

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # *C-2

Urgent Routine

AGENDA DATE August 2, 2011

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt the Results of the Assessment Ballot Procedure that Proposed the Formation of the Kenwood Park Lighting District

STAFF RECOMMENDATIONS:

- 1) Adopt the results of the Assessment Ballot Procedure (Supporting votes: 12; Protest votes: 12; and Incomplete Ballots: 0) that proposed the formation of the Kenwood Park Lighting District.
- 2) Declare that a simple majority of the assessment ballots received did not protest the proposed formation of the Kenwood Park Lighting District and the levy of an annual assessment.
- 3) Find that the territory to be formed is not within the boundary of any other lighting district, Order the formation of the Kenwood Park Lighting District, and confirm the boundary of the district as described in Attachment "B".

(Continued on Page 2)

FISCAL IMPACT:

As approved, the new assessment for Fiscal Year 2011-2012 will be \$58.94 per parcel. The \$3,005.94 generated from this assessment will fund the annual maintenance and operational costs of the District.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2011-462

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. DL-45-2

Approval to Adopt the Results of the Assessment Ballot Procedure that Proposed the Formation of the Kenwood Park Lighting District

STAFF RECOMMENDATIONS (Continued):

- 4) Direct the Public Works Department to proceed with the installation of lighting within the Kenwood Park Lighting District.
- 5) Approve the amount of the annual assessment and find it necessary to adequately cover expenditures and ensure sufficient revenues for continued operations and maintenance of the District.
- 6) Set the Fiscal Year 2011-2012 annual assessments at \$58.94 per parcel. The parcels subject to the annual assessment are listed in Attachment "C".
- 7) Authorize the Auditor-Controller to add the annual assessment to the 2011-2012 Tax Roll.
- 8) Direct the Department of Public Works to send a certified copy of the resolution ordering the formation of the Lighting District and all other required documents, along with the processing fee to the State Board of Equalization.

FISCAL IMPACT (Continued):

One-time start up costs associated with this project are estimated to be \$7,500 and include staff project time for the ballot procedure, Engineer's Report, public meetings, coordination with the Turlock Irrigation District, and State Board of Equalization fees of \$800. A portion of these costs were approved for coverage through funding from the Community Development Fund (Initiate Proceeding on May 24, 2011 - Staff recommendation #3 approved the use of up to \$6,000) and is consistent with the goal of providing funding for "one-time projects or programs benefiting the unincorporated area that demonstrates strong local support and commitment and a general public benefit."

One-time costs of \$1,500 over and above the \$6,000 allotment from Community Development Funds will be borne by the Kenwood Park Lighting District as part of their annual assessment. The \$1,500 will be recovered with a payback period extending over the first five years after formation of the district.

DISCUSSION:

On May 24, 2011, the Board of Supervisors passed a resolution initiating proceedings to consider the formation of the Kenwood Park Lighting District, and to consider an annual assessment to cover the expense of the lighting, and to conduct an Assessment Ballot Procedure. On June 7, 2011, the Board set a date for the matter to be considered at a Public Hearing and on July 26, 2011 the Board held the Public Hearing. Prior to, and in conjunction with the Public Hearing, a Proposition 218 Assessment Ballot Procedure was conducted to determine if the District's property owners would support the formation.

Approval to Adopt the Results of the Assessment Ballot Procedure that Proposed the Formation of the Kenwood Park Lighting District

Because the number of ballots cast was expected to be too large to quickly and efficiently count at the conclusion of the July 26, 2011 Public Hearing, the Board of Supervisors authorized the Clerk of the Board to oversee opening of the sealed assessment ballots prior to the next scheduled Board meeting on August 2, 2011, summarize the results of the count, and submit the results at the next scheduled Board meeting on August 2, 2011.

A simple majority of the assessment ballots received by the Clerk of the Board of Supervisors at the close of the Public Hearing did not protest the formation of the Kenwood Park Lighting District and the annual assessment necessary to operate and maintain the District. In summary, there were 12 votes cast in support; 12 votes cast in protest, and 0 incomplete ballots (see Attachment "A", memo from the Clerk of the Board of Supervisors to the Chairman of the Board of Supervisors). "Prop 218" language requires a simple majority protest, otherwise the proposal passes, even in the event of a "tie" vote. Quoting from the California Constitution Article XIII D section 4: "The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment." Therefore, the proposed formation of the Kenwood Park Lighting District may be approved.

