

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: December 8, 2008

Approved

Date

12/8/08

SUBJECT: ADOPTION OF A RESOLUTION SETTING A PUBLIC HEARING FOR THE COST OF SIDEWALK REPAIRS FOR FEBRUARY 10, 2009.

RECOMMENDATION

Adoption of a resolution setting a public hearing for February 10, 2009 at 1:30 p.m. for the approval of the report of the Director of Finance on the cost of sidewalk repairs.

OUTCOME

To recover funds spent on sidewalk repairs from property owners.

BACKGROUND

State law and the San José Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. When sidewalks need repairs, the Department of Transportation (DOT) sends a repair notice to the property owner.

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. To recover the costs of unpaid invoices, the City Council, upon confirming the amounts owed subsequent to a public hearing, can approve the filing of liens against the defaulting properties with the Santa Clara County Recorder.

Property owners who are affected by this process may satisfy the lien recorded against their property at any time prior to July 24, 2009 by making full payment to the City, in addition to a \$13.00 lien-release fee charged by the County Recorder's Office. Any unpaid lien amounts after this date will be added to the property owners' annual property tax bill. Recording liens against

delinquent property owners for outstanding sidewalk repair costs will help ensure eventual collection of the past due amounts if the property is sold, transferred or refinanced. This process will be conducted periodically to help protect the City from these types of events.

ANALYSIS

A Report from the Director of Finance will be issued for the cost of sidewalk repairs (Director's Report). The Director's Report will include properties currently in default in which the City incurred costs for the sidewalk repairs on behalf of the property owners. At the present time, there are 32 properties that are subject to a potential lien for a total lien amount, including administrative fees, of \$79,979.03. Lien amounts vary from \$239.00 to \$25,979.00. These amounts have been paid by the City on behalf of the property owners who are ultimately responsible for the repairs. The amounts were paid to concrete contractors to complete sidewalk repairs at the affected properties.

In an effort to resolve potential protests prior to the public hearing, DOT invites property owners to attend administrative conferences. These conferences do not affect the property owners' right to protest the proposed lien at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be included in the Director's Report submitted to the Council for consideration and approval on February 10, 2009. After hearing any protest, the City Council may confirm the Director's Report and the full amounts contained therein or reduce any of the amounts due. After the Director's Report is confirmed, the amounts owed shall constitute a special assessment against the property and shall become a lien on the property for the balance of the outstanding amount owed, until discharged. Any unpaid lien amount by July 24, 2009 shall be added to the property owner's annual property tax bill by the County Tax Collector.

The schedule to file liens on defaulting properties for sidewalk repairs made by the City is as follows:

Event	Date
1. City Council – Sets the public hearing	January 13, 2009
2. Department of Transportation – Mails first notices giving notice of the administrative conferences and the public hearing date	January 14, 2009
3. Department of Transportation – Mails second notices giving notice of the administrative conferences and the public hearing date	January 21, 2009
4. Department of Transportation – Conducts the administrative conferences	January 29, 2009

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5. City Council – Conducts the public hearing and adopts the Resolution Confirming the Directors' Report containing the proposed liens	February 10, 2009 1:30 P.M.
6. Department of Finance – Submits lien information to the County Recorder's Office	February 2009

EVALUATION AND FOLLOW-UP

A memo seeking authorization from the City Council to direct Finance staff to place special assessments secured by a lien against those listed in the Director's Report is scheduled for February 10, 2009 Council meeting. In addition, staff in the Revenue Management Division of the Finance Department will continue its collection efforts in order to reduce the number of delinquent accounts that require a lien hearing. Furthermore, said staff will also continue to monitor accounts placed with the County for special assessment for full compliance with the program.

PUBLIC OUTREACH/INTEREST

This item does not meet any of the criteria listed below.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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)**

COORDINATION

This memorandum has been coordinated with the Department of Transportation and the City Attorney's Office.

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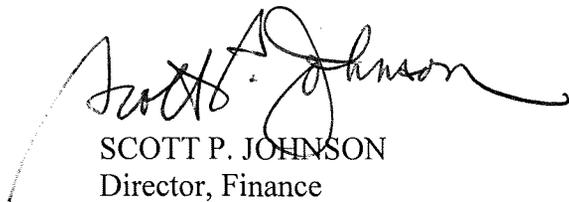
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COST IMPLICATIONS

The funds \$79,563.03 used to repair the sidewalks for those properties currently being considered for the filing of a special assessment secured by a lien were advanced from the General Fund.

CEQA:

Not a project.



SCOTT P. JOHNSON
Director, Finance

For questions, please contact David McPherson, Deputy Director of Finance at (408) 535-7091.