



Legislation Text

File #: 19-702, **Version:** 1

A Resolution Appointing Five Members to the Briargate Center Business Improvement District Board of Directors

Presenter:

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Summary:

The Briargate Center Business Improvement District encompasses the shopping center commonly referred to as The Shops At Briargate. This is a request for interim appointment five members of the Board of Directors (the “BOD”) of the Briargate Center Business Improvement District (the “BID”). It addresses a temporary vacation of the entire BOD resulting from the sale of the property to a different ownership group. The recommended individuals are Chris Crawford, Jay Despard, Kate Oswald, Eric Weisenstein and Madison Wilsmann. Each of these individuals is associated with the new ownership group to for the property, HGIT Briargate LLC. The appointments would be effective until the next regular special district election to be held in May 2020.

There is an importance to expeditiously appointing a new board because of budgeting and mill levy certification actions that need to occur prior to yearend. “Back to back” Council action on this resolution had been proposed (introduction at this November 25, 2019 Work Session followed by City Council action on November 26, 2019). However, with the cancellation of the November 26th Council hearing, this item is now being heard on this date.

Because the original 2002 ordinance creating this BID did not directly contemplate board appointment process, (versus an elections process), staff and this BID are also proposing a later follow-up amendment of that ordinance in order to clarify this authority.

Background:

BIDs are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements in non-residential areas, utilizing a property tax mill levy as the revenue source. BIDs are a separate legal entity from the City, but their budgets and operating plans must be approved annually by the City.

As noted in the attached petition, this BID board has been fully vacated and needs to be replaced via a City Council temporary appointment process, until such time as elections will occur in May of 2020. Brief “resumes” of each of the members to be appointed are included in the petition. Also attached are a transmittal letter and a draft Council resolution making these appointments.

Prior to sale of this property, the prior board did authorize District counsel to carry out certain actions prior to vacating the board. These actions included but were not limited to filing a 2020 Operating

Plan and Budget with the City.

This temporary appointment action is anticipated to be ratified by Council at a later date following amendment of Ordinance No. 02-24, to clarify the authority of City Council to make these appointment as State Statute (§ 31-25-1209(d) C.R.S.) provides that the governing body of a municipality may provide by ordinance that the Board of Directors of a Business Improvement District may be elected by the electors of the district. organized the BID and provided that the members of the Board of Directors would be elected by election. Ordinance No. 02-24 did not include a process by which vacancies on the Board would be filled. The C.R.S. states that vacancies will be filled in the same manner as the original appointment. C.R.S. §§ 31-25-1209(d) and 31-25-1209(b)(1). Because there was no original appointment, there is no mechanism by which vacancies on the Board may be filled other than by election.

This BID has been active since its inception in 2002.

In 2002, by Ordinance No. 02-24, City Council organized this BID and provided that the members of the Board of Directors would be elected by election.

This BID has a current total mill levy of 39.0 mills (35.000 mills for debt service and 4.000 for operations and maintenance).

The BID issued \$2,895,000 in Limited Tax General Obligation Bonds, Series 2002A in Special Assessment Revenue Bonds, Series 2002B and \$6,875,000 in Special Assessment Revenue Bonds, Series 2002B, for the purpose of financing the construction and/or acquisition of public improvements needed to serve the Business Area. In 2006, the BID refunded its 2002B Special Assessment Bonds through the issuance of \$7,360,000 in Special Assessment Refunding Revenue Bonds, Series 2006. In 2012, the BID refinanced its Series 2002A bonds in the form of a Series 2012A loan for \$4,335,000, of which a portion of the proceeds was used to reimburse the original developer. The District received approval from the City Council to modify/refinance this loan in November 2018 in the amount of \$3,379,500. The BID also has an acquisition and reimbursement agreement in the amount of approximately \$6.2 Million, with that agreement not constituting formal debt.

No comments, questions or concerns requiring follow-up, were articulate at the November 25, 2019 Work Session during which this item was introduced.

Previous Council Action:

City Council approved creation of this BID in 2002 (Ordinance No. 02-24) and has approved the BID Operating Plan and Budget annually since its formation, most recently on October 22, 2019. Council has also approved 2002 bond issuances as well as 2006 and 2012 bond refinances as further described above. In November 2018 Council approved the issuance of a limited tax general obligation refunding loan with an estimated principal amount of \$3,544,500 (Res. 147-18).

Financial Implications:

There should be no direct financial implications to the City from this action.

City Council Appointed Board/Commission/Committee Recommendation:

Given the focused nature of this request, the City's staff-level Special District Committee has not been involved. However, coordination with key departments such as the Clerk's office and the City

Attorney's Office has occurred.

Stakeholder Process:

N/A

Alternatives:

City Council could choose to approve, not approve or modify the proposed resolution.

Proposed Motion:

Move approval of the attached resolution appointing five members to the Briargate Center Business Improvement District Board of Directors.

N/A