

STAFF REPORT

City Council Business Agenda Item

DATE: June 6, 2022

TO: Honorable Mayor and Council Members

FROM: Merritt Perry, City Manager

SUBJECT: FBID Annual Report

STAFF RECOMMENDATION:

Staff recommends that the Council accept, with or without modification, the Fortuna Business Improvement District Annual Report.

EXECUTIVE SUMMARY

The Fortuna Business Improvement District (“FBID”) was established by the City in 1990 under the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code §§ 36500 et seq.) to benefit and promote the City’s businesses. Under the enabling statute, the Council is required to approve an annual report that contains the following information:

- (1) Any proposed changes in the boundaries of FBID or in any benefit zones within the area.
- (2) The improvements and activities to be provided for that fiscal year.
- (3) An estimate of the cost of providing the improvements and the activities for that fiscal year.
- (4) The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- (5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- (6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

The annual report will be presented to the Council during the Council Meeting in written and oral form.

The Council may approve the report as filed or may modify the report and approve it as modified.

BACKGROUND:

As noted above, FBID was established by the City for the purpose of imposing benefit assessments and charges on businesses for certain identified purposes, including:

- Promotion of public events which are to take place on or in public places in the District
- Decoration of any public place in the District
- Furnishing of music in any public place within the District; and
- The general promotion of business activities within the District
- Marketing to fill available space, recruiting and expansion of commercial enterprise

FBID is administered through an advisory committee of the City Council with the following designated representatives:

- One from the Downtown Area
- One Redwood Village Shopping Center
- One Citywide
- One designated by the City Council
- One nominated by the Chamber of Commerce
- Two people nominated by the other representatives

Since at least August 1, 2000, the City has contracted with the non-profit Fortuna Business Improvement Corporation to administer FBID. The Corporation's board of directors served as the FBID advisory board. The Corporation employed an executive director to carry out board policies, run the day-to-day business of FBID, and work with businesses.

In the past two years, FBID has dealt with criticism and challenges ranging from questions regarding fiscal controls to different opinions of how FBID should best serve the business community. Another ongoing problem has been the lack of a quorum at FBID Board meetings and more importantly, a general lack of direct participation by businesses that are assessed.

The Corporation has also failed to complete required annual audits over the past six years, largely due to lack of adequate budgeting to ensure funds are available to complete the audits. This failure resulted in the City loaning the Corporation sufficient funds to complete audits of the prior six years. The audit was recently completed.

The results of the audit were not positive, and the audit report has been shared with the Council and discussed at prior meetings. In summary, the auditor found that the Corporation, during the six (6) years under audit, lacked adequate financial controls, implemented inadequate segregation of duties, made overpayments of compensation, and lacked effective managerial oversight.

Following the Council's review of the auditor's findings, the Council held a special meeting on May 12, 2022, to consider options for the future administration of FBID. The options presented by staff were:

Option 1 – FBID Continuing As-Is – NOT RECOMMENDED

Option 2 – FBID Continuing as a Function of City of Fortuna

Option 3 – Dissolution of the FBID

Each option was considered and discussed in dept, but the Council withheld a final decision.

Following the May 12, 2022, Special Meeting, the Corporation's president informed Staff that all members of the Board of Directors intended to resign, leaving the Corporation without a governing board and FBID without an advisory board. This action would result in the Corporation's inability to perform its contractual obligations to administer FBID, necessitating the contract's termination.

Staff worked with the Corporation's president Emily Hobelmann to delay the resignations until the contract can be terminated in an orderly fashion and the assets of the Corporation, including any unexpended funds, returned to the City. The City Manager sent the Corporation a letter on May 18, 2022, requesting that the Corporation perform the following tasks, each of which the Corporation has agreed to perform or has performed:

1. Compile and deliver to the City all records in the Corporation's possession or control concerning or relating to the FBID, including, but not limited to, all financial records, contracts, receipts, vendor information, budgets, plans, notes, or other operational records. Any correspondence with the Corporation's counsel should not be delivered to the City and should be retained.
2. Remit to the City any funds derived from the City for FBID purposes (including annual assessment revenue or City matching funds), less an amount necessary to cover final payroll and/or bookkeeping services through May 27, 2022.
3. Make arrangements for the City to assume the storage lease and provide access to the same.
4. Deliver to the City any business property or other assets acquired by the Corporation using any funds derived from the City for FBID purposes (including the annual assessment revenue or City matching funds). For any business property located in the storage unit, the Corporation will deliver these items to the City by making arrangements for the City to assume the storage lease.
5. Make arrangements for the Corporation's QuickBooks file relating to the FBID to be delivered to the City after the bookkeeper's services have concluded.
6. Make arrangements for the City to assume the FBID website, including login credentials and account information for your webhosting service.
7. Close the FBID Postal Box (P.O. Box 1000) and have FBID mail forwarded to the City's mailing address, i.e., P.O. Box 545, Fortuna, CA 95540.

As a result of the termination of the contract, staff is recommending and making plans to administer FBID in-house for the foreseeable future, until a long-term solution can be determined.

The Council could, alternatively, direct staff to begin the process of dissolving FBID. However, maintaining the Corporation to administer FBID is no longer a viable option.

FINANCIAL IMPACT:

No fiscal impact.

RECOMMENDED COUNCIL ACTION:

1. Receive presentation of the FBID annual report and discuss
2. Open Public Comment
3. Close Public Comment
4. Motion to adopt approve the FBID Annual Report either (1) as presented or (2) with specified modifications. Voice vote.