


Office of the City Manager

ACTION CALENDAR  
December 9, 2003

To: Honorable Mayor and  
Members of the City Council

From:  Phil Kamlarz, Acting City Manager

Subject: *Establishment of Solano Avenue Business Improvement District*

RECOMMENDATION

Continue the public hearing on the proposed establishment of the Berkeley Solano Avenue Business Improvement District and upon conclusion: 1) delay action as necessary to allow the City Clerk to tabulate any oral or written protests against formation of the proposed District received before or during the public hearing; 2) if no majority protest exists after tabulation of any oral or written protests, consider whether to make changes in the proposed assessments, boundaries or programs of the BID; and 3) adopt the first reading of an Ordinance adding BMC Section 7.97 establishing the Berkeley Solano Avenue Business Improvement District and levying assessments on businesses within the District for calendar year 2004.

FISCAL IMPACTS OF RECOMMENDATION

Projected receipt of \$40,025 to \$48,850 in Business Improvement District revenues for FY 2004, depending upon the adopted assessment formula; budget code to be assigned if the BID is established. Adoption of the Resolution has no direct financial impact on the City's budget. The BID constitutes an independent funding source that must be dedicated to improvements, maintenance and marketing activities of the District. To the extent that the activities of the BID enhance the District and its business climate, the District will contribute towards enhanced City revenues through increased sales and property taxes. Administration of the BID, including assessment billings, annual renewals and contract administration, will require some ongoing staff time and expense for the Office of Economic Development and the Finance Department.

CURRENT SITUATION AND ITS EFFECTS

On November 18, 2003 Council opened the public hearing on the establishment of the Berkeley Solano Avenue Business Improvement District (BID). Council heard from owners and representatives of professional businesses in opposition to establishment of the BID. The businesses stated that they did not believe that they would receive any benefits from the BID and therefore should not be required to pay assessments as a part of the BID. Council continued the public hearing until December 9, 2003 to allow additional time for businesses to provide oral comments and written communications on the proposed BID, and to allow staff to analyze the financial impact of reducing the assessments for professional businesses. Notices regarding the continuation of the public hearing were mailed to all businesses in the proposed Solano Avenue BID (Attachment A).

BACKGROUND

**Public Hearing Procedure**

At the November 18, 2003 hearing, Council asked questions about the procedure for hearing protests against the establishment of the proposed BID and about counting of votes against the BID. The Business Improvement District Law of 1989 requires that a public hearing be held on the proposed establishment of a business improvement district and the levy of assessments. At the public hearing the City Council is required to hear all protests against establishment of the BID. *Protests may be made orally at the public hearing or in writing. Written protests against formation of the District may be filed with the City Clerk at or before the time scheduled for the public hearing. Written protests may be withdrawn during the hearing.*

The law requires if oral and written protests are received from businesses that will pay 50 percent or more of the assessments, the BID will not be formed. Therefore, in counting protests against the BID, the City must weight each protest by the amount of the assessment that the protesting business would pay. The City Clerk then tallies the dollar amount of all protests. If the resulting total of the protests equals or exceeds 50 percent of the total of all assessments, the City cannot act to form the BID for at least one year.

The mandated process for voting on the establishment of a business-based BID only involves protests against the establishment of the BID, with each protest being weighted by its proposed assessment. A formal balloting process is not required. Those businesses in favor of establishing the BID are not required to vote or to appear at the public hearing.

**Proposed Assessment Formula**

The proposed assessment formula in the Resolution of Intention and Ordinance now before Council is as follows:

<b>Type of Business</b>	<b>Annual Assessments</b>	
	<b>Zone A</b>	<b>Zone B</b>
a. Retailers and 1-5 employees	\$200	\$125
Restaurants: 6-9 employees	\$300	\$175
10+ employees	\$400	\$225
b. Service Businesses:	\$175	\$100
c. Professional Businesses:	\$150	\$100
d. Financial Institutions	\$500	\$500

Businesses are assessed according to their expected degree of benefit from BID activities. Two benefit zones are proposed. Zone A includes all businesses on parcels with frontage on Solano Avenue. Zone B includes all other businesses within the District. Assessments are reduced in Zone B, as Zone B businesses are not expected to receive the same degree of benefit as those on Solano Avenue.

