



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Conduct a Public Hearing and Adopt a Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect 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). Under State law, the BID must be renewed every year, and Council has annually renewed the BID since 2007.

On March 29, 2016, the City Council adopted a Resolution of Intention (ROI) to reauthorize the BID. The ROI established April 19, 2016 as the date for the public hearing to consider BID renewal. The purpose of the public hearing is for Council to hear and consider any and all protests against the renewal of the BID, and/or any protest regarding the proposed BID activities. 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.

There are approximately 200 businesses located in the existing BID area. The BID boundaries are Sunnyvale, Iowa, Mathilda and Evelyn Avenues (Attachment 1, Exhibit B), and the area is divided into three zones: Zone A, Zone B and Zone C.

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  
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 action is not a project within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it involves the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any

specific project which may result in a potentially significant impact on the environment.

## **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.

### **Public Hearing and Protest Process**

Under Streets and Highways Code Section 36535 the City Council must conduct a public hearing, which shall be conducted as provided in Streets and Highways Code sections 36524 and 36525, regarding protests against the furnishing 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 BID business owners who will pay 50 percent or more of the assessments, no further proceedings to levy the proposed assessment, as contained in the ROI, shall be taken for a period of one year from April 19, 2016.

The process for the public hearing is:

1. Mayor may call on the BID's Executive Director to provide an overview of BID activities.
2. Open the public hearing and hear public comments and protests that were not received prior to the Council meeting.
3. City staff will review any written protests. 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.
4. Staff will begin logging 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.
  - a. 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 public hearing and staff will then report the results and Council can take action.
  - b. If total protests do not exceed 50 percent or more of the BID's total assessments, Council may take action to adopt the Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and 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 2016/2017 (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 fiscal impact to the City 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. The BID Board also emailed all BID members the meeting announcement.

Also, as required by State law, Resolution of Intention number 740-16 adopted on March 29, 2016 was mailed to all BID members and was also published in the legal ads section of the Sunnyvale Sun on April 8, 2016.

### **ALTERNATIVES**

1. Adopt the Resolution, presented as Attachment 1 of this report, confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District.
2. Do not approve the Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District.

### **STAFF RECOMMENDATION**

Alternative 1: Adopt the Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect 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: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENT**

1. Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District