



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: SEPTEMBER 10, 2019

DEPARTMENT: COMMUNITY DEVELOPMENT
FINANCE DEPARTMENT

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TITLE: RESOLUTION TO LEVY SALINAS UNITED BUSINESS
ASSOCIATION (SUBA) FY 2019-2020 ANNUAL ASSESSMENT

ORDINANCE REGARDING THE COLLECTION OF
ASSESSMENTS FOR THE SUBA BUSINESS IMPROVEMENT
AREA (BIA)

RECOMMENDED MOTION:

This Report presents two separate actions for the City Council's consideration:

1. A motion to approve a Resolution to levy and collect the annual assessment in the Salinas United Business Association ("SUBA") Business Improvement Area ("BIA") for Fiscal Year (FY) 2019-2020; and
2. A motion to adopt an ordinance amending Salinas Municipal Code (SMC) Sec. 21B-40. - Collection of assessments; delinquencies.

RECOMMENDATION:

It is recommended that the City Council

1. hold a public hearing to consider oral and written testimony regarding the annual levy of assessment in the SUBA BIA for FY 2019-2020;
2. tabulate and confirm any protests; and
3. provided that protests received represent less than 50% of the assessments proposed to be levied, approve a resolution which denies such protests, and confirms the SUBA Annual Report for FY 2018-2019 ("Annual Report") and its proposed budget for FY 2019-2020, which shall constitute the levy of assessment for this fiscal year; and

4. should the Council approve a resolution to levy the annual assessment, adopt an ordinance to change annual assessment and collection dates of business improvement areas (BIAs) (SMC Sec. 21B-40) to align with the business license renewal cycle (SMC Section 19-20).

EXECUTIVE SUMMARY:

As required by California Streets and Highways Code Section 36535, “Parking and Business Improvement Area Law of 1989”, prior to considering approval of a resolution to levy the annual assessment in the SUBA BIA, the City is to hold a public hearing to receive the testimony of all interested persons for or against the levy of an assessment for FY 2019-2020. Provided that protests received represent less than 50% of the assessments proposed to be levied, the Council can confirm the Annual Report and its proposed budget for FY 2019-2020, which shall constitute the levy of assessment for this fiscal year.

The proposed ordinance amendment changes the dates on which assessments are collected from businesses within SUBA’s boundaries and brings the assessment dates into conformity with the dates for business license renewals. This change will improve the BIA assessment collection rate and will make it more efficient for Finance Department staff to process annual assessments. Adoption of this Ordinance would only be considered should the FY 2019-2020 levy of assessment be approved.

BACKGROUND:

The Salinas United Business Association (SUBA) is a 501(c)(6) nonprofit corporation appointed by the City Council to serve as the Advisory Board of the Business Improvement Area formed in 2004 under the Parking and Business Improvement Area Law of 1989. Through the levying of assessments, SUBA provides district members with benefit services - support and resources they need to be successful business owners including business training, marketing, and streetscape beautification and maintenance. The SUBA BIA is located in East Salinas, its boundaries include the major commercial corridors of E. Market and E. Alisal Streets and N. Sanborn Road. A boundary map is provided as an attachment to this report. No boundary changes are proposed. There are currently 746 business licenses in the BIA held by 660 SUBA members as 86 SUBA members have more than one business license.

SUBA’s 2017-2018 Annual Report (August 2018) identified low assessment collection rates as a primary challenge. To address the low collection rate, City staff proposed to have the annual BIA assessment be billed as a line item on the business license fee renewal invoice but were waiting until the business license software was upgraded. SUBA supported this change and advocated that if this collection procedure were to be implemented by the City, it would have an immediate positive effect on assessment collection rates and SUBA’s ability to fulfill its duties and goals. In November 2018, city staff met with SUBA and updated them on this change and the logistics.

The ordinance amendment was placed on the March 5, 2019 City Council meeting agenda. During Public Comments members of the SUBA BIA raised concerns that included not receiving benefit services, lack of communication and business support from SUBA, and ruined credit scores for

those business who did not pay the assessment. It was also stated that they were collecting signatures to protest and “shut down” SUBA. Based on public comments received, Councilmember De La Rosa pulled the item from the consent calendar and motioned that SUBA and the protesting members be given thirty (30) days to discuss and resolve issues raised. The Ordinance amendment was to be brought back for consideration at the first City Council meeting after the end of the thirty (30) days. The motioned carried.

Subsequently, discussion regarding SUBA and the ordinance amendment was postponed to August 13, 2019 when the City Council received SUBA’s Annual Report. At that meeting the City Council approved a Resolution of Intention (“ROI”) to Levy an Annual Assessment in SUBA BIA for Fiscal Year 2019-2020 (ROI No. 618). The ROI accepted SUBA’s FY 2018-2019 Annual Report including SUBA’s adopted budget for FY 2019-2020 and set a public hearing date of September 10, 2019 for the City Council to consider the levy of assessments for FY 2019-2020. The SUBA Board proposes no changes to the method of assessment or boundaries of the BIA for the coming year. As required by the California Streets and Highways Code, the City Clerk published the ROI in The Monterey Herald on August 24, 2019, thus providing the required notice of the public hearing.

At the same meeting, public comments were received in support of and against SUBA. Comments from those in support of SUBA identified low assessment collection rates as a primary challenge limiting SUBA’s ability to provide benefit services. Those against SUBA questioned the organization’s transparency and provision of benefit services. The Mayor stated that he would facilitate a meeting between the two parties prior to the September 10, 2019 public hearing.