It is anticipated that a maximum of 14 streetlights will be installed and energized prior to the end of August 2011. There are no installation costs associated with adding the street lighting. The Turlock Irrigation District will conduct installation. Stanislaus County Public Works will coordinate with Turlock Irrigation District on placement and installation.

POLICY ISSUES:

State of California Streets and Highways Code section 19130 authorizes the Board of Supervisors to be the governing body for Lighting Districts within their county.

This action is consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well Planned Infrastructure System by creating a Lighting District to provide street lighting in the unincorporated area known as Kenwood Park to aid law enforcement efforts and deter unwanted activities thereby protecting the health, safety, and welfare of the residents.

STAFFING IMPACT:

Public Works staff provides administrative support to the Stanislaus County Lighting Districts.

CONTACT PERSON:

Mike Wilson, Senior Engineering Technician, Stanislaus County Public Works. Telephone: 209-525-4190.

MW:lc

H:\SERVICES\Districts\LD Formation\LD Kenwood Park\Action Agendas\Adopt Results Supporting Kenwood Park LD

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: August 2, 2011

No. 2011-462

On motion of Supervisor Chiesa Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # *C-2

A RESOLUTION APPROVING FORMATION OF THE KENWOOD PARK LIGHTING DISTRICT

WHEREAS, residents and property owners of the proposed Kenwood Park Lighting District have petitioned the Board of Supervisors, of Stanislaus County for the formation of a Lighting District;

WHEREAS, pursuant to California Constitution Article XIID, the requirements for an Engineer's Report, Assessment Ballot Procedure, and Public Hearing, were duly and regularly met;

WHEREAS, the Clerk of the Board of Supervisors has tabulated the assessment ballots and found and reported that a majority protest, as defined by California Constitution Article XIID, did not exist; and,

WHEREAS, this proposal is consistent with the County's priorities of providing A Safe Community, A Healthy Community, and A Well Planned Infrastructure System by providing enhanced lighting to promote the health, safety and welfare of the area.

BE IT RESOLVED, that the Board of Supervisors, of the County of Stanislaus, State of California, hereby finds and determines as follows:

1. There is a need to install street lighting within the Kenwood Park neighborhood to promote the health, safety and welfare of the area, and, to fulfill that need, the Board of Supervisors proposes to form the lighting district and levy an annual assessment against benefiting real property within the District to support, maintain, and finance the proposed street lighting services and their associated costs.
2. The area proposed for the Kenwood Park Lighting District is within unincorporated territory of Stanislaus County.

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
Stanislaus County Board of Supervisors,
State of California



NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors, of the County of Stanislaus, State of California, hereby orders and directs as follows:

- a. That there be and there is hereby created and established within the unincorporated area of the county, the Kenwood Park Lighting District for the purpose of maintaining and operating streetlights.
- b. The boundaries of said district are hereby established as shown and delineated on the map and legal description attached hereto and made a part of this resolution.
- c. The Public Works Department is ordered to proceed with the installation and energizing of streetlights within the district.



July 26, 2011

MEMO TO: Dick Monteith, Chairman

FROM: Elizabeth King, Assistant Clerk of the Board

RE: **FORMATION OF THE KENWOOD PARK LIGHTING DISTRICT
AND THE LEVY OF A SPECIAL BENEFIT ASSESSMENT**

We have completed our count of the ballots regarding the Formation of the Kenwood Park Lighting District and the Levy of a Special Benefit Assessment. On August 2, 2011, the results will be presented to the Board of Supervisors. These votes have been counted and verified by staff.

We present the results from the ballot process for your certification.

Ballots cast in support of the formation	12
Ballots cast in protest of the formation	12
Incomplete ballots	<u>0</u>
Total Ballots Received	24

Certified by:


Elizabeth A. King, Assistant Clerk
of the Board of Supervisors

07/26/2011
Date