

MONTE RIO FIRE PROTECTION DISTRICT BOARD OF DIRECTORS SPECIAL MEETING

Wednesday, January 8th, 2019 6:00 PM
Monte Rio Community Center ~ 20488 Hwy. 116, Monte Rio, CA

AGENDA

1. CALL TO ORDER
2. APPROVAL OF AGENDA (changes, additions or deletions) (*Action Item*)
3. PUBLIC COMMENT ON ITEMS NOT AGENDIZED
*Any citizen wishing to speak to the Board on any item **not listed on the Agenda** may do so under public comment. All presentations made under public comment are normally restricted to three (3) minutes in length per meeting unless the Board Chair specifically authorizes additional time.*
4. NEW BUSINESS
 - a. Low Value Parcel Tax Exemptions - Prepare for Ballot Measure to be placed on the May 2020 Ballot (*Discussion/Action Item*).
5. *CORRESPONDENCE*
 - a. Resolution Request and Proposed Resolution from Michele McDonell
6. ADJOURNMENT

Accessible Meeting Information

The Monte Rio Community Center meeting room is accessible to persons using wheelchairs and other assistive mobility device.

Please make your requests for documents in alternative format (large font or Braille) or additional accommodations such as sign language interpretation or real-time captioning to District Administrative Staff, Tiffanie Palmer at (707) 823-1089 (Voice), call **711 for the free Telecommunications Relay Service**, or e-mail tiffaniepalmer@goldridgefire.org

Requesting accommodations at least 72 hours prior to the meeting will help to ensure availability.

At the discretion of the Board, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

CERTIFICATION OF POSTING

I certify that I posted a copy of the foregoing agenda at the regular meeting place of the Board of Directors of the Monte Rio Fire Protection District at least 72 hours in advance of the meeting of the Board of Directors. (Government Code Section 54954.2).

/s/ _____



Monte Rio Fire Protection District
P.O. Box 279 • Monte Rio, CA 95462 • 707-865-2067
Fire Chief-Steve Baxman



PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Directors of the Monte Rio Fire Protection District will conduct a public hearing on January 20, 2020, at 6:00 p.m., or as soon thereafter as the matter may be heard, at the Monte Rio Community Center, 20488 Highway 116, Monte Rio, California 95462, to consider adoption of the following draft Resolution and proposed Ordinance:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTE RIO FIRE PROTECTION DISTRICT CALLING FOR A SPECIAL ELECTION ON TUESDAY, MAY 5, 2020, TO AMEND DISTRICT ORDINANCE NO. 18/19-01 AUTHORIZING A SPECIAL TAX TO ASSIST THE DISTRICT IN MEETING THE CURRENT AND FUTURE COSTS OF PROVIDING FIRE AND EMERGENCY SERVICES

PLEASE TAKE FURTHER NOTICE that the Clerk of the Board of Directors shall keep on file, and open to public inspection on the District website, <http://www.monteriofire.org/index.html>, and at the Monte Rio Parks and Recreation District, 20488 Highway 116, Monte Rio, California 95462, a copy of the draft Resolution, proposed Ordinance, and other supporting documents to be considered for this public hearing.

TIFFANIE PALMER, Clerk, Monte Rio Fire Protection District Board of Directors

DRAFT

Appendix A

ORDINANCE NO. 19/20-01

AN ORDINANCE OF THE MONTE RIO FIRE PROTECTION DISTRICT AMENDING DISTRICT ORDINANCE NO. 18/19-01 TO (I) CREATE A LOW VALUE PARCEL EXEMPTION; (II) TO REFUND TAXES LEVIED ON LOW VALUE PARCELS; AND (III) REDUCING THE DISTRICT'S APPROPRIATIONS LIMIT TO REFLECT THE REDUCED REVENUE BY EXEMPTING LOW VALUE PARCELS

The people of the Monte Rio Fire Protection District ordain as follows:

SECTION I. LIMITED SCOPE OF AMENDMENT TO ORDINANCE 18/19-01.

This Ordinance is specifically limited in scope to amend previously-adopted District Ordinance 18/19-01 to add Section 6.A to create a low value parcel exemption. No other provisions of the special tax in District Ordinance 18/19-01 are affected in any way by this Ordinance.

SECTION II. DEFINITIONS

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section; unless the context clearly requires a different meaning.

“District” means the Monte Rio Fire Protection District located in Sonoma County, California.

