Agenda Item No. 18

Agenda Report

DATE: November 16, 2010

TO: The Mayor and City Council

FROM: Sean P. Quinn, City Manager
      George R. Hicks, Public Works Director
      Steven L. Hartwig, Assistant Public Works Director

SUBJECT: Public Hearing and:

Resolution of the City Council Declaring the Results of the Property Owner Protest Ballot Proceeding for Landscaping and Lighting Maintenance District No. 19 (Corporate Commons) and Approving Certain Related Actions; and

Resolution of the City Council Approving and/or Amending the Final Engineer's Report Regarding the Formation of Landscaping and Lighting Maintenance District No. 19 (Corporate Commons); and the Levy and Collection of Annual Assessments Related Thereto Commencing in Fiscal Year 2011-2012; and

Resolution of the City Council Confirming the Formation of Landscaping and Lighting Maintenance District No. 19 (Corporate Commons); Assessment Diagram and Ordering the Levy and Collection of Assessments for Fiscal Year 2011/2012

RECOMMENDED ACTION
Hold public hearing and adopt resolutions.

STATEMENT OF ISSUE
The adoption of the attached resolutions is the final step in the formation of Landscaping and Lighting Maintenance District (LLMD) No. 19 within the City of Fairfield. This LLMD will combine LLMD No. 4 (Corporate Commons) with new development area east of Suisun Valley Road into a new district.
DATE: November 16, 2010
SUBJECT: Declaring the Results of a Property Owner Protest Ballot Proceeding for the formation of the Landscape and Lighting Maintenance District No. 19 (Corporate Commons), Approving the Final Engineer's Report, and to Levy and Collect Annual Assessments Related Thereto Commencing with Fiscal Year 2011-2012

DISCUSSION
In June 1991, the City formed LLMD No. 4 – Fairfield Corporate Commons. Unfortunately, the assessment range for LLMD No. 4 does not include an inflationary adjuster and is no longer adequate to meet the expenses within the district. In addition, new development adjacent to the district requires either annexation to the existing LLMD or formation of a new district. Since LLMD No. 4 is no longer economically viable, annexation is not an acceptable option.

Staff is recommending that the City pursue formation of a new LLMD that would incorporate the new development area as well as absorb and replace LLMD No. 4. In addition to providing an economy of scale, this option is attractive since there is a substantial amount of common land ownership within the proposed new LLMD boundaries. Staff has discussed this option with the largest landowner in the proposed new district, Garaventa Properties, who has expressed support for this effort.

On July 20, 2010, the property owners were balloted to form the new district, but not enough ballots were returned to approve the formation. The majority property owner, Garaventa Properties, failed to return their ballots in time for the Public Hearing. Garaventa Properties requested that the City re-ballot to form the new district, which is required prior to development of their property.

Since this district will be formed under Proposition 218 legislation, property owners are being balloted regarding formation of the district and approval of an assessment range. If LLMD No. 19 is not approved, the City will then be required to identify ways to reduce costs within LLMD No. 4 and proceed with formation of a new LLMD for the new adjacent areas. The proposed LLMD No. 19 will have an assessment range that will include a cost of living increase based on the Consumer Price Index (CPI).

In order to form the new LLMD, a majority of the properties must approve the LLMD.

FINANCIAL IMPACT
Establishment of LLMD No. 19 will allow the City to collect special assessments that will be sufficient to provide for the maintenance of landscaping and lighting within the new district boundaries, which includes the existing Fairfield Corporate Commons area. The assessments to be collected in the first year total $181,318. No General Fund monies are being used in this district.
DATE: November 16, 2010
SUBJECT: Declaring the Results of a Property Owner Protest Ballot Proceeding for the formation of the Landscape and Lighting Maintenance District No. 19 (Corporate Commons), Approving the Final Engineer’s Report, and to Levy and Collect Annual Assessments Related Thereto Commencing with Fiscal Year 2011-2012

If the district is not approved, the City will need to identify ways to reduce costs in the existing district budget.

PUBLIC CONTACT/ADVISORY BODY RECOMMENDATION
An informational pamphlet was mailed to all property owners. In addition, staff met with property owners to answer any questions prior to the public hearing.

ALTERNATIVE ACTION
The City Council could decide not to form the new district, however this is not recommended since creation of the new district will allow adequate funding to be collected to maintain the landscape improvements.

