



AGENDA REPORT

TO: Board of Directors

FROM: BID Manager

DATE: November 10, 2016

SUBJECT: Review of Huntington Beach Downtown Business Improvement District (HBDBID as a non-profit organization) and its financial and legal status as the duly authorized Advisory Board for the Huntington Beach Downtown Business Improvement District (DBID)

SUMMARY:

Based on best practices and concerns brought forward by members and concerned residents, it is proposed to conduct a review of the HBDBID as a non-profit organization and its financial and legal obligations. These concerns include use of revenue from HBDBID events such as Surf City Nights. The HBDBID is the duly authorized Advisory Board appointed by the Huntington Beach City Council for the Huntington Beach Downtown Business Improvement District (DBID) formed pursuant to California Streets & Highways Code Section 36500, et seq. and certain reporting requirements are to be provided and made available to the public. The review will explore how best to ensure compliance with all applicable codes and financial reporting requirements, and other matters as directed by the Board of Directors.

RECOMMENDATION:

That the Board of Directors:

1. Request that a Request of Legal Services (RLS) be drafted by City's Office of Business Development, in coordination with the BID Manager, to clarify the legal obligations and relationship of the HBDBID;
2. Authorize an Independent Accountant's Review Report, on a frequency to not be less than every other year, for all revenues and accounts;
3. Request the President of the Board of Directors appoint an ad-hoc subcommittee of Directors to develop an operating reserve policy and to schedule the consideration of the policy by the Board of Directors at the regularly scheduled meeting in March 2017;
4. Starting with the 2016-17 Annual Report, provide a more detailed and user friendly fiscal reporting section to be incorporated into the Annual Report to include, but not be limited to the following:
 - a) Three (3) years of budget data – one year prior actual, current budget and projected, and proposed budget, to include all special events such as Surf City Nights.
 - b) Beginning year reserve levels, estimated year-end reserve levels, and a report of any reserves utilized during the concluding fiscal year.
 - c) A narrative of any variances (10%) in revenue or expenditure levels during the one year prior or current budget that are known to exist at the time of producing the Annual Report.
5. Direct the BID Manager to make any available prior year financial reports and Annual Reports available on the HBDBID's website prior to December 31, 2016.

DISCUSSION:

In June 2002, downtown merchants approached the City of Huntington Beach to form a business improvement district to fund promotional activities benefitting all businesses within the district area. On

September 7, 2004, the City Council approved Ordinance No. 3661, establishing the Huntington Beach Downtown Business Improvement District (DBID) as a method of marketing and improving the downtown area. Per State Law, an Advisory Board was designated at the same time. In February 2008, the City Council adopted Ordinance No. 3797, which amended Ordinance No. 3661 to change the manner in which the DBID Advisory Board was selected. Following adoption of Ordinance No. 3797, the City Council approved Resolution No. 2008-04, which appointed a nonprofit corporation known as the Huntington Beach Downtown Business Improvement District (the "Non-profit Corporation") to act as the Advisory Board for the DBID. On August 16, 2010, the City Council approved Resolution No. 2010-60 which re-affirmed the designation of the Non-profit Corporation as the Advisory Board. The Huntington Beach Downtown Business Improvement District, as a Non-profit Corporation, has continued to act as the Advisory Board for the DBID since the adoption of this Resolution.

As a standalone non-profit, the Huntington Beach Downtown Business Improvement District would typically have its own legal representation, however; the fact that the non-profit was designated by the City Council to act as the Advisory Board clouds the legal relationship. Therefore, it is recommended that the Board of Directors request that a Request of Legal Services (RLS) be drafted by City's Office of Business Development, in coordination with the BID Manager, to clarify the legal obligations and relationship of the HBDBID.

Regarding reporting of financial data, the HBDBID paid \$3,060.00 for an Independent Accountant's Review Report for the year ending September 30, 2015 and delivered on August 3, 2016. In order to ensure continued financial reporting diligence, it is recommended that the Board of Directors authorize an Independent Accountant's Review Report, on a frequency to not be less than every other year, for all revenues and accounts.

Regarding the issue of maintaining operating reserves, it is the intent to develop an operating reserve policy. The Nonprofits Assistance Fund defines an operating reserve as an unrestricted fund balance set aside to stabilize a nonprofit's finances by providing a cushion against unexpected events, losses of income, and large unbudgeted expenses. While there are no general guidelines on the amount of an operating reserve, there are many tools available in which to assist a Board of Directors in determining the optimal amount for a reserve. Given this need, it is recommended that the President of the Board of Directors appoint an ad-hoc subcommittee of Directors to develop an operating reserve policy and to schedule the consideration of the policy by the Board of Directors at the regularly scheduled meeting in March 2017.

Finally, the HBDBID's Annual Report to the City Council was questioned as to the full detail of financial reporting. While the most recent renewal process before the City Council included the Independent Accountant's Review Report that contained pertinent financial information to include the amount of unrestricted net assets, there was concern that the annual budget information did not reveal a clear financial position of the HBDBID. The budgetary information contained in the 2015-16 Annual Report was in greater detail than the prior year's Annual Report as a result of comments by the City Council. However, while the annual budget is more detailed, the year to year fiscal information to include reserves was not included. Presenting this information will ensure more transparency and greater understanding of the fiscal ability of the HBDBID. Several recommendations are therefore made to support this greater transparency.

Finally, to ensure financial transparency and restore trust in the BID actions, it is recommended that the BID Manager make all prior year financial reports and Annual Reports available on the HBDBID's website prior to December 31, 2016.