proposed CFD.

Various property owners in the proposed CFD have requested that the City Council take action to bring the proposed Belmont Shore CFD back to a vote of the property owners to be included in the CFD, using the alternative voting procedure now allowed by the Municipal Code. In order to begin the process, on July 22, 2008, the City Council adopted RES-080080 affirming the prior resolutions of intention with respect to the formation of the CFD, affirming the approval of the boundaries for the CFD, the rate and method of apportionment of special taxes to be levied in the CFD and affirming the maximum bonded indebtedness for the CFD at \$5.8 million. The resolution affirming the prior resolutions of intention also called for a public hearing on August 5, 2008 regarding the formation of the CFD.

The Community Facilities District Report (Attachment A) describes the facilities proposed to be funded by the CFD and the 1993 bonds proposed to be refinanced by the CFD, as well as the proposed boundaries of the CFD and cost estimates.

If the Resolution Affirming Formation of the CFD is adopted, the CFD will be formed and the City Council will be authorized to levy special taxes for the CFD in accordance with the Rate and Method of Apportionment of Special Tax, as preliminarily approved by the resolution affirming the resolutions of intention to form the CFD, subject to the approval of the owners of land in the CFD at a new CFD election as described below. These special taxes will be levied on commercial property located in the CFD, and will be used to pay the debt service on bonds to be issued by the City for the CFD, or for costs of CFD authorized facilities directly. The special tax would be levied each fiscal year in an amount sufficient to pay all annual costs of the CFD, including any CFD bond debt service.

It is expected that the special taxes to be levied annually in the CFD will be at the same rate as those currently levied in CFD 1 (12¢ per commercial square foot of land), and that parking meter revenues from the Belmont Shore area in the amount of \$200,000 per fiscal year also will be used to assist in the payment of bonds to be issued for the new CFD. Once the new CFD is established, the City will take action to terminate the current CFD 1, so the property in the new CFD will only be subject to a single special tax levy for the new CFD. The current maximum special tax rate for CFD 1 is 66¢ per square foot of commercial land in CFD 1, and it is proposed that the new CFD have the same maximum special tax rate; however, it is contemplated that the initial bonded debt of the new CFD

will only require the same 12¢ per commercial square foot of commercial land annual rate (in addition to \$200,000 of annual parking meter revenues) to service the bonds to be issued to finance the new parking lot and related improvements and to refinance the 1993 bonds.

By adopting the Resolution Affirming the Determination of the Necessity to Incur Indebtedness, the City Council affirms its determination that it is necessary to incur bonded indebtedness in the maximum aggregate principal amount of \$5,800,000 within the CFD.

As specified in the proposed resolution, the bonds for the CFD will bear interest at rates not to exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds. Further details on the proposed bond debt such as its form, execution and issuance, will be brought back to the City Council for approval at a later date as required by Long Beach Municipal Code 3.52.5619.

By the City Council adopting the Resolution Calling for a New Election, a new election with respect to the establishment of the CFD, the levy of the special tax in the CFD and the incurrence of bonded debt for the CFD will be held by mail ballot sent to the owners of property in the CFD, with ballots to be returned by 5:00 p.m. on October 6, 2008. If the election is favorable (two thirds or more of the votes cast in the election are in favor of the ballot measure), the City Council may declare the CFD to be officially formed, with the power to levy special taxes on commercial property in the CFD and to issue bonds for CFD authorized purposes. As now allowed by reason of the ordinance amending the Municipal Code, each landowner in the CFD will be entitled to one vote for each dollar of special tax that may be levied on such landowner's land to be included in the District, based upon the proposed rate and method of apportionment and manner of collection of special tax for the District, and the special taxes thereby to be levied in the first full fiscal year following formation of the District. In the prior CFD election, the vote was weighted by acreage, with each landowner receiving one vote for each acre or portion of an acre owned in the CFD.

This item was reviewed by Assistant City Attorney Heather A. Mahood and Budget Management Officer Victoria Bell on July 15, 2008.

City Council action on this item is requested on August 5, 2008, to support the activities and formation of the CFD so that the financing of the proposed parking improvements can occur in late 2008.

There is no fiscal impact to the City associated with the requested action. All bond proceeds and revenue from the CFD will be collected in, and expended from, CFD trust accounts. All expenses related to the formation of the CFD will either be paid from the proceeds of bonds issued for the CFD or from amounts currently available in the Belmont Shore Parking Revenue Fund.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AFFIRMING FORMATION OF THE CITY OF LONG BEACH COMMUNITY FACILITIES DISTRICT NO. 2007-2 (BELMONT SHORE), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE DISTRICT, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT, AND RESUBMITTING LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT**

LORI ANN FARRELL  
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

DENNIS J. THYS  
DIRECTOR OF COMMUNITY DEVELOPMENT

APPROVED:

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PATRICK H. WEST  
CITY MANAGER