



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 15-0103, Version: 1

REPORT TO COUNCIL

SUBJECT

Conduct Protest Hearing and Adopt a Resolution of the City of Sunnyvale to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District

BACKGROUND

In 2007, City Council adopted an ordinance adding Chapter 3.60 to Title 3 of the Sunnyvale Municipal Code establishing a Downtown Sunnyvale Business Improvement District (BID). Council has annually adopted the renewal of the BID since that time. Under state law, the BID must be renewed every year.

On March 24, 2015, the City Council adopted a Resolution of Intention (ROI) to reauthorize the Downtown Sunnyvale Business Improvement District. The ROI established April 28, 2015 as the date for the public hearing to consider BID renewal. The public hearing provides businesses within the proposed BID zones 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 assessment file a protest, no further proceedings to reauthorize the BID can occur.

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, Exhibit B).

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

Joel Wyrick, Executive Director (non-voting member)

EXISTING POLICY

Sunnyvale 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 for 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 Sections 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 an 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:

- Mayor may 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 review 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.

If protests do not exceed 50 percent, staff recommends that Council adopt the Resolution of the City of Sunnyvale to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2015/2016 (Attachment 1).

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.

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.

Also, as required by state law, Resolution of Intention number 689-15 adopted on March 24, 2015 was mailed to all BID members and was also published in the legal ads section of the *Sunnyvale Sun* on April 10, 2015.

ALTERNATIVES

1. Adopt the Resolution to Levy an Annual Assessment for the Downtown Sunnyvale Business Improvement District
2. Do not approve the Resolution 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

Reviewed by: Robert A. Walker, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENT

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