



City of Palo Alto

City Council Staff Report

(ID # 11358)

Report Type: Action Items

Meeting Date: 6/8/2020

Summary Title: Downtown Palo Alto Business Improvement District

Title: Adoption of a Resolution Declaring an Intention to Temporarily Suspend the Levy of Assessment Against Businesses Within the Downtown Business Improvement District for Fiscal Year 2021 and Setting a Time and Place for a Public Hearing to be Held by the City Council on the Proposed Temporary Suspension; or Other Direction to Staff Related to the District

From: City Manager

Lead Department: Administrative Services

Recommendation

Due to the compressed timeframe to review and approve the levy of Business Improvement District (BID) assessments for FY21, and in view of the earlier Council action to rescind the BID assessment for FY20, staff recommends that Council approve one of the two recommendations below:

1. Adopt a Resolution of Intention to Temporarily Suspend the Levy of Assessments in the Palo Alto Downtown Business Improvement District (BID) for Fiscal Year 2021 (Attachment A), setting a date and time for the public hearing on the proposal to suspend the levy assessments for June 22, 2020, at 5:00 PM, or thereafter, on the Zoom meeting platform;

OR

2. Alternatively, provide direction to staff to negotiate with Palo Alto Downtown Business and Professional Association Palo Alto Downtown Business and Professional Association (PADBPA) to renew their contract for the BID and bring back to Council an annual report of planned activities in the BID in FY21 and a Resolution of Intent to Levy Assessments for FY21.

If Council approves Recommendation No. 1, staff will return with the corresponding follow-up action for Council approval at the June 22 Council Meeting. Council recently rescinded and waived the BID assessments for FY20 and Recommendation No. 1 above would apply similar actions to FY21. The alternative Recommendation No. 2 would follow past practice required under state law for the levy of annual assessments for the BID for FY21.

Executive Summary

If Council adopts Recommendation No. 1, the Council would provide notice of its intention to

temporarily suspend the collection of the BID assessment for FY21 only and set a public hearing. At the June 22 Council meeting and public hearing, the Council would hear and consider any objections to the waiving of assessments for FY21, and take final action. The election not to levy assessments for FY21 is consistent with Council's rescinding and waiving of FY20 assessments in light of the COVID-19 emergency, which Council approved on May 4, 2020 ([CMR 11219](#)). Without the levy of assessments, the contract with PADBPA would expire on June 30, 2020.

Alternatively, by adopting Recommendation No. 2, Council would direct staff to return to Council with a Resolution of Intent to Levy Assessments for FY21, an accompanying annual report of planned activities and improvements for Council review, and an amendment of the contract with PADBPA. This action would be consistent with Council actions in past years prior to 2020.

Background

The Palo Alto City Council established the BID in 2004 pursuant to the California Parking and Business Improvement Area Law to maintain economic vitality and physical maintenance of the Palo Alto Downtown business district. The Council appointed PADBPA, a non-profit corporation, as the Advisory Board for the BID. PADBPA, acting through its independent Board of Directors, advises the Council on the method and basis for levy of assessments in the BID and the expenditure of revenues derived from the assessments.

Pursuant to BID law, PADBPA must annually submit to the Council a report that proposes a budget for the upcoming Fiscal Year (FY) for the BID. The report must: 1) propose any boundary changes in the BID; 2) list the improvements and activities to be provided in the Fiscal Year; 3) estimate the cost to provide the improvements and activities; 4) set forth the method and basis for levy of assessments; 5) identify surplus or deficit revenues carried over from the prior Fiscal Year; and 6) identify amounts of contributions from sources other than assessments.

Each year the Council: 1) reviews the report and preliminarily approves it as proposed or with modifications; 2) adopts a resolution of intention to levy the assessments for the upcoming Fiscal Year; and 3) sets a date and time for the public hearing on the levy of assessments in the BID. Absent a majority protest at the public hearing, the Council may adopt a resolution confirming the report for the upcoming fiscal year as filed or as modified by the Council. This is the process that the City followed through 2019.

Over the past fifteen years, PADBPA, supported by the assessments collected in the City's BID Fund and working in collaboration with the City, has achieved several significant accomplishments that have contributed to a vibrant downtown. However, since FY15, the revenues generated from the BID assessment, which is administered by the City, have not kept pace with the expenses of operating PADBPA's programs for the BID. The BID Fund's balance has slowly decreased. The BID Fund has run an operating deficit since FY15. This manner of operating is not sustainable on an ongoing basis. The preexisting challenges have only been

exacerbated by the difficulties experienced by downtown businesses during the COVID-19 pandemic.

Discussion

On May 4, 2020, as part of a series of actions to support businesses during the COVID-19 emergency, the Council approved the rescission of the FY20 levy of assessments for the BID and the reimbursements of BID assessments already collected. Staff recommends that Council adopt the first recommendation in this CMR and extend the period that the BID assessment is waived through FY21 (July 1, 2020 through June 30, 2021). PADBPA, through its chairperson, agrees with the staff recommendation to not levy an assessment in FY21, consistent with the Council's action regarding FY20. PADBPA is proposing to put on hold its activities in FY21 and while it reassesses its future strategy. Therefore, PADBPA is not submitting a proposed budget for FY21. If the City does not levy the assessments, as recommended, the contract with PADBPA would expire at the end of this fiscal year, on June 30, 2020. The City would thereafter work with PADBPA to negotiate and execute a new or amended contract to extend the term, or identify another potential group to serve as the Advisory Board for the BID.

