

**REPORT TO THE
CITY COUNCIL**
City of Salinas, California

DATE: December 2, 2014, 2014

FROM: Gary Petersen, Director of Public Works

BY: Don Reynolds, Project Manager

SUBJECT: Status of Forming a Downtown Salinas Community Benefits District (enhanced Property Based Improvement District) and Determining Next Steps

RECOMMENDATION:

It is recommended that the City Council receive the status of the effort to form a Downtown Salinas Community Benefit District (CBD) and provide feedback.

DISCUSSION:

The following will provide background, definitions, process and schedule relative to the consideration of forming a Community Benefit District.

Background

The City's two business improvement districts (Salinas United Business Association "SUBA and Oldtown Salinas Association "OSA") are billed annually to business owners and collected by the City through the business license system under the 1989 Business and Parking Improvement District Act in the Streets and Highway code. This is a function of the enabling State law that connects the assessment rate calculation to the same rate scale as the business license program, requires annual renewal, and requires a vigorous balloting system to increase rates. As such, the rates have never been increased in SUBA and only once in OSA. These rates are arbitrarily applied to businesses and at times can create resentment due to their confusing basis.

OSA's assessment revenues have been insufficient to cover the costs of district promotion and maintenance for a decade, remaining stagnant at between \$85,000 and \$90,000 per year. Despite the City's effort to collect Assessments through small claims court, the enforcement of BID payments has proven to be ineffective and expensive. The lack of capacity to enforce the program results in an inequity between those who follow the law and pay into the system, and those who without consequence do not. There is a second inequity in the current system in that those who benefit the most are those located on Main Street, but the assessments is applied equally to every business, regardless of their location.

Many efforts have been made to provide additional revenue to the BID's including direct subsidy from redevelopment and City general funds. For several years in Oldtown, the City's general fund paid half and OSA paid half of the cost for utilities and for HOPE Services to maintain the improvements on Main Street. But in 2005, the City could no longer sustain its contribution and the partnership ended. This is when a team of property owners headed by Catherine Kobrinsky Evans, began soliciting donations from other property owners. Not every property owner donated, and not every property owner donates the same amount. It is not uncommon for business owners to own their shops, paying for both the BID assessment and HOPE Services. The exception is true as well.

In a June 30, 2010 in a report written by then Executive Director Deanna Carvey, titled "BID Options for Fiscal Sustainability" includes convincing arguments illustrating the inequities and unsustainable nature of the BID. She introduced the idea and the potential to re-think the way Oldtown is paid for and maintained. Revenues hinge on the number and type of businesses in the District: 2007 was at 398, 2008/09 - 440, 2009/10 decreased to 378. Potential BID revenues rose to a high of \$140,700 to a low of \$119,783. Compliance, which is a lawful but voluntary act, also fluctuates with the economic conditions of the BID. In 2008/09 delinquencies were at 17% and in 2010, it rose to 26% and compliance remains at between 75 and 80%. OSA has to budget revenues at this level, which is between \$85,000 and \$100,000 per year. A 10% swing in revenues is significant and unreliable. At its 2010 retreat, the OSA Board agreed to explore changing from a business improvement district ("BID") to a property based improvement district. It cannot take this challenge on by itself.

Property Based Improvement Districts

With private investment in Oldtown on the rise and the Downtown Vibrancy Plan near completion, partnerships have been aligned with OSA to fully explore changing the Downtown's outlook for a sustainable future and making that change from a BID to a new property based Community Benefit District (CBD)

In general terms, a CBD is an assessment of properties, not businesses. By state constitutional law, a property assessment can only fund supplemental services or "special benefits", not replace "general benefits" that are currently being provided by the City. Properties change hands less frequently, when they do there often follows a sizable capital investment that requires certain safeguards. Assessments are collected through the property tax bill and are efficiently and effectively enforceable. CBD formation and establishment is prescribed by Article XIII of the State constitution. A CBD Steering Committee has been formed within a defined geographical boundary and a survey was mailed out to determine the type of special benefit services property owners might be willing to fund with a new CBD. The costs associated with the desired outcome is weighed against a property owner's property variables and the assessment formula will be determined by the property owners themselves. Weighing these and other factors is how the proposed assessment rates are calculated.

