



Council Meeting: April 24, 2012

SUBJECT: Approval of Downtown Sunnyvale Business Improvement District Annual Report for FY 2011/2012 and Adoption of the Resolution of Intention to Reauthorize the Downtown Sunnyvale Business Improvement District for FY 2012/2013

REPORT IN BRIEF

As part of the annual Downtown Sunnyvale Business Improvement District (BID) reauthorization, the BID Board (Board) is presenting the BID Annual Report for fiscal year 2011/2012 for Council approval (Attachment A). Council is also being asked to adopt a Resolution of Intention (ROI) (Attachment C) to begin the BID renewal process for fiscal year 2012/2013.

Staff recommends that Council approve the BID Annual Report, adopt the ROI to begin the process for reauthorization of the fiscal year 2012/2013 Downtown Sunnyvale BID, and set a BID public hearing date for May 22, 2012. In addition, staff recommends denying the BID's request for City funding of \$27,000.

BACKGROUND

A BID is a private sector funding tool that provides funding for specific activities that must be reauthorized yearly by the City Council at the request of the BID Board. Businesses pay into the BID based on the benefit they receive as members of the district. The funds collected can only be used for projects within the BID boundaries. The BID maintains full control of all BID funds collected, which is a strong sales tool when asking for support from business owners at the time of BID annual renewal.

Per the Sunnyvale Municipal Code, the formula for calculating the BID assessment amount is determined by the BID Board, not the City. Assessments are levied on businesses on the basis of relative benefit from the activities to be funded. The City collects the assessment fee and forwards the collected funds to the BID. The City does charge the BID a fee for administrative costs associated with this service. The cost is reviewed and adjusted annually as needed. The BID Board has requested that the BID be reauthorized for fiscal year 2012/2013.

Downtown Sunnyvale BID

Approximately 130 businesses are located in the BID area, bounded by Sunnyvale, Iowa, Mathilda and Evelyn Avenues. The current Board members are:

- Joe Antuzzi, Il Postale Restaurant
- Gary Hurd, French Quarter
- Johnny Sevey, Rok Bistro
- Kathy Johnson, Broadcom
- Leigh Odum, Leigh's Favorite Books
- Gary Gold, Dr. Gold's Eyes
- Joel Wyrick, SDA/BID Executive Director (non-voting member)

EXISTING POLICY

Municipal Code Section 3.60.110—Downtown Business Improvement District, Annual Budget Process.

Land Use and Transportation Element

Policy LT-7.4 Create a strong, identifiable central business district that provide regional and citywide shopping opportunities.

DISCUSSION

The Board is requesting that the BID be renewed for fiscal year 2012/2013. As of April 1, 2012, the BID collected a total of \$26,380 in assessments for fiscal year 2011/2012. The proposed BID budget, as approved by the BID Board, for fiscal year 2012/2013 is \$166,500. This proposed budget includes \$27,000 from assessments; \$112,500 from special events, such as the Summer Music Series (see Attachment B). In addition, the BID Board is requesting that the City match the \$27,000 assessment revenue with an additional \$27,000 from General Fund monies.

Staff does not recommend approval of the \$27,000 funding request for several reasons. The City already supports the BID in numerous ways. City staff has worked hard to attract new businesses to downtown Sunnyvale. Those new attractions include Nokia and Apple. In addition to Nokia and Apple, there have been several new businesses that have moved to downtown Sunnyvale into the JP Morgan Buildings as well as some turn over on Murphy Avenue. Also, based on the BID's budget, the BID is currently operating with a net profit (see Attachment B). It is unclear from the request how the additional funds will be used or how their programs will be impacted by the additional \$27,000 requested.

The Sunnyvale downtown BID is mainly a marketing organization. In fiscal year 2011/2012, the BID continued to produce events to draw visitors to downtown Sunnyvale. Some of the events included the Summer Music Series, the Jazz & Beyond Series, and the Holiday Tree Lighting. These events attracted visitors and continue to provide close to 70 percent of the BID's annual revenue. Additional marketing was done through print media in the Sunnyvale Chamber of Commerce's city map and continued enhancements to the BID's website. The website includes an online listing of BID member businesses and updates on downtown events and projects.