Following is a table summarizing the estimated amounts of these assessments:

<b>Solano Avenue Estimated BID Revenues</b>			
<b>Business Type</b>	<b>Number</b>	<b>Assess. Rate</b>	<b>Total Assess.</b>
<b>Zone A:</b>			
Retail: 1-5 employees	51	\$200	\$10,200
Retail: 6-10 employees	18	\$300	\$5,400
Retail: 10+ employees	11	\$400	\$4,400
Subtotal - Retail:	80		\$20,000
Finance	3	\$500	\$1,500
Service	55	\$175	\$9,625
Professional	63	\$150	\$9,450
<b>Total Zone A</b>	<b>201</b>		<b>\$40,575</b>
<b>Zone B:</b>			
Retail: 1-5 employees	3	\$125	\$375
Service	2	\$100	\$200
Professional	77	\$100	\$7,700
<b>Total Zone B</b>	<b>82</b>		<b>\$8,275</b>
<b>Total Both Zones</b>	<b>283</b>		<b>\$48,850</b>

Following is a table summarizing the effects of reducing the assessment rates for **professional businesses only** by one-third and by one-half.

<b>Possible Reduced Professional Business Assessments</b>					
<b>Assessment Formula</b>	<b>Number</b>	<b>Assess. Rate</b>	<b>Total Assess.</b>	<b>Reduction From Proposed</b>	<b>Total BID Assess.</b>
<b>Proposed:</b>					
Zone A	63	\$150	\$9,450	N/A	
Zone B	82	\$100	\$8,200	N/A	
<b>Total</b>	<b>145</b>		<b>\$17,650</b>	<b>N/A</b>	<b>\$48,850</b>
<b>One Third Reduction (rounded):</b>					
Zone A	63	\$100	\$6,300	\$3,150	
Zone B	82	\$65	\$5,330	\$2,870	
<b>Total</b>	<b>145</b>		<b>\$11,630</b>	<b>\$6,020</b>	<b>\$42,830</b>
<b>50% Reduction:</b>					
Zone A	63	\$75	\$4,725	\$4,725	
Zone B	82	\$50	\$4,100	\$4,100	
<b>Total</b>	<b>145</b>		<b>\$8,825</b>	<b>\$8,825</b>	<b>\$40,025</b>

Some professional businesses have protested their inclusion in the BID, arguing that they will not receive any benefits from the BID. They have pointed out that they are not located directly off the sidewalk and do not think they will benefit from marketing and promotion activities of the BID.

Staff believes that professional business do benefit from BID activities in the following ways:

- The BID can provide additional improvements and maintenance that contribute to a more attractive and well-maintained area that will be more attractive for businesses and their clients.
- The BID will publish a business directory that will include all businesses in the district, thereby helping to market and promote professional businesses in the area.
- The BID will help address issues, such as parking, that affect the professional businesses in the area.

#### RATIONALE FOR RECOMMENDATION

Staff recommends that Council consider reducing the assessments for professional businesses in the proposed BID by one-third, to \$100 per year in Zone A and \$65 per year in Zone B. Professional business representatives felt that the rates originally proposed rates were too high relative to the level of expected benefits. Staff feels that with the 1/3 reduction in assessment rates for professional businesses, the new assessment rate is more proportional to the benefit that professional businesses will receive. With a one-third reduction in rates for professional businesses, BID revenues are estimated at \$42,830 in FY04.

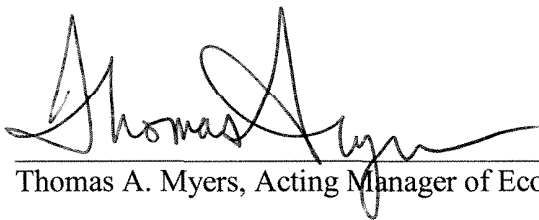
#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered keeping the assessment rates for professional business at the previous level, but concluded that the reduced rates assess professional businesses proportionally to their expected benefits.

