



Huntington Beach Downtown  
Business Improvement District  
[www.hbdowntown.com](http://www.hbdowntown.com)

## AGENDA REPORT

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TO: Board of Directors

FROM: BID Manager

DATE: November 10, 2016

SUBJECT: Review of annual BID renewal process and rights of Members as defined in Article IV, Section 1 of the Bylaws

### **SUMMARY:**

It has been alleged through a comment to the BID that Stakeholders have been denied their rights related to the annual renewal process. The renewal process is set forth in California Streets and Highways Code Section 36500 et al.

### **RECOMMENDATION:**

Receive and file.

### **DISCUSSION:**

The Huntington Beach Downtown Business Improvement District was formed pursuant to California Streets and Highways Code (SHC) Section 36500 et al., the "PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989." The annual renewal process is run by the City of Huntington Beach through the Office of Business Development. The following is provided for informational purposes only.

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. This action was preceded by legally required steps to include the adoption of Resolution 2004-56 on July 19, 2004 declaring the intent to form a business improvement district and a public hearing held on August 16, 2004 concerning the establishment of the district. Annually, the BID must go through a noticed public hearing process.

Specifically, the annual assessment process is found under SHC Chapter 3, Section 36530 – 36537, Assessments. SHC § 36534 sets forth the resolution of intention to levy an annual assessment and SHC § 36535 (a) reads, in part, "The city council shall hold the public hearing at the time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525."

Sections 36524 and 36525 read as follows:

#### **36524.**

(a) At the public hearing, the city council shall hear and consider all protests against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities within the area. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the

proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

(b) Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

(c) Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest.

*(Repealed and added by Stats. 1989, Ch. 591, Sec. 2.)*

### **36525.**

(a) If written protests are received from the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that 50 percent, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(b) If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

From the BID Bylaws:

ARTICLE IV, MEMBERSHIP, Section 1 reads as follows: "Members include any firm or corporation with a valid business license in the geographic boundaries of the Downtown Business Improvement Assessment District ("Assessment District") and with Pre-approval of the Board of Directors, businesses and/or property owners outside the Assessment District that voluntarily pay the Business Improvement District assessment ("BID Assessment") pursuant to BID Law. Members herein may also be described as stakeholders."