



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: WILLOW GLEN COMMUNITY
BENEFIT DISTRICT HEARING
AND ELECTION

DATE: 11-24-08

Approved

Katy Allen

Date

11/25/08

COUNCIL DISTRICT: 6

RECOMMENDATION

- a. Conduct a public hearing for the formation of proposed Willow Glen Community Benefit District and authorize the City Clerk to tabulate ballots;
- b. Adoption of a resolution by casting a ballot in favor of the establishment of the Willow Glen Community Benefit District as the property owner of two parcels within the proposed district, APN 429-17-036 and APN 429-17-107, and the imposition of an assessment on City-owned property;
- c. Direct the City Clerk to report the results of the tabulation of ballots;
- d. If the proposed District is approved by property owners, adoption of a resolution by Council:
 1. Approving the Willow Glen Community Benefit District Management Plan and Engineer's Report; and,
 2. Approving and imposing the respective assessments.

OUTCOME

If approved by voters, the Willow Glen Community Benefit District (Willow Glen CBD) would result in the assessment of properties in Willow Glen, including City owned properties, to pay for enhanced services for cleaner sidewalks, litter pickup, more attractive streetscapes, better parking management, and increased promotions and events.

BACKGROUND

At the October 28, 2008 City Council meeting, property owners representing 32.16% of the proposed assessment submitted petitions to initiate district formation, satisfying the required 30% minimum as specified in Chapter 14.31 of the Municipal Code.

In response to the petitions submitted, Council adopted Resolution No. 74645:

- a. Stating its intention to form a Community Benefit and Improvement District in Willow Glen;
- b. Preliminarily approving the Willow Glen Community Benefit District Management Plan and Engineer's Report;
- c. Setting a public hearing to be held on December 16, 2008; and
- d. Calling for an election for tabulation of the ballots on December 16, 2008.

The mailing of the ballots and notice of hearing was completed on October 31, 2008, meeting the legal requirement of 45 days before the December 16, 2008 hearing. As a result, property owners in the proposed district have contacted staff with inquiries about the assessment and have been submitting ballots to the City Clerk. The notice of public hearing is scheduled to be published in the *San Jose Post Record* by December 9, 2008.

The assessments to be collected by the proposed Willow Glen CBD are anticipated to provide enhanced services for cleaner sidewalks, litter pickup, more attractive streetscapes, better parking management, and increased promotions and events. Two benefit zones, as depicted on Attachment A, are proposed with varying costs based upon frequency of the special services. The annual assessments are based on several property-related factors:

Property Variable	Zone 1	Zone 2
Building Square Foot Cost	\$0.114	\$0.07
Linear Feet Cost	\$8.50	\$5.30
Lot Size Cost	\$0.06	\$0.06
For Sale Residential Unit Parcels Cost (building square footage only)	\$0.30	\$0.30

501c3 nonprofit organizations are assessed for linear frontage and lot/parcel size only; and not for building mass which funds marketing programs, related administrative personnel, and contingency services.

The proposed first year budget for the Willow Glen CBD is \$196,738 assessing 103 parcels. Zone 1 includes 74 parcels with an average assessment of approximately \$2,134, and Zone 2 includes 29 parcels with an average assessment of approximately \$1,338. As a property owner of two parcels within the proposed district, the City would be subject to an initial assessment of approximately \$4,700, as specified in the Management Plan.

The Proposed Boundary Map, the Willow Glen CBD Management Plan, and the Willow Glen CBD Engineer's Report are on file in the City Clerk's office for public review. The Management Plan functions as an operational guide, whereas specific details of the assessment methodology and benefit are defined in the Engineer's Report.

ANALYSIS

At the December 16, 2008 meeting, Council will conduct a Public Hearing to receive and record public testimony. Council must consider all objections or protests to the proposed assessment. The hearing may be continued if necessary to allow staff to respond to Council's inquiries or to implement changes proposed by Council. Modifications to the district are limited to removing territory, reducing services and reducing the rate of assessment for the district.

