



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: May 25, 2011

Approved

Date

5/26/11

**SUBJECT: CONDUCT A PUBLIC HEARING ON RECORDING LIENS ON
PROPERTY FOR THE REIMBURSEMENT OF COST FOR SIDEWALK
REPAIRS**

RECOMMENDATION

Hold a public hearing on recording liens on property for the reimbursement of cost for sidewalk repairs and adopt a resolution to approve the report from the Director of Finance on the reimbursement of cost for sidewalk repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs.

OUTCOME

To recover City funds spent on sidewalk repairs from property owners.

BACKGROUND

On May 10, 2011, the City Council set a hearing for June 7, 2011 at 1:30 p.m. for public protest and approval of the Report of the Director of Finance to record liens on the property tax roll for the cost of sidewalk repairs the City made on behalf of property owners.

As discussed in the Council Memo that accompanied the recommendation to set the public hearing, State law and the San Jose Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. Sidewalk repair in the City of San Jose is a request-driven program. Residents who contact the Department of Transportation ("DOT") regarding a sidewalk in need of repair may request an inspection of the property from DOT staff. If it is determined the sidewalk needs repair, DOT sends a repair notice to the property owner. DOT works with property owners to facilitate the repairs. In some cases, DOT

May 25, 2011

Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs

Page 2

completes the repairs and attempts to recover the cost of the repairs from the property owner. These repairs are currently funded by the City's General Fund.

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. Finance staff work diligently to recover expended funds; however, in some cases, property owners neglect to pay the outstanding obligations. To recover the costs of these unpaid invoices, the City Council can levy assessments against the defaulting properties at the conclusion of a public hearing process.

ANALYSIS

A Report from the Director of Finance will be issued as a supplemental memo for the cost of sidewalk repairs ("Director's Report"). The Director's Report includes properties currently in default in which the City incurred costs for the sidewalk repairs on behalf of the property owners. The report identifies 49 properties with a proposed total assessment of \$133,323.58. The cost of the repairs (funded by the General Fund) and individual assessments vary from \$525.78 to \$24,151.01. A \$13.00 lien-release fee is charged by the Santa Clara County ("SCC") Office of the Clerk-Recorder for each assessment. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the various properties listed on the report.

Sidewalk Repair Collection Process

The City makes every attempt at collecting delinquent sidewalk repair invoices. Since the inception of this program, over 95% of the sidewalk repair invoices were paid by either collection efforts or placing a lien on the property, which is done through the SCC Office of the Clerk-Recorder. The City ultimately received 99% of the amount due through the County property tax roll. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

- Initial invoices for sidewalk repairs are issued by the Department of Transportation ("DOT").
- Payments are due within 30 days of the initial mailing.
- The Finance Department sends delinquency notices once an initial invoice is at least 60 days past due.
- The Finance Department may call the property owner, if telephone contact information is available, to further attempt the collection of delinquent obligations.
- Two Notices of Intent to Lien are sent to each delinquent property owner.

May 25, 2011

Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs

Page 3

- Administrative conferences are held by the DOT to provide property owners an opportunity to resolve any issues prior to a public hearing.
- City Council holds a public hearing and authorizes the placement of liens on delinquent properties.
- SCC Office of the Clerk-Recorder places liens on delinquent properties.
- SCC Tax Collector assesses and collects delinquent amounts.
- The full amount assessed (less a .3% County administrative collection fee) is remitted to the City.

Notification Process

DOT notified delinquent property owners listed in the attached report in two separate mailings sent on May 11, 2011 and May 18, 2011. These notifications indicated the time and place of the public hearing while affording property owners an opportunity to schedule an administrative conference as an effort to resolve potential protests prior to the public hearing. Administrative conferences will be held on May 26, 2011 in the DOT offices. These administrative conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be presented to the City Council in a supplemental memorandum along with a final Report from the Director of Finance on the cost of sidewalk repairs. After hearing any protests and considering the updated information presented in the supplemental memorandum, the City Council may confirm the Director's Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve the following action for each assessment:

- Place a lien against the property for the unpaid amount, to be paid with the next annual property tax bill.