In addition, City staff has fast tracked several projects in the downtown area to attract additional businesses and people to the area. The two major projects are Solstice and Carmel Lofts, both will be built on the former Town & Country site. The Solstice project will have room for about 10-15 new retailers and restaurants. The Carmel Lofts will have room for about five additional retailers. Both of these projects should be completed by late 2013. The BID will have an opportunity to work with these new businesses to generate additional revenue.

The Sunnyvale Town Center is included as a Zone C participant. Section 10.05 of the 2010 Amended Disposition and Development and Owner Participation Agreement (ADDOPA) between the Successor Agency to the City of Sunnyvale's Redevelopment Agency and Wells Fargo Bank requires the developer to support a BID in downtown Sunnyvale.

During fiscal year 2013/2014, the BID Board will explore expanding the BID boundaries to potentially include the businesses located on the south side of Iowa Avenue (between Mathilda and Sunnyvale Avenues) and the west side of Mathilda (between Iowa and Washington). The increased boundaries will allow the BID to generate additional revenue.

If Council adopts the ROI, a public hearing is required to receive input from affected businesses regarding their issues, concerns, and support of a BID. The BID cannot be reauthorized if businesses paying 50 percent or more of the assessment file a protest. If reauthorized, the BID will use the same boundaries, benefit zones, and assessment methodology as in past years (Attachment C, Exhibit A). The ROI (Attachment C) describes proposed boundaries as well as the time and place for the public hearing, scheduled for May 22, 2012. Notice of the public hearing on the BID will be published in a local newspaper such as the *Sunnyvale Sun* or *The Mercury News*. The City Council must hold the public hearing on May 22, 2012 to consider all oral and written protests received on or before that date regarding the BID reauthorization for fiscal year 2012/2013.

FISCAL IMPACT

Staff time from the Department of Finance is provided at an estimated cost of \$2,500 annually, which is currently budgeted in the department's operations budget. Because these costs are reimbursed by the BID, there is no impact to the General Fund for providing this service.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. Additional outreach was done by the BID Board through e-mail communications to their members.

ALTERNATIVES

1. Approve the Fiscal Year 2011/2012 BID Annual Report, adopt the Resolution of Intention, and schedule a public hearing for May 22, 2012 to reauthorize the Business Improvement District for Fiscal Year 2012/2013.
2. Do not approve the BID's request for matching funds.
3. Approve the BID's request for matching funds.
4. Do not approve the BID Annual Report for Fiscal Year 2010/2011 or the Resolution of Intention for BID reauthorization.
5. Continue items and modify public hearing schedule to adhere with legal requirements for scheduling of actions.

RECOMMENDATION

Staff recommends approval of Alternatives #1 and #2.

The BID Board communicates with businesses within the BID boundaries to keep them informed about current projects affecting downtown as well as other issues and programs. The BID offers businesses the means to pool their resources by assessing themselves to collectively pay for programs which would not be possible on an individual basis. Also, the BID Board continues to work to promote the downtown by maintaining an active website as well as other promotions through its downtown events. BID members continue to volunteer their time in pursuing the success of the Downtown Sunnyvale BID.

Staff recommends denying the BID's request for additional funding. As previously mentioned City staff is a BID partner and can continue being a partner without direct financial assistance. Most funding for downtown

associations is derived from business memberships/assessments. Some cities used to fund their downtown associations with redevelopment funds. This type of funding has been eliminated with the dissolution of redevelopment agencies.

Reviewed by:

Robert Walker, Assistant City Manager
Prepared by: Connie Verceles, Economic Development Manager

Reviewed by:

Grace Leung, Finance Director

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. BID Annual Report
- B. BID Budget Report
- C. Resolution of Intention to Reauthorize the Downtown Sunnyvale Business Improvement District for Fiscal Year 2012/2013



March 1, 2012

TO: Mayor and City Council members
City of Sunnyvale

FROM: Joel Wyrick & The BID Board
Sunnyvale Downtown Association (SDA)

RE: State of the BID/SDA

Dear Sirs and Ma'am,

On March 7, 2012 the Board of Director's approved the renewal of the BID. Attached (Exhibit A) is a copy of the SDA's expense & revenue report for July 1, 2011 through June 30, 2012 along with projections for the 2012/13 fiscal year.

