

# Agenda Report

**TO:** CITY COUNCIL **DATE:** June 25, 2001  
**THROUGH:** Legislative Committee  
**FROM:** City Manager  
**SUBJECT:** Support for Assembly Bill 1021 (Goldberg) Parking and Business Improvement Areas

## **RECOMMENDATION:**

Is it recommended that the City Council:

1. Support Assembly Bill 1021 (Goldberg) Parking and Business Improvement Areas
2. Authorize the Mayor to send letters to the appropriate authorities stating Pasadena's position.

## **BILL SUMMARY:**

This bill would (1) define a non-profit association (NPA) for purposes of the law as an "owners association," (2) hold the owners association to the provisions under the Brown Act and Public Records Act at all times when matters relating to the business improvement district (BID) are considered; (3) eliminate the advisory board as a part of BID; (4) require that all delinquent payments for assessments levied shall be charged interest and penalties; and (5) permit the renewal of any district previously established whose term has expired, by following specified procedures, with a term not to exceed 10 years.

## **BACKGROUND:**

The City of Pasadena has three Business Districts directly affected by this bill: South Lake, Playhouse and Old Pasadena.

The Property and Business Improvement District Law permits a city or county upon the request of property owners to establish a BID. BIDs are created because property owners in a specified area determine that their properties will

benefit by revitalizing buildings, promoting public events, hiring police protection, and cleaning streets, to list a few of their activities.

A BID consists of three entities: the city council, the advisory board (Board) and Non-Profit Association (NPA). The City Council approves the BID, the Board provides oversight monitoring by approving budgets and reporting back to the council, and a NPA is a non-profit entity charged with administrating the day-to-day activities of the BID.

The existing Property and Business Improvement District Act of 1994, states that businesses can form BIDs in order to improve the esthetic value of their surroundings to attract or revitalize business and requires that all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided.

#### Brown Act

A property owner in Hollywood brought forth a lawsuit against the BID to which he belonged. According to the plaintiff, he was not allowed to attend a meeting of his own NPA. The plaintiff believed a NPA to be a public entity, subject to the Brown Act, and as such open to the public. However, the NPA believed itself to be a private, non-profit body not subject to open meeting laws and denied access to the plaintiff.

In the first ruling of the lawsuit, the court ruled against the plaintiff stating that the property owners association was not subject to the Brown Act because it was not a creation of the city and that it had pre-existed the BID by two years. However, on appeal, the court reversed the first decision. Ultimately an appellate court determined that because the city played a role in bringing the NPA into existence that it was a public entity.

Meetings and discussions between all interested parties were held to find common ground. The resulting compromise, incorporated into this bill, states that NPAs are private entities, but also that NPAs are subject to the Brown Act and the Public Records Act.

This bill also repeals the section that provides for a Board. According to both parties involved, the Board did not serve its purpose as the oversight mechanism that it was created to be. Although, subject to the Brown Act, the Board seldom met, did not submit their annual reports to City Council and often consisted of the same members of a NPA. This bill eliminates the Board and substitutes the owners associations.

The resulting effect on each of the three Pasadena BIDs will ensure that meetings regarding BID business will be open to all stakeholders.

Term Limits

The extension of term limits to ten years will allow BIDS to engage in more significant projects on longer time frames as well as provide for longer revenue sources to utilize in debt financing where appropriate.

Penalties

The addition of interest and penalties to unpaid assessments will assist BIDS in collecting a higher percentage of the assessment for financing BID programs on a proactive basis.

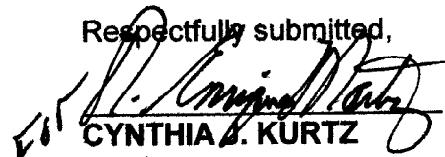
It is important to note that the Old Pasadena BID participated in a coalition of BIDS in the drafting of this bill. Old Pasadena believed it imperative that the enabling legislation provides a tool for BIDS to become more effective in performing their duties.

At the date of the drafting of this report, neither the Playhouse nor South Lake BIDS had formally taken a position on this bill.

FISCAL IMPACT:

There are no costs for the City of Pasadena associated with this bill.

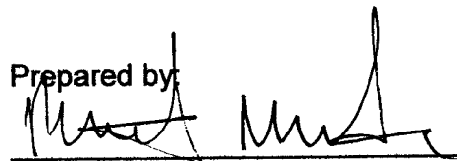
Respectfully submitted,

  
CYNTHIA A. KURTZ  
City Manager

Approved by:

  
RICHARD BRUCKNER  
Director, Planning and Development

Prepared by:

  
ROBERT MONTANO  
Business District Planner