EVALUATION AND FOLLOW-UP

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, Finance staff will continue to monitor accounts forwarded to the County for collection on the tax roll for full compliance with the sidewalk lien program.

May 25, 2011

Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs

Page 4

PUBLIC OUTREACH/INTEREST

Although this item does not meet any of the criteria listed below, this memorandum will be posted on the City's website for the June 7, 2011 City Council meeting.

- 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.

COST IMPLICATIONS

The funds used to repair the sidewalks (\$132,595.58) and to advance the lien fee to the County (\$728), totaling \$133,323.58 were advanced from the General Fund.

CEQA:

Not a project, file No PP10-067 (a): Specific Funding mechanism for Increase or Adjustment to Fees, Rates and Fares.

/s/

SCOTT P. JOHNSON
Director, Finance

For questions, please contact Wendy Sollazzi, Revenue Management Division Manager at (408) 535-7005.

Finance Department
 Report from the Director of Finance to the City Council of the Cost of Sidewalk Repairs
 City of San José
 Public Hearing June 7, 2011

ACCOUNT#	DATE ASSIGNED	MAILING ADDRESS	CITY, STATE, ZIP	PROPERTY ADDRESS	APN #	CURRENT BALANCE	LIEN FEE	TOTAL BALANCE
160736	4/29/2010	3178 GARDEN AVE	SAN JOSE, CA 95111-2223	3178 GARDEN AV	497-15-039	\$ 512.78	\$ 13.00	\$ 525.78
136613	3/12/2009	6058 CHESBRO AVE	SAN JOSE, CA 95123-3917	6058 CHESBRO AV	687-11-022	\$ 524.64	\$ 13.00	\$ 537.64
157803	1/21/2010	6405 PELHAM CT	SAN JOSE, CA 95123-4941	6405 PELHAM CT	689-58-003	\$ 548.42	\$ 13.00	\$ 561.42
135579	12/5/2008	18344 BAYLOR AVE	SARATOGA, CA 95070-4704	536 SHADOW CT	381-44-020	\$ 599.01	\$ 13.00	\$ 612.01
159546	3/26/2010	1247 BURKETTE DR	SAN JOSE, CA 95129-4355	1247 BURKETTE DR	381-27-115	\$ 764.91	\$ 13.00	\$ 777.91
161711	5/26/2010	2925 PENITENCIA CREEK RD	SAN JOSE, CA 95132-2926	2925 PENITENCIA CREEK RD	591-24-037	\$ 767.05	\$ 13.00	\$ 780.05
135668	12/18/2008	2181 NAOMI RD	FRANKLINVILLE, NC 27248	27 CLEAVES AV	261-32-025	\$ 793.00	\$ 13.00	\$ 806.00
169971	1/15/2010	2868 CROFT DR	SAN JOSE, CA 95148-3602	2868 CROFT DR	659-13-004	\$ 796.03	\$ 13.00	\$ 809.03
137017	4/7/2009	5142 SNOW DR	SAN JOSE, CA 95111-2732	5142 SNOW DR	684-34-038	\$ 801.00	\$ 13.00	\$ 814.00
168569	10/26/2010	1015 JACKSON ST	SAN JOSE, CA 95112-1609	1015 JACKSON ST	249-22-007	\$ 878.26	\$ 13.00	\$ 891.26
168315	10/8/2010	560 YUOK CIRCLE	SAN JOSE CA 95123	560 YUOK CIRCLE	687-30-082	\$ 924.50	\$ 13.00	\$ 937.50
163203	6/15/2010	7062 MORECAMBE DR	SAN JOSE CA 95120-3229	4038 JARVIS AV	451-24-072	\$ 946.45	\$ 13.00	\$ 959.45
165634	9/1/2010	1491 ROSECREST TER	SAN JOSE CA 95126	1269 PREVOST ST	434-15-002	\$ 998.78	\$ 13.00	\$ 1,011.78
169436	11/2/2010	396 N 6TH ST	SAN JOSE, CA 95112	1355 JULIAN ST	249-65-024	\$ 1,004.18	\$ 13.00	\$ 1,017.18
170122	11/17/2010	411 LA PALA DRIVE	SAN JOSE CA 95127-1538	411 LA PALA DR	599-45-004	\$ 1,072.50	\$ 13.00	\$ 1,085.50
169944	1/14/2010	1004 COYOTE RD	SAN JOSE, CA 95111-1823	1004 COYOTE RD	678-32-085	\$ 1,097.13	\$ 13.00	\$ 1,110.13
