

RESOLUTION NO. 9-5-23

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT ESTABLISHING DECEMBER 19, 2023, AS THE ELECTION DATE TO CONSIDER AN ORDINANCE IMPOSING A SPECIAL TAX FOR A PERIOD OF SEVEN YEARS IN THE TOTAL AMOUNT OF \$18,857.14 PER TAXABLE PARCEL; ORDERING THE SUBMITTAL OF THE ORDINANCE TO THE VOTERS AT THE ELECTION; AND DIRECTING THE GENERAL MANAGER TO CONDUCT A MAIL BALLOT ELECTION PURSUANT TO CHAPTER 2 OF DIVISION 4 OF THE ELECTIONS CODE

The Board of Directors of the Capistrano Bay Community Services District does hereby resolve as follows:

Section 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Pursuant to section 2 of Article XIII C of the California Constitution, Government Code sections 50075 and 50077, and Elections Code section 9222, the Board of Directors of the Capistrano Bay Community Services District hereby calls a mail ballot election-"an election conducted wholly by mail"-at which it shall submit to the qualified voters of the District, an ordinance enacting a special tax for shoreline protection ("Ordinance"). If approved, such tax measure would adopt a special tax, as authorized by Government Code sections 50075 and 50077.

Section 3. The Ordinance to be considered by the voters pursuant to Section 2 is set forth in Exhibit A hereto. The Board of Directors hereby approves the Ordinance, the form thereof, and its submission to the voters of the District at the December 19, 2023, election, subject to the approval of a two-thirds vote of the voters voting on the measure at the election called by this Resolution. The Ordinance specifies that the annual amount of the tax payable by each property owner in the District during the seven-year period the tax remains in effect, for a total of \$18,857.14. The Ordinance also provides that the tax shall be collected by the County Tax Collector along with the property tax. The Board shall assign the Ordinance a sequential District ordinance number if it is approved.

Section 4. The proposed Ordinance shall be submitted to the voters on the ballot in the form of the following question:

For the purpose of protecting Beach Road and the shoreline from erosion, shall the Capistrano Bay Community Services District adopt an ordinance that would levy a special tax that would collect a total of \$18,857.14 from each property owner in the District over the seven-year period that the special tax would be in effect?	YES
	NO

Section 5. The General Manager, who is hereby deemed the "elections official" for this election as that term is used in the applicable relevant Elections Code provisions (the "elections official"), is authorized, instructed, and directed to properly and lawfully conduct the election in accordance with Chapter 2 of Division 4 of the Elections Code ("Conduct of Mail Ballot Elections"). The ballots to be used in the election shall be in form and content as required by law. The General Manager is authorized to canvass the returns of the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding district elections.

Section 6. Ballots must be returned to the elections official by 8:00 p.m. on December 19, 2023, except that a ballot is deemed to have been timely cast if it received by the elections official via the United States Postal Service or a bona fide private mail delivery company no later than three days after election day and it satisfies the requirements set forth in Elections Code section 4103. The notice of the time and place of holding the election is hereby given, and the elections official is authorized, instructed and directed to give further notice of the election, as may be required by law.

Section 7. (a) The arguments for or against the measure, and the rebuttal arguments thereto, shall be submitted at or before the time that may be specified by the elections official pursuant to Elections Code section 9316. In accordance with Elections Code section 9162, the Board of Directors or members of the board may submit arguments for or against the measure.

(b) Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons. (Elec. Code, § 9315.)

(c) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments. (Elec. Code, § 9317)

(d) Pursuant to California Elections Code section 9313, the Board of Directors hereby directs the elections official to immediately transmit a certified copy of the measure to the Board of Directors Counsel for the preparation of an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure. Although section 9313 does not impose a timeline on the Board of Directors' Counsel, the elections official shall request that the Board of Directors' Counsel file the impartial analysis with the elections official by October 2, 2023, which is consistent with the corresponding timeline for County measures under Elections Code section 9105.

(e) Pursuant to California Elections Code Section 9317, when the elections official has selected the arguments for and against the measure, which will be printed and distributed to the voters, the elections official shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

Section 9. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§

15000 *et. seq.*, "CEQA Guidelines"). Under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the District would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

Section 11. Pursuant to the provisions of California Elections Code Section 10002 of the Elections Code of the State of California, the Board of Directors requests the Board of Supervisors of the County of Orange County to permit the County Election Department to prepare and furnish, at the request of the Capistrano Bay Community Services District, for use in conducting the Election:

- A. Capistrano Bay Community Services District established precincts with the number of registered voters in each for the purpose of establishing Election Precinct Consolidations.
- B. Voter records of eligible active, pending, inactive, and confidential voters with corresponding precinct consolidation included, in a consistent format on the following designated days:
 - a) Initial Mailing Database - Friday, September 22, 2023 (E-88)
 - b) Supplemental Mailing Database - Monday, November 20, 2023 (E-29)
 - c) Close of Registration - Tuesday, December 15, 2023 (E-14)
 - d) Upon request as needed for the conduct of the Election.
- C. Signature Files in bulk by E-88 or a secure online method to verify signatures.

Section 12. The District shall reimburse the County for services performed when the work is completed and upon presentation to the District of a properly approved bill.

Section 13. The Election Official is directed to forward to both the Board of Supervisors and the Orange County Registrar/Recorder's Department a certified copy of this resolution.

Section 14. This Resolution shall become effective immediately upon its passage and adoption.

ADOPTED, SIGNED AND APPROVED this 5th day of September, 2023.



Patrick D. McNulty, President
Capistrano Bay Community Services District

CERTIFICATION

I, DONAL S. RUSSELL, Secretary of the Board of Directors of the Capistrano Bay Community Services District, do hereby certify that the foregoing Resolution No. 9-5-23 was duly adopted at the Public Hearing of the Board held on September 5, 2023, by the following vote:

AYES: MCNULTY, MISHER and JENKINS

NOES: NONE

ABSENT: WIERSIG and LURNER

ABSTAIN: NONE



Secretary
CAPISTRANO BAY
COMMUNITY SERVICES DISTRICT

(District Seal)

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