“Low Value Parcel” means a privately-owned separate parcel of real property designated by as low value by the County of Sonoma pursuant to California Revenue and Taxation Code section 155.20,

“Parcel of Real Property” means a separate parcel of real property having a separate Assessor’s parcel number as shown on the secured tax rolls of the County of Sonoma, or an assessment of a structural property on the unsecured tax rolls of the County of Sonoma, or an assessment made by the State Board of Equalization.

“Special Tax” means the special tax authorized by and imposed pursuant to District Ordinance 18/19-01.

SECTION III. AUTHORITY

This Ordinance is adopted pursuant to Article XIII A, section 4, Article XIII B, section 4 and Article XIII C, section 2 of the California Constitution, Article 3.7 (commencing with Section 53720) of chapter 4 of Division 2 of Title 5 of the California Government Code, Section 13911 of the California Health and Safety Code, and Article 3.5 (commencing with Section 50075 of chapter 1 of Part 1 of Division 1 of Title 5 of the California Government Code.

SECTION IV. ADDITION OF SECTION V.A. TO ORDINANCE 18/19-01

The following language is added to District Ordinance 18/19-01 as newly-designated Section V.A:

“SECTION V.A TAXPAYER EQUITY/EXEMPTION.

Exemptions from the parcel tax will be made available for certain parcels of real property. Any parcel of real property that the County of Sonoma has determined to be exempt from property tax due to low value shall be exempt as a low value parcel. The District refund property owners of low value parcels who have paid levied special taxes on the Fiscal Year 2019/2020 tax bill and void the tax levies for those property owners who have not yet paid”

SECTION V. APPROPRIATIONS LIMIT.

The appropriations limit for the District shall be reduced to reflect the reduced revenue by exempting low value parcels for the maximum period permitted by law.

SECTION VI. SEVERABILITY CLAUSE.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The people of the Monte Rio Fire Protection District hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VII. EFFECTIVE DATE.

This Ordinance shall take effect the day following its approval by two-thirds of the District's qualified voters voting on its approval at the election on May 5, 2020.

APPROVED, by a two-thirds vote of the voters of the Monte Rio Fire Protection District at the election held on May 5, 2020, and **SO ORDERED**.

Dan Fein
President, Board of Directors
Monte Rio Fire Protection District

ATTEST:

Clerk of the Board of Directors

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTE RIO FIRE PROTECTION DISTRICT CALLING FOR A SPECIAL ELECTION ON TUESDAY, MAY 5, 2020, TO AMEND DISTRICT ORDINANCE NO. 18/19-01 AUTHORIZING A SPECIAL TAX TO ASSIST THE DISTRICT IN MEETING THE CURRENT AND FUTURE COSTS OF PROVIDING FIRE AND EMERGENCY SERVICES

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WHEREAS, on November 6, 2018, the voters of the Monte Rio Fire Protection District (“the District”) approved District Ordinance No. 18/19-01, establishing a special parcel tax to meet the current and future costs of continuing to provide authorized fire and emergency services and exercising other rights and powers of the District; and

WHEREAS, the District Board of Directors intended that this special tax exempt low value parcels, as determined by the County of Sonoma pursuant to California Revenue and Taxation Code section 155.20, but this provision was omitted from Ordinance 18/19-01; and

WHEREAS, Proposition 218, approved in 1996, amended the California Constitution by initiative and adopted Articles XIII C and XIII D, requires voter-approval to adopt or amend District tax measures; and

WHEREAS, the District Board of Directors desires to propose an ordinance (i) amending District Ordinance No. 18/19-01 to create a low value parcel exemption; (ii) to refund property owners of low value parcel who have paid levied special taxes on Fiscal Year 2019/2020 tax bill and void the tax levies for those property owners who have not yet paid; and (iii) reducing the District’s appropriations limit to reflect the reduced revenue by exempting low value parcels; and

WHEREAS, state law requires that such an ordinance be submitted to the voters of the District for their approval, and authorizes the Board to call a special election for that purpose, and to request consolidation of the election with any other election held on the same date in territory that is the same or in part the same.

NOW, THEREFORE, THE BOARD HEREBY FINDS, RESOLVES AND ORDERS THE FOLLOWING:

1. The Board finds and declares that it is their intent to exempt low value parcels from the District special parcel tax adopted in District Ordinance 18/19-01.
2. The Board finds and declares the proposed Ordinance amending District Ordinance 18/19-01 to add Section V.A. will (i) create a low value parcel exemption so

that property owners of low value parcels will not pay the special tax; (ii) refund property owners of low value parcel who have paid levied special taxes on Fiscal Year 2019/2020 tax bill and void the tax levies for those property owners who have not yet paid; and (iii) reduce the District's appropriations limit to reflect the reduced revenue by exempting low value parcels.