159534	3/26/2010	1033 WILLOW ST	SAN JOSE CA 95125-2300	1033 WILLOW ST	264-56-078	\$ 1,138.53	\$ 13.00	\$ 1,151.53
160134	4/16/2010	5222 ROEDER RD	SAN JOSE CA 95111-4063	5222 ROEDER RD	684-31-154	\$ 1,276.75	\$ 13.00	\$ 1,289.75
163193	6/15/2010	3305 WILCOX AVE	SAN JOSE, CA 95118-1341	3305 WILCOX AV	447-20-081	\$ 1,361.93	\$ 13.00	\$ 1,374.93
164142	7/20/2010	3840 KIRK RD	SAN JOSE, CA 95124-3820	3840 KIRK RD	447-27-127	\$ 1,404.27	\$ 13.00	\$ 1,417.27
165596	6/24/2010	2148 THE ALAMEDA	SAN JOSE, CA 95126-1125	2148 THE ALAMEDA	230-16-088	\$ 1,415.31	\$ 13.00	\$ 1,428.31
152406	7/24/2009	1204 LOCUST ST	SAN JOSE, CA 95110-3319	1204 LOCUST ST	434-11-054	\$ 1,464.80	\$ 13.00	\$ 1,477.80
160130	4/16/2010	1258 KARL ST	SAN JOSE, CA 95122	1258 KARL ST	486-37-069	\$ 1,518.72	\$ 13.00	\$ 1,531.72
160133	4/16/2010	438 BRANHAM LN	SAN JOSE, CA 95111	438 BRANHAM LN	684-26-105	\$ 1,579.37	\$ 13.00	\$ 1,592.37
161712	5/26/2010	4819 YAMATO DR	SAN JOSE, CA 95111-3824	166 PAGE MILL DR	684-27-023	\$ 1,608.61	\$ 13.00	\$ 1,621.61
159506	3/26/2010	7142 ECHO LOOP	SAN JOSE, CA 95120-4715	361 ROAN ST	689-18-001	\$ 1,650.35	\$ 13.00	\$ 1,663.35
152370	7/24/2009	4986 WILMA WY	SAN JOSE, CA 95124-5328	946 6TH ST	235-10-020	\$ 1,860.32	\$ 13.00	\$ 1,873.32
168571	10/26/2010	651 N 11TH ST	SAN JOSE, CA 95112	651 N 11TH ST	249-35-022	\$ 1,910.74	\$ 13.00	\$ 1,923.74
157128	12/9/2009	12 S 1ST	SAN JOSE, CA 95113-2404	12 S 1ST	462-62-001,007,008, 009,010,011,012,015	\$ 1,843.69	\$ 104.00	\$ 1,947.69
161520	5/19/2010	2445 REGAL DR	UNION CITY, CA 94587-1918	1784 LOS GATOS-ALMADEN RD	527-53-032	\$ 1,967.00	\$ 13.00	\$ 1,980.00
159590	3/29/2010	1075 MAZZONE DR	SAN JOSE, CA 95120	1075 MAZZONE DR	696-30-025	\$ 2,036.77	\$ 13.00	\$ 2,049.77
164193	7/20/2010	945 S BASCOM AV	SAN JOSE, CA 95128	3959 PALADIN DR	447-30-063	\$ 2,091.87	\$ 13.00	\$ 2,104.87
164768	8/4/2010	1398 BEDFORD AV	SUNNYVALE, CA 94087-3816	3286 MT VISTA DR	647-18-003	\$ 2,096.90	\$ 13.00	\$ 2,109.90
164706	8/3/2010	443 COLFAX DR	SAN JOSE, CA 95123-3422	443 COLFAX DR	692-25-034	\$ 2,478.19	\$ 13.00	\$ 2,491.19
157801	1/21/2010	4871 POSTON DR	SAN JOSE, CA 95136	4871 POSTON DR	685-11-026	\$ 2,492.58	\$ 13.00	\$ 2,505.58
159578	3/29/2010	6122 ESCONDIDO CT	SAN JOSE, CA 95119	6122 ESCONDIDO CT	704-23-017	\$ 2,675.44	\$ 13.00	\$ 2,688.44
158411	2/17/2010	1 GEOFFERY WY	WAYNE, NJ 07470	751 WINCHESTER BL	299-45-032	\$ 2,714.46	\$ 13.00	\$ 2,727.46
159574	3/29/2010	1349 LYONSVILLE LN	SAN JOSE, CA 95118-3509	1349 LYONSVILLE LN	567-49-078	\$ 2,841.53	\$ 13.00	\$ 2,854.53
165344	8/16/2010	15 N POTTEBALUMI RD	CASA GRANDE AZ 85222	1045 ASBURY ST	261-09-035	\$ 3,034.21	\$ 13.00	\$ 3,047.21
164761	8/4/2010	868 PASEO ESTERO DR	SAN JOSE, CA 95122-3315	868 PASEO ESTERO DR	477-70-018	\$ 3,071.49	\$ 13.00	\$ 3,084.49
169448	11/2/2010	5873 DRY OAK DR	SAN JOSE, CA 95120	5873 DRY OAK DR	577-51-030	\$ 3,159.71	\$ 13.00	\$ 3,172.71
164755	8/4/2010	1077 DURNESS PL	SAN JOSE, CA 95122-3707	1077 DURNESS PL	477-36-031	\$ 3,196.86	\$ 13.00	\$ 3,209.86
159518	3/26/2010	326 S WILLARD AV	SAN JOSE, CA 95126-3279	326 S WILLARD AV	277-20-034	\$ 4,113.74	\$ 13.00	\$ 4,126.74

