

CITY OF SAN DIEGO COUNCIL DOCKET



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Myrtle Cole • Fourth District
Mark Kersey • Fifth District
Chris Cate • Sixth District
Scott Sherman • Seventh District
David Alvarez • Eighth District

Andrea Tevlin
Independent
Budget Analyst

Jan Goldsmith
City Attorney

Liz Maland
City Clerk

Council Chambers, 12th Floor, City Administration Building

Monday, May 11, 2015

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, MAY 11, 2015, AT 2:00 PM AND 6:00 PM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sandiego.gov>. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. Assistive Listening Devices (ALDs) are available in Council Chambers upon request.

Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY, CITY CLERK COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance based on when the item was noticed to be heard.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

The following item will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-200: Submission of City Clerk Certification of Sufficiency for Referendary
Petition - Resolution R-309505.

ITEM DESCRIPTION:

Information Item Only - Submit before Council the City Clerk Certificate of Sufficiency.

CITY CLERK'S RECOMMENDATION:

Informational item only.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None.

Maland

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Secondary Contact\Phone: Bonnie Stone\619-533-4060

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

The following item will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-201: Renewal of the Downtown Property and Business Improvement District (PBID).
(Centre City and Downtown Community Plan Areas. District 3.)

ITEM DESCRIPTION:

The term of the existing Downtown Property and Business Improvement District (PBID) ends June 30, 2015. The Downtown San Diego Partnership in conjunction with property owners developed a proposal (Plan) to renew the PBID for ten (10) years and submitted sufficient petitions to bring this matter to Council for consideration. On February 24, 2015, Council approved the Resolution of Intention declaring the City Council's intent to renew the PBID through June 30, 2025, to levy and collect assessments to pay a prescribed portion of the cost of future activities and improvements described in the Plan, directed the City Clerk and City staff to mail notices of the Public Hearing and Assessment Ballots to the PBID property owners and to hold a Public Hearing on May 11, 2015.

Today at the Public Hearing all persons may present written or oral testimony regarding the District and the levy of the proposed assessment and the City Council will consider all objections or protests, if any, to the levy of the proposed assessment. After the close of the public input portion of the Public Hearing, the ballots will be tabulated. If there is no majority protest then Council may renew the District by adopting the Resolution of Formation and may adopt a resolution approving the expenditure of funds for FY 2016.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-603)

Adoption of a Resolution considering the protests, approving the assessment formula, and authorizing the levy and collection of the assessment for the Downtown Property and Business Improvement District through June 30, 2025;

The City Clerk, or person designated by the City Clerk, and City contractor, have tabulated the ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. Based on this tabulation, the City Clerk and the City Council have determined that no majority protest exists, as that term is defined in California Government Code Section 53753(e)(4);

The proposed improvements, maintenance, and activities of the District can be generally described as activities and improvements which confer a benefit to assessed parcels and consisting of those items described in the District Plan. "Activities" means, but is not limited to, all of the following that benefit real property in the District: promotion of public events; furnishing of music in any public place; promotion of tourism within the District; marketing and economic development, including retail retention and recruitment; providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other services supplemental to those normally provided by the municipality; and providing other services for the purpose of conferring special benefit upon assessed real property located in the District. "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following: parking facilities; benches, booths, kiosks, display cases, pedestrian shelters and signs; trash receptacles and public restrooms; lighting and heating facilities; decorations; parks; fountains; planting areas; closing, opening, widening, or narrowing of existing streets; facilities or equipment, or both, to enhance security of persons and property within the area; ramps, sidewalks, plazas, and pedestrian malls; and rehabilitation or removal of existing structures;

The assessment shall be levied on each property within the District;

No bonds will be issued in connection with the District;

The exterior boundaries of the proposed District are identified on the District Map, a copy of which is on file with the City Clerk as Document No. RR-_____ and incorporated herein by reference;

The properties in the District are subject to any Amendments to Part 7 of Division 18 of the California Streets and Highways Code, presently consisting of Sections 36600-36671;

The improvements, maintenance, and activities to be conferred on properties in the District will be funded by the levy of the assessments. The revenue from the levy of assessments within a District shall not be used to provide improvements, maintenance, or activities outside the District or for any purpose other than the purposes specified in the Resolution of Intention;

The City Council finds that property within the District will be benefited by the improvements, maintenance, and activities funded by the proposed assessments and that property within the District will receive a special benefit. The total amount of all special benefits to be conferred on the properties within the District will equal the actual expenditure of assessment funds under the District Plan. The total estimated expenditure of assessment funds is approximately \$93,080,623.13 over the ten-year period, as set forth in Section V of the District Plan, and specifically identified in further detail in Appendix 6 of the District Plan. The methodology for calculation of assessments in relation to specific benefit zones is further described in the Resolution of Intention and Part VII of the District Plan;