Past

Our start-up funding comes from the BID, which amounted to approximately \$28,197. For our 2012/13 fiscal year the SDA staff and Board decided to use the monies to produce The Magic of Sunnyvale Wine Stroll, Summer Series Music + Market, The Jazz & Beyond Series, Howl'oween Pet Parade and the Holiday & Christmas Tree Lighting. The production of last year's events grossed 106k from the sales, sponsorships and grants.

Present/For the Year

The Board approved the Executive Director's annual budget and his recommendations for the upcoming 2012 year.

Event Revenue & Overview

For 2011, all events with exception of the Jazz & Beyond Series stayed within budget. The Jazz & Beyond series lost money due to a communication between the SDA, public safety and the City that has been rectified for this upcoming year. The Howl'oween Pet Parade did not occur in 2011 and we plan to bring it back if the budget permits. The pet parade continues to be our community collaborative event between the Sunnyvale Chamber, Rotary, Kiwanis Club, businesses outside of the BID and neighborhood associations. Although the Howl'oween Pet Parade won't ever generate much income for the BID members, it falls into our mission statement, "...to promote, advocate and add vitality to downtown Sunnyvale." As in years past The Christmas Tree Lighting has no sales associated with the event but turns a profit due to very little City service fees attached to the event and good sponsorship support. Our new event for 2011 The Magic of Sunnyvale Downtown Wine & Food Stroll was a surprising success! With the upcoming development of the former Town Center and Town and Country sites we as an organization need to focus our marketing efforts to include activities not just on Murphy Avenue. This event has an inherent component to involve BID members outside of Murphy Avenue.

Event Sponsorships

Once again, despite the continued weakened economy the staff was able to secure strong sponsorships for last year's events. We hope to have an even year as we continually foster new business partnerships with the likes of Apple, Nokia, Carmel Properties as well as continued support from Broadcom, Palo Alto Medical Foundation and BRE.

Future

The BID Board strongly recommends that we continue the BID assessment. The BID serves as the SDA's seed money. Without the BID, we couldn't provide the services and events to our community. The BID will continue with producing quality events and promoting downtown Sunnyvale as a good place to visit shop and do business. These events are especially important to continue to attract patrons to downtown during these tough economic times as well as the continued construction of the Town Center and Town and Country Center.

As we know, the BID is a self-imposed tax of the downtown businesses. Outside of paying their standard fees, taxes and licenses associated with owning and operating a business these businesses have been and continue reach into their pockets and come up with additional monies to: promote market and create events for the City of Sunnyvale and our community. As we look to the future we need to prepare to be able to handle the difficult task of competing with the likes of Santana Rows and other downtowns. In order to compete now and the future we ask that the city council consider matching the contribution made by the businesses. There are two fundamental reasons why. One, most of our events should be City partnered events. We are one of the few cities who doesn't partner or produce large community events for their downtown community. History has shown that the SDA can produce events at a fraction of the cost of what the City would have to pay and still provide a safe quality event. Of course, the City would have direct input and final approval on where or what their contribution will be used for. Secondly, these matching dollars will enable us to compete with the other communities by producing yearlong quality events, retain quality staff and market our city/downtown through our website and visitors guide.

All of the marketing, events and activities produced by the SDA is a direct reflection of our City we need the city of Sunnyvale to be a fiscal partner. Of course should the businesses decide to no longer pay into the BID the city shouldn't either.

The last remaining piece to the BID would be the expansion of the BID footprint to include the eastside of Mathilda and the south side of Iowa. We feel this would be a logical move to include both sides of the street like we do for Evelyn Avenue and Sunnyvale Road.

Commercial marketing and promotion will continue. Resources for marketing will include local and regional publications. Maintenance of the SunnyvaleDowntown.com site will continue in order to maintain an internet presence.

Overview

During the course of the year I have spoken to many other downtown associations in the bay area. I am proud to say arguably we are the most productive downtown association of those I have talked to. Considering the seed money we start associations are quite surprised with our efficiency and the amount of events and services we provide our BID members. We continually seek out ways to create an even more attractive downtown for the community and its visitors; give the patron even more reasons to visit our downtown so that our existing businesses survive these harsh economic times.

We look forward to working with the new developer (of the former Town Center site) and hope that the City includes the SDA in its dialogue. The SDA strongly believes that mitigation fees should be part of this dialogue and be re-instituted as soon as a new developer takes over the project. Block 18 is paramount in the making a vibrant downtown Sunnyvale and allowing the SDA to be part of the process would only make it an even better place to live, work and play.