3. The Board finds and declares that the District has complied with all laws requiring notice of the actions contained herein, and will hold a public hearing as required by law.

4. The Board determines that the proposed Ordinance amending District Ordinance 18/19-01 to add Section V.A. will reduce the amount of annual tax revenue raised by District Ordinance 18/19-01 by approximately \$57,000.00. The Board further determines that the form of the Ordinance, which is hereby designated Ordinance No. 19/20-01, shall be as set forth in Appendix 'A', attached hereto and incorporated herein by this reference. Pursuant to state law, Ordinance No. 19/20-01 shall not go into effect unless it is approved by two-thirds of the votes cast by voters of the District voting upon the questions of its approval. All other provisions of Ordinance 18/19-01 shall remain unchanged whether or not Ordinance 19/20-01 is approved by the voters of the District.

5. The Board hereby calls a special election for Tuesday, May 5, 2020, and directs that the foregoing proposition shall be submitted to voters of the District at the election in the following manner:

(a) There shall be included on the ballot to be marked by the voters of the District, in addition to any other matters required by law, the following two ballot measures in language in the following form:

"Shall District Ordinance 19/20-01, which amends District Ordinance 18/19-01 by adding Section V.A. to exempt low value parcels from paying the special tax, as determined by the County of Sonoma pursuant to California Revenue and Taxation Code section 155.20, thereby reducing the amount raised by approximately \$57,000.00 annually until repealed; and reducing the District's appropriations limit to reflect the reduced revenue by exempting low value parcels, be adopted?"

"If the low value exemption to District Ordinance 18/19-01 is approved, shall the District refund property owners of low value parcel who have paid levied special taxes on Fiscal Year 2019/2020 tax bill and void the tax levies for those property owners who have not yet paid?"

(b) The ballot to be used at the election shall be both as to form and matter contained therein such as may be required by law. On the ballot, in addition to any other printed matter required by law, opposite the measure to be voted upon and to it

right, the words “yes” and “no” shall be printed on separate lines with voting squares.

(c) The Sonoma County Registrar of Voters is hereby authorized, instructed, and directed to provide and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary to properly and lawfully conduct the election.

(d) All notices required by law shall be given by the Sonoma County Registrar of Voters.

(e) Arguments for and against the measure may be, and other analyses provided for by law shall be, submitted in accordance with law.

(f) It is hereby requested the election be consolidated with any other election held on the same date in territory that is the same or in part the same.

(g) The canvass of ballots cast at the election shall be conducted in accordance with law.

6. The Clerk of the Board is directed to forward a certified copy of this resolution to the Sonoma County Board of Supervisors and to the Sonoma County Registrar of Voters.

THE FOREGOING RESOLUTION was introduced at a special meeting of the Board on January 20, 2020, by Director _____, who moved its adoption, seconded by Director _____, and ordered adopted by the following vote:

President	_____	_____
Director	_____	_____
Director	_____	_____
Director	_____	_____
Director	_____	_____

AYES: _____ **NOES:** _____ **ABSENT OR NOT VOTING:** _____

WHEREUPON, the President declared the foregoing resolution adopted, and
SO ORDERED.

By: _____

Dan Fein
President of the Board

By: _____

Secretary/Clerk of the Board

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Torr Realty Co.

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Michael L. Torr
REALTOR®
Broker-Owner
CalBRE# 00558391

Michele M. McDonell, SRA
REALTOR®
Broker-Associate
CalBRE# 00901828

Lee O. Torr, Jr.
1903-1968

Claire F. Torr
1900-1968

Lee O. Torr III
1926 - 2005

Lee O. Torr IV
1979-2011 (retired)

Board of Directors
Monte Rio Fire Protection District
Monte Rio, California

January 5, 2020

Re: Request to Move Forward with Resolution to Resolve for low value parcel and other parcel exemptions

Dear Board:

As a follow up to my previous emails, written correspondence, and discussion during the October, November, and December board meetings, I am requesting the following information be provided to me in writing and publicly acknowledged during the January 2020 board meeting. These clarifications are necessary for the public to understand the intentions of the board and to provide for transparency as fiduciaries of the parcel tax funds.

