

STAFF REPORT

City Council Business Agenda Item

DATE: June 6, 2022

TO: Honorable Mayor and Council Members

FROM: Merritt Perry, City Manager

SUBJECT: Proposed Ordinance Amending Fortuna Business Improvement District Regulations

STAFF RECOMMENDATION:

Staff recommends that the Council discuss and consider conducting a first reading, by title only, of *Ordinance 2022-756*, which amends the Fortuna Business Improvement District (“FBID”) regulations.

EXECUTIVE SUMMARY

The proposed Ordinance is intended to modify the existing FBID regulations contained in the Fortuna Municipal Code (“FMC”). The modifications concern the regulations governing the composition of and appointment to the FBID advisory committee. Staff recommends these modifications to provide the Council more flexibility and oversight over advisory committee appointments. The modifications are necessary following the decision by the Board of Directors of the non-profit Fortuna Business Improvement Corporation to resign effective June 1, 2022. The Board of Directors for the Fortuna Business Improvement Corporation has served as the FBID advisory committee under contract with the City since at least 2000.

In particular, the proposed Ordinance would make the following amendments:

1. Removes the provision stating that the FBID advisory committee also serve as the Board of Directors for the Fortuna Business Improvement Corporation.
2. Authorizes the Council to appoint individuals to the FBID advisory committee, as opposed to the existing regulations in which the Council merely approves nominations by the Board of Directors of the Fortuna Business Improvement Corporation.
3. Replaces inflexible language in the existing regulations as to the compositional makeup of the advisory committee. The proposed Ordinance requires, instead, that the Council prioritize appointments to meet the existing compositional makeup requirements.
4. Implements two-year term limits for advisory committee members, but allows for incumbents to re-apply for additional terms.

5. Includes a provision that the FBID advisory committee will make recommendations and report to the City Council on matters within its purview.
6. Modifies the existing regulations to specify that each core area subcommittee will be comprised of no less than three persons and will be appointed by the FBID advisory committee. The existing regulations do not specify a minimum number of persons for the core area subcommittees.
7. Finds the proposed Ordinance to be exempt from CEQA.

The proposed Ordinance does **not** propose any change to the assessment amount, boundaries of the district, or the manner in which funds are allocated among the core areas (Downtown, Redwood Village Shopping Center, and Strongs Creek Plaza) and Citywide.

Staff recommends these limited changes to aid in the transition the administration of FBID back to the City following the resignation of the Board of Directors for the Fortuna Business Improvement Corporation and the corporation's eventual dissolution.

Staff will begin the process of advertising for appointments to the FBID advisory committee in consultation with stakeholders.

DISCUSSION

A. Background and Summary of Existing Regulations

FBID was established by the City for the purpose of imposing benefit assessments and charges on businesses for certain purposes in accordance with the Parking and Business Improvement Area Law of 1989 (Streets and Highways Code §§ 36500 et seq.). The founding Resolution (90-10) and subsequent Ordinance (90-550) included a boundary and the proposed uses for which the revenue was to be used and included the following:

- 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;
- The general promotion of business activities within the District; and
- Marketing to fill available space, recruiting and expansion of commercial enterprise.

The founding ordinance and resolution also included an assessment schedule for how much each business within the District would be assessed on an annual basis, and how those funds would be distributed between the core areas and the Citywide district. The distribution of the funds between the Core Areas and the Citywide district was divided as follows:

- 62% raised within each core area to be used to promote that Core Area
- 38% raised within each core area to be used to promote the entire community

The Parking and Business Improvement Area Law of 1989 requires that the Council appoint an advisory committee to, among other delegated responsibilities, make recommendations to the Council on the expenditure of revenues derived from the levy of assessments, on the classification of businesses, as applicable, and on the method and basis of levying the assessments. Further, the advisory board is responsible for preparing an annual report to the Council that contains the following:

- (1) Any proposed changes in the boundaries of the parking and business improvement area 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.

Since 2000, the City has contracted with the third-party non-profit corporation Fortuna Business Improvement Corporation to administer FBID. The Board of Directors of the Fortuna Business Improvement Corporation also served as the advisory committee.

Under the existing FBID regulations, which are contained in Chapter 5.40 of the Fortuna Municipal Code, the advisory committee is comprised of seven members, as follows:

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

The existing regulations further require that certain industries be represented on the advisory committee, as follows:

- Three representatives from the retail industry
- Two representatives from the professional and services industry
- One representative from the manufacturing or wholesale industry
- One representative from the hospitality industry

Under the existing regulations, the Council has the authority to approve nominations made by the Board of Directors of the Fortuna Business Improvement Corporation. The Council does not have the authority to make appointments, under the existing regulations, except for selecting the Council liaison to the advisory committee.

The existing regulations further require that the advisory committee appoint three separate subcommittees, each one representing a core area. The subcommittee is responsible for determining how best to spend the funds allocated to the Core Area.

B. Summary of Proposed Changes

The proposed Ordinance is made necessary following the resignation of the Board of Directors of the Fortuna Business Improvement Corporation. The resignations leave the Council without an advisory committee to make nominations or otherwise perform the responsibilities of FBID.

Accordingly, staff is recommending the changes proposed in the Ordinance to provide the Council more flexibility and oversight over the advisory committee appointment process. The changes are reflected in strikethrough text for all deletions and underlined text for any insertions to the existing regulations.

Importantly, the proposed Ordinance does **not** propose any change to the assessment amount, boundaries of the district, or the manner in which funds are allocated among the Core Areas (Downtown, Redwood Village Shopping Center, and Strongs Creek Plaza) and Citywide.

The proposed Ordinance does make the following changes:

- Deletes the requirement that members of the advisory committee serve as members of the Board of Directors of the Fortuna Business Improvement Corporation. As noted, the Board of Directors has resigned, and the Fortuna Business Improvement Corporation is no longer a functioning corporation capable of performing its obligations to administer FBID under contract with the City.
- The proposed Ordinance maintains the requirement of a seven-member advisory committee, but amends the existing regulations to allow the Council to appoint all members.
- The proposed Ordinance maintains the compositional make up for the advisory committee, but it removes the mandatory language, in favor of preferential language, to provide flexibility in instances where there is insufficient interest to meet these requirements. Staff believes this change is advisable to provide the Council more discretion in making appointments and to avoid turning away interested and qualified volunteers due to a strict quota system.
- The proposed Ordinance implements term limits of two years, but without restriction on an incumbent's ability to apply for re-appointment for an unlimited number of terms. Staff

believes this is important to maintain a regular advertisement and appointment process to generate more participation and new perspectives.

- The proposed Ordinance includes an express provision that the advisory committee make recommendations and report to the Council on the general expenditure of revenues derived from the levy of assessments, on the classification of businesses, as applicable, and on the method and basis of levying the assessments, among other responsibilities as may be directed by the Council or as required by law.
- The proposed Ordinance includes a provision that each Core Area subcommittee will be comprised of at least three members, each of whom will be appointed by the advisory committee.

FINANCIAL IMPACT:

No fiscal impact.

RECOMMENDED COUNCIL ACTION:

1. Receive staff presentation and review Council questions with staff
2. Open Public Comment
3. Close Public Comment
4. Motion to introduce and conduct first reading, by title only, of *Ordinance 2022-756*.
Roll Call vote.

ATTACHMENTS:

- *Ordinance 2022-756, An Ordinance Of The City Council Of The City Of Fortuna, California Amending Chapter 5.40 – Fortuna Business Improvement District – Of The Fortuna Municipal Code And Determining The Ordinance To Be Exempt From CEQA*