



City of San Leandro

Meeting Date: December 3, 2012

Ordinance

File Number: 12-538 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.D.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Business Development Manager

FINANCE REVIEW: Not Applicable

TITLE: ADOPT: Ordinance No. 2012-014, an Ordinance Adding Title 2, Chapter 2-20 to the San Leandro Municipal Code Relating to the Establishment of Community Benefit Districts (enhances the ability of the City and property owners to establish property and business improvement districts aimed at improving the quality of life in neighborhood and mixed use commercial districts)

WHEREAS, there are property owners in the City of San Leandro who desire to form property-based assessment districts for the purpose of enhancing the security, safety, appearance, and economic viability of their environs; and

WHEREAS, the California Streets and Highways Code provides for the establishment of a property-based improvement district and requires that property owners in the proposed district submit a petition signed by property owners who will pay more than fifty (50) percent of the assessments proposed to be levied; and

WHEREAS, the City Council believes that the fifty (50) percent petition requirement may result in areas with a large percentage of absentee property owners being denied the ability to vote on the merits of establishing a property and business improvement district; and

WHEREAS, the California Streets and Highways Code limits the maximum number of years during which an assessment can be levied to five, and the City Council believes that it would be in the best interests of some property and business improvement districts to plan for expenditures in excess of five years, such as expenditures for the maintenance of improvements; and

WHEREAS, the City Council desires to enact an enabling ordinance that will be responsive to the needs of property owners in the City by reducing the requisite property owner participation in the weighted petition to thirty (30) percent and increasing the maximum number of years for which an assessment may be established to twenty (20) years for the purpose of funding special benefits conferred upon real property owners; and

WHEREAS, the City of San Leandro is a Charter City and the establishment of Community Benefit Districts and the levying of assessments therefor is a municipal affair; and

WHEREAS, the City desires to establish a simplified procedure that permits full compliance with the requirements of the California Constitution.

NOW, THEREFORE, the City Council of the City of San Leandro does **ORDAIN** as follows:

SECTION 1. PURPOSE. The purpose of this Chapter is to allow for the formation of Community Benefit Districts within the City.

SECTION 2. AMENDMENT OF CODE. Title 2, Chapter 2-20 of the San Leandro Municipal Code is hereby added as follows:

2-20-010 PURPOSE.

The purpose of this ordinance is to enhance the ability of the City and property owners to establish property and business improvement districts pursuant to the Property and Business Improvement District Law of 1994 (Streets & Highways Code Section 36600 *et seq.*) by: (1) reducing the percentage of property owners whose signatures are required to initiate formation of, or petition for disestablishment of, a Property and Business Improvement District ("Property BID") from fifty percent (50%) of the weighted property owners, as authorized by the Property and Business Improvement District Law of 1994, to thirty percent (30%) of the weighted property owners; (2) extending the period for which a Property BID may exist from five years, as authorized by the Property and Business Improvement District Law of 1994, to twenty years; and (3) authorizing the reimbursement of formation costs.

2-20-020 ALTERNATIVE PROCEDURES.

- A. The procedures established in this Chapter shall be additional to any other procedure established by ordinance or state law, and are intended to supplement those procedures.
- B. In forming assessment districts to fund activities and improvements that confer a special benefit on property, the City Council may elect to use the procedures set forth in the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 *et seq.* (the "PBID Law") as modified by this Chapter. The City Council shall be bound by, and comply with, applicable state law governing the establishment and operation of property and business improvement districts in all respects not inconsistent with this Chapter.
- C. An assessment district established pursuant to this Chapter shall be denominated as a "Community Benefit District" or "District" and the assessment levied in connection with such a district shall be denominated as a "Community Benefit Assessment."
- D. Except where otherwise provided in this Chapter, "Community Benefit District" shall have the meaning given to "Property and Business Improvement District" by Section 36611 of the PBID Law and each reference in the PBID Law to a "Property and Business Improvement District" or a "District" shall be deemed also a reference to a "Community Benefit District."

- E. Except where otherwise provided in this Chapter, "Community Benefit Assessment" shall have the meaning given to "Assessment" by Section 36606 of the PBID Law and each reference in the PBID Law to an "Assessment" shall be deemed also a reference to a "Community Benefit Assessment."

2-20-030 PETITION REQUIREMENT.

Upon the written petition, signed and acknowledged, of the property owners in the proposed district who will pay more than thirty (30) percent of the assessments proposed to be levied, the City Council may initiate proceedings to form a Community Benefit District by adopting a resolution expressing its intention to form a Community Benefit District. The amount of assessment attributable to property owned by the same property owner that is in excess of twenty percent (20%) of the amount of all assessments proposed to be levied shall not be included in determining whether the petition is signed by property owners who will pay more than thirty percent (30%) of the total amount of assessments proposed to be levied.

2-20-040 ADVANCE AND REIMBURSEMENT OF FORMATION COSTS.

- A. The City Council may authorize a District formed pursuant to this Chapter to recover through assessments the costs incurred in forming the District, including:
 - 1. The costs of preparation of the management plan and engineer's report required by state law;
 - 2. The cost of circulating and submitting the petition to the City Council seeking establishment of the District;
 - 3. The costs of printing, advertising and the giving of published, posted or mailed notices;
 - 4. Compensation of any engineer or attorney employed to render services in proceedings under this chapter or the PBID Law; and
 - 5. Costs associated with any ballot proceedings required by law for approval of a new or increased assessment. If the District will be authorized to recover these costs, the management plan required pursuant to Streets & Highways Code Section 36622 shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

- B. The City may advance funds for the first year of a District so that the District can commence work prior to the initial collection of the assessments. The funds advanced will not exceed the total assessment for the first year. The funds advanced shall be repaid, with interest, within five (5) years of the collection of the first annual assessment.

2-20-050 DURATION OF A COMMUNITY BENEFIT DISTRICT.

A Community Benefit District established pursuant to this chapter may have a duration of up to twenty (20) years, if so specified in the resolution of intention.

2-20-060 DISESTABLISHMENT OF A COMMUNITY BENEFIT DISTRICT.

- A. Any Community Benefit District established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the City Council in either of the following circumstances:
1. If the City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
 2. During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or of businesses in the area who pay thirty (30) percent or more of the assessments levied, the City Council shall pass a resolution of intention to disestablish the district. The City Council shall notice a hearing on disestablishment.
- B. The City Council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel subject to assessment in the district, as appropriate. The City shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.
- C. Upon the disestablishment of the Community Benefit District, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.
- D. If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other

person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Introduced by Councilmember Reed on this 19th day of November, 2012, and passed to print by the following called vote:

Members of the Council:

AYES:	Councilmembers Cutter, Dlugosh, Gregory, Prola, Reed, Souza; Mayor Cassidy	(7)
NOES:	None	(0)
ABSENT:	None	(0)