

RESOLUTION NO. 2140

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT
CALLING AN ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS
THE QUESTION OF LEVYING A SPECIAL TAX
WITHIN THE AREA PROPOSED TO BE ANNEXED TO
COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE)
(ANNEXATION NO. 1)**

WHEREAS, on September 15, 2005, the Board of Directors (the "Board") of the Olivehurst Public Utility District (the "District"), approved Resolution No. 2101 establishing Community Facilities District No. 2005-2 (Park Maintenance) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, for the purpose of providing for the financing of certain park maintenance services (the "Services") described in Exhibit A hereto;

WHEREAS, at an election held on September 15, 2005, more than two-thirds of the votes cast were in favor of the levy of a special tax and the establishment of an appropriations limit, all as determined by the Board in Resolution No. 2103, duly adopted on September 15, 2005;

WHEREAS, the Board on October 19, 2006, duly adopted Resolution No. 2137 (the "Resolution of Intention") declaring its intention to annex certain territory to the CFD and to levy a special tax within that territory to pay for the Services and setting a public hearing on the proposed annexation for November 30, 2006;

WHEREAS, the territory proposed to be annexed is identified in a map entitled "Annexation Map No. 1 of Community Facilities District No. 2005-2 (Park Maintenance)" a copy of which was recorded on November 30, 2006, in Book 5 of Maps of Community Facilities Districts at Pages 7 and 8 in the office of the Yuba County Recorder;

WHEREAS, the Board convened a public hearing on Thursday, January 18, 2007, after 7:00 p.m., at the regular meeting place of the Board, 1970 9th Avenue, Olivehurst, California, at which hearing all persons interested, including all taxpayers, property owners and registered voters within the CFD and the territory proposed to be annexed, were given an opportunity to appear and be heard on the proposed annexation of territory to the CFD and the levy of special taxes within the territory proposed to be annexed;

WHEREAS, written protests have not been filed by fifty percent (50%) or more of the registered voters residing within the CFD, or by fifty percent (50%) or more of the registered voters residing within the territory to be annexed, or by the owners of one-half (1/2) or more of the area within the CFD, or by the owners of one-half (1/2) or more of the territory to be annexed;

WHEREAS, the Board has determined that there are fewer than twelve registered voters residing in the territory proposed to be annexed to the CFD and that the qualified electors in such territory are the landowners;

WHEREAS, on the basis of all of the foregoing, the Board has determined to call an election to authorize the annexation of territory to the CFD and the levying of a special tax as described in Exhibit B hereto; and

WHEREAS, the Board has received a written instrument from each landowner in the territory proposed to be annexed to the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Olivehurst Public Utility District that:

Section 1. Recitals. All of the above recitals are true and correct, and the Board so finds and determines.

Section 2. Confirmation of Findings in Resolution of Intention. The Board reconfirms all of its findings and determinations as set forth in the Resolution of Intention.

Section 3. Finding Regarding Protests. The Board finds and determines that written protests to the proposed annexation of territory to the CFD and the levy of the special tax within such territory are insufficient in number and in amount under the Act, and the Board hereby further orders and determines that all such protests are hereby overruled.

Section 4. Finding Regarding Prior Proceedings. The Board finds and determines that all prior proceedings had and taken by the Board with respect to the annexation of territory to the CFD are valid and in conformity with the requirements of the Act.

Section 5. Tax Lien. Upon recordation of an amended notice of special tax lien pursuant to Sections 3117.5 and 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the territory proposed to be annexed and this lien shall continue in force and effect until the collection of the tax is terminated by the Board.

Section 6. Call and Order of Election. The Board hereby calls and orders a special election to be held on Thursday, February 15, 2007 ("election day"), at which election the question of levying the special tax within the territory proposed to be annexed shall be submitted to the qualified electors of the territory proposed to be annexed. The terms of the measure are described in this Resolution. The abbreviated form of the statement of the ballot measure is set forth in Exhibit C hereto and is incorporated herein by reference.

Section 7. Vote Required. If the proposition on the question of levying the special tax within the territory proposed to be annexed receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, then the territory proposed to be annexed will be added

to and become part of the CFD with full legal effect and the Board will be authorized to levy the special tax within the annexed territory.

Section 8. Submission of Ballot Proposition. The Board hereby submits to the landowners within the territory proposed to be annexed to the CFD at the special election the ballot proposition set forth in Section 6 of this resolution. The Board hereby authorizes the District Clerk to conduct the election.

Section 9. Conduct of Election. The special election shall be held and conducted, the returns canvassed, and the results ascertained and determined, as herein provided:

(a) All owners of land within the territory proposed to be annexed to the CFD upon the date of the special election shall be qualified to vote upon the measure submitted at the special election. Each landowner shall have one vote for each acre or portion thereof that she, he, or it owns within the territory proposed to be annexed to the CFD, as provided in Government Code section 53326(b).

(b) Pursuant to Government Code section 53327, the special election shall be conducted as a mailed ballot election, in accordance with the provisions of Sections 4100-4108 of the Elections Code. There shall be no polling places for the special election.

(c) The District Clerk is authorized to mail to each landowner in the territory proposed to be annexed to the CFD a ballot in the form set forth in Exhibit C hereto.

(d) Each voter desiring to vote in favor of the measure to levy a special tax shall mark an "X" or a check mark in the voting square opposite the word "YES." To vote against the measure, the voter shall mark an "X" or a check mark in the voting square opposite the word "NO."

(e) The District Clerk shall accept the ballots of the landowners up to five minutes following the adoption of this resolution by the Board. The District Clerk shall have available ballots that may be marked at the District Clerk's office on the election day by voters. Once all qualified electors have voted, the District Clerk may close the election.

(f) The District Clerk shall commence the canvass of the returns of the special election as soon as the election is closed at the District Clerk's office. At the conclusion of the canvass, the District Clerk shall declare the results of the election.

(g) The Board shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

Section 10. General Authorization with Respect to the Election. The members of the Board, the District Clerk, and the other officers of the District are hereby authorized and directed, individually and collectively, to do any and all things and to execute, deliver, and perform any and all agreements and documents that they deem necessary or advisable in order to effectuate the purposes of this Resolution. All actions heretofore taken by the officers and agents

of the District that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.

Section 11. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the District has created a separate account into which the special tax proceeds shall be deposited; and the District shall prepare a report, as required, pursuant to the requirements of Section 53343.1.

Section 12. Effective Date. This resolution shall take effect immediately upon its passage.

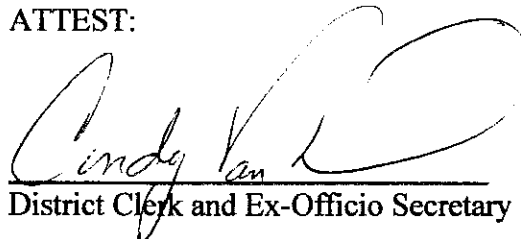
PASSED AND ADOPTED by the Board of the Olivehurst Public Utility District this 18th day of January, 2007.

OLIVEHURST PUBLIC UTILITY DISTRICT



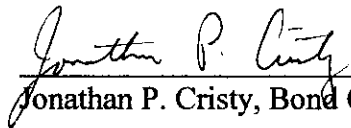
President, Board of Directors

ATTEST:



District Clerk and Ex-Officio Secretary

APPROVED AS TO FORM:

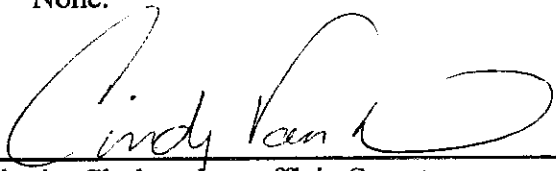


Jonathan P. Cristy, Bond Counsel

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I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 18th day of January 2007, by the following vote:

AYES, AND IN FAVOR THEREOF:	Director Morrison, Patty, Hollis, Miller, and Carpenter.
NOES	: None.
ABSTAIN	: None.
ABSENT	: None.



