



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Fahey and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil Miller, Director of Public Works
Bruce Moe, Director of Finance
Dana Greenwood, City Engineer
Stephanie Katsouleas, Senior Civil Engineer

DATE: December 6, 2005

SUBJECT: Consideration of Voting Results and Future of Proposed Utility Underground Assessment District 4 – Discuss and Provide Direction

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction regarding the voting outcome and future of proposed Utility Underground Assessment District 4 based on the information provided below.

FISCAL IMPLICATION:

The Fiscal Implications of the options discussed below are currently unknown at this time, but are not expected to exceed \$50,000. A rough estimate of costs is presented with each option and would include such items as utility plan revisions, additional staff time, assessment engineering fees, printed materials and mailing. Any additional costs, as well as original costs, would be reimbursed if the District is subsequently approved by a majority of the property owners in each District.

BACKGROUND:

On November 21, 2005 following a 45-day mailed ballot period, a Public Hearing was held to count the ballots submitted by property owners within proposed Underground Utility Assessment District 4 (District 4) regarding district formation. The tabulation of the 145 ballots received during the Public Hearing showed 50.1% support for undergrounding by weighted return (i.e., dollar value), but only 48% support in actual number of ballots cast. Approximately 86.8% of the total number of ballots mailed to property owners were returned and counted. Public testimony both for and against formation of the District was also heard during the public comment period of the hearing. Due to the testimonies received and the unique nature of the voting outcome, City Council did not approve a Resolution 6007 to form District 4, but instead directed staff to: 1) investigate the possibility of initiating a new ballot procedure whereby the additional 14% non-responders could be reached and encouraged to vote, and 2) develop other possible alternatives for the potential formation of District 4.

During the November 21, 2005 City Council meeting, Council members also directed staff to investigate the possibility of a City-sponsored financial assistance program for lower income property owners who do not qualify for the State Controller's Office Low Income Property Tax Deferral Program. Our investigation, now underway, includes the following:

- Development of a questionnaire that will be sent to property owners in three districts (2, 4 and 6) to gauge overall support and need for such a program.
- Possible legal structures for the program
- Determining qualifying criteria among property owners (e.g., income level, assets, age)
- Cost to the City to implement the program (staff time, legal counsel, etc.)
- Risk-benefit issues (e.g., City rating, source of funds to be used, risk of default, etc.)

Preliminary results of these issues are expected to be presented at a City Council meeting in March, 2006.

DISCUSSION:

Following the Public Hearing on November 21, 2005, staff contacted the utility companies regarding updated construction and cabling cost estimates for District 4, but they were unable to provide updated costs estimates as of this City Council Meeting. However, Edison stated that its costs would likely not change significantly (if at all), and Verizon stated that its cost would change somewhat, although probably minimally. Adelphia's costs are already low and any increases are not expected to have a significant impact on the overall project cost. Staff also met with District 4 leaders interested in developing a strategy for moving District 4 forward such that there is a more definitive showing of support for or opposition to district formation. Their suggestions are incorporated in the options listed below.

Lastly, it is important to note that some of the Incidental Expenses itemized in the Engineer's Report were shared costs with Districts 2 and 6. Should District 4 be reinitiated under Option 2, 3 or 4, it would bear the full cost of these previously shared costs valued at an additional \$100,000 (estimated) in addition to any other increased City, Engineering Assessment and Utility Design fees.

Staff has developed a list of potential options for consideration along with the estimated additional cost to the City and District. The estimates do not include any potential increases or decreases in construction prices, as those values are unknown. Options include:

Option 1: \$7,000

Make a motion to reconsider the November 21, 2005 City Council Decision regarding District 4 based on refined voter information and agendaize it for the December 20, 2005 City Council Meeting

Estimated Cost: \$7,000 City Costs

An evaluation of the voting results among District 4 property owners, by category, may provide a clearer picture of the overall outcome, thus leading to a more conclusive decision among City Council members on whether or not to form the District. These categories include resident property owners, non-resident property owners and commercial properties. However the closeness of the voting outcome combined with City Council's previous ruling will most likely lead to aggrieved residents based on any new action taken or not taken. If a decision to form the district is rendered at the December 20, 2005 City Council meeting, no additional costs will be added to the assessments calculated as bond costs will still be shared by all three districts. Increased costs incurred by the City will be covered through the existing contingency.