After Council's requests for information or changes are satisfied, and Council chooses to move forward with district proceedings, a final call for any ballots to be submitted in person is required. As a property owner of two parcels within the boundaries of the proposed district, Council must consider whether to vote favorably, negatively or to abstain from casting a ballot. The City will be subject to the assessment and must set aside funds annually from generally available funds for the next 15 years. The City's ballot is weighted at \$4,669.12, which is the assessment specified in the Management Plan as calculated based on last year's equalized tax roll. However, the property data obtained from the County does not yet reflect new construction. Therefore, if the district is approved by voters, the assessment for the property housing the new Willow Glen Library will be adjusted in fiscal year 2009-2010, increasing the City's total obligation to approximately \$9,000.

Staff recommends that Council, as a property owner, vote in favor of forming the Willow Glen CBD. Similar to the Downtown Public Benefit Improvement District (PBID), it is proposed that the funding for the City assessment come from an Environmental Services general fund allocation that has been identified for litter containers and abatement. This will show Council's support of the community in its desire to self tax and empowering the local neighborhood to administer programs on its behalf. The City's annual assessment is a small investment that leverages other property owner's investment in the district to provide for enhanced services in a very critical area for economic success.

Similar to the situation noted above, it was identified when the assessments were calculated that there were some discrepancies in the County record data with regard to the existence of buildings. As presented, the district is in compliance with state law, which specifies that the data utilized in a district formation need only be as confirmed in the last equalized County tax roll. Discrepancies were found on at least 20 properties and, as an additional step, letters were sent to the owners asking for clarification of the property information. Only 20% of the letters were returned. In future years as verifiable property data becomes available, assessments could be increased on parcels with incorrect County data. Since no other confirmed source of data has been found or is available for these parcels, it is staff's recommendation for Council to continue these proceedings as scheduled.

At the close of the Public Hearing, Council will conduct a form of an election called a protest procedure whereby property owners within the district cast ballots in favor of or opposed to the new assessment, with votes weighted by the amount of the proposed assessment on each parcel. The assessment can only be implemented if affected property owner protests do not outweigh the

ballots cast in favor of the new assessment (simple majority). If approved, the proposed assessment will commence immediately for fiscal year 2008-2009 and will be increased annually by the Consumer Price Index (CPI) starting in 2009-2010, not to exceed 5%. The Willow Glen CBD will have a term of 15 years, after which it would sunset and need to be reestablished in order to continue. Due to the timing of the district formation, staff will invoice all properties for the 2008-2009 assessment. Future year assessments will be collected through the County property tax bills, and only public agencies will be invoiced directly.

EVALUATION AND FOLLOW-UP

If approved by the voters, as a property owner, the City will be assessed approximately \$4,700 for fiscal year 2008-2009. For subsequent years, the assessment amount will be updated to approximately \$9,000 and subject to annual CPI increases. The district has a term of 15 years, after which it would sunset and need to be reestablished in order to continue. In addition, services will commence as soon as assessments are collected and an agreement with the City is established with an owners' association to implement the activities and improvements specified in the management plan. This agreement will be created and executed by the City Manager's Office. Each year, the owners' association must provide an annual report for Council's approval of the budget for the upcoming year. The Willow Glen Business Association spearheaded this proposal and is in position to transition and expand services from the existing Business Improvement District to the services identified in the Management Plan for the proposed Willow Glen CBD if approved by Council. For fiscal year 2008-2009, staff will invoice all properties directly. Future year assessments will be placed on the County property tax bills for collection. Staff will bring forward appropriation and funding sources recommendations for Council approval at a later date as appropriate.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this action does not meet the \$1 million threshold under Criterion 1, this memorandum will be posted on the City's website for the December 16, 2008 Council agenda. A Notice of Public Hearing was mailed along with ballots on October 31, 2008 and will be published by December 9, 2008. The Proposed Boundary Map, Management Plan, and Engineers Report are filed in the City Clerk's Office for public review and will also be made available to the property owners within the district upon request.