- 1. Provide the exact citation from Revenue and Tax Code noted by the District's legal counsel that supports the idea that a board resolution to resolve for the error in the intent of the taxing of low value parcels is illegal (quote from Board Chair, cited in November and December meetings);*
- 2. Provide in writing, and make part of agenda materials, all information that the District's legal counsel has researched, participated in discussions with other public officials and/or engaged with other legal professionals regarding the options to correct the error of taxing low value parcels and the exclusion of exemptions for any reason. This information was requested by the BOD and is public information that should not have to be summarized for public consumption.*
- 3. Provide a direct response in writing to all those who are seeking an exception with the reasoning as to why it is not being granted. This includes requests in all written correspondence (email, letters) and to the extent possible, any verbal requests that the public has been advised that were, to date, recorded.*

Attached is a draft resolution for your consideration which outlines the known issues (recitals) that have been revealed and the necessary steps to resolve for these issues, which are within your authority.

Lastly, I am requesting that this correspondence be posted on your website with the agenda, not solely referred to in the agenda correspondence section or available at the meeting.

Respectfully,

Michele McDonell
On behalf of Torr Family properties

CC: Michael L. Torr (electronic delivery)

/attachment

160 Wikiup Drive, Suite 201, Santa Rosa, CA 95403 (707)526-7872
21482 Moscow Road, Monte Rio, CA (707)865-2182

*No mail delivered to Monte Rio address
please use Santa Rosa address for correspondence*

Resolution of the Board of Directors of the Monte Rio Fire Protection District Clarifying Existing Parcel Tax Affecting Low Value Parcels, Contiguous Parcels, and Parcel Tax Appeals.

Whereas, the District promoted Measure U as excluding low value parcels and providing a means for taxpayers to request exemptions for contiguous parcels; and

Whereas, the District through direct verbal communication to taxpayers and landowners expressly indicated that Measure U excluded low value parcels and provided a means for taxpayers to request exemptions for contiguous parcels; and

Whereas, the District, in the Fall 2018 voter information guide description of Measure U, included an Impartial Analysis by Sonoma County Counsel stating in paragraph three, "All property that would otherwise be exempt from property tax will also be exempt from the proposed tax;" and

Whereas, the District has publicly stated during open session board meetings during October, November, and December of 2019 and verbally communicated to taxpayers and landowners that the tax rolls used in crafting Measure U did not include low value parcels and therefore would not include or tax those low value parcels; and

Whereas, the District was and is aware of precedents in other special districts funded through parcel taxes that have adopted the Impartial Analysis by Sonoma County Counsel and the implied interpretation that low value parcels shall be excluded; and

Whereas, the District finds that resolving the parcel tax issue through another election is costly, may result in voter confusion and can be resolved by the District Board of Directors using its current authority; and

Whereas, the District will have collected taxes for properties described in this resolution and shall have cause to refund the taxes paid to property owners;

Therefore, be it resolved that:

Recitals above are correct and reasonable;

Taxpayer Equity / Exemptions. Exemptions from the parcel tax will be made available for certain property as described:

- a. Low value parcels: Any property that the County of Sonoma has determined to be exempt for the property tax due to low value shall be exempt.
- b. Contiguous parcels: Multiple parcels under the same name and ownership which are contiguous and part of one economic unit may be charged as one parcel. The District shall establish an administrative review process to grant exemptions and consider appeals with respect to contiguous parcels.
- c. Other Parcels with Questionable use or value that receive a tax bill: Property owners with properties that do not fit into the low value or contiguous parcel status but otherwise may be mis-classified based on current or legacy use shall be considered for appeal. The District shall establish an administrative review process to consider and grant appeals for these types of parcels.
- d. Refunds of taxes paid by property owners that are identified as low value, approved as contiguous, or are otherwise determined by the District to merit an exemption will be processed within 30 days of approval through the administrative review process.

MEMORANDUM

Date: January 6, 2020

To: Board of Directors, Monte Rio Fire Protection District

From: William L. Adams, District Counsel

Re: **PROCESS TO AMEND THE DISTRICT ORDINANCE 18/19-01 SPECIAL TAX TO CREATE AN EXEMPTION FOR LOW VALUE PARCELS**

As a follow up to the attorney-client confidential communications with the MRFPD Board in November and December 2019, and at the request of Monte Rio Fire Protection District (MRFPD) Board President Fein, this Memorandum is provided as background regarding the process to amend the District Ordinance 18/19-01 special tax to create an exemption for low value parcels. As directed, we have prepared and provided the Board with a draft Resolution and proposed Ordinance for the 5/5/20 election to amend Ordinance 18/19-01.

