



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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File #: 17-0298, Version: 1

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### REPORT TO COUNCIL

#### **SUBJECT**

Public Hearing and Adoption of Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018; Public Hearing and Introduction of an Ordinance Amending Chapter 3.60, Entitled Downtown Sunnyvale Business Improvement District, of Title 3 of the Sunnyvale Municipal Code to Convert Portions of BID Zone C to BID Zone B

#### **BACKGROUND**

On April 25, 2017, the City Council approved the Fiscal Year 2016/2017 BID Annual Report, adopted a Resolution of Intention to reauthorize the Downtown Sunnyvale Business Improvement District (BID), and adopted a Resolution of Intention to Consider Proposed Conversion of Portions of BID Zone C to Zone B.

With the adoption of both resolutions, the Council set May 23, 2017 for the public hearings. The purpose of the public hearings is to provide BID businesses an opportunity to support or oppose the BID reauthorization and the zone conversion request. City Council will hear and consider protests the BID reauthorization, against the conversion of portions of Zone C to Zone B, and/or protests regarding the proposed activities of the proposed BID.

If, after each public hearing, businesses paying 50 percent or more of the total BID assessments file a protest, no further proceedings to reauthorize the BID or to convert portions of Zone C to Zone B can occur. If protests do not exceed 50 percent, staff recommends that Council adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for Fiscal Year 2017/2018 (Attachment 1), and that Council introduce the Ordinance Amending the Sunnyvale Municipal Code, Title 3, Chapter 3.60 for Fiscal Year 2017/2018 (Attachment 2).

#### **Downtown Sunnyvale BID**

There are approximately 190 businesses located in the existing BID area, which is divided into three zones: Zone A, Zone B, and Zone C. The BID boundaries are Sunnyvale, Iowa, Mathilda and Evelyn Avenues (Attachment 1, Page 10).

The BID Board is made up of volunteers. The current Board members are:

Joe Antuzzi, Il Postale, Board Chair  
Dr. Gary Gold, Dr. Gold & Associates/Style Eyes Optique, Board Vice-Chair  
Leigh Odum, Leigh's Favorite Books & Bookasaurus  
Patricia Cunningham, Broadcom  
Katherine Correia, Broadcom  
Irene Murphy, Fibbar MaGee's

Amit Rajgarhia, Dish Dash  
Epenesa Pakola, Aloft Hotel

### **EXISTING POLICY**

Municipal Code Sections - Downtown Sunnyvale Business Improvement District:

3.60.050. Establishment of benefit assessments

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, entitled “Establishment of benefit assessment,” the formula for calculating the BID assessment amount is determined by the BID Board and enacted by the City. The BID Board included the budget and assessment formula in the Fiscal Year 2016/2017 Annual Report approved by Council on April 25, 2017.

For the BID to be reauthorized and to convert portions of Zone C to Zone B of the BID, a separate public hearing must be held for each action. The conversion of portions of Zone C to Zone B would affect businesses located on Washington Ave. (from Frances to Sunnyvale), businesses on the west side of Frances and adjacent to Plaza del Sol on Taaffe Street, and the Town Center Murphy Avenue extension including future businesses within Redwood Square. Currently, seven businesses would be converted from Zone C to Zone B for a projected increase of \$1,800 in assessments. Additional benefits to these businesses includes a Summer Music Series event at Plaza del Sol and other future events in proximity to existing and future businesses. Assessments are levied on businesses based on relative benefit from the activities to be funded.

### **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 the Streets and Highways Code sections 36524 and 36525, regarding protests against the furnishing of specified types of activities and 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 from BID business owners paying 50 percent or more of the proposed assessments under each action are received, then a majority protest exists and no further proceedings to levy the proposed assessment or to convert portions of Zone C to Zone B shall be taken for a period of one year from May 23, 2017.

The City Council will conduct 2 public hearings. The first to determine if a majority protest exists regarding the proposed assessment and the second to determine if a majority protest exists regarding the conversion of portions of Zone C to Zone B.

The process for each 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 conclusion of the public hearing.
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 convey the outcome and Council will be able to act.
5. 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.
6. If total protests do not exceed 50 percent or more of the BID's total proposed assessments for the first public hearing, Council may act to adopt the Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for Fiscal Year 2016/2017 and to Levy and Collect an Annual Assessment for the BID. If protests of total assessments from the businesses affected by the proposed conversion do not exceed 50 percent or more for the second public hearing, Council may act to introduce the Ordinance Amending Chapter 3.60, entitled "Downtown Sunnyvale Business Improvement District," of Title 3 of the Sunnyvale Municipal Code.

If protests do not exceed 50 percent as described in paragraph 6 above, staff recommends that Council adopt the Resolution of the City of Sunnyvale Confirming the Annual Report and to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018 (Attachment 1), Council introduce the Ordinance Amending the Sunnyvale Municipal Code, Title 3, Chapter 3.60 (Attachment 2).

### **FISCAL IMPACT**

Staff time from the Department of Finance is provided at an estimated cost of \$2,000 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 No. 816-17 adopted on April 25, 2017 was mailed to all BID members and Resolution No. 815-17 was mailed to affected businesses within the zone change request. Resolutions Nos. 816-17 and 815-17 were also published in the legal ads section of the Sunnyvale Sun on May 5, 2017.

### **ALTERNATIVES**

1. Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018.
2. Introduce an Ordinance Amending Chapter 3.60, entitled "Downtown Sunnyvale Business Improvement District," of the Sunnyvale Municipal Code to Convert Portions of BID Zone C to BID Zone B.
3. Do not approve the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018.
4. Do not introduce the Ordinance Amending Chapter 3.60, entitled "Downtown Sunnyvale Business Improvement District," of Title 3 of the Sunnyvale Municipal Code to Convert Portions of BID Zone C to BID Zone B.

### **STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Adopt the Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018; and 2) Introduce an Ordinance Amending Chapter 3.60, entitled "Downtown Sunnyvale Business Improvement District," Title 3 of the Sunnyvale Municipal Code to Convert Portions of BID Zone C to BID Zone B.

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

### **ATTACHMENTS**

1. Resolution to Confirm the Annual Report and Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District for Fiscal Year 2017/2018
2. Ordinance Amending Chapter 3.60, entitled "Downtown Sunnyvale Business Improvement District," of Title 3 of the Sunnyvale Municipal Code to Convert Portions of BID Zone C to BID Zone B