The meeting with the Mayor occurred on August 19, 2019. At the meeting, to address transparency and communication concerns, the Mayor requested that SUBA conduct an audit and for both parties to work together to prepare ballots and to hold an election to fill the five (5) vacant SUBA Board positions. To assist SUBA with the election of board members, the Mayor offered the City to conduct the election at City Hall at a date and time to be determined. Both actions were requested to take place prior to the September 10, 2019 public hearing, or as soon thereafter as possible. The public hearing and annual levy of assessment process is not contingent upon completion of these items and will proceed as scheduled. An update on these two items will be provided to the City Council at the meeting.

DISCUSSION:

Consideration of Annual Levy of Assessment

At the hearing, Council will hear the testimony of all interested persons for or against the levy. If protests of BIA members are less than 50% of the assessments proposed, the Council can duly overrule protests and deny all said protests and objections. Following the hearing, the Council may confirm the FY 2018-2019 Annual Report as filed by SUBA, or the Council may modify the Annual Report and confirm it as modified. Adoption of the resolution confirming the FY 2018-2019 Annual Report shall constitute the levy of assessment for FY 2019-2020.

If written protests are received from the owners of businesses in the SUBA BIA which will pay 50% or more of the assessments proposed to be levied in FY 2019-2020 and protests are not withdrawn so as to reduce the protests to less than that 50%, no further proceeding to levy an assessment for FY 2019-2020 shall be taken for a period of one year from the date of the finding of a majority protest. If the majority protest is only against the furnishing of a specified type of improvement or activity in the Parking and Business Area, those types of improvements or activities will be eliminated.

Ordinance Amendment Regarding Collection of Assessments

Should the City Council approve the resolution to levy the annual assessment, staff recommends adoption of an ordinance to change annual assessment and collection dates of business improvement areas (BIAs) (SMC Sec. 21B-40) to align with the business license renewal cycle (SMC Section 19-20).

Currently, annual business license renewal occurs twice a year. Annual license taxes measured by gross receipts are due and payable in advance of the first day of February. All other annual license taxes are due and payable in advance of the first day of August. A delinquency charge of up to fifty percent (50%) of the business license fee is assessed on payments remitted after the due date as provided in Section 19-21 of the Municipal Code. The SUBA annual assessment is issued October 1st with payment due by November 1st. Currently, SUBA does not have a delinquency fee.

Aligning the billing cycles of the business license fee renewal and BIA assessment, issuing a single bill, and applying the delinquency policy as outlined in Section 19-21 of the Municipal Code to the BIA assessment would result in a higher collection rate. It is assumed that businesses would pay the total amount of the bill to avoid partial payment and delinquency charges. Another benefit is that SUBA would be able to better manage its revenue as the business license cycle is more in line with SUBA's fiscal year (July 1st to June 30th) and SUBA would receive two assessment installments instead of just one lump sum mid fiscal year (November/December). A higher collection rate would provide SUBA with more resources to provide benefit services of business training, marketing, enhanced security, and streetscape beautification and maintenance to its membership.

Adoption of this Ordinance is the first step in the process to allow the Finance Department to proceed to develop the systems to combine the BIA and business license billing cycle and to build the administrative capability through the TRAKit software program upgrade in September 2019.

If this Ordinance is adopted, starting in 2020 SUBA's annual report and the City's Resolution of Intent to Levy Assessment would occur in April, instead of August, and the protest hearing on the levy of assessments would be moved from September to May. This Ordinance would take effect November 30, 2019.

CEQA CONSIDERATION:

The proposed actions are not projects as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines section 15378).

STRATEGIC PLAN INITIATIVE:

SUBA remains a partner in carrying out the City Council's goals of "Economic Diversity and Prosperity", as well as a "Safe, Livable Community."

The ordinance amendment most directly aligns with the City Council goal of "Effective, Sustainable Government." The collection of BIA assessments fund SUBA activities (business training, marketing, and streetscape beautification and maintenance) support the City Council's goals of "Economic Diversity and Prosperity", as well as a "Safe, Livable Community."

DEPARTMENTAL COORDINATION:

Community Development staff acts as SUBA's city liaison. As highlighted in the Annual Report, Community Development, Public Works and Police Department staff have coordinated efforts to support SUBA in its goals of improving the safety, cleanliness and appearance of the SUBA BIA.

The Finance Department assisted Community Development with verifying the assessment collected in 2018-2019 and projections for 2019-2020. The Finance Director met with the SUBA Executive Director and Board members on multiple occasions to discuss syncing the BIA's annual assessment with business licensing. The City Attorney prepared the Ordinance in coordination with Finance and Community Development. Community Development and Finance jointly prepared the ordinance amendment section of this report.

FISCAL AND SUSTAINABILITY IMPACT:

The levy of assessment for FY 2019-2020 will have no fiscal impact on the General Fund, except for modest administrative costs still to be determined. The estimated \$128,195 to be collected by the assessments in the coming year assumes the City successfully collects 100% of the billed assessments. Due to low collection rates over the past several years, the Annual Report conservatively projects assessment revenue to be \$56,000 in FY 2019-2020.

ATTACHMENTS:

1. Resolution to Levy Assessment
2. 2018-2019 SUBA Annual Report
3. SUBA BIA 2019-2020 Assessment Calculations
4. Map – SUBA Boundaries
5. Ordinance Regarding the Collection of Assessment for the Salinas Unified Business Improvement Area