#### CONTACT PERSON

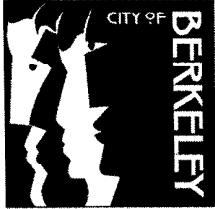
Ted Burton, Office of Economic Development – 981-7536

Approved:



Thomas A. Myers, Acting Manager of Economic Development

Attachment A: Solano Avenue BID information letter (11/25/03)



Office of Economic Development

ATTACHMENT A

November 25, 2003

Re: Solano Avenue Business Improvement District

Dear Business Owner,

On Tuesday, November 18, 2003, the Berkeley City Council opened the public hearing on the formation of the Berkeley Solano Avenue Business Improvement District (BID). Prior to this public hearing, a notice was mailed to all businesses in the proposed BID. That notice included the full Resolution of Intention that was adopted by the City Council, which included the boundaries of the District, the proposed assessments by type of business and benefit zone, and the programs and activities to be funded from annual assessment revenues.

At the November 18 hearing, the City Council heard from some businesses that were opposed to the formation of the BID. After hearing testimony the City Council voted to continue the public hearing to allow more time for affected businesses to comment on the proposed BID. The public hearing has been continued until Tuesday, December 9, 2003.

You can view the proceedings of the Berkeley City Council's public hearing on the formation of the Solano Avenue BID on Tuesday, November 18, 2003 at [www.ci.berkeley.ca.us](http://www.ci.berkeley.ca.us) - select City Council; then select Agendas, Summary and Video Archive 2003; then select Video. A new screen will appear and the video will begin. You can use the scroll bar in the window to go directly to Discussion: 25 Solano Avenue BID.

If you support the formation of the BID, the State law does not mandate that you take any formal action. You may of course testify at the public hearing on December 9<sup>th</sup> in support of the formation of the BID, or you may send written communication in support of the BID. If you want to protest the formation of the BID or suggest changes in its structure, you may either submit a written communication to the City Clerk on or before December 9<sup>th</sup>, or come to the public hearing on December 9<sup>th</sup> and provide written or oral testimony.

Please address all written communications on this issue as follows:

City Clerk  
City of Berkeley  
2180 Milvia Street, First Floor  
Berkeley, CA 94704

If you want to protest the formation of this BID in writing on or before December 9th, your written communication must include your name, the name of the business that you own and its address. State law requires that the City count each protest from a business owner by the amount of the proposed assessment on that business. If the total of all protest votes equals or exceeds 50% of the total of all proposed assessments in the District, the BID will not be established.

At the close of the public hearing on December 9, 2003 the City Council may make changes in the boundaries of the District, the improvements and activities to be funded with BID revenues, and may reduce the amounts of the assessments. However, the City Council may not add territory to the proposed BID or increase any of the proposed assessments beyond those outlined in the Resolution of Intent.

To address the concerns about the proposed assessments on professional businesses, the City Manager is recommending that the City Council consider reducing assessments for professional businesses at the conclusion of the public hearing on December 9th. The proposed assessments on professional businesses are currently as follows:

Zone A: \$150 annually (\$12.50 per month)  
Zone B: \$100 annually (\$8.33 per month)

Staff is recommending that the City Council consider reducing these assessments for professional businesses by one-third as follows:

Zone A: \$100 annually (\$8.33 per month)  
Zone B: \$65 annually (\$5.42 per month)

We think that these reduced assessments on professional businesses reflect the consideration requested from City Council to reduce the assessments for professional businesses, and complement the benefits that professional businesses will receive from BID activities. No changes are recommended on the proposed assessments on other types of businesses.

The BID will implement improvements and marketing activities that are aimed at assuring that Solano Avenue continues to be a vibrant and attractive commercial district. Included will be publication of a business directory of all businesses in the BID. These activities will benefit all businesses in the area by attracting customers and clients and by making the area a more attractive place to visit and work.

If you have questions on the current public hearing or other matters relating to this proposed BID, please call Ted Burton at (510) 981-7536. Thank you for your interest in the Solano BID.

Sincerely,

Thomas A. Myers  
Acting Manager of Economic Development