CBD assessment rates are much more intricate and rationally formulated than the BID assessment rate calculation. The method of assessment varies. There are usually three different basic assessment methods: parcel size, building size and street frontage. Revenue from each of the three methods has a specific use. Revenue from the street frontage assessment is generally the largest because this is the where the "special" assessment occurs; between the curb and the property line. It is this space where the cost of landscaping, security, lighting and general image is maintained. The revenue from the building square footage method is generally connected to public relations, marketing and District Identity programs. The revenue from the parcel's square footage method is usually allocated for general administration and perhaps parking and a contingency amount. Establishing these methods and the determining the rates for each method are decided by the property owners

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The rates can be further defined by benefit zones, where in some communities, a higher priority is focused on the center of the district, and a reduced benefit is calculated moving away from this center (Zone 1, Zone 2, etc). Attached is sampling of several districts of this nature.

Following the prescribed processes of Proposition 218, once the property owners have agreed to the a management plan that lays out the costs of the programs and activities , and its proposed assessments rates, the CBD plan will be reviewed and approved by the Salinas City Attorney's office and an independent Assessment Engineer. Once the CBD plan has been certified by the Assessment Engineer as being compliant with Proposition 218, the property owners will circulate and submit a petition of support to the City . Under a new proposed Salinas Community Benefit District ordinance, the property owner petition support must represent at least 30 % of the "weighted assessment" amount of the entire district assessment revenue.. The CBD petition then triggers a "Resolution of Intent" adopted by the City Council, which then allows the City to mail out ballots to all affected CBD property owners. The balloting is done by mail, and allows a minimum of 45 days for the property owners to return their mail ballots. Ballots are sealed until the opening of the public hearing. If a majority (50% plus 1) of the returned ballots support of the proposed CBD (based on that weighted value) the District may be formed when the Council adopts a "Resolution of Formation". This entire process ideally should be completed during the summer in time for the Assessor's Office to include the assessment in the upcoming fiscal years' property tax billing cycle.

Community Benefit Districts

A Community Benefit District is a Charter City application of the State's PBID laws, that has become common in Charter cities like Salinas. Marco Li Mandri of New City America was invited last April by local property owners to describe the Community Benefits District (CBD) in Little Italy San Diego. Later in June, the City Manager hosted a follow-up meeting with twenty-four property owners to discuss the possibility of forming a CBD in the downtown. The concept was well received and the Council approved up to \$80,000 in fiscal year 2014/15 to retain New City America to explore the CBD method that will build, maintain and sustain a more dynamic, commercially viable, safer, healthier Downtown with the prospects of new mixed use, office and residential development.

Initially the CBD will rely primarily upon property assessment generated revenues. The concept is that eventually the CBD Management Corporation will grow and receive revenues from multiple sources within a defined boundary that can among other things, including entrepreneurial activities, special events, donations and ongoing programs like farmers markets. Public properties, by constitutional mandate, are not be excluded, and no exemptions for not-for-profit entities are being considered. It can be governed by a 501(c)3 non-profit corporation, merging the existing energies in Downtown into just one organization, rather than the 501(c)6 BID and the OSA Foundation. It can receive grants and donations, and merge these with more powerful assessments.

A CBD can have a term, or no term as determined by the ordinance that enables the assessment district. The term or its status of existing in perpetuity would be up to the property owners themselves and would be articulated in the CBD plan, adopted by the City Council at the Resolution of Intent and Resolution of Formation stages. This is an important unique attribute of the CBD. It stabilizes the revenue, and allows the CBD to consider acquiring property or entering into long term leases. If no termination is considered, there would be annual trigger to disestablish the CBD using the same petition and balloting process that establishes it.

The revenue growth of the CBD is commonly built in as an inflationary factor with annual limits; for example the “Cost of Living Allowance, not to exceed 5% annually...”. Of course, the repurposing of public properties for private use and the development of additional floor space and “improvements to land” in Downtown will also cause budget growth. The value of a City owned surface parking lot to the CBD is the base level. If developed into a five story condominium project, the value increases significantly. The Salinas Downtown has a tremendous capacity in this regard as captured in catalyst sites described in the Vibrancy Plan.

As referenced in the second attachment, New City America has recently completed its 74th District and is working on its 75th. These districts are all across the United States, but most are in California including several in San Francisco, Oakland, Tracy, San Jose, San Leandro and recently in Downtown Redwood City. The Redwood City CBD Plan (June 14, 2014) anticipates a generation of \$795,000. Of this amount, 53% are targeted for sidewalk operations and beautification, 20% for promoting District identity, 5% for parking management, 15% for administration and 5% for contingencies. The Downtown Redwood City’s CBD plan area is larger than Salinas and is more densely developed.

CBD Formation Process and Calendar

The third attachment is the scope of work for New City America. The first phase of forming a steering committee, drafting boundaries and conducting a survey has been completed. The Steering Committee consists of 20 Downtown property owners. The Fourth Attachment is the area surveyed, followed by the final draft boundary map. This map originated from the Downtown Vibrancy Plan, and was refined by the Steering Committee.

