

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING ITS INTENT TO LEVY AN INCREASED ANNUAL ASSESSMENT FOR FISCAL YEAR 2011-2012 IN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT PURSUANT TO THE PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989; AND CONFIRMING JUNE 21, 2011 AT 1:30 P.M. AS THE DATE AND TIME FOR THE PUBLIC HEARING ON THE LEVY OF THE PROPOSED INCREASED ASSESSMENTS

WHEREAS, the Council of the City of San Jose established the Downtown Business Improvement District ("Business Improvement District") pursuant to the California Parking and Business Improvement Area Law (California Streets and Highway Code Section 36500 et seq.) by Ordinance No. 22960, dated October 20, 1988; and

WHEREAS, the Council appointed the San Jose Downtown Association as the Advisory Board for the Business Improvement District, and the Advisory Board has submitted a proposed Budget Report for fiscal year 2011-2012 ("Report"); and

WHEREAS, the Report recommends an increase in assessments and changes in the method and basis of levying assessments in the Business Improvement District; and

WHEREAS, on May 3, 2011, pursuant to Section 54954.6 of the California Government Code, the Council adopted Resolution No. 75791, setting June 7, 2011 at 1:30 p.m. as the date and time for a public meeting to consider adoption of a resolution of intention to levy increased assessments in the Business Improvement District for fiscal year 2011-2012, setting June 21, 2011 at 1:30 p.m. as the date and time for a public hearing on the levy of fiscal year 2011-2012 assessments, and directing the City Clerk to publish notice of the public meeting and public hearing; and

WHEREAS, pursuant to Section 54954.6 of the California Government Code, notice of the public meeting and public hearing was published and mailed to all businesses and property owners who are subject to the proposed increased assessment; and

WHEREAS, a public meeting on the proposed increase in the assessments in the Business Improvement District was held on June 7, 2011, and all public testimony was heard and considered by the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Council hereby declares its intention to levy and collect assessments within the Downtown Business Improvement District, located in the downtown neighborhood of San Jose, California, for fiscal year 2011-2012.
2. The proposed improvements and activities to be funded by the Business Improvement District in fiscal year 2011-2012 are, in general, marketing and advertising, Music in the Park, and holiday promotions.
3. No changes are proposed in the boundaries of the Business Improvement District for fiscal year 2011-2012.
4. The Council intends to increase assessments in the Business Improvement District in fiscal year 2011-2012, as follows:

<u>Category</u>	<u>Current Assessment</u>	<u>Proposed Assessment</u>
I. Retail	\$26.40 per FTE/\$240 min.	\$29.04 per FTE/\$264 min.
II. Non-Retail	\$15.60 per FTE/\$150 min.	\$19.35 per FTE/\$185 min.
III. Apartments & Hotels	\$7.20 per room/\$240 min.	\$7.92 per room/\$264 min.
IV. Parking Lots**	\$300	See Commercial Landlord
V. Non-profits	Exempt	\$100
VI. Independent Contractors /Rolling Vendors*	\$50	\$55
VII. Commercial Landlords /Parking Lots**		
Less than 10,000 square feet	\$400	\$440
10,001 to 50,000 square feet	\$900	\$990
50,001 to 100,000 square feet	\$1,400	\$1,540
More than 100,000 square feet	\$2,000	\$2,200

* Rolling Vendors: proposed addition to the Independent Contractor category, defined as food trucks, mobile carts, street vendors and similar operations doing business from time-to-time in the district.

** Parking Lots: proposed deletion as a separate category to be included with the Commercial Landlords category.

Maximum annual charge in all categories is \$6,000

If any single business falls into more than one category, charges are assessed based upon the category producing the highest revenue for the BID.

5. All interested parties should refer to the Report on file with the City Clerk of the City of San Jose, City Hall, 200 East Santa Clara Street, San Jose, California, which can also be found online at <http://www.sanjoseca.gov>, that contains a detailed description of the improvements and activities to be provided for fiscal year 2011-2012, the boundaries of the Business Improvement District, and the proposed assessments to be levied upon the businesses within the Business Improvement District for fiscal year 2011-2012.

6. June 21, 2011, at the hour of 1:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers of the City of San Jose, 200 East Santa Clara Street, San Jose, California, has been set by the Council as the time and place for a public hearing on the levy of the proposed assessments for fiscal year 2011-2012.

7. At the aforesaid public hearing, the testimony of any and all interested persons for or against the levying of assessments for fiscal year 2011-2012 or the furnishing of specified types of improvements or activities in fiscal year 2011-2012 in the Business Improvement District shall be heard and considered by the City Council. Protests against the levying of assessments for fiscal year 2011-2012, the extent of the area of the Business Improvement District, or the furnishing of specified types of improvements or activities may be made orally or in writing by any interested person. Each written protest must be filed with the City Clerk, City Hall, 200 East Santa Clara Street, San Jose, California, at or before the time fixed for the public hearing. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

8. As provided in Section 36525 of the Parking and Business Improvement Area Law of 1989, if written protests against the levying of assessments for fiscal year 2011-2012 are received from the owners of businesses in the Business Improvement District which would pay fifty percent (50%) or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protest to less than fifty percent (50%), then no further proceedings to levy the proposed assessment may be taken by the City Council for a period of one year. If the majority protest is against the furnishing of a specified type or types of improvement or activity within the Business Improvement District, then those types of improvements or activities shall be eliminated. In order to be counted in determining a majority protest, a written protest must contain a description of the business of the person submitting the protest sufficient to identify the business as a business within the proposed Business Improvement District.

9. The City Clerk is hereby directed to give notice of this resolution of intention pursuant to Section 36534 of the California Streets and Highway Code, by publication.

ADOPTED this ____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk