



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Conduct Public Hearing and Adopt a Resolution to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2014/2015

BACKGROUND

On April 8, 2014, the City Council adopted Resolution of Intention (ROI) No. 641-14 to reauthorize the Downtown Sunnyvale Business Improvement District (BID) and set the public hearing for May 6, 2014. The public hearing provides BID businesses an opportunity to express their comments to City Council. City Council will hear and consider any and all protests against the renewal of the BID, and/or any protest regarding the proposed activities of the proposed BID.

If, at the conclusion of the public hearing, businesses paying 50 percent or more of the total BID assessments file a protest, no further proceedings to reauthorize the BID can occur. If total protests do not exceed 50 percent or more of the BID's total assessments, Council may take action to adopt the Resolution to Levy an Annual Assessment for Fiscal Year 2014/2015 (Attachment 1).

Downtown Sunnyvale BID

There are approximately 160 businesses located in the existing BID area. The BID area is divided into three zones: Zone A, Zone B, and Zone C. The current BID boundaries are Sunnyvale, Iowa, Mathilda and Evelyn Avenues (Attachment 1).

The current BID Board members are:

Joe Antuzzi, IL Postale
Gary Gold, Dr. Gary Gold & Associates
Leigh Odum, Leigh's Favorite Books
Kathy Johnson, Broadcom
Donna Lang, Tangerine Gifts & Accessories
Johnny Sevey, Rok Bistro
Executive Director - Joel Wyrick (non-voting member)

EXISTING POLICY

Municipal Code Sections - Downtown Sunnyvale Business Improvement District:

3.60.050. *Establishment of benefit assessment.*
3.60.060. *Purpose and use of benefit assessments.*
3.60.090. *Collection of benefit assessment.*

ENVIRONMENTAL REVIEW

This matter is not a project within the meaning of CEQA because the creation of government funding mechanisms or other government fiscal activities do not involve commitment to any specific project which may result in a potentially significant impact on the environment. (Guideline 15378(b)(4))

DISCUSSION

Per Sunnyvale Municipal Code Section 3.60.050, *Establishment of benefit assessment*, the formula calculating the BID assessment amount is determined by the BID Board and enacted by the City. Assessments are levied on businesses on the basis of relative benefit from the activities to be funded. The City collects the assessment fee and forwards the collected funds to the BID. The City charges the BID a fee for administrative costs associated with this service.

Process

Under Streets and Highways Code Section 36500-36504, business owners have the opportunity to protest against furnishings of specified types of activities or improvements. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from business owners in the BID who will pay 50 percent or more of the assessments proposed and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment, as contained in the ROI, shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the area, those types of improvements or activities shall be eliminated.

The process for the public hearing is:

- Call on the BID's Executive Director to provide an overview of BID activities.
- Open the public hearing and hear public comments and protests that were not received prior to the Council meeting.
- City staff will receive any written protests from registered business owners. If a person submitting a protest is not shown on the official records of the City of Sunnyvale as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person protesting is the owner of the business. A written protest that does not include this information or does not comply with requirements shall not be counted in determining a majority protest.
- Staff will begin logging written, confirmed protests at the beginning of the public hearing. If the protests are tabulated before the end of the public hearing, staff will be able to convey the outcome and Council will be able to take action.
- If the protests are not tabulated before the end of the public hearing, Council may take a short break (five minutes for tabulation) or continue this item and move on to the next agenda item. At the conclusion of the agenda item after the tabulation is complete, the Mayor will re-open the item and staff will then report the results and Council can take action.
- If total protests do not exceed 50 percent or more of the BID's total assessments, Council may take action to adopt the Resolution to Levy an Annual Assessment for the BID.

The benefit assessment established for Sunnyvale businesses shall be billed by July 1, 2014 and

collected by July 30, 2014. Payments will be considered late if not received on or before the due date listed on the invoice. Businesses will accrue late fees for every 30 days delinquent after original due date. A 10 percent late penalty will be added to the assessment amount for every 30 days payment is late. The penalty fees will accrue for up to five months after the original due date. If payment is not received after five months, the City will forward delinquent accounts to a collections agency for further action. Once the business is assigned to the collections agency, additional fees will accrue.

FISCAL IMPACT

Staff time from the Department of Finance is provided at an estimated cost of \$2,500 annually for the administration of the assessment. Because these costs are reimbursed by the BID, there is no impact to the General Fund for providing this service.

Adoption of the resolution to levy an annual assessment for the Downtown Sunnyvale Business Improvement District does not constitute City endorsement of BID's budget (Attachment 1), nor does it obligate the City to incur any of the expenses projected by the report.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

As required by state law, Resolution of Intention number 641-14 adopted on April 8, 2014 was mailed to all BID members and was also published in the legal ads section of the Sunnyvale Sun on April 18, 2014.

The BID executive director emails the resolution to members and posts a copy on their website.

ALTERNATIVES

1. Adopt the Resolution to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District.
2. Do not approve Resolution of the City of Sunnyvale to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District.
3. Continue item and restart the legal process, beginning with re-noticing for a Resolution of Intention.

STAFF RECOMMENDATION

Alternative 1: Adopt the Resolution to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District.

Prepared by: Maria Rodriguez, Administrative Analyst

Reviewed by: Connie Verceles, Economic Development Manager

Approved by: Robert A. Walker, Interim City Manager

ATTACHMENTS

1. Resolution of the City of Sunnyvale to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2014/2015