Option 2: \$127,000

Initiated new voting procedures immediately and make every effort to reach the 14% of property owners who did not vote. ***Do not modify District Boundaries.***

Estimated Cost: \$27,000 in City Costs and Assessment Engineering Fees, and \$100,000 Bond/Financial Advisor Fees

Reaching those residents whom did not vote accounts for 14% of the District, at a total assessment value of 12%. Had they voted, it is feasible that the majority position could have been more clearly determined. Promoting and thus receiving a higher voter turnout could potentially address the split vote outcome.

However, there is no guarantee that the City will receive a higher percentage of returned ballots, or that the votes cast from the remaining 14% will provide a definitive outcome. Additionally, assuming Option 2 is implemented immediately, the overall cost will increase by a projected \$100,000 due to fixed costs that are no longer shared by Districts 2 and 6 and this in turn may adversely affect those who previously voted yes. An additional concern is whether utility prices have increased or decreased from the original estimates provided in September. In all likelihood, the utility prices will have increased slightly.

Results of the voting would be revealed in March, and construction could begin in June if the District were to be approved by property owners. The total projected delay would be approximately 3 months.

Option 3: \$127,000

Obtain new District 4 cost estimates from utilities that are based on open market bids obtained in January for Districts 2 and 6. ***Do not modify District Boundaries.***

Estimated Cost: \$27,000 in City Costs and Assessment Engineering Fee, and \$100,000 Bond/Financial Advisor Costs

Although similar in approach to Option 2, waiting to start this process until open market bids are received for Districts 2 and 6 may prove advantageous in the event actual prices are lower than estimates. This would give the City some leverage in requesting new quotes from the utilities that are representative of actual prices rather than projections. New values would be used to produce a revised Engineer's Report and voting procedures would follow.

However, there are certain unknowns. New prices will be based on actual open market bids, and may or may not increase relative to utility estimates. It will take approximately 2.5 months to initiate voting procedures from now, and an additional 6-7 weeks before voter results are known (April). Also, there is no guarantee that the next set of open market bidders will submit similar bid prices. If the District is approved, the total projected delay would be approximately 3-4 months.

Option 4: \$142,000

Modify the District boundaries to include those residents most in favor of forming an underground assessment district, while excluding those most opposed. New district boundaries would have to be compatible with the current utility network system.

Estimated Cost: \$42,000 in City Costs, Assessment Engineering Fee and Utility Design Fees; \$100,000 Bond/Financial Advisor Fees

Forming a smaller district based on a defined area of majority support would likely increase chances of voter approval. It would also meet the majority needs of both opponents and proponents of undergrounding.

However, the amount of time needed by the utilities to modify the plan designs is currently unknown, but estimated to take at least two months, assuming redesigning work does not have to be subcontracted. The design plan public review process, public noticing and voting procedures will take an additional 3-4 months to complete. Construction would start approximately 3 months following District formation.

The new per-parcel assessments would be determined based on the revised quotes and inclusion of additional fixed and variable costs. The total cost of redefining the district is unknown at this time, but would at a minimum include design modification fees for Edison, Verizon and Adelphia, additional staff time and new Assessment Engineering fees, as well as those for Bond and Disclosure counsel, Financial Advisor, S & P rating, etc.

RECOMMENDATION:

Staff recommends that City Council discuss these options and provide direction for addressing Utility Underground Assessment District 4. Based on the option chosen, staff will immediately begin necessary procedures.

Cc: Robert Wadden, City Attorney