If Council alternatively adopts Recommendation No. 2, staff would work with PADBPA to have an annual report prepared and commence the process for the levy of assessments for the upcoming FY21. The action of levying assessments would extend the contract with PADBPA for the next fiscal year.

Staff recommends that Council adopt Recommendation No. 1 since it would be consistent with Council's recent action rescinding BID assessments for FY20 in the context of the COVID-19 emergency, which is expected to continue into FY21.

Resource Impact

The BID is set up as a separate fund within the City's accounting system. Recently, the BID has required a General Fund subsidy as collected assessments fell short of the costs of operating the BID. With the refunding of revenue in FY20 per the Council action rescinding the FY20 assessment, the General Fund is expected to need to reimburse the BID for expenses already accrued. Per the contract with PADBPA, the City acts as the collection agent for BID revenues and reimburses PADBPA's expenses after receipt and verification of invoices. If Council approves recommendation one there would be no expenditures in FY21, however a year-end contribution from the General Fund in an amount that is not expected to exceed \$70,000 would be needed to balance the fund in FY20.

If the Council approves recommendation option 2, then staff in coordination with the PADBPA would align expected revenues with expenditures to minimize any General Fund support necessary.

Additional resources include staff time from the City Manager's Office and Administrative

Services Department to provide oversight to the BID, administer the contract with Avenu, liaise with stakeholders, and prepare the annual reauthorization.

Stakeholder Engagement

Staff has coordinated with the chair of the PADBPA on the recommendations included this staff report.

Environmental Review

The proposed action is not a project for the purposes of the California Environmental Quality Act.

Attachments:

- Attachment A - Resolution Declaring Intention to Not Levy Downtown BID Assessment for FY21

Resolution No.

Resolution of the Council of the City of Palo Alto Declaring Its Intention to Temporarily Suspend the Levy of Assessments Against Businesses Within the Downtown Palo Alto Business Improvement District for Fiscal Year 2021; and Setting a Time and Place for a Public Hearing on the Proposed Suspension of Assessment on June 22, 2020 at 5:00 PM or Thereafter, in the Council Chambers

R E C I T A L S

A. The Parking and Business Improvement Area Law of 1989 (the "Law"), California Streets and Highways Code Sections 36500 et seq., authorizes the City Council to levy an assessment against businesses within a parking and business improvement area which is in addition to any assessments, fees, charges, or taxes imposed in the City.

B. Pursuant to the Law, the City Council adopted Ordinance No. 4819 establishing the Downtown Palo Alto Business Improvement District (the "District") in the City of Palo Alto.

C. The City Council, by Resolution No. 8416, appointed the Board of Directors of the Palo Alto Downtown Business & Professional Association, a California nonprofit mutual benefit corporation, to serve as the Advisory Board for the District (the "Advisory Board").

D. Since March 17, 2020, Santa Clara County together with all other Bay Area counties, have been under a Shelter in Place order issued by the County Public Health Officers due to the COVID-19 pandemic and statewide emergency.

E. Under the Shelter in Place order, most businesses in downtown Palo Alto were required to close. Most retail businesses were required to close entirely and restaurants were required to close to in-person dining.

F. Two months later, on May 22, 2020, retail businesses were allowed to open for curbside pickup only, but many businesses remain closed due in part to the strict protocols required to be implemented in order to open and the substantially reduced customer base with most downtown offices still closed and travel restricted under the modified Shelter in Place order.

G. COVID-19 and the measures to mitigate the spread have resulted in significant financial loss and uncertainty for huge numbers of people and businesses including those in Palo Alto. The financial impacts are anticipated to continue for months, if not longer.

H. In recognition of the current challenges affecting downtown businesses, the City Council on May 4, 2020, rescinded the previously levied assessments for the District for fiscal year 2020 (July 1, 2019 through June 30, 2020).

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF PALO ALTO RESOLVES AS FOLLOWS:

SECTION 1. The Council hereby adopts the above Recitals as findings of the Council.

SECTION 2. Based on the findings herein, the Council intends to suspend the levy and collection of assessments for the District for fiscal year 2021 (July 1, 2020 through June 30, 2021). The District shall remain in effect and the Council will consider the levy of assessments for following fiscal years.

SECTION 3. The City Council hereby fixes the time and place for a public hearing on the proposed suspension of levy of an assessment against businesses within the District for fiscal year 2021 as follows:

TIME: 5:00 p.m. or soon thereafter

DATE: June 22, 2020

PLACE: Conducted via Zoom Meeting

At the public hearing, the testimony of all interested persons regarding the suspension of levy of an assessment against businesses within the District for fiscal year 2021 shall be heard.

SECTION 4. The City Clerk is hereby authorized and directed to provide notice of the public hearing in accordance with law.

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NOT YET ADOPTED

SECTION 5. The Council finds that the adoption of this Resolution does not meet the definition of a project under Section 21065 of the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Administrative Services