City of Culver City, California

Agenda Item Report

Meeting Date: 12/12/11	Item Number: PH-1
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING - (1) Adoption of a Resolution Confirming the Business Improvement District Advisory Board's Annual Report and the Levy of the Downtown Culver City Business Improvement District Assessment for 2012; and (2) Appointment of Members to the Business Improvement District Advisory Board for Calendar Year 2012.	
Contact Person/Dept.: Glenn Heald Todd Tipton/Community Development	Phone Number: 310-253-5752 310-253-5783
Fiscal Impact: Yes [X] No []	General Fund: Yes [X] No []
Public Hearing: [X] Action Item: []	Attachments: [X]
Commission Action Required: Yes [] No [X]	Date: ________________
Public Notification: (E-Mail and Telephone) Downtown Business Association (08/30/11); (E-Mail) Meetings and Agendas – City Council (12/08/11); Published in Culver City News (11/17/11).	
Department Approval: Sol Blumenfeld	City Attorney Approval: Carol Schwab (by H. Baker) (12/07/11)
Chief Financial Officer Approval: Jeff Muir (12/08/11)	City Manager Approval: John M. Nachbar (12/08/11)

RECOMMENDATION:

Staff recommends the City Council (1) adopt a Resolution confirming the Business Improvement District Advisory Board's Annual Report and the levy of the Downtown Culver City Business Improvement District (BID) for 2012 (Attachment No. 1); and (2) appoint members to the BID Advisory Board.

PROCEDURE (Noticed Public Hearing):

1. Mayor seeks motion from the City Council to receive and file the affidavits of publication and posting of notices, and correspondence received in response to the public hearing notices; and,
2. Mayor calls for a staff report and the City Council Members may pose questions to staff as desired; and,
3. Mayor seeks a motion to open the public hearing; and,
4. Mayor seeks a motion to close the public hearing after all public testimony has been presented; and,
5. The City Council discusses the item and arrives at its decision.

BACKGROUND:

The BID provides a mechanism for businesses to levy assessments on themselves for the promotion of business activities and public events; decoration of public places; and the acquisition, construction, installation and maintenance of specific improvements. The BID assessment reduces the downtown business community's dependency on the City and Redevelopment Agency.

On November 14, 2011, the City Council approved the BID's 2012 Annual Work Program and Budget, as filed with the City Clerk, adopted a Resolution to levy assessments on the Downtown Culver City Business Improvement District for 2012 and to conduct a public hearing on December 12, 2011. Additional information related to the Annual Work Program and Budget was included in the November 14, 2011, staff report, which is attached for review (Attachment No. 2).

DISCUSSION:

BID revenues are managed by the DBA in accordance with the Management Agreement between the City and the DBA, which details the responsibilities and obligations of both parties. During 2011, the BID reported approximately $153,277 in total BID assessment revenues and $29,640 in carryover funds from 2010. These funds were used toward the 2011 DBA BID Work Program with an anticipated carryover of $9,798 for 2012. This is further described in the DBA's Quarterly Financial Statements and Accounts Payable Summary, which are attached for reference (Attachment No. 3).

The following elements of the BID renewal process are outlined in summary form below due to their governance by State law: protest of the proposed assessment, appointment of BID Advisory Board members, and renewal of the Business Improvement District Management Agreement.

Protest of the Proposed Assessment

State Law [Streets and Highways Code Section 36525.(a)] states: "If written protests received from the owners of businesses in the proposed area which will pay fifty percent or more of the assessment proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that fifty percent, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the Resolution of Intention, shall be taken for a period of one year from the date of the finding of a majority protest by the Council."

BID Advisory Board Membership

State law requires the City Council to appoint a BID Advisory Board, which is responsible for compiling the Report. The Report identifies how BID assessment revenue will be spent, proposed improvements and activities, the classification of businesses, the method and basis of levying assessments, and other matters the Advisory Board deems appropriate.

The BID Advisory Board members for 2011 are:

1) Ken Kaufman – Business Owner
2) John Byers – Business and Property Owner
3) Stu Freeman - Property Owner
4) Eric Sims – Business Representative
5) Debbie Weiss – Business and Property Owner
6) Milena Alunni – Business Owner

The DBA recommends the following BID Advisory Board Members for 2012:

1) John Byers – Business and Property Owner
2) Stu Freeman - Property Owner
3) Eric Sims – Bus Representative
4) Debbie Weiss – Business and Property Owner
5) Milena Alunni – Business Owner
6) Kathryn Lundeen – Business Owner

As part of the Management Agreement between the City and the DBA, all members of the BID Advisory Board must be in good standing with the City, Redevelopment Agency, and BID in terms of business tax payments, BID assessments, refuse billing and Redevelopment Agency debt agreements. The Finance Department has no record of debt to the City, Redevelopment Agency, or BID by any of the individuals recommended for appointment. The City Council may appoint the persons recommended by the DBA or appoint persons to the BID Advisory Board.

Management Agreement

The current Management Agreement between the City and the DBA remains valid through December 31, 2012. The Management Agreement requires the DBA to maintain tax-exempt status with the Internal Revenue Service (Attachment No. 4) and to maintain valid General liability Insurance (Attachment No. 5)

FISCAL ANALYSIS:

There is no significant fiscal impact to the City by approving a one year extension of the BID program; though there may be incidental expense to the City in staff time spent preparing and presenting the two required staff reports. The collection and distribution of BID assessments is offset by the City's two percent (2%) administrative fee included in the Management Agreement between the City and the DBA.

ATTACHMENTS:

1. Resolution to Confirm Annual Report and Levy the Proposed Assessment for 2012.
2. Staff Report for the November 14, 2011 meeting of City Council, *Approval of the Downtown Culver City Business Improvement District Advisory Committee's Annual Work Program and Budget, and Adoption of a Resolution of Intention to Conduct a Public Hearing for Continuation of the Downtown Business Improvement District.*
3. DBA Quarterly Financial Statements and Accounts Payable Summary.
4. Internal Revenue Service Tax-Exempt Certification.
5. DBA Certificate of General Liability Insurance.

MOTION:

That the City Council:

1. ***(If there is a majority protest)*** Approve a motion recognizing that protests have been received from the owners of businesses in the proposed district which represent fifty percent or more of the assessment proposed to be levied, and no further proceedings to continue the Downtown Culver City Business Improvement District shall be taken for a period of one year from the date of this meeting.

OR

2. ***(If there is not a majority protest)*** Adopt a resolution confirming the Business Improvement District Advisory Board's Annual Report and the levy of the Downtown Culver City Business Improvement District Assessment for 2012; and,
3. Appoint members to the Business Improvement District Advisory Board; and,
4. Authorize the City Attorney to review and prepare the necessary documents; and,
5. Authorize the City Manager to execute such documents on behalf of the City.