

ORD-35

ROBERT E. SHANNON City Attorney

HEATHER A. MAHOOD Chief Assistant City Attorney

MICHAEL J. MAIS Assistant City Attorney

May 6, 2008

HONORABLE MAYOR AND CITY COUNCIL City of Long Beach California

RECOMMENDATION:

Declare ordinance amending Chapter 3.52 regarding procedures for establishing assessment districts read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION

Pursuant to the request of the City Council at its meeting of March 11, 2008, this office has prepared for your consideration the attached above-referenced ordinance.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

Heather A. Mahood Assistant City Attorney

HAM:fl Attachment #A08-01301 PRINCIPAL DEPUTIES

Barbara D. de Jong Dominic Holzhaus Belinda R. Mayes L. Charles Parkin

DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
Richard F. Anthony
Amy R. Burton
Christina L. Checel
Lori A. Conway
Randall C. Fudge
Charles M. Gale
Monte H. Machit
Anne C. Lattime
Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING SECTIONS 3.52.414, AND 3.52.5217 AND ADDING SECTION 3.52.415 TO THE LONG BEACH MUNICIPAL CODE PERTAINING TO ASSESSMENT DISTRICT AND SPECIAL TAX FINANCING IMPROVEMENT PROCEDURES

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 3.52.414 C of the Long Beach Municipal Code is hereby amended as follows:

C. "Improvement" includes all work, improvements, appliances or facilities which the city has the power to finance under its charter and which are for a public purpose or which are necessary or incidental to a public purpose, including but not limited to the construction, reconstruction, maintenance and repair of all or part of any such work or improvement. "Improvements" shall also include without limitation any use or capacity rights in any improvement, electric current, gas or other illuminating agents for power or lighting service, and any real property, rights-of-way, easements or interests in real property, acquired or to be acquired by gift, purchase or eminent domain, and which are necessary or convenient in connection with the construction or operation of any work of improvement authorized to be acquired or to be made or constructed under this division. Improvement also includes the conversion of existing electric or communication facilities and the construction, reconstruction or relocation of any other electric or communication facilities which may be incident thereto. For purposes of the preceding sentence, the terms "conversion" and "electric or communication

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facilities" shall have the meanings given to such terms in Section 5896.2 of the California Streets and Highways Code.

Section 2. Section 3.52.5217 B of the Long Beach Municipal Code is hereby amended to read as follows:

B. Except as otherwise provided in subsection C of this section, if at least twelve persons, who need not necessarily be the same twelve persons, have been registered to vote within the territory of the proposed community facilities district for each of the ninety days preceding the date of the protest hearing, the vote shall be by the registered voters of the proposed district, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner. Notwithstanding the foregoing, if the vote is to be by the landowners of the proposed district as described in the second preceding sentence, as an alternative to having such landowner have one vote for each acre or portion of an acre of land that a landowner owns within the proposed community facilities district, the legislative body may provide that each landowner have a vote for each dollar of special tax that may be levied on such landowner's land to be included in the proposed community facilities district, based upon the proposed rate and method of apportionment and manner of collection of special tax for the proposed community facilities district, and the special taxes thereby to be levied in the first full fiscal year following formation of the proposed community facilities district; provided that the legislative body finds that such alternative method of voting is more reflective of the burden of the special tax to be levied in the proposed community facilities district.

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Section 3. Section 3.52.415 is hereby added to the Long Beach Municipal Code, to read as follows:

3.52.415 Initiation of proceedings for conversion of electric or communication facilities.

Proceedings for the financing of Improvements of the character described in the third and fourth sentence of the definition of "Improvement" in Section 3.52.414 C shall be initiated either by a petition which describes the boundaries of the proposed assessment district, generally describes the proposed conversion and requests that proceedings for the conversion be taken pursuant to this division, which petition is signed by the owners of land within the proposed assessment district on which more than one-half of the proposed assessments are to be levied, as such owners are shown by the last equalized assessment roll used by the City or are otherwise known to the City; or a determination by the City Council that the City or a public utility has voluntarily agreed to pay over 50 percent of all costs of conversion, excluding costs of user's connections to underground electric or communication facilities. Upon presentation of the petition and a certificate by the engineer of work or City Engineer as to the sufficiency thereof, or upon the making of such determination by the City Council, the City Council may adopt a resolution of intention described in Section 3.52.420 with respect to the formation of an assessment district to finance the Improvements referred to in this Section 3.52.415.

Section 4. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City

OFFICE OF THE CITY ATTORNEY ROBERT E. SHANNON, City Attorney 333 West Ocean Boulevard, 11th Floor Long Beach, CA 90802-4664

	Council of the City of Long Beach at its meeting of, 2			, 2008, by the
	following vote:			
	Ayes:	Councilmembers:		
	Noes:	Councilmembers:		
	Absent:	Councilmembers:		
			City	Clerk
Approved: (Date)		M	ayor	

HAM:fl 05/01/08 #A08-01301