DOCUMENTS ATTACHED
Attachment 1: Resolution Declaring Results of the Property Owner Ballot
Attachment 2: Resolution Approving the Engineer’s Report
Attachment 3: Resolution Confirming the Formation

STAFF CONTACT
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Coordinated with: City Attorney
CITY OF FAIRFIELD

RESOLUTION NO. 2010 - 312

RESOLUTION OF THE CITY COUNCIL DECLARING THE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT PROCEEDING FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS) AND APPROVING CERTAIN RELATED ACTIONS

WHEREAS, the City Council called and duly held a property owner protest proceeding for Landscaping and Lighting Maintenance District No. 19 (Corporate Commons) (hereafter referred to as "District") pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (hereafter referred to as the "Act") and the California Constitution Articles XIIIC and XIIIID, for the purpose of presenting to the qualified property owners within the District the annual levy of assessments. The Maximum Assessment Rate approved through this ballot proceeding and related annual assessments will fund the costs and expenses related to the operation, maintenance and servicing of such improvements related to the District; and,

WHEREAS, the landowners of record within the District as of the close of the Public Hearing held on November 16, 2010, did cast their ballots, weighted by the proportional financial obligation of each ballot, the results of which are illustrated below:

Yes: __________

No: __________

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS), AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. The results of the tabulation of the valid property owner protest ballots returned by the property owners of record within said District, prior to the conclusion of the Public Hearing and property owner protest proceeding held for the District on November 16, 2010, is hereby confirmed and made public record.
Section 3. The tabulation of the valid property owner protest ballots returned by the property owners within said District indicates that majority protest of the Maximum Assessment Rate identified herein does not exist, and the City Council is authorized to take the necessary steps to levy the assessments as approved.

Section 4. The City Clerk is hereby directed to enter this Resolution on the minutes of the City Council, which shall constitute the official declaration of the result of such property owner protest proceeding.

Section 5. This Resolution shall become effective immediately upon its adoption.

Section 6. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED THIS 16th DAY OF NOVEMBER 2010.

STATE OF CALIFORNIA
COUNTY OF SOLANO ss.
CITY OF FAIRFIELD

I, Arletta K. Cortright, City Clerk of the City of Fairfield, County of Solano, State of California do hereby certify that the foregoing Resolution No. 2010 - ___ was regularly adopted by the City Council of said City of Fairfield at a regular meeting of said council held on the 16th day of November 2010 by the following vote:

AYES: COUNCILMEMBERS: __________________________

NOES: COUNCILMEMBERS: __________________________

ABSENT: COUNCILMEMBERS: __________________________

ABSTAIN: COUNCILMEMBERS: __________________________

ATTEST:

_____________________________  MAYOR

_____________________________  CITY CLERK
pw
RESOLUTION OF THE CITY COUNCIL APPROVING AND/OR AMENDING THE FINAL ENGINEER'S REPORT REGARDING THE FORMATION OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS); AND THE LEVY AND COLLECTION OF ANNUAL ASSESSMENTS RELATED THERETO COMMENCING IN FISCAL YEAR 2011-2012

WHEREAS, the City Council has by previous Resolutions, ordered the preparation of the Engineer's Report (hereafter referred to as the "Report") regarding the formation of the City of Fairfield Landscaping and Lighting Maintenance District No. 19 (Corporate Commons) (hereinafter referred to as the "District"), and the levy and collection of assessments related thereto, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 (hereafter referred to as the "1972 Act"); and

WHEREAS, the City Council has initiated proceedings for the levy and collection of assessments of said District, for Fiscal Year 2011-2012 in accordance with the 1972 Act, and declared its intention to conduct a property owner protest ballot proceeding for the levy and collection of new assessments to pay for the cost of improvements related thereto commencing with Fiscal Year 2011-2012, in accordance with the provisions of the California Constitution Article XIIID; and

WHEREAS, the City Council called and duly held property owner protest ballot proceedings for the proposed new assessments related to the District territory in accordance with the provisions of the California Constitution Article XIIID, the results of which have been presented and confirmed by City Council; and

WHEREAS, the City Council has carefully examined and reviewed the Engineer's Report, considered all public testimony and written protests presented, and evaluated the results of the property owner protest ballot proceedings to determine if majority protest exists.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS), AS FOLLOWS:

Section 1. That the above recitals are all true and correct.
Section 2. Based on testimony given, the results of the property owner protest ballot proceedings and the documents and discussion presented, the City Council has directed and confirmed any necessary modifications or amendments to the Engineer's Report previously presented and filed, and any said modifications or amendments so reflected by the minutes of this meeting shall by reference be incorporated into the approved Engineer's Report.

Section 3. The Engineer's Report as approved shall constitute the territory and properties within the District in Fiscal Year 2011-2012, and confirms and establishes the maximum assessment rates and method of apportionment adopted by the City Council in accordance with the benefits received from the improvements, operation, maintenance and services to be performed and authorized within the District.

Sections 4. The new assessments incorporated in the Engineer's Report have been approved by the property owners of record pursuant to the provisions of the California Constitution Article XIIID and through separate resolution, the Maximum Assessment Rate has been identified and the results of the majority protest ballot proceeding has been confirmed.

Section 5. The Engineer's Report as presented or amended is ordered to be filed in the City Clerk's Office as a permanent record and to remain open to public inspection.