The City Council hereby declares its intent to renew the District through June 30, 2025, and to levy and collect assessments to pay a prescribed portion of the cost of future activities, improvements, maintenance and/or services of those items described in the District Plan, located within the boundaries of the District, in the City under the provisions of PBID Law, Article XIID, Section 4 of the California Constitution, and California Government Code Sections 53739, 53750, 53753, 53753.5, and 54954.6;

The adoption of this resolution of formation for the renewal of the District, along with the recordation of the notice and map by the Clerk in the Office of the San Diego County Recorder in accordance with California Streets and Highways Code Section 3114, shall constitute the levy of an assessment in each of the fiscal years referred to in the District Plan;

The Chief Financial Officer is authorized to manually bill and collect District assessments as necessary and appropriate, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments;

The annual budget for the District shall be determined by and contingent upon approval by the City Council of the District budget resolution each fiscal year. The District budget resolution is subject to the City's Annual Appropriation Ordinance, as approved by the Mayor, or designee, and adopted by the City Council through the City annual budget process;

The Chief Financial Officer is authorized to establish an interest-bearing fund for the District;

The Chief Financial Officer is authorized to appropriate and expend from the District fund once it is established, consistent with the District Plan and all applicable District budgets, contingent upon the City Comptroller certifying that the funds necessary for expenditure are available;

The Chief Financial Officer is authorized to appropriate and expend District operating funds for Fiscal Year 2016, contingent upon approval of the City's Fiscal Year 2016 Appropriation Ordinance, and contingent upon the City Comptroller certifying that the funds necessary for expenditure are available;

The Chief Financial Officer is authorized to appropriate and expend funds from the General Fund and Gas Tax Funds for the purpose of paying for general benefits in the District, contingent upon approval of the City's Fiscal Year 2016 Appropriation Ordinance and contingent upon the City Comptroller certifying that the funds necessary for expenditure are available;

The City Council designates authority to the Mayor, or designee, to preclude the expenditure of all or any portion of District assessments during the pendency of any litigation that has been timely initiated to challenge the renewal of the District.

STAFF SUPPORTING INFORMATION:**FISCAL CONSIDERATIONS:**

If the PBID is renewed then an estimated \$7,400,335.38 of annual assessments are proposed to be levied and collected. This will include an amount for assessments on City parcels (Fiscal Year 2016 amount is \$498,748.06); and an allocation from the Gas Tax Fund would likely continue for median maintenance (Fiscal Year 2016 amount is \$19,437). Also, the PBID Administrator will have to provide funding for the general benefit portion of the proposed activities and improvements and that amount is estimated to be \$237,640.86. If the PBID is renewed and if a suit is filed, there may be a fiscal impact to the General Fund if funds are expended and litigation results in an adverse outcome.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council approved the establishment of the PBID on February 22, 2000 (R-292797), a 10-year renewal on June 14, 2005 (R-300533), the establishment of the Commercial Marketing District Zone (CMD) on September 25, 2015 (R-307698), and the First Amendment to the Operating and Management Agreement September/October 2012 (O-20206). PBID Budgets have been approved annually by Council (Fiscal Year 2015 heard July 22, 2014). A draft of the Plan was presented to Economic Development and Intergovernmental Relations Committee July 30, 2014, as an Information Item. Council approved the Resolution of Intention for Renewal of the PBID on February 24, 2015 (R-309520).

Moreno\Graham\mdb

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Secondary Contact\Phone: Elizabeth Studebaker\619-533-4561, MS 56D

City Attorney Contact: Skogen, Daphne Z.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

The following item will be considered in the evening session which is scheduled to begin at 6:00 p.m.

ITEM-202: Public Hearing and City Council Discussion on the Mayor's Proposed Fiscal Year 2016 Budget.

NOTE: Please see the following link to review the Mayor's Fiscal Year 2016 Budget.

<http://www.sandiego.gov/fm/proposed/index.shtml>

NON-AGENDA PUBLIC COMMENT WILL BE TAKEN AT 2:00 P.M.

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Per Section 22.0101, Rule 2.6.2, of the San Diego Municipal Code, comments are limited to two minutes per speaker. Speakers may not allocate their time to other speakers. If there are eight (8) or more speakers on a single issue, the maximum time allotted for that issue will be sixteen (16) minutes. Non-Agenda Comment is taken toward the end of the Monday afternoon Council session.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Mondays, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the Closed Session item number from the Closed Session Docket on the speaker slip. Speakers may speak "in favor" or "in opposition" to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Allow for questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in Closed Session; 4) Refer matters discussed to Closed Session.

NON-DOCKET ITEMS**ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES****ADJOURNMENT**