

**City of Culver City, California
Agenda Item Report**

Meeting Date: <u>07/13/09</u>		Item Number: <u>PH-2</u>
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING - (1) Declare the Results of the Assessment Ballot Tabulation for Landscape Maintenance District #1 and, if approved, (2) Approve a Resolution to Confirm the Annual Levy for Said District		
Contact Person/Dept.: Mate Gaspar/PW		Phone Number: (310) 253-5602
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐
Public Hearing: ☒	Action Item: ☐	Attachments: ☐
Commission Action Required: Yes ☐ No ☒		Date: _____
Public Notification: (Mail) Property Owners (05/22/09); Agendas and Meetings – City Council (07/08/09)		
Department Approval: Charles D. Herbertson (07/02/09)		City Attorney Approval: Carol Schwab (by H. Baker) (07/07/09)
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (07/08/09)		City Manager Approval: Mark Scott (07/08/09)
<u>RECOMMENDATION:</u> Staff recommends the City Council (1) declare the results of the assessment ballot tabulation for the Landscape Maintenance District #1 and, if approved, (2) approve a resolution to confirm the automatic annual levy for said District. <u>PROCEDURE:</u> 1. Mayor seeks motion from 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 ballot tabulation; and, 4. Mayor seeks a motion to close the public hearing after all public testimony has been presented and all ballots have been tabulated; and, 5. The City Clerk announces the results of the tabulation of the ballots; and, 6. City Council discusses the item and arrives at its decision.		

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BACKGROUND:

LMD #1 consists of two zones (Zone 1: Studio Estates and Zone 2: Ballona Creek east of Overland Avenue adjacent to Jefferson Business Park) and was created for the purpose of providing on-going maintenance of landscaping within the District.

On May 26, 2009, the City Council approved the preliminary Engineer's Report for proceedings for the assessment increase, declared its intention to levy and collect assessments, set the date, time and place for the Public Hearing, and ordered the initiation of assessment ballot procedures, in accordance with Proposition 218 requirements.

Pursuant to the Culver City Municipal Code and Article XIID of the Constitution of the State of California, the ballot for the assessment increase and the notice of public hearing were created and mailed on May 27, 2009 to all property owners of record within the District.

DISCUSSION:

This year, staff is proposing the assessment district levy be modified to provide for an annual increase based on the Consumer Price Index (CPI) plus 5%. If approved by the property owners in the District, the annual CPI increase would be applied with an additional 5% premium each year until the total revenues generated from the District match the annual expenditures and the fund has a positive balance.

Assessment District Balloting Process – Majority Protest

In compliance with Proposition 218 and pursuant to Resolution 2009-039 adopted by the City Council on May 26, 2009, a ballot was created and mailed to the property owners in the District. For Zone 1, each property owner's vote is weighted the same as the other property owners. For Zone 2, under Proposition 218 a property owner's vote is weighted proportionately to the amount of the proposed assessment to be levied on the owner's property. A property owner with a higher assessment would have more "votes" than a property owner with a lower assessment.

Property owners may submit their ballot up to the close of the public hearing. The City Clerk will then tally the results of the balloting and announce the results of the tally to the City Council (the City Clerk may request the City Council either declare a short recess or consider another item while the tally is in process).

A majority protest exists if the assessments represented by ballots submitted in opposition exceed those submitted in favor of the assessment increase. If there is no majority protest as described above, the City Council may approve the proposed

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increase in the assessments. In the case where a majority protest exists, the City Council may not proceed with the increase in assessments.

Absent a Majority Protest, the proposed resolution includes the direction to levy such assessments upon the respective lots or parcels within the District as set forth in the Engineer's Report. The assessment shall then be filed in the Office of the City Clerk and available for public inspection. Should the City Council adopt the proposed resolution, the City Clerk will be directed to immediately file a certified copy of the assessment with the County Assessor's Office. After the filing of the assessment, the County Assessor's Office shall enter onto the County tax roll opposite each lot or parcel of land, the amount assessed thereon as shown in the assessment. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection of the assessments.

Should a Majority Protest occur, staff recommends to return to the City Council on July 27, 2009, to present options on maintaining the District either by a reduction in services or subsidy from the General Fund, receive direction, and then approve a resolution to levy the existing annual assessment.

FISCAL ANALYSIS:

As contained in the Engineer's Report, if a majority protest is not received, each fiscal year beginning with Fiscal Year 2009/2010, the maximum amount of each assessment (the "Maximum Assessment") shall be increased by the February Consumer Price Index for all Urban Consumers for Los Angeles – Riverside – Orange County area plus 5%. The annual assessment shall not exceed the Maximum Assessment, unless the appropriate proceedings (including those required under Proposition 218 and other applicable law) are conducted by the City to authorize an increase beyond the Maximum Assessment amount. Assessment receipts will be deposited in account 42533100.365910 – Landscaping District #1.

ATTACHMENTS:

1. Proposed Resolution
2. Engineer's Report

MOTION:

That the City Council:

1. Declare the results of the assessment ballot tabulation for Landscape Maintenance District #1; and,

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2A. (In the Case a Majority Protest is NOT received) Approve a resolution to order the annual levy (including a 5% CPI increase);

OR

2B. (In the Case a Majority Protest is received) Direct staff to return on July 27, 2009, with a report on options for maintaining the District.