

RESOLUTION NO. 7-042

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE REVISING AND RESTATING THE RULES AND PROCEDURES FOR THE DOWNTOWN PACIFIC GROVE BUSINESS IMPROVEMENT DISTRICT

THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS FOLLOWS:

SECTION 1. The City formed a parking and business improvement district pursuant to California Streets and Highways Code 36500, et seq. with Resolution No. 0-007, which was passed and adopted by the Pacific Grove City Council on February 9, 2000.

SECTION 2. The name of the parking and business improvement district is the "Downtown Pacific Grove Business Improvement District."

SECTION 3. The boundaries of the Downtown Pacific Grove Business Improvement District are as shown on the map referred to as "Boundaries of the Downtown Pacific Grove Business Improvement District," on file with the City Clerk, and as specified herein including both sides of every street except for Pine Avenue:

Central Avenue from 505 Central to 530 Central up to Caledonia Park and the back of the Post Office

Lighthouse Avenue from 472 Lighthouse and 477 Lighthouse to 728 Lighthouse and 721 Lighthouse

Laurel Avenue from 521 Laurel to 631 Laurel at the corner of 18th and Laurel

Pine Avenue only on the north side (Police/Fire Dept. Side) from 546 Pine to 644 Pine

15th Street from 135 15th Street to 223 15th Street

Fountain Avenue from 156 Fountain and 157 Fountain to 314 Fountain

Grand Avenue from 157 Grand and the backside of the Pacific Grove Museum of Natural History to 315 Grand and 318 Grand

Forest Avenue from 154 Forest and 164 Forest to 264 Forest and 311 Forest

16th Street from 172 16th Street to 207 16th Street

17th Street from 153 17th Street to 231 17th and 232 17th Street

18th Street from Central Avenue which includes 160 18th Street to Laurel Avenue

19th Street and Congress between Central Avenue and Lighthouse Avenue

SECTION 4. The activities to be funded by the assessments levied under the Downtown Pacific Grove Business Improvement District are promotion, marketing and advertising of professional and retail businesses in downtown Pacific Grove.

SECTION 5. The proposed improvements and activities of the Downtown Pacific Grove Business Improvement District shall be funded by annual assessments on business owners in the district.

SECTION 6. The method and basis for the annual levy of assessments are as follows:

The City shall collect the annual assessment from the business owners when the business license tax is paid, in July of each year. Excepting service stations and catalogue sales establishments, each business in the district shall pay an annual assessment equal to 35% of its business license tax.

SECTION 7. New businesses in the district shall be subject to the annual levy of assessment.

SECTION 8. Pursuant to Streets and Highways Code sections 36524 and 36525, the following rules and procedures regarding the filing of protests and a majority protest shall apply to the scheduled public hearing:

a. At the annual public hearing to hear such protests, testimony of all interested persons for or against the establishment of the district, the extent of the district, or the furnishing of specified types of improvements or activities shall be heard. A protest may be made in writing or orally by any interested person. Any protest pertaining to the regularity or sufficiency of the proceeding shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

b. Every written protest must be filed with the City Clerk on or before the public hearing date. 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 must 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 requirement shall not be counted in determining a majority protest.

d. If written protests are received from the owners of businesses in the proposed district which will pay 50% or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50%, no further proceedings to create the Pacific Grove Downtown Business Improvement District or to levy the proposed assessment, as contained in this 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. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the area, these types of improvements or activities shall be eliminated.

SECTION 9. The Business Improvement District Advisory Board for FY 2007/08 shall be comprised of the following members:

- Bill Valuch, Board Chair (Miss Trawick's Garden Shop), one-year term expiring June 30, 2008
- Terry Clements, Board Vice-Chair (The Clothing Store), two-year term expiring June 30, 2009
- Susan Anderson (Futons & Such), two-year term expiring June 30, 2009
- Jeanne Byrne (Jeanne C. Byrne, Architect), two-year term expiring June 30, 2009
- Robert Lewis (Robert Lewis Gallery), one-year term expiring June 30, 2008
- Henry Nigos (Edward Jones Investments), one-year term expiring June 30, 2008
- Ron Schenk (St. Vincent DePaul Thrift Shop), one-year term expiring June 30, 2008

SECTION 10. Each advisory Board seated on or after July 1, 2008 shall be appointed by the following process:

a. In February of each year, the Pacific Grove Chamber of Commerce shall mail a letter to all owners of businesses located in the BID. The letter shall include an announcement of a meeting to be held at City Hall for the purpose of holding open elections for BID advisory board seats that are vacant or are scheduled to become vacant as of July 1 of the same year.

b. Membership on the Advisory Board is eligible to representatives of business owners within the BID area who have fully paid their BID assessment at the time of appointment, and remain fully paid during the term of their membership on the Board.

c. At the noticed meeting, the Chamber of Commerce shall facilitate a nomination process whereby any business owners meeting the qualification established in (b) above may be nominated for a seat on the board.

d. At the same meeting, the Chamber of Commerce shall facilitate an election by secret written ballot received, mailed or cast at that meeting. All BID members in attendance at the meeting shall be eligible to vote. If a BID member is unable to attend a proxy with a signed statement from the member shall be allowed to participate on the member's behalf.

e. The nominees receiving the most votes shall be deemed to have won the election. The election winners' names shall be forwarded to the City Clerk no later than April 30th of the same year as a recommendation to the City Council for filling board vacancies.

f. The City Council shall appoint the seven (7) member BID Advisory Board. The BID Advisory Board shall meet quarterly or more frequently. Each meeting shall comply with the Brown Act. The Council may remove members of the BID Advisory Board for cause.

If the City Clerk does not receive said recommendation by April 30th of each year, the Business Improvement District Advisory Board shall be appointed by the process set forth for appointing boards and commissions in Chapter 3.04 of the Municipal Code.

SECTION 11. Board members seated beginning in FY 2007/08, members shall serve two-year terms, with appointments staggered at one-year intervals.

SECTION 12. The Pacific Grove Chamber of Commerce shall be authorized by contract to spend BID assessment revenues on behalf of the City, in accordance with the BID program and budget approved by the City Council, and in compliance with all City purchasing regulations, or as otherwise set by ordinance.

SECTION 13. California Streets and Highways Code section 36533 requires the Advisory Board to prepare and file with the City an annual report regarding the BID. The report, among other things, is required to itemize improvements and activities in the fiscal year, the cost of those activities, the amount of surplus or deficit revenues carried over from a previous fiscal year, and contributions other than assessments. The City Council shall approve the report as filed or modify any portion and approve it as modified.

SECTION 14. After approving the annual report, the City must adopt an annual resolution of intention to levy the assessment for that fiscal year, publish a notice and hold a public hearing on the assessment. Following the hearing, the City Council may establish the district by ordinance.

SECTION 15. This Resolution is exempt from provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Section 15320, in that it causes a modification of the rules and procedures for an established subsidiary district within the Pacific Grove city boundaries.

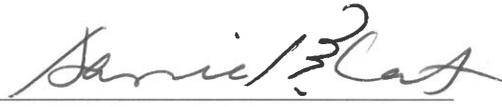
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 19th day of September, 2007, by the following vote:

AYES: Bennett, Cohen, Cort, Davis, Nilmeier, Stillwell

NOES: None

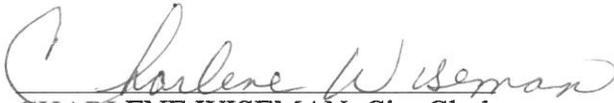
ABSENT: None

APPROVED:



DANIEL E. CORT, Mayor

ATTEST:



CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:



DAVID LAREDO, City Attorney