Finance Department

Report from the Director of Finance to the City Council of the Cost of Sidewalk Repairs

City of San José

Public Hearing June 7, 2011

ACCOUNT#	DATE ASSIGNED	MAILING ADDRESS	CITY, STATE, ZIP	PROPERTY ADDRESS	APN #	CURRENT BALANCE	LIEN FEE	TOTAL BALANCE
157800	1/21/2010	1295 DENTWOOD DR	SAN JOSE, CA 95118-3018	1295 DENTWOOD DR	569-05-024	\$ 5,352.36	\$ 13.00	\$ 5,365.36
164195	7/20/2010	1664 GUADALUPE AV	SAN JOSE, CA 95125	1664 GUADALUPE AV	455-21-034	\$ 5,678.55	\$ 13.00	\$ 5,691.55
157973	1/27/2010	P.O. BOX 3390	SAN JOSE, CA 95156	1424 CARNELIAN DR	477-32-193	\$ 5,883.49	\$ 13.00	\$ 5,896.49
158400	2/17/2010	P.O BOX 193755	SAN FRANCISCO, CA 94119	1705 1ST ST	230-29-023	\$ 6,224.44	\$ 13.00	\$ 6,237.44
161574	5/20/2010	444 SARATOGA AV	SANTA CLARA, 95050	605 LEWIS RD	497-47-011	\$ 14,285.95	\$ 13.00	\$ 14,298.95
159561	3/28/2010	424 S MAIN ST	MILPITAS, CA 95035	478 SANTA CLARA ST	467-25-075	\$ 24,138.01	\$ 13.00	\$ 24,151.01
						\$ 132,595.58	\$ 728.00	\$ 133,323.58