The consultant, New City America, has attended seven meetings with the Willow Glen Steering Committee at regularly scheduled meetings open to all property owners and businesses. Additionally, a newsletter has been published and distributed within the area to help disseminate information. Staff remains available to respond to any public inquiries.

COORDINATION

This memorandum and related documents and resolutions were prepared in cooperation with the City Attorney's Office, the Departments of Transportation, Environmental Services, Library, and Planning, Building and Code Enforcement, the City Manager's Budget Office, the City Clerk's Office.

FISCAL/POLICY ALIGNMENT

This action is consistent with the Council-approved Budget Strategy to continue to move in the general direction of seeking alternative ways to deliver services through appropriate community partnerships and public-private partnerships.

COST IMPLICATIONS

If the Willow Glen CBD is approved on December 16, 2008, the City would be required to pay annual assessments of approximately \$4,700 for the first year and approximately \$9,000 for the following years increasing up to 5% by the CPI per year. In addition, the City will collect annual assessments from property owners through the County tax bills or by City invoices.

In compliance with the Council-approved Budget Strategy and in conformance with all other City special assessment districts, staff costs will be covered by the assessment collection through this district. Future revenues associated with this recommendation will be programmed in a new fund to be established for this purpose. Recommended actions to establish this fund will be brought forward to Council at a later date.

BUDGET REFERENCE

The table below identifies the fund and appropriation that will fund the City's annual assessment.

11-24-08

Subject: Willow Glen Community Benefit District Hearing and Election

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Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract for 1/2 year)	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
001	0762	Non-Personal/ Equipment	500550	\$510,966	\$4,700	N/A	9/23/08 No. 28404

CEQA

CEQA: Exempt, File PP08-097

Planning has found the minor alterations to land (beautification projects) as a result of the formation of the Willow Glen CBD to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.