ATTACHMENT A

Proposed projects are based on the proposed budget for 2012. Projects/events will be modified based on budget actuals as assessments are made and sponsorships are received.

Thank you for your support and once again please support our request to continue the BID assessments.

If you have any questions please do not hesitate to call the SDA at 408-516-7217.

SDA ORGANIZATION EXPENSE & REVENUE F				2011-12	2012-13	Notes & Comments
				Actual	Projected	Projected
EXPENSES						
	Advertising, Promotion & Marketing			\$ -	\$ 5,000.00	Visitor's Guide
	Commissions & Fees (memberships, etc.)			\$ -	\$ -	
	Conferences, meetings & seminars (attended)			\$ -	\$ -	
	Contract Labor			\$ 28,800.00	\$ 39,600.00	
	Dues/Subscriptions/Contributions			\$ -	\$ -	
	Employee Health Benefits			\$ -	\$ -	
	Events (costs directly associated with the event)					
	Magic of Sunnyvale Wine & Food Stroll			\$ 10,554.68	\$ 11,000.00	
	Summer Series Music + Market			\$ 45,537.92	\$ 48,000.00	
	Jazz & Beyond			\$ 27,342.57	\$ 22,000.00	
	Howl'oween Pet Parade & Faire			\$ -	\$ 7,000.00	
	Holiday Christmas Tree Lighting			\$ 6,944.69	\$ 8,000.00	
	Sunnyvale Downtown Cinema					subject to funding
	Finance Services Charges				\$ -	
	Insurance					
	General			\$ 2,786.42	\$ 3,000.00	
	Directors & Officers			\$ -	\$ -	
	Workman's Compensation			\$ -	\$ -	
	Janitorial & Cleaning			\$ -	\$ -	
	Legal & Accounting			\$ 496.00	\$ 500.00	
	Audit			\$ -	\$ -	
	Legal			\$ -	\$ -	
	Maintenance, Beautification & Repair (incl murphy lights)			\$ -	\$ 1,250.00	
	Office Supplies			\$ 50.00	\$ 250.00	
	Payroll Taxes			\$ -	\$ -	
	Postage			\$ -	\$ -	billed to individual projects
	Printing & Reproduction			\$ -	\$ -	billed to individual projects
	Purchases			\$ -	\$ -	
	Rent			\$ 2,409.69	\$ 12,000.00	(no office 2012 - PO box & Pod)
	Staff Salaries				\$ -	none we subcontract everything
	Supplies (non office)			\$ -	\$ 250.00	
	Taxes, Licenses & permits			\$ 30.00	\$ 100.00	
	Telephone/ Internet/Website			\$ 1,260.00	\$ 1,300.00	
	Travel & Entertainment			\$ 580.00	\$ 600.00	
	Utilities			\$ -	\$ -	
TOTAL EXPENSES				\$ 126,791.97	\$ 159,850.00	
REVENUE						
CONTRIBUTED & SPONSORSHIP INCOME						
	Grants					
	City/Government					
	Community Events Grant			\$ -	\$ -	
	Community Development Block Grant			\$ -	\$ -	
	Matching BID			\$ -	\$ 27,000.00	
	Corporate/Foundations					
	Mitigation			\$ -	\$ -	
	Other					
SUBTOTAL - GRANTS				\$ -	\$ 27,000.00	
	Projects & Events Sales (incl. vendors)					
	Magic of Sunnyvale Wine Stroll			\$ 22,694.00	\$ 23,000.00	

	Summer Series Music + Market	\$ 55,886.00	\$ 56,000.00	
	Jazz & Beyond	\$ 20,453.00	\$ 21,000.00	
	Howl'oween Pet Parade & Faire	\$ -	\$ 5,000.00	
	Holiday Tree Lighting Celebration	\$ 7,400.00	\$ 7,500.00	
	SUBTOTAL - PROJECTS & EVENTS	\$ 106,433.00	\$ 112,500.00	revenue includes sponsorships
	SDA Memberships			
	BID Fees	\$ 26,231.34	\$ 27,000.00	
	SUBTOTAL - SDA MEMBERSHIPS	\$ 26,231.34	\$ 27,000.00	
	TOTAL REVENUE	\$ 132,664.34	\$ 166,500.00	
	NET PROFIT/LOSS	\$ 5,872.37	\$ 6,650.00	