District Clerk and ex-officio Secretary

EXHIBIT A

List of Authorized Services

Authorized services are park maintenance services. Eligible costs include, but are not limited to, salaries and benefits of District staff; District overhead costs; costs of contracting services; costs of acquisition, maintenance and replacement of necessary maintenance equipment and supplies, and utility costs associated with providing park maintenance services within CFD No. 2005-2 (Park Maintenance).

EXHIBIT B

OLIVEHURST PUBLIC UTILITY DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE) RATE AND METHOD OF APPORTIONMENT

1. Basis of Special Tax Levy

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 (Act) applicable to the land in the Community Facilities District No. 2005-2 (Park Maintenance) (CFD) of the Olivehurst Public Utility District (District) shall be levied and collected according to the tax liability determined by the District through the application of the appropriate amount or rate, as described below.

2. Definitions

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

“Administrative Expenses” means the actual or estimated costs incurred by the District to form the CFD and to determine, levy and collect the Special Taxes, including compensation of District employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel; the costs of collecting installments of the Special Taxes upon the general tax rolls; preparation of required reports; and any other costs required to administer the CFD as determined by the District.

“Administrator” means the General Manager of the District, or his or her designee.

“Annexation Parcel” means any Parcel that is annexed to the CFD after it is formed. An Annexation Parcel will be assigned to an existing or new Benefit Zone.

“Annual Costs” means for each Fiscal Year, the total of 1) Authorized Services 2) Administrative Expenses; and 3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

“Authorized Services” mean those services, as listed in the resolution forming the CFD.

“Base Year” means the Fiscal Year beginning July 1, 2005 and ending June 30, 2006.

“Benefit Zone” means an area within the CFD that has similar service provision requirements under the CFD. Each Benefit Zone will have a separate cost analysis and cost allocation plan which is used to establish the Maximum Annual Special Tax for Taxable Parcels in each land use

classification for a Benefit Zone. The CFD is formed with just one Benefit Zone. As property is annexed to the CFD, new Benefit Zones will be created as needed.

“**Board**” means the Board of Directors of the Olivehurst Public Utility District acting for the CFD under the Act.

“**CFD**” means the Community Facilities District No. 2005-2 (Park Maintenance) of the Olivehurst Public Utility District, Yuba County, California.

“**County**” means the County of Yuba, California.

“**County Assessor's Parcel**” means a lot or Parcel with an assigned Assessor's Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

“**County Service Area**” means any county service area pursuant to Section 25210.1 and following of the California Government Code established by the County or other government agency authorized to fund and provide park maintenance services within the CFD boundaries.

“**Developed Parcel**” means a Parcel that has one of the following land uses defined as follows:

<u>Tax Category</u>	<u>Land Use Approval</u>
Single-Family Residential	Final Subdivision Map
Multifamily Residential	Building Permit

Once classified as a Developed Parcel, no Parcel shall be removed from the developed classification unless the special use permit/building permit expires, is revoked, or is otherwise terminated.

“**District**” means the Olivehurst Public Utility District in Yuba County, California.

“**Final Subdivision Map**” means a recorded map designating individual single family residential Parcels.

“**Fiscal Year**” means the period starting July 1 and ending the following June 30.

“**Large Lot Parcel**” means any Parcel designated for residential uses delineated on a Large Lot Subdivision Map.

“**Large Lot Subdivision Map**” means a recorded subdivision map delineating Parcels by land use. However, the Large Lot Subdivision Map does not delineate individual single family residential parcels. A Final Subdivision Map will delineate individual single family parcels.

“**Maximum Annual Special Tax**” means the greatest amount of Special Tax that can be levied against a Parcel calculated by multiplying the Maximum Annual Special Tax Rate times the assigned Net Acres or Units to a Taxable Parcel.

“Maximum Annual Special Tax Rate” means the amount shown in **Attachment 1** for a Fiscal Year for a Benefit Zone that is used in calculating the Maximum Annual Special Tax for a Parcel based on its land use classification.