The survey asks simple questions stated in the form of “*would you support property owner funded...*” special benefit services and gives the property owners a variety of services to weigh in on. The survey did not discuss rates, because this detail will come after lengthy discussions to be held after consideration of the project’s feasibility. The survey results provided in the fifth attachment indicate that (among other things) forming a CBD is feasible. The results also caused the boundaries to be reduced in size as deemed appropriate based upon the need to focus on commercial land-uses, and based on input from a few concerned property owners on the perimeter. These results were shared at the fourth Steering Committee meeting November 6th. Property owners confirmed the boundaries, agreed to the findings in the results of the survey and unanimously agreed to move forward to the next formation phase.

January – February 2015

The next step is to return to the Council with a draft Community Benefit District Ordinance that tailors the State’s property assessment district laws into the unique character of Salinas.

This ordinance will be applicable City wide and can be used for a variety of purposes related to having property owners, fund special benefit services over and above the general benefit services the City is currently providing through its general fund. Once approved by the City Council, the Steering Committee will reconvene after the holidays and begin drafting a CBD Management District Plan. The needs described in the Vibrancy Plan will provide a terrific start to this process. Safety, panhandling, sanitation, appearance and cleanliness will surface as top priorities. The level of services will then be determined with the associated costs. The method of merging OSA into this one organization will be determined by the OSA Board themselves and this may emerge from this process.

March - April 2015

The Proposition 218 process as described above involves approval of a management district plan, certification by an independent Assessment Engineer, approval of the City Attorney, and then circulation of a petition endorsing the CBD by the affected property owners. Petitions signed by a minimum of 30% of the weighted property owners in favor of forming the new CBD will be submitted to the City Manager's office for consideration by the City Council. The petitions form the legal basis for a Resolution of Intent which triggers the mail ballot procedure identified in Proposition 218. It then has to be presented and ratified by the Council.

April-May 2015

Once the petition is completed it will be presented to the Council in late April or at the first meeting in May, seeking a "Resolution of intent" to hold a public hearing to count the results of a mail ballot proceeding. The public hearing date is set and the Clerk is instructed to mail the ballots out to the affected CBD property owners. The law requires a minimum 45-day period for the balloting process. The goal is to tally the votes at the Council's second meeting in June.

June-July 2015

The public hearing is held, testimony is taken, the public hearing will be closed and the Clerk will go into an adjacent room to count the ballots. If a "majority protest" is not reached, the City Council will then have the option to adopt a "Resolution of Formation". There is no minimum required weighted vote of the property owners. The majority protest is reached if the returned opposed ballots, by weight or assessment amount, exceed the returned ballots of support. Once the Council adopts the Resolution of Formation, City staff will transfer the assessment rate calculations and a final engineer's report to the County before their early August deadline. The goal is to establish the assessment with fiscal year 2015/16 and have it included in the December property tax bill.

August- September 2015

An Interim Board of new CBD property owners will be created from the CBD Steering Committee. The Interim Board will elect interim officers of the corporation, adopt articles of incorporation and file those articles with the Secretary of State. By-Laws will be drafted that could blend merchants and property owners on the Board, and corporate documents will be readied for the Secretary of State and the IRS once the CBD has been formed next summer. The goal is to seek public benefit non profit status, or 501c3 status with the IRS.

By December 2015, the new CBD will be up and running and in receipt of its first assessment revenues.

ISSUE:

Shall the City Council, after receiving this report and the results of the property owner survey, agree by consensus to continue on the path toward the implementation of a Community Benefit District in the Downtown?

FISCAL IMPACT:

Funding for the study and consulting services is approved in the FY 14/15 budget.

TIME CONSIDERATIONS:

The process is lengthy and must be completed before the Assessor's July 31 deadline.

CITY COUNCIL GOALS:

Establishing a Community Benefit District Downtown is consistent with four of the five Council goals: 1) economic diversity and prosperity; 2) safe livable community; 3) excellent infrastructure, and; 4) quality of life.

CONCLUSIONS:

The Community Benefit District takes the best attributes from other types of business and property assessment programs and combines them into one that can be tailored to the specific needs of Salinas. The survey results from property owners provided in this report indicates that there is solid support from landowners willing to pay for these enhanced improvements to their property, their surroundings and to improve the Downtown's image. It is time to receive this positive feedback and boldly take the next steps toward forming a Community Benefit District that will make downtown more vibrant.

City Council
City Manager
City Attorney
Department Directors

Assessment District Comparison Sheet
California Cities that have CBD's
New City America's Scope of Work
Original Survey Boundary Map
Revised Boundary Map based on Survey Results
Survey Results