KATY ALLEN

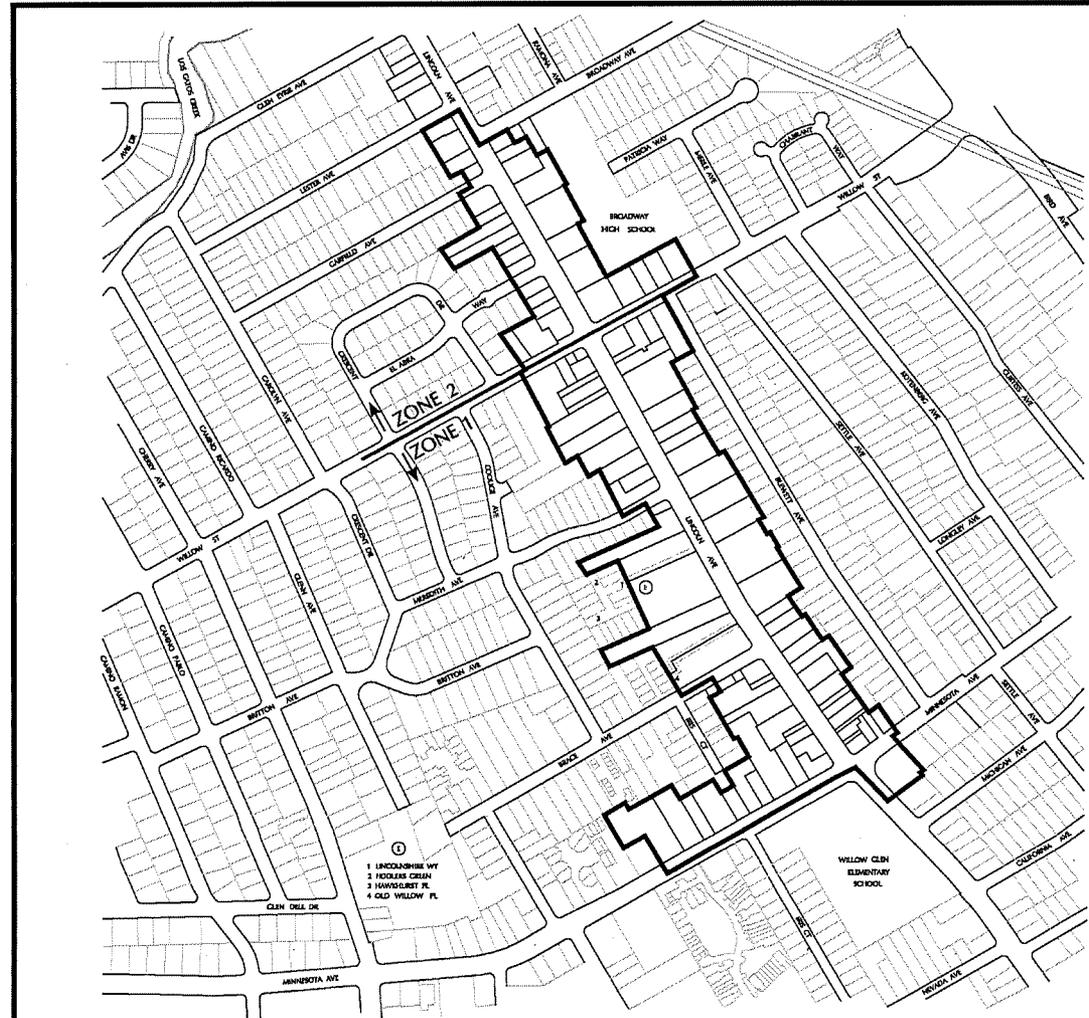
Director, Public Works Department

For questions please contact TIMM BORDEN, DEPUTY DIRECTOR, at 408-535-8300.

Attachments

PD:TMB:dcs

WGcmemoHearing.doc



CERTIFICATIONS

(1) DIRECTOR OF PUBLIC WORKS
 FILED THIS _____ DAY OF _____, 2008, IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF SAN JOSE.

 KATY ALLEN
 DIRECTOR, PUBLIC WORKS DEPARTMENT

(2) CITY CLERK
 FILED THIS _____ DAY OF _____, 2008, IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE.

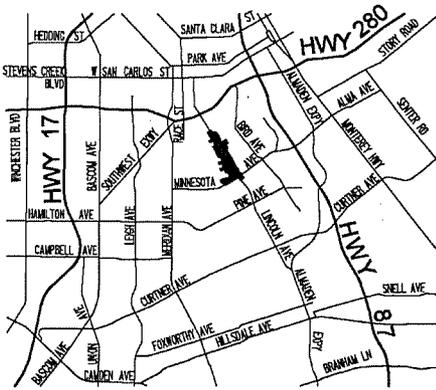
 LEE PRICE, MMC
 CITY CLERK

(3) CITY COUNCIL
 BY RESOLUTION NUMBER _____, ON THE _____ DAY OF _____, 2008, AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS DIAGRAM. THE APPROVED DIAGRAM AND ASSESSMENT ROLL FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS CONTAINS THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS DIAGRAM.

 LEE PRICE, MMC
 CITY CLERK

(4) COUNTY RECORDER
 FILED THIS _____ DAY OF _____, 2008, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS PAGES _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO.: _____ FILED PAID: _____

 REGINA AL COMENDADOR, COUNTY RECORDER
 COUNTY OF SANTA CLARA



LOCATION MAP

CITY OF SAN JOSE
 CAPITAL OF SILICON VALLEY
PUBLIC WORKS DEPARTMENT
IMPROVEMENT AND COMMUNITY BENEFIT DISTRICTS DIVISION
BY OFFICE: 8/27/08

LEGEND

	DISTRICT BOUNDARY		STREET RIGHT OF WAY
	ZONE BOUNDARY		PRIVATE STREET
			PROPERTY LINE

SCALE: 1" = 300'

CITY OF SAN JOSE, COUNTY OF SANTA CLARA
 STATE OF CALIFORNIA
WILLOW GLEN
COMMUNITY BENEFIT IMPROVEMENT DISTRICT
 FISCAL YEAR 2008-09
SHEET 1 OF 1