Section 6. The City Clerk's Office shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of and final approval of the Engineer's Report.
PASSED, APPROVED, AND ADOPTED THIS 16th DAY OF NOVEMBER 2010.

STATE OF CALIFORNIA
COUNTY OF SOLANO  ss.
CITY OF FAIRFIELD

I, Arletta K. Cortright, City Clerk of the City of Fairfield, County of Solano, State of California do hereby certify that the foregoing Resolution No. 2010 - ____ was regularly adopted by the City Council of said City of Fairfield at a regular meeting of said council held on the 16th day of November 2010 by the following vote:

AYES:  COUNCILMEMBERS: ______________________________________

NOES:  COUNCILMEMBERS: ______________________________________

ABSENT: COUNCILMEMBERS: ______________________________________

ABSTAIN: COUNCILMEMBERS: ______________________________________

____________________________________
MAYOR

ATTEST:

____________________________________
CITY CLERK

pw
CITY OF FAIRFIELD

RESOLUTION NO. 2010 - 314

RESOLUTION OF THE CITY COUNCIL CONFIRMING THE FORMATION OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS); ASSESSMENT DIAGRAM AND ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2011/2012

WHEREAS, the City Council has by previous Resolutions initiated proceedings and declared its intention to form Landscaping and Lighting Maintenance District No. 19 (Corporate Commons) (hereafter referred to as the "District") with the levying of assessments commencing with fiscal year 2011/2012, said fiscal year commencing July 1, 2011 and ending June 30, 2012; pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500 (hereinafter referred to as the "Act") to pay the costs and expenses of ongoing operation, maintenance, and servicing of improvements associated with the District, and all appurtenant facilities related thereto; and

WHEREAS, the Engineer selected by the City Council has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council an Engineer's Report and Assessment Diagram in connection with the proposed formation and levy of special benefit assessments upon eligible parcels of land within the District, and the City Council did by previous Resolution adopt and approve said Engineer's Report; and

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2011 and ending June 30, 2012, to pay the costs and expenses of the ongoing operation, maintenance, and servicing of improvements associated with the District, and all appurtenant facilities related thereto; and

WHEREAS, the City Council has conducted a property owner protest ballot proceeding for the District assessments proposed to be levied commencing fiscal year 2011/2012, and majority protest of the assessments described in the Engineer's Report did not exist pursuant to the provisions of the California State Constitution Article XIIID.

Attachment 3
NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 19 (CORPORATE COMMONS), AS FOLLOWS:

Section 1. Following notice duly given, the City Council has held a full and fair Public Hearing regarding its Resolution approving the Engineer's Report prepared in connection therewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons. The City Council has determined that the property owners in accordance with the requirements of the California State Constitution, Article XIIIID have approved the assessments so presented.

Section 2. Based upon its review (and amendments, as applicable) of the Engineer's Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds and determines that:

a. The land within the District will receive special benefit by the operation, maintenance and servicing of improvements to be provided by the District, as described within the Engineer's Report.

b. The District includes all of the lands receiving such special benefit.

c. The net amount to be assessed upon the lands within the District is in accordance and apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services for the fiscal year commencing July 1, 2011 and ending June 30, 2012.

Section 3. The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as the maintenance, operation, administration, and servicing of the improvements associated with the District, as described within the Engineer's Report, and were presented to the affected property owners as part of the ballot proceedings.

Section 4. The maintenance, operation, and servicing of improvements shall be performed pursuant to the Act and the County Auditor of Solano County shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected.
Section 5. The City shall deposit all money representing assessments collected by the County for the District to the credit of a fund for Landscaping and Lighting Maintenance District No. 19 (Corporate Commons), and such money shall be expended only for the maintenance, operation, and servicing of the improvements as described in the Engineer’s Report and generally described in Section 3 of this Resolution and approved through the ballot proceedings.

Section 6. The adoption of this Resolution constitutes the formation of the District, the establishment of the maximum assessment rate described in the Engineer’s Report and approved through these ballot proceedings, and the levy of assessments for the fiscal year commencing July 1, 2011 and ending June 30, 2012.

PASSED, APPROVED, AND ADOPTED THIS 16th DAY OF NOVEMBER 2010

STATE OF CALIFORNIA
COUNTY OF SOLANO ss.
CITY OF FAIRFIELD

I, Arletta K. Cortright, City Clerk of the City of Fairfield, County of Solano, State of California do hereby certify that the foregoing Resolution No. 2010-__ was regularly adopted by the City Council of said City of Fairfield at a regular meeting of said council held on the 16th day of November 2010 by the following vote:

AYES: COUNCILMEMBERS: ______________________________
NOES: COUNCILMEMBERS: ______________________________
ABSENT: COUNCILMEMBERS: ______________________________
ABSTAIN: COUNCILMEMBERS: ______________________________

ATTEST:

______________________________
MAYOR

______________________________
CITY CLERK
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