Based on questions and comments by the MRFPD Board and public, upon checking with other counsel and reviewing documents from other agencies, the legal opinion of Merrill, Arnone & Jones remains as previously provided: the MRFPD Board of Directors does not have the legal authority to unilaterally establish some “claim of exemption” administrative process for alleged “low value” parcels pursuant to Revenue and Taxation Code section 155.20; and any such an exemption must be voter-approved by an amendment to the existing voter-approved District Ordinance 18/19-01, which has been in effect since 11/6/18.

I started my update with the County Assistant Property Tax Manager in the office of the Auditor Controller Treasurer Tax Collector (ACTTC) (whom you know from the development of the District’s parcel list and tax roll in 2018 and 2019), because the ACTTC administers the collection of the taxes for the District. The ACTTC response stated that the County does not monitor exemptions and was noteworthy in providing two examples of effective exemptions

from a School Special Tax and a Hospital District Special Tax, both of which have express authorizing language for exemptions which was included in the voter-approved ballot measure.

I spoke with counsel who wrote the 2004 replacement Palm Drive Health Care District (PDHCD) parcel tax measure. You may recall that PDHCD Resolution 04-61 includes Section VI “Taxpayer Equity/Exemptions” language authorizing a mandatory low value exemption (not some selective granting only if the property owner applies), as well as a discretionary contiguous parcel exemption that must be claimed by the property owner. In my discussions with counsel, I learned that the predecessor PDHCD parcel tax, authorized in PDHCD Resolution 01-10, included vague and open-ended language, such as: to “impose special taxes uniformly applicable to all real property within the District”; that the PDHCD Board should “annually review the equity of the incidence of the parcel tax to fairly spread its burdens among and between the similarly-situation persons”; and that the “parcel tax shall be entered upon the tax rolls and collected in the same manner, and be subject to the same penalty as, property taxes collected by the county on behalf of the District.” After the FY 2001/2002 tax bills went out with the Resolution 01-10 special tax applied to all parcels, I have not seen any records about how the PDHCD evolved some sort of low value exemption claim process in 2002 – but the process, to the extent it may have been used, was rejected and repealed by the specific and express exemption language in Resolution 04-61.

I also reviewed the Russian River FPD special tax measure, since it was cited as an example of how to use a contiguous parcel exemption, and spoke with counsel who wrote the RRFDP tax measure. RRFDP Measure F, passed in June 2010, includes the following relevant language as part of the Exhibit A tax table: “For parcels of real property with more than four uses, more than one land classification may be applied to a single parcel to reflect the risk associated with the parcel. Subject to the foregoing sentence, contiguous vacant parcels of real property under the same ownership will be charged a single assessment at the highest rate applicable to the use of any of the parcels.” Counsel and I concur that no low value exemption would be available under this RRFDP tax ordinance, because that tax measure specifically limits voter-approved exemptions to contiguous parcels.

The voter-approved text in District Ordinance 18/19-01 does not include any exemptions, other than for publicly owned parcels. Because some comments made at the November 2019 Board meeting that some of the claimed low value parcels may be in the Russian River or some right of way, the following are the six excluded Use Codes on the MRFPD Exhibit A tax table: 0850 (Right of Way); 0851 (Private Road); 0860 (Well Site); 0862 (Spring/Other Water Source); 0870 (River/Lake); and 0871 (Beach/Waterfront). These excluded Use Codes are taxed at zero under District Ordinance 18/19-01 – which is the sort of specific determination by the voters which is needed to create an exemption for low value parcels.

Finally, with regard to the assertion that there was some misleading of the public or mistake by including the low value parcels on the District tax roll, in discussions leading up to and at the MRFPD Board hearing on 8/7/18 to adopt the Resolution to place the tax measure on the ballot, the discussions repeatedly included the fact that proposed District Ordinance 18/19-01 included express language that all parcels would be subject to the special tax, except for publically owned parcels. This language was approved by the MRFPD Board and included in the Ballot Measure for the Ordinance which considered and approved by District voters in the election on 11/6/18. Thereafter, for the implementation of the voter-approved special tax, the request sheet for the District parcel list executed and submitted by District administrative staff on 2/13/19, specifically requested that the parcel list prepared by the ACTTC for the District tax roll include non-taxable parcels; zero value parcels; and low value parcels. This parcel list, including low value parcels, was what was used at the public hearing by the MRFPD Board to set the District tax roll on 5/20/19. In the email on 9/6/19 from the District to the ACTTC with the final MRFPD tax roll, low value parcels were included.