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REPORT TO COUNCIL

SUBJECT

Informational Report Responding to Council Questions Regarding Parking Maintenance District No. 122 - Franklin Square

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

Item 4J on the Council’s April 20, 2021 agenda was the Resolution of Intention for Parking Maintenance District No. 122 - Franklin Square (PMD 122). The Resolution of Intention is the first step in the process of levying the annual assessment for the Franklin Square maintenance district. It specifies the proposed amount of the assessment, explains the method upon which the assessment is calculated, accepts a report by the Public Works Director containing the supporting details of the assessment, and establishes the time and date for the Public Hearing, after which the Council can adopt a second resolution formally approving the assessment so that it may be collected with the property tax rolls.

During discussion of the item, Council deferred the Resolution of Intention and directed staff to return with a separate report covering the following items:

- What happens if Council does not approve next year’s assessment for PMD 122?
- What is the process for increasing the assessment for PMD 122?
- What is the process for dissolving PMD 122?

DISCUSSION

Staff from the Department of Public Works, City Attorney’s Office, and City Manager’s Office have reviewed the questions and have also discussed them with an outside consultant.

History of PMD 122

The City Council established PMD 122 in 1965 according to the Maintenance District provisions of City Code (which in turn adopts state law, the Improvement Act of 1911, codified in the Streets & Highway Code). The City Council has modified PMD 122 over the years, most notably in 1996 and 2003. In each instance the Council's action reduced the amount of the assessment collected from the property owners in the district for operations and maintenance costs. In 1996, the Council reduced the property owners' share of operations and maintenance costs from 100% to 75%, with the City assuming responsibility for the balance. In 2003, the Council further reduced the property owners' share of operations and maintenance costs, with the City assuming responsibility for 100% of operation and maintenance costs. Property owners in the district pay \$14,200 minus any accrued interest on the previous years' balance toward "exceptional maintenance and improvements," i.e. capital improvements. The \$14,200 assessment amount is apportioned among the property owners based on the gross floor area of their property.

In reviewing the City's records, staff also discovered that in 2002 the Council considered and rejected a motion to dissolve the district before ultimately approving the \$14,200 annual assessment. The 2003 method for apportioning costs and calculating the assessment remains in place today.

Separately, the legal landscape for assessment districts changed significantly in 1996 when the voters of California passed Proposition 218. Proposition 218 established a number of far-reaching changes in how local government could impose property-related fees and charges.

For present purposes, the key takeaway is that before Proposition 218, the City Council had complete discretion to determine the costs to operate and maintain the improvements in the assessment district, and how much of those costs shall be borne by the property owners each year. After Proposition 218, if the City wanted to increase the assessment, that increase became subject to approval of the majority of property owners within the district.

The following are the responses to the specific questions raised by City Council and follows up on the discussion that took place at the April 20 meeting.

What happens if Council does not approve next year's assessment for PMD 122?

If the City Council does not approve the Resolution of Intention to levy the PMD 122 Assessment for Fiscal Year 2021/22 and establish a Public Hearing to approve the Director's Report, then no assessment can be collected for Fiscal Year 2021/22. However, PMD 122 would remain in place and Council could still authorize assessments in future fiscal years.

PMD 122 has approximately \$133,000 of remaining assessment funds. These funds would continue to be available for capital improvement costs.

What is the process for increasing the assessment for PMD 122?

As mentioned above, if Council proposes an increase to the current assessment, the City would be required to follow the procedures in Proposition 218. This procedure consists of: (1) a mailed notice and ballot to all of the property owners within the district. The mailed notice must specify the amount of the increased assessment and an explanation of how that amount is calculated, as well as the date and time of a public hearing; (2) a public hearing at least 45 days after the date of the mailed notice to consider any protests and tabulate the ballots; and, (3) tabulation of the ballots weighted according to the amount of the assessment to be paid. If the majority of ballots are in favor of an

increase, then the City Council can adopt the resolution increasing the assessment. If the majority of ballots protest the increase, then City Council could not increase the assessment. Council may not overrule the majority protest.

What is the 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.

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 impact to the City other than administrative staff time and expense.

COORDINATION

This report has been coordinated with the City Attorney's Office and City Manager'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>> or at the public information desk at any City of Santa Clara public library.

Reviewed by: Craig Mobeck, Director of Public Works

Reviewed by: Brian Doyle, City Attorney

Approved by: Deanna J. Santana, City Manager