



June 18, 2009

President

Joe Sparks

Vice-President

Marshall Ochylski

Director

Chuck Cesena

Maria Kelly

Steve Senet

General Manager

Utilities Manager

George J. Milanés

Fire Chief

Matt Jenkins

TO: LOCSD Board of Directors

FROM: Mitch Cooney, Interim General Manager *MC*

SUBJECT: Agenda Item 4A – 6/18/09 Board Meeting
Public Hearing of Protests for Cabrillo Estates Lighting District

SUMMARY:

At its March 19, 2009 Board meeting, the Los Osos Community Services District (LOCSD) Board of Directors approved a Resolution Approving a Boundary Map and a Resolution of Intention to Undertake Proceedings Pursuant to the Landscaping and Lighting Act of 1972 for the Cabrillo Estates Lighting District. These Resolutions initiated the Proposition 218 ballot proceedings, established the boundaries of the Cabrillo Estates Lighting District, and designated Wallace Group as the engineer of work for the Engineer's Report.

In order to establish the special benefit, and as required by the Landscaping and Lighting Act of 1972, an Engineer's Report is to be prepared that will describe the improvements to be constructed, operated, maintained, and serviced by the District, provide an estimated budget for the District, and list the proposed assessments to be levied upon each assessable lot or parcel within the District. A Preliminary Engineer's Report, which included the Assessment Roll and Assessment Diagram, was prepared by Wallace Group and submitted to the District.

At its April 16, 2009 Board meeting, the LOCSD Board of Directors adopted a Resolution preliminarily approving the Engineer's Report, setting June 18, 2009 as the date for the Public Hearing to tabulate assessment district ballots for the Cabrillo Estates Lighting District, and directing staff to mail notices and ballots to each affected property owner who would receive an annual assessment in compliance with the requirements of Proposition 218. The notices and ballots were mailed on April 20, 2009.

The next step in the Proposition 218 process is for the Board to conduct a Public Hearing (Public Hearing), provide property owners within Cabrillo Estates the opportunity to submit assessment ballots, and to take public comment on the proposed Assessment District and related assessments. After the close of the Public Hearing portion of the agenda item, the Board will direct the Secretary of the Board or his designee to tabulate the assessment ballots. Upon completing the tabulation of assessment ballots, the LOCSD Board will present the results of the assessment balloting.

If it is determined, based upon the results of the assessment balloting, that the property owners support the proposed assessment, the LOCSD Board may take the following actions: (1) ratify the results of the Proposition 218 Assessment vote and (2) Adopt a Resolution approving the Engineer's Report and determining that there is not a majority protest for the Cabrillo Estates Lighting District. A Resolution ordering the levy and collection of assessments for Cabrillo Estates Lighting District will be considered by the Board as a separate agenda item that includes resolutions for all the special districts.

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If it is determined that the property owners do not support the assessment, the LOCSD Board of Directors shall not impose the assessment upon properties within the Cabrillo Estates, but may continue to annually levy charges that are equal to or less than the current charges.

RECOMMENDATION:

The recommended action before your Board is to:

1. Hold a Public Hearing of Protests (Public Hearing) regarding the Cabrillo Estates Lighting District,
2. Open a Public Testimony period to allow any interested person to present oral or written testimony and to allow ballots to be submitted, changed or withdrawn;
3. Close the Public Testimony period regarding the Cabrillo Estates Lighting District. No ballots may be accepted, changed or withdrawn after the close of Public Testimony;
4. Close the Public Hearing and direct the Secretary to the Board or his designee to tabulate the assessment ballots. Upon completing the tabulation of assessment ballots, the LOCSD Board will present the results of the assessment balloting; and
5. If it is determined, based upon the results of the assessment balloting, that the property owners support the proposed assessment:
 - a. Ratify the results of the Proposition 218 Assessment vote; and
 - b. Adopt a Resolution approving the Engineer's Report and determining that there is not a majority protest for the Cabrillo Estates Lighting District

or

If it is determined that the property owners do not support the assessment, provide direction to staff regarding continuing the annual levy charges that are equal to or less than the current charges for the Cabrillo Estates Lighting District.

