



Legislation Text

File #: 17-1172, **Version:** 4

Ordinance No. 17-94 organizing the SW Downtown Business Improvement District and providing for the Election of the Board of Directors.

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Summary:

This is a request to create a new Business Improvement District (BID) to support redevelopment in the Southwest Downtown area.

Note: This agenda item is interrelated with the preceding item concerning approval of a service plan for the SW Downtown Metropolitan District Nos. 1-2. The documents associated with that agenda item should be referred to for additional background and context.

Previous Council Action:

No previous City Council action specific to the formation or consideration of the BID. However, in late 2001 Council approved an urban renewal plan for this area.

This item was introduced to the City Council during a work session on August 21, 2017, and was continued from the September 12, 2017 regular meeting to this date.

On September 26, 2017, City Council approved this ordinance on first reading by a vote of 6:1:2 (Councilmember Murray with the dissenting vote, and Councilmembers Bennett and Pico being excused). After discussion at the dais, the maximum debt authorization was changed to \$105,000,000.00.

Background:

BIDs are created under Colorado Statutes and City Policy to finance and/or maintain certain public improvements in non-residential areas, primarily utilizing a property tax mill levy as the revenue source. By Colorado Statutes, properties assessed as residential use cannot be levied a BID tax.

BIDs are separate legal entities from the City. However, their formation requires Council approval, and City Council must then annually approve their Operating Plans and Budgets. These processes provide an opportunity for City Council to establish limits and parameters for operation to the BIDs beyond those included in State Statutes. City Council adopted a Special District Policy ("Policy") in 2006. It establishes recommended limits regarding districts including metropolitan districts, BIDs and general improvement districts (GIDs) including mill levy caps. In 2014, Council adopted a standard template for BID operating plans and budgets. Together with state statutes, these documents are used as the standard with which to review new BIDs.

Legal publication of this hearing will be required along with mailed notice to any potentially included properties not part of the petition.

Among the powers of BIDs are the powers to enter into contracts, own property, levy property taxes and fees and incur debt (subject to Tabor provisions).

The petitioners desire to create the SW Downtown BID as a mechanism to allow additional options for financing and maintenance of public improvements in the redeveloping Southwest Downtown area. As further described under the preceding agenda item, the petitioners have identified a 67.8 acre area as their initial boundaries, but could include a number of additional properties to the north, east and south. Any future inclusions are subject to subsequent approval by City Council by ordinance. The SW Downtown BID boundaries are all included in the Southwest Downtown Urban Renewal Area, such that financing plans will be interrelated.

Options for governance for BIDs include City Council serving as the ex officio board of directors, or a Council- appointed board, or an elected board. The petitioners are proposing to have an elected board. This is consistent with the governance structure used for 10 of the 11 existing BIDs in the City. The current exception is the Greater Downtown BID which has a Council appointed board.

The petitioners have provided an Initial 2017-18 Operating Plan and Budget using the City's adopted model. It stipulates a maximum debt service mill levy cap of 50.0 mills which is allowable under the 2006 Special District Policy for commercial districts.

The City's standard-form BID Operating Plan and Budget template requires petitioner to seek prior approval for use of a public improvement fee (PIF) in conjunction with BID debt issuance. Under current law the City otherwise has no authority over whether a property owner chooses to record a PIF covenant on their property. In this case the petitioners have drafted their initial Operating Plan and Budget to allow full authority to use a PIF in conjunction with their BID.

At the August 21, 2017 Council work session introducing the item, a number of Councilors asked for additional information regarding the potential costs of public improvement categories and projects anticipated to be eligible for district financing. A separate spreadsheet has been provided for information only. This list includes many but not all potentially eligible improvement costs and includes some projects that likely will be funded via other sources of revenue.

On August 21st Councilors also discussed the potential for including language in the Operating Plan and Budget addressing requirements for disclosure of the proposed public improvement fee (PIF) via placards or an itemized retail receipt, for example. There was also discussion of a City-initiated ordinance that could be applied more universally. This option is still being researched. The position of the petitioner is that they do not support, requirements specific to this one BID; however they might be amenable to more universal requirements.

Revised copies of the Operating Plan and Budget have been provided to extend its period of applicability from 2017, to 2017-2018.

This item supports the City's strategic goal relating to building community and collaborative relationships by supporting the public/private partnership steps necessary to achieve the desired reinvestment in the Southwest Downtown area.

Financial Implications:

Pursuant to the Policy and the initial Operating Plan and Budget, the debt and financial obligations of BIDs do not constitute a financial obligation of the City. However, the intention of the SW Downtown BID is to have associated agreements with the overlapping urban renewal area allowing it to use its share of future tax increment that would otherwise go to urban renewal.

Board/Commission Recommendation:

The City's staff-level Special District Committee has been provided copies of these materials. All comments received have been in support and/or stated no concerns. Additionally, City Council's Budget Committee discussed and made comments on this request, at a meeting on August 9, 2017 (with Councilpersons Knight and Murray in attendance). However, there was no formal recommendation.

Stakeholder Process:

N/A

Alternatives:

City Council could choose to approve, deny or modify the proposed ordinance.

Proposed Motion:

Motion approving the operating plan and budget for the Southwest Downtown Business Improvement District with a maximum debt authorization of \$105,000,000.00 and providing for the Election of the Board of Directors be approved on second reading.

An Ordinance organizing the SW Downtown Business Improvement District and Providing for the Election of the Board of Directors.