



Agenda Report

22-1672

Agenda Date: 1/25/2022

REPORT TO COUNCIL

SUBJECT

Update on Discussions with Parking Maintenance District No. 122 - Franklin Square (PMD 122) Property Owners Regarding Council's Request to Explore Increased Contributions for Operations and Maintenance Costs

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

Parking Maintenance District No. 122 (PMD 122) was formed in 1965 for the parking lots, arcades, fountains, sidewalks, landscaping, irrigation, lights, and utilities within Franklin Square, which is bounded by Benton Street, Homestead Road (formerly known as Liberty Street), Monroe Street, and Jackson Street. There have been several changes in how maintenance and operations costs have been collected over the years and in 2002 the City Council passed a motion at a public hearing in which the City assumed all future costs for operation and maintenance and in May 2003 adopted Resolution 7026. Under the collection method contained in Resolution 7026, the property owners contribute annually to pay for capital repairs of the parking lot and associated walkways. The fixed annual contribution from the property owners totals \$14,200, less the earned interest on the accumulating balance. The accumulated balance in the account is \$144,887 as of October 2021.

The City, through the General Fund, is responsible for covering the costs for annual maintenance and operations of PMD 122 and that has continued to be the arrangement through the present day. In FY 2021/22, the City budgeted \$138,163 to cover the day-to-day maintenance of PMD 122.

On several occasions Council has discussed the allocation of PMD 122 costs because the City pays for all of the day-to-day maintenance and there was sentiment by some members of the Council that the property owners should pay some of these costs, similar to how PMD 122 was funded prior to 2003. On May 4, 2021, Council directed staff to engage PMD 122 property owners and discuss opportunities for reallocating operations and maintenance costs more equitably between the City and property owners since costs have increased since 2003. Later in this report, the State law process for administering PMD 122 is provided but, in short, any change requires a favorable voter outcome of those impacted by the assessment. It should be noted that regardless of changes to the funding allocations in the PMD, the City is responsible for the upkeep and maintenance of the City-owned improvements at Franklin Square. Absent changes to the funding allocations, only changes to the level of service of upkeep and maintenance could reduce the City's share of the annual maintenance cost.

DISCUSSION

Staff developed a plan to implement this request which included property owner coordination and

engagement, a survey, and follow up with Council.

Property Owner Engagement July 2021

All PMD 122 property owners were contacted and invited to a virtual meeting on July 12, 2021. At this meeting, staff summarized the background of the past and current PMD 122 cost sharing arrangements and the direction from the Council to engage property owners to see if they are amenable to paying a portion of the operations and maintenance costs which have risen over the last 19 years. The property owners conveyed some of their concerns about PMD 122 and were encouraged to propose funding alternatives for consideration and ask questions. A copy of the minutes from the July 12 meeting was distributed to all the property owners following the meeting and can be viewed in Attachment 1.

Survey

Following the meeting, staff developed a series of survey questions designed to gauge property owners' amenability to contributing to the annual maintenance. In general, the purpose of the survey was to gauge the property owners' willingness to shift a portion of the PMD 122 operations and maintenance costs to the property owners. A virtual meeting was scheduled for October 21, 2021 to review the draft survey questions with the property owners to ensure that everyone understood the questions and to receive suggestions prior to finalizing the survey and sending it out. Prior to the meeting, the City was contacted by David DeLozier who indicated that the property owners had been discussing this item and were not in support of changing the current cost allocations included in PMD 122. Mr. DeLozier indicated that the property owners would be submitting a petition that would also include the merchants.

Property Owner and Merchant Petition

The property owners and merchants circulated a petition for *no changes* to PMD 122, which was signed by all the property owners and most of the merchants. The signed petition (Attachment 2) was submitted to staff on October 19, 2021 which made it clear that a survey was not necessary to gauge PMD property owners' interest in financially contributing to operations and maintenance.

Property Owner Engagement October 2021

All PMD 122 property owners were contacted and invited to a virtual meeting on October 21, 2021. The initial purpose of the meeting was to review proposed survey questions developed by staff to ensure that the property owners understood the questions and to get their input to see if any of the language needed to be modified to make the questions more clear. At the end of the meeting it was determined that due to the petition from the property owners, there was no need to proceed with the survey. Staff discussed next steps with the property owners in attendance and indicated a report would be prepared for Council at a meeting to take place in early 2022. A copy of the minutes from the October 21 meeting can be viewed in Attachment 3.

During prior meetings, Council had raised questions about the procedures for modifying and dissolving PMD 122. Staff has included the information on both of those processes below.

Process for Modifications to PMD 122

Any decision by the Council to increase the assessment (e.g., to increase the property owners' share of operation, maintenance, and capital costs or to modify the formula used to calculate the amount of the assessment levied on any individual parcel) must follow the assessment balloting procedure required by Proposition 218. That procedure consists of three basic steps:

- (1) **Notice to Property Owners** - Mailed notice of the proposed modification to the 11 property owners within PMD 122. The notice must contain the following information: the total amount to be assessed across PMD 122; the amount chargeable to each parcel individually; the duration of the payments; the basis upon which the assessment was calculated; the date, time, and location of the public hearing on the proposed modification; and a ballot on which the owner can indicate support for or opposition to the proposed modification.
- (2) **Public Hearing** - At least 45 days after the date of the mailed notice, the Council must hold a public hearing to consider protests and tabulate the ballots on the proposed assessment.
- (3) **Ballot Tabulation** - Ballots are weighted according to the proportional financial obligation of the affected property. For PMD 122, the assessments are calculated based on the gross floor area of the building(s) on each parcel and therefore the ballots would be weighted accordingly. If the ballots submitted in opposition exceed the ballots submitted in support, then the City may not impose the modified assessment.

Process for Dissolving PMD 122

Proposition 218 does not govern the dissolution of PMD 122 because dissolution has the effect of eliminating, rather than increasing, the assessment. Therefore, only the City Code and Streets and Highways Code would apply. Under those laws, dissolution is not subject to the approval of property owners within the district. The Council can dissolve the maintenance district by: (1) adopting a resolution of intention to dissolve the district; (2) between 10 and 30 days later, conducting a public hearing on the dissolution; and, (3) adopting a resolution dissolving the district. A resolution dissolving the district would only need a simple Council majority to pass. If Council votes to dissolve PMD 122, extraordinary maintenance activities can continue to utilize PMD 122 assessment funds until the balance is exhausted. After the funds are exhausted the City would be required to fund the extraordinary maintenance in its entirety.

Staff notes that as a practical matter, dissolution would merely eliminate the property owners' assessments as a funding source for capital improvement costs. Dissolution would not relieve the City's responsibility for upkeep and maintenance of the City-owned improvements at the Franklin Square Mall. As such, the Council direction to determine how property owners pay more for services offered through PMD 122 would not be achieved.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no fiscal impact associated with this report.

COORDINATION

This report has been coordinated with the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website

and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Note and file this informational report.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. July 12, 2021 minutes from meeting with PMD 122 property owners
2. Signed petition
3. October 21, 2021 minutes for meeting with PMD 122 property owners