



## Legislation Details (With Text)

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**Title:** Adoption of a Resolution of Intention for Parking Maintenance District No. 122 - Franklin Square

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**Attachments:** 1. Director's Report FY 2021/22, 2. Notice of Public Hearing, 3. Resolution of Intention, 4. Resolution No. 21-8963

Date	Ver.	Action By	Action	Result
5/4/2021	1	Council and Authorities Concurrent Meeting	Approved	Pass

## REPORT TO COUNCIL

### SUBJECT

Adoption of a Resolution of Intention for Parking Maintenance District No. 122 - Franklin Square

### 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 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.

### DISCUSSION

Adoption of the proposed resolution is the initial step necessary to set the annual budget for PMD 122. The approval process requires the preparation of a Director's Report (Attachment 1) explaining the preparation and basis of assessments; publication and posting of a Notice of Public Hearing (Attachment 2); and holding a public hearing on the annual assessments. Following approval of the subject Resolution of Intention (Attachment 3), each property owner will be sent a letter containing the proposed FY 2021/22 assessment and details on a June 22, 2021 public hearing to approve the

assessments.

The proposed FY 2021/22 assessment to property owners will be \$10,561. Accrued interest earned in FY 2019/20 in the amount of \$3,639 will be used to reach the \$14,200 annual requirement. These funds are placed into an account that generates interest income and are used to pay for capital repair projects as needs arise. At the close of FY 2019/20, the interest-bearing account contained \$132,116.

The total preliminary proposed FY 2021/22 expenditure budget for PMD 122 is \$130,800, which is \$21,962 less than the FY 2020/21 expenditure budget and reflects the reduction of street sweeping service and deactivation of fountains that was approved by Council on March 9, 2021. The operating budget includes funding for routine maintenance and operation performed by the Department of Public Works as well as contractors, which is all funded by the General Fund. This includes regular maintenance for landscaping, trees, fountains and parking lot/walkway sweeping. There are no proposed Capital project expenditures for parking lots and associated walkways in FY 2021/22. Both parking lots at the complex were resurfaced and striped during the summer of 2019. The work was funded by previously collected property owner assessments.

Pursuant to the 2002 City Council action, staff is recommending the adoption of the subject Resolution of Intention, setting a public hearing date of June 22, 2021 to approve the Director's Report for FY 2021/22, and the authorization of the publication and posting of the public hearing. The assessments to the property owners cannot be sent out until the Director's Report is approved at a public hearing.

A conference call with the property owners to discuss these requirements has been scheduled for May 17, 2021. Notices for the public hearing will be sent out following adoption of the subject Resolution of Intention.

#### Process for Modifications to PMD 122

Councilmember Jain posed a question regarding the process the City would need to follow for modifying the formula for levying the assessment upon PMD 122. This section provides a high-level overview of that process.

Any decision by the Council to increase the assessment, e.g. to increase the property owners' share of operation and 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 for 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 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.

As stated during the April 20 Council meeting, staff is very much aware of the referral regarding the inquiry of how to modify the PMD: however, there was not direction at that time to suspend the PMD and to properly notice impacted participants. Council direction was to obtain response from the FPPC (see next paragraph) and, upon that, provide additional information to the Council for taking action. Staff notes that given the lead time required to prepare the analysis, mailed notice, and ballots, if the Council wished to consider any modification, the earliest it could do so would be next year for the assessment imposed in FY 2022/23. This provides adequate notice to PMD participants about any action the Council may take.

At the time that the question was posed, the City Attorney's Office noted that it would request advice from the FPPC about whether Government Code 1090 would prevent the Council from taking action because the Mayor is an owner of several parcels within the Assessment District. The FPPC declined to provide formal advice in response to the request. Although there is an indication that the "rule of necessity" would allow the Council to make decisions on the maintenance district, the City Attorney's Office does not provide advice on the application of Government Code Section 1090 independent of advice that has been rendered by the Office of the Attorney General or the FPPC.

### **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(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

### **FISCAL IMPACT**

Approval of the proposed assessment maintains the funding source for future capital repairs to parking lots and walkways located within Franklin Square. The City's General Fund remains as the funding source for routine maintenance and operating costs for the Downtown Parking Maintenance District. The total proposed FY 2021/22 expenditure budget for Parking Maintenance District No. 122 is \$130,800 subject to appropriation of funds.

### **COORDINATION**

This report has been coordinated with the Finance Department and 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) <<mailto:clerk@santaclaraca.gov>>.

### **RECOMMENDATION**

1. Adopt a Resolution of Intention to order that the alternative method for the levy of benefit assessment be made applicable to the City of Santa Clara Parking Maintenance District No. 122;
2. Set a hearing date of June 22, 2021 to approve the Director's Report FY 2021/22; and
3. Authorize the publication, mailing, and posting of the Notice of Public Hearing as stated in the Resolution of Intention.

Reviewed by: Craig Mobeck, Director of Public Works  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Director's Report FY 2021/22
2. Notice of Public Hearing
3. Resolution of Intention