Attachments: Certification for the Proposition 218 Ballot Proceedings
Resolution
Engineer's Report

**CERTIFICATE OF SECRETARY TO THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
ASSESSMENT DISTRICT MAIL BALLOT FOR
CABRILLO ESTATES LIGHTING DISTRICT**

June 18, 2009

STATE OF CALIFORNIA)
)
COUNTY OF SAN LUIS OBISPO) **.ss**

I, **FRANCIS M. COONEY**, Secretary to the Board of Directors of the Los Osos Community Services District, do hereby certify that pursuant to law, I did tabulate the assessment ballots submitted for the Cabrillo Estates Lighting District Mail Ballot Process and the Statement of the Results of the Votes cast to which this certificate is attached, shows the number of votes for and against said Assessment District and the totals shown for and against this Assessment District are full, true and correct.

WITNESS, my hand and Official Seal this 18th day of June, 2009.

FRANCIS M. COONEY, Secretary to the Board of Directors of the Los Osos Community Services District

By: _____
Karen Vega, Administrative Secretary to the Board

[SEAL]

DATE: June 18, 2009
AGENDA ITEM NO:
() APPROVED
() DENIED
() CONTINUED TO

RESOLUTION NO. 2009-___

**A RESOLUTION OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
ORDERING THE FORMATION OF
THE CABRILLO ESTATES LIGHTING DISTRICT
AND ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR
THE CABRILLO ESTATES LIGHTING DISTRICT
FOR FISCAL YEAR 2009-10
LOS OSOS COMMUNITY SERVICES DISTRICT
SAN LUIS OBISPO COUNTY, STATE OF CALIFORNIA**

WHEREAS, this Board of Directors of the Los Osos Community Services District (this "Board") has by previous Resolutions initiated proceedings and declared its intention to submit to the property owners of record a proposed assessment for street lighting in the Cabrillo Estates area (hereinafter referred to as "Cabrillo Estates Lighting District"), and the levy and collection of assessments related thereto, for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 pursuant to the provisions of Sections 22500 through 22679 of the California Streets and Highways Code (Landscaping and Lighting Act of 1972, hereafter in this resolution referred to as the "Act") to pay for the costs and expenses of street lighting with the Cabrillo Estates area; and

WHEREAS, on June 18, 2009, this Board, pursuant to the procedures of Prop 218 and applicable law, conducted a public hearing, received public comment and tabulated property owner ballots received prior to the close of said public hearing; and

WHEREAS, this Board has determined that a majority protest to the levy of assessments authorized by this Resolution does not exist; and

WHEREAS, at the direction of this Board, Robert S. Miller, P.E., of the Wallace Group, as Engineer of Work has prepared and filed an Engineer's Report with the Administrative Secretary to the Board of Directors in connection with the proposed levy and collection of assessments upon eligible parcels of land with the Cabrillo Estates Lighting District and the Board did by previous Resolution approve such Engineer's Report; and

WHEREAS, the improvements within the Cabrillo Estates Lighting District consists of the construction, operation and maintenance, and servicing of lighting; and appurtenant facilities including, but not limited to, personnel, electrical energy, materials, contractual services, and other items necessary for the satisfactory operation of these improvements; and

WHEREAS, this Board desires to levy and collect assessments against parcels of land within the Cabrillo Estates Lighting District for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 to pay the costs and expenses of operating, maintaining, and servicing the Improvements; and

WHEREAS, this Board and its legal counsel have reviewed Proposition 218 and found that these assessments comply with applicable provisions of the California State Constitution; and

WHEREAS, pursuant to Section 22646 of the Act and Sections 53753, et seq. of the Government Code this Board has given notice of the time and place of the public hearing for the levy and collection of assessments against the parcels of land within Cabrillo Estates Lighting District for fiscal year commencing July 1, 2009 and ending June 30, 2010; and

WHEREAS, based upon the review, and amendments as applicable, to the Engineer's Report and the Staff Report and all oral and written statements, protests and communications made and filed by interested persons regarding these matters, this Board finds and determines that:

