



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: SEE BELOW

DATE: 01-03-11

Approved

Date

1/11/11

COUNCIL DISTRICT: 9

**SUBJECT: KIRK PARK/COMMUNITY CENTER RULE 20A UNDERGROUND
UTILITY DISTRICT**

RECOMMENDATION

Conduct a Public Hearing and adopt an ordinance to establish Kirk Park/Community Center Rule 20A Underground Utility District along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue.

OUTCOME

Approval of this ordinance will establish the Kirk Park/Community Center Rule 20A Underground Utility District in accordance with the San José Municipal Code. In addition, it will enable City staff to direct utility companies to begin design of the project. Establishment of this district will improve the appearance, pedestrian mobility and ease of utility equipment maintenance within the area described above.

EXECUTIVE SUMMARY

The proposed underground utility district, as specifically described above and depicted in Attachment A, will require utility companies to remove utility poles and aerial cables from the public right-of-way and install a new improved underground system. The proposed underground utility district is located along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue. The project will be funded by utility company funds designated by Rules 20A and 32 of the California Public Utilities Commission (CPUC) and the City's franchise agreement with Comcast.

BACKGROUND

Through Rule 20A, the CPUC requires Pacific Gas and Electric Company (PG&E) to annually set aside funds for financing the undergrounding of overhead distribution facilities located on public streets within the City of San José. AT&T and Comcast are also required to set aside funds for projects where Rule 20A funds are programmed for use.

The proposed Kirk Park/Community Center Rule 20A Underground Utility District (District) is included in the 2009/2010 – 2014/15 Work plan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program, approved by Council in April 2010. It meets criteria approved by the CPUC and the criteria established by the City in 1978 to complete projects that front City facilities such as parks, libraries and fire stations.

ANALYSIS

The provisions and procedures to establish underground utility districts are defined in Chapter 15.24 of the San José Municipal Code. The Code requires the Council to conduct a public hearing and adopt an ordinance prior to the establishment of an underground utility district. The proposed District meets the following California Public Utilities Commission and Municipal Code criteria for establishing underground utility districts, namely that:

- Such removal and replacement will eliminate, and such prohibition will avoid, an unusually heavy concentration of poles and overhead wires within said area.
- The public streets or right-of-way within said area are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic.
- The public streets or right-of-way within said area adjoin or pass through a civic area or public recreation area, or an area of unusual scenic interest to the general public.

Within the limits of this project, the majority of the facilities will be placed in underground conduits and vaults. Utility companies may need to install aboveground structures (cabinets) for equipment that cannot be placed in underground vaults. These cabinets may be placed in public right-of-way or on private properties. The size, quantity and actual location of the cabinets will be determined during the design phase of the project. Establishment of the proposed District will require the conversion of approximately 2,100 linear feet of aerial facilities to underground facilities in the public right-of-way along Foxworthy Avenue. At PG&E's request the proposed project boundary includes entire parcels, as well as the public right-of-way. Certain properties and all backyard utility facilities, including poles and wires, will be exempted from the District to minimize impacts to properties outside the District. These are shown on Attachment A.

Overall, the removal of aerial wires and utility poles will provide a significant visual benefit to the public.

There are approximately 35 properties included in the proposed District. Two of the 35 properties currently receiving overhead service will require electrical service conversion work in order to receive electrical power from the underground system. This will require either private property owners to perform electrical service panel conversion work on their properties or PG&E to perform the work. Easements may be required from at least three properties to maintain feed to utility facilities along the back of the lots.

The cost of conversion for a single-family residential dwelling is typically \$800 to \$2,500, depending on the age and size of the facilities. The cost for commercial buildings and multi-family residences service conversion is typically \$2,000 to \$5,000 or possibly higher. The estimate is based on current projects and may change due to the economy at the time of construction. The Public Utilities Commission provides that Rule 20A funds may be utilized to reimburse private property owners' expenses for conversion work up to \$1,500 per service entrance.

Additionally, PG&E, Comcast, and AT&T will provide up to 100 feet of trenching and conduit installation for properties requiring conversion within the District, from the front property line to the building structure. Any properties inside the proposed District which receive utility service from outside the proposed District boundaries or are already receiving service from another underground system will not be affected by this project.

Within the proposed underground utility district, there are city owned facilities such as street lights and traffic signals that are currently receiving power from existing overhead system. The City is responsible for conversion of its facilities in order to receive power from underground system. Funding has been set aside in the Traffic Capital budget to fund this conversion work.

Construction is scheduled to start in October 2012, and is to be completed in October 2014. A more detailed schedule for the establishment and implementation of the proposed District is presented in Attachment B.

On December 1, 2010, notices of a public hearing were mailed to all utility companies, property owners and occupants within the proposed District.

EVALUATION AND FOLLOW-UP

Upon City Council's approval of the ordinance at the public hearing, utility companies will begin design of the project. Once the design is near completion, Public Works will mail electrical service conversion packets to all property owners that need their electrical service panel converted to receive service from the new underground system. Public Works and utility companies will closely coordinate design and electrical conversion work with the property owners. In addition, continuous coordination will occur during the design and construction phases of the project with the adjacent property owners and the Department of Parks, Recreation and Neighborhood Services.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- 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)**

The action requested by Council does not meet any of the three criterions listed above, but the following outreach will be conducted as part of Section 15.24 of the Municipal Code for the purposes of establishing underground districts.

A community meeting was held on October 25, 2010 to inform the public of this undergrounding project. Five property owners attended the community meeting and were supportive of the project. Staff provided information on project scope, schedule and property owner responsibilities. Staff also discussed in detail private electrical panel conversion work and easements.