“Maximum Annual Special Tax Revenue” means the greatest amount of revenue that can be collected in total from a group of Parcels by levying the Maximum Annual Special Tax on all Taxable Parcels.

“Multifamily Residential Parcel” means a Parcel with a building permit for multi-family residential use.

“Net Acre” is the area of a Parcel associated with developable uses after dedication of all public uses and rights-of-way.

“Parcel” means any County Assessor's Parcel in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Parcel Number” means the Assessor's Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Public Parcel” means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general *ad valorem* property taxes under California law, including public streets, schools, parks, and public drainageways; public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel shall be a Tax-Exempt Parcel.

“Single Family Residential Parcel” means a single family residential lot created by the recordation of a Final Subdivision Map.

“Special Tax(es)” mean(s) any tax levy under the Act in the CFD.

“Tax Collection Schedule” means the document prepared by the District for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

“Tax Escalation Factor” means an annual percentage increase in the Maximum Annual Special Tax Rate based upon the Consumer Price Index (CPI) (prior calendar year annual average, San Francisco, All Urban Consumers (CPI-U) Index), or the CPI (prior calendar year annual average, Pacific West Cities, All Urban Wage Earners and Clerical Workers), whichever is greater.

“Taxable Parcel” means any Parcel that is not a Tax-Exempt Parcel.

“Tax-Exempt Parcel” means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below) and nonresidential use parcels, such as commercial, office, retail, industrial, etc. Privately owned Parcels that are non-developable, such as common areas, wetlands, and open space, are exempt from the levy of Special Taxes as determined by the District.

“Undeveloped Parcel” means a Parcel which is not a Developed Parcel or a Large Lot Final Map Parcel.

“Unit(s)” means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

3. Duration of the Special Tax

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the District shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. The Notice of Cessation of Special Tax shall additionally identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

4. Assignment of Maximum Annual Special Tax

- A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions in **Section 2** above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other County development approval records, the District shall cause:
1. Each Parcel to be classified as a Tax-Exempt Parcel or a Taxable Parcel; and
 2. Each Taxable Parcel is to be further classified as a Developed Parcel, Large Lot Parcel or Undeveloped Parcel.

B. Assignment of Maximum Annual Special Tax.

Attachment 1 shows the Base Year Maximum Annual Special Tax Rates. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rates may be increased in accordance with the Tax Escalation Factor.

In the event the District, County, County Service Area, or other public agency levies and collects and assessment or special tax (other than the Special Tax) in a Fiscal Year to fund Authorized Services of the CFD, the Maximum Annual Special Tax shall be reduced by an equal amount in the same Fiscal Year.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below.

1. **Developed Parcels.** The Maximum Annual Special Tax is assigned to each Developed Parcel by multiplying the Units (for Single Family Residential Parcels and Multifamily Residential Parcels) times the Maximum Annual Special Tax Rate for the tax category shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.

2. **Large Lot Parcels.** The Maximum Annual Special Tax is assigned to each Large Lot Parcel by multiplying the Net Acres times the Maximum Annual Special Tax Rate for Large Lot Parcels shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.
 3. **Undeveloped Parcels.** The Maximum Annual Special Tax is assigned to each Undeveloped Parcel by multiplying Net Acres times the Maximum Annual Special Tax Rate for Undeveloped Parcels shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.
- C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel shall be assigned according to the **Sections 4.A** and **4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. Calculating Annual Special Taxes

The District shall compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 4**. The District will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Taxable Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed Parcels.
 - Step 2: Compare the Annual Costs with the Maximum Annual Special Tax revenue calculated in the previous step.
 - Step 3: If the Annual Costs are less than the Maximum Annual Special Tax Revenue, decrease proportionately the Special Tax levy for each Developed Parcel until the revenue from the Special Tax levy equals the Annual Costs.
 - Step 4: If the Annual Costs are greater than the Maximum Annual Special Tax Revenue from Developed Parcels, levy a Special Tax proportionately on each Large Lot Parcel to an amount equal to the amount of Annual Costs or until 100 percent of the Maximum Annual Special Tax is reached for such Large Lot Parcels.
 - Step 5: If the Annual Costs are greater than the Maximum Annual Special Tax Revenue from Developed Parcels and Large Lot Parcels, levy a Special Tax proportionately on each Undeveloped Parcel to an amount equal to the amount of Annual Costs or until 100 percent

of the Maximum Annual Special Tax is reached for such Undeveloped Parcels.

- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule shall not be sent later than the date required by the Auditor for such inclusion.

The District shall make every effort to correctly calculate the Special Tax for each Parcel. It shall be the burden of the taxpayer to correct any errors in the determination of the parcels subject to the tax and their Special Tax assignments.

6. Records Maintained for the CFD

As development and subdivision occurs within the CFD, the District will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number; and
- Number of Units assigned by the Administrator to each Single-Family Residential Parcels and Multifamily Residential Parcel.

The file containing the information listed above will be available for public inspection.

7. Appeals

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the District appealing the levy of the Special Tax. The District will then promptly review the appeal, and if necessary, meet with the applicant. If the District verifies that the tax should be modified or changed, a recommendation at that time will be made to the Board and, as appropriate, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

Interpretations may be made by Resolution of the Board for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties or any definition applicable to the CFD.

8. Prepayment of the Special Tax Obligation

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Board determines that the Special Tax should no longer be collected.

9. Manner of Collection

The Special Tax will be collected in the same manner and at the same time as *ad valorem* property taxes, provided, however, that the Administrator or its designee may directly bill the Special Tax and may collect the Special Tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the District's financial obligations.

**Attachment 1
 Olivehurst Public Utility District
 Community Facilities District No. 2005-2
 (Park Maintenance)
 Maximum Annual Special Tax Rates - Base Year 2005-2006**

Tax Category	Maximum Annual Special Tax Rate Per Unit	Unit
	[1] [2]	
Developed Parcels		
Single Family Residential	\$220	Per Unit
Multifamily Residential	\$165	Per Unit
Large Lot Parcels	\$220	Per Acre
Undeveloped Parcels	\$220	Per Acre

[1] Maximum Annual Special Tax Rate increased by the Tax Escalation Factor in each Fiscal Year after the Base Year of 2005-2006. ^{"att 1"}

[2] In the event an assessment or special tax is collected in a Fiscal Year by the District, County, County Service Area, or other public agency to fund Authorized Services within the boundaries of the CFD, other than the Special Tax, the Maximum Annual Special Tax will be reduced by an amount equal to the assessment or special tax in the same Fiscal Year.

EXHIBIT C

OFFICIAL BALLOT

**SPECIAL TAX ELECTION
OLIVEHURST PUBLIC UTILITY DISTRICT
ANNEXATION OF TERRITORY TO COMMUNITY FACILITIES DISTRICT
NO. 2005-2 (Park Maintenance)
(February 15, 2007)**

Number of votes entitled to cast: _____

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) or a check mark in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the District Clerk, Olivehurst Public Utility District, 1970 9th Avenue, Olivehurst, California, to obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS

Ballot Measure: "Shall the Olivehurst Public Utility District Community Facilities District No. 2005-2 (Park Maintenance) be authorized to levy a special tax for the purpose and at the rate and apportioned as described in Exhibits A and B to Resolution No. 2137 adopted by the Board of Directors of the Olivehurst Public Utility District on October 19, 2006, which resolution is incorporated herein by reference, within the territory identified on a map entitled "Annexation No. 1 to Community Facilities District No. 2005-2 (Park Maintenance)?"	YES <input type="checkbox"/>
	NO <input type="checkbox"/>

NOTE: This is a special landowner election. You must return this ballot to the District Clerk, Olivehurst Public Utility District, either (i) to her office at 1970 9th Avenue, Olivehurst, California 95961, by 4:30 p.m. on February 15, 2007 or (ii) thereafter, to the regular meeting place of the Board at 1970 9th Avenue, Olivehurst, California, on February 15, 2007, by five minutes following the adoption of the resolution calling the election (the Board meeting convenes at 7:00 p.m. on February 15, 2007).