- A. The land within the Cabrillo Estates Lighting District will receive special benefit by the operation, maintenance, and servicing of the Improvements located within the boundaries of Cabrillo Estates Lighting District; and
- B. The Cabrillo Estates Lighting District includes all of the lands so benefited; and
- C. The net amount to be assessed upon the lands within Cabrillo Estates Lighting District in accordance with the Engineer's Report for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 is apportioned by a formula and method established in the Engineer's Report for the Cabrillo Estates Lighting District, which fairly distributes the net amount among all eligible parcels in proportion to the estimated benefits to be received by each parcel from the Improvements and services.
- D. The Engineer's Report provides that the annual assessment for each fiscal year shall be increased in an amount necessary to reflect the increase in the costs of operating and maintaining the Improvements due to inflation and that the levy of assessments do not exceed the amounts in the Engineer's Report for the Cabrillo Estates Lighting District

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER:

1. The above recitals are true and correct.
2. The Engineer's Report and assessments as presented to this Board and on file in the Office of the Los Osos Community Services District are hereby confirmed as filed.
3. The maintenance, operation, and servicing of the Improvements and appurtenant facilities, in accordance with the Act are hereby ordered and approved.
4. The Secretary to the Board of Directors is hereby directed to file the diagram and assessment or a certified copy thereof with the County Auditor, and such assessment shall become due and payable; and the Secretary to the Board of Directors is hereby further directed to file in the Office of the San Luis Obispo County Recorder a copy of such assessment diagram as so recorded and to execute and record a Notice of Assessment in the Office of the San Luis Obispo County Recorder as required by law and such assessment will become a lien upon the land on which it is levied, all pursuant to the Landscaping and Lighting Act of 1972.
5. The County Auditor of the County of San Luis Obispo shall enter on the County Assessment Roll opposite each eligible parcel of land the amount of levy so

apportioned by the formula and method outlined in the Engineer's Report, and such levies, as shown as Exhibit A, attached hereto, shall be collected at the same time and in the same manner as the County taxes are collected pursuant to Chapter 4, Article 2, Section 22646 of the Act. After collection by the County, the net amount of the levy shall be paid to the Los Osos Community Services District.

6. The General Manager or his/her designee shall deposit all money representing assessments collected by the County for Cabrillo Estates Lighting District to the credit of a fund known as the "Fund 700-Cabrillo" and such money shall be expended only for the maintenance, operation, and servicing of the Improvements as described in above.
7. The adoption of this Resolution constitutes the Cabrillo Estates Lighting District levy for the fiscal year commencing July 1, 2009, and ending June 30, 2010.
8. The General Manager or his/her designee is hereby authorized and directed to file the levy with the County Auditor upon adoption of this Resolution pursuant to Chapter 4, Article 1, Section 22641, of the Act.
9. The recitals to this Resolution are true and correct and are incorporated herein by this reference.
10. This Board and such employees of the Los Osos Community Services District as are appropriate are authorized to execute such other documents and take such further actions as shall be consistent with the adoption consistent with this Resolution.

On the motion of **Director** _____, seconded by **Director** _____
and on the following roll call, to wit:

AYES:
NOES:
ABSENT:
CONFLICT:

This foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Los Osos Community Services District this _____ day of June 2009.

Joe Sparks
President, Board of Directors
Los Osos Community Services District

ATTEST:

Francis M. Cooney
Interim General Manager and Secretary to the Board

MEMORANDUM

Date: June 9, 2009
To: Mitch Cooney, Interim General Manager, Los Osos Community Services District
From: Lonnie Lepore, Project Analyst
Subject: Los Osos Community Services Special District- Zone "9D"
Cabrillo Estates Lighting Service Charge – Fund No. 1727

Attached is a draft Exhibit "A" for the above referenced zone.

There were no changes to the parcels within the special district since the FY 2008-09 tax roll.

FY 2008/09

Number of Parcels = 217
Amount Due = \$1,736.00

FY 2009/10

Number of Parcels = 217
Amount Due = \$1,736.00

cc: Rob Miller, Wallace Group

M:\384-LOCSD\384-100 Special Districts FY2009-10 Tax Roll\0301 - Assessment Engineering\0394 - Assessment Tax Roll\9D Cabrillo Estates - Fund No. 1727\9D Cabrillo Estates Memo to M Cooney.doc



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**EXHIBIT “A” – COMPLETE TAX ROLL
IS AVAILABLE FOR PUBLIC REVIEW
AT THE LOCSD OFFICE
DURING REGULAR BUSINESS HOURS**