RESOLUTION NO. _____

**RESOLUTION OF INTENTION OF THE CITY COUNCIL
OF THE CITY OF SUNNYVALE TO REAUTHORIZE THE
DOWNTOWN SUNNYVALE BUSINESS IMPROVEMENT
DISTRICT AND HOLD A PUBLIC HEARING**

WHEREAS, under California Streets and Highways Code Section 36500, *et seq.*, the City Council of the City of Sunnyvale is authorized to reauthorize an improvement district and to act as the legislative body for an improvement district; and

WHEREAS, the City Council now desires to proceed with the reauthorization of an improvement district in order to finance improvements and/or activities necessary or incident to development in the City of Sunnyvale.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. Authority. The City Council proposes to conduct proceedings and declares its intention to reauthorize an improvement district pursuant to California Streets and Highways Code Section 36500, *et seq.*
2. Name. The name of the district will continue to be the "Downtown Sunnyvale Business Improvement District" (the "District").
3. Boundaries. The boundaries of the entire area included in the District, and the boundaries of each separate benefit zone within the District, are set forth in the map attached hereto as Exhibit A and incorporated herein by reference. A true and correct copy of the map is on file with the City Clerk of the City of Sunnyvale.
4. Annual Report. A Report with a detailed description of the improvements and activities is on file in the office of the City Clerk and is included in the Report to Council No. 12-104 as Attachment A. This Report is a two-year report for the years 2011-2012 and 2012-2013.
5. Improvements. A Report with the types of improvements and activities proposed to be funded by the levy of assessments on businesses in the District is on file in the office of the City Clerk (See Attachment B to Report to Council No. 12-104, April 24, 2012).
6. Benefit Fee. The City Council intends to levy an annual benefit fee on businesses in the District to pay for selected improvements and activities of the District. All funds of the District shall be expended on improvements and activities within the District. The method and the basis for levying the benefit fee on all businesses within the District are set forth in Exhibit A.
7. Exemption. New businesses shall be exempt from payment of the fee until the next period following the commencement of operations if the business.

8. Public Hearing. A public hearing to reauthorize the assessment is hereby set for _____, 2012, at 7:00 p.m., before the City Council of the City of Sunnyvale, at Council Chambers, City Hall, 456 West Olive Avenue, Sunnyvale, CA.

(a) Testimony. At the public hearing the testimony of all interested persons, for or against the reauthorization of the District, interested in matters concerning the boundaries of the District, the areas of benefit within the District and the assessments to be levied, will be heard.

(b) Protest(s). A protest against the reauthorization of the District, or any aspect of it, may be made orally or in writing. Any oral protest shall be made at the said public hearing. To count in the majority protest against the District, a protest must be in writing. A written protest may be withdrawn from record at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is not shown on the official records of the City of Sunnyvale as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or sufficiency of the proceedings shall be in writing and clearly state the irregularity of defect to which objection is made.

If, at the conclusion of the public hearing, there are of record, written protests by the owners of the businesses within the District that will pay fifty percent (50%) or more of the total assessments of the entire District, no further proceedings to reauthorize the District shall occur. New proceedings to form a District shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council. If the majority of written protests are only as to an improvement or activity proposed, then that type of improvement or activity shall not be included in the District.

9. Notice of Public Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by causing copies of this resolution to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of this Resolution in a newspaper of general circulation once, at least ten (10) days before the hearing, and a list of places where copies of this resolution are posted.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

Proposed Annual BID Benefit Fee Schedule

	ZONE A	ZONE B	ZONE C
Retailers, Restaurants, Bars	\$500	\$300	\$150
Service Businesses	\$300	\$200	\$100
Lodging	\$10/rm.	\$10/rm.	\$10/rm
Professional Services Businesses	\$100	\$100	\$100
Financial Institutions	\$500	\$500	\$500

Business type definitions:

Retail and Restaurant: Businesses that buy and resell goods, examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods and drinks.

Service Businesses: Businesses that sell services. Examples are beauty and barber shops, repair shops, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Lodging: Includes renting rooms by the day or week to community visitors.

Professional Services Businesses: Includes Architects, Engineers, Attorneys, Dentists, Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

Financial Institutions: Includes banking and savings and loan institutions as well as credit unions, etc.