Furthermore, staff explained options to minimize cost of conversions and explained the PG&E policy and procedure for the \$1,500 service conversion reimbursement. Property owners were informed that staff would provide contact information and deadlines to ensure upgrades would be appropriately incorporated into the undergrounding design. Any upgrades to existing panels and electrical service that are not identified as part of the project, if desired by the property owner, would be paid for by the property owner and not be subject to reimbursement.

PG&E may assume the responsibility of converting the electrical service panels instead of requiring the property owners to hire an electrical contractor. If PG&E performs the service conversion work, delays caused by some of the property owners for non-compliance would be eliminated.

Furthermore, property owners were assured that the utilities would minimize impacts of service interruptions and provide approximately one-month notification of service interruptions. It was explained that power interruptions typically last 3 to 4 hours and other utility interruptions are shorter duration. In general, the attendees supported the undergrounding and were satisfied with

the responses from staff.

On December 1, 2010, notices of a public hearing were mailed to all utility companies, property owners and occupants within the proposed District. To date, the City has not received any letter protesting the project. Prior to the start of construction activities, PG&E will place "Door Hanger" construction notices on properties adjoining the proposed District and those affected by construction.

Upon Council's approval of the ordinance at the public hearing, Public Works will mail a notice of adoption of ordinance to all utility companies and property owners of property adjoining the proposed District.

On January 14, 2011, staff will transmit a supplemental memo should any comments or protest be received for consideration at the public hearing.

This memorandum will be posted on the City's website for the January 25, 2011 City Council meeting.

COORDINATION

The establishment of the proposed District and project schedule have been coordinated with the City Manager's Budget Office, Parks, Recreation and Neighborhood Services Department, and Planning, Building and Code Enforcement Department. In addition, the project has been coordinated with PG&E, AT&T, and Comcast. This memo and the proposed resolution to set the public hearing have been reviewed by the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy to continue with capital investments that spur construction spending in the local economy. Most importantly, this Underground Utility District is part of the approved 2009/10 – 2014/15 Work Plan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: None

COST TO UTILITIES:

| | |
|---------------------------------|-----------|
| PG&E Rule 20A Allocation | \$800,000 |
| AT&T Rule 32A.1 | 600,000 |
| Comcast | 300,000 |
| Total Cost to Utility Companies | 1,700,000 |

COST TO CITY:

| | |
|--|---------|
| Project Development, Administration and Construction Inspection (Fund 416) | 60,000 |
| City Facilities Conversion (20A) (Fund 429) | 40,000 |
| Total Cost to City | 100,000 |

TOTAL PROJECT COSTS (ESTIMATED): **\$1,800,000**

2. COST ELEMENTS OF AGREEMENT/CONTRACT: 0

3. SOURCE OF FUNDING: Fund 416 - Underground Utility Fund
Fund 429 - Building and Structure Construction Tax Fund

4. OPERATING COST: This project has no significant impact on the General Fund operating budget.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

| Fund # | Appn. # | Appn. Name | Total Appn. | Amt. for Contract | 2010-2011 Adopted Capital Budget (Page) | Last Budget Action (Date, Ord. No.) |
|--|---------|--|--------------------|-------------------|---|-------------------------------------|
| 416 | 4786 | Underground Utility Admin. (20A) | \$380,000 | N/A | V-21 | N/A |
| 429 | 5063 | Underground Utilities-City Conversions | \$1,543,000 | N/A | V-889 | 10/19/10, Ord. No. 28829 |
| Total Current Funding Available | | | \$1,923,000 | | | |

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

CEQA: Addendum to a Mitigated Negative Declaration, PP10-002. Planning has issued an addendum to a mitigated negative declaration for this project. The Mitigated Negative Declaration identifies a number of mitigation measures that need to be implemented in order to address environmental impacts. These measures and their manner of implementation are identified in the Mitigated Negative Declaration, File No. PP08-257. These measures will be incorporated into the project design and the encroachment permit.

/s/

DAVID SYKES

Acting Director, Public Works Department

For questions, please contact MICHAEL O'CONNELL, ACTING DEPUTY DIRECTOR, at 408-535-8300.

Attachments
MAO:JTC:SK
Kirk ord memo



NOT TO SCALE

CITY OF SAN JOSE
KIRK PARK/COMMUNITY CENTER
UNDERGROUND UTILITY DISTRICT
FOXWORTHY - YUCCA TO BRIARWOOD

LEGEND

BACKYARD CONSTRUCTION EXEMPTED

RULE 20A BOUNDARY

C - ELECTRICAL SERVICE PANEL CONVERSION

E - EXEMPTION



KIRK PARK/COMMUNITY CENTER RULE 20A UNDERGROUND UTILITY DISTRICT
along Foxworthy Avenue, between Yucca Avenue and Briarwood Avenue.

Establishment Schedule

- | | |
|-------------------|---|
| November 30, 2010 | City Council adopts a resolution setting a time and place for a Public Hearing. |
| December 1, 2010 | Director of Public Works mails a Notice of Public Hearing to all adjacent property owners. |
| January 14, 2011 | Director of Public Works transmits a report of comments and/or protests received for consideration at the Public Hearing. |
| January 25, 2011 | City Council conducts a Public Hearing and at its conclusion approves an Ordinance establishing Lincoln Avenue Rule 20A Underground Utility District. |

Project Implementation Schedule

- | | |
|---------------|---|
| March 2011 | Utility companies begin design of substructure, conduit, vaults, electric and cable facilities. |
| December 2011 | Utilities obtain environmental clearances. |
| October 2012 | Construction starts. |
| October 2014 | Utility companies complete connections and remove overhead wires and poles. |